



Education Fact Sheets 2013

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Regular font indicates that the Fact Sheet includes recent legislation and is current as of August 2013.
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School Readiness Program

Education Committee

Last Updated: August 2013

What is the School Readiness Program?

Established in 1999,¹ the School Readiness Program provides subsidies for child care services and early childhood education for children of low-income families; children in protective services who are at risk of abuse, neglect, or abandonment; and children with disabilities.² The School Readiness Program is a state-federal partnership between Florida's Office of Early Learning (Florida's OEL)³ and the Office of Child Care of the United States Department of Health and Human Services.⁴

The School Readiness Program is administered by early learning coalitions (ELC) at the county or regional level.⁵ Florida's OEL administers the program at the state level, including statewide coordination of the ELCs.⁶

Who is eligible for the School Readiness Program?

Federal regulations governing the Child Care and Development Fund (CCDF) block grant,⁷ the primary funding source for the School Readiness Program, authorize states to use grant funds for child care services, if:

- The child is under 13 years of age, or at the state's option, under age 19 if the child is physically or mentally incapable of caring for himself or herself or under court supervision;
- The child's family income does not exceed 85 percent of the state's median income for a family of the same size; and
- The child:
 - Resides with a parent or parents who work or attend job training or educational programs; or
 - Receives, or needs to receive, protective services.⁸

¹ Section 1, ch. 99-357, L.O.F.

² Section 1002.87, F.S.

³ In 2012, the Legislature established the Office of Early Learning in the Office of Independent Education and Parental Choice within the Department of Education (DOE). The office is administered by an executive director and is fully accountable to the Commissioner of Education but shall independently exercise all powers, duties, and functions prescribed by law, as well as adopt rules for the establishment and operation of the school readiness program and the Voluntary Prekindergarten Education Program. Section 1002.213, F.S.

⁴ U.S. Department of Health and Human Services, *Child Care and Development Fund Fact Sheet*, http://www.acf.hhs.gov/sites/default/files/assets/FS_OCC_0.pdf (last visited June 18, 2013).

⁵ Section 1002.83, F.S.

⁶ Section 1001.213(3), F.S.

⁷ 45 C.F.R. parts 98 and 99.

⁸ 45 C.F.R. s. 98.20(a). Florida's CCDF state plan for FY 2012-2013 defines physical or mental incapacity as "a developmental delay or established physical or mental condition. Mild or moderate emotional problems as certified by a licensed psychiatrist, psychologist, or licensed mental health professional." Florida's Office of Early Learning, *Child Care and Development Fund State Plan, CCDF Plan FFY 2012/13 Part 2-CCDF Subsidy Program Administration*, at 18-19, available at http://www.floridaearlylearning.com/Documents/SysDev-CCDF/2011-2013/CCDF2012_2013Part2-CCDFSubsidyProgramAdministration.pdf [hereinafter *CCDF State Plan*]; see also rule 6M-4.200(1), F.A.C.

Within these broad federal eligibility categories, Florida law specifies that ELCs must admit children into the School Readiness Program according to the following priorities:

- **First priority** is a child under 13 years of age from families in which an adult is receiving temporary cash assistance and subject to federal work requirements.⁹
- **Second priority** is a child under the age of 9 who is at-risk.¹⁰
- **Third priority** is a child, birth to beginning of school year for which the child is eligible for kindergarten, from a working family that is economically disadvantaged¹¹ and may include such children's eligible siblings who are eligible to enter kindergarten through the summer before sixth grade, provided that the ELC uses local revenues first; the child is no longer eligible if the family income exceeds 200% of the federal poverty level.¹²
- **Fourth priority** is a child of a parent who transitions from the work program into employment as described in s. 445.032, F.S., from birth through the summer before kindergarten.¹³
- **Fifth priority** is a child, ages 9 – 13, who is at risk; a child eligible under this priority whose sibling is enrolled in the school readiness program shall be given priority over other children.¹⁴
- **Sixth priority** is a child younger than 13 years of age from a working family that is economically disadvantaged; a child eligible under this priority whose sibling is enrolled in the school readiness program shall be given priority over other children; the child is no longer eligible if the family income exceeds 200% of the federal poverty level.¹⁵
- **Seventh priority** is a child under age 13 of a parent who transitions from the work program into employment.¹⁶
- **Eighth priority** is a child ages 3-5 who has a current individual education plan with a Florida school district; child is eligible until they are old enough for kindergarten admission.¹⁷
- **Last priority** is for a child who is also concurrently enrolled in the Head Start program and the Voluntary Prekindergarten Program.

Child Care Executive Partnership. The Child Care Executive Partnership (CCEP) Program allows funding from the School Readiness Program to be used for payment of matching child care funding for low-income working parents who are eligible for subsidized child care.¹⁸ State and federal funds are used as incentives for generating matching local funds from local governments, employers, charitable foundations, and other sources.¹⁹

What responsibilities does Florida's Office of Early Learning have regarding the School Readiness Program?

Florida's OEL is the lead agency in Florida for administering the federal CCDF from which funds are used to implement the School Readiness Program.²⁰ Florida law requires OEL to focus on improving the educational

⁹ Section 1002.87(1)(a), F.S. Recipients of assistance under a state's Temporary Assistance for Needy Families Block Grant must meet Federal work requirements. 42 U.S.C. s. 607. These work requirements require a state to meet or exceed minimum rates of recipients participating in "work activities" (e.g., employment, education, job search, and vocational training). 42 U.S.C. s. 607(d); *see also* s. 445.024, F.S., which requires individuals not otherwise exempt from work activity requirements to participate in a work activity for a maximum of 40 hours per week.

¹⁰ Section 1002.87(1)(b), F.S.; *see also*, Section 1002.81(1), F.S., which defines "at-risk".

¹¹ "Economically disadvantaged" means having a family income that does not exceed 150 percent of the federal poverty level. Section 1002.81(7), F.S.

¹² Section 1002.87(1)(c), F.S.

¹³ Section 1002.87(1)(d), F.S.

¹⁴ Section 1002.87(1)(e), F.S.

¹⁵ Section 1002.87(1)(f), F.S.

¹⁶ Section 1002.87(1)(g), F.S.; *see also* Section 445.032, F.S.

¹⁷ Section 1002.87(1)(h), F.S.

¹⁸ Section 1002.94, F.S. The CCEP program is available for a child whose family income does not exceed 200 percent of the federal poverty level. Specific Appropriation 78A, s. 2, ch. 2013-40, L.O.F.

¹⁹ Section 1002.94(1) F.S.

²⁰ Section 1002.82(1), F.S.

quality of all program providers participating in the school readiness program²¹ while preserving parental choice by permitting parents to choose from a variety of child care categories, including center-based child care and informal child care. Care and curriculum by a faith-based provider must not be limited or excluded in any of these categories.²²

OEL must adopt, in rule, a statewide provider contract to be used by each school readiness program provider²³, review and approve each early learning coalition's school readiness plan every 2 years²⁴, and monitor and evaluate the performance of each early learning coalition in administering the school readiness program and the Voluntary Prekindergarten Program (VPK).²⁵ The OEL must also adopt specific system support services for the state's school readiness program including statewide data information program requirements that include:

- Eligibility requirements.
- Financial reports.
- Program accountability measures.
- Child progress reports.²⁶

Additional support services include child care resource and referral services and a single point of entry and uniform waiting list.²⁷ OEL may provide technical assistance and guidance on additional support services to complement the school readiness program, including:

- Rating and improvement systems.
- Warm-line services.²⁸
- Anti-fraud plans.
- School readiness program standards.
- Child screening and assessments.
- Training and support for parental involvement in children's early education.
- Family literacy activities and services.²⁹

OEL developed and adopted performance standards and benchmarks to address the age-appropriate progress of children in the development of school readiness skills as required by law. The standards are aligned with the performance standards adopted for children in the VPK program, which replaced current requirements with a much more robust set of child expectations for children, birth to five years of age.³⁰

Additional OEL requirements include, but are not limited, to:

- Providing technical assistance to early learning coalitions.
- Coordinating with other state and federal agencies to perform data matches to verify student eligibility.
- Cooperating and coordinating with the Child Care Services Program Office of the Department of Children and Families (DCF) to reduce paperwork and avoid duplicating interagency activities, health and safety monitoring, and acquiring and composing data pertaining to child care training and credentialing.

²¹ Section 1002.82(2)(a), F.S.

²² Section 1002.82(2)(b), F.S.

²³ Section 1002.82(2)(m), F.S.

²⁴ Section 1002.82(2)(e), F.S.

²⁵ Section 1002.82(2)(p), F.S.

²⁶ Section 1002.82(2)(f)1.a., F.S.

²⁷ Section 1002.82(2)(f)1.b., F.S., and Florida's Office of Early Learning, *Single Point of Entry*, at <https://spe.schoolreadiness.org/pe/> (last visited July 9, 2013).

²⁸ Florida's OEL must "administer a statewide toll-free Warm-Line for the purpose of providing assistance and consultation to child care facilities and family day care homes regarding health, developmental, disability, and other special needs." Section 1002.82(2)(r), F.S.

²⁹ Section 1002.82(2)(f)2., F.S.

³⁰ Email, Office of Early Learning (April 5, 2013). *See also*, Florida Early Learning and Developmental Standards for Four-Year-Olds (2011) – List of Standards and Benchmarks at <http://flbt5.floridaeearlylearning.com/> and Section 1002.82(j), F.S.

- Developing and adopting a health and safety checklist for completion by license-exempt providers.
- Adopting a list of approved curricula that meet the performance standards for the school readiness program and establish a review and approval process to ensure a provider's curriculum meets those standards.
- Adopting, in rule, standardized procedures for coalitions to use when monitoring the compliance of school readiness program providers with the terms of the standard statewide provider contract.
- Working in conjunction with the Bureau of Federal Education Programs in the Department of Education to coordinate readiness and voluntary prekindergarten services to populations served by the bureau.

What responsibilities do early learning coalitions have regarding the School Readiness Program?

Each ELC administers the School Readiness Program,³¹ the VPK Program,³² and the state's child care resource and referral network in its county or multicounty region.³³ There are currently 31 ELCs.³⁴ Each ELC is governed by a board of directors comprised of various stakeholders and community representatives. Three board members, including the chair, are appointed by the Governor.³⁵

In order to participate in the School Readiness Program, each ELC must submit a school readiness plan to Florida's OEL for approval.³⁶ The plan must include, but is not limited to:

- The coalition's operations, including its membership and business organizations and articles of incorporation and bylaws, if applicable.
- The minimum number of children to be served by care level.
- The procedures for implementing program requirements such as single point of entry, uniform waiting list, eligibility and enrollment; sliding fee scale, and payment rate.
- A detailed description of the coalition's quality activities and services.
- A detailed budget outlining the estimated expenditures for state, federal, and local matching funds.
- A detailed accounting of all revenues and expenditures during the previous state fiscal year.³⁷

An ELC with an approved school readiness plan must implement a comprehensive system of school readiness services which enhances the cognitive, social, and physical development of children to achieve the children's performance standards.³⁸ Specific ELC requirements include, but are not limited, to:

- Establishing a uniform waiting list to track eligible children.
- Establishing a resource and referral network.
- Establishing a regional Warm-Line.
- Establishing age-appropriate screening for children birth to 5 years.
- Implementing age appropriate preassessment and postassessment of children, if specified in the coalition's plan.
- Determining child eligibility.
- Establishing a parent sliding fee scale.
- Complying with federal and state procurement requirements.

³¹ Section 1002.83(1) F.S.

³² Sections 1002.55(1) and 1002.61(1)(b), F.S.

³³ Section 411.0101, F.S.

³⁴ Florida's Office of Early Learning, *Early Learning Coalition Directory* (Revised 6/6/2013), <http://www.floridaearlylearning.com/Documents/All-Contact/CoalitionDirectory.pdf> (last visited June 20, 2013). Florida law permits the establishment of 31 or fewer ELCs. Section 1002.83(1), F.S.

³⁵ Section 1002.83(3), F.S.

³⁶ Section 1002.85(2), F.S.

³⁷ Section 1002.85(2)(a)-(i), F.S.

³⁸ Section 1002.84(1), F.S.

- Establishing proper information technology security controls.
- Monitoring school readiness program providers.³⁹

ELCs are required to submit an annual report to OEL by October 1 of each year. The report must include information such as the total number of children served, details of expenditures by fund source, and an evaluation of its direct enhancement services.⁴⁰

What early childhood education and child care services are provided through the School Readiness Program?

The School Readiness Program offers financial assistance for child care to support working families and children develop skills for success in school and in life, and provides developmental screening and referrals to health and education specialists where needed. These services work in cooperation with other programs for young children such as Head Start, Early Head Start, and the Voluntary Prekindergarten (VPK) Program.⁴¹

Which child care providers may participate in school readiness programs?

In order to be eligible to deliver the school readiness program, Florida law requires that providers must be a licensed child care facility, a licensed or registered family day care home, a licensed large family child care home, a public school or nonpublic school exempt from licensure, a faith-based child care provider exempt from licensure, a before-school or after-school program, or an informal child care provider authorized in the state's Child Care and Development Fund Plan.⁴² Child care providers who provide school readiness services are regulated by the Department of Children and Families (DCF).⁴³

Provider responsibilities include, but are not limited, to:

- Providing instruction and activities to enhance the age-appropriate progress of each child to attain the child development standards adopted by OEL.
- Considering including activities to foster brain development in infants and toddlers by providing an environment rich in language and music; stimulating visual, tactile, auditory, and linguistic senses; and including 30 minutes of reading to children each day.
- Executing the standard statewide provider contract adopted by OEL.
- Implementing curricula approved by OEL.
- Implementing a character development program.
- Maintaining a minimum general liability insurance coverage of \$100,000 and general aggregate coverage of \$300,000 that includes coverage of transportation if students are transported by the provider, if they are not an informal provider. The OEL may authorize lower limits upon request, as appropriate.
- Adding the coalition as a named certificateholder and as an additional insured.
- Maintaining any required worker's compensation insurance and any required unemployment compensation insurance.
- Administering preassessments and postassessments that have been approved by the OEL, only if they choose to administer such assessments.

³⁹ Section 1002.84, F.S.

⁴⁰ Section 1002.84(18), F.S.

⁴¹ Florida Office of Early Learning, School Readiness, *at*, http://www.floridaearlylearning.com/OEL_Parents_ProgramsServices_SR.html. See also A Family Guide For Selecting Quality Early Learning Programs, available at http://www.floridaearlylearning.com/Documents/CCRR-Handbooks/ALL_FamilyGuide_ENG.pdf.

⁴² 1002.88(1)(a), F.S., See also Florida's Office of Early Learning, Child Care and Development Fund State Plan, *CCDF Plan FFY 2012/13 Part 3-Health and Safety and Quality Improvement Activities*, available at http://www.floridaearlylearning.com/Documents/SysDev-CCDF/2011-2013/CCDF2012_2013Part3-HealthandSafetyandQualityImprovementActivities.pdf.

⁴³ Ibid.

What is the Child Care Resource and Referral Network?

Florida's OEL must establish a statewide child care resource and referral network that will provide referrals to families for child care and information on available community services.⁴⁴ Each ELC must compile profiles of available public and private child care providers within the ELC's service area for use by parents in choosing providers. Various types of child care programs and services must be included in the network.⁴⁵ Referrals must be made to all "legally operating" child care facilities.⁴⁶ The child care resource and referral network is also used to document requests for services and provide technical assistance to providers regarding initiating or expanding services and program and budget development.⁴⁷

An ELC may contract for or provide these services directly.⁴⁸

How do parents enroll their children in the School Readiness Program?

A parent may apply for his or her child's admission in the School Readiness Program by submitting an application to an ELC. Florida's OEL has established, and ELCs must use, a single point of entry that enables a parent to enroll his or her child in the school readiness program at various locations throughout a county, by telephone, or through an Internet website.⁴⁹

What funding is available for the School Readiness Program?

The School Readiness Program receives funding from a mixture of federal and state sources, including the federal CCDF block grant, the Federal Grants Trust Fund, the federal Temporary Assistance for Needy Families block grant⁵⁰, and the state general revenue funds.⁵¹

For FY 2013-14, a total of \$552.5 million was appropriated for the School Readiness Program from state and federal funds, including \$136.9 million from the state's General Revenue Fund, \$318.4 million from the CCDF block grant, \$489,286 from Federal Grants Trust Fund, and \$96 million from the Welfare Transition Trust Fund.⁵²

⁴⁴ Section 1002.92(1), F.S.; *see also* Florida's Office of Early Learning, *State Child Care Resource and Referral Network*, http://www.floridaearlylearning.com/OEL_CCRR_Networks.html (last visited July 19, 2013).

⁴⁵ Section 1002.92(3)(a), F.S. These services may include family day care, public and private child care programs, the VPK Program, Head Start, the school readiness program, special education programs for prekindergarten children with disabilities, services for children with developmental disabilities, full-time and part-time programs, before-school and after-school programs, vacation care programs, parent education, the Temporary Cash Assistance Program, and related family support services. *Id.*; *see also* Florida's Office of Early Learning, *Child Care Resource and Referral Reference Guide*, at 5-6, 19, 23-25 (June 2010), *available at* <http://www.floridaearlylearning.com/Documents/CCRR-Handbooks/CCRR-ReferenceGuide-062310.pdf>.

⁴⁶ Section 1002.92(3)(b), F.S.

⁴⁷ Section 1002.92(3)(c), F.S.

⁴⁸ Section 1002.92(1), F.S.

⁴⁹ Section 1002.81(14), F.S. The Internet website for enrolling children in the school readiness program is <https://spe.schoolreadiness.org/pe/>. Florida's Office of Early Learning, *Single Point of Entry*, <https://spe.schoolreadiness.org/pe/> (last visited June 21, 2013).

⁵⁰ In 2011, the Florida Legislature created the Welfare Transition Trust Fund within the Florida Department of Education for use as a depository for receiving federal funds under the Temporary Assistance for Needy Families (TANF) Program. This trust fund will be terminated on July 1, 2015, unless reenacted by the Legislature. Section 1, ch. 2011-157, L.O.F.

⁵¹ Specific Appropriation 79, s. 2, ch. 2013-40, L.O.F.

⁵² Specific Appropriation 79, s. 2, ch. 2013-40, L.O.F.

Where can I get additional information?

Florida's Office of Early Learning

(850) 717-8550

<http://www.floridaearlylearning.com>

Florida House of Representatives

Education Committee

(850) 717-4830

<http://www.myfloridahouse.gov>

Florida House of Representatives

Appropriations Committee

(850) 717-4810

<http://www.myfloridahouse.gov>



Voluntary Prekindergarten Program

Education Committee

Last Updated: August 2013

What is the Voluntary Prekindergarten Education Program?

In 2004, the Legislature established the Voluntary Prekindergarten Education Program (VPK program), a voluntary, free prekindergarten program offered to eligible four-year old children in the year before admission to kindergarten.¹ A child must be a Florida resident and attain four years of age on or before September 1 of the academic year to be eligible for the VPK program.² Parents may choose either a school-year or summer program offered by either a public school or private prekindergarten provider.³ The child remains eligible for the VPK program until he or she is eligible for kindergarten in a public school or is admitted to kindergarten, whichever occurs first.⁴ A child may not attend the summer VPK program earlier than the summer immediately before the academic year in which the child becomes eligible for kindergarten.⁵

Voluntary Prekindergarten Education Programs			
Program Characteristics	School Year-Programs		Summer Program (s. 1002.61, F.S.)
	Public School (s. 1003.63, F.S.)	Private Prekindergarten Provider (s. 1002.55, F.S.)	
Provider Type	Public school	Private prekindergarten provider	Public school or private prekindergarten provider
Minimum Program Length	540 instructional hours	540 instructional hours	300 instructional hours
Class Size	4 to 20 students	4 to 20 students	4 to 12 students
Prekindergarten Director Credential ⁶	Not required	Required	Private prekindergarten provider only
Minimum Required Instructor Credential	Child Development Associate (CDA) or equivalent	CDA or equivalent	Florida-certified teacher or bachelor's or higher degree in early learning
Second Instructor for Large Classes (credential not required)	For classes of 12 or more students	For classes of 12 or more students	Not required

¹Section 1, ch. 2004-484, L.O.F.; part V, ch. 1002, F.S.; *see also* Art. IX, s. 1(b)-(c), Fla. Const. The VPK program originated from a ballot initiative proposing an amendment to the Florida Constitution in the November 2002 general election. The amendment required the Legislature to establish a free prekindergarten education program for every four-year old child residing in Florida by the 2005 academic year. Voters approved the amendment by a total of 59 percent for to 41 percent against. Art. IX, s. 1(b)-(c), Fla. Const.; *see also* Florida Department of State, Division of Elections, *Voluntary Universal Prekindergarten Education*, <http://election.dos.state.fl.us/initiatives/initdetail.asp?account=34708&seqnum=1> (last visited June 21, 2013).

²Section 1002.53(2), F.S.

³Section 1002.53(3), F.S. In 2010, the Legislature established a specialized instructional services program for children with disabilities as an option under the VPK program. Section 3, ch. 2010-227, *codified at* s. 1002.53(3)(d), F.S. Beginning with the 2012-13 academic year, a child who has a disability is eligible for specialized instructional services if the child is eligible for the VPK program and has a current Individual Education Plan (IEP) developed by the district school board. Specialized instructional services include applied behavior analysis, speech-language pathology, occupational therapy, and physical therapy. The Florida Department of Education is responsible for approving public and private program providers. Section 1002.66, F.S. Once this program is implemented, children who participate in the program will be eligible to receive a McKay Scholarship to enroll in and attend a private school. Section 1002.39(2)(a)1., F.S.

⁴Section 1002.53(2), F.S. Children who attain five years of age on or before September 1 of the academic year are eligible for admission to public kindergartens. Section 1003.21(1)(a)2., F.S.

⁵Section 1002.61(2)(c), F.S.

⁶The Florida Department of Education establishes the minimum standards for a credential for directors of private prekindergarten providers delivering the VPK program. Section 1002.57(1), F.S.; *see also* rule 6A-6.040(1), F.A.C.

Local oversight of the VPK program is provided by early learning coalitions (ELC) and school districts. Each ELC is the single point of entry for VPK program registration and enrollment in the coalition's county or multi-county service area.⁷ Each ELC must coordinate with each school district in the coalition's service area to develop procedures for enrolling children in public school VPK programs.⁸ Local oversight of individual VPK program providers is split, with ELCs providing administration over programs delivered by private prekindergarten providers and school districts administering public school VPK programs.⁹

Florida's Office of Early Learning (OEL)¹⁰ and Florida Department of Children and Family Services (DCF) each play a role in the state-level oversight of the VPK program. As lead agency for Florida's school readiness system, Florida's OEL governs the day-to-day operations of the VPK program.¹¹ The OEL oversees ELCs regarding child enrollment, attendance reporting, and reimbursement of VPK program providers and monitors VPK program providers for compliance with program requirements.¹²

OEL oversees statewide kindergarten readiness screening, calculates kindergarten readiness rates, adopts kindergarten readiness standards, approves VPK program curricula for use by a public school or private prekindergarten provider that fails to meet the minimum kindergarten readiness rate, approves emergent literacy training courses, adopts minimum standards for training courses on performance standards, approves VPK program director credentials, and specifies CDA credentials¹³ and training in emergent literacy that qualify for articulation into college credit.¹⁴

DCF administers the state's child care provider licensing program and posts VPK program provider profiles on its Internet website.¹⁵

How are children enrolled in the VPK program?

Parents may enroll their child in the VPK program by submitting an application to an ELC.¹⁶ OEL has established, and ELCs must use, a single point of entry that enables a parent to enroll his or her child in the VPK program at various locations throughout a county, by telephone, or through an Internet website.¹⁷ The ELC must determine the child's eligibility, conduct a parent orientation session, and provide the parent with a profile of eligible VPK program providers in the county where the child is being enrolled.¹⁸ The profile must

⁷ Section 1002.53(4)(a)-(b), F.S. There are currently 30 ELCs. Florida's Office of Early Learning, *Early Learning Coalition Directory (Revised 7/01/2013)*, <http://www.floridaearlylearning.com/Documents/All-Contact/CoalitionDirectory.pdf> (last visited July 8, 2013).

⁸ Section 1002.53(4)(c), F.S.

⁹ Sections 1002.55(1), 1002.61(1)(a)-(b), and 1002.63(1), F.S.

¹⁰ In 2013, the Legislature established the Office of Early Learning in the Office of Independent Education and Parental Choice within the Department of Education (DOE). The office is administered by an executive director and is fully accountable to the Commissioner of Education but shall independently exercise all powers, duties, and functions prescribed by law, as well as adopt rules for the establishment and operation of the school readiness program and the Voluntary Prekindergarten Education Program. s. 1, ch. 2013-252, *codified at* 1002.213, F.S.

¹¹ Sections 1001.213, and 1002.75(1)-(2), F.S.

¹² Section 1002.75(2), F.S.

¹³ The CDA credential is a child care credential issued by the Council for Professional Recognition. Council for Professional Recognition, *How to Earn a CDA*, <http://www.cdacouncil.org/the-cda-credential/how-to-earn-a-cda> (last visited June 24, 2013).

¹⁴ Sections 1002.69(1) and (5), 1002.67(1)-(2) and (4), 1002.59, 1002.57(1), 1002.73(2), and 1007.23(6), F.S.

¹⁵ Sections 402.301-402.319, F.S.; *see also* Florida Department of Children and Family Services, *Provider Search*, <http://dcfsanswrite.state.fl.us/Childcare/provider> (last visited June 24, 2013).

¹⁶ Section 1002.53(4)(a)-(b), F.S.; *see also* rule 6M-8.201(1)(b), F.A.C.

¹⁷ Sections 1002.53(4)(a) and 1002.82, F.S. The Internet website for enrolling children in the school readiness program is <https://spe.schoolreadiness.org/pe/>. Florida's Office of Early Learning, *Single Point of Entry*, <https://spe.schoolreadiness.org/pe/> (last visited July 8, 2013).

¹⁸ Section 1002.53(4)-(5), F.S.; *see also* rules 6M-8.202(1) and 6M-8.201(4)(a), F.A.C. The ELC must conduct a face-to-face orientation session or determine the child's eligibility face-to-face with the child's parent unless the coalition maintains the child's records for another early learning program and verifies that the child's birth date in the records of the early learning program is the same as on the child's VPK program application; another coalition conducted the VPK program eligibility determination for that child; or if the child's parent is a service member United States Armed Forces and is unable to attend the orientation session because of assigned duty outside the state of Florida, and the parent submits to the coalition, a military order showing that the parent is

include information regarding provider services, curricula, instructor credentials, instructor-to-student ratios, and kindergarten readiness rates.¹⁹ The enrollment process is complete when the parent chooses a school-year or summer program offered by an eligible VPK program provider and the child's enrollment is recorded by the ELC.²⁰ A public school or private prekindergarten provider is prohibited from charging any fees for the VPK program. Additionally, a public school or private prekindergarten provider may not require a child to enroll for, or require the payment of a fee for, any supplemental services as a condition of enrollment in the VPK program.²¹

Voluntary Prekindergarten Program Enrollment²²					
Program Year	Total Enrollment	School-Year Program	Summer Program	Population of 4-Year-Olds	Participation Rate
2005-06	106,479	94,011	12,468	217,577	48.9%
2006-07	123,567	113,253	10,314	216,929	57.0%
2007-08	134,717	125,141	9,576	215,713	62.5%
2008-09	147,752	137,637	10,115	213,019	69.4%
2009-10	156,826	148,220	8,606	216,078	72.6%
2010-11	165,374	157,072	8,302	216,179	76.5%
2011-12	175,660	167,358	8,302	217,202	80.9%
2012-13	174,230	166,457	7,773	218,996	80.3%

What requirements must VPK program providers meet in order to offer the VPK program?

The VPK program may be offered by either a private prekindergarten provider or a public school. To offer the VPK program, a private prekindergarten provider must register with the ELC and must be a:

- Licensed child care facility;
- Licensed family day care home;
- Licensed large family child care home;
- Nonpublic school exempt from licensure; or
- Faith-based child care provider exempt from licensure.²³

In addition, a private prekindergarten provider must:

- Be accredited by an accrediting association that is a member of either the National Council for Private School Accreditation, or the Florida Association of Academic Nonpublic Schools, or be accredited by the Southern Association of Colleges and Schools, the Western Association of Colleges and Schools, the North Central Association of Colleges and Schools, the Middle States Association of Colleges and Schools, or the New England Association of Colleges and Schools; and has written accreditation standards that meet the state's licensing requirements²⁴ and requires at least one onsite visit before accreditation is granted;²⁵

assigned to duty in the state of Florida for the duration of child's enrollment in the VPK program. Rules 6M-8.202(1)(b) and 6M-8.201(4)(b), F.A.C.

¹⁹ Section 1002.53(5)(a)-(b), F.S.; *see also* rule 6M-8.201(4)(a)4.-7., F.A.C.

²⁰ Section 1002.53(3) and (6), F.S.; *see also* rule 6M-8.202(2)(a), (c), and (d), F.A.C.

²¹ Section 1002.71(8), F.S.

²² Email, Florida Department of Education, Governmental Relations (July 1, 2013).

²³ Section 1002.55(3)(a) and (h), F.S.; *see also* rule 6M-8.300(3), F.A.C.; s. 402.305, F.S. (child care facilities licensing); s. 402.313, F.S. (family day care homes licensing); s. 402.3131, F.S. (large family child care homes licensing); s. 402.316, F.S. (faith-based provider exempt from licensure).

²⁴ Section 1002.55(3)(b)1., F.S.

²⁵ Section 1002.55(3)(b)1., F.S.; *see also* National Council for Private School Accreditation, <http://www.ncpsa.org> (last visited June 24, 2013); Florida Association of Academic Nonpublic Schools, <http://www.faans.org> (last visited June 24, 2013); Southern Association of Colleges and Schools, <http://www.sacs.org/> (last visited June 24, 2013); Western Association of Colleges and Schools, <http://www.acswasc.org/> (last visited June 24, 2013); North Central Association of Colleges and Schools, <http://www.northcentralassociation.org/> (last visited June 24, 2013); Middle States Association of Colleges and Schools,

- Hold a current Gold Seal Quality Care designation;²⁶ or
- Be licensed and demonstrate to the ELC that the provider meets the VPK program's statutory requirements.²⁷

Private prekindergarten providers must also use the approved statewide provider contract, maintain general liability insurance and maintain any required workers' compensation insurance and reemployment assistance or unemployment compensation coverage.²⁸

Each district school board determines which district schools will offer the school-year and summer VPK programs and such schools must register with the ELC.²⁹ School districts must offer a summer VPK program and may limit enrollment at individual public schools so long as admission is provided to every eligible student who seeks enrollment in the district's summer program.³⁰

What instructor credentials are required for the VPK program?

School-Year Program. A public school or private prekindergarten provider offering a school-year VPK program must have, for each class, at least one instructor with the following credentials:

- A CDA issued by the National Credentialing Program of the Council for Professional Recognition, plus five clock hours of training in emergent literacy;³¹ or
- A credential approved by DCF as being equivalent to or greater than the CDA, plus five clock hours of training in emergent literacy.³²

However, in lieu of the minimum credentials listed above, a prekindergarten instructor for a private prekindergarten provider may hold one of the following credentials:

- An educational credential approved by OEL as being equivalent to or greater than any of these educational credentials;
- Associate's or higher degree in child development;
- Associate's or higher degree in an unrelated field, at least 6 credit hours in early childhood education or child development, and at least 480 hours of teaching or providing child care services for children any age from birth through 8 years of age;
- Bachelor's or higher degree in early childhood education, prekindergarten or primary education, preschool education, or family and consumer science; or

<http://www.middlestates.org/> (last visited June 24, 2013); New England Association of Colleges and Schools, <http://www.neasc.org/> (last visited June 24, 2013).

²⁶ Section 402.281, F.S.; rule 65C-22.009, F.A.C.; see also Florida Department of Children and Family Services, *Gold Seal Quality Care*, <http://www.dcf.state.fl.us/childcare/goldseal.shtml> (last visited June 24, 2013). DCF issues the Gold Seal Quality Care designation to child care facilities, large family child care homes, and family day care homes that are accredited by a nationally recognized accrediting association with standards that meet or exceed DCF-adopted standards. DCF's standards are based upon those of the National Association for the Education of Young Children, National Association of Family Child Care, and National Early Childhood Program Accreditation Commission. Section 402.281(1)-(3), F.S.

²⁷ Section 1002.55(3)(b), F.S.

²⁸ Section 1002.55(3)(i) – (l), F.S.

²⁹ Sections 1002.61(3)(a) and (8)(a) and 1002.63(3) and (8)(a), F.S.

³⁰ Sections 1002.53(6)(b) and 1002.61(3)(a), F.S.

³¹ Sections 1002.55(3)(c)1.a. and 2., 1002.59, and 1002.63(4), F.S. Emergent literacy includes oral communication, knowledge of print and letters, phonemic and phonological awareness (recognition that words are made up of sounds), and vocabulary and comprehension development. Sections 1002.59 and 1002.67(1)(b), F.S. The emergent literacy training requirement does not apply to individuals who completed required training for staff of child care facilities, family day care homes, and large family child care homes licensed by DCF before the establishment of emergent literacy training courses or April 1, 2005, whichever occurred later. Section 1002.55(3)(c)2., F.S.; see ss. 402.305(2)(d)5., 402.313(6), and 402.313(5), F.S.

³² Sections 1002.55(3)(c)1.b. and 2. and 1002.59, F.S. An active Birth Through Five Child Care Credential awarded as a Florida Child Care Professional Credential, Florida Department of Education Child Care Apprenticeship Certificate, or Early Childhood Professional Certificate satisfies the staff credential requirement. Rule 65C-22.003(7), F.A.C.

- Bachelor's or higher degree in elementary education, if the instructor has been certified to teach children any age from birth through grade 6, regardless of whether the educator certificate is current.³³

In addition, a private prekindergarten provider of a school year program must successfully complete an emergent literacy training course and a student performance standards training course approve by OEL.³⁴

A public school or private prekindergarten provider offering a school-year VPK program must have a second adult instructor for each class of 12 or more students; however, the second instructor is not required to meet the same qualifications as the lead instructor.³⁵

A VPK program provider may assign a substitute instructor to temporarily teach a school-year VPK program class when the lead instructor is absent.³⁶ If the substitute instructor does not hold any of the credentials authorized for lead instructors, the substitute instructor must, at a minimum, hold an associate's or higher degree in any field of study, a CDA, or a CDA-equivalent credential, and complete specified DCF child care training courses, or meet the local school district's requirements for employment as a substitute teacher.³⁷ A substitute instructor may not be assigned for more than 30 percent of the program hours.³⁸

Summer Program. A public school or private prekindergarten provider offering a summer VPK program must have for each class a Florida-certified teacher or at least one instructor with the following credentials:

- Bachelor's or higher degree in early childhood education, prekindergarten or primary education, preschool education, or family and consumer science; or
- Bachelor's or higher degree in elementary education, if the instructor has been certified to teach children any age from birth through grade 6, regardless of whether the educator certificate is current.³⁹

Like the school-year VPK program, substitute instructors may be assigned to temporarily teach a summer VPK program class when the lead instructor is absent.⁴⁰ If the substitute instructor does not hold any of the credentials authorized for lead instructors, he or she must hold an associate's or higher degree in any field of study or a CDA or equivalent credential.⁴¹ A substitute instructor may not be assigned for more than 30 percent of the program hours.⁴²

What are the background screening requirements for VPK program instructors?

Each VPK program instructor, including substitute instructors, must be of good moral character, may not be ineligible to teach in a public school because of a suspended or revoked teaching certificate, and must pass a level 2 background screening before employment, which must be repeated at least once every five years.⁴³ Background screening includes, but is not limited to, fingerprinting for statewide criminal history records checks through the Florida Department of Law Enforcement, national criminal records checks through the Federal Bureau of Investigation, and may include local criminal records checks through local law enforcement

³³ Section 1002.55(4), F.S., provides flexibility in meeting minimum credential requirements for VPK program instructors to only private prekindergarten instructors. However, DOE interprets the provisions of this law to also apply to VPK program instructors in public schools. Florida Department of Education, Technical Assistance Paper: #07-01, <http://www.fldoe.org/earlylearning/district.asp> (last visited, June 25, 2013).

³⁴ 1002.55(3)(c)2., F.S.

³⁵ Sections 1002.55(3)(f) and 1002.63(7), F.S.

³⁶ Sections 1002.55(3)(e) and 1002.63(6), F.S.

³⁷ Rule 6M-8.410(2)(b), F.A.C.

³⁸ Rule 6M-8.410(4), F.A.C.

³⁹ Sections 1002.61(4) and 1002.55(4)(a)-(b), F.S.

⁴⁰ Section 1002.61(6), F.S.

⁴¹ Rule 6M-8.410(2)(b), F.A.C.

⁴² Rule 6M-8.410(4), F.A.C.

⁴³ Sections 1002.55(3)(d)-(e), 1002.61(5)-(6), and 1002.63(5)-(6), F.S.; see also rule 60M-8.410(2), F.A.C.

agencies.⁴⁴ A VPK program provider may not employ an instructor who has been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to any one of 51 specified criminal offenses.⁴⁵

What are the curricular requirements for the VPK program?

Each private provider and public school may select or design its own curriculum,⁴⁶ which must:

- Be developmentally appropriate;
- Be designed to prepare a student for early literacy;
- Enhance the age-appropriate progress of students in attaining VPK program performance standards adopted by OEL; and
- Prepare students to be ready for kindergarten based on the statewide kindergarten screening.⁴⁷

However, a public school or private prekindergarten provider that is placed on probation for failing to meet the minimum kindergarten readiness rate adopted by OEL must take certain corrective actions, including the use of an OEL-approved curriculum or a staff development plan to strengthen instruction in language development and phonological awareness.⁴⁸

What is the statewide kindergarten screening?

Within the first 30 school days of each academic year, each school district must screen each kindergarten student in the school district to determine his or her readiness for kindergarten. Nonpublic schools are authorized to administer the statewide kindergarten screening to each kindergarten student in a nonpublic school who was enrolled in the VPK program.⁴⁹ DOE has adopted the Florida Kindergarten Readiness Screener (FLKRS) for this purpose.⁵⁰ FLKRS is composed of two screening instruments:

- A subset of the Early Childhood Observation System (ECHOS), which is an observational instrument used to monitor the skills, knowledge, and behaviors a student demonstrates or needs to develop. Skills, knowledge, and behaviors measured include language and literacy, mathematics, social and personal skills, science, social studies, physical development and fitness, and creative arts; and
- The Florida Assessments for Instruction in Reading (FAIR) developed by DOE in partnership with the Florida Center for Reading Research.⁵¹ FAIR is comprised of a progress monitoring assessment of

⁴⁴ Section 435.04(1)(a), F.S. The state portion of the background check is completed by the Florida Department of Law Enforcement, which then forwards the instructor's fingerprint card to the Federal Bureau of Investigation for completion of the national check. See Florida Department of Law Enforcement, *Criminal History Record Checks/Background Checks Fact Sheet*, (May 1, 2013), available at http://www.fdle.state.fl.us/Content/getdoc/535f7a77-8450-4fc9-b2d3-b9d2ce364a4d/BackgroundChecks_FAQs_04012013_Final.aspx. Under s. 435.04(1)(a), F.S., the local criminal records check is optional. However, Form OEL-VPK 20, the Statewide Provider Agreement, for the VPK Program, which is incorporated by reference in rule 6M-8.301, F.A.C., requires the local criminal records check. Florida's Office of Early Learning, *Form OEL-VPK 20 Statewide Provider Agreement 07-15-10*, available at http://www.floridaearlylearning.com/OEL_Program_Guidance-Policy.html#Forms

⁴⁵ Sections 435.04(2), 435.06, 1002.55(3)(d), 1002.61(5), and 1002.63(5), F.S. However, the DCF may, under certain circumstances, grant exemptions from disqualifying offenses for VPK program instructors of private providers. Section 435.07, F.S.

⁴⁶ Section 1002.67(2)(a), F.S.

⁴⁷ Section 1002.67(2)(b), F.S.

⁴⁸ Section 1002.67(4), F.S.

⁴⁹ Section 1002.69(1), F.S.

⁵⁰ Memorandum from Executive Director, Office of Early Learning, and Administrator, Office of Assessment, Florida Department of Education, to District Assessment Coordinators and Assistant Superintendents for Curriculum and Instruction, No. 08-06 (March 14, 2008), available at <http://www.fldoe.org/earlylearning/pdf/08-06FLKRSRegionalTrainingMemo.pdf> (last visited June 24, 2013).

⁵¹ Memorandum from Executive Director, Office of Early Learning, Florida Department of Education, to Interested Persons, No. 08-16 (Aug. 14, 2008), available at <http://www.fldoe.org/earlylearning/pdf/Memo08-16.pdf> (last visited June 24, 2013); Florida Department of Education, *Kindergarten Assessment: History and Legislative Authority*, at 2 (Nov. 2, 2009), available at <http://www.fldoe.org/earlylearning/pdf/HistoryofKindergartenAssessment.pdf> (last visited June 24, 2013).

letter naming ability and phonemic awareness and a diagnostic assessment measuring listening comprehension and vocabulary.⁵²

In the 2006-07 through 2008-09 academic years, the FLKRS consisted of the ECHOS component and the Letter Naming Fluency and Initial Sound Fluency parts of the Dynamic Indicators of Basic Early Literacy Skills (DIBELS).⁵³ Beginning in the 2009-10 academic year, DIBELS was replaced by FAIR.⁵⁴

Florida Kindergarten Readiness Screening Results 2006-07 to 2012-13							
ECHOS 2006-07 to 2012-13⁵⁵							
Academic Year	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12	2012-13
Total Students	184,124	180,351	178,917	182,534	184,526	187,044	189,178
Ready	86%	88%	88%	89%	90%	91%	92%
Not Ready	14%	12%	12%	11%	10%	9%	8%
VPK Program Completers	64,812	83,160	95,173	103,943	116,857	120,883	121,943
Ready	92%	93%	92.5%	93%	94%	95%	95%
Not Ready	8%	7%	7.5%	7%	6%	5%	5%

DIBELS: 2006-07 to 2008-09						
	DIBELS Letter Naming Fluency			DIBELS Initial Sound Fluency		
	2006-07	2007-08	2008-09	2006-07	2007-08	2008-09
Total Students	183,894	180,675	178,115	179,351	184,866	199,715
Ready	71%	66%	77%	65%	74%	77%
Not Ready	29%	34%	23%	35%	26%	23%
VPK Program Completers	64,301	81,478	92,385	63,071	82,887	94,648
Ready	82%	72%	73%	70%	84%	86%
Not Ready	18%	28%	27%	30%	16%	14%

FAIR: 2009-10 to 2012-13⁵⁶				
	2009-10	2010-11	2011-12	2012-13
Total Students	179,827	181,900	187,613	197,433
Ready	65%	68%	70%	72%
Not Ready	35%	32%	30%	28%
VPK Program Completers	101,884	116,900	120,981	128,204
Ready	74%	76%	75%	81%
Not Ready	26%	24%	25%	19%

What is a kindergarten readiness rate?

Kindergarten readiness rate is calculated by dividing the number of children who complete the VPK program⁵⁷ and are assessed as ready for kindergarten on FAIR and ECHOS screenings by the total number of children

⁵² Florida Department of Education, *Florida Kindergarten Readiness Screener: 2009-10 Overview*, at 11 (June 2009), available at <http://www.fldoe.org/earlylearning/pdf/ogfo.pdf>.

⁵³ *Id.*

⁵⁴ Florida Department of Education, *Florida Kindergarten Readiness Screener*, <http://www.fldoe.org/earlylearning/FLKRS2009.asp> (last visited April 19, 2012).

⁵⁵ Email, Florida Department of Education, Governmental Relations (July 1, 2013).

⁵⁶ *Id.*

screened meeting the requirements set by the OEL.⁵⁸ Legislation passed in 2012 provided for the implementation of a pre- and post-assessment using the Florida VPK Assessment tool with the legislative intent to use the gains made by children while attending VPK as a component of the VPK Readiness Rates. This will occur after two years of data have been collected and a definition of gains can be formulated based on valid assessment data.⁵⁹

To be considered ready for kindergarten, a kindergarten student's score on FAIR must demonstrate for that student probability of reading success of .67 or higher; and the student's assessment on ECHOS must indicate that the student is either "emerging/progressing" or "demonstrating." In order for a public school or private prekindergarten provider to be considered successful in delivering the VPK program, 70 percent of children served by that school or provider must demonstrate kindergarten readiness. A public school or private prekindergarten provider failing to meet this standard will be placed on probation.⁶⁰ The OEL must periodically adopt a minimum kindergarten readiness rate.⁶¹

A kindergarten readiness rate is calculated for each public school or private prekindergarten provider with at least four children who complete the VPK program and have screening results for both portions of the FLKRS.⁶² Students not taking the statewide kindergarten screening are not included in the calculation of a kindergarten readiness rate.⁶³

What are the accountability requirements for low-performing public schools and private prekindergarten providers?

If the kindergarten readiness rate of a public school or private prekindergarten provider falls below the minimum kindergarten readiness rate adopted by OEL, the ELC or school district, as applicable, must:

- Require the public school or private prekindergarten provider to submit a school improvement plan for approval by the school district or coalition, as applicable, and implement the plan.
- Place the public school or private prekindergarten provider on probation and require corrective actions including the use of a OEL-approved curriculum or a staff development plan to strengthen instruction in language development and phonological awareness.⁶⁴

A public school or private prekindergarten provider that is placed on probation must continue the required corrective actions until it meets the minimum kindergarten readiness rate.⁶⁵

If a public school or private prekindergarten provider remains on probation for two consecutive years and fails to meet the minimum kindergarten readiness rate, and is not granted a good cause exemption by OEL, OEL must require the school district to remove the public school and must require the ELC to remove the private prekindergarten provider from eligibility to deliver the VPK program and receive state funds for such program for a period of five years.⁶⁶

⁵⁷ A student is considered to have completed the VPK program if he or she attends the VPK program for 70 percent or more of the total number of instructional hours (*i.e.*, 378 hours of a 540-hour school-year program or 210 hours of a 300-hour summer program). Rule 6A-1.099821(3)(a), F.A.C.; *see also* s. 1002.69(5), F.S., and Florida Department of Education, *VPK Provider Kindergarten Readiness Rate Website, Frequently Asked Questions*, <https://vpk.fldoe.org/InfoPages/FAQ.aspx#section4> (last visited June 24, 2013).

⁵⁸ Section 1002.69(5), F.S.; *see also* Rule 6A-1.099821(3)(b)2., F.A.C.

⁵⁹ Email, Florida Department of Education, Office of Early Learning (Nov. 28, 2012)

⁶⁰ Rule 6A-1.099821(3)(b)1., F.A.C.

⁶¹ Section 1002.69(6), F.S.

⁶² Rule 6A-1.099821(3)(a), F.A.C.

⁶³ Section 1002.69 (5), F.S.

⁶⁴ Section 1002.67(3)(c)1.-2., F.S.

⁶⁵ Section 1002.67(4)(c), F.S.

⁶⁶ Section 1002.67(4)(c)2., F.S.

What is a good cause exemption?

A good cause exemption releases a public school or private prekindergarten provider from being determined ineligible to deliver the VPK program and receive state funds for the VPK program. Upon request by a public school or private prekindergarten provider that remains on probation for two consecutive years, subsequently fails to meet the minimum kindergarten readiness rate, and shows good cause, the Florida OEL may grant such provider or school a good cause exemption. Such exemption is valid for one year, and may be renewed upon request by the public school or private prekindergarten provider.⁶⁷ A public school or private prekindergarten provider that receives a good cause exemption must continue to implement its improvement plans and take corrective actions until such school or provider meets the minimum kindergarten readiness rate.⁶⁸

Request by a public school or private prekindergarten provider to the OEL for good cause exemption or renewal of such exemption must include the following:

- Submission of data by the public school or private prekindergarten provider which documents student learning gains.⁶⁹
- Submission and review of data available from the respective ELC or district school board, DCF, local licensing authority, or an accrediting association, as applicable, relating to the public school's or private prekindergarten provider's compliance with state and local health and safety standards.
- Submission and review of data available to OEL on the performance of the children served and the calculation of the public school's or private prekindergarten provider's kindergarten readiness rate.⁷⁰

A good cause exemption must not be granted to any private prekindergarten provider that has any class I⁷¹ violations or two or more class II⁷² violations within the 2 years preceding the provider's or school's request for the exemption.⁷³

OEL must notify the applicable ELC of the good cause exemption granted to a private prekindergarten provider within the coalition's service area, and direct that coalition to not remove the provider from eligibility to deliver the VPK program.⁷⁴

⁶⁷ Section 1002.69(7)(a), F.S.

⁶⁸ Sections 1002.69(7)(e) and 1002.67(3)(c)2., F.S.

⁶⁹ Contingent upon legislative appropriation, each public school or private prekindergarten provider in the VPK program must implement an evidence-based pre- and post-assessment approved by the State Board of Education. Approval of such assessment must be based on validity, reliability, developmental appropriateness, and design of the assessment that measures student progress on domains including, but not limited to, early literacy, numeracy, and language. In 2013, the Florida Legislature appropriated \$4,266,892 to implement the VPK program assessment developed by DOE in collaboration with the Florida Center for Reading Research to be used to conduct pre- and post-assessments as required in s.1002.67(3)(a), F.S.; *see also* Specific Appropriation 72, s. 2, ch. 2013-40, L.O.F. (proviso language).

⁷⁰ Section 1002.69(7)(b), F.S.; *see also* Section 1002.69(7)(c)1., F.S.

⁷¹ Class I violations are the most serious in nature, pose an imminent threat to a child including abuse or neglect and which could or does result in death or serious harm to the health, safety or well-being of a child. Rule 65C-22.010(1)(d)1., F.A.C.

⁷² Class II violations are less serious in nature than Class I violations, and could be anticipated to pose a threat to the health, safety or well-being of a child, although the threat is not imminent. Rule 65C-22.010(1)(d)2., F.A.C.

⁷³ Section 1002.69(7)(d), F.S.

⁷⁴ Section 1002.69(7)(f), F.S.

Low Performing VPK Program Providers 2005-06 to 2011-12⁷⁵							
	2005-06	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12
Total Providers	4,565	5,116	5,449	6,051	6,384	6,712	6,809
Total Providers Rated	3,772 (83%)	4,595 (90%)	4,962 (91%)	5,472 (90%)	5,885 (92%)	6,076 (91%)	6,077 (89%)
Total Low-Performing Providers	556	689	733	787	798	2,123	1,711

What funding is provided for the VPK program?

A separate base student allocation per full-time equivalent student in the VPK program shall be provided in the General Appropriations Act (GAA) for a school-year program and for a summer program.⁷⁶ Each county's allocation per full-time equivalent student in the VPK program must be calculated by multiplying the base student allocation⁷⁷ provided in the GAA by the county's district cost differential.⁷⁸ Each public school or private prekindergarten provider must be paid according to the county's allocation per full-time equivalent student.⁷⁹

OEL has established payment procedures and a uniform student attendance policy used for funding purposes.⁸⁰ Funds are distributed monthly to ELCs for payments to public schools or private prekindergarten providers.⁸¹ Each ELC is advanced funds based on projected attendance. Once a public school or private prekindergarten provider begins delivery of VPK program services, the parent of each student in the VPK program must verify and certify the student's attendance each month for the prior month, and submit the monthly verification of the student's attendance to the public school or private prekindergarten provider.⁸² Payments disbursed to a public school or private prekindergarten provider subsequent to the initial advance payment are reconciled based on actual attendance.⁸³

Each ELC must report student enrollment to OEL on a monthly basis. ELCs may not amend student enrollment count for the prior fiscal year after December 31 of the subsequent fiscal year.⁸⁴

⁷⁵ Florida Department of Education, *State Board of Education Meeting Agenda for March 26, 2010, Action Item No. 14*, at 2 (March 26, 2010), available at http://www.fldoe.org/board/meetings/2010_03_26/covervpk.pdf and Email, Florida Department of Education, Governmental Relations (July 1, 2013).

⁷⁶ Section 1002.71(3)(a), F.S.

⁷⁷ Base student allocation for a school-year program must be "equal for each student, regardless of whether the student is enrolled in a school-year prekindergarten program delivered by a public school or a private prekindergarten provider. The base student allocation for a summer prekindergarten program [must] be equal for each student, regardless of whether the student is enrolled in a summer prekindergarten program delivered by a public school or private prekindergarten provider." Section 1002.71(3)(a), F.S.

⁷⁸ The district cost differential must be calculated by "adding each district's price level index as published in the Florida Price Level Index for the most recent 3 years and dividing the resulting sum by 3. The result for each district [must] be multiplied by 0.008 and to the resulting product [must] be added 0.200; the sum thus obtained [must] be the cost differential for that district for that year." Section 1011.62(2), F.S.

⁷⁹ Sections 1002.71(3)(b) and 1011.62(2), F.S.

⁸⁰ Section 1002.71(5)(b) and (6)(d), F.S.; see also rule 6M-8.204, F.A.C.

⁸¹ Section 1002.71(5)(b), F.S.

⁸² Section 1002.71(6)(b)1.-2., F.S.

⁸³ Section 1002.71(5)(b), F.S.

⁸⁴ Section 1002.71(3)(c), F.S.

VPK Program Funding: FYs 2009-10 to 2013-14					
	2009-10	2010-11	2011-12	2012-13	2013-14
Total Funding	\$391,819,943 ⁸⁵	\$404,372,806 ⁸⁶	\$394,921,554 ⁸⁷	\$413,312,552 ⁸⁸	\$404,927,801 ⁸⁹
Per Student Funding: School-Year Program	\$2,575 ⁹⁰	\$2,562 ⁹¹	\$2,383 ⁹²	\$2,383 ⁹³	\$2,386 ⁹⁴
Per Student Funding: Summer Program	\$2,190 ⁹⁵	\$2,179 ⁹⁶	\$2,026 ⁹⁷	\$2,026 ⁹⁸	\$2,028 ⁹⁹

The State Constitution does not require the VPK program to provide transportation for students,¹⁰⁰ and current law does not earmark funding for transportation.¹⁰¹ However, a public school or private prekindergarten provider may use part of its VPK program funding for student transportation.¹⁰²

Where can I get additional information?

Florida's Office of Early Learning

(850) 717-8550

<http://www.floridaeearlylearning.com/>

Florida Department of Children and Family Services

Child Care Services Program Office

(850) 488-4900

<http://www.myflorida.com/childcare>

Florida House of Representatives

Education Committee

(850) 717-4830

<http://www.myfloridahouse.gov>

Florida House of Representatives

Appropriations Committee

(850) 717-4810

<http://www.myfloridahouse.gov>

Florida House of Representatives

Health & Human Services Committee

(850) 717-4840

<http://www.myfloridahouse.gov>

⁸⁵ Specific Appropriations 74, s. 2, and 2160, s. 6, ch. 2009-81, L.O.F.

⁸⁶ Specific Appropriations 75, s. 2, and 2246, s. 6, ch. 2010-152, L.O.F.

⁸⁷ Specific Appropriations 66, s. 2, and 2036, s. 6, ch. 2011-69, L.O.F.

⁸⁸ Specific Appropriations 78, s. 2, ch. 2012-118, L.O.F.

⁸⁹ Specific Appropriations 82, s. 2, ch. 2013-40, L.O.F.

⁹⁰ Specific Appropriation 74, s. 2, ch. 2009-81, L.O.F. (proviso language).

⁹¹ Specific Appropriation 75, s. 2, ch. 2010-152, L.O.F. (proviso language).

⁹² Specific Appropriation 66, s. 2, ch. 2011-69, L.O.F. (proviso language).

⁹³ Specific Appropriation 78, s. 2, ch. 2012-118, L.O.F. (proviso language).

⁹⁴ Specific Appropriation 82, s. 2, ch. 2013-40, L.O.F. (proviso language).

⁹⁵ Specific Appropriation 74, s. 2, ch. 2009-81, L.O.F. (proviso language).

⁹⁶ Specific Appropriation 75, s. 2, ch. 2010-152, L.O.F. (proviso language).

⁹⁷ Specific Appropriation 66, s. 2, ch. 2011-69, L.O.F. (proviso language).

⁹⁸ Specific Appropriation 78, s. 2, ch. 2012-118, L.O.F. (proviso language).

⁹⁹ Specific Appropriation 82, s. 2, ch. 2013-40, L.O.F. (proviso language).

¹⁰⁰ Art. IX, s. 1(b)-(c), Fla. Const.

¹⁰¹ Section 1002.71(9), F.S.

¹⁰² Sections 1002.71(9) and 1011.68, F.S.



Student Participation in Interscholastic Extracurricular Activities

Education Committee

Last Updated: August 2012

What are interscholastic extracurricular activities?

Interscholastic extracurricular activities are school-authorized athletic or education-related activities for students that occur during or outside of the regular instructional school day.¹ Such activities include athletics,² marching band, chorus, and academic clubs.

What are the eligibility requirements a high school³ student must meet to participate in interscholastic extracurricular activities?

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

- 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;⁴
- 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. An academic performance contract is an agreement between the student, the district school board, the appropriate governing association, and the student's parents, which at a minimum requires the student to attend summer school or its graded equivalent, between grades nine and 10 or grades 10 and 11, as necessary;⁵
- Have a cumulative GPA of 2.0 or above in the courses required for graduation in his or her junior or senior year;⁶ and
- Demonstrate satisfactory conduct to be eligible to participate in interscholastic extracurricular activities. 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.⁷

A school district may set additional eligibility requirements, but the requirements must not make participation less accessible to home education students than to other students.⁸ An eligible student may participate in high school 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.⁹

A high school student may be eligible to participate in interscholastic extracurricular activities in the school to which the student has transferred during the school year if the transfer is made by a deadline established by

¹ Section 1006.15, F.S.

² "Interscholastic athletic programs encompass all activities relating to competitive sport contests involving individual students or teams of students from one school against individual students or teams of students from another school. Such activities include, but are not limited to, tryouts, offseason conditioning, summer workouts, preseason conditioning, in-season practice and contests."

Section 9.2.1.2 of Bylaw 9.2.1, *FHSAA Handbook*, available at

http://www.fhsaa.org/sites/default/files/attachments/2010/09/16/node-235/complete_handbook_276pgs.pdf.

³ For purposes of athletics in public K-12 schools, high school includes grade six through 12. Section 1006.20(1), F.S.

⁴ Section 1006.15(3)(a)1., F.S.

⁵ Section 1006.15(3)(a)2., F.S.

⁶ Section 1006.15(3)(a)3., F.S.

⁷ Section 1006.15(3)(a)4., F.S.

⁸ Section 1006.15(4), F.S.

⁹ Section 1006.20(2)(a), F.S.

the Florida High School Athletic Association (FHSAA),¹⁰ which may not be prior to the date authorized for the beginning of practice for the sport.¹¹

A student who transfers from a charter school or a home education program to a public school before or during the first grading period of the school year is academically eligible to participate in interscholastic extracurricular activities during the first grading period provided the student has a successful evaluation from the previous school year.¹²

A public or private school student who has not maintained academic eligibility may not participate in interscholastic extracurricular activities as a charter school or a home education student until the student successfully demonstrates educational progress for one grading period.¹³

What are the eligibility requirements a charter school or home education student must meet to participate in interscholastic extracurricular activities?

A charter school or home education student may participate in interscholastic extracurricular activities at the public school to which the student would be assigned, the public school that the student could choose to attend pursuant to the school district's open enrollment policy, or a private school that the student could choose to attend pursuant to a participation agreement.¹⁴ To be eligible for such participation, a charter school or home education student must:

- Demonstrate educational progress by an agreed upon method of evaluation;¹⁵
- Meet the same residency requirements as other students in the school;¹⁶
- Meet the same standards of acceptance, behavior, and performance required of other participating students;¹⁷ and
- Register his or her intent to participate in interscholastic extracurricular activities with the school before the beginning date of the season for the activity for which he or she wishes to participate. The student must be able to participate in curricular activities if such participation is a requirement for an extracurricular activity.¹⁸

In addition, a home education student must be in a home education program¹⁹ that meets the requirements of Florida law,²⁰ while a charter school student must meet all of the charter school education program requirements established by the charter school governing board.²¹

May students enrolled at a private school that does not offer athletic programs participate in athletics at a public school?

Yes, under certain circumstances. 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 (non-FHSAA member) and does not offer an interscholastic or intrascholastic athletic program.²² Only students attending a

¹⁰ The FHSAA is the designated governing nonprofit organization of athletics in Florida public schools. Section 1006.20(1), F.S.

¹¹ Section 1006.20(2)(a), F.S.

¹² Sections 1006.15(3)(c)6. and 1006.15(3)(d)6., F.S.

¹³ Sections 1006.15(3)(c)7. and 1006.15(3)(d)7., F.S.

¹⁴ Sections 1002.41(4) and 1006.15(3)(c), F.S.

¹⁵ Section 1006.15(3)(c)2., F.S.

¹⁶ Section 1006.15(3)(c)3., F.S.

¹⁷ Section 1006.15(3)(c)4., F.S.

¹⁸ Section 1006.15(3)(c)5., F.S.

¹⁹ Sections 1002.01(1) and 1002.41, F.S.

²⁰ Section 1006.15(3)(c)1., F.S.

²¹ Section 1006.15(3)(d)1., F.S.

²² Section 1006.15(8)(a), F.S.

non-FHSAA member private school with enrollment of 125 or fewer students may participate in a public school athletic program.²³ 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.²⁴

The FHSAA and district school board must adopt guidelines that establish:

- Registration deadlines and procedures for each sport;²⁵ and
- Student participation requirements that include, but are not limited to, the same standards of eligibility, acceptance, behavior, educational progress, and performance which apply to students attending FHSAA member public and private schools.²⁶

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.²⁷

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. 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.²⁸

Do students who wish to participate in interscholastic athletic activities have to pass a medical evaluation prior to participation?

Yes. A student wishing to participate in interscholastic athletic activities must pass an annual medical evaluation administered by a licensed medical practitioner. The evaluation must indicate that the student is physically capable of participating in interscholastic athletic competition.²⁹

A student may participate in interscholastic athletics without undergoing a medical evaluation if his or her parent files a written objection stating the evaluation conflicts with the student's religious beliefs. In such case, a person or entity in a position to rely on medical evaluation results may not be held liable for the injury or death of a student during an interscholastic athletic activity which results from a medical condition that would have been detected by an evaluation.³⁰

May student athletes be tested for anabolic steroid use?

Yes. Federal law authorizes school districts to conduct student testing for drugs including anabolic steroids. In the past, Florida school districts have exercised local authority in determining whether to implement student drug testing programs, but few districts have conducted such programs.

The FHSAA prohibits the use of anabolic steroids or other performance-enhancing drugs by student athletes and the use of such substances is considered unsportsmanlike conduct.³¹ A student athlete found to be using anabolic steroids or other performance-enhancing drugs is ineligible to compete in any interscholastic contest until medical evidence provides that the student's system is free of such substances.³²

²³ Section 1006.15(8)(a)1., F.S.

²⁴ Section 1006.15(8)(e), F.S.

²⁵ Section 1006.15(8)(a)2.a., F.S.

²⁶ Section 1006.15(8)(a)2.b., F.S.

²⁷ Section 1006.15(8)(c), F.S.

²⁸ Section 1006.15(8)(b), F.S.

²⁹ Section 1006.20(2)(c), F.S.

³⁰ Section 1006.20(2)(d), F.S.

³¹ Section 7.2.6 of Article 7 of the *FHSAA Handbook*.

³² Section 31.2 of Policy 31 of the *FHSAA Handbook*.

What is the state law and FHSAA policy regarding the nature and risk of concussion and head injury?

Florida law requires the FHSAA to adopt guidelines to educate athletic coaches, officials, administrators, and student athletes and their parents of the nature and risk of concussion and head injury.³³ The FHSAA must adopt bylaws or policies that require the parent of a student who is participating in interscholastic athletic competition, or is a candidate for an interscholastic athletic team, to sign and return an informed consent that explains the nature and risk of concussion and head injury, including the risk of continuing to play after a concussion or head injury.³⁴ The FHSAA must also adopt bylaws or policies that require each student athlete who is suspected of sustaining a concussion or head injury in a practice or competition to be immediately removed from the activity. A student athlete who has been removed from an activity may not return to practice or competition until the student submits to the school a written medical clearance to return.³⁵ The medical clearance must state that the student athlete no longer exhibits signs, symptoms, or behaviors consistent with a concussion or other head injury. The medical clearance must be authorized by a health care practitioner trained in the diagnosis, evaluation, and management of concussions as defined by the Sports Medicine Advisory Committee³⁶ of the FHSAA.³⁷

Are students participating in athletic activities required to purchase insurance?

No. Any district school board, school athletic association, or school may purchase insurance, or may self-insure, school students against injury sustained from engaging and participating in athletic activities conducted or sponsored by the district school board, association, or school in which the student enrolls.³⁸ Any such entity may add a surcharge to the fee charged for admission to athletic events to purchase such insurance or to provide self-insurance.³⁹ Any district school board may use district school board funds to pay for insurance or self-insurance.⁴⁰ Moreover, any insurance provided by district school boards for participants in extracurricular activities shall cover participating home school students. However, the home school student must pay the additional premium, if any, for such coverage.⁴¹

What is the state law and FHSAA policy regarding the recruitment of student athletes?

Florida law requires the FHSAA to adopt bylaws prohibiting the recruitment of student athletes. Currently, the bylaws prohibit member schools from recruiting student athletes for athletic purposes. "Athletic recruiting" is "any effort by a school employee, athletic department staff member, or representative of a school's athletic interests to pressure, urge or entice a student to attend that school for the purpose of participating in interscholastic athletics."⁴² The bylaws set forth specific behaviors that constitute recruiting, as well as identify persons who are considered to represent a school's athletic interests.⁴³

If it is determined that a school has recruited a student in violation of FHSAA bylaws, the FHSAA may require the school to participate in a higher classification for the sport in which the recruited student competes for a minimum of one classification cycle, in addition to any other appropriate fine and sanction imposed on the

³³ Section 1006.20(2)(e), F.S. Florida law imposes similar requirements on independent sanctioning authorities for youth athletes. Section 943.0438(2), F.S.

³⁴ Section 1006.20(2)(f), F.S.

³⁵ Section 1006.20(2)(g), F.S.; Section 6.1.3.1 of Policy 6 and Section 1.2 of Administrative Policy 1 of the *FHSAA Handbook*.

³⁶ The committee is composed of the following members: eight physicians licensed under ch. 458 or ch. 459 with at least one member licensed under ch. 459; one chiropractor licensed under ch. 460; one podiatrist licensed under ch. 461; one dentist licensed under ch. 466; three athletic trainers licensed under part XIII of ch. 468; and one member who is a current or retired head coach of a high school in the state. Section 1006.20(2)(h), F.S.

³⁷ The FHSAA currently defines an appropriate health-care professional as a licensed physician (MD, as per ch. 458, F.S.), a licensed osteopathic physician (DO, as per ch. 459, F.S.), a licensed physicians assistant under the supervision of a MD/DO (as per ss. 458.347 and 459.022, F.S.) or a health care professional trained in the management of concussions. Section 1.2.1 of Administrative Procedure 1 of the *FHSAA Handbook*.

³⁸ Section 1006.16, F.S.

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ Section 1006.15(7), F.S.

⁴² Section 36.2.1 of Policy 36 of the *FHSAA Handbook*.

⁴³ Policy 36 of the *FHSAA Handbook*.

school, its coaches, or adult representative.⁴⁴ A student may be declared ineligible based upon violation of recruiting rules only if the student or parent has:

- Falsified any enrollment or eligibility document; or
- Accepted any benefit or any promise of benefit not generally available to the school's students or family members or is based in any way on athletic interest, potential, or performance.⁴⁵

The FHSAA must adopt bylaws for the process and standards for FHSAA eligibility determinations. The bylaws must provide that:

- Ineligibility must be established by clear and convincing evidence;⁴⁶
- 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;⁴⁷
- Eligibility determinations must be made by the executive director or designee for an unbiased and objective determination of eligibility;⁴⁸ and
- A determination of ineligibility must be made in writing, setting forth the findings of fact and specific violation upon which the decision is based.^{49;50}

Appeals of ineligibility determinations must be expedited so that disposition of the appeal can be made before the end of the applicable sports season, if possible.⁵¹ A school or student filing the appeal may present information and evidence that was not available at the time of the initial determination or if the determination was not made by an unbiased, objective individual using a process allowing full due process rights to be heard and to present evidence. If such evidence is presented, a de novo decision must be made by the committee on appeals or board hearing the appeal; or the determination may be suspended and remanded for a new determination based on all the evidence. A de novo decision made on appeal must set forth, in writing, the findings of fact and specific violation upon which the decision is based. If a de novo decision is not required, the decision appealed must be set aside if the ineligibility determination was not based on clear and convincing evidence. Any further appeal must be considered on a record that includes all evidence presented.⁵²

The bylaws may not prospectively limit the competition of student athletes for rule violations of their adult representatives, their school or its coaches. A student athlete may not be unfairly punished for eligibility or recruiting violations perpetrated by a teammate, coach, or administrator. Contests may not be forfeited for inadvertent eligibility violations unless the coach or a school administrator should have known of the violation. Contests may not be forfeited 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.⁵³

⁴⁴ Section 1006.20(2)(b), F.S.

⁴⁵ *Id.*

⁴⁶ Section 1006.20(2)(g)1., F.S.

⁴⁷ Section 1006.20(2)(g)2., F.S.

⁴⁸ Section 1006.20(2)(g)3., F.S.

⁴⁹ Section 1006.20(2)(g)4., F.S.

⁵⁰ In lieu of the bylaws the FHSAA may adopt bylaws providing as a minimum the procedural safeguards of ss. 120.569 and 120.57, making appropriate provision for appointment of unbiased and qualified hearing officers. Section 1006.20(2)(h), F.S.

⁵¹ Section 1006.20(7)(f), F.S.

⁵² Section 1006.20(7)(g), F.S.

⁵³ Section 1006.20(2)(h), F.S.

Where may I obtain Additional Information?

Florida High School Athletic Association

1801 NW 80th Boulevard

Gainesville, FL 32606

(800) 461-7895

(352) 372-9551

<http://www.fhsaa.org>

Florida House of Representatives

Education Committee

(850) 717-4830

<http://www.myfloridahouse.gov>



Governance of Student Athletic Programs

Education Committee

Last Updated: August 2012

What entity oversees interscholastic athletics programs?

The Florida High School Athletic Association (FHSAA) is designated as the governing nonprofit organization for athletics in Florida public schools in grades 6 through 12.¹ The FHSAA is not a state agency, but is assigned quasi-governmental functions.² If the FHSAA fails to meet its obligations and responsibilities, then the Commissioner of Education is directed to designate a nonprofit organization to manage interscholastic athletics with the approval of the State Board of Education.³

The FHSAA operates as a representative democracy in which the sovereign authority is within the member schools.⁴ FHSAA member schools are divided along existing county lines into four administrative regions. Each region contains approximately the same number of member schools.⁵ Each member school appoints an official representative to the organization who must be the principal, an assistant principal, or an in-house athletic director.⁶ Its governance structure consists of a 16-member board of directors,⁷ a representative assembly,⁸ a public liaison advisory committee,⁹ and a committee on appeals.¹⁰ Florida law dictates the composition of each body.¹¹

Who may become a member of the FHSAA?

Any high school, including charter schools, virtual schools, private schools and home education cooperatives,¹² may become a member of the FHSAA and participate in FHSAA activities.¹³ Membership is not mandatory for any school.¹⁴ Moreover, the FHSAA may not deny or discourage interscholastic competition between its member schools and non-FHSAA member Florida schools, including members of another athletic governing organization.¹⁵ The FHSAA may not take any retributory or discriminatory action against any of its member schools that participate in interscholastic competition with non-FHSAA member Florida schools.¹⁶ All public and private schools are required to submit an application and pay an application fee to be considered

¹ Section 1006.20(1), F.S.

² *Id.*

³ *Id.*

⁴ Section 1006.20(3)(a), F.S.

⁵ Section 1006.20(3)(c), F.S.

⁶ Section 1006.20(3)(b), F.S.

⁷ The sixteen member board includes: 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 of Education (commissioner) or his or her designee. Section 1006.20(4), F.S.

⁸ Section 1006.20(5), F.S.

⁹ Section 1006.20(6), F.S. The Public Liaison Advisory Committee is required to conduct an annual evaluation of the FHSAA and report its findings, conclusions, and recommendations to the FHSAA Board of Directors, the Commissioner of Education, and to the respective education committees of the Florida Senate and the Florida House of Representatives. Section 1006.20(6)(d)3., F.S.

¹⁰ Section 1006.20(7), F.S.

¹¹ Section 1006.20(4), (5), (6), and (7), F.S.

¹² A "home education cooperative" is a parent-directed group of individual home education students that provides opportunities for interscholastic athletic competition to those students and may include students in grades 6 through 12. Section 3.2.2.4 of Bylaw 3.2, *FHSAA Handbook*, available at http://www.fhsaa.org/sites/default/files/attachments/2010/09/16/node-235/complete_handbook_276pgs.pdf.

¹³ Section 1006.20(1), F.S.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

for membership into the FHSAA.¹⁷ Annually, the FHSAA Board of Directors determines which schools will be granted membership.¹⁸

How does the FHSAA regulate the conduct of its members?

The FHSAA requires its member schools to control its interscholastic athletic programs by FHSAA rules and regulations.¹⁹ The principal is responsible for administration of all aspects of the school's interscholastic athletic programs, including control over the actions of: the administration and faculty; the athletic department staff and student-athletes; the student body, parents and other spectators at athletic events; and any other individual or group engaged in activities representing, supporting or promoting the athletic interests of the school.²⁰ As part of its compliance responsibility the school must identify and report to the FHSAA Office instances in which compliance has not been achieved, and must take appropriate corrective actions regarding such instances of non-compliance.

What penalties may the FHSAA impose for violations of its bylaws?

The Executive Director has the authority to invoke one or more of the following penalties against its member schools: reprimand,²¹ fine,²² forfeit,²³ probation,²⁴ or expulsion.²⁵ Students who violate bylaws or rules of the FHSAA will be ineligible to participate for a specified period of time.²⁶

What is the state law and FHSAA policy regarding persons who conduct investigations on behalf of the FHSAA?

The FHSAA must adopt bylaws that regulate persons who conduct investigations on behalf of the FHSAA. The bylaws must require an investigator to:

- Undergo level 2 background screening under s. 435.04, F.S., establishing that the investigator has not committed any disqualifying offense listed in s. 435.04, F.S.,²⁷

¹⁷ For the 2010-11 academic year, the application fee for a first-time member is \$150, which is nonrefundable and applied toward the school's first-year membership dues if the school is admitted to membership. FHSAA, 2009-10 FHSAA Handbook, Policy 9, Financial Policies, s. 9.2.2 *Membership Fees*, at 100 (Aug. 2009), [hereinafter FHSAA Handbook] available at http://www.fhsaa.org/rules/handbook/0910_handbook.pdf.

¹⁸ FHSAA Handbook, Constitutional Bylaw, Article 3, s. 3.7, *Procedures for Admittance and Election To Membership*, at 23.

¹⁹ FHSAA Handbook, Constitutional Bylaw, Article 2, s. 2.5, *Administrative Control and Responsibility*, at 9.

²⁰ *Id.*

²¹ An official letter of censure to the concerned party in regard to the offense committed which warns against further violations. This letter will be kept on file for future reference. Section 10.1.1(a) of Bylaw 10.1.1, *FHSAA Handbook*, available at http://www.fhsaa.org/sites/default/files/attachments/2010/09/16/node-235/complete_handbook_276pgs.pdf.

²² A monetary payment. Section 10.1.1(b) of Bylaw 10.1.1, *FHSAA Handbook*, available at http://www.fhsaa.org/sites/default/files/attachments/2010/09/16/node-235/complete_handbook_276pgs.pdf.

²³ The forfeiture of an interscholastic athletic contest. Section 10.1.1(c) of Bylaw 10.1.1, *FHSAA Handbook*, available at http://www.fhsaa.org/sites/default/files/attachments/2010/09/16/node-235/complete_handbook_276pgs.pdf.

²⁴ Types of probation that may be imposed are as follows: 1) Administrative Probation—The school is reprimanded, fined and served notice that it is in a period of warning for a minimum of one calendar year. Additional violations during this time will result in increased penalties which may include expulsion; 2) Restrictive Probation—The school faces the same penalties as administrative probation, with the additional consequence of restriction from participation in championship competition in one or more sports, or other restrictions deemed appropriate by the Executive Director, for one or more calendar years; 3) Suspension Probation—The school faces the same penalties as administrative probation, with the additional consequence of suspension from one or more sports for one or more calendar years. Section 10.1.1(d) of Bylaw 10.1.1, *FHSAA Handbook*, available at http://www.fhsaa.org/sites/default/files/attachments/2010/09/16/node-235/complete_handbook_276pgs.pdf.

²⁵ Involuntary termination of a school's membership in the Association for one or more calendar years. Any member school that competes with a currently expelled school may subject itself to expulsion from the Association for one calendar year. Section 10.1.1(e) of Bylaw 10.1.1, *FHSAA Handbook*, available at http://www.fhsaa.org/sites/default/files/attachments/2010/09/16/node-235/complete_handbook_276pgs.pdf.

²⁶ See e.g. Section 7.2.1.1 of Bylaw 7.2.1, *FHSAA*, providing that "[s]tudents who are found to have committed unsportsmanlike conduct will be ineligible to participate in interscholastic athletic competition for a penalty period up to one calendar year[;]"

²⁷ The investigator may provide proof of compliance with level 2 screening standards submitted within the previous 5 years to meet any professional licensure requirements so long as the investigator has not had a break in service from a position that requires level 2

- Be appointed as an investigator by the executive director;
- Carry a photo identification card that shows the FHSAA name, logo, and the investigator's official title; and
- Adhere to specified guidelines.

The guidelines require investigators to: investigate only those alleged violations assigned by the executive director or the board of directors, conduct interviews on Monday through Friday between the hours of 9 a.m. and 7 p.m. only, unless previously agreed to by the interviewee, allow the parent of any student being interviewed to be present during the interview, and search residences or other private areas only with the consent of the student's parent and only with a parent or a representative of the parent present.

Where may I obtain Additional Information?

Florida High School Athletic Association

1801 NW 80th Boulevard

Gainesville, FL 32606

(800) 461-7895

(352) 372-9551

<http://www.fhsaa.org>

Florida House of Representatives

Education Committee

(850) 717-4830

<http://www.myfloridahouse.gov>



Student Promotion and Graduation Requirements

Education Committee

Last Updated: August 2013

What is student progression?

Student progression refers to the performance standards that each student must meet in order to progress from one grade to another. The law requires that:

- Student progression be determined, in part, based upon proficiency in reading, writing, science, and mathematics;
- District school board policies facilitate such proficiency;
- Each student and his or her parent be informed of the student's academic progress; and
- Students have access to academically challenging coursework or accelerated instruction, i.e., Academically Challenging Curriculum to Enhance Learning (ACCEL) options.¹

Each district school board is required to establish a comprehensive student progression plan which:

- Specifies the standards for evaluating each student's performance, including how well he or she masters the performance standards approved by the State Board of Education.
- States the specific levels of performance in reading, writing, science, and mathematics for each grade level, including the levels of performance on statewide assessments² below which a student must receive remediation or be retained.
- Specifies appropriate alternative placement for a student who has been retained two or more years.
- Specifies the district's student eligibility and procedural requirements and enrollment process for student participation in whole-grade promotion, midyear promotion, and subject-matter acceleration and advises parents and students that additional ACCEL options may be available at the student's school.
- Advises parents and students of the early and accelerated graduation options.
- Lists all dual enrollment courses contained in the dual enrollment articulation agreement.
- Provides instructional sequences by which K-12 students may attain progressively higher levels of digital literacy skills.³

The district student progression plan must be reviewed and revised periodically to comply with changes to state law or school board policy and to ensure that programs of study, placement, promotion, reporting, retention, and assessment procedures are equitable and comprehensive.⁴

¹ Section 1008.25(1), F.S. ACCEL options are educational options that provide academically challenging curriculum or accelerated instruction to eligible public school students in kindergarten through grade 12. Each public school must offer whole-grade and midyear promotion; subject-matter acceleration; virtual instruction in higher grade level subjects; and the Credit Acceleration Program. School districts may provide additional ACCEL options, e.g., enriched science, technology, engineering, and mathematics (STEM) coursework; enrichment programs; advanced academic courses; and rigorous industry certifications that articulate to college credit. Section 1002.3105(1), F.S.

² The statewide assessment program for public schools includes the Florida Comprehensive Assessment Test (FCAT) and statewide standardized end-of-course (EOC) assessments. FCAT assesses reading (grades 3-10), mathematics (grades 3-8), science (grades 5 and 8), and writing (grades 4, 8, and 10). EOC assessments for high school students include Algebra I, Biology I, and Geometry. In the 2012-13 school year, a middle school EOC assessment in Civics was field tested, with full implementation scheduled for the 2013-14 school year. Section 1008.22(3), F.S.

³ Section 1008.25(2), F.S.

⁴ Florida Department of Education, *Student Progression*, <http://www.fldoe.org/bii/studentpro/> (last visited July 11, 2013).

What measures must school districts take when a student's performance on statewide assessments indicates an academic deficiency?

Each student who does not meet the school district's performance standards for statewide assessments or who scores below Level 3 on the Florida Comprehensive Assessment Test (FCAT) in reading or mathematics must be provided with additional diagnostic assessments to determine the nature of the student's difficulty, the areas of academic need, and appropriate intervention and instructional strategies.⁵

The school, in consultation with the student's parent, must implement a progress monitoring plan to address the student's academic needs. A student who is not meeting school district or state reading and mathematics proficiency requirements must be covered by one of the following plans:

- A federally required student plan such as an individual education plan (IEP);
- A school-wide system of progress monitoring for all students; or
- An individualized progress monitoring plan.

District school boards may require low-performing students to attend remediation programs held before or after regular school hours or during the summer if transportation is provided.⁶

Under what circumstances may a student be retained?

A school district has discretion to retain a student at any grade level if, after implementing a progress monitoring plan for a student identified as having an academic deficiency, subsequent evaluations of the student indicate that the deficiency has not been remediated.⁷

Retention is mandatory for 3rd graders who score Level 1 in FCAT reading, unless the student meets a good cause exemption.⁸ Good cause exemptions exist for a student who:

- Is Limited English proficient and has had less than two years of instruction in an English for Speakers of Other Languages program.
- Has a disability for which the IEP indicates that participation in the statewide assessment program is not appropriate.
- Demonstrates an acceptable level of performance on an alternative standardized reading or English Language Arts (ELA) assessment approved by the state board.
- Demonstrates, through a student portfolio, that he or she is performing at least at Level 2 on FCAT reading.
- Has a disability, takes the FCAT, and has an IEP or a Section 504 plan indicating that he or she has received intensive remediation in reading and ELA for more than two years but still demonstrates a deficiency and was previously retained in kindergarten, 1st grade, 2nd grade, or 3rd grade.
- Has received intensive remediation in reading and ELA for two or more years but still demonstrates a deficiency and who was previously retained in kindergarten, 1st grade, 2nd grade, or 3rd grade for a total of two years. Intensive reading instruction provided to a student so promoted must include an altered instructional day that includes specialized diagnostic information and specific reading strategies for the student.⁹

A request for a good cause exemption must be based upon documentation submitted by the student's teacher to the school principal indicating that promotion of the student is appropriate and based upon the student's academic record.¹⁰ The school principal must review and discuss such recommendation with the teacher and

⁵ Section 1008.25(4)(a), F.S.

⁶ Section 1008.25(4)(b), F.S.

⁷ Section 1008.25(4)(c), F.S.

⁸ Section 1008.25(5)(a)-(b), F.S.

⁹ Section 1008.25(6)(b), F.S.

¹⁰ Section 1008.25(6)(c), F.S. Such documentation is limited to the student's progress monitoring plan; IEP, if applicable; report card; or student portfolio. *Id.*

make a determination regarding promotion or retention. If the school principal determines that the student should be promoted, he or she must make such recommendation in writing to the district school superintendent. The district school superintendent must accept or reject the school principal's recommendation in writing.¹¹

A student who is retained must be provided intensive interventions in reading to remedy the student's specific reading deficiency, as identified by a valid and reliable diagnostic assessment. This intensive intervention must include effective instructional strategies, participation in the school district's summer reading camp, and appropriate teaching methodologies necessary to assist the student in becoming a successful reader, able to read at or above grade level, and ready for promotion to the next grade.¹²

What are the requirements for middle grades promotion?

In order for a student to be promoted from a school composed of middle grades 6, 7, and 8,¹³ the student must successfully complete the following academic courses:

- Three middle grades or higher courses in ELA;
- Three middle grades or higher courses in mathematics;
- Three middle grades or higher courses in social studies, one semester of which must include the study of state and federal government and civics education;
- Three middle grades or higher courses in science; and
- One course in career and education planning to be completed in 6th, 7th, or 8th grade.¹⁴

Beginning with students entering 6th grade in the 2012-13 academic year, one of the social studies courses must be at least a one-semester civics education course that includes the roles and responsibilities of federal, state, and local governments; the structures and functions of the legislative, executive, and judicial branches of government; and the meaning and significance of historic documents, such as the Articles of Confederation, the Declaration of Independence, and the Constitution of the United States. Beginning in the 2013-14 school year, the course must include an end-of-course (EOC) assessment in civics education which constitutes 30 percent of the student's final course grade.¹⁵

What are the requirements for the middle grades career and education planning course?

The course in career and education planning must be completed in 6th, 7th, or 8th grade. It may be delivered as a stand-alone course or integrated into another course and may be taught by any member of the instructional staff. The course should incorporate the standards and benchmarks established in the curriculum frameworks.¹⁶ The course numbers for the approved stand-alone and integrated courses are listed in the Course Code Directory.¹⁷ The course must:

- Be Internet-based, easy to use, and customizable to each student and include research-based assessments to assist students in determining educational and career options and goals;
- Result in a completed personalized academic and career plan for the student;
- Emphasize the importance of entrepreneurship skills;
- Emphasize technology or the application of technology in career fields; and
- Include information from the Department of Economic Opportunity's economic security report (beginning in the 2014-15 school year).

¹¹ *Id.*

¹² Section 1008.25(7)(a)-(e), F.S.

¹³ Students in grades 6, 7, or 8 who are not enrolled in a school with a middle grades configuration are subject to the same promotion requirements as students enrolled in a school with a middle grades configuration. Section 1003.4156(2), F.S.

¹⁴ Section 1003.4156(1)(a), F.S.

¹⁵ Section 1003.4156(1)(c), F.S.

¹⁶ Section 1003.4156(1)(e), F.S.

¹⁷ Florida Department of Education, *Educator's Toolkit on Career and Education Planning*, <http://www.fldoe.org/workforce/ced/> (last visited July 12, 2013)(see List of Approved Courses).

The required personalized academic and career plan must inform students of high school graduation requirements; high school assessment and college entrance test requirements; Florida Bright Futures Scholarship Program requirements; state university and Florida college admission requirements; opportunities to earn college credit in high school, including Advanced Placement, International Baccalaureate, Advanced International Certificate of Education, dual enrollment, including career dual enrollment; career education courses, including career themed courses; and opportunities to earn industry certification.¹⁸

How can middle grades students earn high school credit?

Each school that includes middle grades must offer at least one high school level mathematics course for which students may earn high school credit.¹⁹ For high school level Algebra I, Geometry, and Biology I courses tested by a statewide, standardized, EOC assessment, a middle grades student's successful completion of that course is not contingent upon the student's performance on the EOC assessment. However, a middle grades student must earn a passing score on the Algebra I EOC assessment in order to receive high school credit in Algebra I. A middle grades student taking Geometry or Biology I must take the EOC assessment, which constitutes 30 percent of the student's final course grade, and earn a passing grade in the course, in order to earn high school credit for the course.²⁰

What standard high school diploma options are available to students?

Florida public high school students have four options for obtaining a standard high school diploma -- a Traditional 4-year, 24-credit option;²¹ an 18-credit graduation option;²² or completion of an International Baccalaureate (IB) or Advanced International Certificate of Education (AICE) program.²³ Most high school students pursue the Traditional 24-credit option.

**Standard High School Diplomas Awarded by Graduation Option
2011-12 School Year²⁴**

Traditional 24-Credit	18-Credit	IB	AICE
143,188	63	2,961	13

What are the requirements for the Traditional 24-credit standard high school diploma for students entering 9th grade in the 2013-14 school year?

In 2013, the Legislature enacted CS/CS/SB 1076 which, among other things, established new requirements for students entering 9th grade in the 2013-14 school year and thereafter who are pursuing the Traditional 24-credit standard high school diploma.²⁵ In order to earn a standard diploma, students must earn a 2.0 Grade Point Average (GPA), complete one course online,²⁶ and complete the following credit and assessment requirements:²⁷

¹⁸ Section 1003.4156(1)(e), F.S.

¹⁹ Section 1003.4156(1)(b), F.S.

²⁰ Section 1003.4156(1)(b) and (d), F.S.

²¹ Section 1003.428, F.S.

²² Sections 1002.3105(5), F.S. and 1003.429, F.S. (2012).

²³ Section 1003.428(1), F.S.

²⁴ Email, Florida Department of Education, Legislative Affairs Director (Feb. 18, 2013).

²⁵ Sections 17 and 18, ch. 2013-27, L.O.F.

²⁶ An online course taken in middle school satisfies this requirement. An online driver's education course does not satisfy this requirement. Section 1003.4282(4), F.S.

²⁷ Section 1003.4285(3), F.S.

Subject Area	Standard High School Diploma
English	<ul style="list-style-type: none"> • 4 credits in English Language Arts (ELA) I, II, III, and IV. • Passage of 10th grade FCAT Reading. • Must take 10th grade FCAT Writing.
Mathematics	<ul style="list-style-type: none"> • 4 credits which must include Algebra I and Geometry. • The Algebra I EOC assessment is 30% of the final course grade and passage is required for a standard diploma. • The Geometry EOC assessment is 30% of the final course grade. • Industry certification courses that lead to college credit may be substituted for up to 2 mathematics credits.
Science	<ul style="list-style-type: none"> • 3 credits including Biology I. • Two of the science credits must have a laboratory component. • The Biology I EOC assessment is 30% of the final course grade. • Industry certification courses that lead to college credit may be substituted for up to 1 science credit.
Social Studies	<ul style="list-style-type: none"> • 3 credits: 1 U.S. History; 1 World History; .5 Economics, including financial literacy; .5 U.S. Government. • The U.S. History EOC is 30% of the final course grade.
Foreign Language	None.
Fine or Performing Arts	1 credit.
Physical Education	1 credit.
Electives	8 credits: School districts must develop and offer coordinated electives so that students may develop knowledge and skills in their area of interest, such as electives with a STEM or Liberal Arts focus. Such electives must include opportunities for students to earn college credit, including industry-certified career education programs or series of career-themed courses that result in industry certification or articulate into the award of college credit, or career education courses for which there is a statewide or local articulation agreement and which lead to college credit.

Graduation credits may be earned through equivalent, applied, integrated, or career education courses, including work-related internships.²⁸

How did CS/CS/SB 1076 change the graduation requirements for students who entered high school in the 2012-13 school year?

Before the enactment of CS/CS/SB 1076, students who entered 9th grade in the 2012-13 school year and thereafter would have been required to earn credit in Algebra II and pass the Biology I and Geometry EOC assessments in order to earn course credit.²⁹ CS/CS/SB 1076 specified that students enrolled in high school as of the 2012-13 school year must be awarded credit in Biology I and Geometry if they earned a passing grade in the course before the 2013-14 school year, regardless of whether they passed the EOC assessments. If these students did not yet take Biology I or Geometry in the 2012-13 school year, then the EOC assessments count 30 percent of their final course grade.³⁰

²⁸ Section 1003.4285(1)(b), F.S. Equivalent, applied, and integrated courses are defined as follows -- equivalent courses include one or more courses identified by content area experts as being a match to the core curricula content of another course; applied courses include real-world applications of a career and technical education standard used in business or industry; and integrated courses include content from several courses within a content area or across content areas. *Id.*

²⁹ Section 1003.428(2)(a)2.-3., F.S. (2012).

³⁰ Section 1003.4285(3)(b), F.S.; s. 17, ch. 2013-27, L.O.F.

CS/CS/SB 1076 also eliminated requirements that students entering 9th grade in the 2012-13 school year and thereafter earn credit in Algebra II and that students entering 9th grade in the 2013-14 school year and thereafter earn science credits in Chemistry or Physics and an equally rigorous science course in order to earn a standard diploma.³¹

What requirements must a student fulfill to earn a standard diploma in 18 credits?

Effective July 1, 2013, students may earn a standard high school diploma in 18 credits by earning a 2.0 GPA and earning credit in the same 15 ELA, mathematics, science, social studies, and fine and performing arts courses required under the traditional 4-year, 24-credit option. In addition, the student must earn 3 elective credits.³²

Students who entered high school before the 2013-14 school year had the option to choose an accelerated 3-year, 18-credit college preparatory or career preparatory graduation option. CS/CS/SB 1076 repealed these options; however, students who selected such options before July 1, 2013, may continue that option.³³

What is early graduation?

Florida law requires each school district to adopt an early graduation policy enabling high school students who complete 24 credits in less than eight semesters and meet the GPA and assessment requirements the option of graduating early. Students must be allowed early graduation upon earning the state-required 24 credits, regardless of additional district requirements.³⁴

What are the Scholar and Merit designations?

Students may earn a Scholar or Merit designation if they satisfy course and testing requirements above-and-beyond those required for a standard high school diploma. Students pursuing a Scholar designation must:

- Pass the 11th grade ELA common core assessment, effective when the state transitions to common core assessments;
- Earn one credit in Algebra II and one credit in Statistics or an equally rigorous course. When the state transitions to common core assessments, students must pass the Algebra II common core assessment.
- Pass the Biology I EOC assessment and earn one credit in Chemistry or Physics and one credit in an equally rigorous course.
- Pass the U.S. History EOC assessment.
- Earn two credits in the same foreign language.
- Earn at least one credit in an Advanced Placement, IB, AICE, or a dual enrollment course.

Students pursuing a Merit designation must attain one or more industry certifications.³⁵

May students who entered high school before the 2013-14 school year pursue a Scholar or Merit designation?

Yes. Students who entered high school before the 2013-14 school year may pursue either designation. However, a student's ability to pursue the Scholar designation may depend upon whether the EOC assessment for a course was implemented at the time the student took the course. Because statewide administration of the Biology I and U.S. History EOC assessments began in the 2011-12 and 2012-13 school years, respectively, students who took these courses before implementation of the EOC assessments would have to take and pass the assessments to earn the designation. Nothing prevents a school board from

³¹ Section 17, ch. 2013-27, L.O.F.; s. 1003.428(2)(a)2.-3., F.S. (2012).

³² Section 1002.3105(5), F.S.; *see supra*, text accompanying note 24;

³³ *See* s. 1003.429, F.S. (2012); s. 20, ch. 2013-27, L.O.F.

³⁴ Section 1003.4281, F.S.

³⁵ Section 1003.4285, F.S.

allowing these students to sit for future administrations of these assessments solely for the purpose of qualifying for the scholar designation or, regarding students who took the Biology I EOC assessment in the 2011-12 or 2012-13 school years, retroactively applying the passing score on the assessment to the student's score to determine qualification for the designation.³⁶

What is the Credit Acceleration Program?

The Credit Acceleration Program (CAP) allows a student to earn high school credit in Algebra I, Geometry, U.S. History, or Biology I courses if the student attains a score indicating satisfactory performance on the statewide, standardized EOC assessment for the course. A student does not have to be enrolled in or complete the course to take the EOC assessment during the regular administration of the assessment.³⁷

May students enrolled in career education or industry certification courses use such courses to satisfy core academic credits required for graduation?

Yes. There are two ways in which students may use career education or industry certification courses to satisfy core academic credits required for a standard high school diploma. First, DOE is required to develop, for approval by the state board, multiple, career education courses, or a series of courses, that allow students to simultaneously earn career education course and academic course credit in courses required for graduation.³⁸

Second, students entering 9th grade in the 2013-14 school year and thereafter may substitute industry certification courses that lead to college credit for up to 2 mathematics credits and up to 1 science credit.³⁹

Where can I get additional information?

Florida Department of Education

Bureau of Curriculum and Instruction

(850) 245-9032

<http://www.fldoe.org/bii/>

Florida Department of Education

Division of Career and Adult Education

(850) 245-0446

<http://www.fldoe.org/workforce/>

Florida House of Representatives

Education Committee

(850) 717-4830

<http://www.myfloridahouse.gov>

³⁶ *Id.*; see s. 1008.22(3)(c)2., F.S. (2012).

³⁷ Section 1003.4295(3), F.S. Students will also be able to earn Algebra II credit through CAP when an Algebra II EOC assessment is implemented. *Id.*

³⁸ Section 1003.4282(9)(a), F.S. Such courses must include workforce and digital literacy skills, practical applications of academic course content, and lead to one or more industry certifications or clearly articulated credit or advanced standing in a two-year or four-year certificate or degree program, including work-related internships or apprenticeships. The state board must determine whether academic standards are sufficiently covered to warrant the award of academic credit. Additionally, school districts, postsecondary institutions, education consortia, local workforce boards, business, and industry may collaborate in creating career education courses that lead to academic course credit. Courses developed through this collaborative process must meet the same rigorous standards as those created by DOE and be approved by the state board. Section 1003.4282(9)(b)-(c), F.S.

³⁹ Section 1003.4282(3)(b) and (c), F.S. (Effective for students entering 9th grade in the 2012-13 school year and thereafter).



What are the Sunshine State Standards?¹

The Sunshine State Standards establish the core content of the curricula to be taught and specify the core content knowledge and skills that K-12 public school students are expected to acquire. The State Board of Education first adopted the Sunshine State Standards in 1996.² In 2008, the Legislature substantially amended the requirements for the Sunshine State Standards creating the Next Generation Sunshine State Standards.³ By December 2010, the state board had adopted all of the required Next Generation Sunshine State Standards.⁴

What subject areas are covered by the Sunshine State Standards?

The Sunshine State Standards establish the core curricular content for eight subject areas: language arts, science, mathematics, social studies, visual and performing arts, physical education, health, and foreign languages.⁵ The standards for all subject areas must:

Identify the core curricular content that a student is expected to learn for each subject at each individual grade level in order to acquire the broad background knowledge needed for reading comprehension;
Be rigorous and relevant and provide for the logical, sequential progression of core curricular content that incrementally increases a student's core content knowledge and skills over time;
Integrate critical-thinking and problem-solving skills; communication, reading, and writing skills; mathematics skills; collaboration skills; contextual and applied-learning skills; technology-literacy skills; information and media-literacy skills; and civic-engagement skills; and
Be aligned to expectations for success in postsecondary education and high-skill, high-wage employment.⁶

In addition, the standards for language arts, science, mathematics, and social studies must also include:⁷

Subject Area	Specific Curricular Content Covered by Standards
Language Arts	The reading process, literary analysis, the writing process, writing applications, communication, and information and media literacy
Science	The nature of science, earth and space science, physical science, and life science
Mathematics	Algebra, geometry, probability, statistics, calculus, discrete mathematics, financial literacy, and trigonometry
Social Studies	Geography, United States and world history, government, civics, economics, and humanities

¹ For purposes of this fact sheet, general references to the Sunshine State Standards encompass the Next Generation Sunshine State Standards.

² See rule 6A-1.09401, F.A.C.

³ Sections 1 and 3, ch. 2008-235, L.O.F.

⁴ See Florida Department of Education, Bureau of Curriculum and Instruction, *Next Generation Sunshine State Standards*, <http://www.fldoe.org/BII/curriculum/SSS/> (last visited May 8, 2012). For the Next Generation Sunshine State Standards for Mathematics and English Language Arts, the state board adopted the Common Core Standards. Rule 6A-1.09401, F.A.C. See *infra* text accompanying notes 20-25 for an explanation of Common Core Standards.

⁵ Section 1003.41(1)(a) and (b), F.S.

⁶ Section 1003.41(1)(c), (d), (e), and (g), F.S.

⁷ Section 1003.41(1)(a), F.S. The language arts standards must also identify significant literary genres and authors that encompass a comprehensive range of historical periods and the reading portion of the language arts curriculum must include civics education for all grade levels.

How are the Sunshine State Standards organized?

The Sunshine State Standards must be organized using a uniform structure and format that is consistent for each subject area. This structure must use the same alphanumeric coding system for each subject area and grade level.⁸

The Sunshine State Standards must provide for the logical, sequential progression of core curricular content that incrementally increases a student's knowledge and skills over time.⁹ Accordingly, the standards must include distinct grade-level expectations, as follows:

Subject Areas	Organization of Grade-Level Expectations
Language Arts Science Mathematics Social Studies	Grade-by-grade expectations for each individual K-8 grade level (standards for grades 9-12 may be organized by grade clusters of more than one grade level) ¹⁰
Visual and Performing Arts Physical Education Health Education Foreign Languages	Grade-by-grade expectations for each individual K-5 grade level (standards for grades 6-12 may be organized by grade clusters of more than one grade level) ¹¹

What is the process for adoption and revision of the Sunshine State Standards?

State law specifies the process by which the Sunshine State Standards are adopted and revised:

- The Commissioner of Education develops and periodically submits proposed standards to the State Board of Education for adoption or revision;¹²
- The commissioner consults renowned experts on K-12 curricular standards and content in each of the eight required subject areas¹³ and considers the standards implemented by other states or nations which are regarded as exceptionally rigorous by curricular and content experts;¹⁴
 - The commissioner submits the proposed standards for review and comment by Florida educators, school administrators, representatives of community colleges and state universities who have expertise in the content knowledge and skills necessary to prepare a student for postsecondary education, and leaders in business and industry.¹⁵
- After considering comments and making any revisions, the commissioner submits the proposed standards for written evaluation by renowned experts on K-12 curricular standards and content.¹⁶
- Upon finalizing the proposed standards, the commissioner submits the standards and evaluations by the curricular and content experts to the Governor and presiding officers of the Legislature at least 21 days before the state board considers the proposed standards;¹⁷ and
- The state board adopts the standards.¹⁸

⁸ Section 1003.41(1)(f), F.S.

⁹ Section 1003.41(1)(d), F.S.

¹⁰ Section 1003.41(1)(a)1. through 4., F.S.

¹¹ Section 1003.41(1)(b), F.S.

¹² Sections 1003.41(3)(a) and 1008.22(3)(a), F.S.

¹³ See *supra* text accompanying note 1. The commissioner may also consult with curricular and content experts in other subjects. Section 1003.41(3)(a), F.S.

¹⁴ Section 1003.41(3)(a), F.S.

¹⁵ Section 1003.41(3)(b), F.S.

¹⁶ *Id.*

¹⁷ Section 1003.41(3)(c), F.S.

¹⁸ Sections 1001.03(1) and 1003.41(1) and (2), F.S.

What is the schedule for revision of the Sunshine State Standards?

The state board adopted a 12-year review cycle for each set of standards, although the commissioner is authorized to initiate review of any set of standards before the end of the 12-year cycle, if the commissioner determines that developments in the subject area make existing standards inadequate.¹⁹

What are the Common Core Standards?

The Common Core State Standards Initiative is a state-led effort coordinated by the National Governors Association Center for Best Practices and the Council of Chief State School Officers to establish a shared set of clear educational standards for English Language Arts and Mathematics that states may adopt. The Common Core State Standards were developed in collaboration with teachers, school administrators, and experts, to provide a clear and consistent framework to prepare children for college and the workforce.²⁰

The Department of Education (DOE) announced its intention to join the Common Core State Standards Initiative in July 2009, several months after K-16 Florida educators originally convened to draft the Next Generation Sunshine State Standards in Language Arts. The DOE then worked to develop standards with the Common Core State Standards Initiative. Draft Common Core standards for English Language Arts and Mathematics were submitted for public comment in March 2010 and the final standards were released in June 2010.²¹ The state board adopted the Common Core Standards as the Next Generation Sunshine State Standards for English Language Arts and Mathematics on July 27, 2010,²² joining 44 other states.²³

How is student achievement of the Sunshine State Standards measured?

The statewide assessment program, which consists of the Florida Comprehensive Assessment Test (FCAT) and statewide, standardized end-of-course (EOC) assessments, measures student achievement of the Sunshine State Standards in reading, writing, mathematics, science, and beginning with the 2012-2013 school year, civics education.²⁴ The statewide assessment program consists of criterion-referenced tests that measure how well students learn the skills and competencies in the Sunshine State Standards.²⁵ The FCAT includes annual comprehensive assessments of reading in grades 3 through 10; comprehensive assessments of mathematics in grades 3 through 8; comprehensive assessments of writing in grades 4, 8, and 10; and comprehensive assessments of science in grades 5 and 8.²⁶ In 2010, the Legislature required the phased-in replacement of grades 9 and 10 FCAT Mathematics with EOC assessments in Algebra I and Geometry and grade 11 FCAT Science with an EOC assessment in Biology I.²⁷

Additionally, beginning in the 2014-15 academic year, the Common Core State Standards will be assessed through an assessment system selected by the State Board of Education aligned with the Common Core Standards.

¹⁹ Section 1003.41(2), F.S.; rule 6A-1.09401(2), F.A.C.

²⁰ Common Core State Standards Initiative, *Frequently Asked Questions*, <http://www.corestandards.org/frequently-asked-questions> (last visited May 8, 2012).

²¹ Common Core State Standards Initiative, *Common Standards*, <http://www.corestandards.org/> (last visited May 8, 2012).

²² Florida Department of Education, *State Board of Education Agenda*, available at http://www.fldoe.org/board/meetings/2010_07_27/agenda.asp (last visited May 8, 2012).

²³ Common Core State Standards Initiative, *In the States*, <http://www.corestandards.org/in-the-states> (last visited May 8, 2012). The only states that have not adopted the common core state standards are Alaska, Nebraska, Texas, Virginia, and Wisconsin.

²⁴ Section 1008.22(3)(c), F.S. In 2010, the Legislature required the DOE to develop and implement a statewide, standardized EOC assessment in Civics at the middle school level. Chapter 2010-48, L.O.F.

²⁵ Section 1008.22(3)(c)3. and 4., F.S. A criterion-referenced test is an assessment in which an individual's performance is compared to a specific learning objective or performance standard and not to the performance of other students. Criterion-referenced tests show how well students perform on specific goals or standards rather than just telling how their performance compares to a norm group of students nationally or locally. Florida Department of Education, *FCAT Handbook: A Resource for Educators*, at 5 (2005), available at <http://fcats.fldoe.org/handbk/complete.pdf>.

²⁶ Section 1008.22(3)(c)1., F.S.; see also Florida Department of Education, *Bureau of K-12 Assessment*, available at <http://fcats.fldoe.org/> (last visited May 8, 2012).

²⁷ Section 1008.22(3)(c)2.a., F.S.

Where can I get additional information?

Florida Department of Education

Bureau of Curriculum and Instruction

(850) 245-9032

<http://www.fldoe.org/bii>

Florida Department of Education

Next Generation Sunshine State Standards

<http://www.fldoe.org/BII/curriculum/SSS/>

Florida House of Representatives

Education Committee

(850) 717-4830

<http://www.myfloridahouse.gov>



Statewide Assessment Program Accommodations and Alternate Assessments

Education Committee

Last Updated: August 2012

Is a student with a disability required to take statewide assessments?

Yes. All students attending public schools, including students with disabilities,¹ are required to take statewide assessments, except as otherwise provided by law.² Students are assessed to measure achievement of the Next Generation Sunshine State Standards. By assessing how well students have mastered the standards, parents and educators are able to determine whether the student needs remediation, is ready for the next grade level, or is equipped to pursue college or career study.³

A student with a disability may take statewide assessments with or without accommodations or take an alternate assessment.⁴ The appropriate assessment method is determined by the student's individualized education plan (IEP) team.⁵ The IEP team may determine that the student:

- Is able to access instruction and statewide assessments without accommodations;
- Requires allowable accommodations⁶ during instruction and on statewide assessments; or
- Has a significant cognitive disability and meets the following criteria for taking statewide alternate assessments:
 - The student is unable to master the Sunshine State Standards, even with appropriate and allowable instructional accommodations, assistive technology, or accessible instructional materials;
 - The student is participating in a curriculum based upon the state standards access points⁷ for all academic areas; and
 - The student requires direct instruction in academics based upon access points in order to acquire, generalize, and transfer skills across settings.⁸

The Department of Education has developed the Florida Alternate Assessment (FAA) for students with significant cognitive disabilities.⁹ The FAA consists of reading and mathematics assessments for eligible

¹ The term "students with disabilities" includes students who have an intellectual disability; autism spectrum disorder; a speech impairment; a language impairment; an orthopedic impairment; an other health impairment; traumatic brain injury; a visual impairment; an emotional or behavioral disability; or a specific learning disability, including, but not limited to, dyslexia, dyscalculia, or developmental aphasia; students who are deaf or hard of hearing or dual sensory impaired; students who are hospitalized or homebound; children with developmental delays ages birth through five years, or children, ages birth through two years with established conditions that are identified in State Board of Education rules. Section 1003.01(3)(a), F.S. These terms are consistent with provisions of the federal Individuals with Disabilities Education Act. See 20 U.S.C. s. 1401(3)(A).

² Section 1008.22(3)(c)8., F.S.; rule 6A-1.0943(1), F.A.C. Statewide assessments include the FCAT and all statewide, standardized end-of-course (EOC) assessments. See *infra* text accompanying notes 10 and 11 for an explanation of exemptions from participation in statewide assessments.

³ Section 1008.22(1), F.S.

⁴ Rule 6A-1.0943(2), F.A.C. Regardless of whether a student takes the FCAT or the Florida Alternate Assessment, federal law requires the test to measure the academic achievement of the student relative to the state's academic content and academic achievement standards for the grade in which the student is enrolled. 34 C.F.R. s. 200.6(a)

⁵ An IEP team is a group of individuals that is responsible for developing, reviewing, or revising an IEP for a student with a disability. Rule 6A-6.03411(1)(v), F.A.C.

⁶ See *infra* text accompanying notes 22-27 for an explanation of allowable accommodations.

⁷ Access points are expectations written for students with significant cognitive disabilities to access the general education curriculum. Access points are embedded in the Sunshine State Standards and reflect the core intent of the standards with reduced levels of complexity. Florida Department of Education, *Florida Alternate Assessment: Frequently Asked Questions*, www.fldoe.org/asp/pdf/FlaAltAFAQ.pdf (last visited May 8, 2012); see rule 6A-1.09401(1), F.A.C.

⁸ Rule 6A-1.0943(2) and (4), F.A.C.

students in grades 3 through 10; science assessments for eligible students in grades 5, 8, and 11; and writing assessments for eligible students in grades 4, 8, and 10.¹⁰

However, upon approval of the Commissioner of Education, a student with a disability may receive a special exemption from participation in statewide assessments, including the alternate assessment, under extraordinary circumstances.¹¹ Extraordinary circumstances are “physical conditions that affect a student’s ability to communicate in modes deemed acceptable for statewide assessments, creating a situation where the results of administration of a statewide assessment would reflect a student’s impaired sensory, manual, or speaking skills rather than the student’s achievement.” A district school superintendent must submit any such exemption request to the commissioner, in writing, at least 30 days before the assessment administration and include:

- A description of the student’s disabling conditions, including a specific description of the student’s impaired sensory, manual, or speaking skills and the extraordinary circumstances for the exemption request;
- Documentation of the most recent evaluation data;
- A description of the disability’s effect on the student’s achievement;
- Evidence that the student has had the opportunity to learn the skills being tested; and
- Evidence that the manifestations of the student’s disability prohibits the student from responding to the statewide assessment, even when appropriate accommodations are provided so that the result of the testing reflects the student’s impaired sensory, manual, or speaking skills, rather than the student’s achievement.¹²

Is a student classified as an English language learner required to take statewide assessments?

Yes. A student classified as an English Language Learner (ELL),¹³ also known as a Limited English Proficient (LEP) student, is required to take statewide assessments.¹⁴ However, an ELL who has been enrolled in a school in the United States for less than 12 months may be exempted from FCAT Reading.¹⁵ In making a determination to exempt a student from FCAT Reading, the ELL committee¹⁶ must consider the following factors:

- The student’s level of mastery of basic competencies or skills in English and the home language according to appropriate local, state, and national criterion-referenced standards;
- The student’s grades from the current or previous years; or
- Other test results.¹⁷

⁹ See s. 1008.22(3)(c)11., F.S.; rule 6A-1.09430(1), F.A.C.; see also Florida Department of Education, Division of Public Schools and Bureau of Exceptional Education and Student Services, *Statewide Assessment for Students with Disabilities*, Technical Assistance Paper 2010-92 (July 15, 2010).

¹⁰ Rule 6A-1.09430(3)(a), F.A.C.

¹¹ In the 2011-12 school year, the commissioner approved 9 requests submitted to receive an exemption from participation in statewide assessments. For the entire population of public school students, over 2,667,800 students, only 12 exemption requests were submitted to the commissioner. Email, Florida Department of Education, Office of Legislative Affairs (June 7, 2012); see also Florida Department of Education, Education Information & Accountability Services, *Membership in Florida Schools, 2011-12*, available at <http://www.fldoe.org/eias/eiaspubs/xls/pk-12mem1112.xls>.

¹² Sections 1008.22(3)(c)8. and 1003.428(8)(b), F.S.; rule 6A-1.0943(5), F.A.C.

¹³ An ELL is a student who was not born in the United States and whose native language is a language other than English; a student who comes from a home environment where a language other than English is spoken in the home; or a student who is an American Indian or Alaskan native and who comes from an environment where a language other than English has had a significant impact on his or her level of English language proficiency; and who, by reason thereof, has sufficient difficulty speaking, reading, writing, or listening to the English language. Section 1003.56(2)(a), F.S.; rule 6A-6.0901(1), F.A.C.

¹⁴ Section 1008.22(3)(c)8., F.S.; rule 6A-1.09432(1), F.A.C.

¹⁵ Rules 6A-1.09432(1) and 6A-6.0909(1), F.A.C.

¹⁶ An ELL committee is a group composed of English for Speakers of Other Languages (ESOL) teachers; home language teachers; an administrator or designee; and guidance counselors, social workers, school psychologists, or other educators as appropriate for the situation. Rule 6A-6.0901(5), F.A.C.

¹⁷ Rule 6A-1.09432(2)(a), F.A.C.

An ELL who is exempted from FCAT Reading participation must take the Comprehensive English Language Learning Assessment (CELLA).¹⁸

Who is eligible for testing accommodations when taking statewide assessments?

A student with a disability may be eligible for testing accommodations, if the accommodations:

- Are recorded on the student's IEP or 504 accommodation plan;¹⁹
- Are based on current instructional accommodations and accessible instructional materials used by the student in the classroom; and
- Do not negate the assessment's validity.²⁰

An ELL may be eligible for testing accommodations if the student is currently receiving services in accordance with an approved ELL district plan.²¹ An ELL who is otherwise classified as a student with a disability is eligible for testing accommodations in the same manner as other students with disabilities.²²

What types of testing accommodations are authorized for statewide assessments?

For students with disabilities, testing accommodations on statewide assessments may include:

- Adjustments to the presentation of the statewide assessment questions;
- Adjustments to the methods of recording examinee responses to the questions;
- Adjustments to the scheduling for the administration of the assessment;
- Adjustments to the settings for the administration of the assessment; and
- The use of assistive technology or devices to facilitate the student's participation in the assessment.²³

Any accommodations that negate the validity of a statewide assessment are not allowable.²⁴ District personnel are required to implement the accommodations in a manner that ensures the test responses are the independent work of the student. Personnel are prohibited from assisting a student in determining how the student will respond or directing or leading the student to a particular response.²⁵

In addition to the standard testing accommodations listed above, a student with a disability who needs a unique accommodation may submit a request for use of the accommodation to the department for approval by the commissioner.²⁶

Testing accommodations for ELLs include:

- Additional time to complete each test section, including, if necessary, administering the entire test over one or more days;
- Access to English-to-home language or home language-to-English dictionaries; and

¹⁸ Rule 6A-6.0909(1), F.A.C.; *see also* rule 6A-6.0902, F.A.C. An ELL who is exempted from FCAT Reading is still required to take all other statewide assessments with accommodations as necessary. *See* rules 6A-6.0909(1) and 6A-6.09091, F.A.C.

¹⁹ Rule 6A-1.0943(3)(b), F.A.C. Some students are not eligible for special education and related services under the IDEA, but have disabilities recognized under Section 504 of the Federal Rehabilitation Act of 1973 (Section 504), which include physical or mental impairments that substantially limit one or more major life activity. *See* 29 U.S.C. s. 705(9) and Rule 6A-19.001(6), F.A.C. Students with disabilities recognized under Section 504 are eligible for accommodations as determined necessary by the student's 504 plan team. Florida Department of Education, Bureau of Exceptional Education and Student Services, *Accommodations for Students with Disabilities Taking the Florida Comprehensive assessment Test (FCAT)*, Technical Assistance Paper FY 2007-04 (Sept. 2006).

²⁰ Rule 6A-1.0943(3)(a), F.A.C.

²¹ Rule 6A-6.09091(3), F.A.C.

²² Rule 6A-6.09091(5), F.A.C.

²³ Rule 6A-1.0943(3)(a), F.A.C.

²⁴ Section 1008.22(3)(c)8., F.S.; rule 6A-1.0943(3)(a), F.A.C.

²⁵ Rule 6A-1.0943(3)(d), F.A.C.

²⁶ Rule 6A-1.0943(3)(c), F.A.C.

- The opportunity to be tested in a separate room with an English for Speakers of Other Languages (ESOL) or home language teacher serving as the test administrator.²⁷

For mathematics assessments, an ESOL or home language teacher may answer questions related to the test directions or a specific word or phrase using the student's home language. For communications or reading assessments, an ESOL or home language teacher may answer questions related to the test directions in the student's home language.²⁸

How does a parent know if an accommodation used in classroom instruction is permissible on statewide assessments?

A parent must provide signed consent before a student with disabilities may receive accommodations in the classroom that are not authorized on statewide assessments.²⁹ Parents must acknowledge, in writing, that they understand the possible impact or future consequences of using accommodations in the classroom which are not permitted on statewide assessments.³⁰

Any accommodation that affects the reliability or validity of a statewide assessment is not permitted on the assessment.³¹ Examples of accommodations not permitted on statewide assessments include reduced number of test questions or answer options, use of spelling or grammar check for responses to performance tasks, and use of graphic organizers or software to assist in preparing responses.³²

May a student with a disability receive a standard high school diploma if the student receives testing accommodations on statewide assessments?

Yes. Use of allowable testing accommodations on statewide assessments has no bearing on the type of diploma issued to the student.³³

Is a student with a disability who does not earn passing scores on statewide assessments eligible for a standard high school diploma?

Yes. A student with a disability may earn a standard high school diploma without earning passing scores on the grade 10 FCAT Reading, if:

- The student's IEP team determines that the FCAT cannot accurately measure the student's abilities taking into consideration all allowable accommodations;
- The student completes the state's 24-credit requirement and any other district requirements for graduation with a standard high school diploma; and
- The student has taken the grade 10 FCAT with appropriate, allowable accommodations in grades 10 and 11.³⁴

A student with a disability may also have end-of-course (EOC) assessment results waived for the purpose of determining the student's course grade and credit, if the student's IEP team determines that an EOC assessment cannot accurately measure the student's abilities, taking into consideration all allowable accommodations.³⁵

²⁷ Rule 6A-6.09091(3)(a), (b), and (c), F.A.C.

²⁸ Rule 6A-6.09091(3)(d) and (e), F.A.C.

²⁹ Section 1008.22(3)(c)8., F.S.; rule 6A-1.0943(3)(a), F.A.C.

³⁰ The accommodations must also be included in the student's IEP. Section 1008.22(3)(c)8., F.S.

³¹ Section 1008.22(3)(c)8., F.S.

³² Florida Department of Education, Bureau of Exceptional Education and Student Services, *Guide to FCAT and FCAT 2.0 Accommodations for Students with Disabilities*, at 19 (2010), available at www.fldoe.org/ese/pdf/fcatteam.pdf.

³³ See s. 1003.428(7)(a), F.S.

³⁴ Section 1003.428(8)(b), F.S.

³⁵ Section 1003.428(8)(b)2., F.S. Beginning with students entering grade 9 in the 2012-13 school year, students will be required to pass an end-of-course assessment in Algebra I, Geometry, and Biology. Section 1008.22(3)(c)2.a., F.S.

Where can I get additional information?

Florida Department of Education

Bureau of Exceptional Education and Student Services

(850) 245-0475

<http://www.fldoe.org/ese/>

Florida House of Representatives

Education Committee

(850) 717-4830

<http://www.myfloridahouse.gov>



School Improvement and Accountability

Education Committee

Last Updated: August 2012

Does federal law require states to implement a statewide system of school improvement and accountability?

Yes. The Elementary and Secondary Education Act (ESEA) of 1965, as reauthorized and substantially revised by the *No Child Left Behind Act of 2001 (NCLB)*, requires each state to develop and implement a single, statewide system of school improvement and accountability.¹ Each state must demonstrate that its schools and school districts are making adequate yearly progress (AYP) based upon state-adopted annual measurable objectives (AMO) for student achievement on statewide assessments in mathematics and reading/language arts.² The AMOs must identify a minimum percentage of students who are required to meet or exceed the “proficient” level on such assessments.³ In addition, ESEA requires each state to narrow achievement gaps of the following subgroups within the state, school districts, and schools:

- Economically disadvantaged students;⁴
- Students from major racial and ethnic groups;⁵
- Students with disabilities; and
- Students with limited English proficiency.⁶

In order for the state, a school district, or a school to make AYP, it must reach its AMOs in both mathematics and reading/language arts. AYP also requires that the AMOs be met for each subgroup.⁷ ESEA sets the 2001-02 school year as the starting point by which states must meet the AMOs, with annual increases in the AMOs through the 2013-14 school year, at which time all students must achieve proficiency.⁸

While NCLB’s education accountability provisions are aimed at improving the achievement of all public school students, the law places particular emphasis on improving the achievement of students attending high-poverty schools, known as Title I schools.⁹ States must identify Title I schools that fail to make AYP for two consecutive

¹ Pub. L. No. 107-110, 115 Stat. 1425 (Jan. 8, 2002)(NCLB); Pub. L. No. 89-10, 79 Stat. 27 (April 11, 1965)(ESEA); 20 U.S.C. s. 6311(b)(2)(A).

² 20 U.S.C. s. 6311(b)(2)(G).

³ 20 U.S.C. s. 6311(b)(2)(G)(iii).

⁴ Historically, the Florida Department of Education has defined “economically disadvantaged” to mean students who are eligible for free or reduced price lunch or are attending a USDA Provision 2 school, i.e., a school that provides meals to all students at no charge. See Florida Department of Education, *2011 Guide to Calculating Adequate Yearly Progress (AYP), Technical Assistance Paper 2010-11*, at 5 (July 2011), available at <http://schoolgrades.fl DOE.org/pdf/1011/AYPTAP2011.pdf> [hereinafter *AYP Guide*]; see, e.g., U.S. Department of Agriculture, *Provisions 1, 2, & 3 Fact Sheet*, http://www.fns.usda.gov/cnd/Governance/prov-1-2-3/Prov1_2_3_FactSheet.htm (last visited Nov. 7, 2012).

⁵ Historically, the Florida Department of Education has defined the state’s major racial and ethnic groups for purposes of NCLB accountability as White, Black, Hispanic, Asian, and American Indian. See *AYP Guide*, *supra* note 4, at 5.

⁶ 20 U.S.C. s. 6311(b)(2)(C)(v)(II). Under Florida’s ESEA waiver, all four student subgroups will be identified based upon the improvement of the lowest 25th percentile of students in the school on statewide reading and mathematics assessments, as measured by Florida’s school grading system. Florida Department of Education, *Florida ESEA Flexibility Request*, at 49, 95-96, and 119-120 (Nov. 14, 2011), available at <http://www.fl DOE.org/esea/pdf/ffr.pdf> [hereinafter *ESEA Waiver Request*]; see s. 1008.34(3)(b)1.c., F.S.

⁷ 20 U.S.C. s. 6311(b)(2)(I); *AYP Guide*, *supra* note 4, at 2-3. NCLB, however, includes a “safe harbor” provision that allows a state to make AYP if the number of students in a subgroup that fail to achieve the minimum percentage is reduced by 10 percent from the previous year and at least 95 percent of students in the subgroup take the academic assessments. *Id.*

⁸ 20 U.S.C. s. 6311(b)(2)(E), (F) and (G)(iv).

⁹ 20 U.S.C. ss. 6301(2)-(3) and 6311(b)(2)(C)(v); see U.S. Government Accountability Office, *No Child Left Behind Act: Improvements Needed in Education’s Process for Tracking States’ Implementation of Key Provisions*, Report No. GAO-04-734, at 6 (Sept. 30, 2004), available at <http://www.gao.gov/new.items/d04734.pdf>.

years as “schools in need of improvement” (SINI).¹⁰ NCLB prescribes a series of intervention and support strategies which gradually increase in intensity with each consecutive year a school is identified as a SINI. These strategies include school improvement plans,¹¹ public school transfers,¹² supplemental educational services (SES),¹³ and school restructuring.¹⁴ Under NCLB, such strategies must be implemented in a “one size fits all” fashion regardless of whether a SINI barely misses making AYP or is in need of dramatic intervention.¹⁵

In July 2008, Florida obtained U.S. Department of Education (U.S. DOE) approval to implement a more nuanced system of school improvement and accountability than that prescribed by ESEA.¹⁶ This system is known as differentiated accountability because the intervention and support strategies applied to SINIs vary in intensity depending upon the nature and severity of substandard student achievement at the school. This enables states to focus school improvement resources upon the neediest schools.¹⁷

What is differentiated accountability?

Under differentiated accountability, the lowest performing schools receive more comprehensive intervention and support than schools that are closer to meeting student achievement goals.¹⁸ Florida’s implementation of differentiated accountability began in July 2008, as part of a U.S. DOE pilot project.¹⁹ Initially, low performing schools were placed in one of six categories²⁰ according to the causes and severity of substandard student achievement. Intervention and support strategies were then applied to the school based upon the school’s categorization. Schools were categorized using such factors as the school’s grade, statewide assessment results, and AYP count.²¹

In February 2012, the Florida Department of Education (FDOE) obtained an ESEA waiver from U.S. DOE which, among other things, resulted in changes to Florida’s differentiated accountability system.²² The waiver discontinued the use of AYP to determine which schools require intervention and support and relieved the state from meeting ESEA’s goal of 100 percent student proficiency in mathematics and reading/language arts by the 2013-14 school year.²³ The waiver also phases out the use of categories to identify schools for intervention and support in favor of identification based solely upon a school’s grade.²⁴

¹⁰ 20 U.S.C. s. 6316(b).

¹¹ 20 U.S.C. s. 6316(b)(1) and (3); 34 C.F.R. s. 200.41(a).

¹² 20 U.S.C. s. 6316(b)(1)(E)(i); *see* ss. 1001.42(20), 1002.38(3), F.S.; *see also* Opportunity Scholarships Fact Sheet.

¹³ 20 U.S.C. s. 6316(b)(5)(B) and (e)(1), (6) and (12)(a); *see* s. 1008.331, F.S. SES include tutoring, after-school services, summer school, and other supplemental academic enrichment services, offered by state-approved public or private service providers. 20 U.S.C. s. 6316(e)(12)(C).

¹⁴ 20 U.S.C. s. 6316(b)(7)(C)(iv); 34 C.F.R. s. 200.42(b).

¹⁵ *See* 20 U.S.C. s. 6316(b).

¹⁶ U.S. Department of Education, Press Release, *U.S. Education Secretary Margaret Spellings Announces Approval of Three Additional States to Use Differentiated Accountability Under NCLB* (Jan. 8, 2009), available at <http://www2.ed.gov/news/pressreleases/2009/01/01082009b.html> [hereinafter *U.S. DOE Press Release*]

¹⁷ Section 1008.33(2)(b) and (4), F.S.

¹⁸ Section 1008.33(2)(b) and (4), F.S.

¹⁹ *U.S. DOE Press Release*, *supra* note 16. Arkansas, Florida, Georgia, Illinois, Indiana, Louisiana, Maryland, New York, and Ohio were selected to participate in U.S. DOE’s differentiated accountability pilot project. *Id.*

²⁰ The six categories from highest to lowest were “Schools Not Required to Participate in Differentiated Accountability Strategies;” “Prevent I;” “Correct I;” “Prevent II;” “Correct II;” and “Intervene.” Placement in all but the highest category identifies a school for interventions. Rule 6A-1.099811(3), F.A.C. (effective Aug. 20, 2010).

²¹ Rule 6A-1.099811(3), F.A.C. (effective Aug. 20, 2010).

²² Section 6, ch. 2012-194, L.O.F.; *ESEA Waiver Request*, *supra* note 6, at 4-7. The results of the differentiated accountability pilot project were to be used by U.S. DOE as a model for congressional reauthorization of ESEA, which was due to occur in 2007. Participating states were required to agree to provide data to U.S. DOE for comparing school improvement results under differentiated accountability with those achieved under the system mandated by NCLB. 20 U.S.C. s. 6302 (authorizing appropriations through FY 2007); *see* U.S. Department of Education, *Differentiated Accountability: Targeting Resources to Schools with the Greatest Need* (May 2008), available at <http://www.ed.gov/nclb/accountability/differentiated/factsheet02.pdf>. Because congressional reauthorization of ESEA is over five years past due, U.S. DOE is allowing states to apply for a flexibility waiver that relieves the state from compliance with certain ESEA requirements if the state agrees to implement specified education reforms. U.S. Department of Education, *ESEA Flexibility*, at 1 (Sept. 23, 2011), available at <http://www.ed.gov/esea/flexibility/documents/esea-flexibility.doc>.

²³ *ESEA Waiver Request*, *supra* note 6, at 4-7.

²⁴ *Id.* at 73-77.

Legislation enacted in 2012 created separate differentiated accountability intervention and support strategies for traditional public schools and charter schools. Differentiated accountability for charter schools is discussed in the fact sheet entitled “Charter School Performance and Fiscal Accountability.”²⁵

How are traditional public schools identified for intervention and support under differentiated accountability?

Intervention and support is required for traditional public schools earning a letter grade of “C,” “D,” or “F.”²⁶ Under FDOE’s ESEA waiver request, “C,” “D,” and “F” schools will initially be categorized as “Prevent,” “Focus,” and “Priority” schools, respectively. “Ultimately the state will not use the terms “Prevent,” “Focus” and “Priority,” but simply “C,” “D,” and “F.””²⁷

A school’s grade determines which intervention and support strategies a school must implement. The specific actions that a school must take to implement a particular strategy vary depending upon the school’s grade.²⁸ The most intensive intervention and support strategies are provided to schools earning a grade of “F” or recurring letter grades of “D.”²⁹

What intervention and support strategies are required under differentiated accountability?

Florida law specifies seven general types of intervention and support strategies for traditional public schools. These strategies include school improvement planning, leadership and educator quality improvement, professional development, curriculum alignment and pacing, continuous improvement, and monitoring plans and processes.³⁰

School Improvement Planning. All Florida public schools must have a school improvement plan, which is developed and implemented by the school’s advisory council (SAC).³¹ For schools participating in differentiated accountability, development and implementation of the plan is subject to greater outside oversight.³² In such cases, the plan is developed by a district-based leadership team³³ in conjunction with the SAC. The SAC reviews the school’s performance data and determines the causes for its poor performance. The plan must be approved by the district through peer review.³⁴ For schools earning a grade of “D” or “F,” the district-based leadership team must monitor plan implementation and FDOE reviews, approves, and also monitors the plan.³⁵ For schools earning a grade of “F,” FDOE also reviews budget and resource allocations proposed by the plan.³⁶

²⁵ Section 2, ch. 2012-194, L.O.F., *codified at* s. 1002.33(9), F.S.

²⁶ Section 1008.33(3)(b), F.S.; *ESEA Waiver Request*, *supra* note 6, at 47.

²⁷ *ESEA Waiver Request*, *supra* note 6, at 47.

²⁸ Section 1008.33(3) and (4), F.S.; *ESEA Waiver Request*, *supra* note 6, at 4-7.

²⁹ Section 1008.33(3)(c) and (4), F.S.

³⁰ Section 1008.33(3)(c), F.S.

³¹ Sections 1001.42(18)(a) and 1001.452(2), F.S. SACs are composed of principals, teachers, educational support personnel, parents, students, local business representatives, and community members. Section 1001.452(1)(a), F.S. SACs are responsible for developing and implementing the school’s improvement plan, assisting in the development of the school’s budget, and assisting in determinations regarding the use of school improvement funds and school recognition awards. Sections 1001.452(2) and 1008.36(4), F.S.

³² Florida Department of Education, *2012-13 DA Checklists of Compliance*, <http://www.flbsi.org/DA/index.htm> (last visited Nov. 15, 2013)[hereinafter *2012-13 DA Checklists of Compliance*] (see District DA and the Focus (C), Prevent (D), and Priority (F) schools checklists).

³³ The district-based leadership team is comprised of the superintendent, curriculum area administrators and specialists, student services personnel, and other appropriate personnel. Florida Department of Education, *2012-13 District Strategies and Support Document (Focus and Priority)*, at 2 (April 2012), available at [http://www.flbsi.org/Word/District Strategies and Support Document \(Focus%20and%20Priority\).docx](http://www.flbsi.org/Word/District%20Strategies%20and%20Priority.docx) [hereinafter *District Strategies and Support*].

³⁴ *2012-13 DA Checklists of Compliance*, *supra* note 32 (see District DA and Prevent (C), Focus (D), and Priority (F) schools checklists).

³⁵ *Id.* (see checklists for Focus (D) and Priority (F) schools).

³⁶ *Id.* (see checklists for Priority (F) schools).

Leadership Quality Improvement. The school district must ensure that each school participating in differentiated accountability has administrators that are highly qualified and skilled. Interventions for schools earning a grade of “D,” “F,” or three consecutive grades of “D” include rewarding school administrators who improve student achievement with performance pay and replace ineffective administrators.³⁷

Educator Quality Improvement. All schools participating in differentiated accountability must ensure full-staffing and that teachers assigned to students in subgroups not making progress are highly qualified and certified in-field.³⁸ More intensive intervention and support is required for schools earning a grade of “D,” “F,” or three consecutive grades of “D,” including providing full-time reading, mathematics, and science coaches and pay enhancements.³⁹

Professional Development. All schools participating in differentiated accountability must ensure that the Individual Professional Development Plan⁴⁰ for teachers of student subgroups includes professional development targeting the needs of subgroups not making progress.⁴¹ Among other things, the plan for schools graded “D” or “F” must provide professional development that addresses, among other things, the Common Core/Next Generation Sunshine State Standards, school grade and subgroup performance calculations, and intervention and support strategies such as Florida’s Continuous Improvement Model (FCIM),⁴² Multi-Tier Systems of Support (MTSS),⁴³ and lesson study.⁴⁴ School administrators must receive professional development that addresses the needs of subgroups not making progress; monitoring classroom instruction; and supporting, guiding, and monitoring instructional coaches. School districts must maintain a pool of highly qualified reading, mathematics, and science teachers and instructional coaches to serve in these schools.⁴⁵

Curriculum Alignment and Pacing. For all schools participating in differentiated accountability, the school district or school must develop instructional pacing guides that are aligned to the Common Core/Next Generation Sunshine State Standards in reading, writing, mathematics, and science. Such schools must implement the district’s K-12 reading plan and ensure that students are properly placed in rigorous coursework. For schools earning a grade of “C,” the district must review student data and determine the effectiveness of the school’s instructional programs and class offerings.⁴⁶ For schools earning a grade of “D” or “F,” FDOE reviews student data to determine program effectiveness and the school’s instructional pacing guide.⁴⁷

³⁷ *Id.* (see District DA and Prevent (C), Focus (D), and Priority (F) schools checklists).

³⁸ *Id.*

³⁹ Districts must provide performance pay to teachers in “D” or “F” schools who raise student achievement and differentiated pay to teachers in “F” and triple “D” schools based upon additional job responsibilities, school demographics, critical shortage areas, and level of job performance difficulties. *Id.*

⁴⁰ Each school principal must establish and maintain an individual professional development plan for each instructional employee. The plan must relate to the performance data of students assigned to the teacher, define inservice activities, and include an evaluation of the plan’s effectiveness. Section 1012.98(4)(b)5., F.S.

⁴¹ 2012-13 DA Checklists of Compliance, *supra* note 32 (see District DA and Prevent (C), Focus (D), and Priority (F) schools checklists).

⁴² FCIM is a continuous process in which data analysis is used to determine classroom instruction in an effort to improve student achievement. Florida Department of Education, *Florida Continuous Improvement Model (FCIM)*, <http://www.flbsi.org/schoolimprove/cim.htm> (last visited Nov. 15, 2012).

⁴³ MTSS is comprised of three tiers – Tier 1: Core Universal Instruction and Supports, Tier 2: Targeted Supplemental Interventions and Supports, and Tier 3: Intensive Individualized Interventions and Supports. MTSS is Data is collected at each tier to measure the efficacy of interventions and is used to allocate school improvement resources in a manner that is proportionate to student needs. Florida Department of Education, *Multi-Tiered Framework*, <http://www.florida-rti.org/floridaMTSS/mtf.htm> (last visited Nov. 15, 2012).

⁴⁴ Lesson Study is an ongoing professional development process that enables teachers to create a model for high-quality instructional practices. It is also a method for improving a lesson through teacher collaboration. Florida Department of Education, *A Guide To Implementing Lesson Study*, at 4 (2010).

⁴⁵ 2012-13 DA Checklists of Compliance, *supra* note 32 (see District DA checklist).

⁴⁶ *Id.* (see Prevent (C), Focus (D), and Priority (F) schools checklists).

⁴⁷ *Id.* (see Focus (D) and Priority (F) schools checklists).

Continuous Improvement. FCIM is an intervention and support strategy that utilizes data analysis, improvement timelines, quality instruction, and frequent student assessment to improve student performance. All schools participating in differentiated accountability must implement FCIM.⁴⁸

Monitoring Processes and Plans. All schools participating in differentiated accountability must monitor implementation of the school improvement plan and provide quarterly updates on plan implementation to the SAC. Each school district must develop a comprehensive instructional monitoring process for district schools participating in differentiated accountability.⁴⁹ Districts must ensure that “D” and “F” schools receive the greatest share of school improvement resources. FDOE must report the progress of “D” and “F” schools to the State Board of Education.⁵⁰

What are school turnaround options?

A school district must select a school turnaround option when a traditional public school earns any of the following:

- A grade of “F”;
- Three consecutive grades of “D”; or
- A grade of “F” within two years of improving from a grade of “F” or exiting the Intervene category (under the law predating Florida’s ESEA waiver).⁵¹

The school district may select one of the following turnaround options:

- Convert the school to a district-managed turnaround school;
- Reassign students to another school and monitor the progress of each reassigned student;
- Close the school and reopen it as one or more charter schools, each with a governing board with a demonstrated record of effectiveness;
- Contract with an outside entity that has a demonstrated record of effectiveness to operate the school; or
- A hybrid version of these options or another school turnaround model demonstrated to be effective in improving school performance.⁵²

The first full school year after the school earns a grade of “F” is a planning year.⁵³ The school district must implement intervention and support strategies, select a school turnaround option, and submit a plan for implementing the option to FDOE for state board approval.⁵⁴ If the school does not improve by at least one letter grade during the planning year, the turnaround option must be implemented the following school year.⁵⁵

Schools earning three consecutive grades of “D” must implement the district-managed turnaround option. A school that earns a grade of “F” within two years of improving from an “F” must implement the turnaround option that was planned for before the school improved its grade. These schools do not get a planning year before implementing a turnaround option.⁵⁶

A school turnaround option must be implemented for two full school years. A school that does not improve by at least one letter grade during the implementation period must select and implement a different turnaround

⁴⁸ *Id.* (see Prevent (C), Focus (D), and Priority (F) schools checklists).

⁴⁹ A comprehensive instructional monitoring process is a process for monitoring and ensuring implementation of instructional programs and practices. *District Strategies and Support*, *supra* note 33, at 10-11.

⁵⁰ *2012-13 DA Checklists of Compliance*, *supra* note 32 (see Focus (D) and Priority (F) schools checklists).

⁵¹ Section 1008.33(4)-(7), F.S.

⁵² Section 1008.33(4)(b), F.S.

⁵³ Section 1008.33(4)(c), F.S.

⁵⁴ Section 1008.33(4)(a), F.S.

⁵⁵ Section 1008.33(4)(c)-(e), F.S.

⁵⁶ Section 1008.33(5)-(6), F.S.

option the following school year. The state board has discretion to allow the school district to continue implementing the existing turnaround option, if it finds that the school is likely to improve with additional time.⁵⁷

A traditional public school is no longer required to implement a turnaround option if it improves by at least one letter grade; however, it must continue implementing the school improvement plan. Continued implementation of the plan must be monitored by the school district for three years.⁵⁸

Where can I get more information?

Florida Department of Education

Bureau of School Improvement

(850) 245-0426

<http://www.flbsi.org>

Florida House of Representatives

Education Committee

(850) 717-4830

<http://www.myfloridahouse.gov>

⁵⁷ Section 1008.33(4)(c)-(e), F.S.

⁵⁸ Section 1008.33(4)(c)-(d), F.S.



School Recognition Program

Education Committee

Last Updated: August 2012

What is the Florida School Recognition Program?

The Florida School Recognition Program was created in 1997 to recognize the “outstanding faculty and staff in highly productive [public] schools.”¹ The program provides public recognition and financial awards to schools sustaining high student performance or schools that demonstrate substantial improvement in student performance.² While funds for the school recognition program were first appropriated in FY 1998-99, funds were not awarded to eligible schools until the 1999-2000 school year.³

Which schools are eligible?

Public schools, including charter schools, that receive a school grade of “A,” improve at least one letter grade from the prior year, or improve more than one letter grade and sustain the improvement the following year are eligible for awards.⁴ In addition, alternative schools that maintain an “improving” rating or improve at least one improvement-rating level are also eligible for awards.⁵

What do schools receive from the School Recognition Program?

Eligible schools receive a financial award based upon the availability of appropriated funds and the number and size of schools eligible to receive an award.⁶ Additionally, schools earning a school grade of “A” or improving at least two letter grades have increased authority over the allocation of the school’s budget.⁷

Do schools have to apply to receive the award?

No. A school’s eligibility for an award is based exclusively upon the school meeting statutorily established performance criteria.⁸

¹ Section 3, ch. 1997-212, L.O.F.

² Section 1008.36(2), F.S.; Florida Department of Education, Evaluation and Reporting, *Florida School Recognition Program: Frequently Asked Questions*, <http://www.fldoe.org/faq/default.asp?ALL=Y&Dept=177> (last visited July 23, 2012).

³ Florida Department of Education, Evaluation and Reporting, *Florida School Recognition Program: Frequently Asked Questions*, <http://www.fldoe.org/faq/default.asp?ALL=Y&Dept=177> (last visited July 23, 2012); email, Florida House of Representatives, PreK-12 Appropriations Subcommittee (July 23, 2012).

⁴ Section 1008.36(2) and (3), F.S. A school that serves any combination of students in kindergarten through grade 3 which does not receive a school grade because its students are not tested and not included in the school grading system receive the school grade designation of a K-3 feeder pattern school, if at least 60 percent of the students in the K-3 school are scheduled to be assigned to the graded school. Section 1008.34(3)(a)3., F.S.

⁵ Alternative schools have the option of receiving a school improvement rating, which includes ratings of improving, maintaining, and declining. Sections 1008.34(4) and 1008.341(2), F.S.

⁶ Section 1008.36(4), F.S.

⁷ Section 1008.34(2), F.S.; rule 6A-1.09981(1)(a)7., F.A.C.

⁸ See s. 1008.36(2), F.S.; see also Florida Department of Education, Evaluation and Reporting, *Florida School Recognition Program: Frequently Asked Questions*, <http://www.fldoe.org/faq/default.asp?ALL=Y&Dept=177> (last visited July 23, 2012).

How much funding has been provided for the School Recognition Program?

School Recognition Awards ⁹		
Year	Per FTE	Total Award ¹⁰
1999-00	\$100	\$27,603,881
2000-01	\$100	\$80,707,094
2001-02	\$100	\$76,407,868
2002-03	\$100	\$121,051,799
2003-04	\$100	\$137,958,067
2004-05	\$100	\$117,209,388
2005-06	\$100	\$134,162,296
2006-07	\$100	\$157,587,811
2007-08	\$100	\$129,385,669
2008-09	\$85	\$147,159,730
2009-10	\$75	\$122,505,802
2010-11	\$75	\$119,858,088
2011-12	\$70	\$110,832,956
2012-13	\$100	TBD ¹¹

How may funds from the financial awards be used?

Financial awards may be used for:

- Nonrecurring bonuses for faculty and staff;
- Nonrecurring expenditures for educational equipment or materials; or
- Temporary personnel to assist in maintaining and improving student performance.¹²

⁹ Email, Florida House of Representatives, PreK-12 Appropriations Subcommittee (July 16, 2012); *see also* Florida Department of Education, Accountability Reporting, *Florida School Recognition Program*, <http://fldoe.org/fehp/offrfefp.asp> (last visited July 23, 2012). The award per FTE is set annually in the General Appropriations Act pursuant to s. 1008.36(4), F.S. The total annual award amounts can be found in the Florida Education Finance Program (FEFP) Fourth Calculation for each fiscal year.

¹⁰ The total award is based upon the number of eligible schools using the school grades for the previous school year, i.e., the funds awarded during the FY 2011-12 are for schools eligible based upon their 2010-11 school grades. Email, Florida House of Representatives, PreK-12 Appropriations Subcommittee (July 23, 2012).

¹¹ Due to the additional components of the high school grading calculation, the total number of schools eligible to receive school recognition money has not yet been determined for FY 2012-13. The FY 2012-13 school recognition awards will be fully calculated and disbursed in February 2013. Email, Florida House of Representatives, PreK-12 Appropriations Subcommittee (July 23, 2012).

¹² Section 1008.36(5), F.S.

Who decides how the award is spent?

The school's staff and school advisory council jointly determine how the financial award is spent among the authorized purposes.¹³ If a school's staff and school advisory council do not reach a joint decision by February 1, the award is equally distributed to all classroom teachers currently teaching in the school. If a school selected to receive a school recognition award is no longer in existence at the time the award is paid, the district school superintendent must distribute the funds to teachers who taught at the school in the previous year in the form of a bonus.¹⁴

May former faculty and staff employed at the school during the year the award was earned receive a bonus?

Yes. If the school's staff and school advisory council jointly approve bonuses before February 1, the school may pay the bonuses to faculty and staff employed during the school year for which the award was earned, even if a faculty or staff member is no longer employed by the school.¹⁵

Are the financial awards subject to collective bargaining?

No. Current law specifies that "notwithstanding statutory provisions to the contrary, incentive awards are not subject to collective bargaining."¹⁶

Where can I get additional information?

Florida Department of Education

Office of Evaluation and Reporting

(850) 245-0411

www.fldoe.org/evaluation/

Florida House of Representatives

Education Committee

(850) 717-4830

<http://www.myfloridahouse.gov>

¹³ Section 1008.36(4), F.S.; *see also* Op. Att'y Gen. Fla. 2012-25 (2012) (concluding that classroom teachers are considered school staff).

¹⁴ *Id.*

¹⁵ *See id.*; *see also* Florida Department of Education, Evaluation and Reporting, *Florida School Recognition Program: Frequently Asked Questions*, <http://www.fldoe.org/faq/default.asp?ALL=Y&Dept=177> (last visited July 16, 2012).

¹⁶ Section 1008.36, F.S. (flush left language at the end of section); *see also* *Pinellas Classroom Teachers' Association v. Sch. Bd. of Pinellas Cty., Fla.*, 892 So.2d 1213 (Fla. 1st DCA 2005) (Per Curiam Affirmed. Upheld circuit court decision that the financial awards are not a wage, and therefore, are not subject to collective bargaining).



Overview Acceleration Options

Education Committee

Last Updated: August 2012

What acceleration options are available to public school students?

Public school students are provided a variety of acceleration options including Academically Challenging Curriculum to Enhance Learning (ACCEL) options, articulated acceleration mechanisms, and early graduation and accelerated 18-credit graduation options.¹

What are ACCEL options?

ACCEL options provide academically challenging curriculum or accelerated instruction to eligible² public school students in kindergarten through grade 12. The minimum ACCEL options a school must offer include, whole grade and midyear promotion, subject-matter acceleration, virtual instruction in higher grade level subjects, and the credit acceleration program³ (CAP). A school may offer other ACCEL options, including but not limited to, enriched science, technology, engineering, and mathematics (STEM) coursework; enrichment programs; flexible grouping; advanced academic courses; combined classes; self-paced instruction; curriculum compacting; advanced-content instruction; and telescoping curriculum.⁴

CAP allows a student to earn high school credit in a course that requires a statewide, standardized end-of-course (EOC) assessment if the student attains a score indicating satisfactory performance on the corresponding assessment. A student does not have to be enrolled in or complete the course to take the EOC assessment during the regular administration of the assessment.⁵

What are articulated acceleration mechanisms?

Articulated acceleration mechanisms are intended to shorten the time necessary for a student to earn a high school diploma and a postsecondary degree, broaden the scope of curricular options available to students, or increase the depth of study available for a particular subject. Articulated acceleration mechanisms include, but are not limited to, dual enrollment and early admission, advanced placement, credit by examination, the International Baccalaureate Program, and the Advanced International Certificate of Education Program.⁶

Dual Enrollment Program: allows eligible secondary students to enroll in a postsecondary course that provides credit towards high school graduation and a postsecondary degree or certificate.⁷ Any student enrolled as a dual enrollment student is exempt from the payment of registration, tuition, and laboratory fees.⁸

Early Admission: is a form of dual enrollment that allows eligible secondary students to enroll in a postsecondary institution on a full-time⁹ basis in courses that are creditable toward the high school diploma

¹ See ss. 1002.3105, 1007.27, 1007.271, 1003.4281, and 1003.429, F.S.

² Eligibility for each ACCEL option is determined by the principal when the promotion or acceleration occurs within the principal's school; otherwise, eligibility is determined by the school district. Section 1002.3105(2), F.S.

³ Section 1003.4295(3), F.S.

⁴ Section 1002.3105(1), F.S.

⁵ Section 1003.4295(3), F.S.

⁶ Section 1007.27(1), F.S.

⁷ Section 1007.271(1), F.S.

⁸ Section 1007.271(2), F.S.

⁹ A student must enroll in a minimum of 12 college credit hours per semester or the equivalent to participate; however, a student may not be required to enroll in more than 15 college credit hours per semester or the equivalent. Section 1007.271(10), F.S.

and the associate or baccalaureate degree. Students participating in early admission are exempt from the payment of registration, tuition, and laboratory fees.¹⁰

Advanced Placement (AP) Program: is a nationwide program administered by the College Board consisting of more than 30 college-level courses and examinations. Students are eligible to receive postsecondary credit if they obtain a passing score on the corresponding AP examination.¹¹

Credit by Examination: allows secondary and postsecondary students to generate postsecondary credit based upon the receipt of a specified minimum score on nationally standardized general or subject-area examinations.¹²

International Baccalaureate (IB) Programs: provide an intensive curriculum established by the International Baccalaureate Organization for students aged 3 to 19 years that help develop intellectual, personal, emotional, and social skills.¹³ Students are eligible to receive postsecondary credit if they obtain a passing score on the corresponding IB examination.¹⁴

Advanced International Certificate of Education (AICE) Program: a curriculum established by the University of Cambridge International Examinations modeled on the British pre-college curriculum.¹⁵ Students are eligible to receive postsecondary credit if they obtain a passing score on the corresponding AICE examination.¹⁶

What is the early graduation option?

The early graduation option allows a student to graduate in fewer than four years if the student has completed a minimum of 24 credits and meets the general requirements¹⁷ for graduation. A student that graduates early may continue to participate in school activities and social events and attend and participate in graduation events with the student's cohort.¹⁸

What is the accelerated 18-credit graduation option?

The accelerated 18-credit graduation option allows a student to complete a standard college preparatory or career preparatory program in three-years and 18 academic credits, rather than the standard 24 credits. Students who choose the college preparatory 18-credit graduation option must complete four credits in English, four credits in mathematics, three credits in science, three credits in social sciences, two credits in the same second language, and two elective credits. Students who choose the career preparatory 18-credit graduation option must complete four credits in English, four credits in mathematics, three credits in science, three credits in social sciences, three credits in a single vocational or career education program, and one elective credit.¹⁹ Under either option, a student must earn passing scores on the Florida Comprehensive Assessment Test (FCAT) and score a 3 or higher on the grade 10 FCAT Writing assessment.²⁰

¹⁰ Section 1007.271(10), F.S.

¹¹ Section 1007.27(5), F.S.; Florida Department of Education, *Advanced Placement Program*, available at <http://www.fldoe.org/flbpos/otherpubschopt/advplacement.asp> (last visited May 30, 2012).

¹² Section 1007.27(6), F.S.

¹³ International Baccalaureate Organization, *About the International Baccalaureate*, <http://www.ibo.org/general/who.cfm> (last visited May 22, 2012).

¹⁴ Section 1007.27(7), F.S.

¹⁵ University of Cambridge International Examinations, *Cambridge AICE Diploma Overview*, <http://www.cie.org.uk/qualifications/academic/uppersec/aice> (last visited May 22, 2012).

¹⁶ Section 1007.27(8), F.S.

¹⁷ General graduation requirements are established in s. 1003.428, F.S.

¹⁸ Section 1003.428(1) and (3), F.S.

¹⁹ Section 1003.429(1)(b) and (c), F.S. For both 18-credit accelerated graduation options, the mathematics credits must include Algebra I and II and geometry; the science credits must include Biology I, chemistry or physics, and one equally rigorous course; the social sciences credits must include U.S. history, world history, and one-half credit in U.S. government and economics. *Id.*

²⁰ Section 1003.429(6)(a) and (8)(c), F.S.

Where can I get additional information?

Florida Department of Education

Division of Public Schools

(850)245-0509

<http://www.fldoe.org/schools>

Florida House of Representatives

Education Committee

(850)717-4830

<http://www.myfloridahouse.gov>



Articulated Acceleration Mechanisms (College Credit Options for High Schools Students)

Education Committee

Last Updated: August 2012

What opportunities are available to high school students who wish to earn college credit?

High school students in Florida have a variety of avenues by which they can earn college credit. These opportunities, known as articulated acceleration mechanisms, serve to shorten the time necessary for a student to complete the requirements for a high school diploma and a postsecondary degree. Such mechanisms allow Florida schools to increase the depth of study in a particular subject and expand available curricular options.¹

Programs that provide high school students with the opportunity to earn college credit include, but are not limited to, dual enrollment, Advanced Placement (AP), the International Baccalaureate (IB) Program, and the Advanced International Certificate of Education (AICE) Program.²

What is dual enrollment?

The dual enrollment program is an acceleration mechanism that allows an eligible high school or home education student to enroll in a postsecondary course creditable toward an associate or baccalaureate degree or career certificate.³ Upon successful completion of a dual enrollment course, the student simultaneously receives high school and college, university, or career certificate credit. Eligible students are permitted to enroll in dual enrollment courses conducted during and after school hours and during the summer term.⁴

Early admission is a form of dual enrollment for college-level or career coursework. Eligible secondary students enroll on a full-time basis in a postsecondary institution or career center⁵ in courses that are creditable toward a high school diploma and baccalaureate degree, associate degree, or career certificate.⁶

Dual enrollment and early admission students are exempt from the payment of registration, tuition, and laboratory fees.⁷ Ten of Florida's 11 State University System (SUS) institutions and 28 Florida College System (FCS) institutions participate in dual enrollment. In FY 2011-2012, 40,209 high school students were dually enrolled at a FCS institution and 4,491 high school students were dually enrolled at a SUS Institution.⁸

In the 2011-2012 academic year, high school students earned 438,041 credit hours and 10,181 credit hour equivalencies (career and technical programs) through FCS institution dual enrollment programs.⁹ Of the 166,958 total dual enrollment courses taken, 153,793, or 92%, were completed with a grade of C or better.¹⁰

¹ Section 1007.27(1), F.S.

² *Id.*; s. 1007.22(2), F.S.

³ Section 1007.271(1), F.S.

⁴ Section 1007.271(2), F.S.

⁵ A career center is an educational institution offering terminal courses of a technical nature and courses for out-of-school youth and adults. A career center is under the control of the district school board of the school district in which it is located. Career centers are subject to all applicable provisions of the Florida School Code. Section 1001.44(3)(a), F.S.

⁶ Section 1007.271(10), F.S. Students must enroll in a minimum of 12 college credit hours or the equivalent to participate in the early admission program, but may not be required to enroll in more than 15 college credit hours per semester or the equivalent. Participation in career early admission is limited to students who must have completed at least six semesters of full-time secondary enrollment, including studies undertaken in the ninth grade. *Id.*

⁷ Section 1007.271(2), (10), and (11), F.S.

⁸ Email, Florida Department of Education, Office of Articulation (Nov. 21, 2012).

⁹ *Id.*

¹⁰ *Id.*

What is the Advanced Placement Program?

The College Board's AP Program consists of over 30 rigorous high school courses and nationally standardized examinations in multiple subject areas ranging from art to statistics.¹¹ The Department of Education (DOE), through the Articulation Coordinating Committee (ACC), recommends to the State Board of Education (SBE) and the Board of Governors (BOG) for approval the minimum scores required to obtain college credit and the course or courses for which credit is to be awarded for each AP examination.¹² Currently, students may earn college credit only if they receive an examination score of three or higher on a 5-point scale.¹³ Public school students in Florida are exempt from the payment of any fees associated with the administration of the examinations¹⁴ regardless of whether they achieve a passing score.¹⁵ In 2012, 186,195 Florida public school students took one or more AP examinations for a total of 333,023 examinations.¹⁶ The number of examinations that resulted in a score of three or above, and thus were eligible to earn college credit, was 158,419 or 47.6 percent.¹⁷ This compares to a national average of 58.8% for public school students.¹⁸

What is the International Baccalaureate Program?

The International Baccalaureate (IB) Program is a program of studies administered by the International Baccalaureate Office.¹⁹ The IB Program is an intensive two-year curriculum that allows students to earn an IB diploma in addition to the standard high school diploma.²⁰ Students enrolled in an IB program are eligible to receive postsecondary credit only if they obtain a passing score on the corresponding IB examinations. Public school students in Florida are exempt from the payment of any fees associated with the administration of the examinations²¹ regardless of whether they achieve a passing score.²²

IB Program courses are usually taken by secondary students in grades 11 and 12.²³ The ACC identifies, and the SBE and the BOG approve, the scores required to obtain college credit. Currently, students are recommended for college credit if they receive an examination score of four or higher on a 7-point scale.²⁴ Students may be awarded a maximum of 30 semester credit hours earned through the IB program.²⁵ In FY 2011-12, IB Programs were available in 31 of the state's 67 school districts, with 68 public and 8 private high schools participating.²⁶ During the 2011-12 academic year, 12,226 students or 0.5% of all public high

¹¹ Florida Department of Education, *Florida Virtual Campus, Florida Counseling for Future Education Handbook 2012-13 Edition*, at 69, (2012), available at

http://www.flvc.org/flvc/portal/Home_Page/Advising_Manuals/Counseling_for_Future_Education_Handbook.

¹² Section 1007.27(2), F.S.

¹³ Section 1007.27(5), F.S.

¹⁴ There is a \$89 per student registration fee for each AP examination. College Board, AP Fees, available at http://www.collegeboard.com/student/testing/ap/cal_fees.html.

¹⁵ Section 1007.27(5).

¹⁶ College Board, College Board Summary Report: 2012 Florida, available at http://www.collegeboard.com/student/testing/ap/exgrd_sum/2012.html.

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ Section 1007.27(7), F.S.

²⁰ Florida Department of Education, *Florida Virtual Campus, Florida Counseling for Future Education Handbook 2012-13 Edition*, at 73-74, (2012), available at http://www.flvc.org/flvc/portal/Home_Page/Advising_Manuals/Counseling_for_Future_Education_Handbook.

²¹ There is a \$135 per student registration fee for the IB Program. For each subject examination taken, the cost is \$92. For a diploma student taking six examinations, the cost would be \$135 (registration fee) in addition to the six examination fees for a total of \$687 per student. International Baccalaureate Organization, Assessment fees and services, <http://www.ibo.org/become/fees/assessmentfees> (last visited Nov. 27, 2012).

²² Section 1007.27(7), F.S.

²³ Florida Department of Education, *Florida Virtual Campus, Florida Counseling for Future Education Handbook 2012-13 Edition*, at 74, (2012), available at http://www.flvc.org/flvc/portal/Home_Page/Advising_Manuals/Counseling_for_Future_Education_Handbook.

²⁴ Florida Department of Education, Articulation Coordinating Committee, *Credit-By-Exam Equivalencies*, at 14-16, (2012), available at <http://www.fldoe.org/articulation/pdf/ACC-CBE.pdf>.

²⁵ Section 1007.27(7), F.S.

²⁶ Email, Florida Department of Education, Office of Articulation (Nov. 21, 2012).

school students enrolled that year, were enrolled in Florida's IB diploma programs in public high school. The number of examinations scoring a 4 or better was 21,559, or 62% of the total 34,887 exams taken.²⁷ All Florida universities recognize and enroll IB diploma holders and the program is also recognized by universities in more than 100 countries.²⁸

To help prepare students for the two-year IB Diploma Program, some school districts offer locally developed "pre-IB" programs or the IB Middle Years Program. These preparation programs are not required for admission into an IB Program.²⁹

What is the Advanced International Certificate of Education Program?

The Advanced International Certificate of Education (AICE) Program is administered by the University of Cambridge Local Examinations Syndicate.³⁰ The AICE program follows an international curriculum and is designed to provide accelerated courses that lead to college credit for students in grades 11 and 12.³¹ Students who successfully complete six credits within 13 months in mathematics, science, languages, and arts and humanities receive the AICE diploma.³²

Public school students in Florida are exempt from the payment of any fees associated with the administration of the examinations regardless of whether they achieve a passing score³³. Cut off scores and postsecondary course equivalencies are determined by the ACC and approved by the SBE and BOG. Students may be awarded a maximum of 30 semester credit hours earned through the AICE program.³⁴ Passing scores on AICE examinations range from "A" to "E," with "A" being the highest. A grade of "E" on an AICE Examination corresponds to an AP examination grade of 3.³⁵ During the 2011-12 academic year, 9,828 Florida high school students were enrolled in AICE courses.³⁶ The number of examinations scoring an E or better was 12,500, or 66% of the total 19,073 exams taken.³⁷

How is college credit awarded?

The Department of Education (DOE) is required to identify the minimum scores, maximum credit, and courses for which credit is to be awarded for each AP, IB and AICE examination.³⁸ College credit for dual enrollment courses is awarded based on the statewide course number assigned and is accepted by all institutions that participate in the Statewide Course Numbering System.³⁹

²⁷ *Id.*

²⁸ Florida Department of Education, *Florida Virtual Campus, Florida Counseling for Future Education Handbook 2012-13 Edition*, at 72, (2012), available at

http://www.flvc.org/flvc/portal/Home_Page/Advising_Manuals/Counseling_for_Future_Education_Handbook

²⁹ Florida Department of Education, *Florida Virtual Campus, Florida Counseling for Future Education Handbook 2012-13 Edition*, at 73-74, (2012), available at

http://www.flvc.org/flvc/portal/Home_Page/Advising_Manuals/Counseling_for_Future_Education_Handbook.

³⁰ Section 1007.27(8), F.S. Cambridge Assessment is the new name for the University of Cambridge Local Examinations Syndicate (UCLES) Cambridge International Examinations Excellence in education, History, <http://www.cie.org.uk/aboutcie/history> (last visited Nov. 27, 2012).

³¹ Florida Department of Education, *Florida Virtual Campus, Florida Counseling for Future Education Handbook 2012-13 Edition*, at 73-74, (2012), available at

http://www.flvc.org/flvc/portal/Home_Page/Advising_Manuals/Counseling_for_Future_Education_Handbook.

³² *Id.*

³³ Section 1007.27(8), F.S.

³⁴ Section 1007.27(9), F.S.

³⁵ Florida Department of Education, Articulation Coordinating Committee, Credit-By-Exam Equivalencies <http://www.fldoe.org/articulation/pdf/ACC-CBE.pdf> (last visited May 30, 2012).

³⁶ Email, Florida Department of Education, Office of Articulation (Nov. 21, 2012).

³⁷ *Id.*

³⁸ Section 1007.27(2), F.S.

³⁹ Section 1007.24(7), F.S.

What are the financial advantages for students who participate in certain articulated acceleration mechanisms?

High school students enrolled in dual enrollment courses or participating in early admission programs are not required to pay registration, tuition, or lab fees.⁴⁰ In addition, instructional materials assigned for use within dual enrollment courses must be made available to public school students free of charge.⁴¹ An FCS institution may provide instructional materials at no cost to home education students or students from private schools participating in dual enrollment courses.⁴²

Public school students are also exempt from the payment of any fees for an AP, AICE, or IB course or examination, even if the student does not achieve a passing score on the examination.⁴³

Participation in postsecondary acceleration mechanisms can result in a considerable cost savings to the student and family.

Are financial incentives provided to school districts and teachers for offering acceleration mechanisms?

School districts that offer AP, IB, and AICE programs, as well as the teachers that provide the instruction in these programs, may be eligible for financial incentives.⁴⁴

AP District Bonus. School districts are eligible for additional Florida Education Finance Program (FEFP) funding based on the examination scores of AP students.⁴⁵ School districts receive an additional 0.16 full-time-equivalent (FTE) student membership for each student that takes an AP examination and receives a score of three or higher on the AP examination for the prior year. This amount is added to the total FTE student membership in basic programs for grades nine through 12 in the subsequent fiscal year. Each district must allocate at least 80 percent of these funds to the high school that generates the additional funds.⁴⁶

AP Teacher Bonus. School districts must award AP teachers a \$50 bonus for each student they instruct who receives a score of three or higher on the AP examination. AP teachers in a school designated with a performance grade⁴⁷ of “D” or “F” who have at least one student scoring three or higher on the College Board AP examination regardless of the number of classes taught or the number of students scoring a three or higher on the College Board AP Examination receive an additional \$500 bonus.⁴⁸ Bonuses awarded to AP teachers may not exceed \$2,000 in any given school year.⁴⁹

IB District Bonus. School districts are eligible for additional FEFP funding based on the examination scores of IB students. School districts receive an additional 0.16 FTE student membership for each student enrolled in an IB course who receives a score of four or higher on the subject examination. In addition, school districts may receive a value of 0.3 FTE student membership for each student who receives an IB diploma. These values are added to the total FTE basic program membership for students in grades nine through 12 in the subsequent fiscal year. Each school district must allocate 80 percent of the funds received from IB bonus FTE funding to the school program whose students generate the funds and to school programs that prepare

⁴⁰ Section 1007.271(2), (10) and (11), F.S.

⁴¹ Section 1007.271(17), F.S.

⁴² *Id.*

⁴³ Section 1007.27(6), (8), and (9), F.S.

⁴⁴ Section 1011.62(1), (l), (m), and (n), F.S.

⁴⁵ Section 1011.62(1)(n), F.S.

⁴⁶ *Id.*

⁴⁷ All public schools, including charter schools, which have at least 30 students with valid FCAT scores in reading for the current and prior years and at least 30 students with valid FCAT scores in mathematics for the current and prior years are assigned a school grade. Rule 6A-1.09981, F.A.C. A grade “D” means a school is making less than satisfactory progress and a grade “F” means a school has failed to make adequate progress. Section 1008.34(2), F.S.

⁴⁸ Section 1011.62(1)(n)1. and 2., F.S.

⁴⁹ Section 1011.62(1)(n), F.S. (flush left provision at the end of the paragraph).

prospective students to enroll in IB courses.⁵⁰ Funds must be expended solely for the payment of allowable costs⁵¹ associated with the IB program. School districts must allocate the remaining 20 percent of the funds received from IB bonus FTE funding for programs that assist academically disadvantaged students to prepare for more rigorous courses.⁵²

IB Teacher Bonus. School districts must award IB teachers a \$50 bonus for each IB student they instruct in each course who receives a score of four or higher on the IB examination. IB teachers in a school designated with a performance grade of “D” or “F” who have at least one student scoring four or higher on the IB examination are eligible for an additional bonus of \$500.⁵³ Bonuses awarded to IB teachers may not exceed \$2,000 in any given school year.⁵⁴

AICE District Bonus. School districts are eligible for additional FEFP funding based on student AICE examination scores.⁵⁵ School districts may receive an additional value of 0.16 FTE student membership for each student enrolled in a full-credit AICE course who receives a score of “E” or higher on the subject examination. Likewise, school districts may receive a value of 0.08 FTE student membership for each student enrolled in a half-credit AICE course who receives a score of “E” or higher on the subject examination. In addition, school districts may receive a value of 0.3 FTE student membership for each student who receives an AICE diploma. These additional values are added to the district’s total FTE student membership for basic programs for grades nine through 12 in the subsequent fiscal year.⁵⁶

AICE Teacher Bonus. School districts must award AICE teachers a \$50 bonus for each one of their students who receives a score of “E” or higher on a full-credit AICE course examination. Likewise, AICE teachers are awarded a \$25 bonus for each one of their students who receives a score of “E” or higher on a half-credit AICE course examination. AICE teachers in a school designated with a performance grade of “D” or “F” who have at least one student scoring “E” or higher on a full-credit AICE examination may receive an additional bonus of \$500 and those who have at least one student scoring “E” or higher on a half-credit AICE examination may receive a bonus of \$250.⁵⁷ Bonuses awarded to AICE teachers may not exceed \$2,000 in any given school year.⁵⁸

How does student participation in articulated acceleration mechanisms affect School Recognition Program awards?

The Florida School Recognition Program⁵⁹ provides public recognition and financial awards to public schools that demonstrate high student performance by receiving a school grade of “A” or exemplary improvement due to innovation and effort by improving at least one letter grade or by improving more than one letter grade and sustaining the improvement in the following school year.⁶⁰ Beginning with the 2009-10 academic year, the high school grading system includes the performance and participation of a high school’s students in AP, IB, dual enrollment, and AICE courses and the students’ achievement of national industry certification identified in the Industry Certification Funding List as a factor in determining a school’s grade.⁶¹ Accordingly, high schools with successful articulated acceleration mechanism programs have the opportunity to increase their eligibility for School Recognition Program awards.

⁵⁰ Section 1011.62(1)(l), F.S.

⁵¹ Allowable costs include IB annual school fees; IB examination fees; salary, benefits, and bonuses for teachers and program coordinators for the IB program and teachers and coordinators who prepare prospective students for the IB program; supplemental books; instructional supplies; instructional equipment or instructional materials for IB courses; other activities that identify prospective IB students or prepare prospective students to enroll in IB courses; and training or professional development for IB teachers. *Id.*

⁵² Section 1011.62(1)(l), F.S.

⁵³ Section 1011.62(1)(l)1. and 2., F.S.

⁵⁴ Section 1011.62(1)(l), F.S. (flush left provision at the end of the paragraph).

⁵⁵ Section 1011.62(1)(m), F.S.

⁵⁶ *Id.*

⁵⁷ Section 1011.62(1)(m)1., 2., and 3., F.S.

⁵⁸ Section 1011.62(1)(m), F.S. (flush left provision at the end of the paragraph).

⁵⁹ Section 1008.36, F.S.

⁶⁰ Section 1008.36(2)(a) and (b), F.S.

⁶¹ Section 1008.34(3)(b)3.b., F.S.; rule 6A-1.09981, F.A.C.

Where may I get additional information?

Florida Department of Education

Office of Articulation

(850) 245-0427

<http://www.fldoe.org/articulation/>

Florida House of Representatives

Education Committee

(850) 717-4830

<http://www.myfloridahouse.gov>



What is the dual enrollment program?

The dual enrollment program is an acceleration mechanism that allows an eligible high school or home education student to enroll in a postsecondary course creditable toward high school completion and an associate or baccalaureate degree or career certificate.¹ Upon successful completion of a dual enrollment course, the student simultaneously receives high school and college, university, or career certificate credit. College credit earned prior to high school graduation may reduce the average time-to-degree and increase the likelihood of completion of a postsecondary degree.² Eligible students are permitted to enroll in dual enrollment courses conducted during and after school hours and during the summer term.³ Ten of Florida's 11 State University System (SUS) institutions and 28 Florida College System (FCS) institutions participate in dual enrollment.

Early admission is a form of dual enrollment that provides eligible secondary students an opportunity to enroll on a full-time basis at a postsecondary institution in courses that are creditable toward the high school diploma and associate or baccalaureate degree.⁴ Career early admission is a form of dual enrollment through which eligible secondary students enroll full time in a career center or a FCS institution in courses that are creditable toward the high school diploma and the certificate or associate degree.⁵ To participate in career early admission, students must have completed at least four semesters of full-time secondary enrollment, including studies undertaken in the ninth grade and must be enrolled in postsecondary programs that lead to industry certifications, as listed in the Postsecondary Industry Certification Funding List.⁶

Who is eligible to enroll as a dual enrollment student in a postsecondary course?

An eligible student is one who is enrolled in a Florida public secondary school or a Florida private secondary school conducting a secondary curriculum that satisfies the statutory high school graduation requirements.⁷

Students must demonstrate readiness for college-level or career-level coursework. The student must have a 3.0 unweighted grade point average (GPA) for enrollment in college-level courses and a 2.0 unweighted GPA for enrollment in career certificate courses. If enrolling in a college credit course, students must demonstrate adequate pre-collegiate preparation on a basic computation and communication skills assessment through the common placement examination. Exceptions to the required GPAs may be granted if the participating educational entities agree and the terms of such agreement are contained in the dual enrollment interinstitutional articulation agreement. FCS institutions may establish additional admissions criteria to ensure student readiness for postsecondary instruction, but such requirements may not arbitrarily prohibit students who have demonstrated the ability to master advanced courses.⁸

¹ Section 1007.271(1), F.S.

² Florida Department of Education, Office of Articulation, *Dual Enrollment Frequently Asked Questions*, available at www.fldoe.org/articulation/pdf/DualEnrollmentFAQ_June2013.pdf.

³ Section 1007.271(2), F.S.

⁴ Section 1007.271 (10), F.S.

⁵ Section 1007.271 (11), F.S.

⁶ *Id.* The Postsecondary Industry Certification Funding List is defined in s. 1008.44, F.S.

⁷ Section 1007.271(2), F.S.; *see also* s. 1002.42(2), F.S. Section 1007.271(2), F.S., references the required curriculum with regard to the courses required for a standard high school diploma under s. 1003.4282, F.S., which applies to students entering grade 9 in the 2013-2014 school year. Section 1003.428, F.S., applies to students who entered high school in the 2007-08 academic year and thereafter.

⁸ Section 1007.271(3), F.S.

To participate in the dual enrollment program, an eligible home education student must provide proof of enrollment in a home education program, be responsible for his or her own instructional materials and transportation unless provided for otherwise, and sign a home education dual enrollment articulation agreement.⁹

How is the dual enrollment program coordinated between the secondary and postsecondary educational institutions?

FCS institutions and school districts are required, and state universities are encouraged, to jointly develop and implement comprehensive dual enrollment articulation agreements for their dual enrollment programs.¹⁰ Additionally, an independent college or university which is located and chartered in Florida may participate in the dual enrollment or early admission program if the school is not-for-profit, is accredited by the Commission on Colleges of the Southern Association of Colleges and Schools or the Accrediting Council for Independent Colleges and Schools, and confers degrees.¹¹ The dual enrollment articulation agreement must be submitted annually to the Department of Education on or before August 1 and must include, but is not limited to, the following components:

- The available dual enrollment courses and programs¹²
- A description of the processes by which students and parents are informed about and exercise options to participate in dual enrollment, including registration.¹³
- The type of high school credit earned for completion of a dual enrollment course.¹⁴
- A listing of any additional student eligibility criteria.¹⁵
- Each institution's responsibilities for student screening and performance monitoring, transmission of grades, program costs including instructional materials, and student transportation.¹⁶

What courses are available for dual enrollment?

The Department of Education (DOE) must approve any postsecondary course for inclusion in the dual enrollment program that is contained within the Statewide Course Numbering System. College-preparatory and other forms of precollegiate instruction, physical education and other courses that focus on the physical execution of a skill, may not be approved, but must be evaluated individually for potential inclusion in the dual enrollment program.¹⁷ The Commissioner of Education may approve dual enrollment agreements for limited course offerings that have statewide appeal. Such programs must be limited to a single site with multiple county participation.¹⁸

What level of credit is awarded for dual enrollment?

The commissioner appoints faculty committees representing public school, FCS institution, and university faculties to identify postsecondary courses that meet the high school graduation requirements. These committees also establish postsecondary and high school credit equivalencies for each identified course. The

⁹ Section 1007.271(13), F.S.

¹⁰ Section 1007.271(21), F.S.

¹¹ Sections 1007.271(23) and 1011.62(1)(i), F.S.

¹² Section 1007.271(21)(c), F.S.

¹³ Section 1007.271(21)(b), (d), and (i), F.S. Career centers, FCS institutions, and SUS institutions must also delineate courses and programs for dually enrolled home education students. Courses and programs may be added, revised, or deleted at any time. Section 1007.271(13)(b)1., F.S.

¹⁴ Section 1007.271(21)(f), F.S.

¹⁵ Section 1007.271(21)(e), F.S. Career centers, FCS institutions, and SUS institutions must also identify eligibility criteria for home education student participation, not to exceed those required of other dually enrolled students. Section 1007.271(13)(b)2., F.S. Exceptions to the required grade point average may be granted on an individual student basis. Section 1007.271(21)(h), F.S.

¹⁶ Section 1007.271(21)(l), (m), (n), and (o), F.S.

¹⁷ Section 1007.271(14), F.S.; Florida Department of Education, *2012-2013 Dual Enrollment Courses – High School Subject Area Equivalency List*, effective, July 2012 available at <http://www.fldoe.org/articulation/pdf/DEList.pdf>.

¹⁸ Section 1007.271(19), F.S.

credit equivalencies must be based on comparable course content and not on seat time traditionally allocated for such courses in high school.¹⁹

The commissioner provides the committees' credit equivalency recommendations to the State Board of Education for its consideration.²⁰ The state board issues an approved list of dual enrollment courses that meet high school graduation requirements. The list also indicates the level of credit that must be awarded once the course has successfully been completed. The most recently approved list took effect in July 2012 and is published on DOE's website.²¹

School districts and FCS institutions must weigh dual enrollment courses the same as Advanced Placement, International Baccalaureate, and Advanced International Certificate of Education courses when calculating GPAs.²²

Beginning with students admitted for Summer Semester 2009, dual enrollment courses that meet core state university admission requirements in English/Language Arts, Mathematics, Natural Sciences, Social Sciences, or specified Foreign Languages must receive the same weighting as Advanced Placement, International Baccalaureate, and Advanced International Certificate of Education courses in the calculation of the high school GPA used for state university admission decisions.²³ For purposes of calculating the GPA to be used when determining initial eligibility for a Florida Bright Futures Scholarship, DOE is directed to assign additional weights for dual enrollment courses.²⁴

How does a secondary student learn about dual enrollment?

Each district school board is required to inform all secondary students of dual enrollment as an educational option and mechanism for acceleration. Specifically, students must be provided with information on the eligibility criteria, the option for taking dual enrollment courses beyond the regular school year, and the minimum academic credits required for graduation.²⁵ Additionally, a DOE-developed statement must be provided to students, prior to enrollment in a dual enrollment course, which indicates whether the dual enrollment course articulates as an elective or a general education course into a postsecondary education certificate or degree program.²⁶

What is the cost to the student to participate in dual enrollment?

Students are not required to pay registration, tuition, or lab fees for dual enrollment courses taken at a public postsecondary career center, FCS institution, or state university.²⁷ Instructional materials must be provided to dual enrollment students from Florida public high schools free of charge.²⁸ Private school and home education students are responsible for their instructional materials and transportation. However, a FCS institution is not prohibited from providing instructional materials at no cost to a home education student or student from a

¹⁹ Section 1007.271(9), F.S. Section 1007.271(9), F.S., references the required curriculum with regard to the courses required for a standard high school diploma under s. 1003.4282, F.S., which applies to students entering grade 9 in the 2013-2014 school year. Section 1003.428, F.S., applies to students who entered high school in the 2007-08 academic year and thereafter.

²⁰ *Id.*

²¹ Florida Department of Education, *2012-2013 Dual Enrollment Course – High School Subject Area Equivalency List*, available at <http://www.fldoe.org/articulation/pdf/DEList.pdf>.

²² Section 1007.271(18), F.S.

²³ State University System of Florida, Board of Governors Regulation 6.006(5), *Acceleration Mechanisms*, (March 2008), available at http://www.flbog.org/documents_regulations/regulations/6.006%20Acceleration%20Mechanisms.pdf.

²⁴ Section 1009.531(3)(b), F.S.

²⁵ Section 1007.271(8), F.S. Section 1003.4295, F.S. also requires school districts to advise each student of programs through which a high school student can earn college credit, including dual enrollment. Beginning with the 2011-12 school year, each high school must offer an International Baccalaureate Program, an Advanced International Certificate of Education Program, or a combination of at least four courses on dual enrollment or Advanced Placement, including one course each in English, mathematics, science, and social studies.

²⁶ Section 1007.271(15), F.S.

²⁷ Section 1009.25(1)(a), F.S.; section 1007.271(2) and (16), F.S.

²⁸ Section 1002.20(19)(d), F.S.; s. 1007.271(17), F.S.

private school.²⁹ The exemption from payment of fees does not apply to students dually enrolled in an eligible independent postsecondary institution.³⁰

How is dual enrollment funded?

Funding for dual enrollment programs is provided to school districts through the Florida Education Finance Program. Students who enroll in these programs are included in their school districts' full-time equivalent (FTE) student count and districts receive allocations based on their FTE enrollment. Students who participate in dual enrollment programs with Florida's FCS institutions and state universities are also included in the FCS institution or universities' FTE count for funding purposes.³¹

For dual enrollment courses offered on a postsecondary institution campus, the school district is required to pay the standard tuition rate per credit hour from the Florida Education Finance Program (FEFP). For dual enrollment courses offered on the high school campus by postsecondary faculty, the school district must reimburse the costs associated with the proportion of salary and benefits and other actual costs of the postsecondary institution to provide the instruction. For dual enrollment offered on the high school campus by an appropriately credentialed high school teacher, the school district is responsible only for the postsecondary institution's actual costs associated with dual enrollment.³² Colleges do not receive reimbursement for tuition that is waived for home education students,³³ but may negotiate tuition payment options with private schools³⁴ provided that students remain exempt from the payment of tuition, registration, or laboratory fees.³⁵

Where can I get additional information?

Florida Department of Education

Office of Articulation

(850) 245-0427

<http://www.fldoe.org/articulation/>

Florida Department of Education

Division of Florida Colleges

(850) 245-0407

<http://www.fldoe.org/cc/>

Florida House of Representatives

Education Committee

(850) 717-4830

<http://www.myfloridahouse.gov>

²⁹ Section 1007.271(17), F.S.

³⁰ Section 1011.62(1)(i), F.S.

³¹ Section 1011.62(1)(i), F.S.

³² Section 1007.271(21)(n), F.S.

³³ Florida Department of Education, Office of Articulation, *Dual Enrollment Frequently Asked Questions*, # 38, available at www.fldoe.org/articulation/pdf/DualEnrollmentFAQ_June2013.pdf.

³⁴ Florida Department of Education, Office of Articulation, *Dual Enrollment Frequently Asked Questions*, # 40, available at www.fldoe.org/articulation/pdf/DualEnrollmentFAQ_June2013.pdf.

³⁵ Section 1009.25(1)(a), F.S.; section 1007.271(2) and (16), F.S.



What are career and professional academies?

A career and professional academy is a researched-based program that integrates a rigorous academic curriculum with an industry-specific curriculum aligned directly to priority workforce needs established by the regional workforce board¹ or the Department of Economic Opportunity (DEO). Academies are offered by public secondary schools. Students completing career and professional academy programs receive a standard high school diploma, industry certification, and opportunities to simultaneously earn postsecondary credit.² Academies are an important component of state and national efforts to increase high school graduation rates and better prepare students for employment in the modern workforce.³

School boards must develop a three-year strategic plan in collaboration with regional workforce boards, economic development agencies, and state-approved postsecondary institutions to better align academy programs with local and regional workforce needs.⁴ The strategic plan must be based upon various factors including strategies to develop and implement academies based upon those careers determined to be in high demand and ensure that courses offered through academies are academically rigorous, meet or exceed appropriate state-adopted subject area standards, result in attainment of industry certification, and when appropriate, result in postsecondary credit, among other things.⁵

In the 2012-13 school year, school districts registered 1,729 high school and 186 middle school academies, representing all 67 of Florida's school districts.⁶

What are career-themed courses?

Career-themed courses are courses or a series of courses, that lead to an industry certification identified in the Industry Certification Funding List.⁷ Career-themed courses have an industry-specific curriculum aligned directly to priority workforce needs established by the regional workforce board or DEO.⁸

School districts must offer at least two career-themed courses, and each secondary school is encouraged to offer at least one career-themed course. Students completing a career-themed course must be provided opportunities to earn postsecondary credit if the credit for the career-themed course can be articulated to a postsecondary institution approved to operate in the state.⁹

Where are career and professional academies and career-themed courses offered?

Each school board must operate at least one high school career and professional academy and have as part of its three-year strategic plan the implementation of an academy or a career-themed course in at least one

¹ Workforce services in Florida are provided by 24 regional workforce boards who deliver services through nearly 100 One-Stop Career Centers around the State. Section 445.007, F.S.; Workforce Florida, Inc., *Regional Workforce Boards*, <http://www.workforceflorida.com/ResourcesLinks/RegionalWorkforceBoards/RWBMap.php> (last visited June 10, 2013).

² Section 1003.493(1)(a), F.S.

³ Section 1003.493(2), F.S.

⁴ Section 1003.491(2), F.S.

⁵ Section 1003.491(3), F.S.

⁶ Email, Florida Department of Education, Legislative Affairs Director (July 16, 2013).

⁷ See *infra* text accompanying notes 20-31 for an explanation of the Industry Certification Funding List.

⁸ Section 1003.493(1)(b), F.S.

⁹ *Id.*

middle school in the district.¹⁰ Two or more school districts may collaborate in the development of the strategic plan and jointly offer an academy or career-themed courses.¹¹

An academy may be offered as a school-within-a-school or as part of an existing high school that provides courses in one or more occupational clusters. Students attending the school do not necessarily attend the academy. An academy may also be offered as a total school configuration providing multiple academies, each structured around an occupational cluster. Each student attending the school also attends the academy.¹²

Career-themed courses may be offered in any public secondary school. Existing career education courses may serve as a foundation for the creation of an academy.¹³

Each middle school academy or career-themed course must be aligned with at least one high school academy or career-themed course offered in the district and maintain partnership with local business and industry and economic development boards.¹⁴ Students who complete a middle school academy or career-themed course must have the opportunity to earn an industry certification and high school credit, and participate in career planning, job shadowing, and business leadership development activities.¹⁵

Are career courses required to lead to industry certification or postsecondary credit?

Yes. All career courses offered in a career and professional academy and each career-themed course must lead to industry certification or postsecondary credit. If the passage rate on an industry certification examination that is associated with an academy or a career-themed course falls below 50 percent, the three-year strategic plan must be amended to include specific strategies to improve the passage rate of the academy or career-themed course.¹⁶

As part of the strategic three-year plan, school districts, regional workforce boards, economic development agencies, and state-approved postsecondary institutions must take measures to ensure that career-themed courses and academy courses are academically rigorous, meet or exceed appropriate state-adopted academic standards, result in industry certification, and when appropriate, result in postsecondary credit.¹⁷ The rigor and relevance of proposed core secondary courses and existing courses are reviewed by a curriculum review committee approved by Workforce Florida, Inc., in accordance with a review process established by the State Board of Education. The committee is comprised of members representing high school guidance counselors, assistant superintendents for curriculum and instruction, workforce representatives, postsecondary admissions directors, and the Department of Education.¹⁸

How are industry certifications identified and approved for use by career and professional academies?

The state board must work with Workforce Florida, Inc., to develop and adopt rules for implementing an industry certification process. The DEO must identify an industry certification based on the highest national standards available for specific industry certification.¹⁹ Industry certification is defined as “a voluntary process, through which individuals are assessed by an independent, third-party certifying entity using predetermined standards for knowledge, skills and competencies, resulting in the award of a time-limited credential that is

¹⁰ Sections 1003.493(1) and 1003.4935(1), F.S.

¹¹ Section 1003.491(2), F.S.

¹² Section 1003.493(3)(a), F.S.

¹³ Section 1003.493(3)(a) and (b), F.S.

¹⁴ Section 1003.4935(2), F.S.

¹⁵ Section 1003.4935(1), F.S.

¹⁶ Section 1003.493(5), F.S.

¹⁷ Section 1003.491(3)(g), F.S.

¹⁸ Section 1003.491(4), F.S.

¹⁹ Section 1003.492(2), F.S.

nationally recognized and applicable to an occupation that is included in the workforce system's targeted occupation list or determined to be an occupation that is critical, emerging, or addresses a local need."²⁰

The selection of industry certifications for academy courses and career-themed courses occurs in two phases. First, Workforce Florida, Inc. must identify industry certifications that meet the DEO definition and compile them into a comprehensive list.²¹ Second, the Department of Education (DOE) must:

- Review the comprehensive list;²²
- Identify certifications that are academically rigorous and at least 150 hours in length;²³
- Compile a preliminary list of industry certifications that qualify for additional weighted funding;²⁴
- Consider district requests that industry certifications be added to the approved list;²⁵ and
- Annually publish a final list.²⁶

Industry certifications on the final approved list are eligible for additional weighted funding through the Florida Education Finance Program (FEFP).²⁷ The list may include both industry certifications that are achievable in a secondary education program and those that have minimum age, grade-level, diploma or degree, postgraduation work experience of at least 12 months, or other requirements that make it impossible for the student to obtain full certification while in a public secondary school program. Funding industry certifications in which full certification cannot be achieved in a secondary program allows students to begin working toward these certifications while in high school, without having to fulfill all requirements before graduation.²⁸

Workforce Florida, Inc.'s, comprehensive list includes 450 industry certifications.²⁹ From this list, DOE has identified 210 industry certifications as funding-eligible for the 2012-13 school year.³⁰ Most industry certifications on this list require passage of a subject area examination and some combination of work experience, educational attainment, or on-the job training. DOE has approved industry certification in such career fields as information technology, automotive and aircraft mechanics, welding, and nursing. Certifying entities include Adobe System, Apple Computer, Inc., Hewlett-Packard, Microsoft Corporation, the National Institute for Automotive Services Excellence, the American Welding Society, the Federal Aviation Administration, and Florida Department of Health.³¹

What are "career clusters?"

Career clusters were initially developed by the Career Clusters Initiative, a collaborative effort by the U.S. Department of Education, the Office of Vocational and Adult Education, the National School-to-Work Office,

²⁰ Florida Department of Education, Division of Career and Adult Education, *Career and Professional Education Act CAPE*, at 1 (2012), available at <http://www.fldoe.org/workforce/pdf/CAPE-Act-TechAssist.pdf>. Section 1003.492(2), F.S., requires the DEO to define industry certification. DEO uses the definition originally adopted by the Agency for Workforce Innovation. Email, Director of Legislative and Cabinet Affairs, Department of Economic Opportunity (June 11, 2013).

²¹ Section 1003.492(2), F.S.; rule 6A-6.0573(1)-(3), F.A.C.

²² Rule 6A-6.0573(3), F.A.C.

²³ Rule 6A-6.0573(3)(b), F.A.C.

²⁴ Rule 6A-6.0573(4), F.A.C.

²⁵ Rule 6A-6.0573(4)(a) and (4)(b), F.A.C.

²⁶ Rule 6A-6.0573(8), F.A.C.

²⁷ Section 1011.62(1)(p), F.S.; rule 6A-6.0573(3), F.A.C.

²⁸ Section 1008.44(3), F.S. For industry certifications in which full certification cannot be achieved in a secondary program, the Commissioner of Education must differentiate the content, instructional, and assessment requirements for such industry certifications in determining funding. This allows students to work toward these certifications while in high school, without having to fulfill all requirements before graduation. *Id.*

²⁹ Workforce Florida, Inc. Career and Professional Education (CAPE), *2012-13 Comprehensive Industry Certification List*, <http://www.workforceflorida.com/PrioritiesInitiatives/EducationalInitiatives/cape/2013-14ComprehensiveDocumentFINALDetailedtoDOE.pdf>.

³⁰ Rule 6A-6.0573(6), F.A.C. The Industry Certification Funding List is incorporated by reference in the rule. *See also* Florida Department of Education, Division of Career and Adult Education, *2012-13 Final Industry Certification Funding List* (2012), available at <http://www.fldoe.org/workforce/pdf/1213icfl.pdf>.

³¹ *See* Florida Department of Education, Division of Career and Adult Education, *Industry Certification Descriptions*, <http://www.fldoe.org/workforce/programs/IndustryCert> (last visited June 10, 2013).

and the National Skills Standards Board.³² Career clusters are designed to identify the knowledge and skills necessary to prepare students for a broad range of career opportunities within a career field. The DOE has developed 2012-13 school year curriculum frameworks in the following areas:

- Agriculture, Food & Natural Resources;
- Architecture & Construction;
- Arts, A/V Technology & Communication;
- Business, Management & Administration;
- Education & Training;
- Energy;
- Engineering & Technology Education;
- Finance;
- Government & Public Administration;
- Health Science;
- Hospitality & Tourism;
- Human Services;
- Information Technology;
- Law, Public Safety & Security;
- Manufacturing;
- Marketing, Sales & Service;
- Science, Technology, Engineering & Mathematics (STEM);
- Transportation, Distribution & Logistics; and
- Additional CTE Programs/Courses:
 - Diversified Education;
 - Instructional Support Services (Special Needs);
 - Other Vocational Programs; and
 - M/J Exploratory Career Education Wheel.³³

These curriculum frameworks form the basis of more specialized programs offered by career and professional academies and are included in secondary and postsecondary career and technical education programs. In the 2012-13 school year, the most frequent career cluster represented by academies was Information Technology with 346 registered academies followed by Health Sciences with 281 academies.³⁴

Is there a process for creating career education courses that allow students to simultaneously earn credit in both the career education course and core academic courses required for graduation?

Yes. DOE must develop, for approval by the state board, multiple, career education courses, or a series of courses, that allow students to earn both career education course and academic course credit in courses required for graduation. Such courses must include workforce and digital literacy skills, practical applications of academic course content, and lead to one or more industry certifications or clearly articulated credit or advanced standing in a two-year or four-year certificate or degree program, including work-related internships or apprenticeships. The state board must determine whether academic standards are sufficiently covered to warrant the award of academic credit.³⁵

Additionally, school districts, postsecondary institutions, education consortia, local workforce boards, businesses, and industry may collaborate in creating career education courses that lead to academic course

³² U.S. Department of Education, *Career Clusters—Cooperative Agreement*, at 76525 (2000), available at www.gpo.gov/fdsys/pkg/FR-2000-12-06/html/00-31034.htm.

³³ Florida Department of Education, Division of Career and Adult Education, Curriculum Frameworks, <http://www.fldoe.org/workforce/dwdframe> (last visited July 16, 2012).

³⁴ Email, Florida Department of Education, Legislative Affairs Director (July 16, 2013).

³⁵ Section 1003.4282(9)(a), F.S.

credit. Courses developed through this collaborative process must meet the same rigorous standards as those created by DOE and be approved by the state board.³⁶

How are career themed courses funded?

A value of 0.1 or 0.2, full-time equivalent student membership (FTE) in the FEFP is calculated for each student who successfully completes a career-themed course and receives an industry certification. Industry certifications that do not articulate to college credit are valued at 0.1 FTE and those articulating to college credit are valued at 0.2 FTE. The value is added to the total FTE in secondary career education programs for grades nine through 12 in the subsequent year for courses that were not provided through dual enrollment. Each district must allocate at least 80 percent of the funds provided for industry certification to the program that generated the funds.³⁷

Funding is subject to the General Appropriations Act (GAA) in the year following official reports on the students who received industry certification. The total amount of funds required depends on the number of students who successfully earn industry certification. The total allocation for the additional FTE is limited to \$60 million annually, unless otherwise specified in the GAA. If the appropriation is insufficient to fully fund the total calculation, the appropriation must be prorated.³⁸

Does the Department of Education collect data on career and professional academies and career-themed courses?

Yes. DOE is required to collect student achievement and performance data in industry-certified career education programs and career-themed courses and must work with Workforce Florida, Inc., in the analysis of collected data. The data collection and analyses must examine the performance of participating students over time. Performance factors must include, but not be limited to, graduation rates, retention rates, Florida Bright Futures Scholarship awards, additional educational attainment, employment records, earnings, industry certification, and employer satisfaction.³⁹

In the 2011-12 school year, career and professional academies served a total of 185,414 students, 28,533 of whom earned at least one industry certification. According to DOE, high school students enrolled in an academy were slightly more likely to graduate with a standard diploma and had on average, higher cumulative grade-point averages and lower absence rates than students not enrolled in an academy.⁴⁰

Beginning with the 2012-13 school year, if a school district implements a middle school academy or a career-themed course, DOE must collect and report student achievement data for students enrolled in an academy or a career-themed course.⁴¹

What are the requirements for the middle grades career and education planning course?

The course in career and education planning must be completed in 6th, 7th, or 8th grade. It may be delivered as a stand-alone course or integrated into another course and may be taught by any member of the instructional staff. The course should incorporate the standards and benchmarks established in the curriculum frameworks. The course numbers for the approved stand-alone and integrated courses are listed in the Course Code Directory. The course must:

³⁶ Section 1003.4282(9)(b)-(c), F.S.

³⁷ Section 1011.62(1)(o), F.S.

³⁸ *Id.* Florida Department of Education, Division of Career and Adult Education, *Career and Professional Education Act CAPE*, at 16 (2012), available at <http://www.fldoe.org/workforce/pdf/CAPE-Act-TechAssist.pdf>.

³⁹ Section 1003.492(3), F.S. A report of data on academies and career-themed courses must be submitted to the President of the Senate and Speaker of the House of Representatives by December 31 of each year. *Id.*

⁴⁰ Florida Department of Education, *Career and Professional Academy Enrollment and Performance Report, 2011-12*, at 1 (Feb. 2013), available at <http://www.fldoe.org/workforce/pdf/1112cpaep.pdf>.

⁴¹ Section 1003.4935(3), F.S.

- Be Internet-based, easy to use, and customizable to each student and include research-based assessments to assist students in determining educational and career options and goals;
- Result in a completed personalized academic and career plan for the student;
- Emphasize the importance of entrepreneurship skills;
- Emphasize technology or the application of technology in career fields; and
- Include information from the Department of Economic Opportunity's economic security report (beginning in the 2014-15 school year).

The required personalized academic and career plan must inform students of high school graduation requirements; high school assessment and college entrance test requirements; Florida Bright Futures Scholarship Program requirements; state university and Florida college admission requirements; opportunities to earn college credit in high school, including Advanced Placement, International Baccalaureate, Advanced International Certificate of Education, dual enrollment, including career dual enrollment; career education courses, including career themed courses; and opportunities to earn industry certification.⁴²

Where can I get additional information?

Florida Department of Education

Division of Career and Adult Education

(850) 245-0446

<http://www.fldoe.org/workforce/>

Florida House of Representatives

Education Committee

(850) 717-4830

<http://www.myfloridahouse.gov>

⁴² Section 1003.4156(1)(e), F.S.



Charter School Background

Education Committee

Last Updated: August 2013

What are charter schools?

Charter schools are nonsectarian, public schools that operate under a performance contract with a sponsor. This performance contract is known as a “charter.”¹ The charter exempts the school from many regulations applicable to traditional public schools to encourage the use of innovative learning methods.² One of the guiding principles of charter schools is to “meet high standards of student achievement while providing parents flexibility to choose among diverse educational opportunities within the state’s public school system.”³

Like traditional public schools, charter school operations are funded through the Florida Education Finance Program and charter schools may not charge tuition.⁴ Charter school students must take the statewide assessments and charter schools receive an annual school grade.⁵ Teachers employed by or under contract with a charter school must be certified like those in traditional public schools.⁶ Charter schools must comply with constitutional class size limitations; however, such compliance must be maintained at the school-level average, rather than at the classroom level required of traditional public schools.⁷

Florida’s first charter school law was enacted in 1996.⁸ In the 2012-13 academic year, there were 578 charter schools operating in 44 of Florida’s 67 school districts and at two state universities. Charter schools currently serve 204,132 students.⁹ Approximately two-thirds of Florida’s charter schools are located in seven districts: Broward, Dade, Hillsborough, Lee, Orange, Palm Beach, and Polk.¹⁰

Who is eligible to attend charter schools?

Charter schools are open to all students residing within a school district.¹¹ Prospective students must apply for enrollment in the charter school and, if the number of applications exceeds the school’s capacity, a random lottery must be used to determine which students are enrolled.¹² Enrollment preference may be given to:

- Siblings of current charter school students;
- Children of a member of the charter school governing board;
- Children of charter school employees;
- Children who complete a Voluntary Prekindergarten Education program provided by the charter school; and
- Children of active-duty United States Armed Forces personnel.¹³

¹ Section 1002.33(5)(a), (6)(h), (7) and (9)(a), F.S.

² Section 1002.33(2)(b)3. and (16), F.S.

³ Section 1002.33(2)(a)1., F.S.

⁴ Section 1002.33(9)(d) and (17), F.S.

⁵ Section 1002.33(16)(a)2., F.S.

⁶ Section 1002.33(12)(f), F.S.

⁷ Section 1002.33(16)(b)3., F.S. Prior to FY 2010-11, class size maximums were measured first at the district-level average (FYs 2003-06), then at the school-level average (FYs 2006-10). Art. IX, s. 1, Fla. Const.; s. 1003.03(2), F.S. (2010).

⁸ Chapter 96-186, L.O.F., initially codified at s. 228.056, F.S., redesignated in 2002 as s. 1002.33, F.S.

⁹ Email, Florida Department of Education, Governmental Relations (July 1, 2013).

¹⁰ Florida Department of Education, *Charter Schools Directory*,

http://www.floridaschoolchoice.org/Information/Charter_Schools/Directory/default.aspx (last visited May 1, 2012).

¹¹ Section 1002.33(10)(a), F.S. Students who are covered by an interdistrict enrollment agreement may also enroll in a charter school.

¹² Section 1002.33(10)(b), F.S.

¹³ Section 1002.33(10)(d), F.S.

Additionally, a charter school-in-the-workplace may give an enrollment preference to children whose parents are employees of the school's business partner and children whose parents are residents of the municipality in which the school is located. A charter school-in-a-municipality may give an enrollment preference to children whose parents are residents of the municipality in which the school is located.¹⁴

A charter school may limit the enrollment process in order to target the following student populations:

- Students within specific age groups or grade levels;
- Students considered at risk of dropping out of school;
- Exceptional students;
- Children of the business partner who seek to enroll in a charter school-in-the-workplace or children of municipal residents who seek to enroll in a charter school-in-a-municipality;
- Students residing within a reasonable distance of the charter school;
- Students who meet reasonable academic, artistic, or other eligibility standards established by the charter school;
- Students articulating from one charter school to another pursuant to an articulation agreement between the charter schools that has been approved by the sponsor; and
- Students living in a development in which a business entity provides the school facility and related property having an appraised value of at least \$10 million to be used as a charter school for the development.¹⁵

Generally, the student capacity of a charter school is annually determined by the governing board, in conjunction with the sponsor.¹⁶ The governing board of a high-performing charter school may unilaterally increase its enrollment to more than the capacity identified in the charter, but not to exceed the current facility capacity.¹⁷

How do the demographic characteristics of students in charter schools compare with students in traditional public schools?

Demographically, charter school student populations are very similar to traditional public school student populations, except that traditional public schools serve a larger percentage of students who are reported as eligible for free or reduced-price lunch.¹⁸ The following table compares the characteristics of students enrolled in charter schools and in traditional public schools:

¹⁴ *Id.*

¹⁵ Section 1002.33(10)(e), F.S.

¹⁶ Section 1002.33(10)(h), F.S.

¹⁷ Section 1002.331(2)(a)-(b), F.S.

¹⁸ Charter schools often face challenges in becoming approved National School Lunch Program providers, which may result in inaccurate reporting of free and reduced-price lunch eligible students. Email, Florida Department of Education, Legislative Affairs Director (Aug. 3, 2012).

2011-12 Demographic Data for Charter School Students Compared to Traditional Public School Students¹⁹		
Student Population		
Demographic Group	Charter Schools	Traditional Schools
White	36%	43%
African American	23%	23%
Hispanic	36%	28%
Asian	2%	3%
American Indian	.5%	.4%
Multiracial	2.5%	3%
Educational Needs		
Exceptional Student Education	9%	13%
Economic Indicator		
Free or Reduced-Price Lunch Eligible	47%	57%

Who can sponsor a charter school and what are the sponsor's duties?

Several types of entities may sponsor charter schools:

- School districts may sponsor charter schools.²⁰
- State universities may sponsor charter lab schools.²¹
- School districts, Florida College System (FCS) institutions, or a consortium of school districts or FCS institutions may sponsor a charter technical career center.²²

Almost all of Florida's charter schools are sponsored by school districts.²³

A sponsor's responsibilities include:

- Approving or denying charter school applications.
- Overseeing each sponsored charter school's progress toward the goals established in the charter.
- Monitoring the revenues and expenditures of the charter school.
- Ensuring that the charter school participates in the state's education accountability system.
- Intervening when a sponsored charter school demonstrates deficient student performance or financial instability.²⁴

A sponsor must provide various administrative services to sponsored charter schools, such as contract management, student enrollment and achievement data reporting, exceptional student education program administration, eligibility determination and reporting for federal school lunch programs, assessment test administration, processing of teacher certification data, and student information services.²⁵

¹⁹ Email, Florida Department of Education, Legislative Affairs Director (Aug. 3, 2012).

²⁰ Section 1002.33(5)(a)1., F.S.

²¹ Sections 1002.32(2) and 1002.33(5)(a)2., F.S.

²² Section 1002.34(3)(b), F.S.

²³ See, e.g., Florida Department of Education, *Florida Charter School List by District*, http://www.floridaschoolchoice.org/Information/Charter_Schools/Directory/default.aspx (last visited May 21, 2012).

²⁴ Section 1002.33(5)(b), F.S.

²⁵ Section 1002.33(20)(a)1., F.S.

How are charter schools created, organized, and governed?

An application for a new charter school may be made by an individual, teachers, parents, a group of individuals, a municipality, or a legal entity organized under Florida law.²⁶ The school must be operated by a FCS institution, municipality, or nonprofit organization. While a charter school must be a public or nonprofit entity, it may be managed by a for-profit education management organization.²⁷

Each charter school must have a governing board. The board is responsible for:

- Negotiating the school's charter agreement with its sponsor;
- Exercising continuing oversight over the school's operations;
- Adopting and maintaining an annual operating budget;
- Ensuring that annual audits are conducted;
- Submitting monthly financial statements to the sponsor and implementing corrective actions to remedy financial instability; and
- Submitting the school's annual progress report to the sponsor.²⁸

Each board member must participate in governance training that includes such topics as government in the sunshine, conflicts of interest, ethics, and financial responsibility.²⁹ Members must complete a minimum of four hours of initial training and a two hour refresher course at least once every three years thereafter.³⁰

What is the process for establishing a charter school?

An applicant must prepare and submit a charter school application on a model application form developed by the Department of Education (DOE).³¹ Charter school applications must:

- Demonstrate how the school will utilize the guiding principles.³²
- Provide a detailed curriculum plan aligned with the Next Generation Sunshine State Standards.
- Contain goals and objectives for improving student learning and measuring such improvement.
- Describe the reading curricula and differentiated strategies for serving students at various levels of reading ability.
- Contain an annual financial plan.³³

A sponsor must approve or deny a charter school application within 60 calendar days of receipt. If an application is denied, the sponsor must provide within 10 calendar days specific written reasons, based upon good cause, for its denial to the applicant and DOE.³⁴ The applicant has 30 calendar days to file an appeal

²⁶ Section 1002.33(3)(a), F.S.

²⁷ Section 1002.33(12)(i), F.S.

²⁸ Section 1002.33(6)(h), (7), and (9)(h)-(k), F.S.

²⁹ Section 1002.33(9)(j)4., F.S.

³⁰ Rule 6A-6.0784(1)(b), F.A.C.

³¹ Section 1002.33(6)(a), F.S.; rule 6A-6.0786, F.A.C. (model charter school applications and application evaluation instruments).

Resources for charter school applicants, including the model application form, are available on the DOE website. See Florida Department of Education, *Charter School Applicant Training*,

http://www.floridaschoolchoice.org/information/Charter_schools/Applicant_Training.asp (last visited May 3, 2012).

³² The legislative guiding principles for charter schools provide that they are to meet high standards of student achievement while increasing parental choice; increase learning opportunities for all students, with special emphasis on low-performing students and reading; and utilize innovative learning methods. Charter schools may also serve to provide rigorous competition to stimulate improvement in traditional public schools, expand the capacity of the public school system, mitigate the educational impact created by the development of new residential dwelling units, and create new professional opportunities for teachers, including ownership of the learning program at the school site. Section 1002.33(2), F.S.

³³ Section 1002.33(6)(a), F.S. The law requires the applicant to document in the application its participation in pre-application training. *Id.*

³⁴ Section 1002.33(6)(b)3., F.S.

with the State Board of Education after the denial of, or failure to act upon, an application. The state board's decision is a final action subject to judicial review in the district court of appeal.³⁵

What is the Charter School Appeal Commission?

The Charter School Appeal Commission is a nine-member commission comprised of four charter school representatives and four sponsors, who are appointed by the Commissioner of Education. The Commissioner of Education, or his or her designee, serves as the chair of the commission.³⁶ The commission reviews charter school appeals filed with the state board, arising from the sponsor's denial of, or failure to act upon, charter applications.³⁷

The commission must review the appeal and make a written recommendation to the state board. The state board must consider the commission's recommendation, but is not bound by it when making its final decision.³⁸ The state board must remand the application to the sponsor with the state board's written decision to approve or deny the application. The sponsor must implement the state board's decision.³⁹

During the 2012-13 academic year, 26 appeals were filed with the charter school appeal commission. The appeals were based on denials of charter school applications that were submitted to Sponsors prior to the August 1, 2012 deadline.

Of the 26 filed appeals, 7 were withdrawn prior to an appeal commission hearing. Of the remaining 19 appeals, 17 have been heard by the commission, with 2 pending. The appeal commission made a recommendation to uphold the district's denial in 13 cases, and recommended overturning the district's denial in 4 cases.

Of the 17 appeals forwarded to the State Board of Education for a final ruling, 13 withdrew prior to State Board of Education action. The State Board of Education heard 4 appeals adopted the appeal commission recommendations in each case, resulting in 2 appeals being granted and 2 appeals being denied.⁴⁰

What must the charter contain?

The initial term of a charter is four or five years. The charter must include:

- The students to be served, including ages and grade levels.
- The curriculum's focus and instructional methods to be used.
- Baseline standards of student academic achievement, outcomes to be achieved, and methods of measurement to be used.
- The method for determining the strengths and needs of students and whether they are meeting educational goals.
- The method for resolving conflicts between the governing body and the sponsor.
- Admission and dismissal procedures and the school's student conduct code.
- Methods for achieving a racial/ethnic balance reflective of the community served.

³⁵ Section 1002.33(6)(c), F.S.; *see also* s. 120.68, F.S.

³⁶ Section 1002.33(6)(e)3., F.S.; Florida Department of Education, *Charter School Appeal Commission: Membership Information* (2012), available at http://www.floridaschoolchoice.org/information/Charter_schools/files/CSAC_Member_Info.pdf. The Commissioner must appoint a number of members to the commission that is sufficient to avoid conflicts of interest. Section 1002.33(6)(e)3., F.S.

³⁷ Section 1002.33(6)(e)1., F.S. In addition to application denials, a charter school and its sponsor may request a dispute resolution hearing before the commission if mediation fails to resolve a contractual dispute between the parties regarding matters negotiated separately from the charter. Section 1002.33(20)(b), F.S. A high-performing charter school may submit an application in any school district in the state to establish a new charter school that replicates its educational program. Section 1002.33(3)(a), F.S. The grounds upon which the sponsor may deny the application and the process for appealing denials differs from that of other start-up applications. Section 1002.33(6)(b)3.b. and (c)3., F.S. (flush-left provisions at end of paragraph (c)).

³⁸ Section 1002.33(6)(e)2., F.S.

³⁹ Section 1002.33(6)(c)3.a., F.S.

⁴⁰ Email, Florida Department of Education, Governmental Relations, July 1, 2013).

- The financial and administrative management of the school, including experience required for management positions and a description of internal audit controls.
- Asset and liability projections.
- A description of plans to identify various risks, reduce losses, and ensure student and faculty safety.
- An agreement that the charter may be cancelled if the school has made insufficient progress with student achievement.
- The facilities to be used.
- Teacher qualifications, governance structure, and timetables for implementing each element of the charter.
- Full disclosure of all charter school employees who are relatives of charter school officials and employees who have decision making authority over charter school operations.
- Provisions for implementing high-performing charter school benefits if the charter school is designated as “high-performing.”⁴¹

The charter may be renewed at the end of its term if a program review conducted by the sponsor demonstrates that the goals and criteria stated in the charter have been met and that none of the grounds for nonrenewal have occurred.⁴²

May a charter school be granted a long-term initial charter or charter renewal?

Yes. Charter schools operated by a municipality or other public entity and charter lab schools are eligible for a 15-year initial charter. Charter schools that are operated by a private, not-for-profit, s. 501(c)(3) status corporation may receive a 15-year initial charter upon approval by the district school board. The charter is subject to annual review and may be terminated during its term for specified reasons.⁴³

Additionally, Florida law provides opportunities for charter schools that demonstrate strong academic performance and fiscal stability to be granted a 15-year charter renewal. A sponsor:

- May grant a 15-year charter renewal to a charter school that has operated for at least three years, demonstrates exemplary academic programming and fiscal management, and for which no documented grounds for nonrenewal exist. Such a long-term charter is subject to annual review and may be terminated during its term at the discretion of the sponsor.⁴⁴
- Must grant a 15-year charter renewal to a charter school that meets the above requirements, receives a school grade of “A” or “B” in three out of four years, and is not in a state of financial emergency or deficit position. If granted, a long-term charter is subject to annual review and may only be terminated for specified reasons.⁴⁵

A high-performing charter school may receive a modification of its charter to a term of 15 years or a 15-year charter renewal. The charter may be modified or renewed for a lesser term at the option of the charter school, is subject to annual review by the sponsor, and may be terminated for specified reasons.⁴⁶

What are the grounds for nonrenewal or termination of a charter?

The sponsor is required to terminate a charter school that earns two consecutive grades of “F.”⁴⁷ A sponsor must make student academic achievement for all students the most important factor when determining

⁴¹ Section 1002.33(7), F.S.

⁴² Section 1002.33(7)(b)1., F.S.; *see infra* text accompanying note 48 (charter termination or nonrenewal).

⁴³ Section 1002.33(7)(a)12., F.S.; *see infra* text accompanying note 48 (charter termination or nonrenewal).

⁴⁴ Section 1002.33(7)(b)1., F.S.

⁴⁵ Section 1002.33(7)(b)2., F.S.; *see infra* text accompanying note 48 (charter termination or nonrenewal).

⁴⁶ Section 1002.33(2)(e), F.S.; *see infra* text accompanying note 48 (charter termination or nonrenewal).

⁴⁷ Section 1002.33(9)(n)4., F.S. A charter school that earns two consecutive grades of “F” may receive an additional year to improve its grade if it is established in a school zone served by a historically low-performing public school or targets hard-to-serve students.
Id.

whether to renew or terminate a charter, but it also has discretion to terminate or not renew a charter for any of the following reasons:

- Failure to participate in the state's education accountability system or failure to meet the charter's requirements for student performance;
- Failure to meet generally accepted standards of fiscal management;
- Violation of law; or
- Other good cause shown.⁴⁸

A sponsor must provide 90-days written notice to the charter school prior to termination or nonrenewal, except that, a charter may be terminated immediately if the sponsor sets forth particular facts and circumstances indicating an immediate and serious danger to the health, safety, or welfare of the students.⁴⁹ Under these circumstances, the school district is to assume operation of the charter school.⁵⁰ The governing board is entitled to a formal hearing and may appeal the sponsor's decision to terminate or not renew its charter to the District Court of Appeals.⁵¹

Upon initial notification of nonrenewal, closure, or termination of its charter, a charter school is prohibited from expending more than \$10,000 per expenditure without prior written approval from the sponsor, except in limited circumstances, and the school must have an independent financial audit completed within 30 days of the notice of nonrenewal, closure, or termination.⁵²

In the 2012-13 academic year, seven charter schools were closed by the sponsor.⁵³

What background screening and ethical requirements apply to charter school personnel?

Instructional and noninstructional personnel who are employed or contracted with to fill positions in a charter school and members of the charter school governing board must undergo a Level 2 background screening.⁵⁴ Level 2 background screening is a state and national fingerprint-based criminal history check conducted to determine whether an individual has a criminal history and, if so, whether such history contains one or more statutorily designated offenses that disqualify an individual from employment.⁵⁵ A charter school must disqualify any individual convicted of a disqualifying offense from employment in an instructional or school administrator position that requires direct student contact.⁵⁶

Additionally, charter schools must, prior to hiring an individual for an instructional or school administrator position with direct student contact, conduct an employment history check and screen the person using DOE-provided educator screening tools. Such efforts, including any inability to contact previous employers, must be documented.⁵⁷

Charter schools must also adopt policies establishing standards of ethical conduct for all instructional personnel and school administrators. The policies must:

⁴⁸ Section 1002.33(8)(a), F.S.

⁴⁹ Section 1002.33(8)(b) and (d), F.S.

⁵⁰ Section 1002.33(8)(d), F.S. A charter school may be awarded attorney's fees and costs if the sponsor fails to assume operations and the charter school prevails on appeal. *Id.*

⁵¹ Section 1002.33(8)(c)-(d), F.S.

⁵² Section 1002.33(9)(o), F.S. Charter schools may exceed the \$10,000 per expenditure if such expenditure was included in the annual budget submitted to the sponsor, is for reasonable attorney fees and costs during the pendency of an appeal, or is for reasonable fees and costs to conduct an independent audit.

⁵³ Email, Florida Department of Education, Governmental Relations (July 1, 2013).

⁵⁴ Sections 1002.33(12)(g)1., 1012.32(2)(b), 1012.465, and 1012.56(10), F.S.

⁵⁵ Section 435.04, F.S. The disqualifying offenses specific to Level 2 background screening are supplemented by additional disqualifying offenses specific to educator certification and employment of instructional personnel and school-based administrators. Section 1012.315, F.S.

⁵⁶ Sections 435.04, 1002.33(12)(g)2., 1002.33(12)(g)2., and 1012.315, F.S.

⁵⁷ Sections 1001.10(5) and 1002.33(12)(g)4., F.S.

- Require instructional personnel and school administrators to complete training on the standards;
- Establish a duty to report, and procedures for reporting, alleged misconduct by other instructional personnel and school administrators which affects the health, safety, or welfare of a student; and
- Explain available liability protections pertaining to reporting misconduct.⁵⁸

Charter schools are prohibited from entering into a confidentiality agreement regarding an instructor or school administrator who is terminated or dismissed or who resigns in lieu of termination due to misconduct affecting the health, safety, or welfare of a student. Furthermore, schools may not provide employment references for such personnel without disclosing such misconduct.⁵⁹

What statutory exemptions apply to charter schools?

Charter schools are exempt from a number of Florida K-20 Education Code statutes,⁶⁰ except for statutes that pertain specifically to charter schools, general statutory provisions that expressly include charter schools within their scope, and statutes pertaining to student assessment and school grading; the provision of services to students with disabilities; civil rights; student health, safety, and welfare; public records, public meetings, and public inspection; criminal and civil penalties; and provisions relating to educator compensation, contracts, and the substantive requirements relating to performance evaluations.⁶¹

Additionally, charter schools are exempt from compliance with the State Requirements for Educational Facilities, but must comply with the Florida Building Code and the Florida Fire Prevention Code.⁶² A local governing authority may not impose local building requirements or site-development restrictions, such as parking or site-size criteria, that are addressed by and more stringent than those found in the State Requirements for Educational Facilities. Additionally, local governments must treat charter schools and traditional public schools equitably when regulating facilities.⁶³

Charter school facilities are exempt from ad valorem taxation. Libraries, community service organizations, museums, performing arts venues, theatres, cinemas, churches, FCS institutions, and universities may provide space to charter schools within their facilities under their preexisting zoning and land use designations.⁶⁴ Charter schools are also exempt from fees charged for building and occupational licenses, service availability fees, impact fees and exactions, and assessments for special benefits.⁶⁵

What are conversion charter schools?

Conversion charter schools are traditional public schools that have been converted to charter schools. The school must have operated for at least two years as a traditional public school (including a school-within-a-school) before conversion. An application for a conversion charter school may be made by a parent, teacher, principal, district school board, or school advisory council and must be approved by a majority of the teachers and a majority of the parents. A majority of the parents must participate in the vote.⁶⁶ During the 2012-13

⁵⁸ Section 1002.33(12)(g)3., F.S.

⁵⁹ *Id.*

⁶⁰ Chapters 1000 through 1013, F.S., comprise the Florida K-20 Education Code. Section 1000.01(1), F.S.

⁶¹ Section 1002.33(16), F.S.

⁶² Section 1002.33(18)(a) and (b), F.S. Conversion charter school facilities must comply with the State Requirements for Educational Facilities provided that the school district and the charter school have entered into an agreement in which the school district agrees to maintain the facilities in the same manner as other district public schools. Section 1002.33(18)(a), F.S.

⁶³ Section 1002.33(18)(a) and (b), F.S.

⁶⁴ Section 1002.33(18)(c), F.S.

⁶⁵ Section 1002.33(18)(d), F.S. Impact fees and exactions are used by local governments to control development and offset the impact of growth on local infrastructure and services. Florida courts have held that local governments have broad authority to impose impact fees or exactions on development, unless such authority conflicts with constitutional or statutory provisions. Art. VIII, s. 1(f)-(g) and 2(b), Fla. Const.; s. 125.01(1) and (3), F.S.; s. 166.021(1)-(4), F.S.; *Hollywood, Inc. v. Broward County, Florida*, 431 So. 2d 606, 609-610 (4th DCA 1983)(Holding that Florida counties have implicit authority to impose impact fees or exactions on development so long as such fee or exaction is: (1) not inconsistent with general law; and (2) rationally related to the need for additional infrastructure or services caused by the development).

⁶⁶ Section 1002.33(3)(b), F.S.

academic year, 20 conversion charter schools operated in Florida, representing approximately 4 percent of the total number of charter schools in the state.⁶⁷

The charter for a conversion charter school must identify the alternative arrangements that will be used to serve current students who choose not to attend the school after it is converted.⁶⁸ Upon conversion, the school must give an enrollment preference to students who would otherwise be assigned to the school.⁶⁹

A conversion charter school is not eligible for charter school capital outlay funding if it operates in facilities provided by the school district.⁷⁰

What are community partnership charter schools?

School boards and businesses, municipalities, or community colleges may collaborate in the operation of community partnership charter schools. Community partnership charter schools target specific student populations or neighborhoods or focus on specific areas of interest.⁷¹ Community partnership charter schools include:

- Charter schools-in-the-workplace;⁷²
- Charter schools-in-a-municipality;⁷³ and
- Florida College System institution charter schools.⁷⁴

What are charter schools-in-the workplace?

Charter schools-in-the-workplace are sponsored by district school boards in partnership with a company or business. Such charter schools usually target the children of the employees of a company or business. The business partner provides the school facility to be used; enrolls students based upon a random lottery that involves all of the children of the employees of the business; and enrolls students according to the racial/ethnic balance reflective of the community or other public schools in the same school district.⁷⁵

Two charter schools-in-the-workplace operated in Florida during the 2012-13 academic year. These schools are the Villages Charter Schools in Sumter County and JFK Medical Center Charter School in Palm Beach County.⁷⁶

What are charter schools-in-a-municipality?

Charter schools-in-a-municipality are sponsored by district school boards in partnership with a municipality. Such schools enroll students based upon a random lottery that involves all of the children of the residents of the municipality who are seeking enrollment and according to the racial/ethnic balance reflective of the community or other public schools in the same school district.⁷⁷ Charter schools-in-a-municipality may limit enrollment or give an enrollment preference to students who are residents of the municipality that operates the school.⁷⁸ If a municipality applies to establish a charter school feeder pattern and the district school board

⁶⁷ Email, Florida Department of Education, Governmental Relations (July 1, 2013).

⁶⁸ Section 1002.33(7)(a)17., F.S.

⁶⁹ Section 1002.33(10)(c), F.S.

⁷⁰ Section 1013.62(1)(d), F.S.

⁷¹ Section 1002.33(15), F.S.

⁷² Section 1002.33(15)(b), F.S.; *see infra text accompanying notes 76.*

⁷³ Section 1002.33(15)(c), F.S.; *see infra text accompanying notes 79.*

⁷⁴ Section 1002.33(5)(b)4., F.S. *see infra text accompanying notes 83.*

⁷⁵ Section 1002.33(15)(b), F.S.

⁷⁶ Email, Florida Department of Education, Governmental Relations (July 1, 2013).

⁷⁷ Section 1002.33(15)(c), F.S.

⁷⁸ Section 1002.33(10)(e)3., F.S.

has approved each individual charter for each elementary, middle, and high school in the feeder pattern, the schools are designated as one charter school.⁷⁹

May Florida College System institutions operate charter schools?

Yes. Florida College System (FCS) institutions are statutorily authorized to, in cooperation with the school board or boards within the institution's service area, develop charter schools that offer secondary education⁸⁰ and allow students to obtain an associate degree⁸¹ upon graduation from high school. Students have full access to all college facilities, activities, and services.⁸² There are seven FCS institution charter schools operating in Florida:

- Florida State College at Jacksonville (FSCJ): FSCJ Pathways Academy;
- Northwest Florida State College (NFSC): NFSC Collegiate High School in Okaloosa County;
- St. Petersburg College: St. Petersburg Collegiate High School in Pinellas County;
- Polk State College (PSC): PSC Lakeland Collegiate High School and PSC Chain of Lakes Collegiate High School in Polk County;
- Indian River State College: Clark Advanced Learning Center in Martin County;
- State College of Florida Sarasota-Manatee: State College of Florida Collegiate School; and
- Edison State College: Edison Collegiate High School in Charlotte County and Edison Collegiate High School in Lee County.⁸³

The secondary grade levels served by FCS institution charter schools vary. For example, St. Petersburg Collegiate High School serves students in grades 10 through 12.⁸⁴ Edison State College's two collegiate high schools serve students in grades 9 through 12.⁸⁵ In contrast, State College of Florida Collegiate School serves students in grades 6 through 12.⁸⁶

If a FCS institution operates an approved teacher preparation program, the institution may operate no more than one charter school serving students in kindergarten through grade 12. In kindergarten through grade 8, the charter school must implement innovative blended learning instructional models.⁸⁷

What are lab schools?

Florida law authorizes state universities to establish developmental research schools (lab schools). Lab schools may not serve students beyond grade 12 and must be affiliated with the college of education within

⁷⁹ Section 1002.33(15)(c), F.S. Fifteen charter schools-in-a-municipality operated in Florida during the 2011-12 academic year. These schools are the City of Pembroke Pines Charter Elementary School, City of Pembroke Pines Charter Middle School, City of Pembroke Pines Charter High School, and City of Coral Springs Charter School in Broward County; Christa McAuliffe Charter School, Oasis Charter Elementary School, Oasis Charter Middle School, and Oasis Charter High School in Lee County; The City of Kissimmee Charter Academy in Osceola County; Aventura City of Excellence Charter School, Doctors Charter School of Miami Shores, and City of Hialeah Education Academy in Miami-Dade County; and Oakland Avenue Charter School, Cornerstone Academy Charter School, and Cornerstone Academy Charter High School in Orange County. Email, Florida Department of Education, Legislative Affairs Director (Sept. 6, 2012).

⁸⁰ In this context, the term "secondary education" is synonymous with "middle or high school" (grades 6 through 12). Section 1003.413(1), F.S. Generally speaking, elementary schools serve students in kindergarten through grade 5, middle schools serve students in grades 6 through 8, and high schools serve students in grades 9 through 12. Section 1003.01(2), F.S. (definition of "school").

⁸¹ Associate degrees include the associate in arts, associate in science, and associate in applied science degrees. *See* rule 6A-14.030(1)-(3), F.A.C.

⁸² Section 1002.33(5)(b)4., F.S.

⁸³ Review of FCS institution websites (Aug. 24, 2012).

⁸⁴ *See, e.g.,* St. Petersburg Collegiate High School, *Admissions*, <http://www.spcollege.edu/spchs/Admission.html> (last visited May 3, 2012).

⁸⁵ *See, e.g.,* Edison Collegiate High School, *Admissions*, <http://echs.edison.edu/about/admission-process/> (last visited May 3, 2012).

⁸⁶ *See, e.g.,* State College of Florida Collegiate School, *Prospective Students and Parents*, <http://scfcs.scf.edu/prospective-parents/> (last visited Aug. 24, 2012).

⁸⁷ Section 1002.33(5)(b)4., F.S.

the state university of nearest geographic proximity to the school.⁸⁸ Lab schools feature curricula emphasizing mathematics, science, computer science, and foreign languages. Lab schools conduct research regarding teaching, learning, and school management.⁸⁹ The admission process at a lab school must comprise a representative sample of public school enrollment based on gender, race, socioeconomic status, and academic ability.⁹⁰

Lab schools are funded through the Florida Education Finance Program (FEFP).⁹¹ The FEFP consists of each school district's share of gross federal funds, state funds, discretionary lottery funds, and locally generated required local effort funds and nonvoted ad valorem millage.⁹² The calculation of a lab school's proportionate share of FEFP funding differs from that of district public schools. Federal, state, and discretionary lottery funds are calculated based upon the school district in which the lab school operates; however, required local effort funds and nonvoted ad valorem millage for a lab school is allocated from state funds because state universities lack the power to levy taxes.⁹³ Excluding categorical funds for student transportation, each lab school may also receive its proportionate share of categorical funds included in the FEFP for students who qualify for the categorical.⁹⁴

Operating funds are deposited in a Lab School Trust Fund and the state university operating a lab school is the fiscal agent for these funds. All rules of the state university governing the budgeting and expenditure of state funds apply to these funds unless otherwise provided by law or state board rule.⁹⁵

Lab schools receive funding for facility construction, repair, renovation, remodeling, site improvement, or maintenance through the Lab School Educational Facility Trust Fund. This trust fund is administered by the Commissioner of Education.⁹⁶ Charter lab schools that meet the statutory qualifications may receive charter school capital outlay funding. In such cases, the charter lab school receives funding through the Lab School Facilities Trust Fund only to the extent that charter school capital outlay funds are insufficient to provide capital outlay funds at one-fifteenth of the cost per student station.⁹⁷

State universities are also authorized to establish "charter lab schools."⁹⁸ Unlike lab schools, charter lab schools operate under a charter and are not required to be established by the nearest state university.⁹⁹ In considering an application to establish a charter lab school, a state university must consult with the district school board of the county in which the school is located. If a state university does not act on or denies the application, the applicant may appeal such decision to the state board.¹⁰⁰

Florida had three charter lab schools operating during the 2012-13 academic year. These charter lab schools are Florida State University School, FAU-SLCSB Tradition University Charter School, and Pembroke Pines/FSUS Charter Elementary School.¹⁰¹

⁸⁸ Section 1002.32(2) and (3), F.S.

⁸⁹ Section 1002.32(3), F.S.

⁹⁰ Section 1002.32(4), F.S.

⁹¹ Sections 1002.32(9)(a), F.S.

⁹² Section 1011.62, F.S.

⁹³ Section 1002.32(9)(a), F.S.; Art. VII, s. 9, Fla. Const.

⁹⁴ Section 1002.32(9)(a), F.S. Categorical funds include student transportation, safe schools, supplemental academic instruction, instructional materials, class-size reduction operating funds, and Florida Teachers Classroom Supply Assistance Program and must be spent for these specific purposes. Florida Department of Education, Office of Funding and Financial Reporting, *Public School Funding: The Florida Education Finance Program (FEFP), Fiscal Year 2012-2013*, at 2-4 (March 6, 2012), available at [http://www.flsenate.gov/PublishedContent/Session/2012/Appropriations/Documents/Education_Finance_Program\[1\].pdf](http://www.flsenate.gov/PublishedContent/Session/2012/Appropriations/Documents/Education_Finance_Program[1].pdf); see, e.g., s. 1011.62(1)(f), F.S. (supplemental academic instruction); s. 1011.62(6), F.S. (general categorical), s. 1011.67, F.S. (instructional materials), s. 1011.68, F.S. (student transportation), s. 1011.685, F.S. (class size reduction), and s. 1012.71, F.S. (Florida Teachers Classroom Supply Assistance Program).

⁹⁵ Section 1002.32(9)(c), F.S.

⁹⁶ Section 1002.32(9)(b), F.S.

⁹⁷ Section 1002.32(9)(h), F.S.

⁹⁸ Section 1002.33(5)(a)2., F.S.

⁹⁹ Section 1002.32(2), F.S.

¹⁰⁰ Section 1002.33(6)(g), F.S.

¹⁰¹ Email, Florida Department of Education, Governmental Relations (July 1, 2013).

What are charter technical career centers?

Charter technical career centers (centers) are publicly-funded schools or technical centers operated under a charter granted by a district school board, community college board of trustees, or a consortium comprised of one or more of each. A sponsoring consortium must include the school district in which the facility is located.¹⁰²

Three centers currently operate in Florida:

- Advanced Technology College in Volusia County sponsored by Daytona State College, the School Board of Flagler County, and the School Board of Volusia County;
- First Coast Technical College in St. Johns County sponsored by the St. Johns County School Board; and
- Lake Technical Center in Lake County sponsored by the Lake County School Board.¹⁰³

Like charter schools, a center must be nonsectarian in its programs, admission policies, employment practices, and operations. Centers are managed by a board of directors.¹⁰⁴ Centers are exempt from a number of K-20 education statutes except provisions pertaining to: civil rights; student health, safety, and welfare; the provision of services to students with disabilities; and student antidiscrimination.¹⁰⁵

Centers may offer secondary or postsecondary career and technical education, apprenticeships, adult general education, and continuing workforce education programs. Depending on program type, students attending centers may earn a high school diploma, career certificate, or postsecondary or dual enrollment credit. Students attending the Advanced Technology College in Volusia County may also earn an associate degree that is awarded by the center's sponsor, Daytona State College.¹⁰⁶

What are virtual charter schools?

Virtual charter schools provide full-time online instruction to eligible students in kindergarten through grade 12.¹⁰⁷ A virtual charter school may contract with a DOE-approved provider or the Florida Virtual School to provide online instruction.¹⁰⁸ A virtual charter school may serve students who reside in the school district in which the school is chartered.¹⁰⁹ A student may enroll in a virtual charter school if he or she:

- Spent the prior school year in attendance at a public school in the state and was enrolled and reported by the school district for funding during October and February for purposes of the FEFP surveys;
- Is a dependent child of a member of the armed forces whose parent was transferred to this state in the last 12 months;
- Was enrolled in a school district operated virtual instruction program or K-8 virtual school program in the prior school year;
- Is a sibling of a student currently enrolled a virtual instruction program;
- Is eligible to enter kindergarten or first grade; or

¹⁰² Section 1002.34(3) and (11), F.S.

¹⁰³ Florida Department of Education, *A Comparison of State of Florida Charter Technical Career Centers to District Non-Charter Technical Career Centers, 2010-2011*, at 1 (Dec. 2011) available at <http://www.fldoe.org/workforce/pdf/CharterReview11.pdf> [hereinafter *Charter Technical Career Centers*].

¹⁰⁴ Section 1002.34(3)(a), F.S.

¹⁰⁵ Section 1002.34(10), F.S.

¹⁰⁶ *Charter Technical Career Centers*, *supra* note 103, at 2-5. Advanced Technology College also offers three baccalaureate degree programs with concentrations in engineering technology, electrical engineering technology, and information systems technology respectively. *Id.* at 3.

¹⁰⁷ Section 1002.33(1), F.S.

¹⁰⁸ Section 1002.45(1)(d), F.S. Virtual instruction providers that meet specified statutory criteria may earn DOE-approval to offer virtual instruction services. *See s. 1002.45(2)*, F.S.

¹⁰⁹ Section 1002.45(5), F.S.

- Is eligible to enter grades 2 through 5 and is enrolled full-time in a school district virtual instruction program, virtual charter school, or the Florida Virtual School.¹¹⁰

In August 2012, Florida school districts received 21 applications to establish virtual charter schools to be opened in the 2013-14 academic year.¹¹¹

In addition to virtual charter schools, Florida law authorizes brick-and-mortar charter schools to offer blended learning courses. Blended learning courses are provided at the charter school's physical location and consist of both traditional classroom and online instruction. Blended learning courses may be provided by part-time or full-time employees of the charter school or by contracted instructional providers. Instructors must be certified in the subject area of the course. The online portion of a blended learning course may be provided from a remote location. Blended learning courses are considered in the same manner as traditional courses for funding and accountability purposes.¹¹²

Where can I get additional information?

Florida Department of Education

Office of Independent Education and Parental Choice

(850) 245-0502

Toll-Free Information Hotline: (800) 447-1636

http://www.floridaschoolchoice.org/Information/Charter_Schools

Florida House of Representatives

Education Committee

(850) 717-4830

<http://www.myfloridahouse.gov>

¹¹⁰ Section 1002.455(2), F.S. These student eligibility requirements also apply to school district virtual instruction programs, virtual courses delivered in a physical school setting through a virtual learning environment or blended virtual and physical learning environment, and virtual courses identified in the course code directory provided to a student by his or her home school district or another school district. Section 1002.455(3), F.S.

¹¹¹ Email, Florida Department of Education, Governmental Relations (July 1, 2013).

¹¹² Section 1002.33(7)(a)2.b., F.S.



Charter School Performance and Fiscal Accountability

Education Committee

Last Updated: August 2013

How are charter schools held accountable?

Florida law establishes several requirements designed to hold charter schools accountable both financially and academically, including:¹

- A detailed application and rigorous review and approval process.²
- The execution and maintenance of charter agreements between the charter school and its sponsor.³
- Annual reporting,⁴ annual financial audits,⁵ and sponsor monitoring of monthly financial statements.⁶
- Participation in statewide assessments and Florida's school grading system.⁷
- Interventions for unsatisfactory academic performance and financial instability.⁸
- Reporting of student performance information to parents and the public.⁹
- Compliance with ethical standards for employees and governing board members.¹⁰

Parental choice also holds charter schools accountable. Parents choose whether to enroll their children in a charter or traditional public school. Dissatisfied parents of charter school students may withdraw them from the school. This creates an incentive for the charter school to provide quality educational programs for its students. Parental choice also fosters healthy competition between charter schools and traditional public schools, improving the performance of both.¹¹

Charter schools must also maintain a website that provides specific information to the public including: its academic performance; names of governing board members; programs; its annual budget and fiscal audit; its school grade; and minutes of the governing board meetings.¹²

How does the application process enable sponsors to evaluate the long term academic and financial success of charter schools?

An application for a new charter school must be submitted to, and approved by, the sponsor before the school may begin operations.¹³ Each application must include information that allows the sponsor to evaluate the

¹ Sections 218.39, 218.503, 1002.33, and 1002.345, F.S. Charter technical career centers are subject to many of the same accountability requirements as charter schools. There are three charter technical career centers operating in Florida – the Advanced Technology College in Volusia County, the First Coast Technical College in St. Johns County, and the Lake Technical Center in Lake County. See 218.39, 218.503, 1002.34, and 1002.345, F.S.; Florida Department of Education, *List of Charter Technical Career Centers* (2012), available at <http://www.fldoe.org/workforce/pdf/chartertechnicalcenterlist.pdf>.

² Section 1002.33(6), F.S.

³ Section 1002.33(6)(h) and (7), F.S.

⁴ Section 1002.33(9)(g), F.S.

⁵ Sections 218.39(1)(e) and (f), 1002.33(9)(j)1. and 2., F.S.

⁶ Section 1002.33(9)(g), F.S.

⁷ Section 1002.33(7)(a)4. and (16)(a)2., F.S.

⁸ Section 1002.345, F.S.

⁹ Section 1002.33(21)(b) and (23), F.S.

¹⁰ Section 1002.33(24) and (26), F.S.

¹¹ Florida Department of Education, Office of Independent Education and Parental Choice, *Florida's Charter Schools: A Decade of Progress* (Nov. 2006), available at http://www.floridaschoolchoice.org/information/charter_schools/files/Charter_10Year_Book.pdf.

¹² Section 1002.33(9)(p), F.S.

charter school's potential for long term academic and financial success.¹⁴ A charter school application must include:

- A detailed curriculum plan aligned with state academic standards.
- Goals and objectives for improving student learning and measuring improvement. The goals and objectives must indicate how much academic improvement students are expected to show each year, how success will be evaluated, and the specific results to be obtained through instruction.
- The reading curriculum and differentiated strategies that will be used for students who read at grade level or higher and a separate curriculum and strategies for students who read below grade level.
- An annual financial plan for each year of operation requested (up to five years) which sets forth the school's anticipated funds and assets, a spending plan, and sound fiscal policies for managing the school.¹⁵

Charter school sponsors must use a model application and standard application evaluation instrument developed by the Department of Education (DOE).¹⁶ DOE has adopted model applications and application evaluation instruments for start-up charter schools, replicating high-performing charter schools, and virtual charter schools.¹⁷ These tools provide applicants and sponsors with uniform standards for review and approval of charter school applications. The model application for start-up charter schools is comprised of 19 total components divided among three main topic headings -- educational plan, organizational plan, and business plan. The model application specifies the types of information that the applicant must include in its application to complete each component.¹⁸

Model Charter School Application Components¹⁹

Educational Plan	Organizational Plan	Business Plan
Mission, Guiding Principles, & Purpose	Governance	Facilities
Student Population	Management	Transportation
Educational Program	Education Service Providers	Food Service
Curriculum	Human Resources	Budget
Evaluation of Student Performance	Student Recruitment & Enrollment	Financial Management
Exceptional Students		Start-Up Plan
English Language Learners		
Student Discipline		

The model application evaluation instrument specifies three categories for rating application responses under each component – “Meets the Standard,” “Partially Meets the Standard,” and “Does Not Meet the Standard.” The evaluation instrument describes the quality of response required to receive each rating from the sponsor.²⁰

¹³ Section 1002.33(6)(b), F.S. An application for a new charter school may be made by an individual, teachers, parents, a group of individuals, a municipality, or a legal entity organized under the laws of Florida. Section 1002.33(3)(a), F.S. Charter schools may be sponsored by district school boards, and in the case of charter lab schools, state universities. Section 1002.33(5)(a), F.S.

¹⁴ Section 1002.33(6)(b), F.S.

¹⁵ Section 1002.33(6)(a), F.S.

¹⁶ Section 1002.33(6)(a) and (b), (21), and (27), F.S. Legislation enacted in 2009 required use of the model application and application evaluation instrument. Before 2009, such use by sponsors was optional. Uniform statewide use of these tools began in August 2010 for applications proposing new charter schools to be opened in the 2011-12 school year. Section 7, ch. 2009-214, L.O.F.

¹⁷ Rule 6A-6.0786, F.A.C.; see Florida Department of Education, *Charter School Forms Referenced in Rule*, https://www.floridaschoolchoice.org/Information/Charter_Schools/Forms_Charter.asp (last visited Oct. 3, 2012).

¹⁸ Florida Department of Education, *Standard Model Florida Charter School Application* (May 2012), available at https://www.floridaschoolchoice.org/Information/Charter_Schools/files/IEPC_M1.pdf [hereinafter *Model Application for Start-Up Charter Schools*]; Florida Department of Education, *Florida Charter School Application Evaluation Instrument*, at 1 (May 2012), available at https://www.floridaschoolchoice.org/Information/Charter_Schools/files/IEPC_M2_Apr2012.pdf [hereinafter *Application Evaluation Instrument for Start-Up Charter Schools*].

¹⁹ See *Model Application for Start-Up Charter Schools*, *supra* note 17.

²⁰ See *Application Evaluation Instrument for Start-Up Charter Schools*, *supra* note 17, at 1.

The application deadline for charter schools to be opened in the following school year is August 1. Applicants may submit a draft application on or before May 1, with an application fee of \$500. For timely submissions, the sponsor shall review and provide feedback as to material deficiencies in the application by July 1. The applicant then has until August 1 to resubmit a revised and final application. Sponsors may approve a draft application.²¹

Overall Charter School Application Approval Rate²²

Date Submitted	Submitted	Approved	Denied	Withdrawn	Pending/Not Acted Upon by District
2012	286	79	67	140	0
2011 ²³	358	124	93	139	2
2010	251	84	52	93	22 ²⁴
2009	131	61	23	47	
2008	145	66	31	48	
2007	94	51	19	24	
2006	83	45	22	16	
2005	123	68	35	20	
2004	126	86	27	13	

Applications to Replicate a High-Performing Charter School²⁵

Date Submitted	Submitted	Approved	Denied	Withdrawn	Pending/Not Acted Upon by District
2012	7	5	0	2	0
2011 ²⁶	46	33	6	7	0

Virtual Charter School Applications²⁷

Date Submitted	Submitted	Approved	Denied	Withdrawn	Pending/Not Acted Upon by District
2012	21	7	10	4	0
2011 ²⁸	55	3	26	26	0

²¹ Section 1002.33(6)(b), F.S.

²² Email, Florida Department of Education, Governmental Relations (July 1, 2013).

²³ The State Board of Education overturned 14 school district decisions to deny a charter school application in 2011. Email, Florida Department of Education, Charter Schools Director (Nov. 26, 2012).

²⁴ This number includes instances in which school districts failed to report to DOE the results of application determinations. Email, Florida Department of Education, Charter Schools Director (Nov. 26, 2012).

²⁵ Email, Florida Department of Education, Governmental Relations (July 1, 2013).

²⁶ The State Board of Education overturned 6 school district decisions to deny virtual charter school applications in 2011. Email, Florida Department of Education, Charter Schools Director (Nov. 26, 2012).

²⁷ Florida Department of Education, Governmental Relations (July 1, 2013).

²⁸ The State Board of Education overturned 3 school district decisions to deny applications replicating high-performing charter schools in 2011. Email, Florida Department of Education, Charter Schools Director (Nov. 26, 2012).

How does the charter hold charter schools accountable?

Each charter school must enter into a performance contract with its sponsor, known as a charter. The charter lists specific objectives that the charter school must meet to remain in operation. A sponsor must make student academic achievement for all students the most important factor when determining whether to renew or terminate a contract. The sponsor may also terminate or not renew a charter for any of the following reasons:

- Failure to participate in the state's education accountability system or meet the requirements for student performance stated in the charter;
- Failure to meet generally accepted standards of financial management;
- A violation of law; or
- Other good cause shown.²⁹

The sponsor may immediately terminate a charter school's charter if conditions at the school threaten the health, safety, or welfare of students.³⁰

Charter School Closures: 1996-Present³¹

Total Closures	228
Sponsor Closure	86 (6 nonrenewals and 80 terminations)
Voluntary Closure	141
Reason Unknown	1

What information is included in a charter school annual report?

Each charter school is required to submit an annual report to its sponsor. At a minimum, each charter school's annual report must include student achievement and financial data, the facilities currently used or planned for use by the school, and descriptive information about the charter school's personnel.³²

Is the financial standing of a charter school monitored by the sponsor?

Yes. Under Florida law, each charter school is required to submit monthly financial statement summary sheets³³. A monthly summary sheet must include a balance sheet and a statement of revenue, expenditures, and changes in fund balance in a governmental funds format prescribed by the Governmental Accounting Standards Board.³⁴

Additionally, each charter school must provide for an annual audit.³⁵ The Auditor General may choose to conduct the audit. If not, the charter school must arrange for an audit by an independent certified public accountant.³⁶ The audit must:

- Examine the school's financial statements in order to determine if its financial position and any changes in financial position comply with generally accepted accounting principles;
- Examine the school's operations to determine compliance with legal and regulatory requirements; and

²⁹ Section 1002.33(8)(a), F.S.

³⁰ Section 1002.33(8)(d), F.S. Due process in the form of notice and, if requested, formal hearings and appeals must be provided to the charter school prior to a charter termination or nonrenewal. For immediate termination of a charter school, the hearing, if requested, may occur after termination. Sections 1002.33(6)(c) and (8)(b)-(d), F.S.

³¹ Email, Florida Department of Education, Governmental Relations (July 1, 2013).

³² Section 1002.33(9)(k), F.S. The sponsor must submit the report to the Commissioner of Education. *Id.*

³³ A high-performing charter school may submit quarterly rather than monthly financial statements. Sections 1002.33(9)(g)3. and 1002.331(2)(c), F.S.

³⁴ Section 1002.33(9)(g)3., F.S.

³⁵ Sections 218.39(1)(e) and (f) and 1002.33(9)(j)1. and 2., F.S.

³⁶ Sections 11.45(3)(c) and 218.39(1)(e) and (f), F.S.

- Assess whether deteriorating financial conditions exist.³⁷

Each charter school must file a copy of its audit report with the sponsor; the district school board, if not the sponsor; the Auditor General; and DOE.³⁸

Is intervention required when financial monitoring detects financial instability?

Yes. Each charter school is subject to an expedited review of its financial condition if one of the following conditions occurs:

- Failure to provide for an annual audit;
- Failure to comply with requirements for annual financial reporting, monthly financial statements, program cost reporting, and annual school accountability reporting;
- A monthly financial statement or annual audit reveals a deteriorating financial condition;³⁹ or
- Notification that a financial emergency condition has occurred or will occur if action is not taken.⁴⁰

The sponsor must notify the charter school's governing board within seven business days of finding that one of these four conditions has occurred. The sponsor and governing board must develop, and file with the Commissioner of Education, a corrective action plan.⁴¹ If the sponsor and governing board are unable to agree on the components or necessity of the plan, the commissioner determines the plan. If a governing board fails to implement the plan within one year, the State Board of Education must prescribe steps for compliance. In such cases, the chair of the governing board must annually appear before the state board to report on the implementation of the state board's compliance steps.⁴² The sponsor may choose to terminate or not renew the charter school's charter if financial deficiencies noted in the corrective action plan are not corrected within one year or if the school exhibits one or more financial emergency conditions for two consecutive years.⁴³

When an annual financial audit reveals a financial emergency condition, the auditor must notify the governing board, the sponsor, and the commissioner within seven business days of the finding.⁴⁴ A financial emergency is determined to exist when any one of the following conditions occurs due to lack of funds:

- Failure to pay short-term loans or make bond debt service or other long-term debt payments when due;
- Failure to pay uncontested claims from creditors within 90 days after the claim is presented;
- Failure to timely transfer taxes withheld from employees or employer or employee contributions for federal social security, pension, or retirement plans; and
- Failure for one pay period to pay wages, salaries, or retirement benefits.⁴⁵

³⁷ Rule 10.855(2) and (11), Rules of the Auditor General; *see footnote text infra* note 37 (deteriorating financial conditions).

³⁸ Section 218.39(10), F.S.

³⁹ A deteriorating financial condition is a circumstance that significantly impairs the ability of a charter school to generate enough revenue to meet its expenditures without causing the occurrence of a financial emergency condition. Deteriorating financial conditions include, without limitation, circumstances in which actual enrollment is 70 percent less than the enrollment projection for which its annual budget is based, enrollment is insufficient to generate enough revenue to meet expenditures, actual expenses exceed budgeted expenses for a period of three months or more and there are insufficient reserves to compensate, or an unbudgeted financial event occurs and there are insufficient reserves to compensate. Section 1002.345(1)(a)3., F.S.; rule 6A-1.0081(2)(a), F.A.C.

⁴⁰ Section 1002.345(1)(a)1.-4., F.S.; rule 6A-1.0081(2)(a)1. and 2., F.A.C. If an annual audit by a certified public accountant (CPA) reveals that a financial emergency condition has occurred or will occur if action is not taken, the CPA must notify the charter school's governing board, the sponsor, and the Commissioner of Education within seven days of such finding. Section 1002.345(2)(a)1., F.S.

⁴¹ The corrective action plan must state the financial conditions which must be corrected, the actions the board will take to correct the conditions, the board's procedures for monitoring plan implementation and providing progress reports, and any other components deemed necessary by the board and sponsor. Rule 6A.1.0081(3)(c), F.A.C.

⁴² Section 1002.345(1)(b)-(f), F.S.

⁴³ Section 1002.345(6), F.S.

⁴⁴ Section 1002.345(2)(a)1., F.S.

⁴⁵ Section 218.503(1)(a) -(d), F.S.

The commissioner must determine whether the charter school is in a state of emergency and, if so, require the school to implement a financial recovery plan.⁴⁶ The plan must be filed with the sponsor and the commissioner within 30 days after being notified by the commissioner that a financial recovery plan is needed. The governing board must annually report on the status of plan implementation to its sponsor.⁴⁷

The commissioner must annually report each charter school that is subject to a financial recovery or corrective action plan to the state board.⁴⁸ DOE must provide technical assistance to governing boards and sponsors in developing financial recovery and corrective action plans.⁴⁹

Charter Schools Placed on Financial Interventions⁵⁰

School Year	Financial Recovery Plan	Corrective Action Plan
2011-12	0	1
2010-11	0	27
2009-10	0	9

Is the performance of charter school students on statewide assessments compared to that of students enrolled in traditional public schools?

Yes. DOE must annually provide a statewide analysis and comparison of charter school students and traditional public school students, as measured by the statewide assessment program and information reported in each school's annual progress report.⁵¹ DOE's analysis compares the overall performance of charter school and traditional public school students and that of student subgroups, e.g, minority and low-income and students with disabilities. Below are several charts that provide comparative performance data:⁵²

Students Scoring at Level 3 or Above on FCAT Reading 2006-07 through 2011-12⁵³

Year	Elementary Grades 3, 4, & 5		Middle School Grades 6, 7, & 8		High School Grades 9 & 10	
	Charter Schools	Traditional Public Schools	Charter Schools	Traditional Public Schools	Charter Schools	Traditional Public Schools
06-07	73.4%	70.8%	64.2%	59.2%	38.5%	38.7%
07-08	73.7%	71.0%	67.0%	62.3%	45.1%	43.7%
08-09	76.2%	73.2%	69.6%	63.7%	44.7%	43.0%
09-10	75.0%	72.0%	71.0%	64.6%	47.6%	45.5%
10-11	74.5%	71.6%	71.6%	64.3%	48.4%	44.8%
11-12	65.2%	60.3%	64.3%	57.3%	58.5%	52.4%

⁴⁶ Sections 218.503(4) and 1002.345(2)(a)2., F.S. The financial recovery plan must state the financial conditions which must be corrected, the actions the board will take to correct the conditions, the board's procedures for monitoring plan implementation and providing progress reports, and any other components deemed necessary by the board and sponsor. Rule 6A.1.0081(5)(b), F.A.C.

⁴⁷ Section 1002.345(2), F.S.

⁴⁸ Section 1002.345(3), F.S.

⁴⁹ Section 1002.345(5), F.S.

⁵⁰ Email, Florida Department of Education, Charter Schools Director (Nov. 26, 2012).

⁵¹ Section 1002.33(23), F.S.

⁵² Florida Department of Education, *Student Achievement in Florida's Charter Schools: A Comparison with Achievement in Traditional Public Schools*, at iii-iv (March 2012), available at http://www.floridaschoolchoice.org/pdf/Charter_Student_Achievement_2011.pdf [hereinafter *Charter School Student Achievement*]

⁵³ *Charter School Student Achievement*, *supra* note 53, at 4-5; Email, Florida Department of Education, Charter Schools Director (Nov. 26, 2012). The drop in achievement in 2011-12 is attributed to Florida's transition to more rigorous FCAT 2.0 assessments. Telephone interview with Florida Department of Education, Charter Schools Director (Nov. 28, 2012).

Students Scoring at Level 3 or Above on FCAT Mathematics 2006-07 through 2011-12⁵⁴

Year	Elementary Grades 3, 4, & 5		Middle School Grades 6, 7, & 8		High School Grades 9 & 10	
	Charter Schools	Traditional Public Schools	Charter Schools	Traditional Public Schools	Charter Schools	Traditional Public Schools
06-07	68.0%	68.6%	61.1%	59.3%	65.7%	64.4%
07-08	70.9%	71.0%	64.6%	62.0%	72.7%	68.8%
08-09	73.6%	72.9%	65.9%	62.1%	73.3%	70.5%
09-10	73.8%	72.9%	67.7%	63.7%	74.8%	71.5%
10-11	74.0%	72.8%	68.4%	63.6%	74.6%	71.9%
11-12	61.6%	59.2%	62.5%	56.0%	NA	NA

Student Subgroups Scoring at Level 3 or Above on FCAT Reading 2011-12⁵⁵

	White		African-American		Hispanic		Free/Reduced Price Lunch		Exceptional Students	
	Charter Schools	Traditional Public Schools	Charter Schools	Traditional Public Schools	Charter Schools	Traditional Public Schools	Charter Schools	Traditional Public Schools	Charter Schools	Traditional Public Schools
Elementary	73.6%	71.5	47.4%	41.6%	64.9%	55.9%	54.4%	49.7%	37.4%	29.8%
Middle School	72.1%	68.4%	47.0%	38.4%	63.9%	52.1%	55.6%	45.8%	34.4%	24.1%
High School	69.4%	64.5%	40.8%	31.1%	56.0%	46.1%	47.4%	38.7%	30.1%	21.0%

Student Subgroups Scoring at Level 3 or Above on FCAT Mathematics 2011-12⁵⁶

	White		African-American		Hispanic		Free/Reduced Price Lunch		Exceptional Students	
	Charter Schools	Traditional Public Schools	Charter Schools	Traditional Public Schools	Charter Schools	Traditional Public Schools	Charter Schools	Traditional Public Schools	Charter Schools	Traditional Public Schools
Elementary	68.1%	68.7%	43.2%	41.3%	63.4%	56.3%	51.9%	49.2%	39.1%	32.9%
Middle School	69.0%	66.1%	46.2%	36.9%	62.5%	52.0%	54.8%	44.5%	32.6%	23.9%
High School	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA

Are charter schools graded annually?

Yes. Charter schools that qualify for a school grade are graded annually.⁵⁷ In order to receive a school grade, a school must have:

- At least 10 students with valid FCAT 2.0 or Florida Alternate Assessment scores in reading in both the current and the previous years, and
- At least 10 students with valid FCAT 2.0, statewide standardized end-of-course assessments in Algebra I or Geometry, or Florida Alternate Assessment scores in mathematics in the current and previous years.⁵⁸

⁵⁴ *Charter School Student Achievement*, *supra* note 53, at 8-9; Email, Florida Department of Education, Charter Schools Director (Nov. 26, 2012). Ninth grade FCAT Math was discontinued in the 2010-11 school year and tenth grade FCAT Math was discontinued in the 2011-12 school year. *See* s. 1008.22(3)(c)2.a.(I), F.S. The drop in achievement in 2011-12 is attributed to Florida's transition to more rigorous FCAT 2.0 assessments. Telephone interview with Florida Department of Education, Charter Schools Director (Nov. 28, 2012).

⁵⁵ *Charter School Student Achievement*, *supra* note 53, at 5-7; Email, Florida Department of Education, Charter Schools Director (Nov. 26, 2012).

⁵⁶ *Charter School Student Achievement*, *supra* note 53, at 9-11; Email, Florida Department of Education, Charter Schools Director (Nov. 26, 2012).

⁵⁷ Sections 1002.33(7)(a)4. and (9)(k)1. and 1008.34(3), F.S. Charter schools that are classified as alternative schools receive a school improvement rating in lieu of a school grade. Section 1008.341, F.S.

⁵⁸ Section 1008.34(3)(a), F.S.

Comparison of School Grade Data 2010-11 to 2011-12 School Years⁵⁹

2010-11 School Year				
School Grade	Total Traditional Public Schools: 3,220		Total Charter Schools: 433	
	Total Graded Schools: 2,730		Total Graded Schools: 308	
	Percent Graded A-F: 84.8%		Percent Graded A-F: 71.1%	
A	1456	53.3%	180	58.4%
B	637	23.3%	47	15.3%
C	489	17.9%	48	15.6%
D	127	4.7%	16	5.2%
F	21	0.8%	17	5.5%

2011-12 School Year				
School Grade	Total Traditional Public Schools: 3,129		Total Charter Schools: 494	
	Total Graded Schools: 2,741		Total Graded Schools: 359	
	Percent Graded A-F: 87.6%		Percent Graded A-F: 72.7%	
A	1280	46.7%	193	53.8%
B	692	25.2%	72	20.1%
C	53	19.3%	53	14.8%
D	204	7.4%	23	6.4%
F	35	1.3%	18	5.0%

How are charter alternative schools held accountable for student academic performance?

A charter alternative school may choose to receive a school grade or a school improvement rating.⁶⁰ Schools that choose a school improvement rating are designated in one of three rating categories – “improving,” “maintaining,” or “declining.”⁶¹ In order to receive a school improvement rating, a charter alternative school must have a minimum of 10 students with valid FCAT reading and mathematics scores in the current and two previous years.⁶² In the 2011-12 school year, 43 of 44 charter alternative schools operating in Florida chose to receive a school improvement rating. Of these schools, 13 had the required number of students with valid FCAT scores to receive a rating.⁶³

School Improvement Rating of Charter Alternative Schools⁶⁴ **2011-12 School Year**

Improving	2
Maintaining	0
Declining	11

How is the public informed of the academic performance of ungraded or unrated charter schools?

DOE must report statewide assessment data to ungraded charter schools which, in turn, must report the data to parents of students attending the charter school, parents of children on the charter school’s waiting list, the

⁵⁹ Email, Florida Department of Education, Governmental Relations (July 1, 2013). The total number of traditional public and charter schools listed on this chart only includes schools with membership in grades tested on state assessments, i.e., students in grades 3 through 10 with at least two years of valid assessment data. The total count of schools does not include schools that elected to receive a school improvement rating instead of a school grade, schools with an “I” school grade for incomplete data (less than 90% tested or results withheld during investigation), and schools with less than 30 students tested on statewide assessments in reading and mathematics for full-year students. *Id.*

⁶⁰ Sections 1008.34(3)(a)1. and 1008.341, F.S. Charter schools can be designated as alternative schools for the purposes of school accountability improvement ratings if the school’s charter explicitly states that the mission of the charter school is to provide dropout prevention and academic intervention services through alternative education. Rule 6A-1.099822(2)(a), F.A.C.

⁶¹ Section 1008.341(2), F.S.

⁶² Rule 6A-1.099822(5)(a), F.A.C.

⁶³ Email, Florida Department of Education, Governmental Relations (July 1, 2013).

⁶⁴ *Id.*

district in which the charter school is located, and the governing board of the charter school.⁶⁵ Statewide assessment data reported to ungraded charter schools includes the:

- Percentage of students scoring level 3 or above in reading, math, science, and writing;
- Percentage of students making learning gains in reading and math; and
- Percentage of lowest 25% of students making learning gains in reading and math.⁶⁶

DOE must also compare this data with that of students attending traditional public schools in the school district. Comparison data must be broken down by the following grade groupings:

- Grades 3 through 5;
- Grades 6 through 8; and
- Grades 9 through 11.⁶⁷

The charter school must post the statewide assessment data of its students and comparison data on its internet website and also provide notice to the public at large.⁶⁸

These data reporting requirements do not apply to ungraded charter schools with fewer than 10 students tested on statewide assessments because data reporting must comply with federal law governing education records privacy. This 10-student minimum was instituted by DOE to protect the identities of students in such schools.⁶⁹ Like all charter schools, ungraded charter schools with fewer than 10 students are accountable to the sponsor for meeting the student performance goals stated in the charter and may have their charters terminated or not renewed for failure to meet such goals.⁷⁰

Reporting Requirements for Ungraded or Unrated Charter Schools⁷¹

School Year	Total Charter Schools	Total Ungraded or Unrated Charter Schools	Ungraded or Unrated Charter Schools – Reporting Required	Ungraded or Unrated Charter Schools Not Eligible for Reporting
2009-10	410	131	45	96
2010-11	459	147	40	107
2011-12	518	151	36	115

Are differentiated accountability intervention and support strategies required for charter schools that struggle academically?

Yes. Charter schools that earn a grade of “D” or “F” must develop a school improvement plan, which must be approved by the sponsor.⁷² Corrective actions are required for charter schools earning three consecutive grades of “D,” two consecutive grades of “D” followed by a grade of “F,” or two nonconsecutive grades of “F” within a three-year period. Such a charter school may choose to:

- Contract for educational services to be provided directly to students, instructional personnel, and school administrators;
- Contract with an outside entity with a track record of effectiveness to operate the school;

⁶⁵ Section 1002.33(21)(b)1. and 2., F.S. Student performance data reporting requirements for ungraded and unrated charter schools apply only to schools with at least 10 students who are tested on statewide assessments. Section 1002.33(21)(b)1.b., F.S.

⁶⁶ Email, Florida Department of Education, Charter Schools Director (Nov. 26, 2012).

⁶⁷ Section 1002.33(21)(b)3.a., F.S.

⁶⁸ Section 1002.33(21)(b)3.b., F.S.

⁶⁹ Section 1002.33(21)(b)1. and 2., F.S.; see 20 U.S.C. s. 1232g.

⁷⁰ Section 1002.33(8)(a) and (9)(c), F.S.

⁷¹ Email, Florida Department of Education, Charter Schools Director (Nov. 26, 2012).

⁷² Section 1002.33(9)(n)1., F.S.

- Hire a new headmaster who has authority to hire new staff; or
- Voluntarily close the school.⁷³

The charter school must implement the corrective action in the school year following receipt of a third consecutive grade of “D,” a grade of “F” following two consecutive grades of “D,” or a second nonconsecutive grade of “F” within a 3-year period.⁷⁴ Corrective actions are no longer required if the charter school improves by at least one letter grade; however, the school must continue to implement its school improvement plan.⁷⁵ If a charter school does not improve by at least one letter grade after two full school years of implementing a corrective action, the school must choose another action.⁷⁶

The sponsor must terminate a charter school that earns two consecutive grades of “F,” unless the charter school qualifies for an exception.⁷⁷ A sponsor may terminate, at any time, the charter of a charter school that is required to implement a school improvement plan or corrective actions; however, this discretionary authority does not extend to charter schools that meet an exception to mandatory termination.⁷⁸

The director and a representative of a charter school that is required to implement a school improvement plan or corrective action must annually appear before the sponsor to report the progress of the corrective strategies being implemented by the school.⁷⁹

What exceptions to mandatory termination exist for charter schools that earn two consecutive grades of “F”?

A charter school that earns two consecutive grades of “F” may qualify for one of three exceptions to mandatory termination. The first two exceptions provide charter schools that specifically target hard-to-serve students with an additional year to raise student performance. A charter school may qualify for one of these exceptions if:

- It is in its first three years of operation and serves a student population in the same school zone as a failing public school. Such a charter school must earn at least a grade of “D” by year three. In year four and thereafter, the exception no longer applies to the charter school.
- The state board grants the charter school a waiver of termination. To obtain a waiver, the charter school must demonstrate that the learning gains of its students on statewide assessments are comparable or better than the learning gains of similarly situated students enrolled in nearby district public schools. The waiver is valid for one year and may only be granted once. Charter schools that have been in operation for more than five years are not eligible for a waiver.⁸⁰

The third exception applies to traditional public schools that are reconstituted as charter schools pursuant to the differentiated accountability process. The law governing differentiated accountability controls in such cases.⁸¹

⁷³ Section 1002.33(9)(n)2.a., F.S.

⁷⁴ Section 1002.33(9)(n)2.b., F.S.

⁷⁵ Section 1002.33(9)(n)2.d., F.S.

⁷⁶ Section 1002.33(9)(n)2.c. and e., F.S. Implementation of the new corrective action must begin in the school year following the implementation period of the existing corrective action. The sponsor may waive corrective actions if it determines that the charter school is likely to improve its grade if additional time is given to implement the school improvement plan. The sponsor may also extend the implementation period for a corrective action based upon a similar standard. The sponsor may not waive or extend corrective actions if the charter school earns a second consecutive grade of “F” while in corrective action. *Id.* Unless an exception applies, such a charter school must be terminated by the sponsor. Section 1002.33(9)(n)4., F.S.

⁷⁷ Section 1002.33(9)(n)4., F.S.

⁷⁸ Section 1002.33(9)(n)6., F.S.

⁷⁹ Section 1002.33(9)(n)5., F.S.

⁸⁰ Section 1002.33(9)(n)4.b.-c., F.S.

⁸¹ Section 1002.33(9)(n)4.a., F.S.; s. 1008.33(4)(b)3. and (e), F.S.

What ethical standards apply to charter school employees and governing board members?

Florida law prohibits charter school personnel⁸² from appointing, employing, promoting, or advancing, or advocating for the appointment, employment, promotion, or advancement of a relative⁸³ in the school in which the personnel works or exercises jurisdiction or control. Furthermore, the law prohibits an individual from being appointed, employed, promoted, or advanced in or to a position in the charter school if such action has been advocated by the individual's relative who serves in or exercises jurisdiction or control over the charter school, or if such appointment, employment, promotion, or advancement is made by the governing board of which a relative of the individual is a member.⁸⁴

The law also prohibits an employee of the charter school, or his or her spouse, or an employee of a charter management organization, or his or her spouse, from being a member of the governing board of a charter school.⁸⁵ Charter school governing board members, including those operated by private entities are subject to the same requirements that apply to public employees for the solicitation and acceptance of gifts, business transactions, conflicting employment or contractual relationships, and voting conflicts.⁸⁶ Board members who violate any of these provisions are subject to various penalties, including fines; impeachment, removal, or suspension from office for officers; dismissal from employment; and reduction in, or forfeiture of, salary.⁸⁷

Where can I get additional information?

Florida Department of Education

Office of Independent Education and Parental Choice

(850) 245-0502

Toll-Free Information Hotline: (800) 447-1636

http://www.floridaschoolchoice.org/Information/Charter_Schools/

Florida House of Representatives

Education Committee

(850) 717-4830

<http://www.myfloridahouse.gov>

⁸² "Charter school personnel" is defined as the charter school owner, president, governing board chairperson, superintendent, governing board member, principal, assistant principal, or any other person employed by the charter school who is empowered to make personnel related decisions at the school. Section 1002.33(24)(a)1., F.S.

⁸³ "Relative" is defined as father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister. Sections 112.3135(1)(d) and 1002.33(24)(a)2., F.S.

⁸⁴ Section 112.3135(1), F.S. (charter schools operated by municipalities); s. 1002.33(24), F.S. (charter schools operated by private entities). These provisions do not apply to charter lab schools and community college charter schools because state universities and community colleges are expressly exempted from statutory prohibitions against the employment of relatives by public entities. Sections 1002.33(24)(flush-left provisions at end of subsection) and 112.3135(1)(a)1. and 6., F.S.

⁸⁵ Section 1002.33(26)(c), F.S.

⁸⁶ Sections 112.313(2), (3) and (7) and 112.3143, F.S. A board member, like public employees or officers, may seek a waiver from the governing board after providing full disclosure of a transaction or relationship, from the provisions for business transactions and conflicts of interest. Section 112.313(12), F.S.

⁸⁷ Section 112.317, F.S.



How are charter school operations funded?

Charter school students are funded through the Florida Education Finance Program (FEFP) the same as students in traditional public schools. Each charter school reports student enrollment to its sponsoring school district for inclusion in the district's report of student enrollment.¹ The following chart summarizes how a charter school's share of FEFP funds is determined:

Calculating a Charter School's Share of FEFP Funds ²
Sum of the school district's operating funds from the FEFP as provided in s. 1011.62, F.S., and the General Appropriations Act, including the district's gross state and local funds, discretionary lottery funds, and funds from the district's current operating discretionary tax levies.
÷ The total funded weighted full-time equivalent students in the district.
x The weighted full-time equivalent students for the charter school.

A charter school is also entitled to receive its proportionate share of categorical funds included in the FEFP for students who qualify for the categorical.³ Categorical funds must be spent for the specified purposes which include student transportation, safe schools, supplemental academic instruction, research-based reading, instructional materials, and class-size reduction operating funds must be spent for these specific purposes.⁴

Operating funds from the FEFP are distributed by the school district to the charter school. A school district may initially distribute funds for up to three months based upon projected full-time equivalent (FTE) student membership. Thereafter, FTE membership surveys must be used to determine the amount of the charter school's funding distribution. Such distributions are to be made monthly and no later than 10 working days after the school district receives the funding.⁵

May a sponsor withhold a fee for its provision of administrative services to a charter school?

Yes. A school district must provide various administrative services to sponsored charter schools, such as contract management; FTE and student achievement data reporting; exceptional student education program administration; eligibility and reporting for federal school lunch programs; test administration, including payment of the costs of state- or school district-required assessments; processing of teacher certification data;

¹ Section 1002.33(17)(a)-(b), F.S. To reflect any changes in enrollment, the charter school's funding is recalculated during the school year, based upon the October and February full-time equivalent (FTE) enrollment surveys. *See* s. 1002.33(17)(b), F.S.; Email, Florida Department of Education, Legislative Affairs (May 25, 2012).

² Section 1002.33(17)(b) and (c), F.S.

³ Section 1002.33(17)(b), F.S.

⁴ Florida Department of Education, Office of Funding and Financial Reporting, *Public School Funding: The Florida Education Finance Program (FEFP), Fiscal Year 2013-2014*, at 2-4 (April 29, 2013), available at http://www.flsenate.gov/PublishedContent/Session/2013/Appropriations/Documents/FEFP_Final_Conference_Report.pdf; *see, e.g.*, s. 1011.62(1)(f), F.S. (supplemental academic instruction); s. 1011.62(6), F.S. (general categoricals), s. 1011.67, F.S. (instructional materials), s. 1011.68, F.S. (student transportation), s. 1011.685, F.S. (class size reduction), and s. 1012.71, F.S. (Teachers Lead).

⁵ Section 1002.33(17)(e), F.S.

and student information services.⁶ As compensation for services provided, a school district may withhold an administrative fee of up to five percent of each charter school's total operating funds, based upon weighted FTE students.⁷ A sponsor may only withhold the administrative fee for the first 250 students enrolled in each charter school.⁸ A sponsor may withhold a five percent administrative fee for the first 500 students enrolled within a system of charter schools if the system:

- Includes both conversion charter schools and nonconversion charter schools;
- Has all schools located in the same county;
- Has a total enrollment exceeding the total enrollment of at least one school district in the state;
- Has the same governing board; and
- Does not contract with a for-profit service provider for management of school operations.⁹

If the system meets these criteria and also qualifies for high-performing charter school system status, it may receive a reduction in the administrative fees from five to two percent for enrollments up to and including 500 students per system.¹⁰ The total administrative fee for high-performing charter schools is up to two percent for enrollment up to and including 250 students per school.¹¹

When 75 percent or more of the students enrolled in the charter school are exceptional students, including gifted students, the five percent administrative fee is calculated based upon unweighted FTE students.¹² For virtual charter schools, the sponsor may withhold a fee of up to five percent of the school's total operating funds; however, the fee must be used to cover the cost of sponsor-provided services and for the school district's local instructional improvement system or other technological tools for accessing digital instructional materials.¹³ School districts are prohibited from imposing additional fees or surcharges for services provided.¹⁴

Do charter schools receive federal funding?

Yes. Charter schools, like traditional public schools, receive federal education funding through such programs as the Individuals with Disabilities Education Act (IDEA),¹⁵ Title I programs for disadvantaged students,¹⁶ and Title II programs for improving teacher quality.¹⁷ Additionally, 214 charter schools in 27 school districts and one university charter lab school are participating in Florida's Race to the Top Grant.¹⁸

⁶ Section 1002.33(20)(a)1., F.S. *See also*, Florida Attorney General Opinion, *AGO 2013-04*, stating that the administrative fee includes costs to administer state district assessments, *available at* <http://www.myfloridalegal.com/ago.nsf/Opinions/D20AD30420BB793B85257B3C0052B3A6>.

⁷ Section 1002.33(20)(a)2., F.S.

⁸ Section 1002.33(20)(a)2., F.S. When a charter school's enrollment exceeds 250 students, it must reserve an amount of total operating funds equal to the difference between the total administrative fee calculation and the actual amount withheld for capital outlay purposes. *Id.*

⁹ Section 1002.33(20)(a)4., F.S. When the enrollment within a system of charter schools exceeds 500 students, an amount of total operating funds equal to the difference between the total administrative fee calculation and the actual amount withheld may only be used for instructional, administrative, or capital outlay purposes. Section 1002.33(20)(a)4., F.S.

¹⁰ Section 1002.33(20)(a)4. and 6., F.S.

¹¹ Section 1002.33(20)(a)3., F.S.

¹² Section 1002.33(20)(a)2., F.S.

¹³ Section 1002.33(20)(a)8., F.S. Each school district must develop a "local instructional improvement system" that uses electronic and digital tools to provide teachers, administrators, students, and parents with data and resources to systematically manage continuous instructional improvement. The system must support instructional planning, information gathering and analysis, rapid-time reporting, decision-making on appropriate instructional sequence, and evaluating the effectiveness of instruction. Section 1006.281(1)-(2), F.S.

¹⁴ Section 1002.33(20)(a)7., F.S.

¹⁵ Section 1002.33(17)(c), F.S.; 20 U.S.C. s. 1411(e).

¹⁶ 20 U.S.C. s. 6301 et. seq.

¹⁷ 20 U.S.C. ss. 6601-6641; s. 1002.33(17)(c)-(d), F.S.

¹⁸ Email, Florida Department of Education, Legislative Affairs (July 1, 2013). The participating charter lab school is the Florida Atlantic University Charter Lab School in St. Lucie County.

Typically, federal education programs are structured so that funding flows from the federal government to a state educational agency (SEA),¹⁹ which then awards subgrants to local education agencies (LEA) within the state.²⁰ The Florida Department of Education (FDOE) is Florida's SEA for federal funding purposes and school districts are the LEA for district public schools. Thus, federal education funds received by FDOE are distributed to school districts, which then distribute a proportionate share of the funds to each district school, including charter schools.²¹ According to the FDOE, school districts distribute federal funds directly to charter schools, provide in-kind services in lieu of funds, or use a combination of both methods. School districts use a variety of methods to distribute federal funds directly to charter schools, including directly advancing funds, reimbursing expenditures, or making purchases on behalf of charter schools.²²

Unless otherwise mutually agreed to by the charter school and its sponsor, and consistent with state and federal rule and regulations governing the use and disbursement of federal funds, the sponsor shall reimburse the charter school on a monthly basis for all invoices submitted by the charter school for available federal funds. In order to be eligible for reimbursement, expenditures must comply with all applicable state and federal regulations, and the charter school must submit the invoice to the sponsor at least 30 days prior to the reimbursement date set by the sponsor. Funds may not be made available to the charter school until a plan for use of the funds is submitted to the sponsor and approved.²³

Additionally, the U.S. Department of Education's (U.S. DOE) Charter Schools Program (CSP) provides three types of CSP grants to eligible charter schools on an as available, competitive basis. CSP grants include start-up grants, dissemination grants, and replication and expansion grants. FDOE must apply to U.S. DOE for start-up and dissemination grant funds. Once approved, FDOE is responsible for approving charter schools' receipt of such grants.²⁴ Replication and expansion grants are awarded to charter school operators directly by U.S. DOE.²⁵

Start-Up Grants

Start-up grants are awarded to fund planning and initial implementation of a new charter school. Nonprofit applicants for a new or conversion charter school are eligible for a start-up grant.²⁶ Start-up grants must be spent for such purposes as marketing the charter school to parents and students; curriculum development; and purchasing instructional materials and equipment. Start-up grants may not be expended on new construction or rent.²⁷ Such grants are 36 months in duration. In FY 2012, the average start-up grant awarded to charter schools was approximately \$400,000.²⁸

Dissemination Grants

Dissemination grants are awarded for the purpose of developing and disseminating charter school "best practices." To be eligible for a dissemination grant, a charter school must have been in operation for at least three consecutive years and demonstrate strong student achievement, parent satisfaction, management and leadership, and financial viability. Allowable expenditures include assisting other individuals with charter school planning and start-up; developing curriculum materials and assessments to improve student

¹⁹ See 20 U.S.C. s. 1412(a).

²⁰ See 20 U.S.C. ss. 1412(a) and 1413(a).

²¹ Section 1002.33(17)(c), F.S. Florida law authorizes a system of charter schools to serve as an LEA if it meets certain requirements. Section 1002.33(25), F.S.

²² *Funding Report*, *supra* note 4, at 21-22.

²³ Section 1002.33(17)(c), F.S.

²⁴ U.S. Department of Education, *Charter Schools Program Nonregulatory Guidance*, at 10 (April 2011), available at <http://www2.ed.gov/programs/charter/nonregulatory-guidance.doc> [hereinafter *CSP Guidance*]. Florida and New York were the only states awarded federal funds for start-up and dissemination grants in FY 2011. U.S. Department of Education, *Charter Schools Program State Educational Agency Grants, 2011 Award*, <http://www2.ed.gov/programs/charter/2011awards.html> (last visited April 20, 2012).

²⁵ Application for New Awards; Charter Schools Program; Grants for Replication and Expansion of High-Quality Charter Schools, 77 Fed. Reg. 13306 (Dep't of Education March 6, 2012).

²⁶ *CSP Guidance*, *supra* note 24, at 12.

²⁷ *CSP Guidance*, *supra* note 24, at 15-17.

²⁸ Email, Florida Department of Education, Governmental Relations (July 1, 2013).

achievement; developing partnerships with other public schools to improve student achievement; and developing charter school best practices.²⁹ In FY 2012, FDOE awarded two dissemination grants in the amount of \$250,000 each.³⁰

Replication and Expansion Grants

Replication and expansion grants are awarded to support the replication or expansion of high-quality charter schools that target under-served student populations. To be eligible for a grant, the applicant must be a nonprofit charter management organization or other nonprofit entity with experience operating high-quality charter schools that serve diverse racial groups, students with disabilities, and English language learners and demonstrate success improving the educational achievement and outcomes of such students. Grant funds may be used to expand enrollment at one or more of the grantee's existing charter schools or to open one or more new charter schools that replicate the grantee's charter school model. Such grants are 60 months in duration. In FY 2012, a maximum of \$800,000 may be awarded per replicated or expanded charter school.³¹

A \$9.4 million grant was awarded to the Knowledge is Power Program (KIPP), which operates KIPP Impact Middle School in Jacksonville, Florida, as well as charter schools in 19 other states and the District of Columbia. KIPP will use the grant to open 18 new charter schools in nine states and the District of Columbia, including two new charter schools in Florida's Duval County School District.³²

What other financial incentives are available to charter schools?

Developers may designate impact fees for the construction of a new charter school facility, if the school is specifically created to mitigate the educational impact created by the development.³³ In addition, several tax, zoning, and fee exemptions financially benefit charter schools. A facility that houses a charter school is exempt from ad valorem taxation. This includes charter schools-in-the-workplace and charter schools-in-a-municipality.³⁴ Charter schools are also exempt from assessments of fees for building permits, building and occupational licenses, impact fees or exactions,³⁵ service availability fees, and assessments for special benefits.³⁶

What are the eligibility criteria for state charter school capital outlay funding?

To be eligible for charter school capital outlay funding, a charter school must:

- Have been in operation for at least three years, be governed by a governing board established in Florida for three or more years which operates both charter schools and conversion charter schools

²⁹ *CSP Guidance*, *supra* note 24, at 10.

³⁰ Email, Florida Department of Education, Governmental Relations (July 1, 2013).

³¹ Application for New Awards; Charter Schools Program; Grants for Replication and Expansion of High-Quality Charter Schools, 77 Fed. Reg. 13304-13306 (Dep't of Education July 1, 2013).

³² Press Release, U.S. Department of Education, *Grants Awarded Under Charter Schools Program's Charter Management Organization Competition* (Sept. 30, 2011), <http://www.ed.gov/oii-news/grants-awarded-under-charter-schools-programs-charter-management-organization-competition> (last visited May 9, 2012). KIPP's 18 new charter schools will be established in Atlanta, GA; Austin, TX; Chicago, IL; Washington, DC; Gaston, NC; Houston, TX; Jacksonville, FL; Los Angeles, CA; Memphis, TN; Newark, NJ; New York, NY; and San Antonio, TX. *Id.* Duval County conditionally approved both applications upon KIPP Impact Middle School's raising its achievement on statewide assessments in the 2011-12 school year. Email, Florida Department of Education, Legislative Affairs (May 25, 2012).

³³ Section 1002.33(2)(c)4. and (18)(f), F.S.

³⁴ Section 1002.33(15)(b)-(c) and (18)(c), F.S.

³⁵ Impact fees and exactions are used by local governments to control development and offset the impact of growth on local infrastructure and services. Unless superseded by constitutional or statutory provisions, local governments have broad authority to impose impact fees or exactions on development. Sections 1(f)-(g) and 2(b), Art. VIII of the State Constitution; s. 125.01(1) and (3), F.S.; s. 166.021(1)-(4), F.S.; *Hollywood, Inc. v. Broward Cnty, Fla.*, 431 So.2d 606, 609-610 (4th DCA. 1983)(Holding that Florida counties have implicit authority to impose impact fees or exactions on development so long as such fee or exaction is not inconsistent with general law and is rationally related to the need for additional infrastructure or services caused by the development.).

³⁶ Section 1002.33(18)(d), F.S.

within the state, be part of an expanded feeder chain³⁷ with an existing charter school in the district that is currently receiving charter school capital outlay funds, be accredited by the Commission on Schools of the Southern Association of Colleges and Schools, or serve students in facilities that are provided by a business partner for a charter school-in-the-workplace;

- Demonstrate financial stability for future operation as a charter school;
- Have satisfactory student achievement based upon the state accountability standards applicable to charter schools;
- Have received final approval from its sponsor for operation during that fiscal year; and
- Serve students in facilities that are not provided by the charter school sponsor.³⁸

What are the permissible uses of state capital outlay funds by charter schools?

Capital outlay funds may be used by a charter school's governing board for the:

- Purchase of real property.
- Construction of school facilities.
- Purchase, lease-purchase, or lease of permanent or relocatable school facilities.
- Purchase of vehicles to transport students to and from the charter school.
- Renovation, repair, and maintenance of school facilities that the charter school owns or is purchasing through a lease-purchase or long-term lease of five years or longer.
- Purchase, lease-purchase, or lease of new and replacement equipment, and enterprise resource software applications.³⁹
- Payment of the cost of premiums for property and casualty insurance necessary to insure the school facilities.
- Purchase, lease-purchase, or lease of driver's education vehicles, motor vehicles used for the maintenance or operation of plants and equipment, security vehicles, or vehicles used in storing or distributing materials and equipment.⁴⁰

How are state charter school capital outlay awards allocated?

Charter school capital outlay funding is allocated based upon the following priorities:

- First priority is given to charter schools that received capital outlay funding in FY 2005-06. Such a school receives the same per-student amount that it received in FY 2005-06 up to the lesser of:
 - The actual number of students enrolled in the current year; or
 - The number of students enrolled in FY 2005-06.
- After calculating the first priority, remaining funds are allocated with the same per-student amount to:
 - Those schools not included in the first priority allocation; and
 - Those schools in the first priority allocation with growth in excess of FY 2005-06 student enrollments.

³⁷ The FDOE is in the process of amending the rule that will define feeder pattern for capital outlay purposes, Email, Florida Department of Education, Office of Funding and Financial Reporting (July 1, 2013).

³⁸ Section 1013.62(1)(a), F.S. A conversion charter school, i.e., a charter school created by the conversion of an existing public school to charter status, is not eligible for capital outlay funding if it operates in facilities provided by its sponsor at no charge or for a nominal fee or if it is directly or indirectly operated by the school district. Section 1013.62(1)(d), F.S.

³⁹ Enterprise resource software applications must be "classified as capital assets in accordance with definitions of the Governmental Accounting Standards Board, have a useful life of at least 5 years, and are used to support schoolwide administration or state-mandated reporting requirements." Section 1013.62(2)(f), F.S.

⁴⁰ Section 1013.62(2)(a)-(h), F.S.

Any excess funds remaining after the first and second priority calculations are allocated among all eligible charter schools.⁴¹

Each charter school's capital outlay allocation must not exceed 1/15th of the statutory cost per student station.⁴² The FDOE must disburse these funds to the sponsoring school district monthly based upon 1/12th of the amount that it expects the charter school to receive during that fiscal year. The funding amount is recalculated during the fiscal year to reflect fluctuations in student enrollment indicated by the second and third enrollment surveys and impacts on available funds resulting from charter school closings and the addition of newly eligible charter schools.⁴³

How much state funding has been appropriated to charter school capital outlay in recent years?

In the most recent five fiscal years, the Legislature appropriated the following charter school capital outlay funds:

Charter School Capital Outlay Appropriations				
Fiscal Year	Appropriation	Total Charter Schools Funded	First Priority	Second Priority
2008-09	\$55.1 million ⁴⁴	282	173	109
2009-10	\$56.1 million ⁴⁵	292	165	127
2010-11	\$56.1 million ⁴⁶	344	158	186
2011-12	\$55.2 million ⁴⁷	372	151	221
2012-13	\$55.2 million ⁴⁸	432	144	288

In addition to the appropriated state funds for charter school capital outlay, the law authorizes, but does not require, school boards to allocate local discretionary capital improvement funds to charter schools.⁴⁹

What happens to charter school funds and property when the school is closed?

When a charter is not renewed or is terminated, unencumbered public funds from the charter school revert to the district school board, except that capital outlay and federal charter school grant funds revert to the FDOE for redistribution among eligible charter schools. Additionally, all district school board property and improvements, furnishings, and equipment purchased with public funds automatically revert to the district school board subject to satisfaction of any liens or encumbrances.⁵⁰

⁴¹ Section 1013.62(1)(b), F.S.

⁴² Section 1013.62(1)(c), F.S. Effective January 2006, the cost per student station was \$17,952 for an elementary school, \$19,386 for a middle school, and \$25,181 for a high school. The cost per student station is adjusted annually to reflect increases or decreases in the Consumer Price Index. Section 1013.64(6)(b), F.S.

⁴³ Section 1013.62(1)(f), F.S.

⁴⁴ Specific Appropriation 18, s. 2, ch. 2008-152, L.O.F.

⁴⁵ Specific Appropriation 14, s. 2, ch. 2009-81, L.O.F.

⁴⁶ Specific Appropriation 17, s. 2, ch. 2010-152, L.O.F.

⁴⁷ Specific Appropriation 15A, s. 2, ch. 2011-69, L.O.F.

⁴⁸ Specific Appropriation 16, s. 2, ch. 2012-118, L.O.F.

⁴⁹ Section 1011.71(2), F.S.

⁵⁰ Section 1002.33(8)(e), F.S.

Where can I get additional information?

Florida Department of Education

Office of Independent Education and Parental Choice

(850) 245-0502

Toll-Free Information Hotline: (800) 447-1636

www.floridaschoolchoice.org

Florida Department of Education

Finance and Operations

(850) 245-0406

<http://www.fldoe.org/cefo/>

Florida Department of Education

Bureau of School Business Services

(850) 245-0351

<http://www.fldoe.org/dss/>

Florida Department of Education

Bureau of Contracts, Grants, and Procurements

(850) 245-0735

<http://www.fldoe.org/grants/>

Florida Department of Education

Office of Educational Facilities

(850) 245-0494

<http://www.fldoe.org/edfacil/>

Florida House of Representatives

Education Committee

(850) 717-4830

<http://www.myfloridahouse.gov/>



High-Performing Charter Schools and Systems

Education Committee

Last Updated: August 2013

What are the eligibility criteria for high-performing charter school status?

A high-performing charter school is a charter school that during each of the three previous years:

- Received at least two school grades of “A” and no school grade below “B;”
- Has received an unqualified opinion¹ on each annual financial audit; and
- Has not received an annual financial audit that reveals a financial emergency condition.²

Virtual charter schools are not eligible for “high-performing” status.³

The Commissioner of Education, upon request by a charter school, must verify that the school meets the qualifications and provide a verification letter to both the school and sponsor.⁴ As of June 25, 2013, 142 charter schools in 33 school districts have earned “high-performing” status.⁵

The commissioner must annually determine whether a high-performing charter school continues to meet the high-performing eligibility criteria, and if the charter school does not meet the criteria, the commissioner must send a letter to the school notifying it of its declassification as a high-performing charter school.⁶

What are the eligibility criteria for high-performing charter school system status?

A high-performing charter school system (system) is a system of charter schools that:

- Is operated by a municipality or other public entity that is authorized by law to operate a charter school; a private, not-for-profit, s. 501(c)(3) status corporation; or a private for-profit corporation;
- Operated at least three high-performing charter schools in Florida, during each of the previous 3 school years;
- Had at least 50 percent of its charter schools designated as “high-performing” and no charter school receiving a school grade of “D” or “F” in any of the previous 3 school years regardless of whether the entity currently operates the charter school; and

¹An unqualified audit opinion means that the charter school’s financial statements are materially correct. Telephone interview with Florida Auditor General staff (Mar. 24, 2011).

² Section 1002.331(1), F.S. A financial emergency condition includes: failure to pay short-term loans, make bond debt service or pay long-term debt payments due to lack of funds; failure to pay uncontested creditor claims within 90 days; failure to pay withheld employee income taxes or make employer contributions to social security or pensions; or failure for one pay period to pay, wages, salaries, and retirement benefits owed. Section 218.503(1), F.S. A charter school in the workplace satisfies audit requirements if the auditor finds that sufficient monetary resources are available to cover any reported deficiency or if the deficiency does not result in a deteriorating financial condition. Section 1002.331(1)(c), F.S. A “deteriorating financial condition” is a circumstance that significantly impairs the ability of a charter school to generate enough revenues to meet its expenditures without causing the occurrence of a financial emergency condition described in s. 218.503(1), F.S. Section 1002.345(1)(a)3., F.S.

³ Section 1002.331(1), F.S.

⁴ Section 1002.331(5), F.S. Verification of eligibility is based upon the most recent available school grade and financial audit information. The release date for elementary and middle school grades is earlier than that of high schools because the high school grade calculation includes additional metrics. Likewise, charter school audit reports may be filed with the auditor general as much as nine months after the end of the fiscal year. See ss. 218.39(7) and 1008.34(3)(b), F.S.

⁵ Email, Florida Department of Education, Legislative Affairs (July 1, 2013).

⁶ Section 1002.331(5), F.S.

- Did not receive a financial audit that revealed a financial emergency condition for any charter school operated by the entity in Florida in the most recent 3 fiscal years for which audits are available.⁷

Upon request by the system, the Commissioner of Education must verify whether the system meets the eligibility requirements and provide it with a verification letter.⁸ As of June 25, 2013, four systems have earned “high-performing” status:

- Doral, Inc., is comprised of five charter schools, four of which are high-performing charter schools;
- Mater Academy is comprised of 18 charter schools, nine of which are high-performing charter schools;
- McKeel Academy is comprised of three charter schools, each of which are high-performing charter schools; and
- Renaissance Charter Schools is comprised of 13 charter schools, seven of which are high-performing charter schools.⁹

The commissioner must annually determine whether a high-performing charter school system continues to meet the high-performing eligibility criteria, and if the charter school system does not meet the criteria, the commissioner must send a letter notifying it of its declassification as a high-performing charter school system.¹⁰

As part of the verification, the charter school system must identify all charter schools in the state that it has operated or provided services for the previous 3 years, regardless of whether or not it continues to operate or provide services to those schools. For schools for which the system no longer operates or provides services, it shall identify the reasons for termination of the operation or services and the grounds stated by the charter school’s governing board regarding such decisions.¹¹

What benefits are available to high-performing charter schools and systems?

High-performing charter schools may take advantage of various benefits. A high-performing charter school may:

- Increase the school’s enrollment once per year to more than the capacity identified in the charter, but not to exceed the current facility capacity;
- Expand grade levels within kindergarten through grade 12 to add grade levels not already served, provided that any resulting increase in enrollment does not exceed the current facility capacity;
- Submit quarterly, rather than monthly, financial statements to its sponsor;
- Consolidate under a single charter the charters of multiple high-performing charter schools operated in the same school district by the school’s governing board, regardless of the charter renewal cycle;
- Receive a modification of its charter to a term of 15 years or a 15-year charter renewal. The charter may be modified or renewed for a lesser term at the option of the charter school, is subject to annual review by the sponsor, and may be terminated for grounds¹² currently specified in statute; and
- Submit an application in any Florida school district to establish and operate a new charter school that substantially replicates its educational program.¹³

If a high-performing charter school requests to consolidate multiple charters, the sponsor must provide an initial draft charter to the school within 40 days of the request. The sponsor and school then have 50 days thereafter to negotiate and notice the charter for final approval by the sponsor.¹⁴

⁷ Section 1002.332(1)(b)3., F.S.

⁸ Section 1002.332(2), F.S.; *see supra* note 4 (discussion of school grade release dates and financial audit filing deadlines).

⁹ Email, Florida Department of Education, Governmental Relations (July 1, 2013).

¹⁰ Section 1002.332(2)(a)2., F.S.

¹¹ Section 1002.332(a)1., F.S.

¹² A sponsor may terminate or not renew a charter school’s charter if the school fails to participate in Florida’s accountability system; fails to meet the student performance outcomes agreed upon in the charter; fails to meet generally accepted standards of fiscal management; violates the law; or other good cause shown. Section 1002.33(8)(a), F.S.

¹³ Section 1002.331(2), F.S.

High-performing charter schools may receive a reduction in the administrative fee for sponsor-provided services from five percent to two percent for enrollment up to and including 250 students per school.¹⁵ High-performing charter school systems may also receive a reduction in the administrative fees if specified criteria are met.¹⁶ Additionally, systems may replicate their high-performing charter schools using the same process applicable to high-performing charter schools.¹⁷

What conditions govern enrollment increases or grade level expansion by high-performing charter schools?

Enrollment increases or grade level expansion by a high-performing charter school may not exceed the current facility capacity.¹⁸ Sponsors may not cap enrollment increases or require a charter school to waive its rights to high-performing charter school benefits as a condition of charter approval or renewal. A high-performing charter school must notify its sponsor by March 1 regarding enrollment increases or grade level expansion planned for the following school year.¹⁹ If a charter school notifies the sponsor of its intent to expand, the sponsor must modify the charter within 90 days to include the new maximum and may not make any other changes to the charter. The sponsor may only deny a request to increase enrollment if the commissioner has declassified the charter school as high-performing.²⁰ Provisions for implementing “high-performing” benefits must be included in the charter.²¹

What is the procedure for replicating a high-performing charter school?

A high-performing charter school may, in any school district in the state, submit an application to establish a new charter school that replicates its educational program. The application must indicate that the charter school is “high-performing” and include the commissioner’s eligibility letter.²² Such applications may only be denied if clear and convincing evidence²³ demonstrates:

- Material noncompliance²⁴ with application requirements related to curricula, student learning goals, reading instruction, and financial management;
- Material noncompliance with law requiring charter schools to be nonsectarian; comply with student enrollment requirements; be accountable to the sponsor; be tuition free; and meet state and local health, safety, and civil rights requirements;
- That the proposed charter school does not substantially replicate²⁵ one of the applicant’s high-performing charter schools;

¹⁴ Section 1002.331(2)(e), F.S. (flush left provisions at the end of the subsection).

¹⁵ Section 1002.33(20)(a)3., F.S.

¹⁶ Section 1002.33(20)(a)4. and 6., F.S. The fee is reduced from 5 percent to 2 percent for enrollments up to and including 500 students per system if the system includes both conversion charter schools and nonconversion charter schools; has all schools located in the same county; has a total enrollment exceeding the total enrollment of at least one school district in the state; has the same governing board; and does not contract with a for-profit service provider for management of school operations. *Id.*

¹⁷ Section 1002.332(2), F.S.

¹⁸ Section 1002.331(2)(a)-(b), F.S.

¹⁹ Section 1002.33(10)(h)-(i), F.S.

²⁰ Section 1002.331(e), F.S. (flush left provisions at the end of the subsection).

²¹ Section 1002.33(7)(a)19., F.S.

²² Section 1002.331(3)(a), F.S.

²³ “Clear and convincing evidence” is evidence that is “positive, precise, and explicit” or “evidence indicating that the thing to be proved is highly probable or reasonably certain.” *Slomowitz v. E.O. Walker*, 429 So.2d 797 (Fla. 4th DCA 1983); Black’s Law Dictionary (5th Ed. 1996).

²⁴ “Material noncompliance” is a failure to follow requirements or a violation of prohibitions applicable to charter school applications which is quantitatively or qualitatively significant either individually or when aggregated with other noncompliance. Section 1002.33(6)(b), F.S. (flush-left provisions at end of paragraph).

²⁵ An applicant is considered to be replicating a high-performing charter school if the proposed school is substantially similar to at least one of the applicant’s high-performing charter schools and the organization or individuals involved in the establishment and operation of the proposed school are significantly involved in the operation of replicated schools. Section 1002.33(6)(b), F.S. (flush-left provisions at end of paragraph).

- That the applicant misrepresented important facts or concealed information during the application process; or
- The proposed charter school's educational program and financial management practices do not materially comply with the charter school statute.²⁶

If an application submitted by a high-performing charter school is denied, the sponsor must provide the applicant and the Department of Education (DOE) with a letter of denial stating its reasoning with supporting documentation. If the applicant appeals, review by the Charter School Appeal Commission²⁷ is bypassed, and the appeal goes directly to the State Board of Education. The state board must independently review whether the sponsor based its decision upon the statutory denial criteria.²⁸

If the sponsor fails to act on an application submitted by a high-performing charter school within 60 days of submission, the application is deemed approved. The applicant and sponsor must then enter into charter negotiations.²⁹

A high-performing charter school may not be replicated more than once in any given year and may not replicate again until the new charter school achieves "high-performing" status.³⁰ As of June 25, 2013, six new charter schools replicating high-performing charter schools have been established in four school districts.³¹

Are there any exceptions to the eligibility criteria for high-performing charter school system status?

Yes. The law allows high-performing charter school systems a period of time to improve academic performance at low-performing traditional public schools that are reconstituted as charter schools under Florida's system of school improvement interventions.³² Florida's system of school improvement interventions is known as "differentiated accountability." Under differentiated accountability, traditional public schools that earn a school grade of "D" or "F" are identified for school improvement interventions.³³ Schools earning a grade of "F" receive the most comprehensive interventions. A traditional public school that earns two consecutive school grades of "F" must implement a school turnaround option. Among other school turnaround options, the school district may choose to reconstitute the school as a charter school and contract with a charter school operator to administer the school.³⁴ If a system assumes operation of a traditional public school in this manner, the school's grade is not considered in determining high-performing charter school system status for the first three years after the system assumes operations. The school is considered in eligibility determinations in year four and thereafter.³⁵

Similar accommodation is made for charter schools opened for the purpose of providing educational options to students who reside in school zones served by a low-performing traditional public school. If a system establishes a new charter school in a school zone served by a public school that earns a grade of "F" or three consecutive "D's," that charter school is not considered in determining high-performing charter school system eligibility if, within three years after establishment, it attains and maintains a higher school grade than the traditional public school serving the zone.³⁶

²⁶ Section 1002.33(6)(b)3.b., F.S.

²⁷ The Charter School Appeal Commission (CSAC) is a body comprised of school district and charter school representatives that reviews charter school application appeals filed with the state board. CSAC must review the appeal and make a written recommendation to the state board as to whether it should be upheld or denied. The state board must consider the CSAC's recommendation, but is not bound by it when making its final decision. Section 1002.33(6)(e)1. and 2., F.S.

²⁸ Section 1002.33(6)(c)3.b., F.S.

²⁹ Section 1002.331(3)(a), F.S.; *see s. 1002.33(6)(h)*, F.S.

³⁰ Section 1002.331(3)(b), F.S.

³¹ Email, Florida Department of Education, Governmental Relations (July 1, 2013).

³² Section 1002.332(1)(b)2.a.-b., F.S.

³³ Section 1008.33(3)(b), F.S.

³⁴ Section 1008.33(4)(a) and (b)3., F.S.

³⁵ Section 1002.332(1)(b)2.a., F.S.

³⁶ Section 1002.332(1)(b)2.b., F.S.

Where can I get additional information?

Florida Department of Education

Office of Independent Education and Parental Choice

(850) 245-0502

Toll-Free Information Hotline: (800) 447-1636

http://www.floridaschoolchoice.org/Information/Charter_Schools/

Florida House of Representatives

Education Committee

(850) 717-4830

<http://www.myfloridahouse.gov>



School District Virtual Instruction Program (VIP)

Education Committee

Last Updated: August 2012

What are school district virtual instruction programs?

A school district virtual instruction program is a program of instruction provided in an interactive learning environment created through technology in which students are separated from their teachers by time or space, or both.¹ The purpose of the program is to make instruction available to students using online and distance learning technology in the nontraditional classroom.² A school district that is eligible for the sparsity supplement must provide all enrolled public school students within its boundaries the option of participating in part-time and full-time virtual instruction programs. A school district that is ineligible for the sparsity supplement must provide at least three options for part-time and full-time virtual instruction.³

A school district virtual instruction program must consist of the following:

- Full-time virtual instruction program for students enrolled in kindergarten through grade 12;⁴
- Part-time virtual instruction for students enrolled in grades K through 12 courses that are measured by state assessments or AP exams,⁵ and
- Full-time or part-time virtual instruction program for students enrolled in grades K-12 enrolled in dropout prevention and academic intervention programs, Department of Juvenile Justice programs, core-curricula courses to meet class size requirements, or community colleges offering a school district virtual instruction program.⁶

Each school district must provide information to parents and students about students' right to participate in a virtual instruction program and in courses offered by the Florida Virtual School (FLVS)^{7,8}.

Who is eligible to participate in school district virtual instruction programs?

Enrollment in a school district virtual instruction program is open to any student residing in the district who:⁹

- Attended a Florida public school during the prior year and was enrolled and reported for funding during the October and February Florida Education Finance Program (FEFP) surveys;¹⁰
- Is the dependent child of a member of the United States military who, within 12 months of the parent's permanent change of station order, transferred to Florida from another state or from a foreign country;¹¹

¹ Section 1002.45(1)(a)2., F.S.

² Section 1002.45(1)(b), F.S. In 2008, the Florida Legislature required all school districts to provide a virtual instruction program beginning with the 2009-10 academic year. Section 4, ch. 2008-147, L.O.F.

³ Section 1002.45(2)(b), F.S.

⁴ Section 1002.45(1)(b)1., F.S.

⁵ Section 1002.45(1)(b)2., F.S.

⁶ Section 1002.45(1)(b)3., F.S.

⁷ The Florida Virtual School is established for the development and delivery of online and distance learning education full-time and part-time to students enrolled in kindergarten through grade 12. The Commissioner of Education is required to monitor the school's performance and report the school's performance to the State Board of Education and the Legislature. Section 1002.37(1)(a) and (8)(a), F.S.

⁸ Section 1002.45(10), F.S.

⁹ Sections 1002.45(5) and 1002.455(2), F.S.

¹⁰ Section 1002.455(2)(a), F.S.

¹¹ Section 1002.455(2)(b), F.S.

- Was enrolled in a school district virtual instruction program, the K-8 Virtual School Program,¹² or a full-time FLVS program during the prior school year;¹³
- Has a sibling who is currently enrolled in a school district virtual instruction program and the sibling was enrolled in such program at the end of the prior school year.¹⁴
- Is eligible to enter kindergarten or first grade;¹⁵ or
- Is eligible to enter grades 2 through 5 and is enrolled full-time in a school district virtual instruction program, virtual charter school, or the Florida Virtual School.¹⁶

Participating students must comply with the compulsory school attendance requirements and such compliance must be verified by the district. Students must also participate in the state assessment program.¹⁷

What options do school districts have to provide virtual instruction programs?

In order to provide its students with the opportunity to participate in a school district virtual instruction program, a school district may:

- Contract with the FLVS or establish a franchise of the FLVS.¹⁸
- Contract with a provider approved by the Department of Education (DOE) for full-time school district virtual instruction program.¹⁹
- Enter into an agreement with another school district to allow its students to participate in a virtual instruction program provided by the other school district.²⁰
- Establish school district operated part-time or full-time kindergarten through grade 12 virtual instruction programs for students enrolled in the school district.²¹
- Enter into an agreement with a virtual charter school authorized by the school district.²²

Contracts with the FLVS or other providers may include multidistrict contractual arrangements that may be executed by a regional consortium on behalf of its member school districts.²³ Additionally, a virtual charter school may enter into an agreement with a school district to allow participation of the virtual charter school's students in the school district's virtual instruction program.²⁴

What requirements must school district virtual instruction programs meet?

Each school district virtual instruction program operated or contracted by a school district must:

- Align virtual course curriculum and course content to the Next Generation Sunshine State Standards.²⁵
- Offer instruction that is designed to enable students to achieve proficiency in each virtually delivered course.²⁶

¹² Subject to annual legislative appropriation, the K-8 Virtual School Program is established as a statewide full-time virtual instruction program within the Florida Department of Education (DOE) for students enrolled in kindergarten through grade 8 using online and distance learning technology. Section 1002.415, F.S. In 2012, the Florida Legislature authorized school districts to expend \$5,200 per student for each student who was enrolled and served during the 2011-12 fiscal year and who is re-enrolled and eligible to be served during the 2012-13 fiscal year. Specific Appropriation 84, s. 2, ch. 2012-118, L.O.F.

¹³ Section 1002.455(2)(c), F.S.

¹⁴ Section 1002.455(2)(d), F.S.

¹⁵ Section 1002.455(2)(e), F.S.

¹⁶ Section 1002.455(2)(f), F.S.

¹⁷ Section 1002.45(6), F.S.

¹⁸ Section 1002.45(1)(c)1., F.S.

¹⁹ Section 1002.45(1)(c)2., F.S..

²⁰ Section 1002.45(1)(c)3., F.S.

²¹ Section 1002.45(1)(c)4., F.S.

²² Section 1002.45(1)(c)5., F.S.

²³ Sections 1002.45(1)(c) and 1001.451, F.S. Multidistrict consortia include Panhandle Area Educational Consortium (PAEC), Heartland Educational Consortium (HEC), and Northeast Florida Educational Consortium (NEFEC).

²⁴ Section 1002.45(1)(d)3., F.S.

²⁵ Section 1002.45(3)(a), F.S.

- Provide each student enrolled in the school district virtual instruction program with all necessary instructional materials.²⁷
- Provide each full-time student enrolled in the school district virtual instruction program who is eligible for free or reduced-price school lunch, or who is on the direct certification list, and who does not have a computer or Internet access at home with:²⁸
 - All necessary equipment, including, but not limited to, a computer, computer monitor, and printer.²⁹
 - Access to or reimbursement for all Internet services necessary for online delivery of instruction.³⁰
- Require no tuition or student registration fees.³¹

What requirements must virtual instruction program providers meet for approval by the Department of Education?

To be approved by the DOE,³² a provider must document that it:

- Is nonsectarian in its programs, admission policies, employment practices, and operations;³³
- Complies with antidiscrimination provisions;³⁴
- Locates an administrative office or offices in Florida, requires its administrative staff to be state residents, requires all instructional staff to be Florida-certified teachers under Chapter 1012, and conducts background screenings for all employees or contracted personnel using state and national criminal history records;³⁵
- Possesses prior, successful experience offering online courses to students enrolled in kindergarten through grade 12 as demonstrated by learning gains in each subject area and grade level that the provider provided for consideration as a virtual instruction program option;³⁶
- Is accredited by a regional accrediting association;³⁷
- Ensures instructional and curricular quality through detailed curriculum and student performance accountability plan for every subject and grade level that the provider intends to provide through contract with a school district, including:
 - Courses and programs that meet the standards of the International Association for K-12 Online Learning and the Southern Regional Education Board.³⁸
 - Instructional content and services that align with, and measure student attainment of, student proficiency in the Next Generation Sunshine State Standards.³⁹
 - Mechanisms that determine and ensure that a student satisfies requirements for a grade level promotion and high school graduation with a standard diploma, as appropriate;⁴⁰

²⁶ Section 1002.45(3)(b), F.S.

²⁷ Section 1002.45(3)(c), F.S.

²⁸ Section 1002.45(3)(d), F.S.

²⁹ Section 1002.45(3)(d)1., F.S.

³⁰ Section 1002.45(3)(d)2., F.S.

³¹ Section 1002.45(3)(a), (b), and (d), F.S.

³² A provider must use Form VSP-02, Virtual Instruction Program Application for Provider Approval, which is incorporated by reference in rule 6A-6.0981, F.A.C., to apply for approved status from the DOE. Form VSP-02 is available from October 1 of each year for the following school year. The deadline for filing the application for approved Virtual Instruction Program provider status is October 31. Rule 6A-6.0981(2)-(3), F.A.C.

³³ Section 1002.45(2)(a)1., F.S.

³⁴ Section 1002.45(2)(a)2., F.S.

³⁵ Section 1002.45(2)(a)3., F.S.

³⁶ Section 1002.45(2)(a)4., F.S.

³⁷ Section 1002.45(2)(a)5., F.S. Providers must be accredited by at least one of the following K-12 regional accrediting agencies, their successors or assigns: AdvancEd, Middle States Association of Colleges and Schools Commission on Elementary Schools and Commission on Secondary Schools, the New England Association of Schools and Colleges, Northwest Accredited Commission, or Western Association of Schools and Colleges. Rule 6A-6.0981(3)(b), F.A.C.

³⁸ Section 1002.45(2)(a)6.a., F.S.

³⁹ Section 1002.45(2)(a)6.b., F.S.

⁴⁰ Section 1002.45(2)(a)6.c., F.S.

- Publishes for the general public:⁴¹
 - Information and data about the curriculum of each full-time and part-time program.⁴²
 - School policies and procedures.⁴³
 - Certification status and physical location of all administrative and instructional personnel.⁴⁴
 - Hours and times of availability of instructional personnel.⁴⁵
 - Student-teacher ratios.⁴⁶
 - Student completion and promotion rates.⁴⁷
 - Student, educator, and school performance accountability outcomes;⁴⁸
- Employs instructors who meet the certification requirements for instructional staff under Florida law⁴⁹ if the provider is a Florida College System institution;⁵⁰ and
- Performs an annual financial audit of its accounts and records conducted by an independent certified public accountant.⁵¹

The DOE is required to annually provide school districts with a list of approved providers.⁵² Once a provider is approved, it retains its approved status for three years as long as the provider continues to comply with the virtual instruction program requirements. In 2011, the DOE approved one provider for kindergarten through grade 5 and one provider for grades 6-12. There are a total of six approved providers for the 2012-13 school year.⁵³

What provisions must be included in a contract between a school district and a virtual instruction program provider?

Each contract between a school district and a DOE-approved virtual instruction program provider must at a minimum include:

- A detailed curriculum plan that illustrates how services will be provided to students and how students will be measured for attainment of proficiency in the Next Generation Sunshine State Standards for each subject and grade level.⁵⁴
- A method for determining that a student satisfies the requirements for graduation, if the contract is for a full-time virtual instruction program to students enrolled in grades 9 through 12.⁵⁵
- A method for resolving conflicts among the parties.⁵⁶
- Authorized reasons for termination of the contract.⁵⁷
- A requirement that the provider be responsible for all debts of the virtual instruction program if the contract is not renewed or is terminated.⁵⁸
- A requirement that the provider comply with all virtual instruction program requirements.⁵⁹

⁴¹ A provider applying for approved Virtual Instruction Program provider status must disclose prominently on its Internet website the disclosure information pursuant to s.1002.45(2)(a)7., F.S. Rule 6A-6.0981(3)(a), F.S.

⁴² Section 1002.45(2)(a)7.a., F.S.

⁴³ Section 1002.45(2)(a)7.b., F.S.

⁴⁴ Section 1002.45(2)(a)7.c., F.S.

⁴⁵ Section 1002.45(2)(a)7.d., F.S.

⁴⁶ Section 1002.45(2)(a)7.e., F.S.

⁴⁷ Section 1002.45(2)(a)7.f., F.S.

⁴⁸ Section 1002.45(2)(a)7.g., F.S.

⁴⁹ Chapter 1012, F.S.

⁵⁰ Section 1002.45(2)(a)8., F.S.

⁵¹ Section 1002.45(2)(a)9., F.S.

⁵² Section 1002.45(2)(a), F.S.

⁵³ Email, Florida Department of Education, Division of Public Schools (Nov. 9, 2012). A list of all current providers is located on the following website: <http://www.fldoe.org/Schools/virtual-schools/DistrictVIP.asp>.

⁵⁴ Section 1002.45(4)(a), F.S.

⁵⁵ Section 1002.45(4)(b), F.S.

⁵⁶ Section 1002.45(4)(c), F.S.

⁵⁷ Section 1002.45(4)(d), F.S.

⁵⁸ Section 1002.45(4)(e), F.S.

⁵⁹ Section 1002.45(4)(f), F.S.

What are the accountability requirements for school district virtual instruction programs?

Each approved provider contracted to provide a school district virtual instruction program must participate in the statewide assessment program and in the state's education performance accountability system.⁶⁰ Each provider receives a school grade or school improvement rating, which is based upon the aggregated assessment scores of all students served by the provider statewide.⁶¹ School grades or school improvement ratings are published on the DOE Internet website.⁶²

If an approved provider receives a school grade of "D" or "F" or a school improvement rating of "Declining", the provider must file a school improvement plan for correcting low performance with the DOE. The school improvement plan must identify the causes of the low performance and propose a plan for correction and improvement.⁶³

An approved provider's contract must be terminated if the provider receives a school grade of "D" or "F" or a school improvement rating of "Declining" for two years during any consecutive four-year period, or violates the virtual instruction program provider requirements. The DOE must not approve such provider for a period of at least one year following the date of termination of the contract and until the DOE determines that the provider meets the virtual instruction program provider requirements and the provider corrects each cause of the provider's low performance.⁶⁴

How are school district virtual instruction programs funded?

School district virtual instruction programs are funded through the FEFP.⁶⁵ Full and part-time students enrolled in grades 6 through 12 are funded on a successful course or credit completion or the prescribed level of content that counts toward promotion to the next grade. Funding is only received if the course is completed and passed. Six credits equal one full-time equivalent (FTE) student. Half credit completions are included in determining a FTE student.⁶⁶ Beginning in the 2014-2015 school year, when all statewide end-of-course assessments will be administered online, the reported FTE students and associated funding of students enrolled in courses requiring passage of an end-of-course assessment must be adjusted after the students complete the end-of-course assessment.⁶⁷

Full-time students enrolled in a school district virtual instruction program are reported for funding by the district program. Part-time students enrolled in grades K through 12 are reported under their school of record for courses taken there and under the district program for virtual courses that they successfully complete. Districts may only earn one FTE per student, per school year.⁶⁸ Community college providers may not report students who are served in a school district virtual instruction program for funding under the Community College Program Fund.⁶⁹

If a district contracts with a provider, funding flows to the district and the provider is paid by the district pursuant to the terms of the contract. Districts must use FEFP funds in excess of the contracted services for the district's local instructional improvement system or other technological tools to access electronic or digital instructional materials.⁷⁰

⁶⁰ Section 1002.45(8)(a)1., F.S.

⁶¹ Section 1002.45(8)(a)2., F.S. The performance of part-time 9-12 students is not included in the provider's school grade or school improvement rating. Performance of such students is included in the nonvirtual school that provides the student's primary instruction. Section 1002.45(8)(b), F.S.

⁶² Section 1002.45(8)(a)2., F.S.

⁶³ Section 1002.45(8)(c), F.S.

⁶⁴ Section 1002.45(8)(d), F.S.

⁶⁵ Section 1002.45(7)(a), F.S.

⁶⁶ Section 1011.61(1)(c)1.b.(III) and (IV), F.S.

⁶⁷ Sections 1011.62(1)(c)1.(III) and (IV) and 1008.22(3)(g), F.S.

⁶⁸ Florida Department of Education, Office of Funding and Financial Reporting, *FTE General Instructions*
<http://www.fldoe.org/fefp/fteinstr.asp>

⁶⁹ Section 1002.45(7)(g), F.S.

⁷⁰ Section 1002.45(1)(e)2., F.S.

Where can I get additional information?

Florida Department of Education

Division of Public Schools

(850) 245-0509

<http://www.fldoe.org/Schools/virtual-schools/DistrictVIP.asp>

Florida House of Representatives

Education Committee

(850) 717-4830

<http://www.myfloridahouse.gov/>



What is the Florida Virtual School?

The Florida Virtual School (FLVS) is established for the development and delivery of online and distance learning education.¹ The FLVS is a public online school that is fully accredited by the Southern Association of Colleges and Schools (SACS) and The Commission on International and Trans-Regional Accreditation (CITA).² The FLVS provides students full-time and part-time virtual education options; and offers more than 120 courses including core subjects, world languages, electives, honors, and 15 Advanced Placement courses.³

The FLVS offers individual course enrollments to all Florida students enrolled in grades 6 through 12, including public school, private school, and home school students.⁴ FLVS also offers middle school courses for advanced elementary students and is authorized to offer elementary courses for grades K-5 students. In addition, the FLVS has partnered with Connections Academy to provide a full-time virtual education program to students statewide enrolled in kindergarten through grade 12. The Florida Virtual School Full Time (FLVS FT) program is open to any public, private or home education student in kindergarten through grade 12. School districts and virtual charter schools may also contract with FLVS to offer the FLVS FT program for their students⁵ if the student meets certain eligibility criteria.⁶

The number of half-credit course completions at the FLVS has grown steadily from 77 during 1997-98 to 314,593 during 2011-12. The following table shows the number of course completions during the last five academic years.

Academic Year	Course Completions ⁷
2007-08	116,035
2008-09	154,125
2009-10	213,926
2010-11	259,928
2011-12	314,593

¹ Section 1002.37(1)(a), F.S. FLVS began as two independent programs in Alachua and Orange Counties. The two counties partnered to establish the FLVS as a grant-based pilot project in the 1996-97 academic year. In 2000, the Legislature removed the program's pilot status and statutorily codified the school. Chapter 2000-224, L.O.F.; *see also* Florida Virtual School, *Quick Facts*, <http://www.flvs.net/areas/aboutus/Pages/QuickFactsaboutFLVS.aspx> (last visited Oct. 1, 2012).

² Florida Virtual School, *Accreditation*, <http://www.flvs.net/areas/aboutus/Pages/accreditation.aspx> (last visited Oct. 1, 2012); During 2008-09, AdvancED acquired The Commission on International and Trans-Regional Accreditation (CITA). AdvancED, *2008-09 Annual Report*, <http://www.advanc-ed.org/company-overview> (last visited Oct. 1, 2012).

³ Florida Virtual School, *Quick Facts*, <http://www.flvs.net/areas/aboutus/Pages/QuickFactsaboutFLVS.aspx> (last visited Oct. 1, 2012); *see also* Florida Virtual School, *Quick Facts*, <http://www.flvs.net/areas/aboutus/Pages/QuickFactsaboutFLVS.aspx> (last visited Sep. 10, 2012).

⁴ Florida Virtual School, *Courses - FAQs*, <http://www.flvs.net/areas/faqs/Pages/CourseFAQs.aspx> (last visited Oct. 1, 2012).

⁵ Section 1002.45, F.S.

⁶ Florida Virtual School, *Florida Virtual School Full Time*, <http://www.connectionsacademy.com/florida-virtual-school/home.aspx> (last visited Sep. 10, 2012); *see also* Florida Virtual School, *Florida Virtual School Full Time Frequently Asked Questions*, <http://www.connectionsacademy.com/florida-virtual-school/faq.aspx> (last visited Oct. 1, 2012).

⁷ Florida Virtual School, *FLVS Semester Completion History* (June 30, 2012), *available at* <http://www.flvs.net/areas/aboutus/Documents/FLVS%20Completions%20History%202011-2012.pdf>.

How is the Florida Virtual School governed?

The FLVS is governed by a board of trustees comprised of seven members appointed by the Governor to four-year staggered terms.⁸

The board is responsible for generating revenue to support the FLVS operations and enter into agreements with distance learning providers. Although the ownership of patents, trademarks, and copyrights vests with the state, the board has the full right of use and full right to retain the revenues⁹ derived from patents, copyrights, licenses, and rights or interests. The board is also responsible for:

- Administering and controlling all local school funds derived from all activities or sources.¹⁰
- Administering and maintaining personnel programs for all employees of the board of trustees and the FLVS.¹¹
- Establishing priorities for admission of students.¹²
- Establishing and distributing to all school districts and high schools in the state procedures for enrolling students in FLVS courses.¹³
- Establishing criteria defining the elements of an approved franchise.¹⁴
- Submitting to the State Board of Education forecasted and actual enrollments and credit completions for the FLVS.¹⁵
- Providing for the content and custody of student and employee personnel records.¹⁶
- Maintaining the financial records and accounts of the FLVS.¹⁷

Additionally, the FLVS board of trustees is authorized to acquire, enjoy, use, and dispose of patents, trademarks, copyrights, licenses, and rights or interests; adopt rules, policies, and procedures related to the appointment, employment, and removal of personnel; and enter into franchise agreements with Florida district school boards and establish the terms and conditions governing such agreements.¹⁸

The Commissioner of Education is required to monitor the performance of the FLVS and report the performance findings to the State Board of Education and the Legislature.¹⁹

How are the courses and delivery system designed?

All FLVS courses are delivered via the Internet. A variety of Web-based, technology-based and traditional resources are used to promote student success through virtual learning.²⁰ Students must have access to a computer and the Internet.²¹

⁸ Section 1002.37(2), F.S. The board of trustees must serve without compensation, but may be reimbursed for per diem and travel expense pursuant to s. 112.061.

⁹ Such revenues must be used to support FLVS's marketing and research and development activities to improve courseware and services to students. Section 1002.37(2)(c), F.S.

¹⁰ Section 1002.37(2)(d), F.S.

¹¹ Section 1002.37(2)(f), F.S.

¹² Section 1002.37(2)(g), F.S. Priority shall be given to students who need expanded access to courses to meet students' educational goals, such as home education students and students in inner-city and rural high schools who do not have access to higher-level courses; and students who seek accelerated access to obtain a high school diploma at least one semester early. Section 1002.37(1)(b), F.S.

¹³ Section 1002.37(2)(h), F.S.

¹⁴ Section 1002.37(2)(i), F.S.

¹⁵ FLVS board of trustees must submit enrollments and credit completions to the State Board of Education based on procedures established by the State Board of Education. Section 1002.37(2)(j), F.S.

¹⁶ Section 1002.37(2)(k), F.S.

¹⁷ Section 1002.37(2)(l), F.S.

¹⁸ Section 1002.37(2)(c), (f), and (i), F.S.

¹⁹ Section 1002.37(1)(a), F.S.

²⁰ Florida Department of Education, *Florida Public Virtual Schools: FLVS FAQs*, <http://www.fldoe.org/schools/virtual-schools/faqs.asp> (last visited Sep. 10, 2012).

²¹ Florida Virtual School, *Hardware Requirements*, <http://www.flvs.net/areas/faqs/pages/hardwarerequirements.aspx> (last visited Oct. 1, 2012).

Who is eligible to participate in the program?

FLVS courses are available tuition-free to all public, private, and home education students residing in Florida.²² Students from outside of Florida may enroll in fee-based courses through FLVS Global.²³ Current FLVS Global students reside in all 50 states and in 57 other countries worldwide.²⁴

Enrollment priority is given to students who need expanded access to courses in order to meet their educational goals, such as home education students, students in inner-city and rural high schools who do not have access to advanced courses, and students seeking accelerated access to a high school diploma at least one semester early.²⁵ School districts may not limit student access to courses offered through the FLVS.²⁶

FLVS FT must meet the obligations of a school district for public school exceptional students who are enrolled in a full-time virtual instruction program. A student is authorized for enrollment in a full-time virtual instruction program if the student's individual education plan indicates that full-time virtual instruction is appropriate for the student.²⁷

How do students earn credit through Florida Virtual School courses?

High school students earn credit toward graduation for successful completion of high-school level FLVS courses. Middle school students do not earn credits, but they progress from grade to grade by successfully completing the courses required for middle school promotion.²⁸

Florida law does not place limits on the number of credits or course completions that a student may earn through the FLVS.²⁹ For transfer purposes, credit for courses completed through the FLVS must be treated the same as courses listed in the Course Code Directory or courses offered by regionally accredited Florida public schools.³⁰

What are the credentials and availability of teachers?

The FLVS requires all of its more than 1,600 teachers to have a valid Florida teaching certificate and be certified specifically in the subject they teach.³¹ All teachers must undergo a background screening.³² The FLVS does not require teachers to be state residents, but approximately 94 percent of the school's teachers reside in the state. Of the teachers who reside outside of the state, 95 percent resided in Florida when they were initially hired.³³

Teachers are available via telephone, text, email, and instant messenger from 8:00 a.m. for 12 hours, seven days a week. Teachers prepare monthly progress reports and at least once per month speak via telephone with students and parents.³⁴

²² Section 1002.37(1)(b), F.S.

²³ Florida Virtual School, *Global School*, <http://www.flvs.net/global/Pages/Products/GlobalSchool.aspx> (last visited Sep. 10, 2012).

²⁴ Florida Virtual School, *About FLVS Global*, <http://www.flvs.net/global/Pages/about.aspx> (last visited Sep. 10, 2012).

²⁵ Section 1002.37(1)(b), F.S.

²⁶ Section 1002.37(3)(c), F.S.

²⁷ Section 1003.57(5), F.S.

²⁸ Sections 1002.37(3)(a)1.-2. and 1001.42(23), F.S.

²⁹ Sections 1002.37(3)(c) and 1001.42(23), F.S.

³⁰ Florida Department of Education, *Memorandum: Florida Virtual School as a School Choice Option*, at 4 (Jan. 8, 2009), available at <http://info.fldoe.org/docushare/dsweb/Get/Document-5250/dps-2009-007.pdf>.

³¹ Florida Department of Education, *Memorandum: Florida Virtual School as a School Choice Option*, at 1 (Jan. 8, 2009), available at <http://info.fldoe.org/docushare/dsweb/Get/Document-5250/dps-2009-007.pdf>.

³² Section 1012.56(2)(d) and (10), F.S.

³³ Testimony from President and Chief Executive Officer, Florida Virtual School, to the PreK-12 Appropriations Committee, Florida House of Representatives (Feb. 12, 2009).

³⁴ Florida Virtual School, *How does FLVS Work*, <http://www.flvs.net/Students/Pages/how-it-works.aspx> (last visited Oct. 1, 2012).

How do school districts participate in the program?

The FLVS is available to students in all 67 Florida school districts.³⁵ At the beginning of each school year, district school boards must notify parents of high school students of the opportunity and benefits of acceleration mechanisms and FLVS courses and options for early or accelerated high school graduation.³⁶ School districts must provide students at all grade levels with access to FLVS courses during and after the normal school day and through summer school enrollment.³⁷

Additionally, the FLVS may enter into franchise agreements with Florida district school boards to provide FLVS courses in grades 6-12 at the district level. The FLVS board of trustees establishes the criteria defining the elements of an approved franchise, the terms and conditions governing franchise agreements, and the performance and accountability measures for a school district franchise. The board also reports the performance of each school district franchise to the Commissioner of Education.³⁸ School districts operating an approved FLVS franchise may count full-time equivalent (FTE) students for funding purposes in the Florida Education Finance Program (FEFP).³⁹ The FLVS currently has franchise agreements with 55 school districts and 2 university lab schools.⁴⁰

How is the Florida Virtual School funded?

In 2003, the Legislature transitioned FLVS funding from a specific legislative appropriation basis to the FEFP.⁴¹ Funding for the FLVS is based on successful completion of courses. A student in grades 9 through 12 counts as a FTE student if the student successfully completes six full-credit courses that count toward the minimum number of credits required for high school graduation. Credit that a student completes in excess of the minimum required for that student to graduate from high school is not eligible for funding. For a student in kindergarten through grade 8, one FTE student equals one student who successfully completes six courses or the prescribed level of content that counts toward promotion to the next grade.⁴²

A student who completes less than six credits is a fraction of a FTE student. Half-credit completions must be included in determining a FTE student.⁴³

Beginning in the 2014-2015 school year, when all statewide end-of-course assessments will be administered online, the reported FTE students and associated funding of students enrolled in courses requiring passage of an end-of-course assessment must be adjusted after the students complete the end-of-course assessment. Funding must not be adjusted for home education program students who choose to not take an end-of-course assessment.⁴⁴ NOTE: HB 7059 requires an adjustment to be made for all schools, including virtual schools, to be made in the fourth year of implementation of the EOC. This means that an adjustment will be made for the Algebra I EOC in 2013-14.

Public school students receiving full-time instruction in kindergarten through grade 12 by the FLVS must take all statewide assessments. Public school students receiving part-time instruction by the FLVS in courses requiring statewide end-of-course assessments must take all end-of-course statewide assessments. All statewide assessments must be taken at the school to which the student is assigned according to district

³⁵ Section 1001.42(23), F.S.; see also Florida Virtual School, *Quick Facts*, <http://www.flvs.net/areas/aboutus/Pages/QuickFactsaboutFLVS.aspx> (last visited Sep. 11, 2012).

³⁶ Section 1003.02(1)(i), F.S.

³⁷ Section 1001.42(23), F.S.

³⁸ Section 1002.37(2)(i), F.S. Commissioner-approved franchises of the FLVS are subject to the requirements of s. 1002.37, F.S., relating to the Florida Virtual School, unless the franchise is established as part of a school district virtual instruction program. 1002.45(1)(c)1., F.S. Need DOE to verify highlighted text.

³⁹ Section 1002.37(4), F.S.

⁴⁰ Florida Department of Education, *Florida Public Virtual Schools: List of District Franchises*, <http://www.fldoe.org/schools/virtual-schools/district-franchises.asp> (last visited Sep. 11, 2012). Need DOE to verify data.

⁴¹ Section 19, ch. 03-391, L.O.F.

⁴² Section 1002.37(3)(a)1. and 2., F.S.

⁴³ Section 1002.37(3)(a)1. and 2., F.S.

⁴⁴ Sections 1002.37(3)(a)3., 1008.22(3)(g), and 1011.61(1)(c)1.b.(V), F.S.

school board attendance areas. A school district must provide the student access to the school's testing facilities.⁴⁵

The combined total of all FTE reported by both the school district and the FLVS must not exceed 1.0 FTE for students receiving part-time instruction in kindergarten through grade 5 and students receiving full-time instruction in kindergarten through grade 12 from the FLVS.⁴⁶

Historical funding amounts for the FLVS in the FEFP are below:

FY	Number of Unweighted FTE	Amount/FTE	Total Funds (includes Categorical Funds)
2003-04 ⁴⁷	1,764.23	\$4,859.02	\$8,572,428
2004-05 ⁴⁸	2,791.72	\$5,191.43	\$14,493,007
2005-06 ⁴⁹	4,684.43	\$5,307.03	\$24,860,407
2006-07 ⁵⁰	6,865.90	\$6,300.27	\$43,257,056
2007-08 ⁵¹	9,686.52	\$6,467.92	\$62,651,654
2008-09 ⁵²	12,907.92	\$6,296.75	\$81,277,949
2009-10 ⁵³	18,551.07	\$5,627.13	\$104,389,203
2010-11 ⁵⁴	22,655.60	\$5,186.42	\$117,501,544
2011-12 ⁵⁵	27,983.01	\$4,818.80	\$134,844,645

The FLVS is authorized to generate supplemental revenue from a variety of sources, including alumni associations, foundations, parent-teacher associations, and booster associations.⁵⁴ In addition, FLVS may also receive funds from grants and donations.⁵⁵

⁴⁵ Section 1002.37(9), F.S.

⁴⁶ Section 1002.37(8)(b), F.S.

⁴⁷ Florida Department of Education - Office of Funding and Financial Reporting, *Florida Education Finance Program 2003-04 Final Calculation* (Dec. 9, 2004), available at <http://info.fldoe.org/docushare/dsweb/Get/Document-2660/05-14a.pdf>.

⁴⁸ Florida Department of Education - Office of Funding and Financial Reporting, *Florida Education Finance Program 2004-05 Final Calculation* (Dec. 8, 2005), available at <http://info.fldoe.org/docushare/dsweb/Get/Version-3597/200405FinalFEFPCalc.pdf>.

⁴⁹ Florida Department of Education - Office of Funding and Financial Reporting, *Florida Education Finance Program 2005-06 Final Calculation* (Nov. 7, 2006), available at <http://info.fldoe.org/docushare/dsweb/Get/Document-4098/coefo07-10-1.pdf>.

⁵⁰ Florida Department of Education - Office of Funding and Financial Reporting, *Florida Education Finance Program 2006-07 Final Calculation* (Nov. 9, 2007), available at <http://www.fldoe.org/feffp/pdf/0607finalcalcparta.pdf>.

⁵¹ Florida Department of Education - Office of Funding and Financial Reporting, *Florida Education Finance Program 2007-08 Final Calculation* (Dec. 12, 2008), available at <http://www.fldoe.org/feffp/pdf/07-08FEFP-FinalCalc-1.pdf>.

⁵² Florida Department of Education - Office of Funding and Financial Reporting, *Florida Education Finance Program 2008-09 Final Calculation* (Dec. 4, 2009), available at <http://www.fldoe.org/feffp/pdf/0809finalcalc-1.pdf>.

⁵³ Florida Department of Education - Office of Funding and Financial Reporting, *Florida Education Finance Program 2009-10 Final Calculation* (Nov. 19, 2010), available at <http://www.fldoe.org/feffp/pdf/09-10-final.pdf>.

⁵⁴ Florida Department of Education - Office of Funding and Financial Reporting, *Florida Education Finance Program 2010-2011 Final Calculation* (Oct. 28, 2011), available at <http://www.fldoe.org/feffp/pdf/10-11-final-part1.pdf>.

⁵⁵ Florida Department of Education - Office of Funding and Financial Reporting, *Florida education Finance Program 2011-2012 Fourth Quarter Calculation* (May 7, 2012) available at <http://www.fldoe.org/feffp/pdf/11-12-fourth-part1.pdf>.

⁵⁶ Section 1002.37(2)(e), F.S.

⁵⁷ Section 1002.37(3)(h), F.S.

Where can I get additional information?

The Florida Virtual School

2145 Metrocenter Blvd., Suite 200
Orlando, FL 32835
(407) 513-3587
<http://www.flvs.net>

Florida Department of Education

Division of Public Schools
(850) 245-0509
<http://www.fldoe.org/Schools/virtual-schools/>

Florida House of Representatives

Education Committee
(850) 717-4830
<http://www.myfloridahouse.gov/>



John M. McKay Scholarships for Students with Disabilities Program

Education Committee

Last Updated: August 2012

What is the John M. McKay Scholarships for Students with Disabilities Program?

The John M. McKay Scholarships for Students with Disabilities Program (McKay Scholarship Program) provides scholarships for eligible students with disabilities to attend an eligible public or private school of their choice. Students with disabilities include K-12 students who are documented as having an intellectual disability; a speech impairment; a language impairment; a hearing impairment, including deafness; a visual impairment, including blindness; a dual sensory impairment; an orthopedic impairment; an other health impairment; an emotional or behavioral disability; a specific learning disability, including but not limited to, dyslexia, dyscalculia, or developmental aphasia; a traumatic brain injury; a developmental delay; or autism spectrum disorder.¹

What options are available to a student with disabilities under the McKay Scholarship Program?

The parent of an eligible student with disabilities may choose from several options:

- Attendance at another public school within the school district;²
- Attendance at an eligible public school in an adjacent school district that has space and provides the services identified in the student's Individual Educational Plan (IEP)³ or 504 Accommodation Plan (504 Plan),⁴ unless the 504 Plan has a duration of six months or less;⁵ or
- Attendance at an eligible private, sectarian or nonsectarian school.⁶

What are the procedural and student eligibility requirements for the McKay Scholarship Program?

General Requirements

In order to receive a McKay Scholarship to attend a public or private school, a parent must first file a notice of intent with the Department of Education (DOE) by completing an online application using DOE's website. A notice of intent must be filed prior to withdrawing a student from public school. Once a completed notice of intent has been filed, the parent will receive immediate online confirmation, which includes a notice of potential

¹ Section 1002.39(1), F.S.

² Section 1002.39(5)(a)1., F.S.; rule 6A-6.0970(2), F.A.C.

³ An IEP is developed for students with disabilities ages three through 21. The IEP team must include the parent; at least one Exceptional Student Education (ESE) teacher of the child; at least one general education teacher of the child; a representative of the school district, i.e., a local educational agency representative and when appropriate, the student with the disability. The IEP team develops annual goals, both academic and functional, for the student based on his or her strengths, needs, and the effect of the disability. Once the goals are determined, the team decides what type of special education services and supplementary aids the student needs and how often and where the services should be provided, e.g., in the general education class or in the ESE classroom. 34 C.F.R. s. 300.320 and .321; rule 6A-6.03028(3), F.A.C.

⁴ A 504 Plan is formulated by a team of parents, teachers, and other staff members for a student identified as an individual with a disability under the Rehabilitation Act. The Rehabilitation Act does not list specific illnesses due to the difficulty of creating an all-inclusive list of impairments. Section 504 of the Rehabilitation Act defines disability as any physical or mental impairment that "substantially limits one or more major life activities". The 504 Plan provides a description of the accommodations that the school will provide a student. Generally, a student with a 504 Plan does not have an IEP or a matrix of services. Section 504 of the Rehabilitation Act of 1973; Florida Department of Education, *A Parent and Teacher Guide to Section 504: Frequently Asked Questions*, <http://www.fldoe.org/eae/pubxhome.asp> (last visited May 14, 2012).

⁵ Section 1002.39(5)(e), F.S.; rule 6A-6.0970(2), F.A.C.

⁶ Section 1002.39(2) and (8), F.S.

eligibility or ineligibility. If a student is deemed ineligible to participate, the reason for the ineligibility and instructions for contacting the school district to address the ineligibility will be provided.⁷

Private School Eligibility

A parent of a student with a disability may request and receive a McKay Scholarship to attend a private school if the student has:

- Received specialized instructional services under the Voluntary Prekindergarten Education Program⁸ during the previous school year and the student has a current IEP developed by the local school board in accordance with rules of the State Board of Education for the McKay Scholarship Program or a 504 Plan has been issued under s. 504 of the Rehabilitation Act of 1973;⁹
- Spent the prior school year in attendance at a Florida public school or the Florida School for the Deaf and the Blind;¹⁰ or
- Been enrolled and reported by a school district for funding, during the October and February Florida Education Finance Program (FEFP) surveys, in any of the 5 years prior to the 2010-11 FY; has a current IEP developed by the district school board in accordance with rules of the state board for the McKay Scholarship Program no later than June 30, 2011; and receives a first-time McKay scholarship for the 2011-12 academic year.¹¹

The term “prior school year in attendance”¹² means the student was enrolled and reported by:

- A school district for funding during the preceding October and February FEFP surveys in kindergarten through grade 12, which includes time spent in a Department of Juvenile Justice commitment program if funded under the FEFP;¹³
- The Florida School for the Deaf and the Blind during the preceding October and February student membership surveys in kindergarten through grade 12;¹⁴ or
- A school district for funding during the preceding October and February FEFP surveys, was at least 4 years old when the student was enrolled and reported, and was eligible for services under the school attendance requirements for prekindergarten aged children with disabilities.¹⁵

However, a dependent child of a member of the United States Armed Forces who transfers to a Florida school from out of state or from a foreign country due to a parent’s permanent change of station orders is exempt from the above-described requirements, but must meet all other eligibility requirements to participate in the McKay Scholarship Program.¹⁶

⁷ Rule 6A-6.0970(1)(a), F.A.C.

⁸ In 2010, the Legislature established a specialized instructional services program for children with disabilities as an option under the Voluntary Prekindergarten Education (VPK) Program. Beginning with the 2012-13 academic year, a child who has a disability is eligible for specialized instructional services if the child is eligible for the VPK Program and has a current individual educational plan (IEP) developed by the district school board. Sections 1002.66, F.S.; *see also* s. 1002.53, F.S.

⁹ Section 1002.39(2)(a)1., F.S.

¹⁰ Section 1002.39(2)(a)2., F.S.

¹¹ Section 1002.39(2)(a)3., F.S.

¹² Section 1002.39(2)(a)2., F.S.

¹³ Section 1002.39(2)(a)2.a., F.S.

¹⁴ Section 1002.39(2)(a)2.b., F.S.

¹⁵ Section 1002.39(2)(a)2.c., F.S. Although not required to attend a public school, children with disabilities who have attained the age of 3 years are eligible for admission to public special education programs and related services. s. 1003.21(1)(e), F.S.

¹⁶ Section 1002.39(2)(a), F.S. (flush left provision at the end of the paragraph).

Public School Eligibility

A parent of a student with a disability may request and receive a McKay Scholarship for the child to enroll in another public school, if the student meets the prior school year in attendance requirements.¹⁷ The student must be a current public school student with a disability and an IEP or a 504 Plan, unless the 504 Plan has a duration of six months or less. If the student is not a current public school student, the parent must have filed a notice of intent while the student was in public school and was a student with a disability and an IEP or a 504 Plan, unless the 504 Plan has a duration of six months or less, at the time he or she left public school.¹⁸

Who is not eligible for a McKay Scholarship?

A student is not eligible for a McKay Scholarship while he or she is:

- Enrolled in a Department of Juvenile Justice commitment program¹⁹ or enrolled in the Florida School for the Deaf and the Blind;²⁰
- Receiving a Florida Tax Credit Scholarship;²¹
- Receiving an Opportunity Scholarship;²²
- Participating in a home education program²³ or private tutoring program;²⁴
- Participating in a state-funded virtual school, correspondence school, or distance learning program unless the participation is limited to no more than two courses per school year;²⁵
- Not receiving regular and direct contact with a classroom teacher at the private school's physical location;²⁶ or
- Issued a temporary 504 plan, which is valid for 6 months or less.²⁷

What are the parent and the student responsibilities for participation in the McKay Scholarship Program at a private school?

The parent of a scholarship student must:

- Select a private school and apply for admission.²⁸
- Request the scholarship at least 60 days before the date of the first scholarship payment.²⁹
- Transport the student to the assessment site if the student participates in statewide assessments.³⁰
- Restrictively endorse the scholarship warrant upon receipt to the private school and may not designate any entity or individual associated with the participating private school as the parent's attorney-in-fact to endorse the warrant.³¹

The student must maintain attendance at the school throughout the school year, unless excused by the school for illness, or other good cause. Each parent and student must comply with the private school's published policies.³²

¹⁷ Section 1002.39(5)(a)1., F.S.; rule 6A-6.0970(2), F.A.C.

¹⁸ Section 1002.39(1), F.S.; rule 6A-6.0970(1)(b)3., F.A.C.

¹⁹ Section 1002.39(3)(a), F.S.

²⁰ Section 1002.39(3)(g), F.S.

²¹ Section 1002.39(3)(b), F.S.

²² Section 1002.39(3)(c), F.S.; *see also* s. 1002.38, F.S.

²³ Section 1002.39(3)(d), F.S.; *see also* s. 1002.01(1), F.S.

²⁴ Section 1002.39(3)(e), F.S.; *see also* s. 1002.43, F.S.

²⁵ Section 1002.39(3)(f), F.S.

²⁶ Section 1002.39(3)(h), F.S.; rule 6A-6.003315(1)(c) and (d), F.A.C.

²⁷ Section 1002.39(3)(i), F.S.

²⁸ Section 1002.39(9)(a), F.S.

²⁹ Section 1002.39(9)(b), F.S. If the student is accepted by the private school pending the availability of a space for the student, the parent must notify DOE 60 days prior to the first scholarship payment and before entering the private school in order to be eligible for the scholarship when a space becomes available. Section 1002.39(5)(d), F.S.

³⁰ Section 1002.39(9)(e), F.S.

³¹ Section 1002.39(9)(f), F.S.

What are the school district's responsibilities under the McKay Scholarship Program?

The school district must:

- Notify parents by April 1 of each year and within 10 days of the student's IEP meeting or issuance of a 504 Plan of all educational options under the McKay Scholarship Program and of the availability of DOE's telephone hotline and website for additional information on the program.³³
- Complete a matrix of services³⁴ if the student does not have one.³⁵ If the student currently has a matrix of services, the district may only modify it to correct a technical, typographical, or calculation error.³⁶
- Provide notification to parents of the availability of a reevaluation for the student's disability at least every three years.³⁷
- Provide locations and times for all state assessments to parents who request that the student take statewide assessments.³⁸
- Report all students who are attending a private school under the program.³⁹

What criteria must a private school meet to be eligible to participate in the McKay Scholarship Program?

Participation in the McKay Scholarship Program is open to sectarian and nonsectarian private schools that:

- Comply with all requirements for a private school participating in state school choice scholarship programs.⁴⁰
- Annually provide the parent with a written explanation of the student's progress.⁴¹
- Cooperate with a scholarship student whose parent chooses to have the student participate in the statewide assessments.⁴²
- Submit all documentation to DOE for a student's participation at least 30 days prior to the first quarterly scholarship payment. A student is not eligible to receive a quarterly scholarship payment if the private school fails to meet this deadline.⁴³
- Maintain a physical location in Florida where a scholarship student regularly attends classes.⁴⁴

Failure to meet these requirements, as determined by DOE, constitutes a basis for a private school to become ineligible to participate in the McKay Scholarship program.⁴⁵

³² Section 1002.39(9)(c) and (d), F.S.

³³ Section 1002.39(5)(a)1., F.S.

³⁴ The Matrix of Services is the document that is used to determine the cost factor for selected exceptional education students based on the decision made by the IEP team. In the matrix, five domains (curriculum and learning environment, social or emotional behavior, independent functioning, health care, and communication) are used to group the types of services. Five levels are used to describe the nature and intensity of the services within each domain. A Matrix of Services is completed using information found in the student's IEP by an individual or group of individuals familiar with the student. It should reflect the special services to be provided to the student as documented by the IEP. For all exceptional education students at Support Levels 4 and 5 (254-255) a new matrix must be completed at initial placement and at least once every three years thereafter. Additionally districts must ensure that matrixes reflect current services. If services change as a result of an IEP team decision, a new matrix must be completed. Email, Florida Department of Education, Bureau of Exceptional Student Services, (Nov.12, 2012).

³⁵ Section 1002.39(5)(b)1., F.S.; rule 6A-6.0970(4), F.A.C.

³⁶ Section 1002.39(5)(b)2.d., F.S.; rule 6A-6.0970(4)(a), F.A.C.

³⁷ Section 1002.39(5)(c), F.S.

³⁸ Section 1002.39(5)(f), F.S.

³⁹ Section 1002.39(10)(c)1., F.S. McKay Scholarship Program students must be reported separately from other students reported for purposes of the Florida Education Finance Program (FEFP). Section 1002.39(5)(e), F.S.

⁴⁰ Section 1002.39(8)(a), F.S.; rules 6A-6.03315 and 6A-6.0970(6), F.A.C. Accountability requirements for private schools participating in the state school choice scholarship programs are listed in s. 1002.421, F.S.

⁴¹ Section 1002.39(8)(c)1., F.S.

⁴² Section 1002.39(8)(c)2., F.S.

⁴³ Section 1002.39(8)(b), F.S.

⁴⁴ Section 1002.39(8)(d), F.S.

⁴⁵ Section 1002.39(8), F.S. (flush left provision at the end of the subsection).

Are parents or school districts responsible for transporting McKay Scholarship students to and from school?

If the parents choose the private school option, then the parents are responsible for the student's transportation.⁴⁶ The school district is responsible for providing student transportation to the public school selected by the parent if the school selected is consistent with the school board's choice plan. The parents are responsible for providing transportation to a public school within the school district that is inconsistent with the school board's choice plan.⁴⁷ If a student attends a public school in an adjacent district, the parents are responsible for providing transportation.⁴⁸

What are the Department of Education's obligations for administering the McKay Scholarship Program?

The DOE must:

- Provide information to parents and private schools about participation in the McKay Scholarship Program via a toll-free hotline.⁴⁹
- Determine, in cooperation with the school district, student eligibility for a McKay Scholarship.⁵⁰
- Annually verify the eligibility of private schools.⁵¹
- Notify the private school participating in the McKay Scholarship Program of the amount of a scholarship within 10 days after receiving the school district's notification of a student's matrix level.⁵²
- Establish a process that allows for individuals to notify DOE of violations of state law relating to program participation.⁵³
- Annually receive and retain from every participating private school a notarized, sworn compliance statement certifying compliance with state law.⁵⁴
- Cross-check the list of participating scholarship students with public school enrollment lists prior to each scholarship payment to avoid duplication.⁵⁵
- Conduct no more than three random site visits annually to private schools participating in the program and no more than one random site visit each year to the same private school.⁵⁶
- Annually, by December 15, report to the Governor, the President of the Senate, and the Speaker of the House of Representatives DOE's actions in implementing accountability standards and any substantiated allegations or violations of law or rule by an eligible private school concerning the enrollment and attendance of students, the credentials of teachers, background screening of teachers, and teachers' fingerprinting results, and the corrective action taken by DOE.⁵⁷

⁴⁶ See s. 1002.39(5), F.S.

⁴⁷ Section 1002.39(5)(a)3., F.S.

⁴⁸ Section 1002.39(5)(e), F.S.

⁴⁹ Section 1002.39(6)(a), F.S.

⁵⁰ Rule 6A-6.0970(1)(b), F.A.C.

⁵¹ Section 1002.39(6)(b), F.S.

⁵² Section 1002.39(5)(b)2.c., F.S.

⁵³ Section 1002.39(6)(c), F.S.; rule 6A-6.0970(8), F.A.C.

⁵⁴ Section 1002.39(6)(d), F.S.; rule 6A-6.03315, F.A.C.

⁵⁵ Section 1002.39(6)(e), F.S.

⁵⁶ Section 1002.39(6)(f)1., F.S. The purpose of the site visits is solely to verify the information reported by the schools concerning the enrollment and attendance of students, the credentials of teachers, background screening of teachers, and teachers' fingerprinting results. *Id.*

⁵⁷ Section 1002.39(6)(f)2., F.S.

What authority does the Commissioner of Education have to enforce private school compliance with the laws governing the McKay Scholarship Program?

The Commissioner of Education has the authority to:

- Deny, suspend, or revoke a private school's participation in the McKay Scholarship Program and to take other action as necessary to ensure compliance with the laws governing private schools participating in the program.⁵⁸
- Deny, suspend, or revoke a private school's participation in the McKay Scholarship Program if the commissioner determines that an owner or operator of the private school is operating or has operated an educational institution in Florida or in another state or jurisdiction in a manner contrary to the health, safety, or welfare of the public.⁵⁹
- Immediately suspend payment of scholarship funds if there is probable cause to believe that there is an imminent threat to the health, safety, and welfare of the students or if there is fraudulent activity on the part of the private school.⁶⁰

How is a McKay Scholarship payment made to a private school?

Upon receiving proper documentation from DOE, the Chief Financial Officer must make the scholarship payments in four equal installments. Scholarship payments must be issued on or before September 1, November 1, February 1, and April 1. The DOE is responsible for verifying the student's admission to, and continued enrollment and attendance at, the private school.⁶¹

Each payment must be made by individual warrant payable to the student's parent and mailed by DOE to the private school. The parent must restrictively endorse the warrant to the private school.⁶² Subsequent to each payment, DOE must request a sample of endorsed warrants from the Department of Financial Services. The DOE must review the samples and confirm compliance with endorsement requirements.⁶³

⁵⁸ Section 1002.39(7)(a), F.S.; rule 6A-6.0970(7), F.A.C.

⁵⁹ Section 1002.39(7)(a), F.S.

⁶⁰ Section 1002.39(7)(c), F.S.

⁶¹ Section 1002.39(10)(e), F.S.; rule 6A-6.0970(5), F.A.C.

⁶² Section 1002.39(10)(e), F.S.

⁶³ Section 1002.39(10)(f), F.S.

What is the award amount for a McKay Scholarship to a private school?

The scholarship amount is the lesser of the FEFP funding amount the student would receive at his or her assigned public school or the amount of the private school's tuition and fees.⁶⁴

McKay Scholarship Annual Funding⁶⁵			
Academic Year	Total Funding	Students	Scholarship Award
2002-03	\$ 53 million	9,130	\$6,769
2003-04	\$81.7 million	13,739	\$6,814
2004-05	\$97.2 million	15,910	\$6,835
2005-06	\$107.7 million	17,300	\$6,926
2006-07	\$119.1 million	18,273	\$7,206
2007-08	\$131.3 million	19,852	\$7,295
2008-09	\$133.8 million	20,530	\$7,240
2009-10	\$138.7 million	20,926	\$7,144
2010-11	\$148.5 million	22,198	\$7,209
2011-12	\$151.3 million	24,194	\$6,849

Where can I get additional information?

Florida Department of Education

Office of Independent Education & Parental Choice

(850) 245-0502

Toll-Free Information Hotline: (800) 447-1636

www.floridaschoolchoice.org

Florida House of Representatives

Education Committee

(850) 717-4830

<http://www.myfloridahouse.gov>

⁶⁴ Section 1002.39(10)(b), F.S.

⁶⁵ Florida Department of Education, Office of Independent Education & Parental Choice, *Fast Facts & Program Statistics, McKay Scholarship Program*, (2012), available at http://www.floridaschoolchoice.org/Information/McKay/files/Fast_Facts_McKay.pdf. The Florida Department of Education provides quarterly reports on the McKay Scholarship Program, which contains private school and student statistics for the September 2011, November 2011, February 2012, and June 2012 payment periods of the 2011-2012 school year. Florida Department of Education, Office of Independent Education & Parental Choice, *John M. McKay, Scholarship Program, June Quarterly Report 2012*, available at, http://www.floridaschoolchoice.org/Information/McKay/quarterly_reports/mckay_report_june2012.pdf.



Opportunity Scholarship Program (OSP)

Education Committee

Last Updated: August 2012

What is the Opportunity Scholarship Program?

The Opportunity Scholarship Program (OSP) is a school choice program created by the Legislature in 1999 as part of the A+ Education Plan.¹ The OSP provides scholarships to students who are enrolled in or assigned to a public school that has earned a school grade of "F" or three consecutive school grades of "D" to attend a higher-performing public school² within the district or in an adjacent school district that has space available.³ The OSP was created to provide enhanced opportunities for students to gain the knowledge and skills necessary for postsecondary education, a career education, or the world of work.⁴

Who is eligible for an Opportunity Scholarship?

A public school student is eligible for an Opportunity Scholarship if one of the following criteria is met:

- The student spent the prior school year in attendance at a public school that earned a school grade of "F" or three consecutive school grades of "D".⁵
- The student has been in attendance elsewhere in the public school system and has been assigned to a school for the next year that earned a school grade of "F" or three consecutive school grades of "D".⁶
- The student has been notified that he or she has been assigned to a school for the next school year that earned a school grade of "F" or three consecutive school grades of "D".⁷

How do I know if my child is eligible for an Opportunity Scholarship?

The school district must timely notify the parent of each student enrolled in or assigned to an OSP eligible school⁸ of the opportunity to enroll the student in a higher-performing school within the district and of the opportunity to enroll the student in a higher-performing school in an adjacent school district that has space available.⁹

Elementary and middle schools receive their school grade at the end of the school year and prior to the start of the following school year. The school district must notify parents of each student enrolled in or assigned to an OSP eligible school of the opportunity to transfer to a higher-performing elementary or middle school no later than 15 calendar days after the district receives notification. High schools receive their school grade the following school year. After receiving notification of a high school's grade, the school district must notify parents of each student enrolled in or assigned to an OSP eligible school of the opportunity to transfer to a higher-performing high school no later than 30 calendar days prior to the start of the next school year.¹⁰

¹ Sections 1-4, ch. 99-398, L.O.F.

² A higher-performing school is defined as a public school that has received a school grade of "C" or higher. Rule 6A-6.0950(1)(c), F.A.C.

³ Section 1002.38(2) and (3), F.S.

⁴ Section 1002.38(1), F.S.

⁵ Section 1002.38(2)(a)1., F.S.

⁶ Section 1002.38(2)(a)2., F.S.

⁷ Section 1002.38(2)(a)3., F.S. The Opportunity Scholarship Program is not applicable to a student who is enrolled in a school operating for the purpose of providing educational services to youth in Department of Juvenile Justice commitment programs. s. 1002.38(2)(b), F.S.

⁸ See text accompanying notes 5-7.

⁹ Section 1002.38(3)(a), F.S.; rule 6A-6.0950(3), F.A.C.

¹⁰ Rule 6A-6.0950(3), F.A.C.

What are the options available to a student under the Opportunity Scholarship Program?

A public school student may stay at his or her assigned school or may choose the option to attend a higher-performing public school within the district¹¹ or a higher-performing public school in another school district in the state, as long as space is available.¹²

Does the Opportunity Scholarship Program provide for transportation?

Yes. The school district must offer a parent an opportunity to enroll the student in a higher-performing public school within the district and provide transportation.¹³ However, if a parent chooses to enroll the student in a higher-performing public school in another district that has available space, the parent is responsible for providing transportation.¹⁴

How long does an Opportunity Scholarship last?

For purposes of continuity of educational choice, the Opportunity Scholarship must remain in force until the student graduates from high school.¹⁵

How many Opportunity Scholarships are being utilized in Florida?

The table below shows the number of Opportunity Scholarships provided to enrolled students during the 2006-07 through 2011-12 academic years.

Academic Year	OSP Students Enrolled
2006-07	1,315
2007-08	1,305
2008-09	1,280
2009-10	1,431
2010-11	1,335
2011-12	4,424
Total	11,090

For the 2011-12 academic year, 32 public schools in 14 school districts earned a school grade of “F” or three consecutive school grades of “D”. Students who were enrolled in these schools during the 2011-12 academic year or who are assigned to these schools for the 2012-13 academic year are eligible to participate in the OSP for the 2012-13 academic year.¹⁶

What are the demographics of students who benefited from the Opportunity Scholarship Program during 2011-12 academic year?

A total of 4,424 students participated in the OSP for the 2011-12 school year. Of those students, African-American students were among the largest population to participate at 60%, followed by white students at 18%, Hispanic/Latino students at 17%, and others at 4%.¹⁷

¹¹ Section 1002.38(3)(a)2., F.S.

¹² Section 1002.38(3)(b), F.S.

¹³ Section 1002.38(3)(e), F.S., authorizes districts to use state categorical transportation funds or state-appropriated public school choice incentive funds for transportation.

¹⁴ Section 1002.38(3)(b), F.S.

¹⁵ Section 1002.38(2)(b), F.S.

¹⁶ Florida Department of Education, Office of Independent Education & Parental Choice, *2012-13 OPS Eligible Schools (2012)*, available at http://www.floridaschoolchoice.org/Information/OSP/files/2012-13_Eligible_Schools.pdf.

¹⁷ Florida Department of Education, Office of Independent Education & Parental Choice, *Opportunity Scholarship Program Fast Facts & Program Statistics*, at 2 (2012), available at http://www.floridaschoolchoice.org/Information/OSP/files/Fast_Facts_OSP.pdf.

Of the students that enrolled in the OSP during the 2011-12 academic year, 59% of the students were eligible for free lunch and 8% were eligible for reduced price lunch.¹⁸

Where can I get additional information?

Florida Department of Education

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Toll-Free Information Hotline: (800) 447-1636

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Florida House of Representatives

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<http://www.myfloridahouse.gov>

¹⁸ *Id.*



What are instructional materials?

“Instructional materials” are:

Items having intellectual content that by design serve as a major tool for assisting in the instruction of a subject or course. These items may be available in bound, unbound, kit, or package form and may consist of hardbacked or softbacked textbooks, electronic content, consumables, learning laboratories, manipulatives, electronic media, and computer courseware or software. A publisher or manufacturer providing instructional materials as a single bundle shall also make the instructional materials available as separate and unbundled items, each priced individually. A publisher may also offer sections of state-adopted instructional materials in digital or electronic versions at reduced rates to districts, schools, and teachers.¹

Funding for instructional materials is provided annually in the General Appropriations Act. Legislation enacted in 2013 provides each school district the option of procuring instructional materials through a state adoption process or implementing its own program for the review, approval, adoption, and purchase of instructional materials.² School districts that participate in the state instructional materials adoption process must procure instructional materials for each content area every five years, with exceptions for content areas that require more frequent revision. The content areas up for adoption rotate each year.³ State reviewers evaluate instructional materials for alignment with the applicable Next Generation Sunshine State Standards (NGSSS) and recommend materials for inclusion on a state-adopted list.⁴

School districts that choose to purchase their instructional materials through the state adoption process must expend a portion of their state funding to purchase materials on the state-adopted list. School districts that implement their own instructional materials program are not required to purchase instructional materials on the state-adopted list or follow the same review cycle used for state instructional materials adoption.⁵

What requirements apply to a school district's use of state instructional materials funds?

School districts that purchase instructional materials through the state adoption process must purchase instructional materials in the first three years of the effective date of the adoption cycle.⁶ By FY 2015-16, each school district that purchases instructional materials through the state adoption process must use at least 50 percent of the funds allocated for instructional materials to purchase digital or electronic instructional materials on the state-adopted list.⁷ The remainder of the funds may be used to purchase instructional materials not on the state-adopted list, but must be used for the purchase of instructional materials or other items having intellectual content which assist in the instruction of a subject or course. These items may be available in bound, unbound, kit, or package form and may include hardbacked or softbacked textbooks, electronic content, and replacements for items which were part of previously purchased instructional materials, consumables, learning laboratories, manipulatives, electronic media, computer courseware or software, and

¹ Section 1006.29(2), F.S.

² Section 2, ch. 2013-237, L.O.F., *codified at* s. 1006.283, F.S.; *see* part I, subpart F., ch. 1006, F.S.

³ Sections 1006.29(1) and 1006.36, F.S.

⁴ Sections 1006.29(1)(b) and 1006.31(2), F.S.

⁵ Sections 1006.283 and 1006.40, F.S.

⁶ Section 1006.40(2), F.S.

⁷ Section 1006.40(3)(a), F.S.

other commonly accepted instructional tools as prescribed by district school board rule.⁸ A school district may also use the remainder of funds for the repair and renovation of textbooks and library books.⁹

One hundred percent of the state instructional materials funds used for kindergarten and 75 percent of the state instructional materials funds used for first grade may be spent to purchase materials that are not on the state-adopted list.¹⁰

School districts that implement their own instructional materials program must expend up to 50 percent of instructional materials funds on digital or electronic materials by FY 2015-16; however, they are not required to purchase instructional materials on the state-adopted list. The remaining funds must be spent on instructional materials; however, unlike districts that purchase instructional materials through the state adoption process, such districts have full discretion to determine the types of materials purchased.¹¹

For all school districts, funds allocated to purchase instructional materials may only be used for other classroom expenditures or the purchase of hardware for student instruction when the district school board finds and declares in a resolution that the funds received for instructional materials are urgently needed to maintain school board specified academic classroom instruction.¹²

The following chart shows the funding history of instructional materials since FY 2009-10:

Instructional Materials Funding History	
Fiscal Year	Amount
2009-10 ¹³	\$216,031,121
2010-11 ¹⁴	\$216,918,478
2011-12 ¹⁵	\$209,240,737
2012-13 ¹⁶	\$211,665,913
2013-14 ¹⁷	\$217,277,372

⁸ Section 1006.40(4), F.S.

⁹ Section 1006.40(3)(b), F.S.

¹⁰ Section 1006.40(3)(c), F.S.

¹¹ Section 1006.40(3)(a), F.S.

¹² Section 1011.62(6)(b)5., F.S. The expenditure of funds for other classroom expenditures or for the purchase of hardware for student instruction may only occur if the school district has purchased all of the instructional materials necessary to provide updated materials aligned to the NGSSS for that fiscal year. Purchases may not be made before March 1. The funds available after March 1 may be used to purchase hardware for student instruction. *Id.*

¹³ Specific Appropriations 5A, s. 1 and 76, s. 2, ch. 2009-81, L.O.F. Funding for FY 2009-10 includes \$30.3 million for education technology from the federal American Recovery and Reinvestment Act of 2009 appropriated through the state's 2009-10 General Appropriations Act. The Department of Education is directed to implement a technology grant program for school districts to demonstrate the use of technology in teacher professional development and student instruction in science, technology, engineering, and mathematics content areas. The appropriation stipulated that the student portion should incorporate the use of classroom laptops and personal learning devices that are mobile and able to extend learning beyond the classroom day and the teacher portion should combine the use of laptops and personal learning devices and should include the development and delivery of professional development linked to the newly adopted math and science standards. Specific Appropriation 100, s. 2, ch. 2009-81, L.O.F.; *see also* American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5 (Feb. 17, 2009).

¹⁴ Specific Appropriations 6, s. 1 and 78, s. 2, ch. 2010-152, L.O.F.

¹⁵ Specific Appropriations 6, s. 1 and 68, s. 2, ch. 2011-69, L.O.F.

¹⁶ Specific Appropriations 6, s. 1 and 84, s. 2, ch. 2012-118, L.O.F.

¹⁷ Specific Appropriations 7, s. 1 and 87, s. 2, ch. 2013-40, L.O.F.

What is the state's adoption schedule for instructional materials?

The Commissioner of Education adopts instructional materials according to a 5-year rotating schedule. However, the commissioner may approve terms of adoption of less than five years for materials in content areas which require more frequent revision.¹⁸ The Department of Education (DOE) annually publishes an official schedule of subject areas calling for adoption for each of the succeeding two years, and a tentative schedule for years three through five. Under extenuating circumstances, the commissioner may direct DOE to add one or more subject areas to the official schedule.¹⁹

The following chart shows the adoption schedule for instructional materials through 2016-17:

Instructional Materials Adoption Schedule²⁰	
Year	Subject
2012-13	Comprehensive Core Reading, Writing, Speaking, Listening, and Language Program (K-5) Comprehensive Intervention Reading Program (K-5) Comprehensive Supplemental/Intervention Reading Program (K-5) Mathematics (K-5)
2013-14	Comprehensive Core Reading, Writing, Speaking, Listening, and Language Program (6-12) Literature (6-12) Mathematics (6-12)
2014-15	World Languages – Spanish Only (K-12) Career and Technical Education – Agriculture (9-12) Health Opportunities through Physical Education (9-12) Personal Fitness (9-12) English for Speakers of Other Languages (ESOL) (K-12)
2015-16	Science (K-12)
2016-17	Social Studies (K-12)

What is the state's adoption process for instructional materials?

Approximately one year before the adoption of instructional materials in a certain subject area, DOE publishes specifications for the subjects to be adopted. These specifications detail the courses for which materials are sought and the standards the materials must meet.²¹

Beginning on or before May 15 of the adoption year, DOE advertises²² a request for sealed bids or proposals from publishers of instructional materials. The advertisement must require each bidder to furnish electronic sample copies of all instructional materials submitted.²³

¹⁸ Section 1006.36(1), F.S.

¹⁹ Section 1006.36(2), F.S.

²⁰ Florida Department of Education, Bureau of Curriculum and Instruction, *Florida Instructional Materials Adoption Schedule for Adoption Years 2011-12 through 2016-17* (May 22, 2012), http://www.fldoe.org/bii/instruct_mat/pdf/cycle.pdf.

²¹ Florida Department of Education, Bureau of Curriculum and Instruction, *Policies and Procedures for the Florida Instructional Materials Adoption*, at 1 (Dec. 2011), *incorporated by reference into* rule 6A-7.0710, F.A.C.

²² Beginning in FY 2010-11, all advertisements must state that each bidder must furnish electronic sample copies of all instructional materials submitted. Section 1006.33(1)(b), F.S.

²³ Section 1006.33(1)(a) and (b), F.S. A school district may not request samples in addition to the electronic sample copies. Section 1006.33(1)(b), F.S.

Once all bids have been considered, the commissioner selects and adopts, from the list reported by the state instructional materials reviewers as “suitable, usable, and desirable” instructional materials for each grade and subject in the curriculum of public elementary, middle, and high schools in which adoptions are made and in the subject areas designated in the advertisement.²⁴

The following chart provides a timeline of events related to the instructional materials adoption process:²⁵

Instructional Materials Adoption Process Timeline	
Date	Event
11:59 p.m. on the 4 th Friday in February, 20XX	Intent to Bid Due
April 15, 20XX	State Instructional Materials Reviewers Appointed
5:00 p.m. on the 1 st Monday in May, 20XX	Sealed Bids Due
May 15, 20XX	Statutory Deadline for DOE to Advertise a Request for Bids
4 th Monday in May, 20XX	Final Day to Open Sealed Bids
5:00 p.m. on the 4 th Thursday in June, 20XX	Electronic Sample Copies Due
July – August, 20XX	State Instructional Materials Reviewers Complete Evaluations
September – October, 20XX	District Instructional Materials Reviewers Complete Evaluations
November, 20XX – March, 20XX+1	Commissioner Selects and Adopts Instructional Materials ²⁶
April 1, 20XX+1 – March 31, 20XX+6	Effective Date of Instructional Materials Contract

Who are state instructional materials reviewers and what are their responsibilities?

The state instructional materials reviewers are state or national experts in the content areas submitted for adoption. The reviewers are appointed by the commissioner by April 15 of each school year, to review the instructional materials and evaluate the content for alignment with the applicable NGSSS.²⁷

The state instructional material reviewers receive training in competencies related to the evaluation and selection of instructional materials.²⁸ After receiving training, the reviewers must review the materials for the

²⁴ Section 1006.34(2)(a), F.S.

²⁵ See Florida Department of Education, Bureau of Curriculum and Instruction, *Policies and Procedures for the Florida Instructional Materials Adoption* (Dec. 2011), incorporated by reference into rule 6A-7.0710, F.A.C., at 5, 8-13, and Florida Department of Education, Bureau of Curriculum and Instruction, *Florida Instructional Materials Adoption Schedule for Adoption Years 2011-12 through 2016-17* (May 22, 2012), http://www.fldoe.org/bii/instruct_mat/pdf/cycle.pdf; see also ss. 1006.29, 1006.33, and 1006.34, F.S.

²⁶ The commissioner selects instructional materials from those recommended by the state instructional materials reviewers. Section 1006.34(2)(a), F.S.

²⁷ Section 1006.29(1)(b), F.S.

level of instructional support and the accuracy and appropriateness of progression of introduced content. Instructional materials must be made electronically available to the reviewers.²⁹

The initial review of the materials is made by only two of the three reviewers. If the two reviewers reach different results, the third reviewer must break the tie. The reviewers must independently make recommendations to the commissioner regarding materials that should be placed on the state-adopted list through an electronic feedback review system.³⁰

Each state instructional materials reviewer must sign an affidavit to the effect that he or she:

- Will faithfully discharge the duties imposed as a state instructional materials reviewer.
- Has no interest in any publishing or manufacturing organization that produces or sells instructional materials.
- Is in no way connected with the distribution of the instructional materials.
- Does not have any direct or indirect pecuniary interest in the business or profits of any person engaged in manufacturing, publishing, or selling instructional materials designed for use in public schools.
- Will not accept any emolument or promise of future reward from anyone intending to bias his or her judgment in the selection of materials to be adopted.
- Understands that it is unlawful to discuss matters relating to instructional materials submitted for adoption with any publisher or manufacturer of instructional materials, except during the period when the publisher or manufacturer is providing a presentation for the reviewer.³¹

What are the duties of school districts with regard to instructional materials?

Each district school superintendent, at the request of the commissioner, must nominate one classroom teacher or district-level content supervisor to review two or three of the submissions recommended by the state instructional materials reviewers. School districts must ensure that these district reviewers are provided with the support and time necessary to accomplish a thorough review of the instructional materials. District reviewers must independently rate the recommended submissions on the instructional usability of the resources.³² Persons selected as school district reviewers must complete training, developed by DOE, related to the evaluation and selection of instructional materials.³³

School districts are required to purchase current instructional materials to provide each student adequate materials for core courses in mathematics, language arts, science, social studies, reading, and literature for kindergarten through grade 12.³⁴ School districts review state-adopted instructional materials and select materials to be used in their local schools.³⁵ State-adopted instructional materials are available for purchase beginning April 1 of the year following adoption and must be requisitioned from the depository of the publisher.³⁶

²⁸ Section 1006.29(4), F.S.

²⁹ Section 1006.29(1)(b), F.S.

³⁰ *Id.*

³¹ Section 1006.30, F.S.

³² Section 1006.29(1)(c), F.S.

³³ Section 1006.29(4), F.S.

³⁴ Section 1006.40(2), F.S. “Adequate instructional materials” means a “sufficient number of student or site licenses or sets of materials that are available in bound, unbound, kit, or package form and may consist of hardbacked or softbacked textbooks, electronic content, consumables, learning laboratories, manipulatives, electronic media, and computer courseware or software that serve as the basis for instruction for each student in the core courses of mathematics, language arts, social studies, science, reading, and literature.” Section 1006.28(1), F.S.

³⁵ *See s. 1006.28(1)(b), F.S.*

³⁶ Sections 1006.36(1) and 1006.37(1), F.S.; *see also s. 1006.28(2)(b), F.S.*; Florida Department of Education, Bureau of Curriculum and Instruction, *Florida Instructional Materials Adoption Schedule for Adoption Years 2011-2012 through 2016-2017* (May 22, 2012), available at http://www.fldoe.org/BII/instruct_mat/pdf/cycle.pdf;

Within the first three years of the adoption cycle, a school district superintendent must purchase instructional materials to provide each student with a textbook or other materials as a major tool of instruction for these core courses.³⁷ The superintendent must keep adequate records and accounts for all financial transactions related to instructional materials.³⁸ The superintendent is also required to notify DOE by April 1 of which instructional materials will be used by the district. The notification must include a plan to be used to determine if adequate instructional materials have been purchased.³⁹

Instructional materials that are unserviceable, surplus, or no longer on state contract may be given by a school district to other education programs; teachers; students, including home education students; or any charitable organization, governmental agency, private school, or state. To dispose of instructional materials, a school district may also sell the materials to used-book dealers; recycling plants; pulp mills; or other persons, firms, or corporations. Any money received must be deposited in the school district's fund for instructional materials.⁴⁰

What are the duties of principals with regard to instructional materials?

A school principal is responsible for:

- Assuring that instructional materials are used to provide instruction to students enrolled at the grade level for which the materials are designed.
- Communicating to parents how instructional materials are used to implement curricular objectives.
- Selling instructional materials to parents upon request.
- Accounting for instructional materials and collecting payment from a student or parent for any lost, destroyed, or damaged instructional materials⁴¹ and transmitting all money collected to the school district superintendent for deposit into the district school board fund.⁴²

What are the duties of publishers and manufacturers with regard to instructional materials?

Publishers and manufacturers of instructional materials must, among other things:

- Submit electronic sample copies of instructional materials to DOE.
- Submit evidence that the materials provided address the NGSSS and the materials can be accessed through the district's local instructional improvement system and a variety of electronic, digital, and mobile devices.
- Furnish instructional materials at a price not to exceed the lowest price offered in other states.
- Automatically reduce the price of instructional materials or provide materials free of charge if provided to other states at a reduced rate or free of charge.
- Disclose the authors of the instructional materials.
- Keep the materials revised, free from all errors, and up-to-date.
- Maintain a depository in Florida for the in-state distribution of instructional materials to school districts from the depository or contract with a depository in the state.⁴³

Additionally, publishers and manufacturers of instructional materials are prohibited from offering any emolument, money, or other valuable thing or any inducement, to any district school board official or state instructional materials reviewer to directly or indirectly introduce, recommend, vote for, or otherwise influence

³⁷ Section 1006.37(1), F.S.

³⁸ Section 1006.28(2)(a), F.S.

³⁹ Section 1006.28(2)(a), F.S.

⁴⁰ Section 1006.41(1) and (3), F.S.

⁴¹ Principals are authorized to suspend a student from participating in extracurricular activities if the debt is not paid or require the student to participate in community service activities to satisfy the debt. Section 1006.28(3)(b), F.S.

⁴² Section 1006.28(3), F.S.

⁴³ Section 1006.38, F.S.

the adoption or purchase of any instructional materials. Violating this prohibition is a second degree misdemeanor and will result in a ban from practicing business in the state for one calendar year.⁴⁴

Is a school district required to provide training in the use of instructional materials?

Yes. By July 1 of each year and before state instructional materials funds are released, a school district's superintendent must certify to the commissioner that the district school board has approved a comprehensive staff development plan that supports implementation of instructional materials programs. The school district must verify that training was provided and that the materials are being implemented as designed.⁴⁵

What are the requirements for school districts that choose to implement their own instructional materials program?

School districts that choose to implement their own instructional materials program are not required to purchase instructional materials off the state-adopted list,⁴⁶ requisition instructional materials from the publisher's depository,⁴⁷ or follow the same review cycle used for state instructional materials adoption.⁴⁸ Multiple school districts may form a consortium for the purpose of implementing an instructional materials program.⁴⁹

Each school board implementing an instructional materials program must adopt rules:

- Specifying the instructional materials review process, review cycle, and duties and qualifications of instructional materials reviewers.
- Requiring school district instructional materials reviewers to comply with statutorily prescribed conflict of interest affidavits and state instructional materials reviewer duties.
- Requiring reviewer and publisher compliance with law prohibiting the acceptance or solicitation of money or inducements to influence approval or purchase of instructional materials.
- Specifying a process for certifying the accuracy of instructional materials.
- Requiring publisher compliance with law regarding publisher duties, responsibilities, and requirements.
- Specifying the instructional materials purchase process, including advertising, bidding, and purchasing requirements.⁵⁰

School district instructional materials reviewers must review instructional materials using standards similar to those currently specified for state instructional materials reviewers and for alignment to the NGSSS. Beginning in the 2013-14 school year, the district superintendent must annually certify that all instructional materials for core courses used by the school district are aligned with applicable state standards and provide a list of all core materials that will be used or purchased by the district.⁵¹

School districts implementing their own instructional materials program may collect fees from publishers who submit instructional materials for review. Such fees may not exceed the actual cost to review a publisher submission up to a maximum of \$3,500. Fees assessed and collected must be posted on the district website, reported to DOE, and maintained in a separate line item for auditing purposes.⁵²

School districts may only use revenues generated by fees to support the instructional materials review process, including the payment of stipends for reviewers, reimbursement of travel expenses and per diem

⁴⁴ Section 1006.32(1) and (4), F.S. A second degree misdemeanor is punishable by a term of imprisonment not exceeding 60 days and a fine not exceeding \$500. Sections 775.082(4)(b) and 775.083(1)(e), F.S.

⁴⁵ Section 1011.67(2), F.S.

⁴⁶ Section 1006.40(3)(a), F.S.

⁴⁷ Section 1006.37(3), F.S.

⁴⁸ Section 1006.283(2)(b), F.S.

⁴⁹ Section 1006.283(1), F.S.

⁵⁰ Section 1006.283(2), F.S.

⁵¹ Section 1006.283(2) and (4), F.S.

⁵² Section 1006.283(3)(a), F.S.

incurred by reviewers, and costs relating to employing substitute teachers to fill in for instructional personnel serving as reviewers.⁵³

Is the state transitioning to digital and electronic instructional materials?

Yes. Beginning in the 2015-16 school year, all state-adopted instructional materials for students in kindergarten through grade 12 must be provided in an electronic or digital format.⁵⁴ Accordingly, by FY 2015-16, each school district must use at least 50 percent of its state instructional materials funding to purchase digital or electronic instructional materials.⁵⁵

Electronic format means text-based or image-based content in a form that is produced on, published by, and readable on computers or other digital devices and is an electronic version of a printed book, whether or not any printed equivalent exists.⁵⁶ Digital format means text-based or image-based content in a form that provides the student with various interactive functions; that can be searched, tagged, distributed, and used for individualized and group learning; that includes multimedia content such as video clips, animations, and virtual reality; and that has the ability to be accessed at any time and anywhere.⁵⁷

Instructional materials in electronic format and digital format do not include electronic or computer hardware even if such hardware is bundled with software or other electronic media, equipment, or supplies.⁵⁸

To prepare for this requirement, school districts may participate in a pilot program that was created in 2011 to implement the transition to electronic and digital instructional materials.⁵⁹ District school boards are authorized to designate pilot program schools if the school district:

- Implements a local instructional improvement system which enables district staff to plan, create, and manage professional development and to connect professional development with staff information and student performance, provides the ability to seamlessly connect the system to electronic and digital instructional materials and the instructional materials to student assessment data, and includes the minimum standards published by DOE.
- Requests only the electronic or digital format of the sample copies of instructional materials submitted.
- Uses at least 50 percent of the pilot program school's annual allocation from the district for the purchase of electronic or digital instructional materials included on the state-adopted list.⁶⁰

Schools that participate in the pilot program are not required to requisition state-adopted instructional materials from the depository of the publisher.⁶¹

By August 1 of each year, the school board must report to DOE the school or schools in its district which have been designated as pilot program schools. DOE must publish on its website the list of pilot program schools. The report must include:

- The name of the pilot program school, the contact person and his or her information, and the grades and associated course or courses included in the pilot program school.
- A description of the type of technological tool or tools that will be used to access the electronic or digital instructional materials included in the pilot program school, whether district-owned or student-owned.

⁵³ Section 1006.283(3)(b), F.S.

⁵⁴ Section 1006.29(3), F.S.

⁵⁵ Section 1006.40(3)(a), F.S. School districts that purchase instructional materials through the state adoption process must purchase the digital instructional materials off the state-adopted list. School districts that implement their own instructional materials program are not required to purchase the digital instructional materials off the state-adopted list. *Id.*

⁵⁶ Section 1006.29(3)(a), F.S.

⁵⁷ Section 1006.29(3)(b), F.S.

⁵⁸ Section 1006.29(3), F.S. (flush left at the end of subsection)

⁵⁹ Section 20, ch. 2011-55, L.O.F., *codified at* s. 1006.282(1), F.S.

⁶⁰ Section 1006.282(2), F.S.

⁶¹ Section 1006.282(3), F.S.

- The projected costs and funding sources, which must include cost savings or cost avoidances, associated with the pilot program.⁶²

By September 1 of each year:

Each school board that has a designated pilot program school shall provide to DOE, the Executive Office of the Governor, and the chairs of the appropriations committees of the Senate and the House of Representatives a review of the pilot program schools which must include, but need not limited be to:

- (a) Successful practices;
- (b) The average amount of online Internet time needed by a student to access and use the school's electronic or digital instructional materials;
- (c) Lessons learned;
- (d) The level of investment and cost-effectiveness; and
- (e) Impacts on student performance.⁶³

In addition to the pilot program, in 2012, the legislature created a Digital Instructional Materials Work Group to plan and monitor the implementation of the transition to digital instructional materials. The work group included one school district instructional technology expert, one school district instructional content expert with experience in digital learning initiatives, one representative from an institution of postsecondary education, one high school principal with experience in digital learning initiatives, one middle school principal with experience in digital learning initiatives, one business representative, and two parents.⁶⁴

The work group was required to submit a report to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the State Board of Education, which was completed in March 2013. As required by law, the report includes an implementation plan for meeting the deadline of transition to digital instructional materials and specifies:

- Options for the provision of access devices for students.
- Options for providing content by subject area.
- Provisions for training and professional development for preservice and inservice teachers.
- A detailed review of options for funding, including reprioritization of existing resources and recommendations for new funding.⁶⁵

What is a local instructional improvement system and what guidelines are provided to school districts implementing a local instructional improvement system?

A local instructional improvement system is a system that uses electronic and digital tools that provide teachers, administrators, students, and parents with data and resources to systematically manage continuous instructional improvement. The system must support relevant activities such as instructional planning, information gathering and analysis, rapid-time reporting, decision making on appropriate instructional sequence, and evaluating the effectiveness of instruction. Additionally, the system must integrate instructional information with student-level data to provide predictions of future student achievement.⁶⁶

Each school district must provide teachers, administrators, students, and parents access to a local instructional improvement system. The system must provide access to electronic and digital instructional materials, and teaching and learning tools and resources, including the ability for teachers and administrators

⁶² Section 1006.282(4), F.S.

⁶³ Section 1006.282(5), F.S.

⁶⁴ Section 21, ch. 2012-133, L.O.F.; Florida Department of Education, *Florida's Digital Instructional Materials Work Group*, <http://www.fldoe.org/fldlg/> (last visited June 10, 2013).

⁶⁵ *Id.*; see Florida Digital Instructional Materials Work Group, *Final Report with Recommendations* (March 1, 2013), available at <http://www.fldoe.org/fldlg/pdf/april1report.pdf>.

⁶⁶ Section 1006.281(1), F.S.

to manage, assess, and track student learning.⁶⁷ By June 30, 2014, the local instructional improvement system should allow for a single, authenticated sign-on and include the following functionality:

- Vertically searches for, gathers, and organizes specific standards-based instructional materials.
- Enables teachers to prepare lessons, individualize student instruction, and use best practices in providing instruction.
- Provides communication, including access to up-to-date student performance data, in order to help teachers and parents better serve the needs of students.
- Provides access for administrators to ensure quality.
- Enables district staff to plan, create, and manage professional development and to connect professional development with staff information and student performance data.
- Provides access to multiple content providers and provides the ability to seamlessly connect the local instructional improvement system to electronic and digital content.⁶⁸

Where can I get additional information?

Florida Department of Education

Bureau of Curriculum and Instruction

Office of Instructional Materials

(850) 245-0808

http://www.fldoe.org/BII/instruct_mat/

Florida House of Representatives

Education Committee

(850) 717-4830

<http://www.myfloridahouse.gov>

⁶⁷ Section 1006.281(2), F.S.

⁶⁸ Section 1006.281(3), F.S.



What services are provided by the Department of Juvenile Justice (DJJ)?

DJJ oversees at-risk and adjudicated youth in four service areas: prevention and victim services, probation and community intervention services, residential services, and detention services.¹

- Prevention and Victim Services - Prevention and Victim Services target at-risk youth who are considered most likely to become habitual juvenile offenders and who live in areas with the highest concentration of youth who have been referred for delinquency.²
- Probation and Community Intervention Services (Non-residential) - Non-residential services provide intervention and case management services to youth on diversion, probation, and post commitment supervision. These youth remain at home and participate at least 5 days per week in a day treatment program.³
- Residential Services - Residential services ensure graduated sanctions for serious, violent, and chronic offenders; address special mental health and substance abuse needs of offenders; and enhance the education of offenders in residential commitment programs. Juveniles who are adjudicated by the court can be committed to residential programs classified as low, moderate, high, or maximum risk.⁴
- Detention Services - Detention is the custody status for youth who are held pursuant to a court order or following arrest for a violation of the law. A youth may be detained only when specific statutory criteria are met. Criteria for detention include current offenses, prior history, legal status, and any aggravating or mitigating factors.⁵

The Legislature has found that education is the single most important factor in the rehabilitation of adjudicated youth and has set forth how educational services must be provided in DJJ programs.⁶ According to DJJ 32,774 students enrolled in juvenile justice education programs in 2011-12.⁷

¹ Section 20.316(2), F.S.; Florida Department of Juvenile Justice, *Services*, <http://www.djj.state.fl.us/Services> (last visited Sept. 12, 2012).

² Florida Department of Juvenile Justice, *Reach Them Teach Them Watch Them Succeed*, Fiscal Year 2010-11 Annual Report, at 16, available at www.djj.state.fl.us/docs/about-us/djj-annual-report.pdf?sfvrsn=0; see also s. 20.316(2), F.S.

³ Florida Department of Juvenile Justice, *Reach Them Teach Them Watch Them Succeed*, Fiscal Year 2010-11 Annual Report, at 22, available at www.djj.state.fl.us/docs/about-us/djj-annual-report.pdf?sfvrsn=0; Florida Department of Juvenile Justice, *Restrictiveness Levels*, <http://www.djj.state.fl.us/programs-facilities/restrictiveness-levels>, (last visited Oct. 5, 2012); see also s. 20.316(2), F.S.

⁴ Office of Program Policy Analysis and Government Accountability, *Government Program Summaries – Department of Juvenile Justice Residential Services*, <http://www.oppaga.state.fl.us/profiles/1012> (last visited Sept. 12, 2012); Section 985.03,(46), F.S.; see also s. 20.316(2), F.S.

⁵ Florida Department of Juvenile Justice, *Detention Services*, <http://www.djj.state.fl.us/services/detention> (last visited Sept. 11, 2012); Sections 985.245, 985.25, and 985.255, F.S.; see also s. 20.316(2), F.S.

⁶ Section 1003.52, F.S.

⁷ Telephone interview with Legislative Affairs Director, Florida Department of Juvenile Justice (Sept. 12, 2012).

Who is responsible for providing educational services in juvenile justice programs?

District school boards are responsible for providing educational services to youth in juvenile justice programs.⁸ Educational services consist of basic academic, career, or exceptional curricula that support treatment goals and reentry into school, and that may lead to the completion of a high school diploma or its equivalent.⁹ In addition, students in juvenile justice education programs must have access to Florida Virtual School courses.¹⁰

These services can be provided by the district school board or by a private provider through a contract with the district school board.¹¹ However, school districts remain responsible for the quality of education provided in residential and day treatment juvenile justice programs regardless of whether the school district provides those services directly or through a contractor.¹²

Can high school credits be earned in juvenile justice programs?

Yes. The Department of Education (DOE) must ensure that all district school boards make provisions for high school level youth to earn credits toward high school graduation while in residential and nonresidential juvenile justice facilities. Also, provisions must be made for the transfer of credits and partial credits earned.¹³

Can General Education Development (GED) preparation courses be offered in juvenile justice programs?

Yes. Students in juvenile justice programs must have access to the appropriate courses and instruction to prepare them for the GED test.¹⁴ However, in order for the GED test to be administered a student must be at least 16 years of age and not currently enrolled in high school.¹⁵

Are learning gains and progression measured while students are in juvenile justice programs?

Yes. DOE, with the assistance of school districts, is required to select a common student assessment instrument and protocol for measuring student learning gains and student progression while a student is in a juvenile justice education program.¹⁶ On August 13, 2012, DOE implemented a new common student assessment instrument provided by Worldwide Interactive Network (WIN) Learning in partnership with Florida Ready to Work to assess the learning gains of juvenile justice students in grades 3 through 12 in reading and mathematics.¹⁷ The test is administered as a pre-test within 10 school days of a student entering a juvenile justice program and again as a post-test when a student has spent at least 45 school days or more in the program.¹⁸

⁸ Section 1003.52(1), (3), and (4), F.S.

⁹ Section 1003.52(5), F.S.

¹⁰ Section 1003.52(4), F.S.

¹¹ Section 1003.52(11), F.S.

¹² Section 1003.52(15), F.S.

¹³ Section 1003.52(9), F.S.

¹⁴ Section 1003.52(3)(a), F.S.; rule 6A-6.05281(1)(b), F.A.C.

¹⁵ GED® Testing Service, *GED® Testing Policies and Procedures Manual*, at 38 (2011), available at <http://ged.fldoe.org/pdf/gedts.pdf>.

¹⁶ Section 1003.52(3)(b), F.S.; rule 6A-6.05281(3)(e), F.A.C. Originally DOE selected the Basic Achievement Skills Inventory (BASI) as the common assessment instrument to assess the learning gains of juvenile justice students in grades 3 through 12 in reading, mathematics, and language arts. However, DOE's contract for the use of the BASI expired in June 2011.

¹⁷ Email, Florida Department of Education, Bureau of Exceptional Education and Services (Sept. 7, 2012).

¹⁸ Section 1003.51(2)(e)4., F.S.; rule 6A-6.05281(3), F.A.C.; Email, Florida Department of Education, Bureau of Exceptional Education and Services (Sept. 7, 2012).

Who is responsible for providing educational assessments in juvenile justice programs?

The district school board of the county in which the residential or nonresidential care facility or juvenile assessment facility is located must provide appropriate educational assessments and an appropriate program of instruction and special education services.¹⁹

What records are maintained for youth in juvenile justice programs?

An individual transition plan is developed for each student entering a DJJ commitment, day treatment, early delinquency intervention, or detention program.²⁰ The transition plan is based on the student's post-placement goals that are developed cooperatively with the student, his or her parents, school district and or contracted provider personnel, and DJJ program staff. Re-entry counselors, probation officers, and personnel from the student's "home" school district must be involved in the transition planning to the extent practicable. The transition plan also includes a student's academic re-entry goals, career and employment goals, and recommended educational placement.²¹

An individual transition plan for educational progress must be developed within 22 school days of a student entering a DJJ detention program and within 15 school days of entry to DJJ commitment or day treatment program. This individual transition plan must be based upon the student's entry assessment and past education history and must address the areas of academic, literacy, and life skills.²²

A progress monitoring plan must be developed for students who score below the level specified in district school board policy in reading, writing, and mathematics or below the level specified by the Commissioner of Education on statewide assessments. These progress monitoring plans must address academic, literacy, and life skills and must include provisions for intensive remedial instruction in the areas of weakness.²³

Each district school board must maintain an academic record for each student enrolled in a juvenile justice facility. Such records delineate each course completed by the student according to procedures in the State Course Code Directory. The district school board must include a copy of a student's academic record in the discharge packet when the student exits the facility.²⁴

How are youth exiting juvenile justice programs assisted?

DOE provides a web-based transition contact list that identifies one person in each school district who will support returning students with re-entry into school, transferring and receiving educational records, and providing information to other districts on local school options for returning DJJ students.²⁵ The DJJ education program staff is responsible for notifying the transition contact in the receiving school district at least one week prior to that student's scheduled completion of the DJJ program and transmits the student's discharge packet.²⁶

A discharge packet is created for each student prior to exit from a juvenile justice program.²⁷ A copy of the student's academic records; assessment data; individual academic plan, 504 plan, or individual educational plan for exceptional students; work and project samples, and transition plan is included in the discharge packet

¹⁹ Section 1003.52(3), F.S.

²⁰ Section 1003.52(13)(i), F.S.; rule 6A-6.05281(5), F.A.C.

²¹ Rule 6A-6.05281(5), F.A.C.

²² Rule 6A-6.05281(4), F.A.C.

²³ Sections 1003.52(7) and 1008.25(4)(b), F.S.

²⁴ Section 1003.52(8), F.S.; rule 6A-6.05281(5)(d), F.A.C.

²⁵ Florida Department of Education, Exceptional Education & Student Services, *School District Transition Contact and Process*, <http://www.fldoe.org/eae/sdtc.asp>, (last visited Sept. 7, 2012).

²⁶ Email, Florida Department of Education, Governmental Relation Office (Feb. 7, 2012).

²⁷ Section 1003.51(1)(e), F.S. (flush-left provisions at end of subsection).

when the student exits a DJJ facility.²⁸ District school boards must provide these students' educational records no later than five working days after a request has been made for the records.²⁹

Are juvenile justice educational programs evaluated?

Yes. DOE in consultation with DJJ, district school boards, and providers must establish objective and measurable quality assurance standards for the educational components of residential and nonresidential juvenile justice facilities.³⁰ The quality assurance standards and indicators are revised annually for juvenile justice education programs, based on new statutory and regulatory requirements, best practices research, and input from school districts and educational providers.³¹ These standards must rate a district school board's performance both as a provider and contractor.³²

How are juvenile justice educational programs evaluated?

DOE has developed a quality assurance review process to evaluate juvenile justice educational programs in four general areas: entry transition, service delivery, exit transition, and contract management. These areas are the same across all juvenile justice educational programs, but specific indicators vary for detention, day treatment, and residential commitment programs.³³ The Juvenile Justice Educational Enhancement Program quality assurance review process is evidence-based, using the same data source to evaluate the quality of educational services provided in each juvenile justice educational program. To determine quality assurance ratings, reviewers consider the preponderance of evidence from multiple sources, such as self-report documents; files maintained on site; interviews of educational program and school district administrators, support personnel, teachers, and students; and observation of classrooms, educational activities, and services.³⁴

A district school board that fails to meet the established minimum standards has 6 months to achieve compliance with the standards. If after 6 months, the district school board's performance is still below minimum standards, DOE must exercise sanctions as prescribed by rules adopted by the State Board of Education. If a provider, under contract with the district school board, fails to meet minimum standards, such failure must cause the district school board to cancel the provider's contract unless the provider achieves compliance within 6 months or unless there are documented extenuating circumstances.³⁵

The DOE and DJJ, after consulting with the district school boards and local providers, must report annually to the Legislature on the progress towards developing effective educational programs for youth in the juvenile justice system. This report must include the results of the quality assessment reviews, including recommendations for system improvement.³⁶

According to DOE, funding for the quality assurance reviews was eliminated at the conclusion of the 2009-10 school year.³⁷

²⁸ Rule 6A-6.05281(5)(d), F.A.C.

²⁹ Section 1003.51((3)(d), F.S.; rule 6A-6.05281(2)(b), F.A.C.

³⁰ Section 1003.52(15)(a), F.S.

³¹ Florida Department of Education, *Developing Effective Education in Department of Juvenile Justice and other Dropout Prevention Programs, Annual Report 2009-2010*, at 7 (2011), available at www.fldoe.org/ese/pdf/jj_annual.pdf (last visited Aug. 16, 2012).

³² Section 1003.52(15)(a), F.S.

³³ Section 1003.52(15)(b), F.S.; Florida Department of Education, *Developing Effective Education in Department of Juvenile Justice and other Dropout Prevention Programs, Annual Report 2009-2010*, at 6 (2011), available at www.fldoe.org/ese/pdf/jj_annual.pdf (last visited Aug. 16, 2012).

³⁴ Florida Department of Education, *Developing Effective Education in Department of Juvenile Justice and other Dropout Prevention Programs, Annual Report 2009-2010*, at 6 (2011), available at www.fldoe.org/ese/pdf/jj_annual.pdf (last visited Aug. 16, 2012).

³⁵ Section 1003.52(15)(c), F.S.

³⁶ Section 1003.52(19), F.S.

³⁷ Florida Department of Education, Legislative Bill Analysis for SB 834 (2011). Section 1003.52(15)(d), F.S., requires that the quality assurance review must be implemented to the extent that funds are available.

Does the Department of Education collect data on students leaving juvenile justice programs?

Yes. DOE has provided data on youth released from DJJ programs over several years (2005-2010)³⁸ using information from the Florida Education and Training Placement Information Program.³⁹ DOE tracked youth in DJJ residential programs to determine occupational, educational, and subsequent judicial placement in the years following release from the program. To provide context, DOE provided the same outcome information for high school dropouts and graduates. DOE found that youth released from DJJ programs are returning to school at progressively lower rates over time. In addition, DJJ youth are similar to dropouts in that low percentages enroll in postsecondary education. Youth released from DJJ programs were also less likely to be employed than dropouts or high school graduates. Finally, DJJ students, following completion of the DJJ program, are more likely to be incarcerated as adults than dropouts or high school graduates. Of those who were later incarcerated by the Department of Corrections, they were less likely to earn full-time equivalent wages after leaving the DJJ program.⁴⁰

Where can I get additional information?

Florida House of Representatives

Education Committee

(850) 717-4830

<http://www.myfloridahouse.gov>

Florida Department of Education

Bureau of Exceptional Education and Student Services

(850) 245-0475

<http://www.fldoe.org>

Florida Department of Juvenile Justice

Education Development

(850) 922-5375

<http://www.djj.state.fl.us/contact-us/education-development>

³⁸ Email, Florida Department of Education, Division of Accountability, Research, and Measurement (Dec. 20, 2011).

³⁹ Section 1008.39, F.S. The Florida Education and Training Placement Information Program is a data collection and consumer reporting system established to provide follow-up data on former students and program participants who have graduated, exited, or completed a public education or training program within the State of Florida.

⁴⁰ Email, Florida Department of Education, Division of Accountability, Research, and Measurement (Dec. 20, 2011).



School District Personnel Employment

Education Committee

Last Updated: August 2012

Which school district employees are classified as instructional personnel and school administrators?

Instructional personnel provide direct instructional services or direct instructional support to students in grades kindergarten through 12. Instructional personnel include classroom teachers; staff who provide student personnel services, e.g., guidance counselors, social workers, career specialists, and school psychologists; librarians and media specialists; other instructional staff, e.g., learning resource specialists; and education paraprofessionals under the direct supervision of instructional personnel.¹

School administrators include school principals, school or career center directors, and assistant principals. School principals and school or career center directors serve as the administrative head of a school. Assistant principals assist the administrative head of a school and include assistant principals for curriculum and instruction.²

What types of contracts are used to employ instructional personnel and school administrators?

Three types of contracts are used to employ instructional personnel in Florida – continuing contracts, professional service contracts, and annual contracts. The eligibility and renewal requirements for each type of contract differ.³ Holding a continuing contract or professional service contract signifies tenured status.⁴ Continuing contracts and professional service contracts are no longer awarded to instructional personnel.⁵

Instructional personnel hired before July 1, 1984, were given continuing contracts upon meeting eligibility requirements.⁶ After completing three years of probationary service on annual contracts, an employee was eligible for a continuing contract if he or she was fully certified, recommended for a continuing contract by the superintendent, and reappointed by the school board.⁷ Unlike a professional service contract, a continuing contract entitles the employee to continued employment without the necessity of annual renewal until discontinuation of the position, resignation, dismissal, or removal from continuing contract status.⁸

Instructional personnel hired on or after July 1, 1984, were given professional service contracts after three years of probationary service on annual contracts⁹ if fully certified, recommended for a professional service contract by the superintendent, and reappointed by the school board.¹⁰

¹ Section 1012.01(2), F.S.

² Section 1012.01(3)(c), F.S.

³ Sections 1012.33(3) and (4) and 1012.335, F.S.; *see also* s. 231.36, F.S. (1981)(continuing contracts).

⁴ *See* s. 1012.33(3)(d), F.S. (2010).

⁵ *See* s. 1012.33, F.S. and s. 19, 2011-37, L.O.F.

⁶ Section 15, ch. 82-242, L.O.F. Legislation enacted in 1982 discontinued the award of new continuing contracts effective July 1, 1984. *Id.*

⁷ Section 231.36(1) and (3)(a)1.-4., F.S. (1981).

⁸ Section 231.36(3)(e), F.S. (1981). A continuing contract employee may be dismissed or returned to annual contract status for a period of three years based upon the recommendation of the district school superintendant, school principal, or a majority of the school board. Section 1012.33(4)(b), F.S.; *see also* s. 231.36(4), F.S. (1981).

⁹ An employee's first annual contract included a 97-day period during which the employee's contract may be terminated without cause or the employee may resign without breach of contract. Section 1012.33(3)(a)4., F.S. (2012). This 97-day period applied to instructional personnel employed after June 30, 1997. *Id.*

¹⁰ Section 1012.33(3)(a)1.-3., F.S. (2010). Probationary employment must be completed in the same school district during a period not to exceed five successive years, except for leave duly authorized and granted. *Id.* Probationary employment may be extended to four years if agreed upon in writing by the district school board and the employee. Section 1012.33(3)(c), F.S. (2010).

Professional service contracts automatically renew each year, unless the employee is charged with unsatisfactory performance based upon his or her annual performance evaluation or the employee's performance evaluations indicate chronically ineffective performance.¹¹ In such cases, the school district must follow statutorily required due process procedures before dismissing the employee.¹²

In 2011, the Legislature enacted the Student Success Act, which discontinued the award of professional service contracts.¹³ Instructional personnel employed on an annual contract by a Florida school district as of July 1, 2011, and those personnel hired thereafter are employed on performance-based annual contracts. The first annual contract for newly hired instructional personnel is a one-year probationary contract, which may be terminated without cause or the employee may resign without breach of contract. "Newly hired instructional personnel" include employees new to the profession or employees with experience who are new to the school district.¹⁴ Thus, continuing or professional service contract teachers who change school districts are employed on annual contracts.¹⁵

Upon successful completion of the one-year probationary contract, district school boards may award subsequent annual contracts if the employee is certified, recommended by the superintendent based upon his or her performance evaluation, and approved by the district school board. Annual contracts may not be awarded to instructional personnel who have two consecutive unsatisfactory evaluations, two unsatisfactory evaluations within a three-year period, or three consecutive evaluations of needs improvement or any combination of needs improvement and unsatisfactory.¹⁶

School administrators¹⁷ must also receive a written contract. Such contract may be for an initial period not to exceed three years and is subject to annual review and renewal. The first 97 days of an initial contract is a probationary period during which the employee may be dismissed without cause or may resign without breach of contract. After the first three years, the contract may be renewed for a period not to exceed three years and must provide for dismissal during its term for just cause.¹⁸

What is tenure?

Tenure is an employment policy which limits a public school district's ability to fire instructional personnel.¹⁹ Tenure creates a property interest in continued employment and usually takes the form of a continuous or automatically renewing employment contract. Tenured instructional personnel may only be dismissed for specified reasons after statutorily required hearings.²⁰

All fifty states and the District of Columbia have laws providing some form of tenure.²¹ Typically, state tenure laws require instructional personnel to complete a period of probationary employment to be eligible for tenure; however, tenure is not guaranteed once the probationary period is completed.²²

¹¹ Sections 1012.33(3) and 1012.34(4), F.S. A professional service contract is not required to be renewed if the employee has two consecutive annual performance evaluation ratings of unsatisfactory, two annual ratings of unsatisfactory within a three-year period, or three consecutive annual ratings of needs improvement or a combination of needs improvement and unsatisfactory. Section 1012.33(3)(b), F.S.

¹² Section 1012.34(4)(b), F.S.

¹³ Section 5, ch. 2011-1, L.O.F.; s. 19, ch. 2011-37, L.O.F.

¹⁴ Section 1012.335(1)-(2), F.S. For the purpose of awarding annual contracts, the term "instructional personnel" does not include substitute teachers. Section 1012.335(1)(b), F.S.

¹⁵ Section 1012.335(1)(c), F.S.

¹⁶ Section 1012.335(2)(c), F.S.

¹⁷ School administrators are school level managers, such as school principals, school directors, career center directors, and assistant principals. Section 1012.01(3)(a), F.S.

¹⁸ Section 1012.33(1)(b), F.S. The just cause grounds for dismissal of school administrators are immorality; misconduct in office; incompetency; gross insubordination; willful neglect of duty; drunkenness; or being convicted or found guilty of, or entering a plea of guilty to, regardless of adjudication of guilt, any crime involving moral turpitude. Section 1012.33(6)(b), F.S.; rule 6A-5.056(1)-(6) and (8), F.A.C.

¹⁹ 67B Am. Jur. 2d Schools s. 195; *see* s. 1012.33(3), F.S.

²⁰ *Board of Regents v. Roth*, 408 U.S. 564 (1972); 67B Am. Jur. 2d Schools ss. 205 and 211

²¹ Education Commission of the States, *Teacher Tenure/Continuing Contract Laws* (August 2011), available at <http://www.ecs.org/clearinghouse/94/93/9493.pdf>. State laws often refer to tenure by other terms, such as "continuing contracts." *Id.*

In Florida, holding a professional service contract or a continuing contract signifies tenure.²³ Before passage of the Student Success Act in 2011, instructional personnel hired on or after July 1, 1984, were “entitled” to receive a professional service contract after completing a three-year probationary period.²⁴

Since 2010, at least 20 states have enacted legislation reforming instructional personnel tenure or contracting policies. These reforms include:

- Increasing the number of years of service that must be completed before an employee receives tenure;
- Requiring greater emphasis on student learning gains in evaluating educator performance and consideration of performance evaluation results when making tenure and retention decisions; and
- Relaxing tenure protections so that chronically ineffective teachers may be more easily dismissed.

Six states, including Florida, have enacted legislation eliminating tenure for newly hired instructional personnel.²⁵

What research influenced the Legislature’s decision to eliminate tenure for newly hired teachers?

Research indicates that teacher effectiveness is the most important school-level variable influencing student learning. Students who are taught by ineffective teachers perform at much lower levels than students demonstrating comparable ability taught by high-performing teachers. Research shows that students taught by an ineffective teacher for even one year experience long-term negative impacts on achievement.²⁶

In the years preceding the Florida Legislature’s elimination of tenure for newly hired teachers, several national education think tanks reviewed nationwide teacher employment policies. Among other things, this research found that tenure protections make removing chronically ineffective teachers difficult and costly.²⁷ Furthermore, few states were using annual performance evaluation results when making tenure or retention decisions despite the impact of teacher effectiveness on student achievement.²⁸

²² *Roth*, 408 U.S. at 564; 67B Am. Jur. 2d Schools ss. 205 and 211.

²³ Section 1012.33(3), F.S. For employees hired before July 1, 1984, tenure is conferred by a continuing contract. For employees hired after this date, tenure is conferred by a professional service contract. Section 1012.33(3)(d), F.S.

²⁴ Section 1012.33(3)(a), F.S. (2010). Probationary employment must be completed in the same school district during a period not to exceed five successive years, except for leave duly authorized and granted. *Id.* Probationary employment may be extended to four years if agreed upon in writing by the district school board and the employee. Section 1012.33(3)(c), F.S. (2010).

²⁵ Section 19, ch. 2011-37, L.O.F.; Bellweather Education Partners, *Recent State Action on Teacher Effectiveness: What’s in State Laws and Regulations?*, at 3 (August 2012), available at <http://bellwethereducation.org/wp-content/uploads/2012/08/RSA-Teacher-Effectiveness.pdf>; Education Commission of the States, *Recent State Policies/Activities Teaching Quality--Tenure or Continuing Contract*, <http://www.ecs.org/ecs/ecscat.nsf/WebTopicView?OpenView&count=-1&RestrictToCategory=Teaching+Quality--Tenure+or+Continuing+Contract> (last visited May 31, 2012). Idaho, Ohio, Louisiana, South Dakota, and Wyoming have also enacted legislation eliminating tenure for newly hired teachers. *Id.* Ohio’s tenure reform legislation, S.B. 5 (2011), was recalled by voters in November 2011. See Ohio Secretary of State, *Elections and Voting: State Issue 2*, <http://www.sos.state.oh.us/SOS/elections/Research/electResultsMain/2011results/20111108Issue2.aspx> (last visited May 23, 2012).

²⁶ Sanders and Rivers, *Cumulative and Residual Effects of Teachers on Future Student Achievement*, at 6-8 (Nov. 1996), available at <http://www.mccsc.edu/~curriculum/cumulative%20and%20residual%20effects%20of%20teachers.pdf>. Sanders and Rivers found that standardized mathematics assessment scores for students who were taught by a low-performing teacher for three consecutive years were 53 percentile points lower than those of students who were taught by a high-performing teacher for three consecutive years. *Id.* at 3.

²⁷ Center for American Progress, *Removing Chronically Ineffective Teachers, Barriers and Opportunities*, at 9-11 (March 2010), available at http://www.americanprogress.org/issues/2010/03/pdf/teacher_dismissal.pdf; The Brookings Institution, *Identifying Effective Teachers Using Performance on the Job*, at 13-15 (April 2006), available at http://www.brookings.edu/views/papers/200604hamilton_1.pdf [hereinafter *Brookings Report*].

²⁸ See, e.g., Center for American Progress, *Ring the Bell for K-12 Teacher Tenure Reform*, at 7 (Feb. 2010), available at http://www.americanprogress.org/issues/2010/02/pdf/teacher_tenure.pdf [hereinafter *Ring the Bell*]; see, e.g., National Council on Teacher Quality, *2009 State Teacher Policy Yearbook: Florida*, at 78-80 (2009), available at http://www.nctq.org/stpy09/reports/stpy_florida.pdf [hereinafter *NCTQ 2009 State Report*]; see, e.g., The New Teacher Project, *The*

Accordingly, some of these researchers suggested that states relax tenure protections so that chronically ineffective teachers may be more easily dismissed, thereby increasing the likelihood that students are taught by effective teachers.²⁹ This, in turn, would result in improved student performance.³⁰

What is included in collective bargaining agreements for instructional personnel?

District school boards bargain collectively with the certified bargaining agent (i.e., union) that represents the district's instructional personnel to determine the terms of the collective bargaining agreement.³¹ The district and union negotiate wages, hours, and terms and conditions of employment.³² The following issues have been collectively bargained in the past:

- Salary schedules;³³
- Seniority and tenure policies;
- Performance evaluation instruments and procedures;
- Policies for conduct or performance-related suspension and dismissal;
- Teacher assignment, transfer, reduction-in-force, and recall policies;
- Health, life, and disability insurance and workers compensation and retirement benefits;
- The school district calendar, including the work year, workday hours, and school holidays observed by the school district;
- Sick, vacation, maternity, medical, military, and other leave policies;
- Grievance procedures and sexual harassment policies;
- Instructional personnel responsibilities for maintaining student safety and discipline and interacting with parents; and
- Resignation and retirement.³⁴

The collective bargaining agreement is the “master contract” for instructional personnel employment. Typically, the terms of the collective bargaining agreement are incorporated by reference in the employment contracts issued to instructional personnel.³⁵

Widget Effect, Our Failure to Acknowledge and Act on Differences in Teacher Effectiveness, at 24 (2009), available at <http://widgeteffect.org/downloads/TheWidgetEffect.pdf> [hereinafter *The Widget Effect*].

²⁹ Ringing the Bell, *supra* note 26, at 24; *NCTQ 2009 State Report*, *supra* note 26, at 70-73, 78-80, and 125-133; *The Widget Effect*, *supra* note 26, at 27-30; *Brookings Report*, *supra* note 25, at 13-15.

³⁰ *Brookings Report*, *supra* note 25, at 13-15; *The Widget Effect*, *supra* note 26, at 27-30.

³¹ Sections 447.203(2) and 447.309(1), F.S. The State Constitution provides that “the right of employees, by and through a labor organization, to bargain collectively shall not be denied or abridged.” Section 6, Art. I of the State Constitution. The only school district whose instructional personnel are not represented by a union is Calhoun County. Section 447.305, F.S., requires that every employee organization seeking to become a certified bargaining agent for public employees register with the Public Employees Relations Commission (PERC). No such registration exists for Calhoun County. *See* Public Employees Relations Commission, Search Registration Orders, <http://perc.myflorida.com/co/regfilter.aspx> (last visited May 31, 2012).

³² Section 447.309(1), F.S. The Legislature is constitutionally empowered to provide the standards and guidelines for implementing the collective bargaining rights of public employees, including public school teachers. *Chiles v. State Employees Attorneys Guild*, 734 So.2d 1030, 1032 (Fla. 1999). This includes the authority to determine which public employees and matters are subject to collective bargaining and which issues must be bargained. *State Employees Attorneys Guild*, 734 So.2d at 1032; *School District of Martin County v. Public Employee Relations Commission*, 15 So.3d 42, 45-46 (4th DCA 2009).

³³ Hillsborough County School District, *2011-12 Salary Schedule* (2011), available at http://www.sdhc.k12.fl.us/HumanResources/PDFs/SALARY/HCPS_SalarySchedule_Entire.PDF; Desoto County Teacher's Association and the Desoto County School Board, *Teacher Contract 2009-2012*, at 64-74 (2009), available at <http://www.desotoschools.com/Home/teacher%20contract/DCTAAGREEMENT1011.pdf>.

³⁴ *See, e.g.*, Hillsborough County School District and Hillsborough Classroom Teachers Association, Inc., *Teacher Contract 2010-2013*, (2010), available at http://www.sdhc.k12.fl.us/HumanResources/PDFs/CONTRACT/bargaining_agreement.pdf (see table of contents) [hereinafter *Hillsborough County Agreement*]; *see, e.g.*, Brevard County School District and Brevard Federation of Teachers, *Collective Bargaining Agreement*, (Feb. 10, 2009), available at <http://benefits.brevard.k12.fl.us/images/gt/LR/old%20stuff/old%20stuff/BFT-FY09&FY10.pdf> (see table of contents).

³⁵ Email, Duval County School District, Employee Support Coordinator (Sept. 27, 2010)(sample annual and professional service contracts for instructional personnel).

How do school districts determine which instructional personnel to retain when making workforce reductions?

District-wide reductions to instructional positions caused by declining enrollment or budgetary conditions are known as “reductions-in-force.”³⁶ Before the enactment of the Student Success Act in 2011, the law required school districts to establish reduction in force policies through collective bargaining or by school board rule.³⁷ In most cases, these policies required the school district to determine the schools, grade-levels, and subject areas in need of staff reductions and lay off instructional personnel based upon priorities established in the collective bargaining agreement. Seniority was the most common priority used to determine layoffs, i.e., employees with the most seniority were retained over less senior employees, regardless of their performance.³⁸ This practice is known as “last hired, first fired.”³⁹

The Student Success Act ended the practice of “last hired, first fired” in Florida. District school boards, when making reductions-in-force, must now prioritize retention of instructional personnel and school administrators based upon educational program needs and performance evaluation results. Specifically, employees with the lowest performance evaluation ratings must be released before higher-rated employees. Unlike the old practice, school boards may not prioritize retention of employees based upon seniority.⁴⁰ Implementation of these changes will occur as each school district’s existing collective bargaining agreement expires and is renegotiated by the district and its teachers union, beginning with agreements newly entered into, extended, or readopted on or after July 1, 2011, and all such agreements entered into on or after July 1, 2014.⁴¹

On what basis may instructional personnel be dismissed during the term of their employment contract?

There are two ways instructional personnel may be dismissed during the term of their employment contract – dismissal for unsatisfactory performance and just cause dismissal. Dismissal for unsatisfactory performance only applies to instructional personnel on professional service contracts.⁴² Just cause dismissal applies to all instructional personnel, regardless of contract type.⁴³

³⁶ National Council on Teacher Quality, *Teacher Layoffs: Rethinking “Last Hired, First Fired” Policies*, at 3 (Feb. 2010), available at http://www.nctq.org/p/docs/nctq_dc_layoffs.pdf [hereinafter *Rethinking “Last Hired, First Fired”*]; see, e.g., Collier County School District and Collier County Education Association, *Instructional Personnel Collective Bargaining Agreement*, at 9.01, (2009), available at http://www.ccea-ocap.org/index.php?option=com_content&view=article&id=17&Itemid=70 [hereinafter *Collier County Agreement*]. Reductions-in-force do not typically include reductions in instructional personnel due to routine attrition, decisions not to renew annual contract employees, and dismissal based upon conduct or performance. *Id.* Typically, teachers who lose their jobs may be recalled based on collectively bargained priorities. *Rethinking “Last Hired, First Fired,”* at 5.

³⁷ Section 1012.33(5), F.S. (2010).

³⁸ See, e.g., *Hillsborough County Agreement*, *supra* note 32, at 62 (priority of reductions is based upon seniority); see, e.g., *Collier County Agreement*, *supra* note 34, at 9.01.

³⁹ *Rethinking “Last Hired, First Fired,” supra* note 34, at 1.

⁴⁰ Section 1012.33(5), F.S.

⁴¹ Section 19, ch. 2011-1, L.O.F.

⁴² Section 1012.34(4), F.S.

⁴³ Sections 1012.33(1)(a) and (3)(c) and 1012.335(4)-(5), F.S.

Dismissal for Unsatisfactory Performance

Dismissal proceedings may be brought against instructional personnel on professional service contracts who are charged with unsatisfactory performance.⁴⁴ School districts must follow the following due process procedures:

- The evaluator must notify the employee of unsatisfactory performance in writing and meet with the employee to discuss the performance evaluation.⁴⁵ Thereafter, the employee must be placed on performance probation for a period of 90 days. While on performance probation, the employee must be periodically evaluated, given performance feedback, and provided assistance and inservice opportunities targeted to correcting performance deficiencies.⁴⁶
- Within 14 days after the close of the 90-day period, the evaluator must determine whether the performance deficiencies have been corrected and make a recommendation to the district school superintendent regarding retention or termination of the employee. Within 14 days after receipt of this recommendation, the superintendent must notify the employee in writing regarding continuation or termination of his or her employment contract.⁴⁷
- Within 15 days after receiving notice of the superintendent's recommendation that his or her employment contract be terminated, the employee may request a hearing to contest the recommendation. The hearing must be conducted within 60 days after receipt of the employee's request. The school board may choose to conduct its own hearing or provide for a hearing before an administrative law judge. If the matter is heard by an administrative law judge, the judge hears the case and makes a recommendation on retention or termination to the school board. A majority vote of the membership of the district school board is required to sustain or change the administrative law judge's recommendation. In either case, the school board's determination is final as to the sufficiency or insufficiency of the grounds for termination of employment.⁴⁸
- The employee may appeal an adverse hearing result in state appellate court. The employee must file a request for appeal within 30 days after the school board's final order.⁴⁹

Just Cause Dismissal

All instructional personnel may be suspended or dismissed during the term of their contract for just cause.⁵⁰ For professional service contract employees, just cause includes incompetency; immorality; misconduct in office; gross insubordination; willful neglect of duty; and being convicted or found guilty of, or entering a plea of guilty to, regardless of adjudication of guilt, any crime involving moral turpitude.⁵¹ State board rule defines these causes as follows:

- Immorality is "conduct that is inconsistent with the standards of public conscience and good morals. It is conduct that brings the individual concerned or the education profession into public disgrace or disrespect and impairs the individual's service in the community."
- Misconduct in office is defined as a violation of the Code of Ethics of the Education Profession,⁵² the Principles of Professional Conduct for the Education Profession in Florida,⁵³ or school board rules; or behavior that disrupts the student's learning environment or reduces the educator's ability or his or her colleagues' ability to effectively perform duties.

⁴⁴ Section 1012.34(4), F.S.

⁴⁵ Section 1012.34(4)(a), F.S.

⁴⁶ Section 1012.34(4)(b)1., F.S.

⁴⁷ Section 1012.34(4)(b)2., F.S.

⁴⁸ *Id.*

⁴⁹ Section 120.68(1) and (2)(a), F.S.

⁵⁰ Section 1012.33(1)(a), (4)(c), and (6)(a), F.S.

⁵¹ Section 1012.33(1)(a), F.S.; rule 6A-5.056, F.A.C. The just cause reasons for dismissing employees on continuing contracts also include drunkenness. Section 1012.33(4)(c), F.S.; rule 6A-5.056(6), F.A.C.

⁵² Rule 6B-1.001, F.A.C.

⁵³ Rule 6B-1.006, F.A.C.

- Incompetency is unfitness for, or inability to perform, one's duty resulting from inefficiency⁵⁴ or incapacity.⁵⁵
- Gross insubordination is defined as intentional refusal to obey a direct order, reasonable in nature, and given by and with proper authority; misfeasance, or malfeasance as to involve failure in the performance of the required duties.
- Willful neglect of duties is defined as intentional or reckless failure to carry out required duties.
- Crimes of moral turpitude based upon a list of offenses which bear upon the individual's fitness to work with children or in a position of public trust, e.g., sex crimes involving children or others, murder, robbery, kidnapping or luring or enticing a child, assault, and battery.⁵⁶

Just cause for professional service contract employees also includes multiple performance evaluations of needs improvement or unsatisfactory, defined in statute as receipt of two consecutive annual performance evaluation ratings of unsatisfactory, two annual ratings of unsatisfactory within a three-year period, or three consecutive annual ratings of needs improvement or a combination of needs improvement and unsatisfactory.⁵⁷

Just cause for annual contract and continuing contract employees includes all of the grounds applicable to professional service contract employees except for dismissal for multiple performance evaluations of needs improvement or unsatisfactory.⁵⁸ Unlike annual and professional service contract employees, continuing contract employees may also be dismissed for drunkenness.⁵⁹

A school district must provide employees charged on just cause grounds with written notice stating the charges and may suspend the employee without pay.⁶⁰ If the employee wishes to contest the charges, he or she may request a hearing.⁶¹ The school board may choose to conduct its own hearing or provide for a hearing before an administrative law judge.⁶² The employee may appeal an adverse hearing result in state appellate court.⁶³

School administrators may also be suspended or dismissed on just cause grounds.⁶⁴

In the 2011-12 school year, 14,557 instructional personnel and school administrators left employment in Florida. Of these employees, 159 were newly hired employees who resigned or were released during the probationary period, 192 were professional service contract employees terminated for unsatisfactory performance, and 148 were dismissed for just cause.⁶⁵

In the 2010-11 school year, 14,530 instructional personnel and school administrators left employment in Florida. Of these employees, 172 were newly hired employees who resigned or were released during the probationary period, 208 were professional service contract employees terminated for unsatisfactory performance, and 60 were dismissed for just cause.⁶⁶

⁵⁴ Inefficiency includes failure to perform duties or effectively communicate or relate with students, colleagues, administrators, subordinates, or parents; disorganization in the classroom that threatens student health, safety, or welfare; and excessive absences or tardiness. Rule 6A-5.056(3)(a), F.A.C.

⁵⁵ Incapacity includes lack of emotional stability, adequate physical ability, or general education or subject area knowledge. Rule 6A-5.056(3)(b), F.A.C.

⁵⁶ Rule 6A-5.056(1)-(8), F.A.C.

⁵⁷ Section 1012.33(1), F.S.; *see also* rule 6A-5.056(7), F.S.

⁵⁸ Sections 1012.33(4)(c) and 1012.335(4)-(5), F.S.

⁵⁹ Section 1012.33

⁶⁰ Section 1012.33(6)(a), F.S. If the charges are not sustained, the employee must be reinstated with back pay. *Id.*

⁶¹ Section 1012.33(6)(a), F.S. The request for a hearing must be made within 15 days of receiving notice of the charges. *Id.*

⁶² Section 1012.33(6)(a)1. and 2., F.S. In either case, the hearing must be conducted within 60 days of receiving the request for hearing. *Id.*

⁶³ Section 1012.33(6), F.S. (flush-left provisions at end of subsection). The request for appeal must be made within 30 days after the school board's or administrative law judge's final order. Section 120.68(1) and (2)(a), F.S.

⁶⁴ Section 1012.33(4)(c) and (6)(b), F.S.

⁶⁵ Email, Florida Department of Education, Legislative Affairs (Oct. 5, 2012).

⁶⁶ *Id.*

In the 2009-10 school year, 12,623 instructional personnel and school administrators left employment in Florida. Of these employees, 121 were newly hired employees who resigned or were released during the probationary period, 146 were professional service contract employees terminated for unsatisfactory performance, and 75 were dismissed for just cause.⁶⁷

How are classroom teacher school assignments and transfers determined?

Performance evaluation results must be used as the basis for assigning classroom teachers to schools and determining transfers. Each school principal must submit classroom teacher nominations to the district school superintendent who, in turn, submits recommendations for filling school-level instructional positions to the school board for approval.⁶⁸

When transferring a classroom teacher from one school to another, the superintendent must consult with the school principal and allow him or her to review the teacher's record and interview the teacher. If the school principal determines that the placement is not in the best interests of students, he or she may request an alternative placement. The law authorizes a school principal to refuse the placement or transfer of a classroom teacher who is not rated effective or highly effective.⁶⁹

What measures are taken to protect public school children from educators with histories of criminal or employment-related misconduct?

Florida law requires individuals who work in, or provide services to, school districts, charter schools, and private schools that participate in state school choice scholarship programs to undergo a fingerprint-based background screening before being permitted access to school grounds.⁷⁰ The individuals who must undergo background screening fall under three personnel classifications -- instructional and noninstructional personnel,⁷¹ noninstructional school district employees and contracted personnel,⁷² and noninstructional contractors.⁷³ Candidates for educator certification must also undergo background screening.⁷⁴

The background screening requirements for each personnel classification vary depending upon the individual's duties, whether or not the individual is a school district employee, and the degree of contact the individual has with students.⁷⁵ Because they are more likely to have direct contact with students, candidates for educator certification, instructional and noninstructional personnel, and noninstructional school district employees and contracted personnel must undergo Level 2 background screening. Level 2 background screening requires individuals to be screened against a statutorily prescribed list of over 50 offenses.⁷⁶ In contrast, noninstructional contractors, individuals who are not school district employees and have no direct contact with students, are screened against a statutory list of nine disqualifying offenses.⁷⁷

Before employing instructional personnel or school administrators in any position that requires direct contact with students, school districts, charter schools, and private schools participating in a state school choice scholarship program must:

⁶⁷ *Id.*

⁶⁸ Section 1012.27(1), F.S. (flush left provision at end of subsection).

⁶⁹ *Id.*; s. 1012.28(6), F.S.

⁷⁰ Sections 1012.32(2), 1012.465(2), and 1012.467(2)(a), F.S.

⁷¹ Instructional and noninstructional personnel are individuals who are hired or contracted to fill positions that require direct contact with students in any public school. Section 1012.32(2), F.S.

⁷² Noninstructional school district employees and contracted personnel are individuals who are permitted access to school grounds when students are present; who have direct contact with students; or who have access to, or control of, school funds. Section 1012.465(1), F.S.

⁷³ Noninstructional contractors are vendors or contractors who are not school district employees but are permitted access to school grounds when students are present. Section 1012.467(1)(a), F.S.

⁷⁴ Sections 1012.32(2)(a) and 1012.56(10)(a), F.S.

⁷⁵ Sections 1012.32(2), 1012.465(2), and 1012.467(2)(a), F.S.

⁷⁶ See ss. 435.04, 1012.32(2), 1012.465(1), and 1012.56(10), F.S.

⁷⁷ See s. 1012.467(2)(g), F.S.

- Conduct an employment history check of the individual's previous employer. If unable to contact a previous employer, efforts to contact the employer must be documented;
- Screen the individual through use of the Department of Education's Professional Practices' Database of Disciplinary Actions Against Educators and Teacher Certification Database;⁷⁸ and
- Document the findings.⁷⁹

The law prohibits school districts, charter schools, and private schools that participate in state school choice scholarship programs from entering into agreements for the purpose of concealing misconduct related to student health, safety, and welfare by employees who are dismissed, terminated, or resign in lieu of termination for violations. School officials may not provide employment references or discuss the employee's performance without disclosing the misconduct.⁸⁰

Where can I get additional information?

Florida Department of Education

Bureau of Educator Recruitment, Development, and Retention

(850) 245-0435

<http://www.fldoe.org/profdev/>

Florida Department of Education

Office of Professional Practices Services

(850) 245-0438

<http://www.fldoe.org/edstandards/>

Florida House of Representatives

Education Committee

(850) 717-4830

<http://www.myfloridahouse.gov>

⁷⁸ See s. 1001.10(5), F.S.; see also Florida Department of Education, *Employment Screening Tools*, <http://www.fldoe.org/edstandards/est.asp> (last visited May 25, 2010) (includes links to the Professional Practices' Database of Disciplinary Actions Against Educators and the Teacher Certification Database). The Teacher Certification Database is also known as the Bureau of Educator Certification's Partnership Access and Services System (BEC-PASS). Florida Department of Education, *Technical Assistance Paper, Senate Bill 1712, No. K12: 2008-129*, at 4 (July 31, 2008), available at <http://www.fldoe.org/edstandards/pdfs/SB1712TAP.pdf>.

⁷⁹ Sections 1002.33(12)(g)4. (charter schools), 1002.421(4)(c) (private schools), and 1012.27(6), F.S.

⁸⁰ Sections 1001.42(6) (school districts), 1002.33(12)(g)3. (charter schools), 1002.421(4)(b) (private schools), F.S.



School District Personnel Performance Evaluations

Education Committee

Last Updated: August 2013

How is the job performance of instructional personnel and school administrators evaluated?

Florida law requires each district school superintendent to establish procedures to evaluate the job performance of district instructional,¹ administrative, and supervisory personnel.² The Department of Education (DOE) must approve each school district's performance evaluation system.³ The performance evaluation system must be based upon sound educational principles and contemporary research in effective educational practices; be designed to support effective instruction; provide appropriate instruments, procedures, and criteria for improving the quality of instruction; and include opportunities for parental input.⁴

Instructional personnel and school administrators must be evaluated annually, except that newly hired classroom teachers must be evaluated at least twice in their first year of teaching in the school district. "Newly hired classroom teachers" include first-time teachers new to the profession as well as veteran teachers new to the school district.⁵

The criteria used to measure instructional personnel and school administrator performance are student performance, instructional practice, and instructional leadership. At least 50 percent of the evaluation must be based upon student performance. Student performance must be measured by statewide assessments⁶ and by the 2014-15 school year for subjects and grade levels not tested by statewide assessments, school district assessments.⁷ Student learning growth formulas tied to these assessments must be used to determine the

¹ Instructional personnel is defined as any K-12 staff member who provides direct instructional services or direct instructional support to students in grades kindergarten through 12. Instructional personnel include classroom teachers; staff who provide student personnel services, e.g., guidance counselors, social workers, career specialists, and school psychologists; librarians and media specialists; other instructional staff, e.g., learning resource specialists; and education paraprofessionals under the direct supervision of instructional personnel. Section 1012.01(2), F.S. Whether a performance evaluation under s. 1012.34, F.S., is required for instructional personnel who teach at a school district career technical center authorized under s. 1001.44, F.S., depends upon whether courses taught by the personnel lead to high school credit for students taking the course and whether the personnel is a school district employee. See ss. 1001.44, 1012.01(2), and 1012.34, F.S.; Telephone interview with Deputy Chancellor for Educator Quality, Florida Department of Education (July 19, 2013). Although substitute teachers are classified as classroom teachers, the law specifically excludes them from performance evaluation requirements. Section 1012.34(3)(a), F.S.

² Section 1012.34(1)(a), F.S. Administrative personnel are K-12 personnel who perform management activities such as developing and executing broad policies for the school district. Administrative personnel include district-based instructional and non-instructional administrators, as well as school administrators who perform administrative duties at the school-level. School administrators include school principals, school directors, career center directors, and assistant principals. "Supervisory personnel" are not defined. Section 1012.01(3), F.S. Career center directors must be evaluated under s. 1012.34, F.S., to the extent that K-12 students are enrolled in courses leading to high school credit offered by the center. See ss. 1001.44, 1012.01(3), and 1012.34, F.S.; Telephone interview with Deputy Chancellor for Educator Quality, Florida Department of Education (July 19, 2013).

³ Section 1012.34(1)(b), F.S. A district school board must annually review its evaluation system for compliance with state law. Any changes to the system must be approved by the board. DOE must monitor each school district's implementation of its evaluation system for compliance with state law. Section 1012.34(1)(b) and (6), F.S.

⁴ Section 1012.34(2) and (3)(a), F.S.

⁵ Section 1012.34(3)(a), F.S.

⁶ The statewide assessment program for public schools includes the Florida Comprehensive Assessment Test (FCAT) and statewide standardized end-of-course (EOC) assessments. FCAT assesses reading (grades 3-10), mathematics (grades 3-8), science (grades 5 and 8), and writing (grades 4, 8, and 10). EOC assessments for high school students include Algebra I, Biology I, and geometry. Beginning in the 2012-13 school year, middle school students will take an EOC assessment in Civics as a field test. Beginning in the 2013-14 school year, the EOC assessment counts 30 percent of the final course grade. Section 1008.22(3)(c), F.S.

⁷ Sections 1012.34(3)(a)1. and 1008.22(8), F.S.

amount of learning growth a student makes in the year he or she is assigned to the instructional personnel or school administrator.⁸

Instructional practice criteria for classroom teachers are based upon the Florida Educator Accomplished Practices (FEAP). For nonclassroom instructional personnel who are not classroom teachers, instructional practice criteria must be based upon the FEAPs and may include specific job expectations related to student support.⁹ Instructional leadership criteria for school administrators are based upon the Florida Principal Leadership Standards (FPLS). School administrators are also evaluated based upon recruitment and retention of effective or highly effective classroom teachers, and improvements in the percentage of such teachers as well as their execution of evaluation duties.¹⁰ The State Board of Education and school boards may adopt additional performance criteria based upon employee job responsibilities.¹¹

Each employee's evaluation must be conducted by his or her supervisor. Evaluators may consider input from other trained personnel.¹² Individuals with evaluation responsibilities must be trained in the proper use of the evaluation criteria and procedures. Performance evaluation systems must include processes for monitoring evaluator reliability and system effectiveness.¹³

The law regarding instructional personnel and school administrator performance evaluations is the result of Florida's participation in the Race to the Top grant program and the Legislature's passage of the Student Success Act. In August 2010, Florida was one of 11 states and the District of Columbia awarded federal Race to the Top grant funds.¹⁴ Florida received \$700 million to implement various education reforms, including reforms to instructional personnel and school administrator performance evaluations.¹⁵ Sixty-two of 67 school districts, 214 charter schools in 27 of the participating districts, and three university lab schools are participating in Race to the Top.¹⁶ Fifty local teachers unions agreed to collaborate with their school districts in implementing these reforms.¹⁷ The Legislature enacted the Student Success Act in May 2011, which, among other things, codified Florida's Race to the Top performance evaluation reforms into state law.¹⁸

How is an employee's overall performance rated on the performance evaluation?

School district performance evaluation systems must differentiate among four levels of performance:

- Highly effective;
- Effective;

⁸ Section 1012.34(7)(a)-(b), F.S.

⁹ Section 1012.34(3)(a)2., F.S. The Educator Accomplished Practices are adopted in rule and include include several competencies and skills that are essential to effective teaching. Rule 6A-5.065, F.A.C.

¹⁰ Section 1012.34(3)(a)3., F.S. The Florida Principal Leadership Standards provide the essential competencies and skills for school administrators. Rule 6A-5.080, F.A.C.

¹¹ Section 1012.34(3)(a), F.S.

¹² Section 1012.34(3)(c), F.S.

¹³ Section 1012.34(2)(f)-(h), F.S.

¹⁴ American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, 123 Stat. 115 (Feb. 17, 2009); Press Release, U.S. Department of Education, *Nine States and the District of Columbia Win Second Round Race to the Top Grants* (Aug. 24, 2010), <http://www.ed.gov/news/press-releases/nine-states-and-district-columbia-win-second-round-race-top-grants> (last visited June 10, 2012). Delaware and Tennessee were selected to receive Race to the Top grant funds in Phase 1 of the competition. The District of Columbia, Florida, Georgia, Hawaii, Maryland, Massachusetts, New York, North Carolina, Ohio, and Rhode Island were selected in Phase 2. The winners were selected from a field of 46 states. *Id.*

¹⁵ U.S. Department of Education, *Race to the Top Funding Status*, <http://www2.ed.gov/programs/racetothetop/funding.html> (last visited June 10, 2012); Florida Department of Education, *Florida's Race to the Top: hearing before the House Education Comm.* (Jan. 13, 2011).

¹⁶ Email, Florida Department of Education, Legislative Affairs Director (July 16, 2013). Participating lab schools are the Florida Atlantic University, Florida A & M University, and University of Florida lab schools. The Baker, Dixie, Hamilton, Palm Beach, and Suwannee County school districts are not participating in the grant. *Id.*

¹⁷ Email, Florida Department of Education, Legislative Affairs Director (July 16, 2013).

¹⁸ Section 2, ch. 2011-1, L.O.F., *codified at* s. 1012.34, F.S. (2011); *see* Florida Department of Education, *Florida's Race to the Top Memorandum of Understanding for Phase 2*, at 10-13 (May 3, 2010), *available at* <http://www.fldoe.org/arra/pdf/phase2mou.pdf> [hereinafter *Race to the Top MOU*].

- Needs improvement, or for instructional personnel in their first three years of employment who need improvement, developing; and
- Unsatisfactory.¹⁹

The state board must adopt rules establishing uniform standards for each performance level, including a student learning growth standard that if not met will result in an unsatisfactory evaluation.²⁰ The Commissioner of Education must consult with experts, instructional personnel, school administrators, and education stakeholders in developing the criteria for the performance levels.²¹

How is student performance measured for evaluation purposes?

Student learning growth, with certain exceptions, is the primary measure of student performance used to evaluate instructional personnel and school administrators. Measurement of student learning growth varies by personnel classification, as follows:

- Student learning growth for students taught by classroom teachers is measured by statewide assessments or, for subjects and grades not tested by statewide assessments, school district-developed or selected assessments.²²
- Student learning growth for a school administrator's evaluation is measured by learning growth data for students assigned to the school.²³

For classroom teachers of courses not measured by a statewide assessment, school districts may request, through the evaluation approval process, DOE approval to use:

- A student achievement measure or a combination of student learning growth and achievement; or²⁴
- A combination of student learning growth on a district assessment and on the Florida Comprehensive Assessment Test (FCAT) of reading or mathematics, as long as learning growth on the school district assessment is given greater weight.²⁵

Additionally, school districts may use a student achievement measure to evaluate classroom teachers of courses measured by a statewide, standardized end-of-course assessment if a statewide learning growth formula has not been approved for that assessment.²⁶

Measurement of student learning growth must be based upon at least three school years of student data. If less than three years of data is available for an employee, the school district must include available data and may reduce the weight attributed to student learning growth from 50 percent to not less than 40 percent for classroom teachers and school administrators and not less than 20 percent for nonclassroom instructional personnel.²⁷

The student performance portion of a nonclassroom instructional personnel's performance evaluation must be measured by student outcome data that reflects the employee's actual contribution to the performance of students in his or her area of responsibility. Such outcome data may include student learning growth on statewide assessments, measurable student outcomes unique to the personnel assignment, or a combination thereof.²⁸

¹⁹ Section 1012.34(2)(e), F.S.

²⁰ Section 1012.34(8), F.S.

²¹ Section 1012.34(2)(e), F.S. (flush-left provisions at end of paragraph).

²² School districts must implement assessments for subjects not tested by statewide assessments by the 2014-15 school year. *See s. 1008.22(8)*, F.S.

²³ Section 1012.34(3)(a)1.a.-c., F.S.

²⁴ Section 1012.34(7)(c), F.S. Student achievement must be demonstrated to be a more appropriate measure of teacher performance. *Id.*

²⁵ Section 1012.34(7)(d), F.S.

²⁶ Section 3, ch. 2013-185, L.O.F.

²⁷ Section 1012.34(3)(a)1.a.-c., F.S.

²⁸ Section 3, ch. 2013-185, L.O.F., and s. 1012.34(3)(a)1.a.-c., F.S.

What are the requirements for student learning growth formulas?

Beginning with the 2011-12 school year, each school district must use the state-adopted student learning growth formula for courses associated with the FCAT. Formulas for additional statewide assessments must be implemented as they become available. Beginning with the 2014-15 school year, each school district must measure student learning growth using an equally appropriate formula for district assessments of subjects and grades not tested by statewide assessments.²⁹

Student learning growth formulas measure the impact an educator has on student learning by accounting for certain variables which potentially impact the learning process.³⁰ An educator's student learning growth score on the performance evaluation essentially reflects the average learning growth of the educator's students that is above or below that of similar students in the state, using the variables accounted for in the formula.³¹

Student learning growth formulas must consider each student's prior performance and learning growth over time. A student's prior performance is compared to performance in the year assigned to the employee. Different expectations may not be established for students based upon gender, race, ethnicity, or socioeconomic status.³²

Pursuant to its Race to the Top grant proposal, DOE established a Student Learning Growth Implementation Committee to gather input and make recommendations regarding student learning growth formulas for FCAT and other statewide assessments. Among other members, the committee includes representatives of parents, classroom teachers, school administrators, teachers unions, and the business community.³³ The Commissioner of Education adopted the committee's recommended student learning growth formula for FCAT in June 2011.³⁴ The variables used in Florida's student learning growth formula for FCAT are:

- Up to two prior years of achievement scores;
- Students with Disabilities (SWD) status;
- English Language Learner status;
- Gifted status;
- Attendance;
- The number of subject-relevant courses in which the student is enrolled;
- Mobility, i.e., the number of school transitions a student makes in the same school year;
- Difference from modal age in grade, i.e., the student's age in relation to what is normal for students enrolled in that grade (as an indicator of retention);

²⁹ Section 1012.34(7)(a)-(b), F.S. The Student Success Act required the Commissioner of Education to adopt a formula for FCAT by June 1, 2012. Section 1, ch. 2011-1, L.O.F.; s. 1012.34(7)(a), F.S. The law also requires DOE to provide model learning growth formulas for district assessments of subjects and grades not tested by statewide assessments. Section 1012.34(7)(b), F.S.

³⁰ Florida Department of Education, *Implementation of CS/CS/SB 736, Education Personnel, Ch. 2011-1, L.O.F.: hearing before the House K-20 Competitiveness Subcommittee* (Sept. 20, 2011).

³¹ American Institutes for Research, *Florida Value-Added Model Technical Report*, at 2 (working draft), available at <http://www.fldoe.org/committees/doc/Value-Added-Model-Technical-Report.docx> [hereinafter *VAM Technical Report*].

³² Section 1012.34(7)(a), F.S.

³³ *Race to the Top MOU*, *supra* note 18, at 10-13; Florida Department of Education, *Value-Added Model Recommendation to the Commissioner of Education From the Student Learning Growth Implementation Committee* (June 8, 2011), available at <http://www.fldoe.org/committees/pdf/SummaryFinalRecommendation.pdf> [hereinafter *Student Learning Growth Implementation Committee Recommendations*]; Florida Department of Education, *Commissions, Committees, and Task Forces, Student Growth Implementation Committee*, <http://www.fldoe.org/committees/sg.asp> (last visited June 10, 2013). DOE also used Race to the Top funds to hire American Institutes for Research to assist it in developing student learning growth formulas for statewide assessments. Florida Department of Education, *American Recovery and Reinvestment Act, Procurements*, <http://www.fldoe.org/arra/procurements.asp> (last visited June 10, 2013) [hereinafter *Race to the Top Procurement*] (Value Added Model).

³⁴ Press Release, Florida Department of Education, *Statement by Education Commissioner Dr. Eric J. Smith Regarding full approval of Florida's Value-Added Student Growth Model* (June 10, 2011), http://www.fldoe.org/news/2011/2011_06_10.asp (last visited June 10, 2013).

- Class size (which is a continuous measure counting the number of students linked to the educator); and
- Homogeneity of entering test scores of students in the class (which identifies variations in the achievement levels of students in a class when first assigned to the educator).³⁵

Are school districts required to implement assessments for courses not tested by statewide assessments?

Yes. Beginning with the 2014-15 school year, the law requires each school district to adopt a rigorous student assessment for each course that is not tested by statewide assessments. School districts may use statewide assessments, other standardized assessments, industry certification examinations, and school district assessments.³⁶ Each school district must use a student learning growth formula to measure learning growth on district assessments. Such formulas must be comparable to those used for statewide assessments.³⁷ The district's obligation to meet this requirement is separate from the obligation to implement personnel evaluation systems.

Until July 1, 2015, if a school district has not implemented an assessment or student learning growth formula for a course for purposes of personnel evaluations, two alternative growth measures may be used for a classroom teacher of the course -- student learning growth on statewide assessments or measurable learning targets established based upon the goals of the school improvement plan and approved by the school principal. Additionally, a district school superintendent may assign student learning growth on statewide assessments to an instructional team if such assignment does not result in any member of the team being evaluated based upon a student he or she did not actually teach. This provides flexibility to evaluate employees who teach courses in which assessments or student learning growth formulas have not yet been implemented.³⁸

The commissioner must identify methods to support school districts in the development or acquisition of assessments. Such methods include developing test item banks, facilitating the sharing of assessments among districts, acquiring assessments from state and national curriculum-area organizations, and technical assistance.³⁹ Accordingly, DOE has provided technical assistance and used Race to the Top funds for the development of test item banks, a test platform, and grants to schools districts to develop assessments for hard-to-measure courses that can be shared across the state.⁴⁰

Regarding assessments of hard-to-measure courses, DOE awarded Race to the Top grants to fund seven projects by four Florida school districts. These projects include assessments of:

- Physical Education and Health Education, Grades K – 8: Miami-Dade County;
- Physical Education and Health Education, Grades 9 – 12: Hillsborough County;
- Performing Arts: Chorus and Drama: Polk County;
- Performing Arts: Band and Instrumental: Polk County;
- Visual Arts: Miami-Dade County;
- World Languages (other than Spanish): Duval County; and

³⁵ *VAM Technical Report*, *supra* note 31, at 3-4. The law specifies student attendance, disability, or English proficiency as variables that must be considered in formula development. Section 1012.34(7)(a), F.S. The Student Learning Growth Implementation Committee recommended that several additional variables be included in the formula. *Student Learning Growth Implementation Committee Recommendations*, *supra* note 33.

³⁶ Sections 1008.22(8)(a) and 1012.34(7)(b), F.S.

³⁷ Section 1012.34(7)(b), F.S.

³⁸ Section 1012.34(7)(e), F.S.; s. 3, ch. 2013-185, L.O.F.

³⁹ Section 1008.22(8)(c), F.S.

⁴⁰ *Race to the Top Procurement*, *supra* note 33 (test item banks, test platform and assessments for hard-to-measure courses); *see* Florida Department of Education, *American Recovery and Reinvestment Act, Teacher and Principal Evaluation Systems*, <http://www.fldoe.org/arra/TeacherEvaluationSystems.asp> (last visited June 10, 2013).

- Career and Technical Education: Hillsborough County.⁴¹

Field testing of these assessments will begin in Spring 2013-14. All Florida school districts will have access to the assessments produced in accordance with these grants.⁴²

What are instructional practice and instructional leadership criteria?

Instructional practice criteria for instructional personnel and instructional leadership criteria for school administrators comprise the portion of the performance evaluation that is based upon supervisor observations and other district-determined evidence or indicators.⁴³ Instructional practice indicators are aligned to the Florida Educator Accomplished Practices (FEAPs).⁴⁴ The FEAPs are adopted in rule; provide the essential competencies and skills for effective teaching; and form the foundation for instructional personnel preparation programs, certification requirements, and performance evaluation systems.⁴⁵ In district evaluation systems, instructional practice indicators measure the FEAPs regarding:

- Instructional design and lesson planning;
- The learning environment, including classroom management;
- Instructional delivery;
- Assessment of student progress;
- Continuous professional improvement; and
- Professional responsibility and ethical conduct.⁴⁶

Instructional leadership criteria for school administrators are based upon the Florida Principal Leadership Standards (FPLS).⁴⁷ The FPLSs form the foundation for school administrator performance evaluations, professional development systems, preparation programs, and certification requirements.⁴⁸ Instructional leadership criteria measure the FPLSs regarding:

- Student learning results;
- Prioritization of student learning;
- Instructional plan implementation;
- Faculty and leadership development;
- The school learning environment;
- Effective decision-making;
- School management;
- Communication and collaboration with students, faculty, parents, and the community; and
- Ethical and professional behavior.⁴⁹

Instructional leadership criteria also include the school administrator's use of evaluation criteria and procedures, recruitment and retention of highly effective and effective classroom teachers, and improvement in the percentage of instructional personnel rated highly effective or effective.⁵⁰

⁴¹ Florida Department of Education, *Race to the Top Assessments Information Sheet*, at 1 (June 2011), available at <http://www.fldoe.org/arra/racetothetop/assessments/pdf/InfoSheet-RTTT.pdf>; see also Florida Department of Education, *Race to the Top Assessments*, <http://www.fldoe.org/arra/racetothetop/assessments/> (last visited June 10, 2013).

⁴² Florida Department of Education, *Race to the Top Assessments Timeline* (Aug. 2011), available at <http://www.fldoe.org/arra/racetothetop/assessments/pdf/Timeline-RTTT.pdf>.

⁴³ Section 1012.34(3)(a)2. and 3., F.S.

⁴⁴ Rule 6A-5.065, F.A.C.

⁴⁵ Rule 6A-5.065(1)(a), F.A.C.

⁴⁶ Rule 6A-5.065(2), F.A.C.

⁴⁷ Section 1012.34(3)(a)3., F.S. and rule 6A-5.080, F.A.C.

⁴⁸ Rule 6A-5.080(1)(a), F.A.C.

⁴⁹ Rule 6A-5.080(2)(a)-(d), F.A.C.

⁵⁰ Section 1012.34(3)(a)3., F.S.

School districts are responsible for developing the instructional practice and instructional leadership portion of the performance evaluation. DOE has used Race to the Top funds to hire consultants to assist school districts in doing so. In addition, DOE has developed model evaluation systems for instructional personnel and school administrators that are aligned with the FEAPs and FPLSs, respectively. The model evaluation includes observation and evaluation instruments, crosswalks between each instructional practice and instructional leadership criterion and its corresponding FEAP or FPLS, and proficiency levels and scoring methods for measuring each criterion. Use of the model evaluation by school districts is optional.⁵¹

What procedures may be used to evaluate nonclassroom instructional personnel and classroom teachers of hard-to-measure subject areas?

School districts must identify teaching fields for which special evaluation procedures are necessary to accurately evaluate the employee.⁵² The law provides flexibility to establish procedures for evaluating nonclassroom instructional personnel and classroom teachers of hard-to-measure courses.⁵³

Nonclassroom instructional personnel include guidance counselors, social workers, career specialists, school psychologists, librarians and media specialists, primary specialists, learning resource specialists, instructional trainers, and adjunct educators.⁵⁴ Fifty percent of a nonclassroom instructional personnel's performance evaluation must be based upon performance of students, as measured by student outcome data that reflects the employee's actual contribution to the performance of students in his or her area of responsibility.⁵⁵

For teachers of any course not measured by a statewide assessment, school districts may request DOE approval to use either student learning growth, student achievement, or a combination of growth and achievement on a district assessment to evaluate these classroom teachers. A district may also request DOE approval to use a combination of student learning growth on the district assessment for these courses and on FCAT reading or FCAT mathematics as long as learning growth on the district assessment is given greater weight.⁵⁶

Hard-to-measure courses include such courses as art, music, physical education, and other courses that are more performance or skill oriented and not tested by statewide assessments. Use of student achievement may be appropriate when point-in-time knowledge more accurately reflects student performance in a course. Such courses may include industry certification or some of the hard-to-measure courses, such as music or art courses, in which mastering a job skill, painting a picture, or playing a song may be the goal of the course as well as Advanced Placement courses, where a goal of the course could be simply passing the assessment or earning college credit. Likewise, use of student learning growth on a district assessment and on FCAT reading or FCAT mathematics may be appropriate when reading or mathematics instruction is integrated into the course.⁵⁷

How is information on instructional personnel and school administrator performance provided to parents and the public?

School districts must annually report to DOE instructional personnel and school administrator performance evaluation ratings. DOE must post on its website the percentage of classroom teachers, other instructional

⁵¹ *Race to the Top Procurement*, *supra* note 33 (Improvement of Educator Evaluation Systems); see Florida Department of Education, *District Performance Evaluation Systems, Florida Models of Evaluation Systems*, <http://www.fldoe.org/profdev/pa.asp> (last visited June 10, 2013). Houghton Mifflin Harcourt was awarded the contract from the DOE's competitive procurement to provide technical assistance to school districts, which includes their partners Learning Sciences International, Inc., and the Leadership and Learning Center. School districts were free to use local funds to work with additional consultants, which a number of them chose to do. Email, Florida Department of Education, Legislative Affairs (Nov. 20, 2012).

⁵² Section 1012.34(2)(d), F.S.

⁵³ See, e.g., s. 1012.34(3)(a)1.b. and (7)(c)-(d), F.S. The state board and district school boards may adopt additional performance criteria based upon employee job responsibilities. Section 1012.34(3)(a)4., F.S.

⁵⁴ Section 1012.01(2)(b)-(d), F.S.

⁵⁵ Section 3, ch. 2013-185, L.O.F.

⁵⁶ Section 1012.34(3)(a)1.a. and (7)(b)-(d), F.S.

⁵⁷ Staff of the Florida House of Representatives, *Legislative Bill Analysis for CS/CS/SB 736* (2011).

personnel, and school administrators receiving each performance rating by school district and school. By December 1, 2012, and annually thereafter, DOE must report evaluation ratings to the Governor and the Legislature. The initial report must also address district implementation of evaluation systems, and subsequent annual reports must include any changes in such systems.⁵⁸

School districts must report to DOE instructional personnel and school administrators who receive two consecutive unsatisfactory evaluations and those who are given written notice of intent to terminate or not renew their employment.⁵⁹ Additionally, districts must annually report to parents the fact that their child is assigned to a classroom teacher or school administrator who has two consecutive unsatisfactory performance evaluations, two unsatisfactory evaluations in a three-year period, or three consecutive evaluations of needs improvement or any combination of needs improvement and unsatisfactory.⁶⁰

May students be assigned in consecutive school years to a classroom teacher who is evaluated as unsatisfactory or needs improvement?

No. Legislation enacted in 2013 prohibits the assignment of a student in consecutive school years to a classroom teacher who is evaluated as unsatisfactory or needs improvement. For an elementary school student, the prohibition applies to consecutive assignments to classroom teachers in successive grade levels. For middle grades and high school students, the prohibition applies to consecutive assignments to classroom teachers of the same subject area. For students enrolling in an extracurricular course,⁶¹ a parent may choose to have the student taught by a teacher who received a performance evaluation of needs improvement or unsatisfactory in the preceding school year if the student and the student's parent receives an explanation of the impact of teacher effectiveness on student learning and the principal receives written consent from the parent.⁶²

Where can I get additional information?

Florida Department of Education

Bureau of Educator Recruitment, Development, and Retention
(850) 245-0435
<http://www.fldoe.org/profdev/>

Florida House of Representatives

Education Committee
(850) 717-4830
<http://www.myfloridahouse.gov>

⁵⁸ Sections 1012.2315(5)(a) and 1012.34(1)(c), F.S.

⁵⁹ Section 1012.34(5), F.S.

⁶⁰ Section 1012.2315(5)(b), F.S.

⁶¹ Section 1003.01(15), F.S., defines “extracurricular courses” as all courses that are not defined as “core-curricula courses,” which may include, but are not limited to, physical education, fine arts, performing fine arts, career education, and courses that may result in college credit.

⁶² Section 5, ch. 2013-250, L.O.F., *codified at* s. 1012.2315(6), F.S.



School District Personnel Compensation

Education Committee

Last Updated: August 2012

How is compensation determined for instructional personnel and school administrators?

Florida law requires district school boards to adopt and use a salary schedule for determining compensation for school district employees, including instructional personnel¹ and school administrators.² In all but one of Florida's 67 school districts, salary schedules for instructional personnel are collectively bargained by the district school board and the certified bargaining agent (i.e., union) that represents the district's instructional personnel.³ The district and union negotiate wages, hours, and terms and conditions of employment, which are included in a collective bargaining agreement.⁴ A typical collective bargaining agreement includes, among other things, the salary schedule, health insurance and retirement benefits, leave policies, school holidays, and grievance procedures for school district instructional personnel.⁵

Historically, seniority and educational degree level have been the primary focus of instructional personnel compensation negotiations. A typical instructional personnel salary schedule sets forth an escalating salary scale based upon "steps." Each step represents the employee's years of service. Salary increases are provided based upon these steps. Instructional personnel with advanced degrees may receive additional salary increases.⁶

Because school administrators are managerial employees, they are not entitled to collectively bargain wages, hours, and terms and conditions of employment.⁷ Instead, compensation for school administrators is determined by the district school board. Like instructional personnel, seniority and educational degree level factor heavily in setting school administrator base salary. The employee's classification as a lead or assistant

¹ Instructional personnel provide direct instructional services or direct instructional support to students in grades K-12. Instructional personnel include classroom teachers; staff who provide student personnel services (e.g., guidance counselors, social workers, career specialists, and school psychologists); librarians and media specialists; other instructional staff (e.g., learning resource specialists); and education paraprofessionals. Section 1012.01(2), F.S.

² Sections 1011.60(4), 1012.22(1)(c), and 1012.27(2), F.S. School administrators serve as school-level managers, i.e., school principals, school directors, career center directors, and assistant principals. Section 1012.01(3)(a), F.S.

³ Sections 447.203(2), 447.309(1), and 1012.22(1)(c)4., F.S. The State Constitution provides that "the right of employees, by and through a labor organization, to bargain collectively shall not be denied or abridged." Section 6, Art. I of the State Constitution. The only school district whose instructional personnel are not represented by a union is Calhoun County. Section 447.305, F.S., requires that every employee organization seeking to become a certified bargaining agent for public employees register with the Public Employees Relations Commission (PERC). No such registration exists for Calhoun County. See Public Employees Relations Commission, *Search Registration Orders*, <http://perc.myflorida.com/co/regfilter.aspx> (last visited July 31, 2012).

⁴ Section 447.309(1), F.S. The Legislature is constitutionally empowered to provide the standards and guidelines for implementing the collective bargaining rights of public employees, including public school teachers. *Chiles v. State Employees Attorneys Guild*, 734 So.2d 1030, 1032 (Fla. 1999). This includes the authority to determine which public employees and matters are subject to collective bargaining and which issues must be bargained. *State Employees Attorneys Guild*, 734 So.2d at 1032; *School District of Martin County v. Public Employee Relations Commission*, 15 So.3d 42, 45-46 (4th D.C.A. 2009).

⁵ See, e.g., Hillsborough County School District and Hillsborough Classroom Teachers Association, Inc., *Teacher Contract 2010-2013*, at ss. 2, 13, 14, and 24 (2010), available at http://www.hillsboroughcta.org/documents/pdf/Contract_Teacher_2010_2013.pdf [hereinafter *Hillsborough Agreement*]; Hillsborough County Public Schools, *Salary Schedules 2011-2012*, at 9 (2011), available at http://www.hillsboroughcta.org/documents/pdf/HGPS_SalarySchedule_entire.pdf [hereinafter *Hillsborough Salary Schedule*].

⁶ See, e.g., Escambia County School District, *2011-12 Instructional Salary Schedule*, at 1(2011), available at http://www.escambia.k12.fl.us/Employment/PDF/2011-2012_INSTRUCTIONAL_SALARY_SCHEDULE.pdf [hereinafter *Escambia Salary Schedule*]; see, e.g., *Hillsborough Salary Schedule*, *supra* note 5, at 1-9.

⁷ See s. 447.203(4)(a)6., F.S.

school administrator and the type of school in which he or she serves, e.g., elementary, middle school, or high school, are also used to set base salary. Like instructional personnel, salary increases are provided in “steps.”⁸

In 2011, the Legislature enacted the Student Success Act, which made significant changes to the law regarding educator performance evaluations, contracts, and compensation. The Act requires Florida’s school districts to transition from instructional personnel and school administrator salary schedules that base annual salary adjustments upon seniority and degree level to salary schedules that base salary adjustments upon performance, as measured by annual performance evaluations.⁹

By July 1, 2014, district school boards must adopt two salary schedules for instructional personnel and school administrators – a performance salary schedule and a grandfathered salary schedule. Instructional personnel retain the right to collectively bargain compensation awarded under both the performance salary schedule and the grandfathered salary schedule; however, the priorities for negotiating compensation under each salary schedule differ.¹⁰

What is the performance salary schedule?

The Student Success Act requires each district school board to adopt a performance salary schedule for instructional personnel and school administrators by July 1, 2014. Instructional personnel and school administrators hired on or after July 1, 2014, and instructional personnel on annual contracts as of July 1, 2014, must be placed on the performance salary schedule.¹¹

Under the performance salary schedule, annual salary adjustments may only be given to employees rated highly effective or effective on annual performance evaluations. The salary adjustment for highly effective performance must be greater than the highest annual salary adjustment available to an employee of the same classification on any salary schedule adopted by the school district. The salary adjustment for effective performance must be between 50 and 75 percent of the adjustment provided to a highly effective employee. Employees rated below effective are not eligible for a salary adjustment.¹²

Similar to differentiated pay awarded under the grandfathered salary schedule, salary supplements must reward instructional personnel and school administrators who are assigned to Title I¹³ schools or schools that earn a grade of “F” or three consecutive grades of “D,” certified and teaching in a critical teacher shortage area, or assigned additional academic responsibilities.¹⁴ If budget constraints limit a school board’s ability to fully fund all adopted salary schedules, the board may not disproportionately reduce the performance salary schedule.¹⁵

What is the grandfathered salary schedule?

The grandfathered salary schedule is the salary schedule or schedules adopted by a district school board before July 1, 2014, in which compensation is generally based upon seniority and educational degree level. An undefined portion of instructional personnel compensation must be based upon performance, as measured by annual performance evaluations. The grandfathered salary schedules for instructional personnel and school administrators must include differentiated pay based upon district-determined factors, including additional

⁸ See, e.g., Hardee District Schools, *FY 2011-12: Hardee County School Board Salary Schedule*, at 1-2 (Feb. 23, 2012), available at http://www.hardee.k12.fl.us/webfiles/Departments/Human_Resources/Documents/Contracts/newsalaryschedule1112Boardapproved2312.pdf; see e.g., *Hillsborough Salary Schedule*, *supra* note 5, at 17-46. The Hardee and Hillsborough County School Districts have separate salary schedules for high school principals with a master’s degree, high school principals with doctorate degrees, high school assistant principals with a master’s degree, and high school assistant principals with a doctorate degree. *Id.*

⁹ Section 4, ch. 2011-1, L.O.F., *codified at* s. 1012.22(1)(c), F.S. (2011).

¹⁰ Section 1012.22(1)(c)4. and 5., F.S.; s. 447.309(1), F.S.

¹¹ Section 1012.22(1)(c)4. and 5., F.S.

¹² Section 1012.22(1)(c)5.b., F.S.

¹³ Typically, a Title I school is an urban or rural school serving a high proportion of economically disadvantaged students. See Pub. L. No. 89-10, 79 Stat. 27 (April 11, 1965).

¹⁴ Section 1012.22(1)(c)5.c., F.S.

¹⁵ Section 1012.22(1)(c)5., F.S. (flush-left provisions at end of subparagraph).

responsibilities, school demographics, critical teacher shortage areas, and level of job performance difficulties.¹⁶

Tenured instructional personnel, i.e., those awarded continuing or professional service contracts before July 1, 2011, and school administrators hired before July 1, 2014, are “grandfathered” into this salary schedule, but may opt into the performance salary schedule at any time. Instructional personnel who opt in must relinquish their continuing or professional service contract for an annual contract. Such employees may not return to continuing or professional service contract status or the grandfathered salary schedule.¹⁷

What is the difference between a salary adjustment and a supplement?

A salary adjustment becomes part of the employee’s permanent base salary, is not a bonus, and is considered compensation under the Florida Retirement System.¹⁸

A supplement is an annual addition to base salary for the term of the negotiated supplement as long as the employee continues his or her employment for the purpose of the supplement. A supplement does not become a part of the employee’s continuing base salary, but is considered compensation under the Florida Retirement System.¹⁹

May school districts continue to award cost-of-living adjustments and compensation for advanced degrees?

Yes; however, the Student Success Act placed certain limitations upon such compensation. School districts may provide a cost-of-living salary adjustment only if the adjustment:

- Does not discriminate among comparable classes of employees based upon the salary schedule under which they are compensated.
- Does not exceed 50 percent of the annual adjustment provided to instructional personnel rated as effective.²⁰

School districts may not use educational degree level in setting base salary for instructional personnel and school administrators hired on or after July 1, 2011. School districts may provide a salary supplement for advanced degrees if the degree is in the individual’s area of certification. Compensation for advanced degrees for instructional personnel and school administrators hired before July 1, 2011, was not changed by the Act.²¹

Does research support reliance on seniority and educational degree level when awarding educator compensation?

No. Research regarding how seniority and educational degree level impact student achievement does not support reliance on these factors when awarding compensation.²² The majority of research finds no statistically significant evidence that either of these factors is a strong predictor of teacher effectiveness.²³

¹⁶ Section 1012.22(1)(c)4., F.S.

¹⁷ Section 1012.22(1)(c)4.a.-b., F.S.; *see s. 1012.335(2)(a)-(b), F.S.* (requiring annual contracts for employees hired on or after July 1, 2011).

¹⁸ Section 1012.22(1)(c)1.a., F.S.

¹⁹ Section 1012.22(1)(c)1.g., F.S.

²⁰ Section 1012.22(1)(c)2., F.S.

²¹ Section 1012.22(1)(c)3., F.S.

²² *See* National Council on Teacher Quality, *Increasing the Odds: How Good Policies Can Yield Better Teachers*, at 2-3 (Oct. 2004), available at http://www.nctq.org/nctq/images/nctq_io.pdf [hereinafter *NCTQ Research Review*]; Center for Educator Compensation Reform, *Research Synthesis: General Compensation Questions*, at 3 (2010), available at http://cecr.ed.gov/research/Syntheses/Research%20Synthesis_Q%20A2.pdf [hereinafter *CECR Research Review*].

²³ *NCTQ Research Review*, *supra* note 22, at 2-3; *CECR Research Review*, *supra* note 22, at 1; *see for example* Aaronson, Barrow, and Sander, *Teachers and Student Achievement in the Chicago Public High Schools*, Federal Reserve Bank of Chicago, at 28-30 (Feb. 2003), available at http://www.chicagofed.org/digital_assets/publications/working_papers/2002/wp2002-28.pdf; *see for example* Hanushek, *The Economics of Schooling: Production and Efficiency in Public Schools*, *Journal of Economic Literature*, Vol. 24, Issue

When research has found that educational degree level impacts student achievement, the results have been inconsistent. For example, one study found that teachers with advanced mathematics degrees produced slightly higher student mathematics test scores than mathematics teachers teaching out-of-field or without an advanced mathematics degree. Conversely, another study found that teachers with advanced mathematics degrees produced lower student mathematics test scores than those without a mathematics degree.²⁴ Another recent study found that elementary teachers who earned an advanced degree within five years of entering teaching were no more effective than those without advanced degrees and elementary teachers with advanced degrees earned after five years in teaching were *less effective* than those without advanced degrees.²⁵

Researchers have also examined student achievement data to ascertain whether teaching skill improves with each year of teaching. While some studies show that teachers become more effective after gaining some experience, gains in effectiveness are not sustained over time.²⁶ Instead, the most significant gains in teacher effectiveness occur early in a teacher's career and peak after a certain number of years, with little or no measurable increase thereafter.²⁷

Does research support Student Success Act compensation reforms?

Yes. The Student Success Act's performance salary schedule reflects several recommendations made by education policy researchers:

- Implementation of the performance salary schedule will coincide with Race to the Top teacher quality reforms. Thus, performance pay will be supported by other efforts to improve teaching performance. This includes improvements to instructional personnel and school administrator performance evaluations, professional development, and contracting and the state's education data system.²⁸
- Performance will replace seniority and advanced degrees in setting base salary for instructional personnel and school administrators hired on or after July 1, 2011.²⁹
- Salary adjustments for highly effective and effective performance are increases to base salary, rather than one-time bonuses.³⁰

3, at 1162 (Sept. 1986) available at <http://hanushek.stanford.edu/publications/economics-schooling-production-and-efficiency-public-schools>.

²⁴ Compare Goldhaber and Brewer, *Evaluating the Effect of Teacher Degree Level on Educational Performance*, in *Developments in School Finance 1996*, U.S. Department of Education, National Center for Education Statistics, at 208 (1997), available at <http://nces.ed.gov/pubs97/975351.pdf> with Rowan, Correnti, and Miller, *What Large Scale, Survey Research Tells Us About Student Achievement: Insights from the Prospects Study of Elementary Schools*, Consortium for Policy Research in Education, University of Pennsylvania, at 13, 21-23 (2002), available at <http://cw.marianuniversity.edu/mreardon/755/document%20repository/Teacher%20Effects%20on%20Student%20Achievement.pdf>.

²⁵ Clotfelder, Ladd, and Vigdor, *How and Why Teacher Credentials Matter for Student Achievement?*, Urban Institute, Working Paper 2, at 33 (March 2007), available at http://www.caldercenter.org/PDF/1001058_Teacher_Credentials.pdf.

²⁶ *NCTQ Research Review*, *supra* note 22, at 1; *CECR Research Review*, *supra* note 22, at 2-3.

²⁷ *Id.*; see for example Gordon, Kane, and Staiger, *Identifying Effective Teachers Using Performance on the Job*, Brookings Institution, Hamilton Project, Discussion Paper 2006-01, at 27 (April 2006), available at http://www.brookings.edu/views/papers/200604hamilton_1.pdf (finding significant gains in teacher effectiveness during the first two years in teaching, with little measurable increase in effectiveness after four years); see for example Hanushek, Kain, O'Brien, and Rivkin, *The Market for Teacher Quality*, National Bureau of Economic Research, Working Paper 11154, at 29 (Feb. 2005), available at <http://www.nber.org/papers/w11154> (finding that the largest gains in teacher effectiveness occur during the first year in teaching).

²⁸ See, e.g., The Center for Education Reform, *Making the Grade? A Report Card on Performance Pay Programs Across the US*, at 2-3 (Oct. 2010), available at <http://www.edreform.com/wp-content/uploads/2011/10/MakingTheGrade-PolicyAlert.pdf> [hereinafter *Making the Grade*]; Springer, Hamilton, and McCaffrey, *Teacher Pay For Performance, Experimental Evidence from the Project on Incentives in Teaching*, Vanderbilt University, at 44-47 (Sept. 21, 2010), available at https://my.vanderbilt.edu/performanceincentives/files/2012/09/POINT_REPORT_9.21.102.pdf (suggesting linking performance pay with professional development, instructional innovations, and measures to improve teaching practice to increase student achievement)[hereinafter *Teacher Pay for Performance*]; Florida Department of Education, *Florida's Race to the Top Memorandum of Understanding for Phase 2*, 7-17 and 19-21 (May 3, 2010), available at <http://www.fldoe.org/arra/pdf/phase2mou.pdf>.

²⁹ See, e.g., *Making the Grade*, *supra* note 28, at 2-3; see text accompanying notes 22-27.

³⁰ *Id.* at 3.

- When fully implemented in the 2014-15 school year, salary adjustments will be based upon individual employee performance, rather than school-wide academic performance.³¹

Research examining whether awarding educator performance pay results in improved student outcomes has yielded mixed findings; however, several studies find a positive correlation between the two.³² Researchers suggest that variations in these findings likely reflect variations in performance pay program design and the level of commitment to performance pay, i.e., whether participation in the program is voluntary or mandatory or the program is a short term grant project or long term commitment.³³

Is the Student Success Act Florida's first law to address performance pay for instructional personnel and school administrators?

No. The Student Success Act was the latest of several attempts to more closely link instructional personnel and school administrator compensation with annual performance evaluations. Performance pay was first addressed by the Legislature in 1997 with legislation requiring each school district to adopt a salary schedule for instructional personnel and school administrators which bases a portion of each employee's salary upon his or her annual performance evaluation.³⁴ Legislation enacted in 1999 strengthened these provisions by requiring such performance evaluations to be primarily based upon student performance on statewide assessments or, for subjects and grades not tested on statewide assessments, district-determined assessments. This legislation also required that at least 5 percent of salary be based upon the evaluation.³⁵

School districts were given broad discretion to develop eligibility criteria and measures of student performance with little state-level oversight. As a result, many districts established stringent eligibility criteria to limit the number of employees who qualified for pay supplements. Additionally, many districts did not develop assessments for measuring student performance in subjects and grade levels not tested on statewide assessments. Lastly, local teachers unions negotiated performance pay plans that awarded too few teachers to be meaningful.³⁶

³¹ *Id.*; see e.g., Goodman and Turner, *The Design of Teacher Incentive Pay and Educational Outcomes: Evidence from the New York City Bonus Program*, Columbia University, at 3 (May 2012), available at http://www.columbia.edu/~sfg2111/Goodman_Turner_Group_Incentives_for_Teachers_JOLE_Manuscript.pdf (awarding bonuses for school-wide performance may have weakened the impact of performance pay on student achievement).

³² The Council of State Governments, *Does Merit Pay for Teachers Have Merit? Pros and Cons of New Models for Teacher Compensation*, at 5 (Nov. 2011), available at http://knowledgecenter.csg.org/drupal/system/files/Does_Merit_Pay_For_Teachers_Have_Merit_.pdf; see, e.g., Figlio and Kenny, *Individual Teacher Incentives and Student Performance*, Urban Institute, Working Paper 8, at 18-19 (April 2007), available at http://www.caldercenter.org/PDF/1001069_Individual_Teacher.pdf (pay incentives for individual teachers are associated with increased student achievement); see, e.g. Ritter, Holley, Jensen, Riffel, Winters, Barnett, and Greene, *Year Two Evaluation of the Achievement Challenge Pilot Project in the Little Rock Public School District*, University of Arkansas, at A-11 (Jan. 2008), available at http://www.uark.edu/ua/der/Research/merit_pay/year_two/Full_Report_with_Appendices.pdf (students in schools participating in Little Rock, AR, performance pay program made greater learning gains in math, reading, and language on the Iowa Test of Basic Skills than those in nonparticipant schools) [hereinafter *Little Rock Performance Pay*]; Woessman, *Cross-Country Evidence on Teacher Performance Pay*, Harvard University, at 16 (June 2010), available at http://www.hks.harvard.edu/pepg/MeritPayPapers/Woessmann_10-11.pdf (students in countries that award teacher performance pay perform significantly better on international assessments of math, science, and reading than those in countries that do not).

³³ See, e.g., *Teacher Incentive Pay Design*, *supra* note 31, at 3; see, e.g., Podgursky and Springer, *Credentials Versus Performance: Review of Teacher Performance Pay Research*, *Peabody Journal of Education* 82:4, at 567(2007); see, e.g., *Little Rock Performance Pay*, *supra* note 32, at A-1.

³⁴ Sections 1 and 2, ch. 97-212, L.O.F.

³⁵ Section 58, ch. 99-398, L.O.F., initially codified at s. 231.29(3)(a), F.S. (1999), redesignated in 2002 as s. 1012.34(3), F.S. (2002); s. 15, ch. 99-398, L.O.F., initially codified at s. 230.23(5)(c), F.S. (1999), redesignated in 2002 as s. 1012.22(1)(c), F.S. (2002), repealed by s. 7, ch. 2007-3, L.O.F. The Legislature replaced the "5 percent" requirement in 2007, with a requirement that school districts base a "portion" of each employee's salary on performance and award differentiated pay based in part on performance. Beginning July 1, 2014, such requirements will comprise the grandfathered salary schedule for instructional personnel and school administrators. Compare s. 1012.22(1)(c) 4., F.S. (2012), with s. 1012.22(1)(c)2., F.S. (2010).

³⁶ Center for Educator Compensation Reform, *Performance Pay in Florida*, at 2-4 (Nov. 2007), available at <http://cecr.ed.gov/guides/summaries/FloridaCaseSummary.pdf> [hereinafter *The Evolution of Performance Pay in Florida*]; Council for Education Policy Research and Improvement, *Florida Teachers and the Teaching Profession*, at 24-27 (March 2003), available at <http://www.cepri.state.fl.us/pdf/Final%20Teach%20Prof.pdf>; Office of Program Policy Analysis and Government Accountability,

Beginning in 2006, three successive statewide performance pay programs were developed in an attempt to create a workable framework for implementing performance pay on a statewide basis—Effectiveness Compensation (E-Comp),³⁷ Special Teachers Are Rewarded (STAR),³⁸ and the Merit Award Program (MAP).³⁹ Each program allocated funding for performance pay, provided for state-level oversight of school district performance pay programs, and established criteria and expectations related to award amounts and employee eligibility.⁴⁰

In January 2006, the Department of Education (DOE) proposed an amendment to its rule regarding school district performance evaluation systems for instructional personnel and school administrators. This rule amendment would have required each school district to incorporate performance pay into its performance evaluation system. The performance pay system proposed by this rule amendment came to be known as E-Comp. Under E-Comp, the top 10 percent of each district's instructional personnel would receive awards based upon improvements in student learning on statewide assessments and, for subjects and grades not tested on statewide assessments, district-determined assessments. Award amounts were set at a minimum of 5 percent of an employee's salary.⁴¹ DOE proposed approximately \$50 million to fund the program.⁴²

The E-Comp rule amendment was never adopted by the State Board of Education because the 2006 Legislature established a new program, STAR, in the 2006 General Appropriations Act. School district participation in STAR was voluntary. Under STAR, participating districts were required to provide awards to at least 25 percent of instructional personnel based upon improvements in student learning on statewide assessments or district-determined assessments, as applicable. Award amounts were set at a minimum of 5 percent of an employee's salary. The Legislature appropriated \$147.5 million to fund STAR in FY 2006-07.⁴³ Fifty-four school districts, three lab schools, and the Florida Virtual School participated in STAR.⁴⁴

In 2007, the Legislature repealed STAR and established MAP.⁴⁵ MAP provided state-funded performance pay supplements to high-performing instructional personnel⁴⁶ and school administrators.⁴⁷ MAP pay supplements were required to be at least 5 percent, but not more than 10 percent, of the average teacher's salary for the school district.⁴⁸ School districts were required to award MAP pay supplements according to an assessment of employee performance, which was based at least 60 percent upon student performance.⁴⁹ Student performance was measured in terms of academic proficiency, student learning gains, or both on statewide

Restrictive District Requirements Limited Participation in Performance Pay Systems, at 1-4 (Jan. 2007), available at <http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/0701rpt.pdf>.

³⁷ Vol. 32, Nos. 3 and 9, Fla. Admin. Weekly (notice of proposed amendment to rule 6B-4.010, F.A.C., dated Jan. 20, 2006 and notice of change to proposed amendment to rule 6B-4.010, F.A.C., dated March 3, 2006)[hereinafter *E-Comp Rulemaking 2006*]; see also Florida Department of Education, *Press Release: Florida Department of Education Unveils "Effectiveness Compensation" Plan for Teachers* (Feb. 10, 2006), available at http://www.fldoe.org/news/2006/2006_02_10.asp [hereinafter *Press Release*].

³⁸ Specific Appropriation 91, s. 2, ch. 2006-25, L.O.F.

³⁹ Section 1012.225, F.S. (2007).

⁴⁰ See *E-Comp Rulemaking 2006*, *supra* note 37, Specific Appropriation 91, s. 2, ch. 2006-25, L.O.F., and s. 1012.225, F.S. (2007).

⁴¹ *E-Comp Rulemaking 2006*, *supra* note 37.

⁴² See *Press Release*, *supra* note 37.

⁴³ Specific Appropriation 91, s. 2, ch. 2006-25, L.O.F.

⁴⁴ Email, Florida Department of Education, Legislative Affairs Director (Aug. 24, 2010).

⁴⁵ Sections 1, 4, and 5, ch. 2007-3, L.O.F., *codified at* s. 1012.225, F.S. (2007). Districts with STAR plans in effect as of July 1, 2006, and districts which obtained approval of a revised STAR plan by May 1, 2007, were authorized to award performance pay for the 2006-07 academic year. Section 5, ch. 2007-3, L.O.F.

⁴⁶ Instructional personnel eligible for MAP included classroom teachers, staff who provide student personnel services (*e.g.*, guidance counselors, social workers, career specialists, and school psychologists), librarians and media specialists, and other instructional staff (*e.g.*, learning resource specialists), as well as reading coaches and prekindergarten exceptional student education teachers. Substitute teachers, education paraprofessionals, and prekindergarten instructors in the Voluntary Prekindergarten Education Program were not eligible for MAP pay supplements. Section 1012.01(2)(a)-(d), F.S.; s. 1012.225(1), F.S. (2010); Florida Department of Education, *Florida Performance Pay Guidance 2007-2008 and Beyond*, at 2 (March 30, 2007), available at <http://fldoe.org/PerformancePay/pdfs/MeritAwardProgram.pdf> [hereinafter *Performance Pay Guidance*].

⁴⁷ Florida law defines "school administrators" as school principals and assistant principals. Section 1012.01(3)(c), F.S.

⁴⁸ Section 1012.225(2)(a), F.S. (2010).

⁴⁹ Section 1012.225(1) and (3)(c), F.S. (2010).

assessments or, for subjects and grades not tested by statewide assessments, a national, state, or district-determined assessment.⁵⁰ Use of seniority or base salary as the basis of the supplements was prohibited.⁵¹

School district participation in MAP was voluntary.⁵² Each school district seeking participation in MAP was required to submit a plan to DOE for approval. MAP plans were subject to collective bargaining.⁵³ In the 2010-11 school year, only three school districts were participating in MAP.⁵⁴ The Legislature repealed MAP in 2011, the same year the Student Success Act was enacted.⁵⁵

E-Comp, STAR, and MAP were stand-alone bonus programs with dedicated state funding for supplementing collectively bargained base salary. These programs did not change the practice of determining instructional personnel and school administrator base salary primarily upon seniority and educational degree level. Unlike E-Comp, STAR, and MAP, the Student Success Act's performance salary schedule is not a stand-alone bonus program. Rather, the Act realigns the priorities upon which base salary must be collectively bargained. Under the performance salary schedule, teaching performance is the basis for base salary negotiations, rather than seniority and educational degree level.⁵⁶

How much funding is provided for programs that support teachers?

Florida Education Finance Program. The Legislature allocates public education funding to Florida's 67 school districts through the Florida Education Finance Program (FEFP). The FEFP is a funding formula that uses such factors as student population, local property tax bases, varying costs of living, and varying costs of equivalent education programs due to scarcity and dispersion of the student population to determine a school district's share of public education funding. The FEFP is the primary mechanism for funding the operating costs of Florida school districts, which among other things, includes the payment of teacher salaries.⁵⁷ The FY 2012-13 FEFP provides \$16.3 billion including approximately \$9 billion from the General Revenue Fund, \$220 million from the Principal State School Trust Fund, \$361 million from the Educational Enhancement Trust Fund, and \$6.7 billion from local revenue.⁵⁸ In addition to funding school district operating costs, the FEFP also funds:

- **The School Recognition Program**, which provides approximately \$135 million in monetary awards to schools that earn a school grade of "A," improve at least one letter grade, or improve two or more letter grades and maintain such grade the following school year. For FY 2012-13, a recognized school will be awarded up to \$100 per student. School recognition awards may be used for nonrecurring bonuses to school faculty and staff, nonrecurring expenditures for educational equipment or materials, or for temporary personnel to assist the school in maintaining or improving student performance.⁵⁹
- **The Teachers Lead Program**, which provides approximately \$32 million for payment to classroom teachers for the purchase of classroom materials and supplies. The amount provided per teacher depends upon the number of eligible teachers.⁶⁰
- **Bonuses for Teachers of Advanced Courses**, such as International Baccalaureate (IB) courses, Advanced International Certificate of Education (AICE) courses, and Advanced Placement (AP)

⁵⁰ Section 1012.225(3)(c), F.S. (2010); rule 6A-7.0100(2)(b)3.b., F.A.C.; *Performance Pay Guidance*, *supra* note 46, at 3-4.

⁵¹ Section 1012.225(2)(a), F.S. (2010).

⁵² See s. 1012.225(1)(a) and (2)(a), F.S. (2010). Charter schools were authorized to participate in MAP, either by using the sponsoring school district's MAP plan or by adopting an alternative plan. Section 1012.225(1)(a), F.S. (2010).

⁵³ Section 1012.225(1)(a) and (4)(a), F.S. (2010).

⁵⁴ Duval, Hillsborough, and Gilchrist. Staff of the Florida House of Representatives, *Legislative Bill Analysis for HB 7087* (2011).

⁵⁵ Section 11 and 12, ch. 2011-37, L.O.F.

⁵⁶ *Compare E-Comp Rulemaking 2006*, *supra* note 37, Specific Appropriation 91, s. 2, ch. 2006-25, L.O.F., and s. 1012.225, F.S. (2010) with s. 4, ch. 2011-1, L.O.F.

⁵⁷ See s. 1011.62, F.S.

⁵⁸ Specific Appropriations 6-8 and 84-85, s. 1, ch. 2012-118, L.O.F. (local revenue is known as "required local effort"). School districts also levied \$902.6 million in discretionary millage for capital outlay. Email, Florida Department of Education, Legislative Affairs (Oct. 5, 2012).

⁵⁹ Section 1008.36, F.S.; Specific Appropriation 8, s. 1, ch. 2012-118, L.O.F.

⁶⁰ Specific Appropriation 84, s. 1, ch. 2012-118, L.O.F.; s. 1012.71, F.S.

courses, whose students earn specified scores on the course examinations.⁶¹ Such teachers are eligible for the following bonuses, not to exceed \$2,000 per fiscal year:⁶²

- *International Baccalaureate* bonus provides an IB teacher a \$50 bonus for each student who scores 4 or higher on the IB examination. An IB teacher in a “D” or “F” school who has at least one student scoring 4 or higher on the IB examination receives an additional \$500 bonus.⁶³
- *Advanced International Certificate of Education* bonus provides an AICE teacher a \$50 bonus for each student in a full-credit AICE course, or \$25 bonus for a student in a half-credit AICE course, who scores “E” or higher on the AICE examination. An AICE teacher in a “D” or “F” school receives an additional \$500 bonus if one of the teacher’s students scores “E” or higher on the full-credit AICE examination, or a \$250 bonus for each half-credit AICE course taught which has at least one student scoring “E” or higher on the half-credit AICE examination, not to exceed an additional \$500 bonus.⁶⁴
- *Advanced Placement* bonus provides an AP teacher a \$50 bonus for each of his or her students who scores 3 or higher on the College Board AP examination. An AP teacher in a “D” or “F” school who has at least one student scoring 3 or higher on the College Board AP examination receives an additional \$500 bonus.⁶⁵

Teacher Professional Development Program. Funding for teacher professional development is provided through a federal grant authorized under Title II, Part A of the *No Child Left Behind Act of 2001* (NCLB).⁶⁶ Grant funds may be used for the recruitment, retention, and professional development of highly qualified teachers.⁶⁷ Since the enactment of NCLB, the Legislature has authorized use of the state’s allocation of Title II, Part A funds for teacher professional development programs, including \$134.6 million in FY 2012-13.⁶⁸

How will the performance salary schedule be funded?

The performance salary schedule will be funded from the same sources historically utilized to pay instructional personnel and school administrator salaries. Instructional personnel and school districts will continue to collectively bargain wages, terms, and conditions of employment.⁶⁹ The Student Success Act simply realigns the priorities used to negotiate base compensation, rather than awarding bonuses. Rather than seniority and educational degree level, teaching performance must be the primary factor used in such negotiations. Rather than lock-step base salary increases based upon years of service, only instructional personnel rated highly effective and effective will receive such increases.⁷⁰

⁶¹ Section 1011.62(1)(l)-(n), F.S.; *International Baccalaureate*, <http://www.ibo.org> (last visited July 25, 2012); University of Cambridge, International Examinations, *Cambridge Advanced International Certificate of Education Diploma*, <http://www.cie.org.uk/qualifications/academic/uppersec/aice> (last visited July 25, 2012); College Board, *Advanced Placement Program*, <http://www.collegeboard.com/student/testing/ap/about.html> (last visited July 25, 2012).

⁶² Section 1011.62(1)(l)-(n), F.S. (flush-left provisions at the end of each paragraph).

⁶³ Section 1011.62(1)(l), F.S.

⁶⁴ Section 1011.62(1)(m), F.S.

⁶⁵ Section 1011.62(1)(n), F.S.

⁶⁶ Sections 2102-2151, Pub. L. No. 107-110, 115 Stat. 1425, 1620-42 (Jan. 8, 2002), *codified at* 20 U.S.C ss. 6601-6651; *see* U.S. Department of Education, *Guide to U.S. Department of Education Programs*, at 260-261 (Aug. 2011), *available at* <http://www2.ed.gov/programs/gtep/gtep.pdf>.

⁶⁷ *See* 20 U.S.C. s. 6613.

⁶⁸ *See, e.g.,* Specific Appropriation 92, s. 1, ch. 2012-118, L.O.F.

⁶⁹ *See* s. 1012.22(1)(c), F.S.; s. 447.309(1), F.S.

⁷⁰ Section 1012.22(1)(c)5.b., F.S.

What is the average teacher salary in Florida's public schools?

The average public school teacher salary in the 2011-12 academic year was \$ 46,479. The statewide average public school teacher salary from 2002-03 through 2011-12 is as follows:⁷¹

Average Teacher Salaries

2002-03	2003-04	2004-05	2005-06	2006-07
\$ 40,275	\$ 40,598	\$ 41,578	\$ 42,702	\$ 45,296
2007-08	2008-09	2009-10	2010-11	2011-12
\$ 46,922	\$ 46,938	\$46,696	\$45,723	\$ 46,479

Where can I get additional information?

Florida Department of Education

Bureau of Educator Recruitment, Development, & Retention
(850) 245-0435
<http://www.teachinflorida.com/>
<http://www.fldoe.org/profdev/>

Florida House of Representatives

Education Committee
(850) 717-4830
<http://www.myfloridahouse.gov>

Florida House of Representatives

Appropriations Committee
(850) 717-4810
<http://www.myfloridahouse.gov>

⁷¹ Florida Department of Education, *Statistical Brief: Teacher Salary, Experience, and Degree Level 2010-11, Series 2012-03D*, at 3 (Aug. 2011), available at <http://www.fldoe.org/eias/eiaspubs/word/tchslg111.doc>; Florida Department of Education, *Education Information and Accountability Services Data Archives*, <http://www.fldoe.org/eias/eiaspubs/archives.asp> (last visited Aug. 17, 2012)(see documents listed under heading entitled Teacher Salary, Experience, and Degree Level for 2002-03 to 2009-10).



What is “developmental education”?

Developmental education is instruction through which a high school graduate who applies for any college credit program may attain the communication and computation skills necessary to successfully complete college credit instruction.¹ It may be delivered through a variety of accelerated and corequisite strategies, including:

- Modularized instruction that is customized and targeted to address specific skills gaps.
- Compressed course structures that accelerate student progression from developmental instruction to college level coursework.²
- Contextualized developmental instruction that is related to meta-majors.³
- Corequisite developmental instruction or tutoring that supplements credit instruction while a student is concurrently enrolled in a credit-bearing course.⁴

Developmental education is the next progression in college readiness preparation, allowing for greater creativity in program offerings, quicker progression towards completion of credit-bearing courses, and more flexibility in institution-level decision making than is typical under more traditional models for non-credit-bearing remedial education.

How is readiness for college-level, credit-bearing coursework determined?

Statute requires the State Board of Education, in conjunction with the Board of Governors, to develop and implement a common placement test to assess the basic computation and communication skills of students who intend to enter a degree program at any public postsecondary educational institution.⁵

The test currently used to meet the assessment requirement is the Postsecondary Education Readiness test (PERT), developed by McCann Associates for the Department of Education (DOE). The PERT is aligned to the state's recently developed Postsecondary Readiness Competencies in reading, writing, and mathematics and may be administered on a computer or as a paper test. It has diagnostic capabilities that identify skill deficiencies and allow developmental education offered by Florida College System (FCS) institutions to be tailored to a student's individual needs.⁶

The PERT first became available during Fall Term 2010 and replaced the Florida College Entry-Level Placement Test, otherwise known as the College Placement Test (CPT), as the primary placement

¹ Section 1008.02(1), F.S.

² Such college level courses will typically consist of gateway courses, or the first courses that provide transferable, college-level credit allowing a student to progress in his or her program of study. Section 1008.02(2), F.S.

³ A meta-major is a collection of programs of study or academic discipline groupings that share common foundational skills (e.g., social sciences). Section 1008.02(3), F.S.

⁴ Section 1008.02, F.S.

⁵ Sections 1001.03(10) and 1008.30(1), F.S.

⁶ See Florida Department of Education, Division of Florida Colleges, *Postsecondary Education Readiness Test (PERT) Transition Plan Memorandum* (Aug. 5, 2010); interview with Division of Florida College System staff, Florida Department of Education (Oct. 4, 2010).

assessment for FCS institutions beginning with the 2011-2012 academic year. College Placement Test scores are still recognized by the state.⁷

The state board has also identified alternative assessments, the College Board's Accuplacer and SAT-I and the American College Testing Program's Enhanced ACT, which are accepted in lieu of the PERT for placement purposes.⁸ Additionally, the DOE allows FCS institutions to utilize 10th grade Florida Comprehensive Assessment Test 2.0 (FCAT 2.0) scores in Reading and Mathematics.⁹ Accordingly, scores from the CPT, PERT, SAT-I, or ACT may be accepted by FCS and State University System (SUS) institutions, and FCAT scores may be accepted by FCS institutions for purposes of assessing a student's readiness for college-level coursework.¹⁰

Are students required to take the Postsecondary Education Readiness Test?

There are two general groups of students who potentially may be required to take the PERT based on different sets of criteria applied to each group: 1) high school students; and 2) high school graduates.

High school students

High schools must evaluate the college readiness of each 11th grade student who scores at Level 2 or 3 on the reading portion of the 10th grade FCAT or Levels 2 through 4 on the required Algebra I assessment.¹¹ When a student does not achieve the minimum scores necessary to demonstrate college readiness, the school must use the test results to advise the student of identified deficiencies and provide appropriate postsecondary preparatory instruction during his or her 12th grade year. The student is required to complete the postsecondary preparatory instruction prior to high school graduation.¹² Students who demonstrate college readiness by achieving scores established by the State Board of Education (SBE) on alternate assessments are not required to take the PERT or postsecondary preparation instruction.¹³

High school graduates

FCS institutions can require first-time-in-college, degree-seeking high school graduates who entered the 9th grade prior to the 2003-2004 school year, or who graduated from a non-public high school or a high school located outside of Florida, to take the PERT prior to initial registration in a public postsecondary educational institution.¹⁴ Florida Law requires the State Board of Education to specify in rule that FCS institutions may not require students who entered the 9th grade in the 2003-2004 school year, or any year thereafter, and graduated with a standard high school diploma to take the PERT or enroll in developmental education instruction.¹⁵ Florida College System institutions similarly cannot require students who presently serve as active-duty members of any branch of the U.S. Armed Services to take the PERT prior to enrollment in college-credit courses.¹⁶ These students may, however, opt to take the PERT and participate in developmental education.

When a high school graduate who is required to take the PERT achieves the scores set by the SBE as demonstrating college readiness and enrolls in a FCS institution within 2 years of achieving the scores, he or she cannot be required to retest or complete developmental education when admitted to any FCS institution.¹⁷

⁷ *Id.*

⁸ Rule 6A-10.0315(2)(a), F.A.C.

⁹ Rule 6A-10.0315(2)(b), F.A.C.

¹⁰ Section 1008.30(3), F.S.; rule 6A-10.0315(7), F.A.C.

¹¹ Section 26, ch. 2011-175, L.O.F., *amending* s. 1008.30(3), F.S.

¹² Section 1008.30(3), F.S.; Rule 6A-10.0315(3), F.S.

¹³ Rule 6A-10.0315(3), F.A.C.

¹⁴ Rule 6A-10.0315(1), F.A.C.

¹⁵ Section 19, ch. 2013-51, L.O.F.; Section 1008.30(4), F.S.

¹⁶ *Id.*

¹⁷ Section 1008.30(4)(c), F.S.

Who offers developmental education?

Developmental education instruction may be offered by the 28 institutions in the FCS and the Florida Agricultural and Mechanical University (FAMU). Other state universities may contract with a FCS institution for the provision of developmental education instruction on the university's campus.¹⁸

How are students advised of developmental education options?

FCS institutions must provide admissions counseling to students entering a college or career credit program.¹⁹ In the case of a student who is not exempt from placement testing, such counseling must use tests to measure achievement of college-level communication and computation competencies.²⁰ The counseling must also provide developmental education options for students whose test scores indicate the need to improve communication or computation skills essential to perform college-level work.²¹ Each FCS institution board of trustees must establish policies for the purpose of notifying students about developmental education options essential to performing college-level work, including:

- Tutoring;
- Extended time in gateway courses;
- Free online courses;
- Adult basic education;
- Adult secondary education; or
- Private provider instruction.²²

Any student who takes the PERT²³ and whose score on the test indicates a need for developmental education must be advised of all the developmental education options offered at the institution. After the FCS institution has so advised the student, it must allow the student to enroll in the developmental education option of his or her choice.²⁴

How may developmental education be delivered?

Florida law affords institutions great flexibility to deliver developmental education through a variety of methods. In 2013, the legislature eliminated the prohibition on concurrent enrollment in developmental education instruction and college credit coursework addressing the same skills.²⁵ Thus, students may receive developmental education instruction at the same time they earn college-credit, most likely in gateway courses, thereby accelerating their progression towards attainment of a degree. Students may also receive instruction prior to entering into credit-bearing courses. Students may retake developmental education courses up to two times before they will be required to pay 100 percent of the cost of instruction for the course.²⁶

By December 31, 2013, the SBE must consult with the Board of Governors (BOG) and approve a series of meta-majors and academic pathways identifying the gateway courses associated with each meta-major.²⁷ Each FCS institution must use placement test results to determine the extent to which each student demonstrates sufficient communication and computation skills to indicate readiness for his or her chosen meta-major. The institutions must counsel students into college credit courses as quickly as possible and limit

¹⁸ Section 1008.30(6)(c), F.S.

¹⁹ Section 1007.263(1), F.S.

²⁰ The competencies diagnosed by the PERT must be those essential for success in meta-majors. The testing program must have the capacity to provide information to students on the specific skills they must attain. Section 1008.30(2), F.S. *as amended by* s. 19, ch. 2013-51, L.O.F.

²¹ Section 16, ch. 2013-51, L.O.F.; Section 1007.263(1), F.S.

²² Section 16, ch. 2013-51, L.O.F.; Section 1007.263, F.S.

²³ This includes those students who opt to test but are not required to do so. *See* Section 1008.30(4)(a).

²⁴ *Id.*

²⁵ *See* Section 19, ch. 2013-51, L.O.F., *amending* Section 1008.30, F.S.

²⁶ Section 1009.28, F.S.

²⁷ Section 1008.30(5), F.S.

the delivery of developmental education to only the content necessary for success in a student's chosen meta-major.²⁸

Further, each FCS institution must develop a plan to implement developmental education and the rules relating to developmental education promulgated by the SBE.²⁹ The plan must be submitted to the FCS chancellor no later than March 1, 2014, and the FCS institutions must implement developmental education programs in accordance with their approved plan no later than the beginning of the 2014 fall semester.³⁰ Each plan must include local policies outlining:

- Data-supported student attributes, in addition to college placement test scores, considered by the institution for placement determinations;
- Developmental education strategies available to students;
- A description of student costs and financial aid opportunities associated with each instructional option;
- Provisions for the collection of student success data; and
- A comprehensive plan for advising students into appropriate developmental education strategies based on student success data.³¹

How are FCS institutions held accountable for their developmental education program offerings?

Each FCS institution must prepare an annual accountability report which includes student success data relating to each developmental education option implemented by the institution.³² Starting in 2015, the FCS institutions must submit the report to the Division of Florida Colleges by October 31 in a format determined by the chancellor of the FCS. The chancellor must compile the reports and submit them to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the SBE by December 31, each year.³³

Where may I get additional information?

Florida Department of Education

State Board of Education
Governmental Relations Office
(850) 245-0507
<http://www.fldoe.org/board>

Florida Department of Education

Division of Florida Colleges
(850) 245-0407
<http://www.fldoe.org/fcs/>

Florida House of Representatives

Education Committee
(850) 717-4830
<http://www.myfloridahouse.gov>

²⁸ *Id.*

²⁹ Section 1008.30(6)(a), F.S., *created by* Section 19, ch. 2013-51, L.O.F.

³⁰ *Id.*

³¹ *Id.*

³² Section 1008.30(6)(b), F.S.

³³ *Id.*



Florida College System Bachelor Degree Programs

Education Committee

Last Updated: August 2012

Are Florida College System (FCS) institutions authorized to independently offer baccalaureate degree programs?

Yes, under specified circumstances. FCS institutions may offer baccalaureate degrees in two ways – through concurrent or joint-use partnerships with four-year public or private postsecondary institutions or by obtaining State Board of Education approval to independently offer baccalaureate degree programs that meet district, regional, or statewide workforce needs.¹

A FCS institution that is approved to independently offer baccalaureate degrees remains under the authority of the state board and the FCS institution's board of trustees.²

What are concurrent or joint-use partnerships?

FCS institutions are statutorily authorized to offer baccalaureate or higher degree coursework on their campuses through concurrent or joint-use partnerships (partnerships) with State University System (SUS) institutions or independent colleges or universities.³ Partnerships are contractual in nature and do not require state board approval.⁴ Such partnerships enable students to earn a baccalaureate degree or higher from a four-year postsecondary institution while taking all or most of the coursework on the FCS institution's campus or via distance learning, transfer agreements, and concurrent enrollment.⁵

According to the DOE, 25 of the 28 FCS institutions offer a total of 389 upper-division courses through partnerships.⁶ Such programs include 300 baccalaureate programs, 76 masters programs, three education specialist programs, six doctoral programs, and four professional programs. Currently, six of the 11 institutions in the SUS, seven private colleges, and seven out-of-state institutions are partnering with FCS institutions to provide upper-division degrees.⁷ Of the 389 partnerships, the top program areas are Business (76 programs), Education (72 programs), Health Professions (29 programs), Liberal Arts (29 programs), Public Administration (26 programs) and Psychology (24 programs).⁸

¹ Section 1007.33(4)(a)-(c), F.S. St. Petersburg College has been statutorily authorized to offer baccalaureate degrees since 2001. The college may establish a new baccalaureate degree program if its board of trustees determines that the program is warranted and feasible based upon the same statutory criteria considered by the state board when considering baccalaureate degree program proposals submitted by other FCS institutions. Before developing or proposing a new baccalaureate degree program, the college must engage in need, demand, and impact discussions with the SUS institution in its service district and other local and regional accredited postsecondary providers. In addition to baccalaureate degrees, the local board may establish one or more bachelor of applied science (BAS) degree programs based upon an analysis of workforce needs in Pinellas, Pasco, and Hernando Counties or other counties approved by DOE. The college must offer a related AS or AAS degree program in the subject area covered by each BAS degree. Section 1007.33(4), F.S. (flush-left provisions at end of subsection).

² Section 1001.03(15), F.S.

³ Sections 1007.22(1) and (4) and 1007.33(4)(a), F.S.

⁴ Section 1007.22(1), F.S.

⁵ *Id.*

⁶ Florida Department of Education, Florida Colleges, *Summary Report of Concurrent-Use Partnerships*, (Aug. 2011), available at http://www.fldoe.org/CC/Students/pdf/Report_Concurrent_Use.pdf.

⁷ *Id.*

⁸ *Id.*

Which FCS institutions have received SBE approval to independently offer baccalaureate degrees?

A total of 146 baccalaureate degree programs have been approved to be offered at the following 22 FCS institutions: Broward College, Chipola College, College of Central Florida, Daytona State College, Edison State College, Florida Gateway College, Florida State College at Jacksonville, Gulf Coast State College, Indian River State College, Lake-Sumter Community College, Miami Dade College, Northwest Florida State College, Palm Beach State College, Pensacola State College, Polk State College, Santa Fe College, Seminole State College of Florida, St. Johns River State College, St. Petersburg College, South Florida Community College, State College of Florida, Manatee-Sarasota, and Valencia College. A list of the specific programs that have been approved for each institution is available on DOE's website.⁹

If approved to offer one or more baccalaureate degree programs, a FCS institution must:

- Maintain, as its primary mission, responsibility for responding to community needs for postsecondary academic education and career degree education and for providing associate degrees that provide access to a university;
- Maintain an open-door admissions policy for associate-level degree and workforce education programs;
- Continue to provide remedial education and outreach to underserved populations;
- Comply with all provisions of the statewide articulation agreement; and
- Not award graduate credit or participate in intercollegiate athletics beyond the two-year level.¹⁰

What is the process a FCS institution must follow to obtain state board approval to offer baccalaureate degrees?

A FCS institution proposing to offer a baccalaureate degree must notify the Division of Florida Colleges (division) of its intent to propose the baccalaureate degree program at least 100 days before submitting its proposal to the division.¹¹ The notice of intent must include a brief description of the program, workforce demand and unmet need for graduates of the program to include evidence from entities independent of the institution, the geographic regions to be served, estimated timeframe for implementation, and evidence that the college engaged in need, demand, and impact discussions with the state university and other regionally accredited postsecondary education providers in its service district. A notice of intent may be submitted by a FCS institution at any time throughout the year.¹²

Within 10 days of its receipt of the notice, the division must forward the notice to the Chancellor of the State University System (SUS), the President of the Independent Colleges and Universities of Florida, and the Executive Director of the Commission for Independent Education.¹³

A FCS institution's baccalaureate degree program proposal at a minimum must include the following:

- Description of planning process and timeline for implementation;
- Analysis of workforce demand and unmet need on a district, regional or statewide basis, as appropriate, including evidence from entities independent of the institution;
- Identification of facilities, equipment, and library and academic resources that will be used to deliver the program;
- Program cost analysis of creating a new baccalaureate degree when compared to alternative proposal and other delivery options;
- Program's admission requirements, academic content, curriculum, faculty credentials, student-to-teacher ratios, and accreditation plan;
- Enrollment projections and funding requirements; and

⁹ Florida Department of Education, Florida Colleges, Florida College Bachelor's Degree Programs, *List of Approved Bachelor's Degree Programs by College*, http://www.fldoe.org/cc/students/Excel/Program_List.xls (last visited Oct. 3, 2012).

¹⁰ Section 1007.33(2)(a)-(g), F.S.

¹¹ Section 1007.33(5)(a), F.S.

¹² *Id.*

¹³ Section 1007.33(5)(b), F.S.

- Plan of action in case of program termination.¹⁴

The state universities and independent colleges and universities may submit alternative proposals or objections to FCS institutions offering baccalaureate degree programs.¹⁵

What is the process for SUS institutions or independent colleges and universities to submit an alternative proposal or objections to the baccalaureate degree proposal?

State Universities have 60 days after the SUS Chancellor receives a FCS notice of intent to submit to the division an alternative proposal or objection to the proposed new baccalaureate degree program. If no alternative proposal or objection is received during the 60 day time period, regionally accredited private colleges and universities must have 30 days to submit an alternative proposal or objection.¹⁶

An alternative proposal submitted by a SUS institution or independent college or university must adequately address the following:

- Extent to which the workforce demand and unmet need for graduates of the program will be met;
- Extent to which access will be provided to students in the geographic region proposed to be served by the FCS institution;
- Level of financial commitment to development, implementation, and maintenance of the program;
- Level of collaboration between FCS institution and college or university faculty in program development and delivery;
- Ability of the FCS institution and college or university to develop and approve the program's curriculum within six months after an agreement between the two institutions is signed; and
- Extent that students will incur additional costs above those incurred if the program were offered by the FCS institution.¹⁷

Are there additional accreditation requirements when offering specified baccalaureate degree programs?

Yes. A FCS institution that has been approved by the state board or the Legislature to award baccalaureate degrees must pursue Level 2 accreditation by the Commission on Colleges of the Southern Association of Colleges and Schools.¹⁸

Are baccalaureate degree programs offered at FCS institutions evaluated?

Yes. Part of the approval process for baccalaureate degree programs requires the FCS institutions to annually, and upon the request of the state board, Commissioner of Education, Chancellor of the Florida College System, or Legislature, report on the status using the following performance and compliance indicators:

- Obtaining and maintaining appropriate Southern Association of Colleges and Schools accreditation;
- Maintaining qualified faculty and institutional resources;
- Maintaining enrollment in previously approved programs;
- Managing fiscal resources appropriately;
- Complying with primary mission and responsibility requirements;
- Submitting the institution's annual performance accountability report timely; and
- Other indicators of success include program completers, placements, and survey of graduates and employers.

¹⁴ Section 1007.33(5)(d), F.S.; rule 6A-14.095(6)(a), F.A.C.

¹⁵ Section 1007.33(5)(b), F.S.

¹⁶ *Id.*

¹⁷ Section 1007.33(5)(c), F.S.; rule 6A-14.095(5), F.A.C.

¹⁸ Section 1007.33(5)(f), F.S.; Southern Association of Colleges and Schools, Commission on Colleges, *Resource Manual for the Principles of Accreditation: Foundations for Quality Enhancement*, at 116 (2012), available at <http://www.sacscoc.org/pdf/Resource%20Manual.pdf> (last visited Oct. 3, 2012).

The state board, upon review of the performance and compliance indicators, has the authority to require a FCS institution's board of trustees to modify or terminate a baccalaureate degree program.¹⁹

What is the State Board of Education review and approval process for baccalaureate degree programs?

The division will review the proposal, and notify the FCS institution of any deficiencies in writing within 30 days following receipt of the proposal. The FCS institution is provided an opportunity to correct the deficiencies. Within 45 days following the division's receipt of a completed proposal, the Commissioner must recommend approval or disapproval of the proposal to the state board. The state board will consider the Commissioner's recommendation, the proposal and any alternative proposals or objections at the next state board meeting. If the state board disapproves the proposal, it must provide the college with written reasons for that determination.²⁰

What fees are authorized for baccalaureate degree level programs at FCS institutions?

A student who enrolls in an upper division course at a public FCS institution is charged tuition and may also be required to pay a capital improvement fee, a financial aid fee, an activity and service fee, a technology fee, and a distance learning fee.²¹ If the student is not classified as a resident for tuition purposes, an additional out-of-state fee is required.²²

Proviso language in the 2012-13 General Appropriations Act establishes standard tuition at \$71.98 per credit hour for residents beginning with the Fall 2012 semester for the following FCS programs: advanced and professional, postsecondary vocational, college preparatory, and educator preparation institutes. The out-of-state fee for non-residents is \$215.94 per credit hour in addition to standard tuition at \$71.98 per credit hour for a total of \$287.92 per credit hour for non-resident students.²³

Each FCS board of trustees must establish tuition and out-of-state fees which may vary no more than 10% below and 15% above the combined total of the standard tuition and out-of-state fee.²⁴

FCS boards of trustees are authorized by statute to establish an activity and service fee, financial aid fee, capital improvement fee, technology fee, distance learning user fee, and user fees and fines.²⁵

Tuition and out-of-state fees for upper-division courses must reflect the fact that the FCS institution has a less expensive cost structure than that of a state university. A board of trustees must establish tuition and out-of-state fees for upper-division courses in baccalaureate degree programs that are consistent with law and proviso language in the General Appropriations Act.²⁶

Proviso language in the 2012-13 General Appropriations Act establishes the standard tuition for baccalaureate programs at \$91.79 per credit hour for residents beginning with the Fall 2012 semester.²⁷ The sum of the tuition and the out-of-state fee per credit hour for nonresidents may be no more than 85% of the sum of tuition and out-of-state fee per credit hour at the state university nearest the FCS institution.²⁸

¹⁹ Section 1007.33(5)(h), F.S.

²⁰ Section 1007.33(5)(e), F.S.; rule 6A-14.095, F.A.C.

²¹ Section 1009.23, F.S.

²² Section 1009.01(2), F.S.

²³ Specific Appropriation 108, Section 2, ch. 2012-118, L.O.F.; Sections 1009.22(3)(d) and 1009.23(3)(c), F.S., state that beginning with the 2008-09 FY, the tuition and out-of-state fee shall increase at the beginning of each Fall semester at a rate equal to inflation, unless otherwise provided in the General Appropriations Act (GAA). The GAA for the 2012-13 FY provided that the statutory increases for inflation were not to be made and instead established specific amounts for tuition and out-of-state fees.

²⁴ Section 1009.23(4), F.S.

²⁵ Section 1009.23(7), (8)(a), (10), (11)(a), and (16)(a), F.S.

²⁶ Section 1009.23(2)(b), F.S.

²⁷ Specific Appropriation 108, Section 2, ch. 2012-118, L.O.F.

²⁸ Section 1009.23(3)(b)2., F.S.

Where may I get additional information?

Florida Department of Education

State Board of Education

Governmental Relations Office

(850) 245-0507

<http://www.fldoe.org/board>

Florida Department of Education

Division of Florida Colleges

(850) 245-0407

<http://www.fldoe.org>

Florida House of Representatives

Education Committee

(850) 717-4830

<http://www.myfloridahouse.gov>



What are teacher preparation programs?

Teacher preparation programs prepare individuals to attain teaching credentials the State Board of Education (SBE) must attain a system for development and approval of teacher preparation programs. The system must allow postsecondary educator preparation institutions to employ varied and innovative educator preparation techniques while being held accountable for producing graduates with the competencies and skills necessary to achieve the state's education goals; help the state's diverse student population, meet high standards for academic achievement; maintain safe, secure classroom learning environments; and sustain the state system of school improvement and education accountability.¹

What types of teacher preparation programs are offered?

Florida provides a number of teacher preparation programs that individuals may utilize to receive the training needed to attain teaching credentials, including:²

Initial Teacher Preparation (ITP) programs

- A "traditional" teacher preparation program that requires candidates to demonstrate mastery of subject area knowledge in one or more specific subject areas(s), mastery of general knowledge, and mastery of professional preparation and education competence.

Educator Preparation Institutes (EPI)

- An alternative certification program offered by postsecondary institutions for baccalaureate degree holders. The EPI program provides professional preparation for career-changers and recent college graduates who do not already possess a Professional Educator Certificate.

District Alternative Certification Programs (DACP)

- A cohesive competency-based professional preparation alternative certification program offered by Florida public school districts by which the school district's instructional staff may satisfy the mastery of professional preparation and education competence requirements.

What are the admission requirements into a teacher preparation program?

Candidates applying for admission into the program must:

- Have a grade point average of 2.5 or higher in the general education component of undergraduate studies or have completed a bachelor's degree from an accredited college or university with a minimum 2.5 GPA.³
- Pass the General Knowledge Test of the Florida Teacher Certification Examination or from a graduate level program, obtain a baccalaureate degree from an institution that is accredited or approved pursuant to the rules of the SBE.⁴

¹ Section 1004.04(1), F.S.

² Florida Department of Education, Educator Preparation, <http://www.fldoe.org/profdev/approval.asp> (last visited June 21, 2013).

³ Section 1004.04(4)(b)1., F.S.

⁴ Section 1004.04(4)(b)2., F.S.

Admission requirements for each program can be waived for up to 10% of the students admitted. The programs are required to implement strategies to ensure that these students receive assistance to meet competencies.⁵ Institutions are required to annually report to the DOE the status of each candidate admitted under an admissions waiver.⁶

What are the curricula requirements for the teacher preparation program?

The SBE must adopt rules which establish uniform core curricula for each state-approved teacher preparation program. The rules to establish uniform core curricula for each state-approved teacher preparation program must include, but are not limited to the following:

- Florida Educator Accomplished Practices;
- State-adopted student content standards;
- Scientifically researched reading instruction;
- Content literary and mathematical practices;
- Strategies appropriate for instruction of English language learners;
- Strategies appropriate for instruction of students with disabilities; and
- School safety.⁷

Each candidate enrolled in a teacher preparation program is must receive instruction and be assessed on the uniform core curricula in his or her area of program concentration during course work and field experiences.⁸

How are teacher preparation programs approved?

Current law authorizes postsecondary institutions that are accredited or approved by the DOE, to seek approval from DOE to create educator preparation institutes for the purpose of providing the following:⁹

- Professional development instruction to assist teachers in improving classroom instruction and in meeting certification or recertification requirements;
- Instruction to assist potential and existing substitute teachers in performing their duties;
- Instruction to assist paraprofessionals in meeting education and training requirements; and
- Instruction for baccalaureate degree holders to become certified teachers.¹⁰

DOE reviews and approves teacher preparation programs offered by Florida public and private colleges and universities.¹¹ Each educator preparation program's initial approval is based upon evidence of the institution's and the program's capacity to meet the requirements for continued approval and SBE rules.¹²

What criteria are required for continued approval of a teacher preparation program?

The continued approval of a teacher preparation program is based upon evidence that the program continues to implement the requirements for initial approval and upon significant, objective, and quantifiable measures of the program and the performance of the program completers. The criteria for continued approval must include each of the following:¹³

⁵ Section 1004.04(4), F.S.

⁶ Section 1004.04(3), F.S.

⁷ Section 1004.04(2), F.S.

⁸ *Id.*

⁹ Section 1004.85(2), F.S.

¹⁰ Section 1004.85, F.S.

¹¹ Section 1004.04, F.S., Rule 6A-4.003 and 6A-5.066, FAC.

¹² Section 1004(3), F.S.

¹³ *Id.*

- Documentation that each candidate met the admission requirements;
- Documentation that the program and each program completer has received instruction and been assessed on the uniform core curricula; and
- Evidence of performance in each of the following categories:
 - placement rates of program completers into instructional positions in public and private schools in Florida, if available;
 - rate of retention for employed program completers in instructional positions in Florida public schools;
 - performance of PreK-12 students assigned to in-field program completers on statewide assessments and federal reporting subgroups (diverse populations);
 - results of program completers' annual evaluations in accordance with the timeline as set forth in s. 1012.34, F.S.; and
 - production of program completers in statewide critical teacher shortage areas.

The SBE must adopt rules for continued approval of teacher preparation programs which include the program review process, the continued approval timelines, and the performance level targets for each of the continued approval criteria. Each teacher preparation program must prepare and submit an institutional program evaluation plan that includes data related to the criteria established for continued approval of the teacher preparation program. The plan must provide information on how the institution addresses continuous program improvement.¹⁴

The Commissioner of Education is required to make a determination for continued approval of each program based on the data collected and rules of the SBE.

Where are teacher preparation programs approved to be offered?

There are currently 506 approved traditional teacher preparation program in Florida, each of which is approved for a specific area of certification, such as Elementary Education Grades K-6 or Mathematics Grade 6-12. These programs are located at 47 institutions, including 12 public universities, 11 Florida College system (FCS) institutions, and 24 private institutions. Candidates must demonstrate all requirements for a Florida professional educator's certificate prior to the completion of the program.¹⁵

There are currently 28 active EPI program in 22 FCS intuitions and 6 public universities. These institutes serve individuals who have already earned at least a bachelor's degree in a field other than education and are interested in being class room teachers and receiving professional certification.¹⁶

Can private providers offer teacher preparation programs?

Yes. During the 2013 legislative session private providers that have a proven history of delivering high-quality educator preparation were authorized to seek approval to offer a competency-based certification program. Approval must be based upon evidence provided from recipients of their services and data showing the successful performance of their completers based upon student achievement.¹⁷

Are teacher preparation programs accountable for unsatisfactory teachers?

Yes. Teacher preparation programs are required to guarantee the high quality of their program completers during the first 2 years immediately following completion of the program or following initial certification, whichever occurs first. Any program completer who is employed in a Florida public school during this 2 year period and who earns an evaluation result of developing or unsatisfactory by the school district's evaluation

¹⁴ Section 1004.04(4), F.S.

¹⁵ Florida Department of Education, Governmental Relations Office (Feb. 25, 2013).

¹⁶ *Id.*

¹⁷ Section 1004.85(2), F.S.

system must be provided additional training by the teacher preparation program at no expense to the educator or the employer if requested by the employing school district or charter school.¹⁸

Where can I get additional information?

Florida Department of Education

Division of Educator Quality

(850) 245-0509

<http://www.fldoe.org/dpe>

Florida House of Representatives

Education Committee

(850) 717-4830

<http://www.myfloridahouse.gov>

¹⁸ Section 1004.04(4), F.S.



Preeminent State Research Universities Program

Education Committee

Last Updated: August 2013

What is the Preeminent State Universities program?

In 2013, the Legislature passed SB 1076, which established a collaborative partnership between the Board of Governors (BOG) and the Legislature to raise the academic and research excellence and national preeminence of the highest performing state research universities in Florida.¹ The partnership stems from the March 24, 2010, State University System (SUS) Governance Agreement that affirmed the commitment of the BOG and the Legislature to continue collaboration on accountability measures, the use of data, and recommendations derived from such data.²

Under the bill, the BOG must designate as a “preeminent state research university” any state research university that substantially meets 11 of 12 academic and research excellence standards specified by statute.³

What are the academic and research excellence standards?

The academic and research excellence standards are a series of benchmarks in research productivity, endowment size, student success indicators, national rankings, and other measures identified by national databases and research groups that indicate national prominence. The twelve standards are predicated in part upon data collected by the following nationally recognized entities:

Integrated Postsecondary Education Data System (IPEDS)

IPEDS is a system of interrelated surveys conducted annually by the U.S. Department of Education’s National Center for Education Statistics (NCES). IPEDS gathers information from every college, university, and technical and vocational institution that participates in the federal student financial aid programs.⁴ The Higher Education Act of 1965,⁵ as amended, requires institutions that participate in federal student aid programs [to] report data on enrollments, program completions, graduation rates, faculty and staff, finances, institutional prices, and student financial aid. Data from IPEDS are commonly used as the foundation of state and national reports.

The Center for Measuring University Performance

The Center for Measuring University Performance (Center) is a research enterprise focused on comparative performance of major research universities.⁶ The Center publishes an annual report, *The Top American Research Universities* (TARU), which provides analysis and data to assess the performance of research universities based on nine research-specific measures.⁷ The TARU report includes institutions with a certain

¹ Section 1001.7065(1), F.S.

² *Id.*

³ Section 1001.7065(3), F.S.

⁴ Integrated Postsecondary Education Data System, About IPEDS, <http://nces.ed.gov/ipeds/about/> (last visited Feb. 21, 2013).

⁵ The Higher Education Opportunity Act (HEOA) was enacted on August 14, 2008, and reauthorizes the Higher Education Act (HEA) of 1965, as amended. U.S. Department of Education, *Higher Education Opportunity Act-2008*, <http://www2.ed.gov/policy/highered/leg/hea08/index.html#ipeds> (last visited Feb. 21, 2013).

⁶ The Center for Measuring University Performance, *The Center for Measuring University Performance*, <http://mup.asu.edu/index.html> (last visited Feb. 21, 2013).

⁷ The Top American Research Universities, *2010 Annual Report*, <http://mup.asu.edu/research.html> (last visited Feb. 21, 2013).

level of federal research expenditures.⁸ These data are the same or similar to data used by nationally recognized ranking systems.

The National Science Foundation (NSF)

NSF is an independent federal agency created by Congress in 1950 "to promote the progress of science; to advance the national health, prosperity, and welfare; to secure the national defense; and for other purposes."⁹ NSF ranks institutions based on research and development expenditures in science and engineering fields.¹⁰

The BOG must designate a SUS institution as a preeminent state research university once it substantially meets, as verified by the BOG, at least 11 of the following 12 academic and research excellence standards:¹¹

1. An average weighted grade point average of 4.0 or higher on a 4.0 scale and an average SAT score of 1800 or higher for fall semester incoming freshman, as reported annually.
2. A top 50 ranking on at least two well-known and highly respected national public university rankings, reflecting national preeminence, using most recent rankings.
3. A freshman retention rate of 90 percent or higher for full-time first-time-in-college students, as reported annually to the IPEDS.
4. A 6-year graduation rate of 70 percent or higher for full-time first-time-in-college students, as reported annually to the IPEDS.
5. Six or more faculty members at the state university who are members of a national academy, as reported in the TARU annual report.
6. Total annual research expenditures, including federal research expenditures, of \$200 million or more, as reported annually by the NSF.
7. Total annual research expenditures in diversified nonmedical sciences of \$150 million or more, as reported annually by the NSF.
8. A top 100 university national ranking for research expenditures in five or more science, technology, engineering, or mathematics fields of study, as reported annually by the NSF.
9. One hundred or more total patents awarded by the United States Patent and Trademark Office for the most recent 3-year period.
10. Four hundred or more doctoral degrees awarded annually, as reported in the BOG Annual Accountability Report.
11. Two hundred or more post-doctoral appointees annually, as reported in the TARU annual report.
12. An endowment of \$500 million or more, as reported by the BOG Annual Accountability Report.

What support does the State provide to preeminent state research universities?

The state research university that meets all twelve of the academic and research excellence standards as of July 1, 2013, must establish an institute for online learning that offers affordable, high-quality, fully online baccalaureate degree programs.¹² The university must submit to the BOG a 5-year benchmark plan with target rankings on key performance metrics for national excellence. Upon the university's meeting the benchmark plan goals annually, and upon the BOG's approval, the BOG will award the university an amount specified in the General Appropriations Act each year throughout the 5-year period.¹³

The state research university that meets 11 of the 12 standards as of July 1, 2013, receives the benefits of the Preeminent State Research University Enhancement Initiative (Initiative). Under the Initiative, the university,

⁸ The 2011 report used \$40 million as the cutoff for federal research expenditures in fiscal year 2009. The same dollar cutoff was used for fiscal year 2008 federal research expenditures. The Top American Research Universities, *2011 Annual Report*, <http://mup.asu.edu/research.html> (last visited Feb. 21, 2013).

⁹ 42 U.S.C.A. s. 1861; *see also* National Science Foundation, *About the National Science Foundation*, <http://www.nsf.gov/about/> (last visited Feb. 21, 2013).

¹⁰ National Science Foundation, *Academic Research and Development Expenditures: Fiscal Year 2009*, available at http://www.nsf.gov/statistics/nsf11313/content.cfm?pub_id=4065&id=2 (last visited Feb. 21, 2013).

¹¹ Section 1001.7065(2), F.S.

¹² Section 1001.7065(5), F.S.

¹³ *Id.*

like the university that meets all 12 of the standards, must establish and meet on an annual basis goals set in a 5-year benchmark plan in order to be awarded funds by the BOG as specified in the General Appropriations Act.¹⁴ The university must use funds awarded under the Initiative for the purpose of recruiting National Academy Members, expediting provision of a master's degree in cloud virtualization, and instituting an entrepreneurs-in-residence program throughout its campus.¹⁵

The BOG is encouraged to identify and grant all reasonable and feasible authority and flexibility to keep designated preeminent universities free from unnecessary restrictions.¹⁶ It is also encouraged to identify individual programs within state universities that objectively reflect national excellence and make recommendations to the Legislature as to how any such programs could be enhanced and promoted.

A preeminent state research university may require its incoming first-time-in-college students to take a 9-to-12 credit set of courses specifically determined by the university.¹⁷ The university may stipulate that credit for such courses may not be earned through any acceleration mechanism pursuant to ss. 1007.27 or 1007.271, F.S., or other transfer credit. Any accelerated credits earned up to the limits specified in ss. 1007.27 and 1007.271, F.S., must be applied toward graduation at the student's request.¹⁸

Where may I get additional information?

Florida House of Representatives

Education Committee

(850) 717-4830

<http://www.myfloridahouse.gov>

The Florida Board of Governors

(850) 245-0466

<http://www.flbog.edu/>

¹⁴ Section 1001.7065(6), F.S.

¹⁵ *Id.*

¹⁶ Section 1001.7065(8), F.S.

¹⁷ Section 1001.7065(7), F.S.

¹⁸ *Id.*



Florida Prepaid College Program

Education Committee

Last Updated: August 2012

What is the Florida Prepaid College Program?

The Stanley G. Tate Florida Prepaid College Program (Prepaid Program) is offered by the State of Florida to assist families in planning and saving for a college education.¹ The program is administered by the Florida Prepaid College Board (Board).²

The Prepaid Program is a qualified tuition plan, which is a tax advantaged college plan authorized by s. 529 of the Internal Revenue Code. Contributions to these plans grow tax-deferred, and when the beneficiary (student) is ready for college, withdrawals for qualified higher education expenses are exempt from federal income and State of Florida taxes.³

The Prepaid Program provides for the purchase of advanced payment contracts (Prepaid Contracts) for postsecondary education. These contracts lock in many of the costs associated with attendance at institutions in the Florida College System (FCS) and State University System (SUS) at the time the contract is purchased including registration and local fees. Additionally, a SUS contract includes the tuition differential fee and a separate contract may also be purchased for SUS dormitory costs.⁴ The specific charges covered by each fee are as follows:

- **Registration Fee:** This fee covers tuition and the financial aid, building, and Capital Improvement Trust Fund fees charged by FCS and SUS institutions.⁵
- **Local Fee:** This fee covers the student activity and service, athletic, and health fees charged by a SUS institution and the student activity and service and technology fees charged by a FCS institution.⁶
- **Tuition Differential Fee:** This fee covers the charge that may be assessed for undergraduate courses by a SUS Board of Trustees when approved by the Board of Governors.⁷

As of June 30, 2011, more than 1.5 million Prepaid Contracts had been purchased.⁸

What options are available through the Prepaid Program?

The Prepaid Program offers the following four types of plans:

- **Four-Year Florida University Plan:** This plan prepays the registration, local, and tuition differential fees for 120 undergraduate credit hours of enrollment at any institution in the SUS.
- **2 + 2 Florida Plan:** This plan covers the registration and local fees for 60 credit hours of lower division enrollment at any institution in the FCS and the registration, local, and tuition differential fees for 60 credit hours of upper division enrollment at any institution in the SUS.

¹ Section 1009.98(1), F.S.

² Section 1009.971(1), F.S.

³ 26 U.S.C. s. 529(b)(1); Florida Prepaid College Plans, *Florida College Savings Plans Fact Sheet*, available at <http://www.myfloridaprepaid.com/documents/pdf/newsroom/newsroom-florida-college-savings-plans-fact-sheet.pdf>.

⁴ Rule 19B-5.001, F.A.C.; Florida Prepaid College Plans, *Florida Prepaid College Plans Enrollment Kit 2011-2012*, at 3 and 4, available at <http://www.myfloridaprepaid.com/img/EnrollKit/enrollment-kit-english.zip>.

⁵ Section 1009.97(3)(g), F.S.; rule 19B-5.001(1)(c), F.A.C.

⁶ Rule 19B-5.001(1)(b), F.A.C.

⁷ Section 1009.24(16), F.S.; rule 19B-5.001(1)(e), F.A.C.

⁸ Florida Prepaid College Board; *2011 Annual Report*, at 1, available at <http://www.myfloridaprepaid.com/documents/pdf/annual-report/2011-annual-report.pdf>.

- **Four-Year Florida College Plan:** This plan covers the registration fee and local fees for 60 credit hours of lower division enrollment and for 60 credit hours of upper division enrollment at any institution in the FCS.
- **Two-Year Florida College Plan:** This plan covers the registration and local fees for 60 credit hours of lower division enrollment at any institution in the FCS.⁹

Prior to the 2010-11 open enrollment period, the Prepaid Program offered three types of plans: (1) tuition plans for registration fees at FCS or SUS institutions; (2) local fee plans for FCS or SUS institutions; and (3) tuition differential fee plans for SUS institutions. As of the 2010-11 open enrollment period, the tuition plan is no longer available for purchase. Further, local fee plans may now only be purchased by persons who purchased a tuition plan for enrollment in a FCS or SUS institution on or before January 31, 2010. Similarly, tuition differential plans may now only be purchased by persons who purchased a tuition plan for enrollment in a SUS institution on or before January 31, 2010.¹⁰

Finally, the Prepaid Program has previously offered and continues to offer an optional SUS Dormitory Plan that may only be purchased in conjunction with a SUS tuition plan purchased on or before January 31, 2010, or with a Four-Year Florida University Plan or 2 + 2 Florida Plan purchased thereafter. The SUS Dormitory Plan covers the fees associated with residence in a double-occupancy, air-conditioned room on a state university campus. SUS institutions may limit the dormitories eligible for prepaid coverage. If a student applies for housing at a SUS institution but does not receive a room assignment, the purchaser of the plan may request a refund equal to the average dormitory rate for a standard, double-occupancy, air-conditioned dormitory room at the institution the student is attending. Dormitory plans are available in two-semester (one-year) increments for a maximum of 10 semesters (five years). The plan may not be used during summer terms. A beneficiary who attends a FCS institution may transfer the benefits of the dormitory plan to a dormitory operated by a FCS institution or the direct support organization of a FCS institution.¹¹

Who may purchase a Prepaid Contract?

Any person, corporation, or organization may purchase a Prepaid Contract (also referred to as a Prepaid Plan) for a qualified beneficiary. A person purchasing a contract must be 18 years of age or older and either a U.S. citizen or resident alien. A co-purchaser may also be designated on the contract, but is not required. If a co-purchaser is designated, changes to the name of purchaser, co-purchaser, or beneficiary on the contract, requests for cancellation of the contract, and refund requests must be consented to by both the purchaser and co-purchaser if the contract was purchased on or after February 1, 2009. If the contract was purchased before February 1, 2009, such changes and requests only need to be approved by the purchaser.¹²

Who may be a qualified beneficiary?

The beneficiary is the person for whom the Prepaid Contract is purchased. To be a qualified beneficiary, the person must be a U.S. citizen or resident alien who is under 21 years of age on the first day of the month in which the open enrollment period begins and who has not completed the 11th grade. Additionally, a qualified beneficiary must have been a resident of Florida for 12 months prior to the date of the application for a Prepaid Contract or an infant born in Florida who is less than one year of age. A child who is not a resident of Florida, but whose noncustodial parent is a resident of Florida, is eligible to have his or her Florida parent purchase a contract for him or her.¹³

⁹ Section 1009.98(2), F.S.; rule 19B-5.001(2)-(5), F.A.C.

¹⁰ Rule 19B-5.001(6)-(8), F.A.C.

¹¹ Section 1009.98(2), F.S.; rules 19B-5.001(9) and 19B-9.004, F.A.C.; Florida Prepaid College Plans, *University Dormitory Plans*, <http://www.myfloridaprepaid.com/compare-plans/dormitory-plan.aspx> (last visited June 14, 2012).

¹² Rule 19B-5.004, F.A.C.

¹³ Section 1009.97(3)(f), F.S.; rules 19B-7.001, 19B-7.002, F.A.C.; *see also* rule 19B-7.003, F.A.C. (lists documentation necessary to prove residency).

May a Prepaid Contract be purchased without naming a beneficiary?

Generally, no. A beneficiary must be named when purchasing a Prepaid Contract, unless the contract is purchased by the Florida Prepaid College Foundation (Foundation) or by nonprofit organizations that operate a scholarship program approved by the Board. The Foundation and approved organizations are not required to identify the beneficiary at the time a scholarship is purchased; however, the beneficiary¹⁴ must be assigned to the scholarship by April 1 of the anticipated matriculation year.¹⁵

How may Prepaid Contracts be purchased?

Prepaid Contracts may be purchased online at the Board's website (www.myfloridaprepaid.com). Alternatively, an enrollment kit and application may be printed from the website or requested by calling 1-800-552-GRAD.¹⁶ A Prepaid Contract must be purchased during the annual enrollment period, typically held between mid-October and January, except that the Florida Prepaid College Foundation, persons participating in employer participation programs, or persons purchasing pursuant to a court order may purchase the contracts year round.¹⁷ Each application requires payment of a one-time, non-refundable \$50 fee, unless the applicant purchaser and named beneficiary currently have a Florida College Investment Plan account in which case the fee is \$30.¹⁸ Contract prices are posted annually in the Florida Administrative Weekly and on the Board's website.¹⁹

What types of payment options are available?

There are three types of payment options: a single, lump-sum payment; a monthly payment plan consisting of equal payments each month until October of the year the child enters college; and a five-year installment plan consisting of 55 equal monthly payments. The five-year plan is only available for students who are enrolled in or below eighth grade at the time of purchase. Payments may be made by automatic withdrawal from a checking or savings account or through payroll deduction if offered by the employer.²⁰

How do the benefits of a Prepaid Contract work at a public institution in Florida?

The benefits of a Prepaid Contract activate automatically in the beneficiary's projected year of high school graduation.²¹ Generally, as long as the social security number for the Florida Prepaid beneficiary matches the one used to enroll at the public institution, no additional documentation is necessary for the contract to pay tuition and fees. The institution works from an electronic file from the Prepaid Program and automatically matches students enrolled at the institution to those that have contracts in good standing and then bills the Prepaid Program. The student will not need cash to pay fees covered by the Prepaid Contract; however, the student is responsible for any additional fees not covered by the contract.²²

¹⁴ The scholarship beneficiary must be a graduate of an accredited high school in this state and a Florida resident at the time he or she is designated to receive the benefits of the Prepaid Contract. Section 1009.97(3)(f)3., F.S.; rule 19B-8.004, F.A.C.

¹⁵ Rules 19B-5.003(1) and 19B-5.007, F.A.C.; *see also* s. 1009.98(9), F.S. (authorizing nonprofit organizations to purchase Prepaid Contracts for a scholarship program approved by the Board and operated by the organization).

¹⁶ Florida Prepaid College Plans, *Enroll Now*, <http://www.myfloridaprepaid.com/enroll-now/> (last visited June 14, 2012).

¹⁷ Rule 19B-4.001(1), F.A.C.

¹⁸ Rule 19B-6.001(1)(a) and (b), F.A.C.

¹⁹ Rule 19B-4.002(1), F.A.C.; Florida Prepaid College Plans, *Florida Prepaid College Plan Pricing*, <http://www.myfloridaprepaid.com/compare-plans/sample-chart.aspx> (last visited June 14, 2012).

²⁰ *Id.*, rule 19B-4.003, F.A.C.; Florida Prepaid College Plans, *Plan Prices & Master Covenant*, at 1, <http://www.myfloridaprepaid.com/resources/master-covenant.aspx> (last visited June 15, 2012).

²¹ A Prepaid Contract may be utilized up to three years prior to the projected college enrollment date if the child graduates from high school early. Additionally, if a beneficiary does not start college immediately after his or her high school graduation, the beneficiary's account stays current for 10 years from the date of graduation and may be extended by written request to the Board. Rule 19B-5.003(4) and (5), F.A.C.

²² *See* s. 1009.98(1) and (10)(b) and (c), F.S.; rule 19B-5.002, F.A.C.; *e.g.*, University of Florida, *Florida Prepaid College Program*, <http://www.fa.ufl.edu/ufs/thirdparty/florida-prepaid.asp> (last visited June 18, 2012); Valencia College, *Florida Prepaid Tuition Plan Procedures*, <http://valenciacollege.edu/finanserv/FloridaPrepaid.cfm> (last visited June 18, 2012).

May a Prepaid Contract only be used at FCS and SUS institutions?

No. A student may use the benefits of a Prepaid Contract at any eligible educational institution as defined in s. 529 of the Internal Revenue Code, which generally means that the institution is eligible to participate in federal financial aid programs.²³ Eligible educational institutions include some in-state private institutions, out-of-state public and private institutions, and technical schools. A list of eligible educational institutions may be found on the Board's website.²⁴

If a beneficiary enrolls in an eligible educational institution, the Prepaid Program will transfer to that institution an amount not to exceed the redemption value at a state postsecondary institution. Redemption value means, at the time of matriculation to an eligible educational institution, the sum of the average amounts that are payable to a FCS institution or SUS institution, as applicable, for the fees and costs covered by the contract. A transfer of benefits may not exceed the number of semester credit hours or semesters of dormitory residence included in the Prepaid Contract.²⁵

Are there tax benefits associated with a Prepaid Contract?

Yes. When a Prepaid Contract is used for qualified higher education expenses, earnings are exempt from federal income tax and State of Florida taxes.²⁶ Qualified higher education expenses include tuition, fees, books, supplies, equipment for the enrollment or attendance at an eligible educational institution (including certain computer technology or equipment), and room and board for students who attend school at least half-time. Qualified higher education expenses also include expenses for special needs services in connection with enrollment or attendance at an eligible educational institution.²⁷

What options exist if a beneficiary receives a scholarship?

If a beneficiary of a Prepaid Contract receives a scholarship that covers the benefits included in his or her contract, the purchaser of the contract may transfer the Prepaid Contract to a family member of the original beneficiary or request a refund and receive the redemption value of the contract. For this purpose, the redemption value of the contract is the sum of the average amounts, at the time of matriculation, which are payable to a FCS institution or SUS institution, as applicable, for the fees covered by the contract.²⁸

Under what circumstances may a purchaser of a Prepaid Contract receive a refund?

Purchaser request. The purchaser of a Prepaid Contract may request a refund at any time by sending a notarized written request to the Board. If none of the benefits of the Prepaid Contract have been used, the purchaser will receive a refund of monies paid less a cancellation fee of \$50 or 50 percent of the amount paid into the program, whichever is less. If the Prepaid Contract has been partially used by the beneficiary, i.e., the beneficiary used the benefits to pay for one or more semesters of college, the purchaser will receive a refund of monies paid for the unused benefits less the cancellation fee. The cancellation fee is waived for contracts held longer than two years.²⁹

Conversion. A Prepaid Contract may be converted to another Prepaid Program plan of a lesser value. If converted, the purchaser is entitled to a refund equal to the difference between the amount paid for the original

²³ Section 1009.98(3), F.S.; rule 19B-9.002, F.A.C.; 26 U.S.C. s. 529(e)(5).

²⁴ See rule 19B-9.002, F.A.C.; Florida Prepaid College Plans, *Approved Colleges*, <http://www.myfloridaprepaid.com/plan-benefits/approved-colleges/> (last visited June 18, 2012).

²⁵ Section 1009.98(3), F.S.; rule 19B-9.002, F.A.C.

²⁶ 26 U.S.C. s. 529(c)(1); Florida Prepaid College Plans, *Enrollment Kit 2011-12*, at 11, available at <http://www.myfloridaprepaid.com/img/EnrollKit/enrollment-kit-english.zip>.

²⁷ 26 U.S.C. s. 529(e)(3)

²⁸ Sections 1009.98(5)(b), 1009.983; rules 19B-8.001, 19B-8.002, and 19B-11.001, F.A.C.; Florida Prepaid College Plans, *Enrollment FAQs*, <http://www.myfloridaprepaid.com/frequently-asked-questions/enrollment-faq.aspx> (last visited June 18, 2012).

²⁹ Section 1009.98(5)(a) and (e), F.S.; rules 19B-6.001(2), 19B-11.001, and 19B-11.005, F.A.C.

contract and the amount that would have been paid for the converted contract under the same payment plan at the time the original contract was purchased.³⁰

A Prepaid Contract may not be converted to a plan of higher value. The purchaser may cancel the current contract, receive a refund of monies paid, and reapply for a new plan during the open enrollment period. The new contract will be based on current contract prices.³¹ However, the 2-year and 4-year Florida College Plans and the 2+2 Florida Plan may all be used at a four-year university. The Prepaid Program automatically converts the benefits of the plan based upon the respective values of Florida College and Florida University hours when the child enrolls in college. If the Prepaid program converts the benefits of the plan, the student is responsible for the amount not covered by the Prepaid Contract.³²

Death or Disability. In the event of the death or total disability of the beneficiary, the purchaser may receive a refund by sending a notarized written request to the Board. The purchaser will receive the redemption value of the contract, meaning the sum of the average amounts at the time of the refund request which are payable to a FCS institution or SUS institution, as applicable, for the fees covered by the contract.³³

Is a Prepaid Contract financially guaranteed?

Yes. Prepaid Contracts are financially guaranteed by the State of Florida.³⁴ If the state determines the Prepaid Program to be financially infeasible, the state may discontinue the program. Any qualified beneficiary of a Prepaid Contract who has been accepted by and is enrolled in an eligible institution or is within five years of enrollment in an eligible institution will be entitled to exercise the complete benefits for which he or she has contracted. All other contract holders will receive a refund of the amount paid plus interest.³⁵

Does Florida offer families another way to save for college?

Yes. The Board also offers a s. 529 college savings plan known as the Florida College Investment Plan (Investment Plan). The Investment Plan is complementary to the Prepaid Program. Families may participate in one or both options. The Investment Plan allows families to save funds that are invested in one or more of five different investment options. Contributions made to the plan grow tax-deferred, and when the beneficiary is ready for college, withdrawals for qualified higher education expenses at an eligible educational institution are exempt from federal income tax and State of Florida taxes.³⁶

As required by the Internal Revenue Code, the Board has established a maximum contribution amount of \$394,000 for participation in both the Prepaid Program and Investment Plan.³⁷

What is the Florida Prepaid College Foundation?

The Florida Prepaid College Foundation (Foundation) is the nonprofit 501(c)(3) direct support organization for the Board. The Foundation was created in 1990 to operate as a public/private partnership through which nonprofit 501(c)(3) organizations³⁸ approved by the Board may purchase Prepaid Contracts to award as

³⁰ Section 1009.98(5)(d), F.S.; rule 19B-11.002, F.A.C.

³¹ See s. 1009.98(5)(d), F.S.

³² Florida Prepaid College Plans, *Enrollment Kit 2011-12*, at 10, available at <http://www.myfloridaprepaid.com/img/EnrollKit/enrollment-kit-english.zip>.

³³ Section 1009.98(5)(c), F.S.; rules 19B-10.002 and 19B-11.001(2)(b) and (3), F.A.C.

³⁴ Section 1009.98(7), F.S.

³⁵ Section 1009.98(8), F.S.

³⁶ Section 1009.981, F.S.; Florida Prepaid College Board, *Florida College Investment Plan Disclosure Statement*, at 1-3 (April 2011), available at <http://www.myfloridaprepaid.com/documents/pdf/investment/investment-disclosure-statement.pdf>.

³⁷ 26 U.S.C. s. 529(b)(6); rule 19B-4.005, F.A.C.; Florida Administrative Weekly, *Notice of 2010-11 Maximum Account Balance Limit Florida Prepaid College Plan and Florida College Investment Plan*, <https://www.flrules.org/gateway/readFile.asp?sid=12&tid=9617179&type=1&File=19B.htm> (last visited June 25, 2012); Florida Prepaid College Plans, *Plan Prices & Master Covenant*, available at <http://www.myfloridaprepaid.com/documents/pdf/prepaid/prepaid-master-covenant.pdf>.

³⁸ See s. 1009.98(9), F.S. (authorizing nonprofit organizations to purchase Prepaid Contracts for a scholarship program approved by the Board and operated by the organization).

scholarships.³⁹ These contracts cost the same as standard Prepaid Contracts and may be awarded to students who are Florida residents and who meet the organization's criteria for scholarship awards. Since its inception, the Foundation has purchased more than 32,000 Prepaid Contracts and, as of fall 2011, more than 15,000 Foundation scholarship recipients have gone to college using their benefits.⁴⁰

Additionally, the Foundation administers Project STARS, which is a scholarship program funded by state appropriations that are matched dollar-for-dollar by private sector donations. For this program, the Foundation purchases Prepaid Contracts to award as scholarships to economically disadvantaged youth in Florida who remain drug free⁴¹ and crime free.⁴² The Legislature has appropriated approximately \$84.61 million for Project STARS since its inception in 1990 with \$7 million of that amount most recently appropriated for the 2012-13 FY.⁴³ Through legislative appropriations and contributions from private sector donors, Project STARS has received more than \$162 million for scholarships.⁴⁴

Prepaid contracts purchased by the Foundation or by nonprofit organizations through the Foundation afford flexibility not available for traditional contract purchases. Foundation contracts may be purchased year round, not only during the annual enrollment period, and may be for an unnamed beneficiary.⁴⁵ The beneficiary does not have to be designated until April 1 of his or her anticipated matriculation year.⁴⁶ Additionally, if a Foundation contract is not fully used by the beneficiary, the Foundation or purchasing nonprofit organization may receive the redemption value, rather than the purchase price, for the remainder of the contract if those funds are used to purchase additional scholarships.⁴⁷

Where may I obtain additional information?

Florida Prepaid College Board

1-800-552-GRAD (4723)

<http://www.myfloridaprepaid.com>

Florida House of Representatives

Education Committee

(850) 717-4830

<http://www.myfloridahouse.gov>

³⁹ Section 1009.983, F.S.; rule 19B-15.001, F.A.C.; Florida Prepaid College Foundation, *About the Foundation*, <http://www.myfloridaprepaid.com/foundation/about.aspx> (last visited June 25, 2012).

⁴⁰ Florida Prepaid College Foundation, *2011 Florida Prepaid College Foundation Annual Report*, at 5, available at <http://www.myfloridaprepaid.com/foundation/documents/pdf/foundation/foundation-annual-report-2011.pdf>.

⁴¹ The term "drug free" means "not being convicted of, or adjudicated delinquent for, any violation of chapter 893 after being designated a recipient of a Florida Prepaid tuition scholarship." Section 1009.984(3)(a), F.S.

⁴² Section 1009.984, F.S.; rule 19B-13.001, F.A.C.; Florida Prepaid College Foundation, *2011 Florida Prepaid College Foundation Annual Report*, at 1 and 4, available at <http://www.myfloridaprepaid.com/foundation/documents/pdf/foundation/foundation-annual-report-2011.pdf>. The term "crime free" means "not being convicted of, or adjudicated delinquent for, any felony or first degree misdemeanor as defined in ss. 775.08 and 775.081 after being designated a recipient of a Florida prepaid tuition scholarship." Section 1009.984(3)(b), F.S.

⁴³ Specific Appropriation 57, s. 2, ch. 2012-118, L.O.F.; Florida Prepaid College Foundation, *2011 Florida Prepaid College Foundation Annual Report*, at 8, available at <http://www.myfloridaprepaid.com/foundation/documents/pdf/foundation/foundation-annual-report-2011.pdf>.

⁴⁴ *Id.*

⁴⁵ Rules 19B-4.001(1)(b) and 19B-5.003(1), F.A.C.; Florida Prepaid College Foundation, *2011 Florida Prepaid College Foundation Annual Report*, at 2, available at <http://www.myfloridaprepaid.com/foundation/documents/pdf/foundation/foundation-annual-report-2011.pdf>.

⁴⁶ Rule 19B-5.003(1), F.A.C.

⁴⁷ Section 1009.98(5)(f), F.S.



Who is eligible to pay in-state tuition rates in Florida?

Simply stated, a person is eligible to pay in-state tuition rates if he or she:

- Establishes legal residency in Florida;
- Maintains legal residency in Florida for 12 consecutive months prior to initial enrollment at a Florida institution of higher education; and
- Is able to provide “clear and convincing documentation” of his or her residency in Florida and establish that his or her residency is not temporary or incidental to the purpose of enrolling in a Florida institution of higher education.¹

More technically, a student, or in the case of a dependent child,² his or her parent,³ must be classified as a resident for tuition purposes⁴ in order to pay in-state tuition rates while enrolled at a Florida institution of higher education.⁵

Except as otherwise provided by statute, in order to be classified as a resident for tuition purposes, a person must demonstrate that he or she has maintained legal residence⁶ in Florida for at least 12 consecutive months immediately prior to the student’s initial enrollment in an institution of higher education.⁷ In addition, the person must provide to the institution a statement of length of residence and establish that his or her presence in the state is for the purpose of maintaining a bona fide domicile and not as a temporary residence or residence incident to enrollment.⁸

The person seeking to establish residency for tuition purposes must submit “clear and convincing documentation” of his or her residency in Florida for at least 12 consecutive months prior to the student’s initial

¹ Section 1009.21(2), F.S.

² A “dependent child” is a person, whether or not living with his or her parents, who is eligible to be claimed by his or her parents as a dependent under the federal Income Tax Code. If a dependent child’s parents are divorced, separated, or otherwise living apart, the child shall be deemed a legal resident of Florida if either parent is a legal resident of Florida notwithstanding which parent claims the child as a dependent for federal income tax purposes. Section 1009.21(1)(a) and (2)(c), F.S.

³ The legal residence of a dependent child’s parents is considered prima facie evidence of the child’s legal residence, except when the child’s parents live out-of-state and the child has lived in Florida for five consecutive years immediately prior to enrolling or reregistering in the institution. Prima facie evidence of parental residence may be rebutted by other evidence of legal residence presented by the child. Section 1009.21(4), F.S. Further, a dependent child qualifies as a legal resident of Florida if he or she has continuously lived with an adult non-parent relative who is a legal resident of Florida for five years prior to initial enrollment and the relative exercised day-to-day care, supervision, and control of the child during the five-year period. Section 1009.21(2)(b), F.S.

⁴ A “resident for tuition purposes” is a person who qualifies for Florida’s in-state tuition rate as provided by s. 1009.21, F.S. Section 1009.21(1)(g), F.S.

⁵ Section 1009.21, F.S. An “institution of higher education” includes a state university, Florida College System institution, charter technical career center, or career center operated by a school district. Section 1009.21(1)(c), F.S.

⁶ An person is a legal resident of Florida if he or she has either 1) maintained his or her residence in Florida for the preceding year, 2) purchased a home in Florida which is occupied by him or her as his or her residence, or 3) established a domicile in Florida pursuant to s. 222.17, F.S. Section 1009.21(1)(c), F.S.

⁷ Section 1009.21(2)(a), F.S.

⁸ Section 1009.21(2)(a)2., F.S. Each institution must also establish a residency appeal committee under s. 1009.21(12), F.S.

enrollment in an institution of higher education.⁹ This requires the submission of at least two documents to the institution,¹⁰ one or more of which must be:

- A Florida voter's registration card;
- A Florida driver's license;
- A Florida identification card;
- A Florida vehicle registration;
- Proof of a permanent home occupied by the student or the student's parent if the student is dependent;
- Proof of a homestead exemption in Florida;
- Transcripts from a Florida high school for multiple years if the student's high school diploma or GED was earned within the previous 12 months; or
- Proof of permanent full-time employment in Florida for at least 30 hours per week.¹¹

Additionally, the documents may include:

- *A declaration of domicile in Florida.*
- A Florida professional or occupational license.
- Florida incorporation.
- A document evidencing family ties in Florida.
- Proof of membership in a Florida-based charitable or professional organization.
- Any other documentation that supports the student's request for resident status, including but not limited to, utility bills and proof of 12 consecutive months of payments; a lease agreement and proof of 12 consecutive months of payments; or an official state, federal, or court document evidencing legal ties to Florida.¹²

Who determines a person's residency status for tuition purposes?

Each institution of higher education listed in Section 1009.21(1)(c), F.S., is responsible for determining whether each applicant meets the residency requirements at the time of initial enrollment.¹³¹⁴

Can a person initially classified as a nonresident later be reclassified as a resident for tuition purposes?

A person who is initially classified as a nonresident for tuition purposes may subsequently become eligible for reclassification as a resident if the person "presents clear and convincing documentation that supports permanent legal residency in this state for at least 12 consecutive months rather than temporary residency for the purpose of pursuing an education, such as documentation of full-time permanent employment for the prior 12 months or the purchase of a home in this state and residence therein for the prior 12 months while not enrolled in an institution of higher education."¹⁵

Can people appeal classification as a nonresident for tuition purposes?

Yes. As part of its duty to determine the residency status of applicants, each public postsecondary institution must establish a residency appeals committee comprised of at least three members to consider appeals of student residency determinations. The committee must enter final residency determinations including the

⁹ Section 1009.21(3), F.S.

¹⁰ If the student is a dependent child, the documentation submitted to the institution must pertain to the parent's legal residence and duration. Section 1009.21(3)(a), F.S.

¹¹ Section 1009.21(3)(b) and (c), F.S.

¹² Section 1009.21(3)(c)2., F.S.

¹³ Section 1009.21(3)(c), F.S.

¹⁴ Florida private postsecondary institutions make a similar determination of residency status prior to disbursing Florida Bright Futures Scholarship and Florida Resident Access Grant (FRAG) and Access to Better Learning and Education Grant (ABLE) funds to ensure student recipients meet all eligibility requirements for the awards. See Sections 1009.531, 1009.533, 1009.89, and 1009.891, F.S.

¹⁵ Section 1009.21(6)(a), F.S.

reasoning therefor in writing.¹⁶ The committee's determination is subject to judicial review.¹⁷ Students should consult with their public postsecondary institutions to obtain additional information regarding residency. Other conditions may apply depending on a student's citizenship, dependency, marital, military, employment, or school transfer status.¹⁸

May public postsecondary institutions require U.S. citizen, dependent children to submit proof of their parents' lawful presence in this country in order to be classified as residents for tuition purposes?

No. While dependent children must establish the Florida residency of their parents in order to be classified as residents for tuition purposes, the U.S. District Court for the Southern District of Florida held in *Ruiz v. Robinson*¹⁹ that public postsecondary institutions may not require U.S. citizen dependent children to provide proof that their parents are lawfully present in the U.S. However, the parent must still submit documentation establishing legal residence in Florida in order to be classified as a resident for tuition purposes.²⁰

Are there other categories of students who are classified as residents for tuition purposes?

Yes. The following persons are classified as residents for tuition purposes:

- Active duty members of:
 - The Armed Services who reside or are stationed in this state and their spouses and dependent children.
 - The Armed Services and their spouses and dependents when they attend an institution in the FCS or State University System (SUS) which is located within 50 miles of the military establishment where they are stationed if the military establishment is in a county contiguous to Florida.
 - The Canadian military who reside or are stationed in Florida under the North America Air Defense (NORAD) agreement and their spouses and dependent children when they attend an institution in the FCS or SUS located within 50 miles of the military establishment where they are stationed.
 - A foreign nation's military who are serving as liaison officers and are residing or stationed in this state and their spouses and dependent children when they attend a FCS institution or SUS institution located within 50 miles of the military establishment where they are stationed.
- Active drilling members of the Florida National Guard.
- United States citizens living on the Isthmus of Panama who have completed 12 consecutive months of college work at the Florida State University Panama Canal Branch and their spouses and dependent children.
- U.S. citizens living outside the U.S. who are teaching at a Department of Defense Dependent School or in an American International School and enroll in a graduate-level education program that leads to a Florida teaching certificate.
- Full-time instructional and administrative personnel employed by state public schools and public postsecondary institutions and their spouses and dependent children.
- Full-time employees of state agencies or political subdivisions of the state when the student fees are paid by the state agency or political subdivision for the purpose of job-related law enforcement or corrections training.
- Full-time students from Latin America and the Caribbean who receive scholarships from the federal or state government.

¹⁶ Section 1009.21(12), F.A.C.

¹⁷ See, e.g., *Hallendy v. Florida Atlantic University*, 16 So.3d 1057 (Fla. 4th DCA 2009)(holding that substantial evidence supported finding that university student's residency in Florida was merely incidental to her enrollment, and thus student was not entitled to residency reclassification).

¹⁸ Section 1009.21(2) and (5) through (11), F.S.

¹⁹ 892 F. Supp. 2d 1321 (S.D. Fla. 2012).

²⁰ *Id.* at 1332.

- Southern Regional Education Board's Academic Common Market graduate students who attend institutions in the SUS.
- McKnight Doctoral Fellows and Finalists who are U.S. citizens.²¹

Where may I get additional information?

Florida Department of Education

State Board of Education

Governmental Relations Office

(850) 245-0507

<http://www.fldoe.org/board>

Florida Department of Education

Division of Florida Colleges

(850) 245-0407

<http://www.fldoe.org/fcs/>

The Florida Board of Governors

(850) 245-0466

<http://flbog.edu/>

Florida House of Representatives

Education Committee

(850) 717-4830

<http://www.myfloridahouse.gov>

²¹ Section 1009.21(10), F.S.



Support for Military Personnel and Families

Education Committee

Last Updated: August 2013

What educational support services are provided for school-age children of military personnel?

Florida law contains several provisions intended to assist transitioning military children entering Florida's public schools by:

- Improving the timely transfer of records.
- Developing systems to ease student transition during the first two weeks of entry into school.
- Providing priority placement in gifted, special needs, and voucher programs offered by the State.
- Promoting practices which foster access to extracurricular activities and programs.
- Establishing procedures to lessen the adverse impact of moves from the end of the junior year as well as before and during the senior year.
- Encouraging or continuing partnerships between the military base and the school system.
- Providing services for transitioning students when applying to and finding funding for postsecondary study.
- Providing other assistance as identified by DOE, school districts, and military personnel.¹

In addition, the Department of Education (DOE) is required to facilitate the development and implementation of memoranda of agreement between school districts and military installations to assist transitioning students whose parents are active duty military personnel.²

Are children of active duty military personnel who relocate to Florida from out of state or a foreign country eligible for the McKay Scholarship Program?

Yes. A dependent child of a member of the U.S. Armed Forces who transfers to a school in this state from out of state or a foreign country due to a parent's permanent change of station orders is exempt from the requirement that the child attend a Florida public school in the previous school year in order to be eligible for a McKay Scholarship. The McKay Scholarship Program provides Florida students with disabilities a scholarship to attend a private school or the option of choosing another public school, provided that the student has an individual educational plan or an accommodation plan issued under s. 504 of the federal Rehabilitation Act of

¹ See ss. 1000.36 and 1003.05, F.S.; Florida Department of Education, *Military Families General Education Information, General Provisions and Attendance*; <http://www.fl DOE.org/military/generaled/generalprov.asp> (last visited May 28, 2013). In 2008, the Florida Legislature enacted the Interstate Compact on Educational Opportunity for Military Children. The compact is designed to remove barriers to educational success experienced by children of active duty military families caused by frequent moves and school transfers. The compact assists member states in uniformly addressing educational transition issues faced by these children in such areas as program eligibility and placement, enrollment, records transfers, and timely high school graduation. An interstate compact is a mutual agreement between two or more states to cooperate in the regulation of a particular public policy matter shared by each state. The compact has the force and effect of law in member states and supersedes conflicting member state laws. The compact was developed by the Council of State Governments in cooperation with the United States Department of Defense Office of Personnel. Florida is one of 43 states and the District of Columbia that have joined the compact. Sections 1000.36, 1000.37, and 1000.39, F.S.; Military Interstate Children's Compact Commission, *Member and Nonmember States Map* (July 2012), available at <http://mic3.net/pages/resources/documents/MIC3ColorMapJul1.pdf>; Council of State Governments, *Interstate Compact on Educational Opportunity for Military Children: Legislative Resource Kit*, at 6-7 (Jan. 2011), available at <http://www.mic3.net/pages/commissioners/documents/2011LegislativeResourceKit-Final.pdf>.

² Section 1003.05, F.S.

1973. Generally speaking, a student must have attended a Florida public school during the school year prior to requesting a McKay Scholarship in order to receive a scholarship.³

Is priority course registration available to veterans attending a Florida College System Institution or state university?

Yes. Florida College System (FCS) institutions and state universities offering priority course registration for a segment of the student population, or upon the implementation of such a policy, must provide priority course registration to veterans of the U.S. Armed Forces who are receiving GI bill educational benefits. The spouse or dependent child of the veteran to whom the GI Bill educational benefits have been transferred must also be granted priority course registration. Such individuals are eligible for priority course registration until the expiration of the GI Bill educational benefits.⁴

Independent postsecondary educational institutions that offer priority course registration for a segment of the student population, or upon the implementation of such a policy, are encouraged to provide priority course registration to veterans of the U.S. Armed Forces who are receiving GI Bill educational benefits.⁵

Are military personnel, veterans, and their families eligible for a tuition exemption or fee waiver to attend a public postsecondary institution?

Yes. The Educational Dollars for Duty Program provides tuition assistance to eligible Florida National Guard members. The Department of Military Affairs may pay the full cost of tuition and fees for members attending a public postsecondary institution or vocational-technical program, whereas members attending a nonpublic postsecondary institution or vocational-technical program will receive an amount equal to the average tuition and fees at public institutions or programs. Such tuition assistance is subject to legislative appropriations.⁶

A FCS institution or state university must waive undergraduate tuition for each recipient of a Purple Heart or another combat decoration superior in precedence if the individual is currently a Florida resident and was a resident at the time of the military action that resulted in the award of the Purple Heart or combat decoration. The tuition waiver is applicable to 110 percent of the number of credit hours required for the degree or certificate program in which the student is enrolled.⁷

School districts, FCS institutions, and state universities may defer tuition and fees for students receiving financial aid from a federal or state assistance program when the aid is delayed in being transmitted to the student through circumstances beyond the control of the student. Military veterans or eligible students who receive certain federal educational benefits, i.e., the All Volunteer Force Educational Assistance Program,⁸ Training and Rehabilitation for Veterans with Service Connected Disabilities,⁹ Post-Vietnam Era Veterans Educational Assistance,¹⁰ Post 9/11 Veterans Educational Assistance,¹¹ Veterans Educational Assistance,¹² Survivors and Dependents Educational Assistance,¹³ or Educational Assistance for Members of the Selected

³ Section 1002.39(2)(a), F.S. (flush left provision at the end of the paragraph). Florida Department of Education, *McKay Scholarship for Children of Military Families*, available at

http://www.floridaschoolchoice.org/information/mckay/mckay_military_intent_instructions.asp (last visited May 28, 2013).

⁴ Section 1004.075, F.S.

⁵ Section 1005.09, F.S.

⁶ Section 250.10(7) and (8), F.S.

⁷ Section 1009.26(8), F.S. Other combat decorations superior in precedence to the Purple Heart include the Medal of Honor, Distinguished Service Cross, Navy Cross, Air Force Cross, Silver Star, Legion of Merit (must be "V" designation or device), Distinguished Flying Cross, and Bronze Star Medal (must be "V" designation or device). The "V" designation or device represents that the medal was presented as a combat decoration. Florida Department of Veterans Affairs, Education Benefits, *Waiver for Recipients of the Purple Heart or Superior Combat Decorations*, at 1 (2013) available at http://173.241.197.162/wp-content/uploads/2012/08/FDVA_ph_waiver.pdf.

⁸ 38 U.S.C. pt. III, ch. 30.

⁹ 38 U.S.C. pt. III, ch. 31.

¹⁰ 38 U.S.C. pt. III, ch. 32.

¹¹ 38 U.S.C. pt. III, ch. 33.

¹² 38 U.S.C. pt. III, ch. 34.

¹³ 38 U.S.C. pt. III, ch. 35.

Reserve,¹⁴ are entitled to receive one tuition deferment each academic year and an additional deferment each time there is a delay in the receipt of benefits.¹⁵

The Scholarship for Children and Spouses of Deceased or Disabled Veterans and Servicemembers (CSDDV) provides scholarships for dependent children or unremarried spouses of Florida veterans or servicemembers who died as a result of service-connected injuries, diseases, or disabilities sustained while on active duty or who have been certified by the Florida Department of Veterans Affairs as having service-connected 100 percent permanent and total disabilities. CSDDV also provides scholarships for dependent children whose parent is classified as a prisoner of war or missing in action by the U.S. Armed Forces.¹⁶

May military personnel receive college credit for military training?

Yes. Members of the U.S. Armed Forces are eligible to earn academic college credit at public postsecondary educational institutions for college-level training and education acquired in the military. The Board of Governors (BOG) by regulations and State Board of Education by rules must provide procedures for credential evaluation and the award of academic college credit, equivalency and alignment of military coursework with appropriate college courses, course descriptions, type and amount of college credit that may be awarded, and transfer of credit.¹⁷

Both BOG's regulation (state universities) and the state board's rule (FCS institutions) direct their respective institutions to adopt policies authorizing the award of credit for military training or coursework that is recognized by the American Council on Education. Credit so awarded must be noted on the student's transcript and documentation of the credit equivalency evaluation must be maintained in the student veteran's file.¹⁸

Are military personnel penalized for withdrawing from a postsecondary course due to military service?

No. Students who withdraw from courses at a public postsecondary institution or career center due to active military service are not subjected to financial penalties and have the option to either complete the course at a later date or withdraw and have the fees refunded in full. If the student elects to withdraw, his or her academic records will note that withdrawal was due to active military service.¹⁹

What is the Troops to Teachers Program?

"Troops to Teachers" is a national program that provides registered participants counseling and support services to help them prepare for a second career in teaching. Military personnel may be eligible to receive referral and placement assistance to help begin new careers as public school teachers through the program. The Troops to Teachers Program provides stipends of up to \$5,000 for achieving teacher certification and stipends of up to \$10,000 for teaching at high-needs schools.²⁰

¹⁴ 10 U.S.C. ss. 16131-16136.

¹⁵ Section 1009.27(2), F.S.

¹⁶ Section 295.01, F.S.; Florida Department of Education, *2011-12 Scholarships for Children and Spouses of Deceased or Disabled Veterans and Servicemembers Fact Sheet*, https://www.floridastudentfinancialaidsg.org/home/CSDDV_faq.asp (last visited May 28, 2013).

¹⁷ Section 1004.096, F.S.

¹⁸ Regulation 6.013, Board of Governors; rule 6A-14.0302, F.A.C.

¹⁹ Section 1004.07(2), F.S.

²⁰ Florida Atlantic University, *Troops to Teachers*, http://www.fau.edu/explore/homepage-stories/2011_05troopsteachers.php (last visited May 28, 2013); see also Florida Atlantic University, *Troops to Teachers Homepage*, <http://www.coe.fau.edu/CentersAndPrograms/troopstoteachers/default.aspx> (last visited May 28, 2013).

Which military personnel and their families are specifically classified as residents for tuition purposes?

The following military personnel are classified as residents for tuition purposes:

- Active duty members of the U.S. Armed Forces residing or stationed in this state, their spouses and dependent children, and active drilling members of the Florida National Guard.²¹
- Active duty members of the U.S. Armed Forces and their spouses and dependents who attend a FCS institution or state university within 50 miles of the military establishment where they are stationed, if the military establishment is within a county contiguous to Florida.²²
- Active duty members of the Canadian military residing or stationed in Florida under the North America Air Defense (NORAD) agreement, and their spouses and dependent children attending a FCS institution or state university within 50 miles of the military establishment where they are stationed.²³
- Active duty members of a foreign nation's military who are serving as liaison officers and are residing or stationed in this state, and their spouses and dependent children, who attend a FCS institution or state university within 50 miles of the military establishment where the foreign liaison officer is stationed.²⁴

Where can I get additional information?

Florida House of Representatives

Education Committee

(850) 717-4830

<http://www.myfloridahouse.gov>

Florida Department of Education

Division of Florida Colleges

(850) 245-0407

<http://www.fldoe.org/fcs/>

Florida Department of Education

Office of Student Financial Assistance

(850) 410-5160

1-888-827-2004 Toll-Free

<http://www.floridastudentfinancialaid.org>

Florida Department of Veterans' Affairs

Division of Veterans' Benefits and Assistance

1-727-319-7421

www.floridavets.org

Troops to Teachers

Florida Caribbean Region

(888) 358-7667

www.troopstoteachers.fau.edu

²¹ Section 1009.21(10)(a), F.S.

²² Section 1009.21(10)(b), F.S.

²³ Section 1009.21(10)(j), F.S.

²⁴ Section 1009.21(10)(k), F.S.



Postsecondary Workforce Education

Education Committee

Last Updated: August 2013

What is Workforce Education?

Workforce education¹ programs in Florida are designed to assist individuals in attaining the skills necessary for economic self-sufficiency and provide training to meet local and state workforce needs. These programs include both adult general education and career education programs and may be offered by school districts and Florida College System (FCS) institutions.² State agency oversight for workforce education is provided by the Division of Career and Adult Education within the Department of Education (DOE).³

The charts below set forth the broad array of workforce education programs offered in this state:

Adult General Education ⁴	
Program Description	Delivery Systems
Adult Basic Education (ABE): Noncredit instruction for the development of basic literacy skills by adults at up to grade nine proficiency in mathematics, reading, and language, and workforce readiness skills.	<ul style="list-style-type: none">• FCS institutions• School Districts
Adult Secondary Education: High school equivalent examination ⁵ preparation courses and high school credit courses that lead to a diploma or permit credit recovery by co-enrolled high school students.	
English for Speakers of Other Languages: Noncredit literacy instruction to enhance abilities to read, write, and speak in English.	
Applied Academics Instruction: Noncredit instruction for students enrolled in a Technical Certificate program, whose results on a basic skills assessment indicate a need for remediation.	
Instruction for Adults with Disabilities: Instruction in literacy, work-related behaviors, and living skills based on an Adult Individual Educational Plan.	

¹ Section 1004.02(26), F.S., providing that “workforce education” means “adult general education or career education and may consist of a continuing workforce education course or a program of study leading to an occupational completion point, a career certificate, an applied technology program, or a career degree.”

² Sections 1004.02(3) and (26), 1004.92(1), 1004.93, and 1011.80(1) and (2), F.S. Only FCS institutions may confer college credit. However, if an associate in applied science or an associate in science degree program contains within it an occupational completion point that confers a certificate or an applied technology diploma, that portion of the program may be conducted by a school district career center. Section 1011.80(2), F.S.

³ Section 20.15(3)(c), F.S.

⁴ Section 1004.02(3), F.S. Office of Program Policy Analysis and Government Accountability, *School Districts and Colleges Share Responsibility for Workforce Education; Duplication is Minimal*, Report No. 10-61 (December 2010), available at <http://www.oppaga.state.fl.us/summary.aspx?reportnum=10-61> [hereinafter *OPPAGA -- Responsibility for Workforce Education*].

⁵ The Division of Law Revision and information is directed to prepare a reviser’s bill for the 2014 Regular Session of the Legislature to change the terms “General Educational Development test” or “GED test” to “high school equivalency examination” and the terms “general education diploma,” “graduate equivalency diploma,” or “GED” to “high school equivalency diploma” wherever those terms appear in the Florida Statutes.

Career Education ⁶	
Program Description	Delivery Systems
Associate in Science (AS) and Associate in Applied Science (AAS) Degrees: College credit courses that lead to a degree and employment in a specific occupation. When authorized, AS and AAS degrees may articulate to a baccalaureate degree program.	<ul style="list-style-type: none"> • FCS institutions
Career Certificates: Course of study that leads to at least one occupational completion point. Includes Technical Certificates, composed of college credit hours and awarded when only the core technical credits of an AS or AAS degree program are completed; and Technical Certificates, composed of clock hours. Technical certificates may, if authorized, articulate to an AS or AAS degree program.	<ul style="list-style-type: none"> • FCS institutions • School Districts
Applied Technology Diploma: Less than 60 credit hours of study that leads to a diploma and employment in a specific occupation. May consist of technical or college credit. School districts may only award technical credit, with college credit awarded upon articulation to a Florida College System institution for an AS or AAS degree program. <i>Examples:</i> Customer Service Technology, Dental Assisting Technology & Management, and Pharmacy Technician.	<ul style="list-style-type: none"> • FCS institutions • School Districts
Apprenticeship: Training in an occupation which combines on-the-job experience with classroom instruction. <i>Examples:</i> Carpentry, Firefighter, and Nursery Management.	<ul style="list-style-type: none"> • FCS institutions • School Districts
Continuing Workforce Education: Instruction that does not result in a technical certificate, diploma, or degree, e.g., licensure or certification renewal training; employee training; and occupational skill training. <i>Example:</i> Real Estate License Renewal Training.	<ul style="list-style-type: none"> • FCS institutions • School Districts

What is Adult General Education?

Adult general education provides comprehensive instructional programs designed to improve the employability of the state's workforce through adult basic education, adult secondary education, English for Speakers of Other Languages, applied academics for adult education instruction, and instruction for adults with disabilities.⁷ Each program is discussed below.

Adult Basic Education. Adult Basic Education (ABE) is designed to improve the employability of the state's workforce through instruction in reading, mathematics, language, and workforce readiness skills. ABE courses are taught at or below the eighth grade level.⁸

To be eligible for an ABE program, a student must have legally left the elementary or secondary school. Additionally, the student must take one of the assessments approved by the State Board of Education, which include the Test for Adult Basic Education, the Comprehensive Adult Student Assessment System, the General Assessment of Instructional Needs (test of English skills) and the General Assessment of Instructional Needs (test of Math skills).⁹ Based on the results of the assessment, students are placed into one of the following four Educational Functioning Levels (EFLs) for each academic course in reading, mathematics and language: Level 1 - Beginning Literacy (grades 0.0 to 1.9); Level 2 - Beginning Basic

⁶ Section 1004.02(3), F.S.; *OPPAGA -- Responsibility for Workforce Education*.

⁷ Section 1004.02(3), F.S.

⁸ Section 1004.02(1), F.S.

⁹ Rule 6A-6.014, F.A.C.

Education (grades 2.0 to 3.9); Level 3 - Intermediate Low (grades 4.0 to 5.9); and Level 4 - Intermediate High (grades 6.0 to 8.9).¹⁰

Adult Secondary Education. Adult Secondary Education (ASE) consists of courses through which a person receives high school credit that leads to the award of a high school diploma or courses through which a student prepares to take the high school equivalency examination.¹¹ In practice, ASE has been implemented to offer the following types of programs: adult high school, co-enrollment, and high school equivalency examination preparation. To be eligible for any program, a student must have legally withdrawn from elementary or secondary school or be temporarily assigned for a course required for high school graduation.¹²

Adult high school provides instruction at the 9th to 12th grade levels permitting adult students to enroll for purposes of completing credits and passing a state mandated assessment that lead to a high school diploma and permits currently enrolled high school students to co-enroll for purposes of recovering credits so that the student may graduate with his or her cohort class.¹³ Adult high school courses are generally individualized, self-paced instructional modules. Placement into the program is based on an individual's high school transcript.¹⁴

High school equivalency examination preparation programs are non-graded, open-entry/open-exit, self-paced instructional modules evaluated based on performance. Students should be functioning at or above a ninth grade level.¹⁵ For students functioning below the ninth grade level, there are pre-high school equivalency examination preparation courses. These courses prepare students functioning above the sixth grade level, but below the ninth grade level to pass the high school equivalency examination tests.¹⁶

English for Speakers of Other Languages. Adult English for Speakers of Other Languages (Adult ESOL) programs are noncredit English literacy courses designed to improve the employability of the state's workforce through the acquisition of communication skills and cultural competencies that enhance the ability to read, write, speak, and listen in English.¹⁷ School districts and FCS institutions offer the following six adult ESOL courses: Academic Skills for Adult ESOL Learners; Adult ESOL; Citizenship; English Literacy for Career and Technical Education (ELCATE); Literacy Skills; and Workplace Readiness.¹⁸

To be eligible for any ESOL program, a student must have legally left elementary or secondary school.¹⁹ Additionally, students must take one of the placement tests approved by the state board, which include the: Comprehensive Adult Student Assessment System (CASAS); Basic English Skills Test (BEST) Plus; Basic English Skills Test (BEST) Literacy; Comprehensive Adult Student Assessment System (CASAS) Lipedwork 80 Series; and Test for Adult Basic Education Complete Language Assessment System – English (TABE CLAS-E).²⁰

¹⁰ Florida Department of Education, Division of Career and Adult Education, *Adult Basic Education Technical Assistance Paper*, at 11 (June 21, 2013), available at <http://www.fldoe.org/Workforce/AdultEd/pdf/2012-2013finalassessmentpaper.pdf>. [hereinafter *TAP: ABE*]. The ABE program is divided into levels that are reported as student educational gains. For purposes of federal funding, EFLs are utilized and for purposes of state funding, literacy completion points are utilized.

¹¹ Section 1004.02(5), F.S.

¹² Rule 6A-6.014(2), F.A.C.

¹³ Section 1004.02 (4) and (6), F.S.

¹⁴ Florida Department of Education, Division of Career and Adult Education, *Curriculum Framework: General Education Promotion (Adult High School)*, at 1 (July 1, 2013), available at www.fldoe.org/workforce/dwdframe/pdf/AdultHighSchool-2013.pdf [hereinafter *Curriculum Framework: Adult High School*].

¹⁵ Florida Department of Education, Division of Career and Adult Education, *Curriculum Framework: General Educational Development Preparation*, at 1 (July 1 2013), available at www.fldoe.org/workforce/dwdframe/pdf/GED.pdf.

¹⁶ Florida Department of Education, Career and Adult Education, *Curriculum Framework: Pre-General Educational Development Preparation*, at 1 (July 1, 2013), available at www.fldoe.org/workforce/dwdframe/pdf/Pre-GED.pdf.

¹⁷ Section 1004.02(2), F.S.

¹⁸ Florida Department of Education, Division of Career and Adult Education, *Technical Assistance Paper: Adult English for Speakers of Other Languages Program*, at 1 (July 1, 2013), available at www.fldoe.org/workforce/AdultEd/pdf/adult_esol_tap.pdf [hereinafter *TAP: Adult ESOL Program*]. The Workplace Readiness adult ESOL course will not be offered in 2014-15.

¹⁹ Rule 6A-6.014(2), F.A.C.

²⁰ Rule 6A-6.014(4)(b), F.A.C.

Each ESOL course is described below:

- **Academic Skills for Adult ESOL Learners.** This course improves the advanced ESOL student's ability to communicate in English and allows the student to acquire secondary level English language skills. As this course is intended for students that plan to take credit courses at a university or college, the curriculum focuses on topics necessary for that transition, including: language grammar structures; college-level reading and writing; the culture of the United States (U.S.) higher educational system; and how to use technology for postsecondary-level work.²¹
- **Adult ESOL.** This course increases a student's ability to communicate in English for a variety of purposes including employment, education, and life in the U.S. Adult ESOL curricula cover the following seven topics: Communication; Civics, Family, and Community Resources; Employment; Consumer Education; Health and Nutrition; Transportation and Travel; and Safety and Security. Students should be able to read and write in at least one language before enrolling in the course.²²
- **Citizenship.** This course is designed for immigrants who plan to take the U.S. Bureau of Citizenship and Immigration Services (CIS) Citizenship Interview and Examination. It focuses on English language skills and pertinent information needed to pass the Citizenship Interview and Examination. The course curriculum covers U.S. history, government, culture, and symbols and places an emphasis on the rights and responsibilities of citizens as stated in the U.S. Constitution.²³
- **ELCATE.** This course is designed to prepare students for transition to one of the Career and Technical Education courses provided by a school district or FCS institution. The course curriculum focuses on academic reading and writing skills, use of technology, test-taking skills, and culture of the workplace and career and technical classroom. ELCATE also addresses listening, speaking, reading, and writing as used in everyday life situations and in the workplace.²⁴
- **Literacy Skills.** This course is designed to provide literacy instruction at the same time as English language instruction to adults with emerging literacy skills. Students who successfully complete this course will have acquired basic literacy skills in English and will be ready to enter an Adult ESOL course. The course is intended for students who have little or no ability to read and write in their native language or in any other language. The curriculum covers: basic literacy skills competencies, including sound discrimination and reading; communication; employment; consumer and community education; health and nutrition; and transportation and travel.²⁵
- **Workplace Readiness Skills.** This course is designed for adult learners who need to improve their English language skills and are employed by an employer that requests ESOL instruction. The course is taught at the student's place of work or other location provided by the employer and it allows students to take classes before, during, or after working hours. It is primarily intended to help students maintain employment and enhance their opportunities within the company. The course curriculum is customized through a training plan developed in collaboration with the Local Educational Agency and the employer.²⁶

Applied Academics Instruction. Applied Academics for Adult Education (AAAE) means adult general education through which persons attain academic and workforce readiness skills at the level of functional literacy (grade levels 6.0-8.9) or higher so that they may pursue technical certificate education or higher-level technical education.²⁷

²¹ Florida Department of Education, Division of Career and Adult Education, *Curriculum Framework: Academic Skills for Adult ESOL Learners Course* (2013-2014), available at <http://www.fldoe.org/workforce/dwdframe/pdf/ESOL-AcademicSkills-2013.pdf>

²² TAP: Adult ESOL Program, at 13.

²³ Florida Department of Education, Division of Career and Adult Education, *Curriculum Framework: Citizenship* (2013-14), available at <http://www.fldoe.org/workforce/dwdframe/pdf/ESOL-Citizenship-2013.pdf>.

²⁴ Florida Department of Education, Division of Career and Adult Education, *Curriculum Framework: English Literacy for Career and Technical Education (ELCATE)* (July 2013), available at <http://www.fldoe.org/workforce/dwdframe/pdf/ESOL-ELCATE-2013.pdf>.

²⁵ Florida Department of Education, Division of Career and Adult Education, *Curriculum Framework: Literacy Skills for Adult ESOL Learners* (2013-2014), available at <http://www.fldoe.org/workforce/dwdframe/pdf/ESOL-WorkplaceReadiness-2013.pdf>

²⁶ TAP: Adult ESOL Program, at 21-22; see Florida Department of Education, Division of Career and Adult Education, *Curriculum Framework: Workplace Readiness Skills for Adult ESOL Learners* (July 2013), available at <http://www.fldoe.org/workforce/dwdframe/pdf/ESOL-WorkplaceReadiness-2013.pdf>.

²⁷ Section 1004.02(24), F.S.

An AAAE program provides:

- Career assessment designed to assist persons with special needs in identifying vocational interests, temperament, aptitudes, and learning styles.
- Individualized basic skills related instruction to educationally disadvantaged students whose basic skills deficiencies may prevent success in vocational job preparatory programs or prevent completion of licensure vocational job preparatory programs of their choice.
- Employability behavior instruction for job acquisition and job retention.²⁸

For students functioning below the sixth grade level, there are Pre-AAAE courses. These courses prepare students for academic, technical, and personal success.²⁹

Instruction for Adults with Disabilities. Adults with disabilities are individuals who have a physical or mental impairment that substantially limits one or more major life activities or have a record of such impairment or are regarded as having such an impairment and who require modifications to the educational program, adaptive equipment, or specialized instructional methods and services in order to participate in workforce development programs that lead to competitive employment.³⁰ Adult general education for adults with disabilities provides instruction in literacy, work-related skills, employability skills, and life skills to enable these students to participate in work and community activities.³¹

To be eligible, an adult with a disability must provide his or her Adult Individual Education Plan (AIEP), which must include the particular outcomes and student performance standards the student is required to master in order to complete the program. After completing the program, a student who needs additional training in a different occupational field or for advancement in the same field may enroll in the program again with a new Section 504 Accommodation plan (or comparable academic plan).³²

What is postsecondary career education?

Career education consists of programs that lead to Associate in Science and Associate in Applied Science degrees, career certificates, Advanced Technical Certificates, and Applied Technology Diplomas, as well as Apprenticeship and Continuing Workforce Education Programs.³³ Each program is discussed below.

Associate in Science and Associate in Applied Science degrees. Both the Associate in Science (AS) and Associate in Applied Science (AAS) degrees are two-year technical degree education programs that confer college credit and that may only be offered by FCS institutions.³⁴

The AS degree requires at least 15 credit hours of general education credit, that are transferable and applicable to the 36 hours of general education required for a baccalaureate degree.³⁵ Further, as provided in the Statewide Articulation Manual, each graduate of a FCS institution AS degree program shall:

- Be admitted to a public postsecondary institution in the program designated to articulate with their AS degree under the Career Degree Ladder Articulation Agreement.
- Have his or her AS degree accepted at a public or private postsecondary educational institution and applied as block credit toward a baccalaureate degree program specified in a Capstone Degree Articulation Agreement.³⁶

²⁸ *Curriculum Framework: VPI*, at 1-2.

²⁹ Florida Department of Education, Division of Career and Adult Education, *Curriculum Framework: Pre-Applied Academics for Adult Education (Pre-VPI)* (July 2013), available at <http://www.fldoe.org/workforce/dwdframe/pdf/PreAA-AdultEd.pdf>.

³⁰ Section 1004.02(7), F.S.

³¹ Florida Department of Education, Division of Career and Adult Education, *Curriculum Framework: Adult General Education for Adults with Disabilities*, at 1 (July 2013), available at <http://www.fldoe.org/workforce/dwdframe/pdf/AGE-AdultsWithDisabilities2013.pdf>.

³² *Id.*

³³ *OPPAGA -- Responsibility for Workforce Education*, at 2.

³⁴ Sections 1004.02(14) and 1011.80(2), F.S.; rules 6A-10.024(5) and 6A-14.030(2) and (3), F.A.C. A school district, however, may conduct the portion of an AS or AAS degree program that contains within it an occupational completion point that confers a certificate or an applied technology diploma. Section 1011.80(2), F.S.

³⁵ Section 1007.23(4), F.S.; rule 6A-10.024(5), F.A.C.

Neither guarantee above applies to limited access programs and programs requiring specific grades for certain courses for admission.³⁷ A list of the articulation agreements for AS degrees may be found on the DOE's website.³⁸

The AAS degree may articulate to a baccalaureate degree program on an individual or block basis if authorized by local interinstitutional articulation agreements.³⁹

Career and Technical Certificates. A career certificate program is a course of study that leads to at least one occupational completion point.⁴⁰ The program may also confer credit that may articulate with a diploma or career degree education program, if authorized by state board rules.⁴¹ Career certificate programs are provided by school districts and FCS institutions; however, college credit may only be awarded by a FCS institution.⁴²

Eligibility and certificate completion requirements vary by program. If a student enrolls in a program that consists of at least 450 clock hours, he or she must take a basic skills examination within the first six weeks after entry into the program. If the student scores below the minimum standards established by the DOE, the student must complete remedial instruction prior to the award of a career certificate.⁴³

Technical Certificates. A technical certificate, also referred to as a college credit certificate, program is composed of less than 60 college credit hours, which are part of an AS degree or AAS degree program and prepare students for entry into employment. The standard credit hour length of all technical certificate program is maintained according to DOE.⁴⁴

Applied Technology Diploma. An Applied Technology Diploma (ATD) program means a course of study that is part of an AS or AAS degree program, consists of less than 60 credit hours, and leads to employment in a specific occupation. The program may offer technical or college credit. A school district may award only technical credit, while a FCS institution may offer technical or college credit.⁴⁵

To be eligible for an ATD program, a student must have earned a standard high school diploma or its equivalent. Within six weeks of entry into a program that consists of 450 or more clock hours, a student must take an entry-level basic skills examination. If the student's score is below minimum standards established by the DOE, the student must complete remedial instruction prior to the award of an ATD.⁴⁶

The statewide articulation agreement must require that every ATD graduate from a school district program be granted the same amount of credit upon admission to an AS or AAS degree program unless it is a limited access program. The DOE's Articulation Coordinating Committee is required to maintain the following information for each ATD program: the number of clock or credit hours for the program; the AS or AAS degree into which the ATD is guaranteed to transfer; the number of college credit hours guaranteed to transfer; and an effective date. An ATD is guaranteed to transfer to an AS or AAS degree for three years following the date of the ATD award.⁴⁷

³⁶ Rule 6A-10.024(5)(c) and (d), F.A.C.; Florida Department of Education, *Statewide Articulation Manual*, at 21-22 (October 2011), available at <http://www.fldoe.org/articulation/pdf/statewide-postsecondary-articulation-manual.pdf> [hereinafter *Articulation Manual*].

³⁷ *Id.*

³⁸ Florida Department of Education, Office of K-20 Articulation, Division of Strategic Initiatives, *AS to Baccalaureate Agreements*, available at http://www.fldoe.org/articulation/pdf/AStoBaccalaureate_Agreemnts.pdf

³⁹ Section 1007.23(5), F.S.; *OPPAGA -- Responsibility for Workforce Education*, at 2.

⁴⁰ Section 1004.02(21), F.S. The term "occupational completion point" means "the occupational competencies that qualify a person to enter an occupation that is linked to a career and technical program." Section 1004.02(22), F.S.

⁴¹ Section 1004.02(21), F.S.

⁴² Section 1011.80(2), F.S.

⁴³ Section 1004.91(2), F.S.; rule 6A-10.040(1), (3), and (4), F.A.C.

⁴⁴ Rule 6A-14.030(5), F.S.

⁴⁵ Section 1004.02(8), F.S.

⁴⁶ Rules 6A-10.024(6)(a) and (b) and 6A-10.040, F.A.C.

⁴⁷ Section 1007.23(4), F.S.; rule 6A-10.024(2)(m) and (6), F.A.C.

A list of statewide ATD to AS and AAS articulation agreements may be found on the DOE's website.⁴⁸

Advanced Technical Certificate. An advanced technical certificate program means a career and technical program consisting of nine (9) or more but less than forty-five (45) college credits of lower division and/or upper division courses. FCS institutions offering advanced technical certificates with upper division courses must be approved to offer baccalaureate program containing those course. An advanced technical certificate may be awarded to students who have already received an AA or AAS degree and are seeking an advanced specialized program of instruction to supplement their associate degree.⁴⁹

Apprenticeship. An apprenticeship program is an organized course of instruction that is registered and approved by the DOE and that must address all terms and conditions for the qualification, recruitment, selection, employment, and training of apprentices.⁵⁰ The length of an apprenticeship program varies from one to five years depending on the occupation's training requirements.⁵¹

An apprenticeship may be offered only in occupations that:

- Are customarily learned in a practical way through a structured, systematic program of on-the-job, supervised training.
- Are commonly recognized throughout the industry or recognized with a positive view toward changing technology.
- Involve manual, mechanical, or technical skills and knowledge that require a minimum of 2,000 hours of work and training, excluding the time spent in related instruction.
- Require related instruction to supplement on-the-job training.
- Involve the development of skills sufficiently broad to be applicable in like occupations throughout an industry, rather than skills that are of restricted application to the products or services of any one company.⁵²

The following categories of occupations may not create an apprenticeship program: selling, retailing, or similar occupations in the distributive field; managerial occupations; and professional and scientific vocations for which entrance requirements customarily require an academic degree.⁵³

To be eligible for an apprenticeship, the person must be at least 16 years of age. Admission requirements relating to education, physical ability, work experience, and other criteria vary based on the program's training needs.⁵⁴

A pre-apprenticeship program is an organized course of instruction designed to prepare a person 16 years of age or older to become an apprentice. The program must be registered with the DOE and sponsored by a registered apprenticeship program.⁵⁵ The program's purpose is to provide training that will enable students, upon completion, to obtain entrance into a registered apprenticeship program.⁵⁶

Continuing Workforce Education. Continuing Workforce Education (CWE) means instruction that does not result in a technical certificate, diploma, AAS degree, or AS degree.⁵⁷ CWE programs offer a sequence of courses that provide coherent and rigorous content needed to prepare for further education and career advancement. The programs also offer content to improve academic knowledge, high-order reasoning and

⁴⁸ Florida Department of Education, Career and Technical Education, *Applied Technology Diploma to Associate in Applied Science or Associate in Science Program Articulation Agreements*, http://www.fldoe.org/workforce/dwdframe/artic_frame.asp (last view July 9, 2013).

⁴⁹ Rule 6A-14.030(7), F.A.C.

⁵⁰ Section 446.021(6), F.S.

⁵¹ Section 446.021(6), F.S.; rule 6A-23.004, F.A.C.

⁵² Section 446.092, F.S.

⁵³ Section 446.092(6), F.S.

⁵⁴ United States Department of Labor, Employment and Training Administration, *Apprentices*, <http://www.doleta.gov/oa/apprentices.cfm> (last visited July 3, 2013).

⁵⁵ Section 446.021(5), F.S.

⁵⁶ Rule 6A-23.010(1), F.A.C.

⁵⁷ Section 1004.02(13), F.S.

problem-solving skills, work attitudes, general employability skills, technical skills, and occupation-specific skills.⁵⁸

CWE courses are for individuals who are required to have training for licensure renewal or certification renewal by a regulatory agency or credentialing body; new or expanding businesses; business, industry, and government agencies whose products or services are changing so that retraining of employees is necessary or whose employees need training in specific skills to increase efficiency and productivity; or individuals who are enhancing occupational skills necessary to maintain current employment, cross train, or upgrade employment.⁵⁹

How do school districts and Florida College System institutions determine which workforce education programs to offer?

Under Florida law, both school districts and FCS institutions are authorized to offer any type of workforce education program with the exception that only FCS institutions may award college credit.⁶⁰ As a result, workforce education programming varies throughout the state given that school districts and FCS institutions determine how to organize program delivery at the local level.

In a December 2010 report, the Office of Program Policy Analysis and Government Accountability (OPPAGA) found that 58 of the state's 67 school districts and each of the 28 FCS institutions currently offer workforce education programs. OPPAGA conducted research to determine how school districts and FCS institutions organize program offerings and found that these decisions are "based on a mixture of historical arrangements and ongoing discussions" between the entities. In some cases, there are formal agreements specifying which entity will provide certain types of programs, e.g., Brevard Community College and Brevard County School District have an agreement stating that the college is responsible for providing career education and the district is responsible for providing all adult general education. In other cases, the school districts and FCS institutions conduct regular joint meetings to discuss and plan workforce education programming.⁶¹

OPPAGA also conducted case studies to determine if school districts and FCS institutions were unnecessarily duplicating workforce program offerings and concluded that although, "the two systems are authorized to offer similar programs, districts and colleges typically avoid duplicating local training programs."⁶²

How are workforce education programs funded?

Funding for workforce education programs is provided by state and federal sources and student tuition and fees. For the 2013-14 FY, these sources are expected to generate approximately \$990.8 million of which \$747.8 million is projected to be expended for career education and \$243 million is projected to be expended for adult general education.⁶³

The majority of workforce education funding, approximately \$702.1 million of the estimated \$990.8 million or 71 percent, is provided by state resources. For the 2013-14 FY, the state appropriated the following for workforce education programs:

- A total of \$376,463,871 to school districts. This amount consists of \$57,356,785 from the Educational Enhancement "Lottery" Trust Fund, and \$319,107,086 from the General Revenue Fund.⁶⁴ Of the total appropriation, \$348,996,628 is base funding determined by a weighted enrollment formula and \$4,982,722 is performance-based incentive funding.⁶⁵ The remaining \$22,484,521 was appropriated

⁵⁸ Florida Department of Education, Division of Career and Adult Education, *Curriculum Framework: Continuing Workforce Education*, at 1-2 (January 9, 2011), available at <http://www.fldoe.org/workforce/dwdframe/1011/other/rtf/E91010.rtf>.

⁵⁹ Section 1004.02(13), F.S.

⁶⁰ Section 1011.80(2), F.S.

⁶¹ OPPAGA -- *Responsibility for Workforce Education*, at 4-5.

⁶² *Id.* at 1 and 5-7.

⁶³ Email, Florida House of Representatives, Education Appropriations Subcommittee and Florida Department of Education, Division of Florida Colleges and Career and Adult Education (June 21, 2013).

⁶⁴ Specific Appropriations 10, s. 1, and 115 and 117, s. 2, ch. 2013-41, L.O.F.

⁶⁵ *Id.*; see s. 1011.80(4) and (6), F.S. Performance-based incentive funding is allocated to districts based on a DOE-developed model that considers program outputs and outcomes in certain district workforce education programs. Florida Department of Education,

for district workforce education programs to expand, enhance, or develop program offerings that will lead to industry certifications in specific occupational areas.⁶⁶

- An estimated total of \$325.6 million to FCS institutions. The precise amount cannot be ascertained because workforce education funding for the FCS is not set forth in a separate line item; instead, this funding is included in overall Florida College System Program Fund (FCSPF) appropriations and the actual amount expended for workforce education programs is locally determined by each FCS institution.⁶⁷

In addition to state funding, it is estimated that school districts and FCS institutions for FY 2013-14 will collect approximately \$222.7 million in tuition and fees and receive \$66 million in federal grant funding for workforce education.⁶⁸

Who is responsible for the governance of workforce education programs?

DOE's Division of Career and Adult Education is primarily responsible for state-level governance of both school district and college workforce education programs, including the development of curriculum frameworks, management of federal funding, and providing technical assistance. DOE's Division of Florida Colleges works collaboratively with the Division of Career and Adult Education to help colleges and districts implement workforce education program.⁶⁹

Where can I get additional information?

Florida Department of Education
Division of Career and Adult Education
(850) 245-0446
<http://www.fldoe.org/workforce>

Florida House of Representatives
Education Committee
(850) 717-4830
<http://www.myfloridahouse.gov>

Division of Career and Adult Education, *District Workforce Education Performance Funding Allocation for 2012-13*, at 2, (March 2012), available at www.fldoe.org/workforce/pdf/1213CompleteDocument.pdf.

⁶⁶ Specific Appropriation 117A, s. 2, ch. 2013-41, L.O.F.

⁶⁷ The amount of \$325.6 million was estimated by the Division of Florida Colleges using the amount of FCSPF appropriations for FY 2013-14 and FCS expenditure data for workforce education programs in FY 2011-12.

⁶⁸ Email, Florida Department of Education, Division of Florida Colleges and Career and Adult Education (June 21, 2013).

⁶⁹ *OPPAGA -- Responsibility for Workforce Education*, at 2.

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