

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

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Prepared By: The Professional Staff of the Committee on Rules

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BILL: CS/SB 190

INTRODUCER: Rules Committee and Senators Grall and Perry

SUBJECT: Interscholastic Extracurricular Activities

DATE: March 9, 2023

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Sagues</u>	<u>Bouck</u>	<u>ED</u>	<b>Favorable</b>
2.	<u>Davis</u>	<u>Cibula</u>	<u>JU</u>	<b>Favorable</b>
3.	<u>Sagues</u>	<u>Twogood</u>	<u>RC</u>	<b>Fav/CS</b>

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 190 provides a mechanism for a charter school student to participate in interscholastic extracurricular activities at a private school. Current law permits a charter school student to participate in a public school's activities when the activity sought is not offered at the charter school and certain participation requirements are met. This bill similarly authorizes a charter school student to develop an agreement with a private school to participate in the private school's interscholastic extracurricular activities if the activity is not offered at the charter school and the student meets the participation requirements provided by law.

Additionally, the bill authorizes a Florida Virtual School student who meets academic, conduct, and other specified requirements to participate in interscholastic extracurricular activities of a private school if the student develops an agreement to participate with the private school.

The language in this bill that authorizes a charter school student or a Florida Virtual School student to participate in the interscholastic extracurricular activities of a private school tracks very similar language found in the statute that authorizes a home education student to participate in the interscholastic extracurricular activities of a private school.

The bill has no fiscal impact.

The bill takes effect on July 1, 2023.

## II. Present Situation:

### Parent Rights

Florida law provides K-12 students and their parents numerous statutory rights as it pertains to educational issues. Under the topic of extracurricular activities, charter, Florida Virtual School, and home education students who meet specified requirements are eligible to participate in extracurricular activities at a public school.<sup>1</sup> A home education student may also develop an agreement to participate at a private school.<sup>2</sup>

In addition, organizations that regulate or govern extracurricular activities of public schools are prohibited from discriminating against any eligible student based on an educational choice of public, private, or home education.<sup>3</sup>

### Charter Schools

Charter schools were first authorized in Florida in 1996.<sup>4</sup> They are publicly funded, tuition-free public schools that are typically created through an agreement between the local district school board and the charter school. This agreement or “charter” provides the school with flexibility from certain public school regulations in exchange for the school’s commitment to meet higher accountability standards.<sup>5</sup>

### National Data

It is estimated that 3.7 million students across the nation attend charter schools.<sup>6</sup> Forty-five states and the District of Columbia have enacted charter school laws as of January 2020.<sup>7</sup> Between the 2009-2010 and 2019-2020 school years, the total number of charter schools increased from 5,000 to 7,500, an increase from 5 to 8 percent of all public schools. The nationwide percentage of public school students attending public charter schools increased from 3 to 7 percent between fall 2009 and fall 2019.<sup>8</sup>

### Florida Data

All charter schools in Florida are public schools and are part of the state’s public education system.<sup>9</sup> During the 2021-2022 school year, Florida’s 703 charter schools enrolled

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<sup>1</sup> Section 1002.20(18), F.S.

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> Ch. 96-186, s. 1, Laws of Fla. This statute was originally enacted as s. 228.056, F.S., in 1996 but was later repealed and substantively transferred to s. 1002.33, F.S. in 2002. Ch. 2002-387, s. 98, Laws of Fla.

<sup>5</sup> Florida Department of Education, Office of Independent Education & Parental Choice, *Florida’s Charter Schools* (September 2022), <https://www.fldoe.org/core/fileparse.php/7696/urlt/Charter-Sept-2022.pdf>.

<sup>6</sup> National Alliance for Public Charter Schools, *New Report Shows Charter School Enrollment Patterns Are Holding Steady Through the Pandemic*, <https://www.publiccharters.org/latest-news/2022/11/16/new-report-shows-charter-school-enrollment-patterns-are-holding-steady> (Nov. 16, 2022).

<sup>7</sup> Education Commission of the States, *50-State Comparison: Charter School Policies*, <https://www.ecs.org/charter-school-policies/> (Jan. 28, 2020).

<sup>8</sup> National Center for Education Statistics, *Public Charter School Enrollment*, <https://nces.ed.gov/programs/coe/indicator/cgb> (last updated May 2022).

<sup>9</sup> Section 1002.33(1), F.S.

approximately 361,939 students in 47 school districts.<sup>10</sup> Seventy percent of the students attending charter schools in the 2020-2021 school year were minorities. Hispanic students accounted for 45 percent of the charter school enrollment, while 19 percent were African-American students.<sup>11</sup>

### **The Florida Virtual School**

The Florida Virtual School (FLVS) was established to develop and deliver online and distance learning education,<sup>12</sup> and is part of the Florida public school system.<sup>13</sup> The Commissioner of Education is charged with monitoring the FLVS.<sup>14</sup> The FLVS is required to serve any student in the state who meets the profile for success, giving priority to students:<sup>15</sup>

- Who need expanded access to courses in order to meet their educational goals.
- Seeking accelerated access to obtain a high school diploma at least one semester early.
- Who are children of an active duty member of the United States Armed Forces whose home of record or state of legal residence is Florida.

### ***FLVS Operations***

The FLVS is authorized to provide full-time and part-time instruction for students in kindergarten through grade 12.<sup>16</sup> Public school students receiving full-time and part-time instruction by the FLVS must take all statewide assessments required pursuant to law.<sup>17</sup> In addition, the FLVS offers a comprehensive selection of courses that fulfill all state standards.<sup>18</sup>

During the 2021-2022 school year, FLVS served 11,832 full-time students across the state.<sup>19</sup>

### **Private Schools**

A private school is a nonpublic school defined, in part, “as an individual, association, co-partnership, or corporation, or department, division, or section of those organizations, that designates itself as an educational center that includes kindergarten or a higher grade” and is below the college level.<sup>20</sup> A private school may choose to operate as a parochial, religious, or denominational school and may choose to be a for-profit or nonprofit school.<sup>21</sup> The Florida

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<sup>10</sup> Florida Department of Education, Office of Independent Education & Parental Choice, *Florida’s Charter Schools* (September 2022), <https://www.fldoe.org/core/fileparse.php/7696/urlt/Charter-Sept-2022.pdf>.

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

<sup>12</sup> Section 1002.37(1), F.S.

<sup>13</sup> Section 1000.04(4), F.S.

<sup>14</sup> Section 1002.37(1)(a), F.S.

<sup>15</sup> *Id.*

<sup>16</sup> Section 1002.37(9), F.S.

<sup>17</sup> Section 1002.37(10), F.S.

<sup>18</sup> Florida Virtual School, *Learn About Our Courses*, <https://flvs.net/curriculum> (last visited Mar. 8, 2023). FLVS, *FLVS Accountability*, <https://flvs.net/about/accountability> (last visited Mar. 8, 2023).

<sup>19</sup> Florida Department of Education, *Fact Sheet* (2022), available at <https://www.fldoe.org/core/fileparse.php/5606/urlt/Virtual-Sept.pdf>.

<sup>20</sup> Section 1002.01(2), F.S. and Florida Department of Education, *Florida’s Private Schools 2021-2022 School Year Annual Report* (2022), <https://www.fldoe.org/core/fileparse.php/7562/urlt/PS-AnnualReport2022.pdf>.

<sup>21</sup> Section 1002.01(2), F.S.

Department of Education (FDOE) does not license the private elementary and secondary schools in the state, nor does it approve, accredit, or regulate them.<sup>22</sup>

### ***National Data***

Nationally, as the 2019 school year began, approximately 4.7 million, or 9 percent, of the kindergarten through grade 12 students were enrolled in private schools.<sup>23</sup>

### ***Florida Data***

According to a report published by the FDOE, during the 2021-2022 school year, approximately 3,249,259 students were enrolled in public and private schools from pre-kindergarten through grade 12. Of that number, private schools enrolled approximately 416,084 students, or 12.8 percent, of those students.<sup>24</sup> In that same school year, there were 2,848 private schools operating in Florida.<sup>25</sup>

### **Participation in Interscholastic Extracurricular Activities**

The term “interscholastic extracurricular activities” is not specifically defined in the statutes. However, extracurricular is defined to mean “any school-authorized or education-related activity occurring during or outside the regular instructional school day.”<sup>26</sup> The same statute refers to interscholastic extracurricular student activities as being “an important complement to the academic curriculum” and notes that participation in those activities contributes to a student developing the social and intellectual skills that are needed “to become a well-rounded adult.”<sup>27</sup>

### ***Participation Requirements***

To be eligible to participate in interscholastic extracurricular activities a student must:<sup>28</sup>

- Maintain a grade point average of 2.0 or above on a 4.0 scale, or its equivalent.
- Fulfill the requirements of an academic performance contract between the student, the district school board, the appropriate governing association, and the student’s parents if the student’s cumulative grade point average falls below 2.0, or its equivalent on a 4.0 scale.
- Have a cumulative grade point average of 2.0 or above on a 4.0 scale, or its equivalent, in the courses required during his or her junior or senior year.
- Maintain satisfactory conduct, including adherence to appropriate dress and other codes of student conduct policies.<sup>29</sup>

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<sup>22</sup> Florida Department of Education, *Florida’s Private Schools 2021-2022 School Year Annual Report* (2022), 2, <https://www.fldoe.org/core/fileparse.php/7562/urlt/PS-AnnualReport2022.pdf>.

<sup>23</sup> National Center for Education Statistics, *Private School Enrollment* (last updated May 2022), <https://nces.ed.gov/programs/coe/indicator/cgc/private-school-enrollment>.

<sup>24</sup> Florida Department of Education, *Florida’s Private Schools 2021-2022 School Year Annual Report* (2022), 2, <https://www.fldoe.org/core/fileparse.php/7562/urlt/PS-AnnualReport2022.pdf>. This data was compiled from an on-line survey submitted by private school participants and its accuracy is not verified by the Department.

<sup>25</sup> Florida Department of Education, *Florida’s Private Schools 2021-2022 School Year Annual Report* (2022), <https://www.fldoe.org/core/fileparse.php/7562/urlt/PS-AnnualReport2022.pdf>.

<sup>26</sup> Section 1006.15(2), F.S.

<sup>27</sup> *Id.*

<sup>28</sup> Section 1006.15(3). Eligible to participate includes, but is not limited to, a student participating in tryouts, off-season conditioning, summer workouts, preseason conditioning, in-season practice, or contests.

<sup>29</sup> Section 1006.15(3)(a)1.-4., F.S.

### Charter School Student Participation

A charter school student may participate in interscholastic extracurricular activities at a public school to which the student would be assigned, unless the activity is also provided by the student's charter school. However, the following conditions must also be met for participation at the public school:

- The charter school student must meet the requirements of the charter school education program as determined by the charter school governing board.
- During the period of participation at a school, the charter school student must demonstrate educational progress as required.
- The charter school student must meet the same residency requirements as other students in the school at which he or she participates.
- The charter school student must meet the same standards of acceptance, behavior, and performance that are required of other students in the extracurricular activities.
- The charter school student must register with the school his or her intent to participate in interscholastic extracurricular activities as a representative of the school before participation.
- A student who transfers from a charter school program to a traditional 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 if the student has a successful evaluation from the previous school year.
- Any public school or private school student who has been unable to maintain academic eligibility for participation in interscholastic extracurricular activities is ineligible to participate in such activities as a charter school student until the student has successfully completed one grading period in a charter school to become eligible to participate as a charter school student.<sup>30</sup>

### Florida Virtual School Student Participation

Similar to a charter school student, a FLVS full-time student may participate in interscholastic extracurricular activities at a public school to which the student would be assigned, or which the student could choose to attend if the student:<sup>31</sup>

- Meets the general requirements for participation.<sup>32</sup>
- Meets any additional requirements as determined by the board of trustees of FLVS.
- Meets the same residency requirements as other students in the school at which he or she participates.
- Meets the same standards of acceptance, behavior, and performance that are required of other students in the extracurricular activities.
- Register with the school his or her intent to participate in interscholastic extracurricular activities as a representative of the school before participation.

A student who transfers from the FLVS to a traditional public school before or during the first grading period of the school year is academically eligible to participate in interscholastic

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<sup>30</sup> Section 1006.15(3)(d), F.S. *See also* s. 1002.33(11), F.S.

<sup>31</sup> Section 1006.15(3)(e), F.S.

<sup>32</sup> Section 1006.15(3), F.S.

extracurricular activities during the first grading period if the student has a successful evaluation from the previous school year.<sup>33</sup>

Any public school or private school student who has been unable to maintain academic eligibility for participation in interscholastic extracurricular activities is ineligible to participate in such activities as a FLVS student until the student has successfully completed one grading period in a charter school to become eligible to participate as a charter school student.<sup>34</sup>

#### Home Education Student Participation

A home education student is also eligible to participate in interscholastic extracurricular activities at a public school or a private school. In order to participate at a private school, the student is required to develop an agreement with the private school and meet the participation requirements discussed above.<sup>35</sup>

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

CS/SB 190 amends ss. 1002.20, 1002.33 and 1006.15 F.S., to:

- Authorize a charter school student who meets academic, conduct, and other specified requirements to participate in the interscholastic extracurricular activities of a private school, which are not offered at the charter school, if the student develops an agreement to participate with the private school.
- Authorize a Florida Virtual School student who meets academic, conduct, and other specified requirements to participate in interscholastic extracurricular activities of a private school if the student develops an agreement to participate with the private school.

The bill takes effect July 1, 2023.

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

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

None.

#### B. Public Records/Open Meetings Issues:

None.

#### C. Trust Funds Restrictions:

None.

#### D. State Tax or Fee Increases:

None.

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<sup>33</sup> Section 1006.15(3), F.S.

<sup>34</sup> *Id.*

<sup>35</sup> Section 1006.15(3)(c), F.S.

E. Other Constitutional Issues:

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. Statutes Affected:**

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

**IX. Additional Information:**

A. Committee Substitute – Statement of Substantial Changes:  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Rules on March 8, 2023:**

The committee substitute authorizes a Florida Virtual School student who meets academic, conduct, and other specified requirements to participate in interscholastic extracurricular activities of a private school if the student develops an agreement to participate with the private school.

B. Amendments:

None.