

## CHAPTER 2012-188

### Committee Substitute for Committee Substitute for Committee Substitute for House Bill No. 1403

An act relating to high school athletics; amending s. 1002.20, F.S.; conforming provisions; amending s. 1006.20, F.S.; authorizing high schools, including charter schools, virtual schools, and home education cooperatives, to become members of the FHSAA; prohibiting the FHSAA from taking retributory or discriminatory action against any of its member schools under certain circumstances; prohibiting the FHSAA from withholding approval of any other athletic organization that governs athletic competition in the state; requiring the FHSAA to adopt bylaws to allow a student who transfers schools to be eligible to participate in athletics if certain conditions are met; authorizing certain penalties for a recruiting violation; requiring the FHSAA to adopt bylaws to regulate investigators and sanction coaches who commit major violations; specifying sanctions and procedures; requiring the FHSAA to adopt bylaws establishing the process and standards by which determinations of eligibility are made; authorizing the FHSAA to adopt bylaws providing certain procedural safeguards; prohibiting FHSAA bylaws from prospectively limiting the competition of certain student athletes and from unfairly punishing student athletes for violations perpetrated by a teammate, coach, or administrator; providing requirements for the forfeiture of contests under certain conditions; requiring an expedited appeals process on determinations of ineligibility; authorizing a school or student athlete filing an appeal to present information and evidence; providing requirements for de novo decisions on appeal; deleting provisions relating to rule adoption; amending s. 1012.468, F.S.; providing background screening exceptions for certain investigators for the FHSAA; providing an effective date.

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

Section 1. Paragraph (a) of subsection (17) of section 1002.20, Florida Statutes, is amended to read:

1002.20 K-12 student and parent rights.—Parents of public school students must receive accurate and timely information regarding their child's academic progress and must be informed of ways they can help their child to succeed in school. K-12 students and their parents are afforded numerous statutory rights including, but not limited to, the following:

(17) ATHLETICS; PUBLIC HIGH SCHOOL.—

(a) Eligibility.—Eligibility requirements for all students participating in high school athletic competition must allow a student to be eligible in the school in which he or she first enrolls each school year, the school in which the student ~~or~~ makes himself or herself a candidate for an athletic team by engaging in practice before enrolling, or the school to which the student has

transferred with approval of the district school board, in accordance with the provisions of s. 1006.20(2)(a).

Section 2. Section 1006.20, Florida Statutes, is amended to read:

1006.20 Athletics in public K-12 schools.—

(1) GOVERNING NONPROFIT ORGANIZATION.—The Florida High School Athletic Association (FHSAA) is designated as the governing nonprofit organization of athletics in Florida public schools. If the ~~FHSAA~~ Florida High School Athletic Association fails to meet the provisions of this section, the commissioner shall designate a nonprofit organization to govern athletics with the approval of the State Board of Education. The ~~FHSAA organization~~ organization is not to be a state agency as defined in s. 120.52. The ~~FHSAA organization~~ shall be subject to the provisions of s. 1006.19. A private school that wishes to engage in high school athletic competition with a public high school may become a member of the ~~FHSAA organization~~. Any high school in the state, including charter schools, virtual schools, and home education cooperatives, may become a member of the FHSAA and participate in the activities of the FHSAA. However, membership in the FHSAA is not mandatory for any school. The FHSAA may not deny or discourage interscholastic competition between its member schools and non-FHSAA member Florida schools, including members of another athletic governing organization, and may not take any retributory or discriminatory action against any of its member schools that participate in interscholastic competition with non-FHSAA member Florida schools. The FHSAA may not unreasonably withhold its approval of an application to become an affiliate member of the National Federation of State High School Associations submitted by any other organization that governs interscholastic athletic competition in this state. The bylaws of the FHSAA organization are to be the rules by which high school athletic programs in its member schools, and the students who participate in them, are governed, unless otherwise specifically provided by statute. For the purposes of this section, “high school” includes grades 6 through 12.

(2) ADOPTION OF BYLAWS.—

(a) The ~~FHSAA organization~~ shall adopt bylaws that, unless specifically provided by statute, establish eligibility requirements for all students who participate in high school athletic competition in its member schools. The bylaws governing residence and transfer shall allow the student to be eligible in the school in which he or she first enrolls each school year; or the school in which the student makes himself or herself a candidate for an athletic team by engaging in a practice prior to enrolling in the any member school. The bylaws shall also allow the student to be eligible in the school to which the student has transferred during the school year if the transfer is made by a deadline established by the FHSAA, which may not be prior to the date authorized for the beginning of practice for the sport. These transfers shall be allowed pursuant to the district school board policies in the case of transfer to a public school or pursuant to the private school policies in the case of

transfer to a private school. The student shall be eligible in that school so long as he or she remains enrolled in that school. Subsequent eligibility shall be determined and enforced through the FHSAA's organization's bylaws. Requirements governing eligibility and transfer between member schools shall be applied similarly to public school students and private school students.

(b) The FHSAA organization shall adopt bylaws that specifically prohibit the recruiting of students for athletic purposes. The bylaws shall prescribe penalties and an appeals process for athletic recruiting violations. If it is determined that a school has recruited a student in violation of FHSAA bylaws, the FHSAA may require the school to participate in a higher classification for the sport in which the recruited student competes for a minimum of one classification cycle, in addition to any other appropriate fine and sanction imposed on the school, its coaches, or adult representatives who violate recruiting rules. A student may not be declared ineligible based on violation of recruiting rules unless the student or parent has falsified any enrollment or eligibility document or accepted any benefit or any promise of benefit if such benefit is not generally available to the school's students or family members or is based in any way on athletic interest, potential, or performance.

(c) The FHSAA organization shall adopt bylaws that require all students participating in interscholastic athletic competition or who are candidates for an interscholastic athletic team to satisfactorily pass a medical evaluation each year prior to participating in interscholastic athletic competition or engaging in any practice, tryout, workout, or other physical activity associated with the student's candidacy for an interscholastic athletic team. Such medical evaluation may ~~can only~~ only be administered only by a practitioner licensed under the ~~provisions of~~ chapter 458, chapter 459, chapter 460, or s. 464.012, and in good standing with the practitioner's regulatory board. The bylaws shall establish requirements for eliciting a student's medical history and performing the medical evaluation required under this paragraph, which shall include a physical assessment of the student's physical capabilities to participate in interscholastic athletic competition as contained in a uniform preparticipation physical evaluation and history form. The evaluation form shall incorporate the recommendations of the American Heart Association for participation cardiovascular screening and shall provide a place for the signature of the practitioner performing the evaluation with an attestation that each examination procedure listed on the form was performed by the practitioner or by someone under the direct supervision of the practitioner. The form shall also contain a place for the practitioner to indicate if a referral to another practitioner was made in lieu of completion of a certain examination procedure. The form shall provide a place for the practitioner to whom the student was referred to complete the remaining sections and attest to that portion of the examination. The preparticipation physical evaluation form shall advise students to complete a cardiovascular assessment and shall include information concerning alternative cardiovascular evaluation and

diagnostic tests. Results of such medical evaluation must be provided to the school. No student shall be eligible to participate in any interscholastic athletic competition or engage in any practice, tryout, workout, or other physical activity associated with the student's candidacy for an interscholastic athletic team until the results of the medical evaluation have been received and approved by the school.

(d) Notwithstanding the provisions of paragraph (c), a student may participate in interscholastic athletic competition or be a candidate for an interscholastic athletic team if the parent of the student objects in writing to the student undergoing a medical evaluation because such evaluation is contrary to his or her religious tenets or practices. However, in such case, there shall be no liability on the part of any person or entity in a position to otherwise rely on the results of such medical evaluation for any damages resulting from the student's injury or death arising directly from the student's participation in interscholastic athletics where an undisclosed medical condition that would have been revealed in the medical evaluation is a proximate cause of the injury or death.

(e) The FHSAA shall adopt bylaws that regulate persons who conduct investigations on behalf of the FHSAA. The bylaws shall include provisions that require an investigator to:

1. Undergo level 2 background screening under s. 435.04, establishing that the investigator has not committed any disqualifying offense listed in s. 435.04, unless the investigator can provide proof of compliance with level 2 screening standards submitted within the previous 5 years to meet any professional licensure requirements, provided:

a. The investigator has not had a break in service from a position that requires level 2 screening for more than 90 days; and

b. The investigator submits, under penalty of perjury, an affidavit verifying that the investigator has not committed any disqualifying offense listed in s. 435.04 and is in full compliance with this paragraph.

2. Be appointed as an investigator by the executive director.

3. Carry a photo identification card that shows the FHSAA name, logo, and the investigator's official title.

4. Adhere to the following guidelines:

a. Investigate only those alleged violations assigned by the executive director or the board of directors.

b. Conduct interviews on Monday through Friday between the hours of 9 a.m. and 7 p.m. only, unless previously agreed to by the interviewee.

c. Allow the parent of any student being interviewed to be present during the interview.

d. Search residences or other private areas only with the permission of the executive director and the written consent of the student's parent and only with a parent or a representative of the parent present.

(f) The FHSAA shall adopt bylaws that establish sanctions for coaches who have committed major violations of the FHSAA's bylaws and policies.

1. Major violations include, but are not limited to, knowingly allowing an ineligible student to participate in a contest representing a member school in an interscholastic contest or committing a violation of the FHSAA's recruiting or sportsmanship policies.

2. Sanctions placed upon an individual coach may include, but are not limited to, prohibiting or suspending the coach from coaching, participating in, or attending any athletic activity sponsored, recognized, or sanctioned by the FHSAA and the member school for which the coach committed the violation. If a coach is sanctioned by the FHSAA and the coach transfers to another member school, those sanctions remain in full force and effect during the term of the sanction.

3. If a member school is assessed a financial penalty as a result of a coach committing a major violation, the coach shall reimburse the member school before being allowed to coach, participate in, or attend any athletic activity sponsored, recognized, or sanctioned by the FHSAA and a member school.

4. The FHSAA shall establish a due process procedure for coaches sanctioned under this paragraph, consistent with the appeals procedures set forth in subsection (7).

(g) The FHSAA shall adopt bylaws establishing the process and standards by which FHSAA determinations of eligibility are made. Such bylaws shall provide that:

1. Ineligibility must be established by clear and convincing evidence;

2. Student athletes, parents, and schools must have notice of the initiation of any investigation or other inquiry into eligibility and may present, to the investigator and to the individual making the eligibility determination, any information or evidence that is credible, persuasive, and of a kind reasonably prudent persons rely upon in the conduct of serious affairs;

3. An investigator may not determine matters of eligibility but must submit information and evidence to the executive director or a person designated by the executive director or by the board of directors for an unbiased and objective determination of eligibility; and

4. A determination of ineligibility must be made in writing, setting forth the findings of fact and specific violation upon which the decision is based.

(h) In lieu of bylaws adopted under paragraph (g), the FHSAA may adopt bylaws providing as a minimum the procedural safeguards of ss. 120.569 and 120.57, making appropriate provision for appointment of unbiased and qualified hearing officers.

(i) The FHSAA bylaws may not limit the competition of student athletes prospectively for rule violations of their school or its coaches or their adult representatives. The FHSAA bylaws may not unfairly punish student athletes for eligibility or recruiting violations perpetrated by a teammate, coach, or administrator. Contests may not be forfeited for inadvertent eligibility violations unless the coach or a school administrator should have known of the violation. Contests may not be forfeited for other eligibility violations or recruiting violations in excess of the number of contests that the coaches and adult representatives responsible for the violations are prospectively suspended.

### (3) GOVERNING STRUCTURE OF THE ORGANIZATION.—

(a) The FHSAA organization shall operate as a representative democracy in which the sovereign authority is within its member schools. Except as provided in this section, the FHSAA organization shall govern its affairs through its bylaws.

(b) Each member school, on its annual application for membership, shall name its official representative to the FHSAA organization. This representative must be either the school principal or his or her designee. That designee must either be an assistant principal or athletic director housed within that same school.

(c) The FHSAA's organization's membership shall be divided along existing county lines into four contiguous and compact administrative regions, each containing an equal or nearly equal number of member schools to ensure equitable representation on the FHSAA's organization's board of directors, representative assembly, and appeals committees ~~committee on~~ appeals.

### (4) BOARD OF DIRECTORS.—

(a) The executive authority of the FHSAA organization shall be vested in its board of directors. Any entity that appoints members to the board of directors shall examine the ethnic and demographic composition of the board when selecting candidates for appointment and shall, to the greatest extent possible, make appointments that reflect state demographic and population trends. The board of directors shall be composed of 16 persons, as follows:

1. Four public member school representatives, one elected from among its public school representative members within each of the four administrative regions.

2. Four nonpublic member school representatives, one elected from among its nonpublic school representative members within each of the four administrative regions.

3. 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.

4. 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.

5. 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.

6. The commissioner or his or her designee from the department executive staff.

(b) A quorum of the board of directors shall consist of nine members.

(c) The board of directors shall elect a president and a vice president from among its members. These officers shall also serve as officers of the FHSAA organization.

(d) Members of the board of directors shall serve terms of 3 years and are eligible to succeed themselves only once. A member of the board of directors, other than the commissioner or his or her designee, may serve a maximum of 6 consecutive years. The FHSAA's organization's bylaws shall establish a rotation of terms to ensure that a majority of the members' terms do not expire concurrently.

(e) The authority and duties of the board of directors, acting as a body and in accordance with the FHSAA's organization's bylaws, are as follows:

1. To act as the incorporated FHSAA's organization's board of directors and to fulfill its obligations as required by the FHSAA's organization's charter and articles of incorporation.

2. To establish such guidelines, regulations, policies, and procedures as are authorized by the bylaws.

3. To employ provide an FHSAA executive director ~~organization~~ commissioner, who shall have the authority to waive the bylaws of the FHSAA organization in order to comply with statutory changes.

4. To levy annual dues and other fees and to set the percentage of contest receipts to be collected by the FHSAA ~~organization~~.

5. To approve the budget of the FHSAA ~~organization~~.

6. To organize and conduct statewide interscholastic competitions, which may or may not lead to state championships, and to establish the terms and conditions for these competitions.

7. To act as an administrative board in the interpretation of, and final decision on, all questions and appeals arising from the directing of interscholastic athletics of member schools.

(5) REPRESENTATIVE ASSEMBLY.—

(a) The legislative authority of the FHSAA ~~organization~~ is vested in its representative assembly.

(b) The representative assembly shall be composed of the following:

1. An equal number of member school representatives from each of the four administrative regions.

2. Four district school superintendents, one elected from each of the four administrative regions by the district school superintendents in their respective administrative regions.

3. Four district school board members, one elected from each of the four administrative regions by the district school board members in their respective administrative regions.

4. The commissioner or his or her designee from the department executive staff.

(c) The FHSAA's ~~organization's~~ bylaws shall establish the number of member school representatives to serve in the representative assembly from each of the four administrative regions and shall establish the method for their selection.

(d) No member of the board of directors other than the commissioner or his or her designee can serve in the representative assembly.

(e) The representative assembly shall elect a chairperson and a vice chairperson from among its members.

(f) Elected members of the representative assembly shall serve terms of 2 years and are eligible to succeed themselves for two additional terms. An elected member, other than the commissioner or his or her designee, may serve a maximum of 6 consecutive years in the representative assembly.

(g) A quorum of the representative assembly consists of one more than half of its members.



(h) The authority of the representative assembly is limited to its sole duty, which is to consider, adopt, or reject any proposed amendments to the FHSAA's ~~organization's~~ bylaws.

(i) The representative assembly shall meet as a body annually. A two-thirds majority of the votes cast by members present is required for passage of any proposal.

(6) PUBLIC LIAISON ADVISORY COMMITTEE.—

(a) The FHSAA ~~organization~~ shall establish, sustain, fund, and provide staff support to a public liaison advisory committee composed of the following:

1. The commissioner or his or her designee.
2. A member public school principal.
3. A member private school principal.
4. A member school principal who is a member of a racial minority.
5. An active athletic director.
6. An active coach, who is employed full time by a member school.
7. A student athlete.
8. A district school superintendent.
9. A district school board member.
10. A member of the Florida House of Representatives.
11. A member of the Florida Senate.
12. A parent of a high school student.
13. A member of a home education association.
14. A representative of the business community.
15. A representative of the news media.

(b) No member of the board of directors, committee on appeals, or representative assembly is eligible to serve on the public liaison advisory committee.

(c) The public liaison advisory committee shall elect a chairperson and vice chairperson from among its members.

(d) The authority and duties of the public liaison advisory committee are as follows:

1. To act as a conduit through which the general public may have input into the decisionmaking process of the FHSAA organization and to assist the FHSAA organization in the development of procedures regarding the receipt of public input and disposition of complaints related to high school athletic and competition programs.

2. To conduct public hearings annually in each of the four administrative regions during which interested parties may address issues regarding the effectiveness of the rules, operation, and management of the FHSAA organization.

3. To conduct an annual evaluation of the FHSAA organization as a whole and present a report of its findings, conclusion, and recommendations to the board of directors, to the commissioner, and to the respective education committees of the Florida Senate and the Florida House of Representatives. The recommendations must delineate policies and procedures that will improve the implementation and oversight of high school athletic programs by the FHSAA organization.

(e) The public liaison advisory committee shall meet four times annually. Additional meetings may be called by the committee chairperson, the FHSAA organization president, or the FHSAA executive director organization commissioner.

(7) APPEALS.—

(a) The FHSAA organization shall establish a procedure of due process which ensures each student the opportunity to appeal an unfavorable ruling with regard to his or her eligibility to compete. The initial appeal shall be made to a committee on appeals within the administrative region in which the student lives. The FHSAA's organization's bylaws shall establish the number, size, and composition of each the committee on appeals.

(b) No member of the board of directors is eligible to serve on a the committee on appeals.

(c) Members of a the committee on appeals shall serve terms of 3 years and are eligible to succeed themselves only once. A member of a the committee on appeals may serve a maximum of 6 consecutive years. The FHSAA's organization's bylaws shall establish a rotation of terms to ensure that a majority of the members' terms do not expire concurrently.

(d) The authority and duties of a the committee on appeals shall be to consider requests by member schools seeking exceptions to bylaws and regulations, to hear undue hardship eligibility cases filed by member schools on behalf of student athletes, and to hear appeals filed by member schools or student athletes.

(e) A student athlete or member school that receives an unfavorable ruling from a committee on appeals shall be entitled to appeal that decision to the board of directors at its next regularly scheduled meeting or called

meeting. The board of directors shall have the authority to uphold, reverse, or amend the decision of the committee on appeals. In all such cases, the decision of the board of directors shall be final.

(f) The FHSAA shall expedite the appeals process on determinations of ineligibility so that disposition of the appeal can be made before the end of the applicable sports season, if possible.

(g) In any appeal from a decision on eligibility made by the executive director or a designee, a school or student athlete filing the appeal must be permitted to present information and evidence that was not available at the time of the initial determination or if the determination was not made by an unbiased, objective individual using a process allowing full due process rights to be heard and to present evidence. If evidence is presented on appeal, a de novo decision must be made by the committee or board hearing the appeal, or the determination may be suspended and the matter remanded for a new determination based on all the evidence. If a de novo decision is made on appeal, the decision must be made in writing, setting forth the findings of fact and specific violation upon which the decision is based. If a de novo decision is not required, the decision appealed must be set aside if the decision on ineligibility was not based on clear and convincing evidence. Any further appeal shall be considered on a record that includes all evidence presented.

(8) AMENDMENT OF BYLAWS.—Each member school representative, the board of directors acting as a whole or as members acting individually, any advisory committee acting as a whole to be established by the FHSAA organization, and the FHSAA’s executive director organization’s commissioner are empowered to propose amendments to the bylaws. Any other individual may propose an amendment by securing the sponsorship of any of the aforementioned individuals or bodies. All proposed amendments must be submitted directly to the representative assembly for its consideration. The representative assembly, while empowered to adopt, reject, or revise proposed amendments, may not, in and of itself, as a body be allowed to propose any amendment for its own consideration.

~~(9) RULES ADOPTION.—The bylaws of the organization shall require member schools to adopt rules for sports, which have been established by a nationally recognized sanctioning body, unless waived by at least a two-thirds vote of the board of directors.~~

Section 3. Paragraph (g) is added to subsection (2) of section 1012.468, Florida Statutes, to read:

1012.468 Exceptions to certain fingerprinting and criminal history checks.—

(2) A district school board shall exempt from the screening requirements set forth in ss. 1012.465 and 1012.467 the following noninstructional contractors:

(g) An investigator for the Florida High School Athletic Association (FHSAA) who meets the requirements under s. 1006.20(2)(e).

Section 4. This act shall take effect July 1, 2012.

Approved by the Governor April 27, 2012.

Filed in Office Secretary of State April 27, 2012.