

## MEMORANDUM

February 28, 2020

**TO:** The Honorable Chair and Members of The School Board of Miami-Dade County, Florida

**FROM:** Alberto M. Carvalho, Superintendent of Schools

**SUBJECT: 2020 LEGISLATIVE SESSION UPDATE – WEEK # 6**

The Florida Legislature concluded its sixth week of the 2020 Session on February 21, 2020.

The Senate Education Committee passed several bills as summarized below.

- SB 1498, sponsored by Senator Dennis Baxley, modifies school accountability and statewide, standardized assessments. Specifically, the bill:
  - Requires school districts to choose either the SAT or ACT for districtwide administration to grade 11 students beginning in the 2020-2021 school year and revises the school grades calculation to incorporate student performance on the SAT or ACT beginning with the 2022-2023 school year;
  - Requires all students by grade 12 to take a civic literacy assessment beginning in the 2020-2021 school year;
  - Requires postsecondary students to demonstrate civic literacy by successfully completing a civic literacy course and achieving a passing score on the civic literacy assessment;
  - Eliminates the grade 9 English Language Arts (ELA) assessment beginning in 2022-2023;
  - Authorizes the discontinuance of the statewide, standardized Geometry end-of-course assessment;
  - Requires the statewide, standardized math and ELA assessments in grades 3 through 6 to be paper-based;
  - Requires a student's final report card to be issued no later and one week after the last day of school or one week after the receipt of assessment results; and
  - Revises the school turnaround process by requiring implementation of a district-managed turnaround option after the first year a school earns a grade of "D" or "F". The bill authorizes a school district to request a new turnaround option during the implementation of a turnaround option and authorizes the State Board of Education (SBE) to revoke a turnaround plan if a school district fails to follow the terms and conditions of its approved plan.

The bill also:

- Clarifies that a student whose parent is transferred to a military installation within Florida can enroll in another school district through controlled open enrollment;
- Requires the Florida Partnership for Minority and Underrepresented Student Achievement to provide information on resources and opportunities, and identify public and private partnerships to provide college advising services to further increase postsecondary access and success for students;

- Provides the Department of Education (DOE) the authority to hold patents, copyrights, trademarks, and service marks and allows the DOE to sell, lease, license, or transfer rights for monetary gain;
  - Authorizes the DOE to establish timeframes for advertisement and submission of bids for the 2020 adoption cycle of instructional materials;
  - Excludes from the cost-per-student-station caps any costs associated with a solar energy system located on the property of a school facility; and
  - Appropriates \$8 million in recurring funds from the General Revenue Fund to the DOE to implement the SAT or ACT assessment provisions of the bill.
- SB 1634, sponsored by Senator Kelli Stargel, establishes the “Parents’ Bill of Rights.” The bill provides that the state, its political subdivisions, any other governmental entity, or other institution may not infringe upon the fundamental rights of a parent to direct the upbringing, education, health care, and mental health of a minor child. If those entities infringe upon a parent’s fundamental right, they must demonstrate that the action is reasonable and necessary to achieve a compelling state interest, and the action must be narrowly tailored and not otherwise served by less restrictive means.

The bill enumerates a list of rights that a parent possesses in order to direct the education of his or her child and be informed about the child’s educational programs. Further, the bill establishes that all parental rights are reserved to the parent of a minor child “without obstruction or interference” by any of the above-referenced governmental entities. Those rights include, but are not limited to, the right to:

- Direct the education, care, upbringing, and the moral or religious training of the minor child;
- Enroll the minor child in a public school or, as an alternative to public education, a private school, religious school, a home education program, or other available option;
- Access and review all school records relating to the minor child;
- Make health care decisions for the minor child, unless otherwise prohibited by law;
- Access and review all medical records of the minor child, unless prohibited by law or if the parent is the subject of an investigation of a crime committed against the minor child and a law enforcement agency or official requests that the information not be released;
- Consent in writing before a biometric scan of the minor child is made, shared, or stored;
- Consent in writing before any record of the minor child’s blood or deoxyribonucleic acid (DNA) is created, stored, or shared, except as required by general law or authorized pursuant to a court order;
- Consent in writing before the state or any of its political subdivisions makes a video or voice recording of the minor child unless the recording is made during or as part of a court proceeding, or is made as part of a forensic interview in a criminal or Department of Children and Families (DCF) investigation;
- Be notified promptly if an employee of the state, any of its political subdivisions, any other governmental entity, or any other institution suspects that a criminal offense has been committed against his or her minor child, unless the incident

has first been reported to a law enforcement agency or DCF and notifying the parent would impede the investigation.

The bill also requires the school district to promote parental involvement in the public school system by providing access to the child's studies and instructional materials while also recognizing a parent's right to withdraw the child from objectionable portions of the school's curriculum.

The Senate Community Affairs Committee passed SB 1270, sponsored by Senator Tom Lee, which creates part IX of chapter 112, F.S., consisting of s. 112.89, F.S., to be entitled "Fiduciary Duty of Care for Appointed Public Officials and Executive Officers." The bill establishes an express fiduciary duty of care for each appointed public official and executive director owed to the applicable entity he or she serves in accordance with law.

The bill specifies that each appointed public official and executive officer has the duty to: act in accordance with the laws, ordinances, rules, policies, and terms governing his or her office or employment; act with the care, competence, and diligence normally exercised by reasonably prudent persons in similar corporate and proprietary circumstances; act only within the scope of his or her authority; refrain from conduct that is likely to damage the financial or economic interests of the governmental entity; use reasonable efforts to maintain documentation in accordance with applicable laws; and maintain reasonable oversight of any delegated authority and discharge his or her duties with the care that a reasonably prudent person in a like business position would believe appropriate under the circumstances.

The bill provides that the duty to maintaining reasonable oversight includes: (1) becoming reasonably informed in connection with any decision-making function and when devoting attention to any oversight function; and (2) keeping reasonably informed concerning the performance of a governmental entity's executive officers or other officers, agents, or employees. While this provision creates express fiduciary duties for appointed public officials and state officers, it does not create a private cause of action or enforcement mechanism.

The bill also establishes training requirements for appointed public officials and executive officers, indicating that, beginning January 1, 2021, they must complete a minimum of five hours of board governance training for each term served. For those holding office or employed by a governmental entity on January 1, 2021, he or she is required to complete five hours of training before the expiration of his or her term of service. If the appointed public official or appointed executive officer is appointed, reappointed, or hired after January 1, 2021, the bill specifies that he or she shall complete five hours of training within 180 days of the appointment, reappointment, or hire. If an appointed public official or executive officer is employed under a contract that does not specify a termination date for employment, the public official or executive officer shall complete the five hours of training by January 1, 2022, and once every four years thereafter for the duration of their employment.

The bill requires the Department of Business Professional Regulation, by January 1, 2021, to either contract for or approve a training program that includes an affordable web-based electronic media option; or publish a list of approved training providers. The bill

provides that the training programs, at a minimum, must include education materials and instruction related to: generally accepted corporate board governance principles and best practices; corporate board fiduciary duty of care legal analyses; corporate board oversight and evaluation procedures; governmental entity responsibilities; executive officer responsibilities; executive officer performance evaluations; selecting, monitoring, and evaluating an executive management team; reviewing and approving proposed investments, expenditures, and budget plans; financial accounting and capital allocation principles and practices; new governmental entity member orientation; and the fiduciary duty of care and obligations imposed upon appointed public officials and executive officers pursuant to this section.

The House Education Committee passed several bills as summarized below.

- HB 1013, sponsored by Representative Erin Grall, related to Early Learning and Early Grade Success, revises the statewide governance of early learning programs by:
  - Placing the responsibility for overseeing the Voluntary Pre-Kindergarten (VPK) and School Readiness programs, including rulemaking authority, with the SBE;
  - Providing a type two transfer of the Gold Seal Quality Care Program from DCF to the DOE;
  - Requiring the DOE inspector general to assume investigative duties relating to the VPK and School Readiness programs;
  - Repealing the Florida Early Learning Advisory Council and the Child Care Executive Partnership and establishing the Early Grades Success Advisory Committee; and
  - Aligning Early Learning Coalitions (ELCs) under the SBE's oversight enforcement authority.

The bill also revises the composition of ELC membership, reducing the maximum allowable number of ELCs from 31 to 30, and provides the DOE with authority to merge ELCs in certain circumstances. The bill establishes a timeline for phasing in a new VPK accountability system based on a performance metric that includes student outcomes, learning gains, and observations of child-teacher interactions. The bill requires the Commissioner of Education to develop a coordinated screening and progress monitoring program for VPK through grade 3 students that provides the outcomes and learning gains data for the VPK performance metric. The VPK accountability system must assign a grade of "A" through "F" to VPK providers beginning with the 2022-2023 program year. The bill allows certain child care providers on military installations to participate in early learning programs; and allows districts to use the research-based reading allocation to fund intensive interventions for VPK students who are identified with a substantial reading deficiency.

The bill appropriates \$3,765,759 in recurring funds from the General Revenue Fund to the DOE to implement the coordinated screening and progress monitoring program for VPK and kindergarten students beginning in Fiscal Year 2021-2022 and \$100,000 in nonrecurring funds from the General Revenue Fund to the DOE to contract for a review of the school readiness payment rates.

- HB 7079, sponsored by Representative Vance Aloupis, modifies standards and required assessments. The bill authorizes the Commissioner of Education to discontinue the statewide, standardized Geometry end-of-course assessment upon approval from the United States Department of Education to use the SAT or ACT as the state's high school math assessment under federal law.

The bill requires each school district to choose either the SAT or ACT for district-wide administration to grade 11 students beginning in the 2020-2021 school year. The bill revises the school grades calculation to include the percentage of eligible students passing the English language arts portions and the percentage of eligible students passing the math portions of the SAT and ACT beginning with the 2022-2023 school year. The bill also requires all grade 12 students to take a civic literacy assessment beginning in the 2020-2021 school year. The bill requires postsecondary students to demonstrate civic literacy by successfully completing a civic literacy course and achieving a passing score on the civic literacy assessment. The bill revises the school turnaround process by requiring implementation of a district-managed turnaround option after the first year a school earns a grade of "D". It authorizes a school district to request a new turnaround option during the implementation of a turnaround option and authorizes the SBE to revoke a turnaround plan if a school district fails to follow the terms and conditions of its approved plan. The bill revises the Turnaround School Supplemental Services Allocation by requiring a school district to submit its implementation plan to the Commissioner for final approval by the DOE. The bill requires the Florida Partnership for Minority and Underrepresented Student Achievement to provide information on resources and opportunities, and identify public and private partnerships to provide college-advising services to further increase postsecondary access and success for students. The bill appropriates \$8 million in recurring funds from the General Revenue Fund to the DOE to implement provisions of the bill.

- HB 737, sponsored by Representative Kimberly Daniels, requires a moment of silence be set aside for public school students during each school day. The bill directs the principal of each school to require first-period classroom teachers in all grades to set aside one to two minutes for a moment of silence. The bill prohibits a teacher from making suggestions about the nature of a student's reflection during the moment of silence. Instead, teachers must encourage parents to discuss the moment of silence with their children and to make suggestions to their children about how they should use this time.
- HB 1207, sponsored by Representative Melony Bell, requires the Commissioner of Education to release Value-Added Model (VAM) data to school districts annually by July 31, rather than in August. Teacher performance evaluation ratings, including ratings based on VAM, are used in part to determine teacher assignments at low-performing schools with a turnaround plan. However, VAM data is often released immediately before or after the start of the school year, making it difficult for school districts to make these instructional assignments in compliance with SBE rule.

The Senate Appropriations Subcommittee on Education met and passed several bills as summarized below.

- SB 1100, sponsored by Senator Darryl Rouson, establishes the Florida Seal of Fine Arts Program to recognize high school graduates who have attained a high level of skill in fine arts coursework. The bill specifies that beginning in the 2020-2021 school year, the Florida Seal of Fine Arts is awarded to a high school graduate who: completes three year-long courses or earns three course credits in dance, music, theater, or the visual arts with a grade of “B” or higher in each course; completes an additional year-long course or earns an additional course credit in a qualified art course with a grade of “B” or higher; completes two fine arts-related extracurricular activities; and shares his or her talent and industry knowledge by providing at least 20 hours of art-related community service and presents a comprehensive presentation on his or her experience.
- SB 1246, sponsored by Senator Stargel, modifies the dual enrollment and collegiate high school programs to ensure students have access to such programs, parents and legal guardians are informed of opportunities and responsibilities, and school districts and postsecondary institutions are provided financial support to offer dual enrollment opportunities to students.

Specifically, the bill modifies the dual enrollment program by:

- Specifying that school districts or Florida College System (FCS) institutions may not deny an eligible student from participating in dual enrollment, and may not establish eligibility criteria in addition to those in law;
  - Specifying that instructional materials are free-of-charge for students in private schools and home education programs;
  - Specifying that private schools are exempt from the payment of tuition and fees for dual enrollment;
  - Renaming the “collegiate high school program” to “early college program” and specifying requirements in the program contract and student performance contract.
  - Establishing funding and financial incentives for school districts and postsecondary institutions by creating the Dual Enrollment Scholarship Program in the DOE to reimburse eligible public postsecondary institutions a specified amount for tuition and instructional materials for dual enrollment taken by private school and home education program students in the fall and spring term, and by all students in the summer term, subject to appropriation in the General Appropriations Act and providing a full-time equivalent (FTE) student membership bonus in the Florida Education Finance Program (FEFP) for students who complete general education core courses or an associate degree through dual enrollment, and requiring school districts to allocate half of such funds to support academic guidance and postsecondary readiness; and
  - Establishing a requirement for the Commissioner of Education to report to the Governor and Legislature regarding the status of dual enrollment programs for public and private school and home education program students.
- SB 1628, sponsored by Senator Lauren Book, expands the required instruction associated with the history of the Holocaust. Specifically, the bill;

- Adds the policy against anti-Semitism to the required instruction on the history of the Holocaust;
  - Requires each school district to annually certify and provide evidence to the DOE that instructional requirements on the history of the Holocaust are met;
  - Authorizes the DOE to use the State of Florida Resource Manuals on Holocaust Education or develop, as deemed appropriate, alternative or additional grade-appropriate curricula, training for instructional personnel, and classroom resources;
  - Designates the second week in November as Holocaust Education Week; and
  - Requires the Commissioner of Education's Task Force on Holocaust Education to annually rank each school district on the efficacy of their Holocaust curriculum and instruction.
- SB 1750, sponsored by Senator Bill Montford, modifies the requirement that a student complete one credit in fine or performing arts, speech and debate, or an identified practical arts course as a part of the 24 credits required to earn a standard high school diploma. The bill replaces the option to complete one credit in practical arts with the option to complete one credit in career and technical education identified in the Course Code Directory.

The Senate Finance and Tax Committee heard and passed several bills, which included SB 1066, sponsored by Senator Joe Gruters. The bill imposes new requirements related to impact fees by requiring impact fee calculations to use data obtained within the most recent 36 months and exclude any costs that do not meet specific definitions for infrastructure and public facility. The bill limits the cost per student station in school impact fee calculations to the maximum cost per student station calculated for purposes of capital outlay projects; and prohibits the application of a new or increased impact fee to pending permit applications unless the result is to reduce the total impact fees or mitigation costs imposed on the applicant. The bill requires each county or municipality assessing impact fees to establish an impact fee review committee and outlines the composition and duties of the committee. The bill also provides that impact fee credits are assignable and transferable at any time after establishment and establishes limitations for use of the credits.

The Senate Rules Committee passed SB 7000 to amend definitions relating to child-on-child sexual abuse and reorganize and clarify provisions and requirements relating to reports of child abuse, abandonment, or neglect and the central abuse hotline at DCF. It also adds a requirement that the central abuse hotline keep statistical reports relating to reports of child abuse and sexual abuse that are reported from or occur in specified educational settings and adds new requirements for investigations related to reports of child-on-child sexual abuse that occur in those educational settings.

The bill provides penalties for educational providers (school readiness program, private prekindergarten or public school prekindergarten, public K-12 school, home education program, or private school that accepts scholarship students who participate in a state scholarship program) whose employees knowingly and willingly fail to report known or suspected child abuse, abandonment, or neglect to the central abuse hotline pursuant to this chapter, indicating that the provider is subject to a penalty for each such failure.

Willingly failing to report suspected or known child abuse, abandonment, or neglect to the central abuse hotline will require at least a one-year suspension of the educator certificate of instructional personnel or school administrators who fail to report child abuse.

The bill also provides that school personnel reporting child abuse to their supervisor does not relieve them of the responsibility to directly report to the hotline. The bill provides that the SBE may enforce compliance if a school policy for reporting child abuse, abandonment, or neglect does not comply with state law.

The Florida House of Representatives passed several bills impacting education as summarized below.

- HB 491 revises the authorized methods for disposing of surplus campaign funds. Specifically, the bill provides that if the surplus funds are disposed of by donation to a charitable organization, the candidate may not be employed by the same charitable organization. The bill also allows all candidates for state office or local office to deposit surplus funds in the general revenue fund of a political subdivision, the state General Revenue Fund, or the Election Campaign Financing Trust Fund.
- HB 157, a joint resolution, proposes an amendment to the Florida Constitution that would prohibit a school board member from appearing on a ballot for reelection if, by the end of his or her current term of office, the member will have served, or would have served if not for resignation, in that office for eight consecutive years. This proposal is similar to the term limits placed on elected state officials. The proposed limitation would apply only to terms of office beginning on or after November 3, 2020, and is prospective so that school board members reelected to a consecutive term in 2020 could serve another consecutive eight years before reaching the term limit.

Article XI, Section 1 of the Florida Constitution requires a joint resolution proposing a constitutional amendment be passed by three-fifths of the membership of each legislative chamber to be placed on the ballot. Furthermore, Article XI, Section 5 requires a proposed constitutional amendment be approved by at least sixty percent of those voting on the measure at a general election to amend the Florida Constitution. The proposed constitutional amendment will go into effect on November 3, 2020, if approved by the electorate.

- HB 523 renames the Competency-Based Education Pilot Program as the Mastery-Based Education Program. The bill authorizes participating lab schools and school districts to approve and use an alternative interpretation of letter grades to measure student success in grades 6 through 12; however, school districts must continue to use a four-point scale for calculating a student's grade-point average. Furthermore, the bill provides that students who earn high school credit through a mastery-based education program have fair and equitable access to postsecondary education.
- HB 37, sponsored by Representative Emily Slosberg, increases the minimum civil penalty for failure to stop for a school bus from \$100 to \$200. For a subsequent offense within five years, the Department of Highway Safety and Motor Vehicles (DHSMV) must suspend the driver's license of the driver for not less than six months and not

more than one year. The bill also increases the minimum civil penalty for passing a school bus on the side that children enter and exit from \$200 to \$400. For a subsequent offense within five years, the DHSMV must suspend the driver's license of the driver for not less than one year and not more than two years.

- HB 81, sponsored by Representative Robert Andrade, removes the requirement that Medicaid recipients receiving services through the Florida Medicaid Certified School Match Program qualify for Part B or H of the Individuals with Disability Education Act (IDEA), or for exceptional student services, or have an Individualized Education Plan (IEP) or Individualized Family Service Plan (IFSP). The change to Florida law reflects federal regulations allowing the provision of Medicaid school health services to the general population of Medicaid-eligible students.

The bill also aligns Medicaid provider enrollment requirements for charter and private schools with those in place for public school districts. Under the bill, practitioners providing covered services in charter and private schools will not be required to directly enroll as Medicaid providers, so long as the charter or private school in which services are furnished is enrolled as a Medicaid provider. This change allows charter and private schools to contract with any licensed practitioner for the provision of covered services, equivalent to the flexibility currently available to public school districts.

- HB 725, sponsored by Representative William Robinson, authorizes a school district career center to offer an associate in applied science or an associate in the science of nursing degree program if the career center offering the associate in the science of nursing degree program offers it only to graduates of a licensed practical nursing program offered by the same center.

The Senate Appropriations passed the bills summarized below.

- SB 434, sponsored by Senator Montford, modifies the high school acceleration component of the school grading model to add to the calculation students who complete career certificate dual enrollment courses resulting in 300 or more clock hours that are identified by the SBE pursuant to law.
- SB 7040 amends the Marjory Stoneman Douglas High School Public Safety Act by adding some of the recommendations of the Marjory Stoneman Douglas High School Public Safety Commission (Commission). The bill requires:
  - Each district school board to adopt a school district emergency event family reunification plan to reunite students and employees with their families in the event of an emergency;
  - Comprehensive participation from all members of a school threat assessment team;
  - Law enforcement officers responsible for responding to the school in the event of an emergency to be on campus and directly involved in the execution of emergency drills;
  - Alignment of school-based diversion programs with local judicial circuit diversion programs;

- Each district school board to adopt policies to ensure the accurate and timely reporting of all school safety and discipline incidents;
- The Office of Safe Schools (OSS) to include in school safety specialist training information about federal and state reporting and data privacy laws; and
- School safety officers to complete mental health crisis intervention training.

The bill also expands the power of school safety officers to make arrests on property owned or leased by a charter school in the district; makes the sheriff responsible for the provision of Feis guardian training and clarifies the training requirements applicable to such training; requires the creation of a workgroup to provide guidance on the implementation of mental health-related recommendations made by the Commission; requires additional reporting requirements for the Mental Health Assistance Allocation; and expands representation of the Commission to include superintendents, principals, or teachers.

If you have any questions or wish to schedule a briefing, please contact Ms. Iraida R. Mendez-Cartaya, Associate Superintendent, Office of Intergovernmental Affairs, Grants Administration, and Community Engagement, at 305 995-2532.

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cc: School Board Attorney  
Superintendent's Cabinet