

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 Committee on Rules

BILL: CS/CS/SB 308

INTRODUCER: Rules Committee; Education Pre-K - 12 Committee; and Senator Collins and others

SUBJECT: Interscholastic Activities

DATE: March 31, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Jahnke</u>	<u>Bouck</u>	<u>ED</u>	Fav/CS
2.	<u>Jahnke</u>	<u>Twogood</u>	<u>RC</u>	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 308 amends provisions regarding the Florida High School Athletic Association (FHSAA) and student participation in interscholastic and intrascholastic extracurricular activities. Specifically, the bill:

- Requires the Florida High School Athletic Association (FHSAA) to allow a school that joins the association by sport to participate in the FHSAA championship contest or series for that sport.
- Places the FHSAA bylaws under the authority of the State Board of Education (SBE).
- Revises the composition of the membership of the FHSAA board of directors from 16 to 9 members, 8 of whom are appointed by the Governor and confirmed by the Senate.
- Authorizes charter school and full-time Florida Virtual School students to develop an agreement with a private school to allow the student to participate in an interscholastic extracurricular activity at that private school.
- Authorizes traditional public school students to participate in an interscholastic extracurricular activity at any public school in the school district in which the student resides, or to develop an agreement to participate at a private school, unless the activity is provided by the student's traditional public school.
- Authorizes a student who transfers from a public school to continue to participate in an extracurricular activity at that school for the remainder of the school year, subject to conditions.

Additionally, the bill creates s. 1006.185, F.S., requiring approved athletic associations to adopt bylaws, policies, or procedures allowing opening remarks during high school championship series contests, with specified conditions for those remarks.

The bill has no impact on state revenues or expenditures.

The bill takes effect on July 1, 2023.

II. Present Situation:

Florida High School Athletic Association

The Florida High School Athletic Association (FHSAA) is statutorily designated as the governing nonprofit organization for interscholastic athletics for grades 6 through 12 in Florida public schools.¹ Any high school, middle school, or combination school,² including charter schools, virtual schools, private schools, and home education cooperatives,³ may become a member of the FHSAA, but membership in the FHSAA is not mandatory.⁴ The FHSAA may not deny or discourage a private school from simultaneously maintaining membership in another athletic association, and may allow a public school the option of applying for consideration to join another athletic association.⁵ The FHSAA is prohibited from denying or discouraging interscholastic competition between its member schools and non-FHSAA member schools in Florida and may not take discriminatory or retributory action against a member school that engages in interscholastic competition with non-FHSAA member schools.⁶

The FHSAA is required to adopt bylaws regulating student eligibility, recruiting, student safety and member schools' interscholastic competition in accordance with applicable law.⁷ If the FHSAA fails to meet its obligations and responsibilities, the Commissioner of Education (commissioner) is directed to designate a nonprofit organization to manage interscholastic athletics with the approval of the State Board of Education (SBE).⁸

FHSAA Governance

The FHSAA operates as a representative democracy in which its member schools hold authority, through their elected representatives, and the FHSAA is governed by its bylaws.⁹ Each member

¹ Section 1006.20(1), F.S.

² A "combination school" is any school that provides instruction to students in high school and the middle school grades; elementary, middle or high school grades combined; or elementary and middle grades combined (e.g. K-12; K-8; 6-12; or 7-12). Florida High School Athletic Association, *Bylaws of the Florida High School Athletic Association, Inc., 2022-23 Edition*, at Bylaw 3.2.2.3.

³ 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 6-12. FHSAA, *supra*, note 2, at Bylaw 3.2.2.4.

⁴ Section 1006.20(1), F.S.

⁵ *Id.*

⁶ *Id.*

⁷ Section 1006.20(2), F.S.

⁸ Section 1006.20(1), F.S.

⁹ Section 1002.20(3)(a), F.S. See FHSAA, *2022-23 FHSAA Handbook*, revised Dec. 13, 2022,

https://fhsaa.com/documents/2022/12/7//2223_handbook_update_December.pdf?id=3768 (last visited Feb. 27, 2023). The

school must designate a representative that is either the school principal or athletic director. FHSAA membership is divided into four administrative regions, with roughly an equal number of member schools to ensure equitable representation.¹⁰

The executive authority of the FHSAA is vested in the board of directors (board).¹¹ The FHSAA board consists of 16 members, as follows:¹²

- Four public member school representatives, one elected from among its public school representative members within each of the four administrative regions.
- Four nonpublic member school representatives, one elected from among its nonpublic school representative members within each of the four administrative regions.
- Three representatives appointed by the commissioner, one appointed from the two northernmost administrative regions and one appointed from the two southernmost administrative regions. The third representative shall be appointed to balance the board for diversity or state population trends, or both.
- Two district school superintendents, one elected from the two northernmost administrative regions by the members in those regions and one elected from the two southernmost administrative regions by the members in those regions.
- Two district school board members, one elected from the two northernmost administrative regions by the members in those regions and one elected from the two southernmost administrative regions by the members in those regions.
- The commissioner or his or her designee from the department executive staff.

The legislative authority of the FHSAA is vested in its representative assembly.¹³ The membership of the representative assembly is similar to that of the board.¹⁴

School Membership in the FHSAA

An accredited school may become a member school of the FHSAA under its eligibility requirements, which include approval by the school's governing body and adoption of the FHSAA bylaws, paying all dues and other fees, maintaining insurance coverage, and election by the FHSAA board.¹⁵

Among other responsibilities, the FHSAA board approves schools or home education cooperatives for initial and continuing membership in the FHSAA, adopts and amends administrative regulations for its programs, and serves as the FHSAA's appellate authority.¹⁶

FHSAA Handbook contains the bylaws and administrative procedures, as adopted and amended by the board of directors, that govern the FHSAA.

¹⁰ Section 1006.20(3), F.S.

¹¹ Section 1006.20(4)(a), F.S.

¹² Section 1006.20(4)(a)1.-6., F.S.

¹³ Section 1006.20(5)(a), F.S.

¹⁴ Section 1006.20(5)(b), F.S. The specific number of representatives and the method of their selection must be established in the FHSAA bylaws. Section 1006.20(5)(c), F.S.

¹⁵ FHSAA, *supra* note 2, at Bylaw 3.3.1. Similar qualifications and conditions apply to home education cooperatives seeking to become members in the FHSAA. FHSAA, *supra* note 2, at Bylaw 3.3.2.

¹⁶ Section 1006.20(4)(e), F.S.; FHSAA, *supra* note 2, at Bylaws 3.7 and 4.3.2.

The FHSAA authorizes full membership schools to compete in FHSAA championships, vote in FHSAA elections, seek election to positions in FHSAA governance, and apply and serve as hosts of multi-school events.¹⁷ Participation in the Florida High School State Championship Series is limited to senior high schools, combination schools, and home education cooperatives with full membership in the FHSAA.¹⁸ Participation is voluntary in the Florida High School State Championship, however, the FHSAA board preference is that all eligible schools participate.¹⁹ The FHSAA does provide an option for member schools to exercise independent status for “legitimate reasons”²⁰ but expressly states that this status is not intended as a vehicle for schools to organize in protest of the FHSAA’s policies or establish a postseason championship separate from the Florida High School State Championship Series.²¹ The FHSAA requires any independent status member schools to receive the FHSAA board’s approval for any championship playoff occurring after the conclusion of the FHSAA-approved regular season.²²

Student Extracurricular Activities and Athletics

Florida law outlines numerous standards and requirements relating to student extracurricular activities and athletics.²³ Such extracurricular activities and athletics include a student participating in tryouts, off-season conditioning, summer workouts, preseason conditioning, in-season practice, or contests.²⁴ A student must satisfy eligibility requirements to be deemed eligible to participate, which specify a minimum grade point average and adherence to academic performance standards and standards of conduct.²⁵

Responsibilities of the FHSAA

Among the provisions relating to student extracurricular activities and athletics, there are student eligibility, governance, transparency, and student-athlete health requirements that apply specifically to the FHSAA. The FHSAA retains jurisdiction over school membership in the FHSAA; recruiting prohibitions and violations; student medical evaluations; investigations; sanctions for coaches; school eligibility and forfeiture of competitions; student concussions and head injuries; a sports medical advisory committee; and the general operational provisions of the FHSAA.²⁶ However, the FHSAA’s implementation of these provisions may not contradict statutory requirements regarding district school boards and charter schools’ responsibilities in determining student eligibility for extracurricular participation.²⁷

¹⁷ FHSAA, *supra* note 2, at Bylaw 3.9.1.

¹⁸ FHSAA, *supra* note 2, at Bylaws 8.7.1.1; FHSAA, *supra* note 2, at Policy 10.1.1.

¹⁹ FHSAA, *supra* note 2, at Policy 10.1.2.

²⁰ The FHSAA policies outline legitimate reasons as including, but not limited to, a newly opened school, consistent inability to compete in the assigned FHSAA classification, geographic isolation that creates financial burdens for participation, educational philosophies that prohibit extended athletic participation, and religious reasons preventing competition. FHSAA, *supra* note 2, at Policy 10.1.3.

²¹ FHSAA, *supra* note 2, at Policy 10.1.3.

²² *Id.*

²³ See Chapter 1006, Part 1, Section D, F.S.

²⁴ Section 1006.15(3)(a), F.S.

²⁵ *Id.*

²⁶ Section 1006.195(2)(a), F.S.

²⁷ *Id.*

Student 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.”²⁸ 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.”²⁹

To be eligible to participate in interscholastic extracurricular activities a student must:³⁰

- Maintain a grade point average of 2.0 or above on a 4.0 scale, or its equivalent.
- Execute and 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.³¹

Charter School Student’s Participation in Interscholastic Extracurricular Activities

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

²⁸ Section 1006.15(2), F.S.

²⁹ Section 1006.15(2), F.S.

³⁰ 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.

³¹ Section 1006.15(3)(a)1.-4., F.S.

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.³²

Additional Options for Participation in Interscholastic Extracurricular Activities

A student in a home education program may be eligible to participate in extracurricular activities at a Florida public school according to attendance area policies or controlled open enrollment, or at a private school.³³ A student in a home education program must meet specified conditions for participation specified in law.³⁴

A student of the Florida Virtual School full-time program may participate in any interscholastic extracurricular activity at the public school to which the student would be assigned according to district school board attendance area policies or which the student could choose to attend pursuant to Florida's controlled open enrollment processes.³⁵

A student who transfers to a school during the school year may seek to immediately participate in an extracurricular activity if the roster for the activity has not reached its maximum size and if the coach or sponsor for the activity determines that the student has the requisite skill and ability to participate. However, a transfer student may not participate in a sport if he or she participated in that same sport at another school during that school year, with exceptions specified in law.³⁶

The FHSAA and member school districts are required to establish a program through which private school students may participate in interscholastic sports at public schools.³⁷ A private school student must be eligible to participate in interscholastic athletics at the public middle school, public high school, or public 6-12 school for which he or she would be assigned by the local school district or at any public school that the student could attend pursuant to Florida's controlled open enrollment processes, if the private school that he or she attends is not a member of the FHSAA and he or she meets the guidelines for such participation established by the FHSAA and the district school board.³⁸

Federal Law Regarding Opening Remarks at Interscholastic Athletic Events

Establishment Clause

The U.S. Constitution prevents the government from establishing a religion and protects privately initiated expression and activities from government interference and discrimination.³⁹ In order to determine whether a challenged state statute is permissible under the Establishment Clause, courts apply the *Lemon Test*, which requires that the challenged statute have a secular

³² Section 1006.15(3)(d), F.S. *See also* s. 1002.33(11), F.S.

³³ Section 1006.15(3)(c), F.S.

³⁴ *Id.*

³⁵ Section 1006.15(3)(e), F.S.

³⁶ Section 1006.15(9)(b), F.S.

³⁷ Section 1006.15(8), F.S.

³⁸ Section 1006.15(8)(a), F.S.

³⁹ *See* U.S. Const., Amend. 1.

legislative purpose, have a principal or primary effect that neither advances nor inhibits religion, and avoid excessive government entanglement with religion.⁴⁰

The Supreme Court's analysis in *Santa Fe Independent School District v. Doe* provides insight to how the Court applies the *Lemon Test* when evaluating opening remarks at athletics events on school premises.⁴¹ The Court held that the school district's policy permitting student-led, student-initiated prayer over the loudspeaker at high school football games on the school's property violated the Establishment Clause.⁴² The Court concluded that the pre-game invocations at issue were government speech because the invocations were specifically authorized by government policy and took place on government property at government-sponsored, school related events.⁴³ However, the Supreme Court cautioned that not all public speech becomes government speech simply because it is made using public facilities at government sponsored events.⁴⁴ Santa Fe school district's policy failed the *Lemon Test* because the Court found the policy did not have a secular purpose and advanced certain religion at the expense of other religions given the narrow speaker selection process and criteria; and entangled the government with religion given the school district's specific encouragement of prayer.⁴⁵

Free Speech Clause

Speech is protected by the First Amendment of the United States Constitution.⁴⁶ The government or a public actor may nevertheless regulate an individual's freedom of speech within constitutional limits.⁴⁷ The First Amendment's free speech clause restricts government regulation of private speech but does not regulate government speech.⁴⁸ To determine whether speech is government speech or private speech, courts consider three primary factors: the history and tradition of the speech; whether a reasonable observer could conclude that the government endorses the speech; and whether the government exercises direct control over the speech.⁴⁹

In 2015, the FHSAA had a policy that prohibited teams from praying over the loudspeaker before a game. Cambridge Christian School, a private Christian school in Tampa, complained that the policy was a violation of Free Speech and Free Exercise Clauses of the United States and Florida Constitutions.⁵⁰ The district court held that all speech over the loudspeaker was government speech and dismissed the case. The Eleventh Circuit Court of Appeals held that:

[T]he question of whether all speech over the microphone was government speech is a heavily fact-intensive one that looks at the history of the government's use of the medium for communicative purposes, the implication of government

⁴⁰ *Lemon v. Kurtzman*, 403 U.S. 602, 612 (1971).

⁴¹ See *Santa Fe Independent Sch. District v. Doe*, 530 U.S. 290, 314 (2000).

⁴² *Id.* at 317.

⁴³ *Id.* at 302.

⁴⁴ *Id.* See *Rosenberger v. Rector*, 515 U.S.819 (1995) (holding that the University of Virginia must provide financial subsidy to a student religious organization on the same basis as other student publications).

⁴⁵ *Santa Fe Independent Sch. District*, 530 U.S. at 302-10.

⁴⁶ U.S. Const., Amend. 1.

⁴⁷ *Int'l Soc'y for Krishna Consciousness, Inc. v. Lee*, 505 U.S. 672, 678 (1992).

⁴⁸ See *Pleasant Grove City v. Sumnum*, 555 U.S. 460, 467 (2009).

⁴⁹ See *Pleasant Grove City*, 555 U.S. at 460; *Walker v. Texas Division, Sons of Confederate Veterans, Inc.*, 135 S. Ct. 2239 (2015); *Mech v. Sch. Bd. of Palm Beach Cnty.*, 806 F.3d 1070 (11th Cir. 2015).

⁵⁰ *Cambridge Christian Sch., Inc. v. Florida High Sch. Athletic Ass'n, Inc.*, 942 F.3d 1215 (11th Cir. 2019).

endorsement of messages carried over that medium, and the degree of government control over those messages.⁵¹

The appeals court returned the case to the district court to allow the case to proceed to determine whether “the multitude of messages delivered over the loudspeaker should be viewed as private, not government, speech,” and whether Cambridge Christian was “arbitrarily and haphazardly denied access to the forum in violation of the First Amendment.”⁵²

After hearing the merits of the case as presented by both parties, the district court ruled that the FHSAA’s viewpoint neutral regulation of the speech over the loudspeaker was constitutional.⁵³ The case is now again before the Eleventh Circuit Court of Appeals and is tentatively scheduled to be heard the week of June 26, 2023.⁵⁴

Federal Guidance

According to updated guidance from the U.S. Department of Education on constitutionally protected prayer and religious expression in public elementary and secondary schools, student speakers at noncurricular activities such as sporting events may not be selected on a basis that either favors or disfavors religious perspectives. To avoid any mistaken perception that a school endorses student speech that is not in fact attributable to the school, school officials may make appropriate, neutral disclaimers to clarify that such speech, whether religious or nonreligious, is the speaker’s and not the school’s speech.⁵⁵

Florida Law Regarding Opening Remarks at Interscholastic Athletic Events

The Florida Constitution closely replicates the First Amendment’s protections against the establishment of religion.⁵⁶ The scope of the Florida Constitution’s protection of free speech is the same as required under the First Amendment.⁵⁷

Florida law establishes that the FHSAA’s authority to organize and conduct statewide interscholastic competition includes the potential for state championships, and the FHSAA also has authority to establish terms and conditions for those contests.⁵⁸

⁵¹ *Cambridge Christian Sch., Inc. v. Florida High Sch. Athletic Ass’n, Inc.*, 942 F.3d 1215 (11th Cir. 2019), at 1223.

⁵² *Id.*

⁵³ *Cambridge Christian Sch., Inc. v. Florida High Sch. Athletic Ass’n, Inc.*, 8:16-CV-2753-CEH-AAS, 2022 WL 971778 (M.D. Fla. Mar. 31, 2022).

⁵⁴ Notice of Tentative Calendar Assignment, *Cambridge Christian Sch., Inc. v. Florida High Sch. Athletic Ass’n, Inc.*, No. 22-11222 (11th Cir. Feb. 16, 2023).

⁵⁵ U.S. Department of Education, *Updated Guidance on Constitutionally Protected Prayer and Religious Expression in Public Elementary and Secondary Schools* (Jan. 21, 2020), 85 FR 3257, available at <https://www.federalregister.gov/documents/2020/01/21/2020-00876/updated-guidance-on-constitutionally-protected-prayer-and-religious-expression-in-public-elementary>, at 3268.

⁵⁶ Art. 1, s. 3, Fla. Const. See *Council for Secular Humanism, Inc. v. McNeil*, 44 So. 3d 112, 119 (Fla. 1st DCA 2010) (explaining that the Florida Constitution’s establishment clause is consistent with the First Amendment and imposes additional restrictions on state actors through the no-aid provision).

⁵⁷ Art. 1, s. 4, Fla. Const. See *Cafe Erotica v. Fla. Dep’t of Transp.*, 830 So. 2d 181, 183 (Fla. 1st DCA 2002) (stating that the scope of free speech protections in the Florida Constitution is the same as the First Amendment).

⁵⁸ Section 1006.20(4)(d)6., F.S.

FHSAA Florida High School State Championship Series

The FHSAA's Florida High School State Championship Series (State Championship Series) determines official state champions, among the Association's member schools, in sports sanctioned or recognized by the FHSAA Board of Directors.⁵⁹ The FHSAA limits participation in the State Championship Series to schools that are full members of the Association.⁶⁰ The FHSAA Board of Directors determines in which sports⁶¹ a State Championship Series will be offered and establishes the terms and conditions for the competition series.⁶²

Public Address Protocol

The FHSAA's Public Address Protocol applies to all State Championship Series. The public address announcer must maintain neutrality. The announcer is required to follow the FHSAA script for promotional announcements, player introductions, and awards ceremonies. The procedure limits other announcements to:⁶³

- Those of an emergency nature;
- Those of a "practical" nature (e.g. a vehicle with lights on);
- Teams' starting lineups or entire lineups';
- Messages provided by host school management;
- Announcements about the sale of FHSAA souvenir merchandise;
- Players attempting or making a play;
- Penalties as signaled by the referee; and
- Substitutions and timeouts.

In addition, public address announcers may not provide play-by-play commentary as if announcing a radio or television broadcast, make comments that offer an unfair advantage to one team, make comments critical of contest participants, schools, or officials.⁶⁴

For regular season events, the FHSAA's Public Address Protocol states that the public address announcer must maintain neutrality.⁶⁵ The FHSAA encourages schools to abide by the additional requirements of the Public Address Protocol for the State Championship Series but does not require compliance for regular season events.⁶⁶

⁵⁹ FHSAA, *supra* note 2, at Bylaw 2.10.

⁶⁰ FHSAA, *supra* note 2, at Bylaw 2.10. The FHSAA must allow private schools the option of maintaining full membership in the Association or membership by sport. The FHSAA may allow public schools the option of applying for consideration to join another athletic association. Section 1006.20(1), F.S.

⁶¹ The FHSAA currently conducts State Championship Series in the following sports: baseball, basketball, bowling, competitive cheerleading, cross country, flag football, football, golf, lacrosse, soccer, softball, swimming and diving, tennis, track and field, volleyball, water polo, weightlifting, and wrestling. FHSAA, *2022-2023 FHSAA Administrative Procedures*, available at https://fhsaa.com/documents/2022/8/22//2223_admin_procedures.pdf?id=3362.

⁶² Section 1006.20(4)(e)6., F.S.; Bylaw 2.10, FHSAA.

⁶³ FHSAA, *2022-2023 FHSAA Administrative Procedures*, Procedure 3.1.8, at 13, available at https://fhsaa.com/documents/2022/8/22//2223_admin_procedures.pdf?id=3362.

⁶⁴ *Id.*

⁶⁵ FHSAA, *2022-2023 FHSAA Administrative Procedures*, Procedure 2.2.1, at 11, available at https://fhsaa.com/documents/2022/8/22//2223_admin_procedures.pdf?id=3362.

⁶⁶ *Id.*

III. Effect of Proposed Changes:

Florida High School Athletic Association

CS/CS/SB 308 amends s. 1006.20, F.S., to require the Florida High School Athletic Association (FHSAA) to allow a school that joins the association by sport to participate in the FHSAA championship contest or series for that sport.

The bill places the FHSAA bylaws under the authority of the State Board of Education (SBE), which must ratify a bylaw before it can take effect. The bill also authorizes the Commissioner of Education to direct the FHSAA to revise its bylaws at any time.

The bill revises the composition of the membership of the FHSAA board of directors (board) from 16 to 9 members, 8 of whom are appointed by the Governor and confirmed by the Senate. The bill removes the requirement that the appointing authority of members of the FHSAA board makes recommendations to reflect state demographic and population trends. The board is also given legislative authority for the FHSAA, and specifies that the representative assembly may make recommendations to the board, which must be approved by a majority vote of the board.

The bill requires the hiring of the executive director and the adopted budget to be ratified by the SBE.

Student Participation in Interscholastic and Intrascholastic Extracurricular Activities

The bill 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. The bill authorizes a full-time 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 authorizes a traditional public school student who is otherwise eligible to participate in interscholastic extracurricular activities to participate at any public school in the district in which the student resides or develop an agreement to participate at a private school, if the public school does not offer the activity, subject to meeting standards at receiving school and registering with the school.

The bill authorizes a student who transfers from a public school to continue to participate in the interscholastic or intrascholastic activity at the former school for the remainder of the school year. The student must continue to meet the requirements to be eligible to participate; continue to meet the same standards of acceptance, behavior, and performance as others participating in the activity; and the student's parents must provide transportation for the student to and from the school at which the student participates. The bill provides that the school at which the student participates in the activity, and the district school board are exempt from civil liability arising from any injury that occurs to the student during such transportation.

Additionally, the bill modifies the FHSAA program for private school students to participate at public schools to clarify that participation is at an FHSAA member public or private school, and provides flexibility for the FHSAA board of directors to develop guidelines.

Opening Remarks

The bill creates s. 1006.185, F.S., which requires approved athletic associations, whose memberships include public schools, to adopt bylaws, policies, or procedures that provide schools participating in a high school championship contest or series of contests, under the direction and supervision of the association, an opportunity to make brief opening remarks at the event. If requested by the school, a speaker from the school may give remarks, no longer than two minutes, using the public address system at the event. Prior to the opening remarks from school speakers, the association must make an announcement that the school's opening remarks are not endorsed by the association nor do they reflect the views and opinions of the association.

The bill specifies that athletic associations may not control, monitor, or review the content of schools' opening remarks, nor may the associations control the schools' choice of speaker. The bill provides that member schools may not provide opening remarks that are derogatory, rude, or threatening.

The bill provides that the decision to allow opening remarks before regular season contests is at the discretion of each school.

This bill is effective 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.

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, 1006.15, and 1006.20.

This bill creates section 1006.185 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

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

CS/CS by Rules on March 30, 2023:

The committee substitute retains the provisions in the bill. The committee substitute also:

- Authorizes full-time Florida Virtual School students to develop an agreement with a private school to allow the student to participate in an interscholastic extracurricular activity at that private school.
- Authorizes traditional public school students to participate at a public school in the district or develop an agreement to participate at a private school, if the public school does not offer an activity, subject to meeting standards at the receiving school and registering with the school.
- Modifies the Florida High School Athletic Association (FHSAA) program for private school students to participate at public schools to clarify that participation is at an FHSAA member public or private school, and provides flexibility for the FHSAA board of directors to develop guidelines.
- Authorizes a student who transfers from a public school to continue to participate in activities at the former school for the rest of the school year.

CS by Education Pre-K -12 on March 6, 2023:

The committee substitute retains the provisions in the bill regarding opening remarks prior to a championship contest. The committee substitute also:

- Adds the requirement that the Florida High School Athletic Association (FHSAA) must allow a school that joins the association by sport to participate in the FHSAA championship contest or series for that sport.
- Places the FHSAA bylaws under the authority of the State Board of Education (SBE), which must ratify a bylaw before it can take effect.
- Authorizes the Commissioner of Education to direct the FHSAA to revise its bylaws at any time.
- Removes the requirement that the appointing authority of members of the FHSAA board of directors makes recommendations to reflect state demographic and population trends.
- Revises the composition of the membership of the FHSAA board of directors (board) from 16 to 9 members, 8 of whom are appointed by the Governor and confirmed by the Senate.
- Specifies that the hiring of the executive director and adopted budget must be ratified by the SBE.
- Establishes legislative authority with the FHSAA board, and requires a majority vote of the board for the approval of legislative recommendations of the representative assembly.
- Adds to the provision regarding opening remarks direction that member schools may not provide opening remarks that are derogatory, rude, or threatening.
- Authorizes charter school students to develop an agreement with a private school to allow the student to participate in an interscholastic extracurricular activity at that private school.

B. Amendments:

None.