

1 specimen; requiring the administration of a
2 school to meet with a student who tests
3 positive and his or her parent to review the
4 finding, penalties, and procedure for challenge
5 and appeal; providing penalties for first,
6 second, and third positive findings; providing
7 due process procedures for challenge and
8 appeal; requiring the organization to provide
9 an annual report to the Legislature on the
10 results of the program; providing an exemption
11 from civil liability resulting from
12 implementation of the program; requiring the
13 Department of Legal Affairs to provide defense
14 in claims of civil liability; requiring program
15 expenses to be paid through legislative
16 appropriation; providing for expiration of the
17 program; providing an appropriation; providing
18 an effective date.

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20 Be It Enacted by the Legislature of the State of Florida:

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22 Section 1. Paragraph (d) of subsection (3) of section
23 1002.22, Florida Statutes, is amended to read:

24 1002.22 Student records and reports; rights of parents
25 and students; notification; penalty.--

26 (3) RIGHTS OF PARENT OR STUDENT.--The parent of any
27 student who attends or has attended any public school, career
28 center, or public postsecondary educational institution shall
29 have the following rights with respect to any records or
30 reports created, maintained, and used by any public
31 educational institution in the state. However, whenever a

1 student has attained 18 years of age, or is attending a
2 postsecondary educational institution, the permission or
3 consent required of, and the rights accorded to, the parents
4 of the student shall thereafter be required of and accorded to
5 the student only, unless the student is a dependent student of
6 such parents as defined in 26 U.S.C. s. 152 (s. 152 of the
7 Internal Revenue Code of 1954). The State Board of Education
8 shall adopt rules whereby parents or students may exercise
9 these rights:

10 (d) Right of privacy.--Every student has a right of
11 privacy with respect to the educational records kept on him or
12 her. Personally identifiable records or reports of a student,
13 and any personal information contained therein, are
14 confidential and exempt from s. 119.07(1). A state or local
15 educational agency, board, public school, career center, or
16 public postsecondary educational institution may not permit
17 the release of such records, reports, or information without
18 the written consent of the student's parent, or of the student
19 himself or herself if he or she is qualified as provided in
20 this subsection, to any individual, agency, or organization.
21 However, personally identifiable records or reports of a
22 student may be released to the following persons or
23 organizations without the consent of the student or the
24 student's parent:

25 1. Officials of schools, school systems, career
26 centers, or public postsecondary educational institutions in
27 which the student seeks or intends to enroll; and a copy of
28 such records or reports shall be furnished to the parent or
29 student upon request.

30 2. Other school officials, including teachers within
31 the educational institution or agency, who have legitimate

1 | educational interests in the information contained in the
2 | records.

3 | 3. The United States Secretary of Education, the
4 | Director of the National Institute of Education, the Assistant
5 | Secretary for Education, the Comptroller General of the United
6 | States, or state or local educational authorities who are
7 | authorized to receive such information subject to the
8 | conditions set forth in applicable federal statutes and
9 | regulations of the United States Department of Education, or
10 | in applicable state statutes and rules of the State Board of
11 | Education.

12 | 4. Other school officials, in connection with a
13 | student's application for or receipt of financial aid.

14 | 5. Individuals or organizations conducting studies for
15 | or on behalf of an institution or a board of education for the
16 | purpose of developing, validating, or administering predictive
17 | tests, administering student aid programs, or improving
18 | instruction, if the studies are conducted in a manner that
19 | does not permit the personal identification of students and
20 | their parents by persons other than representatives of such
21 | organizations and if the information will be destroyed when no
22 | longer needed for the purpose of conducting such studies.

23 | 6. Accrediting organizations, in order to carry out
24 | their accrediting functions.

25 | 7. Early learning coalitions and the Agency for
26 | Workforce Innovation in order to carry out their assigned
27 | duties.

28 | 8. For use as evidence in student expulsion hearings
29 | conducted by a district school board under chapter 120.

30 | 9. Appropriate parties in connection with an
31 | emergency, if knowledge of the information in the student's

1 | educational records is necessary to protect the health or
2 | safety of the student or other individuals.

3 | 10. The Auditor General and the Office of Program
4 | Policy Analysis and Government Accountability in connection
5 | with their official functions; however, except when the
6 | collection of personally identifiable information is
7 | specifically authorized by law, any data collected by the
8 | Auditor General and the Office of Program Policy Analysis and
9 | Government Accountability is confidential and exempt from s.
10 | 119.07(1) and shall be protected in a way that does not permit
11 | the personal identification of students and their parents by
12 | other than the Auditor General, the Office of Program Policy
13 | Analysis and Government Accountability, and their staff, and
14 | the personally identifiable data shall be destroyed when no
15 | longer needed for the Auditor General's and the Office of
16 | Program Policy Analysis and Government Accountability's
17 | official use.

18 | 11.a. A court of competent jurisdiction in compliance
19 | with an order of that court or the attorney of record in
20 | accordance with a lawfully issued subpoena, upon the condition
21 | that the student and the student's parent are notified of the
22 | order or subpoena in advance of compliance therewith by the
23 | educational institution or agency.

24 | b. A person or entity in accordance with a court of
25 | competent jurisdiction in compliance with an order of that
26 | court or the attorney of record pursuant to a lawfully issued
27 | subpoena, upon the condition that the student, or his or her
28 | parent if the student is either a minor and not attending a
29 | postsecondary educational institution or a dependent of such
30 | parent as defined in 26 U.S.C. s. 152 (s. 152 of the Internal
31 | Revenue Code of 1954), is notified of the order or subpoena in

1 advance of compliance therewith by the educational institution
2 or agency.

3 12. Credit bureaus, in connection with an agreement
4 for financial aid that the student has executed, if the
5 information is disclosed only to the extent necessary to
6 enforce the terms or conditions of the financial aid
7 agreement. Credit bureaus shall not release any information
8 obtained under this paragraph to any person.

9 13. Parties to an interagency agreement among the
10 Department of Juvenile Justice, school and law enforcement
11 authorities, and other signatory agencies for the purpose of
12 reducing juvenile crime and especially motor vehicle theft by
13 promoting cooperation and collaboration, and the sharing of
14 appropriate information in a joint effort to improve school
15 safety, to reduce truancy and in-school and out-of-school
16 suspensions, and to support alternatives to in-school and
17 out-of-school suspensions and expulsions that provide
18 structured and well-supervised educational programs
19 supplemented by a coordinated overlay of other appropriate
20 services designed to correct behaviors that lead to truancy,
21 suspensions, and expulsions, and that support students in
22 successfully completing their education. Information provided
23 in furtherance of the interagency agreements is intended
24 solely for use in determining the appropriate programs and
25 services for each juvenile or the juvenile's family, or for
26 coordinating the delivery of the programs and services, and as
27 such is inadmissible in any court proceedings before a
28 dispositional hearing unless written consent is provided by a
29 parent or other responsible adult on behalf of the juvenile.

30 14. Consistent with the Family Educational Rights and
31 Privacy Act, the Department of Children and Family Services or

1 a community-based care lead agency acting on behalf of the
2 Department of Children and Family Services, as appropriate.

3 15. The Florida High School Athletic Association, the
4 administration of the student's school, the administration of
5 any school to which the student may transfer during a
6 suspension from participation in interscholastic athletics
7 resulting from a positive finding, the student, and the
8 student's parent only in accordance with the requirements of
9 s. 1006.20(10).

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11 This paragraph does not prohibit any educational institution
12 from publishing and releasing to the general public directory
13 information relating to a student if the institution elects to
14 do so. However, no educational institution shall release, to
15 any individual, agency, or organization that is not listed in
16 subparagraphs 1.-14., directory information relating to the
17 student body in general or a portion thereof unless it is
18 normally published for the purpose of release to the public in
19 general. Any educational institution making directory
20 information public shall give public notice of the categories
21 of information that it has designated as directory information
22 for all students attending the institution and shall allow a
23 reasonable period of time after the notice has been given for
24 a parent or student to inform the institution in writing that
25 any or all of the information designated should not be
26 released.

27 Section 2. Subsection (10) is added to section
28 1006.20, Florida Statutes, to read:

29 1006.20 Athletics in public K-12 schools.--
30 (10) RANDOM DRUG TESTING PROGRAM.--

1 (a) The organization shall facilitate a 3-year program
2 during the 2006-2007, 2007-2008, and 2008-2009 academic years
3 in which students in grades 9 through 12 in its member schools
4 who participate in interscholastic athletics governed by the
5 organization shall be subject to random testing for the use of
6 anabolic steroids as defined in s. 893.03(3)(d). All schools,
7 both public and private, shall consent to the provisions of
8 this subsection as a prerequisite for membership in the
9 organization for the duration of the program.

10 (b) The organization's board of directors shall
11 establish procedures for the conduct of the program which, at
12 a minimum, shall provide for the following:

13 1. The organization shall select and enter into a
14 contract with a testing agency that will administer the
15 testing program. The laboratory used by the testing agency to
16 analyze specimens shall be accredited by the World Anti-Doping
17 Agency.

18 2. A minimum of 1 percent of the total students who
19 participate in each interscholastic sport, based on
20 participation numbers reported to the organization during the
21 preceding academic year, shall be randomly selected to undergo
22 a test in each year of the program.

23 3. Each member school shall report to the organization
24 each year the names of students who will represent the school
25 in interscholastic athletics during that year. A student shall
26 not be eligible to participate in interscholastic athletics in
27 a member school until the student's name has been reported to
28 the organization by the school in the year in which such
29 participation is to occur.

30 4. Each year, the organization shall provide to the
31 testing agency all names of students that are submitted by its

1 member schools. The testing agency shall make its random
2 selections for testing from these names.

3 5. The testing agency shall notify not fewer than 7
4 days in advance both the administration of a school and the
5 organization of the date on which its representatives will be
6 present at the school to collect a specimen from a randomly
7 selected student. However, the name of the student from which
8 a specimen is to be collected shall not be disclosed.

9 6. The records containing the findings of a student's
10 drug test held by the testing agency that contracts with the
11 organization for the testing program under this subsection
12 must be maintained separately from a student's educational
13 records and must be disclosed in accordance with s.
14 1002.22(3)(d) by the testing agency only to the organization,
15 the student, the student's parent, the administration of the
16 student's school, and the administration of any school to
17 which the student may transfer during a suspension from
18 participation in interscholastic athletics resulting from a
19 positive finding.

20 (c) In each year of the program, each student who
21 wishes to participate in interscholastic athletics and his or
22 her parent must consent to the provisions of this subsection
23 as a prerequisite for athletic eligibility. This consent shall
24 be in writing on a form prescribed by the organization and
25 provided to the student by his or her school. Failure to
26 complete and sign the consent form shall result in the
27 student's ineligibility to participate in all interscholastic
28 athletics. The consent form shall include the following
29 information:

30 1. A brief description of the drug testing program.
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1 2. The penalties for a first, second, and third
2 positive finding.

3 3. The procedure for challenging a positive finding.

4 4. The procedure for appealing a prescribed penalty.

5 (d) A student who is selected for testing and fails to
6 provide a specimen shall be immediately suspended from
7 interscholastic athletic practice and competition until such
8 time as a specimen is provided.

9 (e) If a student tests positive in a test administered
10 under this subsection, the administration of the school the
11 student attends shall immediately:

12 1. Suspend the student from participation in all
13 interscholastic athletic practice and competition.

14 2. Notify and schedule a meeting with the student and
15 his or her parent during which the principal or his or her
16 designee shall review with them the positive finding, the
17 procedure for challenging the positive finding, the prescribed
18 penalties, and the procedure for appealing the prescribed
19 penalties.

20 (f) The following penalties are prescribed for
21 positive findings resulting from tests administered under this
22 subsection:

23 1. For a first positive finding, the student shall be
24 suspended from all interscholastic athletic practice and
25 competition for a period of 90 school days and shall be
26 subject to a mandatory exit test for restoration of
27 eligibility no sooner than the 60th school day of the
28 suspension. If the exit test is negative, the organization
29 shall restore the eligibility of the student at the conclusion
30 of the 90-school-day period of suspension. If the exit test is
31 positive, the student shall remain suspended from all

1 interscholastic athletic practice and competition until such
2 time as a subsequent retest of the student results in a
3 negative finding. The student shall be subject to repeated
4 tests for the duration of his or her high school athletic
5 eligibility.

6 2. For a second positive finding, the student shall be
7 suspended from all interscholastic athletic practice and
8 competition for a period of 1 calendar year and shall be
9 subject to a mandatory exit test for restoration of
10 eligibility no sooner than the 11th month of the suspension.
11 If the exit test is negative, the organization shall restore
12 the eligibility of the student at the conclusion of the
13 1-calendar-year period of suspension. If the exit test is
14 positive, the student shall remain suspended from all
15 interscholastic athletic practice and competition until such
16 time as a subsequent retest of the student results in a
17 negative finding. The student shall be subject to repeated
18 tests for the duration of his or her high school athletic
19 eligibility.

20 3. For a third positive finding, the student shall be
21 permanently suspended from all interscholastic athletic
22 practice and competition.

23 (g) In addition to the penalties prescribed in
24 paragraph (f), a student who tests positive in a test
25 administered under this subsection shall attend and complete
26 an appropriate mandatory drug education program conducted by
27 the student's school, the student's school district, or a
28 third-party organization contracted by the school or school
29 district to conduct such an education program.

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1 (h) The following due process shall be afforded each
2 student who tests positive in a test administered under this
3 subsection:

4 1. The member school may challenge a positive finding
5 and must challenge a positive finding at the request of the
6 student. A sample of the original specimen provided by the
7 student and retained by the testing agency shall be analyzed.
8 The member school or the student's parent shall pay the cost
9 of the analysis. If the analysis results in a positive
10 finding, the student shall remain ineligible until the
11 prescribed penalty is fulfilled. If the analysis results in a
12 negative finding, the organization shall immediately restore
13 the eligibility of the student and shall refund to the member
14 school or student's parent the cost of the analysis. The
15 student shall remain suspended from interscholastic athletic
16 practice and competition during the challenge.

17 2.a. A member school may appeal to the organization's
18 commissioner the period of ineligibility imposed on a student
19 as a result of a positive finding and must appeal at the
20 request of the student. The commissioner may require the
21 student to complete the prescribed penalty, reduce the
22 prescribed penalty by one-half, or provide complete relief
23 from the prescribed penalty. Regardless of the decision of the
24 commissioner, the student shall remain ineligible until the
25 student tests negative on the mandatory exit test and the
26 student's eligibility is restored by the organization.

27 b. Should the school or student be dissatisfied with
28 the decision of the commissioner, the school may pursue the
29 appeal before the organization's board of directors and must
30 do so at the request of the student. The board of directors
31 may require the student to complete the prescribed penalty,

1 reduce the prescribed penalty by one-half, or provide complete
2 relief from the prescribed penalty. Regardless of the decision
3 of the board of directors, the student shall remain ineligible
4 until the student tests negative on the mandatory exit test
5 and the student's eligibility is restored by the organization.
6 The decision of the board of directors on each appeal shall be
7 final.

8 c. Technical experts may serve as consultants to both
9 the organization's commissioner and its board of directors in
10 connection with such appeals.

11 (i) No later than October 1 following each year of the
12 program, the organization shall submit to the President of the
13 Senate and the Speaker of the House of Representatives a
14 report on the results of the program for that year, as well as
15 the aggregate results of the program to date. The report shall
16 include statistics on the number of students tested; the
17 number of first, second, and third violations; the number of
18 challenges and their results; the number of appeals and their
19 dispositions; and the costs incurred by the organization in
20 the administration of the program, including attorney's fees
21 and other expenses of litigation.

22 (j) The organization, members of its board of
23 directors, and its employees and member schools and their
24 employees are exempt from civil liability arising from any act
25 or omission in connection with the program conducted under
26 this subsection. The Department of Legal Affairs shall defend
27 the organization, members of its board of directors, and its
28 employees and member schools and their employees in any action
29 against such parties arising from any such act or omission. In
30 providing such defense, the Department of Legal Affairs may
31 employ or use the legal services of outside counsel.

1 (k) All expenses of the program shall be paid with
2 funds appropriated by the Legislature. Such expenses shall
3 include, but not be limited to, all fees and expenses charged
4 by the testing agency for administrative services, specimen
5 collection services, and specimen analysis; all administrative
6 expenses incurred by the organization in the facilitation of
7 the program; and all attorney's fees and other expenses of
8 litigation resulting from legal challenges related to the
9 program.

10 (l) The provisions of this subsection shall expire on
11 June 30, 2009, or at such earlier date as appropriated funds
12 are exhausted.

13 Section 3. There is appropriated from the General
14 Revenue Fund to the Florida High School Athletic Association
15 the sum of \$3 million for the purpose of administering the
16 provisions of s. 1006.20(10), Florida Statutes, as created by
17 this act. Any unexpended or unencumbered balance remaining at
18 the end of the 2008-2009 fiscal year shall revert to the
19 General Revenue Fund.

20 Section 4. This act shall take effect July 1, 2006.
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1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 Senate Bill 1928
4 The committee substitute creates an exception to the public
5 records exemption for student records under s. 1002.22(3),
6 F.S., to authorize the disclosure of student records to the
7 Florida High School Athletic Association (FHSAA), the
8 administration of the student's school, the administration of
9 any school to which the student may transfer during a
10 suspension from participation in interscholastic athletics
11 resulting from a positive drug finding, the student, and the
12 student's parent only in accordance with the requirements of
13 s. 1006.20(10), F.S., which relates to the drug testing
14 program to randomly test for anabolic steroids in students
15 grade 9th through 12th who participate in interscholastic
16 athletics in member schools of FHSAA. The committee substitute
17 clarifies that records that contain findings of a drug test
18 held by the testing agency that contracts with FHSAA, rather
19 than the "finding of a drug test," must be maintained
20 separately from a student's educational records and may be
21 disclosed to certain persons.
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