

**STORAGE NAME:** h1813a.llc.doc  
**DATE:** February 28, 2002

**HOUSE OF REPRESENTATIVES**  
**LIFELONG LEARNING COUNCIL**  
**ANALYSIS**

**BILL #:** HB 1813  
**RELATING TO:** Education/Statewide Assessment  
**SPONSOR(S):** Representative Harrell  
**TIED BILL(S):** None.

**ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:**

- (1) LIFELONG LEARNING COUNCIL YEAS 13 NAYS 0
- (2)
- (3)
- (4)
- (5)

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THIS DOCUMENT IS NOT INTENDED TO BE USED FOR THE PURPOSE OF CONSTRUING STATUTES, OR TO BE CONSTRUED AS AFFECTING, DEFINING, LIMITING, CONTROLLING, SPECIFYING, CLARIFYING, OR MODIFYING ANY LEGISLATION OR STATUTE.

I. SUMMARY:

HB 1813 requires school districts to notify a student's parent of the following:

- When the student does not participate in the statewide assessment program; and
- When the student receives accommodations or modifications that are not allowed during the statewide assessment.

The bill also requires parents to be notified of the implications associated with the student's nonparticipation in the assessments, and of the implications associated with the student's receiving accommodations in the classroom that are not allowed during the statewide assessment, as well as the impact on the student's proficiency levels in reading, writing, and math.

The bill requires written parental consent for a student to receive instructional modifications in the classroom that are not allowed during statewide assessment tests. Parents must acknowledge that they understand the implications for a student to receive accommodations.

Local school districts may incur minimal expense in providing parents with the required written notification.

The effective date of the bill is upon becoming a law.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- |                                   |   |  |   |
|-----------------------------------|---|--|---|
| 1. <u>Less Government</u>         | Yes <input type="checkbox"/>            | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/>            |
| 2. <u>Lower Taxes</u>             | Yes <input type="checkbox"/>            | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u>      | Yes <input type="checkbox"/>            | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/>            | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u>      | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/>            | N/A <input type="checkbox"/>            |

The bill does not appear to support the principle of less government because it requires school districts to notify parents when their child does not participate in the statewide assessment program, and when their child receives accommodations or modifications that are not allowed during the statewide assessment.

B. PRESENT SITUATION:

**Federal Requirements for Student Assessment**

Federal law generally requires the inclusion of all children in state or district assessments. However, if participation in particular tests is determined by a student's individual education plan (IEP) to be inappropriate for a particular student, that student is exempt from the assessment.<sup>1</sup> Federal law also requires documentation in a student's IEP or plan set up under section 504 of the Rehabilitation Act of 1973 (section 504 plan) of the following information:

- The decision to participate or not in all or part of the state or district assessments of student achievement;
- Any individual accommodations in the administration of the assessment that are needed for the student to participate; and
- How the student will be assessed if it is inappropriate for him or her to participate in the assessment even with accommodations.

**Florida High School Diploma Requirements**

Section 232.246, F.S., provides that in order to earn a standard high school diploma, a student must successfully complete 24 academic credits that meet certain curricular requirements, earn a passing score on either the High School Competency Test (HSCT) or the Florida Comprehensive Assessment Test (FCAT)<sup>2</sup>, earn a 2.0 cumulative grade point average in the courses required for graduation, and meet any other requirements established by the district school board.

Administrative rules provide procedures for considering a special exemption from the graduation

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<sup>1</sup> See Section 504 of the Rehabilitation Act of 1973 (Section 504), Title II of the Americans with Disabilities Act of 1990 (ADA), Title I of the Elementary and Secondary Education Act (Title I), and the Individuals with Disabilities Education Act Amendments of 1997 (IDEA).

<sup>2</sup> Section 229.57(3)(c)6., F.S., provides that beginning in the fall of 1999, students who enroll in the 9<sup>th</sup> grade must earn a passing score on the reading, writing, and math components of the 10<sup>th</sup> grade FCAT in order to qualify for a regular high school diploma.

test requirements for students with disabilities who want to receive a standard high school diploma. By rule, the Commissioner may grant this exemption under extraordinary circumstances.

To earn a special high school diploma under s. 232.247, F.S., a student<sup>3</sup> is not required to meet all the requirements for a standard high school diploma. Instead, the student must meet all school board requirements for earning a special high school diploma. If such student is unable to meet the school board requirements for a special high school diploma, the student will be awarded a special certificate of completion.

The student's IEP must document whether the student is pursuing a course of study leading to a standard or special diploma.

### **Accommodations for statewide assessments**

Section 229.57, F.S., provides that, in general, student participation in statewide assessments is mandatory for all students. Rule 6A-1.0943, F.A.C., provides that the Commissioner of Education (Commissioner) may make exceptions to this requirement for certain students. Students who are unable to participate in statewide assessments must be evaluated through alternate methods to ensure that appropriate alternative education goals are met.

According to the Department of Education (DOE), the current participation of students with disabilities in the FCAT is as follows:

- 86% for Grade 4 Reading
- 85% for Grade 5 Math
- 74% for Grade 8 Reading and Math
- 54% for Grade 10 Reading and Math

Rule 6A-1.0943, F.A.C., allows accommodations to the statewide assessment instruments and procedures for students with disabilities. The term "accommodations" means:

- Adjustments to the presentation of the assessment questions;
- Method of recording the student's responses to the questions;
- Schedule for administration of the assessment; or
- Use of assistive devices to help in administering the test.

Allowable accommodations also include those that have been used by the student in classroom instruction, as long as they are within limits set by the Commissioner. According to DOE, these accommodations are consistent with the test administration manuals for the statewide assessments. The district school superintendent or his or her designee determines which of these accommodations are allowed for testing. To use any unique accommodation that is not listed in the rule requires the Commissioner's approval.

Statewide assessment accommodations may only be used if they do not alter the underlying content that is being measured by the assessment, or it does not negatively affect the assessment's reliability or validity. According to DOE, the use of these accommodations has no bearing on the type of diploma or certificate issued to the student for completing school.

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<sup>3</sup> This refers to a student who has been properly classified in accordance with administrative rules as "educable mentally handicapped," "trainable mentally handicapped," "hearing impaired," "specific learning disabled," "physically or language impaired," or "emotionally handicapped."

For each eligible student, all accommodations must be identified and recorded in the student's IEP or section 504 plan. The decision to exclude any student with a disability from either statewide or district assessment programs is made by the IEP team and recorded in the student's IEP. The criteria for excluding a student from the assessments are:

- The student's demonstrated cognitive ability prevents the student from completing required coursework and achieving the Sunshine State Standards, even with appropriate and allowable course modifications; and
- The student requires extensive direct instruction to accomplish the application and transfer of skills and competencies needed for domestic, community living, leisure, and vocational activities.

These students must be assessed through an alternative assessment procedure, which is recorded in the student's IEP. However, students who are excluded from the state-required graduation test using these criteria cannot receive a standard high school diploma.

Federal regulations (34 C.F.R. s. 300.507) provide for parents or guardians to appeal decisions, made in a student's IEP or section 504 plan, about testing the student. Section 230.23(4)(m), F.S., prohibits students from receiving special instruction or services as an exceptional student until after he or she has been properly evaluated, classified, and placed as prescribed by the Commissioner's rules. Parents or guardians of exceptional students who are evaluated, placed, or denied placement in a special education program must be notified of each evaluation, placement, or denial and may appeal decisions. The term "exceptional student" is defined in s. 228.041(18), F.S.<sup>4</sup>

#### C. EFFECT OF PROPOSED CHANGES:

HB 1813 amends s. 232.245, F.S., relating to pupil progression, to require school districts to notify parents if a student does not participate in the statewide assessment. Specifically, the district must provide the student's parent with information regarding the implications of the nonparticipation. In addition, the district must notify the parent of the implications of the student receiving instructional modifications in the classroom that would not be allowed when the student takes statewide assessment tests. For example, in a classroom setting a teacher may read portions of a student's reading textbook to assist a student that has difficulty reading; however, no such modification can be made during the reading portion of the FCAT.

Parents must provide written consent for a student to receive instructional modifications in the classroom that are not allowed during the statewide assessment tests. Parents must also acknowledge that they understand the implications for the student to receive accommodations.

HB 1813 also amends s. 229.57, F.S., relating to the student assessment program, to require school districts to notify a student's parent if the student does not participate in the statewide testing program. Also, the school district must inform the parent of the reasons and implications of the nonparticipation. Similarly, if a student is provided with specific accommodations or modifications in the classroom that are not allowed during the statewide assessment program, the district must provide the parent with written notification. Parents must also be told about the impact of providing these accommodations or modifications on the student's ability to meet expected proficiency levels in reading, writing, and math.

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<sup>4</sup> The term "exceptional student" means any child or youth who has been determined eligible for a special program in accordance with rules of the Commissioner or the State Board of Education. The term includes students who are gifted and students with disabilities who are mentally handicapped, speech and language impaired, deaf or hard of hearing, visually impaired, dual sensory impaired, physically impaired, emotionally handicapped, specific learning disabled, hospital and homebound, autistic, developmentally delayed children, ages birth through 5 years, or children with established conditions, ages birth through 2 years.

According to DOE, the effect of the required parental notification of HB 1813 is that parents will be better informed of a school or district decision that affects their child's participation in the statewide assessment program. Specifically, DOE points to the implication that such nonparticipation or modification can have on the student's ability to receive a standard high school diploma.

The effective date of the bill is upon becoming a law.

D. SECTION-BY-SECTION ANALYSIS:

See above.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

This bill does not appear to have a significant fiscal impact on state revenues.

2. Expenditures:

This bill does not appear to have a significant fiscal impact on state expenditures.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

This bill does not appear to have a significant fiscal impact on local revenues.

2. Expenditures:

Local school districts may incur minimal expense in providing parents with the required written notification.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill does not appear to have a direct economic impact on the private sector.

D. FISCAL COMMENTS:

None.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

The bill does not require counties or municipalities to spend funds or take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

The bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

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C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

The bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

LIFELONG LEARNING COUNCIL:

Prepared by:

Council Director:

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Anitere Flores

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Patricia Levesque