

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Education Pre-K - 12 Committee

BILL: CS/SB 1580

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

SUBJECT: School Speech/Protection

DATE: April 20, 2010 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Brown	Matthews	ED	Fav/CS
2.			JU	
3.				
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

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

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

Amendments were recommended

Significant amendments were recommended

I. Summary:

Unless express written consent is provided, this bill prohibits district school boards, administrative personnel, and instructional personnel from taking action which interferes with a federal constitutional First Amendment right of instructional personnel, school staff, or students.

The prohibition extends to the entering into of agreements.

This bill creates section 1003.4505 of the Florida Statutes.

II. Present Situation:

Santa Rosa County School District Consent Decree

In August 27, 2008, the American Civil Liberties Union filed a lawsuit in the United States District Court for the Northern District of Florida against the Santa Rosa County School District, alleging that prayers in school were state-sponsored and violative of the Establishment Clause

and the no-aid provision of the Florida Constitution.¹ On May 6, 2009, both parties entered into a consent decree and the court issued an order which provided, in part, for permanent injunction against school officials from:

- Promoting, advancing, endorsing, or causing prayers in conjunction with school events;
- Planning, organizing, promoting, or sponsoring religious services;
- Holding school events at a religious venue when an alternative venue is reasonably suitable that is not a religious venue; and
- Permitting school officials to promote personal religious beliefs.

Subsequent to the issuance of the consent decree, a contempt order was issued by the court against two school officials for an alleged violation of the decree.²

Instructional Personnel

Current law defines instructional personnel as kindergarten through 12th grade staff members providing direct instructional services or support.³

Instructional personnel include:

- Classroom teachers providing instruction in the areas of basic instruction, exceptional student education, career education, and adult education, including substitute teachers;
- Student personnel services, including guidance counselors, social workers, career specialists, and school psychologists;
- Librarians/media specialists;
- Other instructional staff, including primary specialists, learning resource specialists, instructional trainers, and adjunct educators; and
- Education paraprofessionals, including classroom paraprofessionals in regular instruction, exceptional education, career education and adult education.⁴

III. Effect of Proposed Changes:

This bill may prevent school districts from entering into legal settlements or consent decrees that potentially impact First Amendment rights of school staff, without written consent.

This bill protects the First Amendment rights of instructional personnel, school staff, and students. School staff is not defined but would appear to include school-based administrators, such as school principals.

¹ Case Number 3:08cv361/MCR/EMT

² *Florida School Officials Get Jail Time*, www.cnn.com/2009/CRIME/09/17/florida.school.prayer; (September 17, 2009); Last checked April 16, 2010.

³ s. 1012.01(2), F.S.

⁴ s. 1012.01(2)(a) through (e), F.S.

Some school districts may take the position that they want school personnel to sign general First Amendment waivers as a matter of course, so as to ensure compliance with the bill should a school district act in a manner that potentially waives an individual's constitutional rights.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS by Education Pre-K – 12 Committee on April 20, 2010:

This committee substitute:

- Precludes district school boards, administrative personnel, and instructional personnel from taking action, such as entering into agreements, which interferes with First Amendment rights of school personnel or students; and

- Deletes language which authorized students to deliver inspirational messages under certain conditions.

B. Amendments:

None.

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