

CHAPTER 2012-194

House Bill No. 7127

An act relating to school improvement and education accountability; amending s. 1001.42, F.S.; requiring a school improvement plan to include strategies for improving student achievement under certain circumstances; revising provisions relating to eligibility for an opportunity scholarship; amending s. 1002.33, F.S.; revising provisions requiring a charter school to implement a school improvement plan to raise student achievement; revising corrective actions to be selected and implemented by a charter school; providing requirements for implementation of corrective actions and intervention and support strategies identified in a school improvement plan; providing for termination of a charter school not making continuous improvement unless it meets specified criteria; amending s. 1002.332, F.S.; conforming provisions; amending s. 1002.38, F.S.; revising provisions relating to eligibility for an opportunity scholarship; amending s. 1008.22, F.S.; revising provisions relating to the statewide student assessment program; providing that certain end-of-course assessments replace corresponding FCAT assessments; amending s. 1008.33, F.S.; revising provisions relating to the State Board of Education's authority to enforce public school improvement; requiring the state board to comply with the federal flexibility waiver approved by the United States Secretary of Education; requiring the Department of Education to annually identify each school in need of intervention and support to improve student academic performance, basing the need for intervention and support on school grades; providing requirements for state board rules for intervention and support strategies for school improvement; deleting department duties relating to the categorization of low-performing schools; providing state board, school district, and school requirements for implementing strategies and turnaround options to improve school performance; revising turnaround options available to a school district and requiring state board approval of the option selected for implementation; providing certain exceptions; requiring the state board to adopt rules relating to plans for implementing turnaround options; amending s. 1008.331, F.S.; requiring that school districts use a specified percentage of Title I funds allocated to Title I schools to meet the requirements for supplemental educational services; specifying the use of such funds for certain students; requiring that each school district contract with supplemental educational service providers that have been approved by the Department of Education; amending s. 1008.34, F.S.; revising provisions relating to the school grading system; revising the contents of the annual report of the results of the statewide assessment program; revising certain criteria upon which school grades are based; revising the basis for calculating a school district's grade; amending ss. 1008.345, 1012.07, 1012.22, and 1012.2315, F.S.; conforming provisions; providing an effective date.

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

Section 1. Paragraph (a) of subsection (18) and subsection (20) of section 1001.42, Florida Statutes, are amended to read:

1001.42 Powers and duties of district school board.—The district school board, acting as a board, shall exercise all powers and perform all duties listed below:

(18) IMPLEMENT SCHOOL IMPROVEMENT AND ACCOUNTABILITY.—Maintain a state system of school improvement and education accountability as provided by statute and State Board of Education rule. This system of school improvement and education accountability shall be consistent with, and implemented through, the district's continuing system of planning and budgeting required by this section and ss. 1008.385, 1010.01, and 1011.01. This system of school improvement and education accountability shall comply with the provisions of ss. 1008.33, 1008.34, 1008.345, and 1008.385 and include the following:

(a) School improvement plans.—The district school board shall annually approve and require implementation of a new, amended, or continuation school improvement plan for each school in the district. If a school has a significant gap in achievement on statewide assessments pursuant to s. 1008.34(3)(b) by one or more student subgroups, as defined in the federal Elementary and Secondary Education Act (ESEA), 20 U.S.C. s. 6311(b)(2)(C)(v)(II); has not significantly decreased the percentage of students scoring below satisfactory on statewide assessments; or has significantly lower graduation rates for a subgroup when compared to the state's graduation rate, that school's improvement plan shall include strategies for improving these results. The state board shall adopt rules establishing thresholds and for determining compliance with this paragraph.

(20) OPPORTUNITY SCHOLARSHIPS.—Adopt policies allowing students attending schools that have earned a grade of "F" or three consecutive grades been designated with a grade of "D" or "F" pursuant to s. 1008.34 and that are in one of the two lowest-performing categories pursuant to s. 1008.33 to attend a higher-performing school in the district or any other district in the state, in conformance with s. 1002.38 and State Board of Education rule.

Section 2. Paragraphs (n), (o), and (p) of subsection (9) of section 1002.33, Florida Statutes, are amended to read:

1002.33 Charter schools.—

(9) CHARTER SCHOOL REQUIREMENTS.—

(n)1. The director and a representative of the governing ~~board~~ body of a charter school that has ~~earned~~ received a school grade of "D" or "F" pursuant to ~~under~~ s. 1008.34(2) shall appear before the sponsor ~~or the sponsor's staff at least once a year~~ to present information concerning each contract component having noted deficiencies. ~~The sponsor shall communicate at the meeting,~~

and in writing to the director, the services provided to the school to help the school address its deficiencies.

~~(c) Upon notification that a charter school receives a school grade of “D” for 2 consecutive years or a school grade of “F” under s. 1008.34(2), The charter school sponsor or the sponsor’s staff shall require the director and a representative of the governing board shall body to submit to the sponsor for approval a school improvement plan to raise student achievement and to implement the plan. Upon approval by the sponsor, the charter school shall begin implementation of the has the authority to approve a school improvement plan that the charter school will implement in the following school year. The sponsor may also consider the State Board of Education’s recommended action pursuant to s. 1008.33(1) as part of the school improvement plan. The department of Education shall offer technical assistance and training to the charter school and its governing board body and establish guidelines for developing, submitting, and approving such plans.~~

2.a.1. If a the charter school earns three consecutive grades of “D,” two consecutive grades of “D” followed by a grade of “F,” or two nonconsecutive grades of “F” within a 3-year period fails to improve its student performancee from the year immediately prior to the implementation of the school improvement plan, the sponsor shall place the charter school on probation and shall require the charter school governing board shall choose body to take one of the following corrective actions:

(I)a. Contract for the educational services to be provided directly to students, instructional personnel, and school administrators, as prescribed in state board rule of the charter school;

(II) Contract with an outside entity that has a demonstrated record of effectiveness to operate the school;

(III)b. Reorganize the school at the end of the school year under a new director or principal who is authorized to hire new staff and implement a plan that addresses the causes of inadequate progress; or

(IV)e. Voluntarily close Reconstitute the charter school.

b. The charter school must implement the corrective action in the school year following receipt of a third consecutive grade of “D,” a grade of “F” following two consecutive grades of “D,” or a second nonconsecutive grade of “F” within a 3-year period.

c. The sponsor may annually waive a corrective action if it determines that the charter school is likely to improve a letter grade if additional time is provided to implement the intervention and support strategies prescribed by the school improvement plan. Notwithstanding this sub-subparagraph, a charter school that earns a second consecutive grade of “F” is subject to subparagraph 4.

d.2. A charter school is no longer required to implement a that is placed on probation shall continue the corrective action if it actions required under subparagraph 1. until the charter school improves by at least one letter grade its student performance from the year prior to the implementation of the school improvement plan. However, the charter school must continue to implement strategies identified in the school improvement plan. The sponsor must annually review implementation of the school improvement plan to monitor the school's continued improvement pursuant to subparagraph 5.

e. A charter school implementing a corrective action that does not improve by at least one letter grade after 2 full school years of implementing the corrective action must select a different corrective action. Implementation of the new corrective action must begin in the school year following the implementation period of the existing corrective action, unless the sponsor determines that the charter school is likely to improve a letter grade if additional time is provided to implement the existing corrective action. Notwithstanding this sub-subparagraph, a charter school that earns a second consecutive grade of "F" while implementing a corrective action is subject to subparagraph 4.

3. A charter school with a grade of "D" or "F" that improves by at least one letter grade must continue to implement the strategies identified in the school improvement plan. The sponsor must annually review implementation of the school improvement plan to monitor the school's continued improvement pursuant to subparagraph 5.

4. The sponsor shall terminate a charter if the charter school earns two consecutive grades of "F" unless:

a. The charter school is established to turnaround the performance of a district public school pursuant to s. 1008.33(4)(b)3. Such charter schools shall be governed by s. 1008.33;

b. The charter school serves a student population the majority of which resides in a school zone served by a district public school that earned a grade of "F" in the year before the charter school opened and the charter school earns at least a grade of "D" in its third year of operation. The exception provided under this sub-subparagraph does not apply to a charter school in its fourth year of operation and thereafter; or

c. The state board grants the charter school a waiver of termination. The charter school must request the waiver within 30 days after completion of school grade appeals. The state board may waive termination if the charter school demonstrates that the learning gains of its students on statewide assessments are comparable to or better than the learning gains of similarly situated students enrolled in nearby district public schools. The waiver is valid for 1 year and may only be granted once. Charter schools that have been in operation for more than 5 years are not eligible for a waiver under this sub-subparagraph.

~~3.— Notwithstanding any provision of this paragraph, the sponsor may terminate the charter at any time pursuant to subsection (8).~~

~~5.(p)~~ The director and a representative of the governing board ~~body~~ of a graded charter school that has implemented ~~submitted~~ a school improvement plan ~~or has been placed on probation under this paragraph (e)~~ shall appear before the sponsor ~~or the sponsor's staff~~ at least once a year to present information regarding the progress of intervention and support ~~corrective~~ strategies ~~that are being implemented by the school pursuant to the school improvement plan and corrective actions, if applicable.~~ The sponsor shall communicate at the meeting, and in writing to the director, the services provided to the school to help the school address its deficiencies.

6. Notwithstanding any provision of this paragraph except sub-subparagraphs 4.a.-c., the sponsor may terminate the charter at any time pursuant to subsection (8).

Section 3. Paragraph (b) of subsection (1) of section 1002.332, Florida Statutes, is amended to read:

1002.332 High-performing charter school system.—

(1) For purposes of this section, the term:

(b) “High-performing charter school system” means an entity that:

1. Operates at least three high-performing charter schools in the state;

2. Operates a system of charter schools in which at least 50 percent of the charter schools are high-performing charter schools pursuant to s. 1002.331 and no charter school earned ~~received~~ a school grade of “D” or “F” pursuant to s. 1008.34, except that:

a. If the entity has assumed operation of a public school pursuant to s. 1008.33(4)(b)3. ~~1008.33(5)(a)3.~~ with a school grade of “D” ~~or “F,”~~ that school’s grade may ~~shall~~ not be considered in determining high-performing charter school system status for a period of 3 years.

b. If the entity establishes a new charter school that serves a student population the majority of which resides in a school zone served by a public school that earned a grade of “F” or three consecutive grades of “D” pursuant to s. 1008.34 ~~is identified as lowest performing under s. 1008.33(4)(b),~~ that charter school’s grade may ~~shall~~ not be considered in determining high-performing charter school system status if it attains and maintains a school grade that is higher than that of the public school serving that school zone within 3 years after establishment; and

3. Has not received a financial audit that revealed one or more of the financial emergency conditions set forth in s. 218.503(1) for any charter school assumed or established by the entity.

Section 4. Paragraph (a) of subsection (2) of section 1002.38, Florida Statutes, is amended to read:

1002.38 Opportunity Scholarship Program.—

(2) OPPORTUNITY SCHOLARSHIP ELIGIBILITY.—

(a) ~~For purposes of this section, a school's grade shall be based upon statewide assessments administered pursuant to s. 1008.22.~~ A public school student's parent may request and receive an opportunity scholarship for the student to enroll in and attend a public school in accordance with the provisions of this section if:

1. By assigned school attendance area or by special assignment, the student has spent the prior school year in attendance at a public school that has earned a grade of "F" or three consecutive grades of "D" pursuant to s. ~~1008.34~~ 1008.34 ~~been designated as performance grade category "D" or "F" and that is in one of the two lowest performing categories pursuant to s. 1008.33,~~ and the student's attendance occurred during a school year in which such designation was in effect;

2. The student has been in attendance elsewhere in the public school system and has been assigned to such school for the next school year; or

3. The student has been notified that he or she has been assigned to such school for the next school year.

Section 5. Subsections (3) and (7) and paragraph (a) of subsection (8) of section 1008.22, Florida Statutes, are amended to read:

1008.22 Student assessment program for public schools.—

(3) STATEWIDE ASSESSMENT PROGRAM.—The commissioner shall design and implement a statewide program of educational assessment that provides information for the improvement of the operation and management of the public schools, including schools operating for the purpose of providing educational services to youth in Department of Juvenile Justice programs. The commissioner may enter into contracts for the continued administration of the assessment, ~~testing, and evaluation~~ programs authorized and funded by the Legislature. Contracts may be initiated in 1 fiscal year and continue into the next and may be paid from the appropriations of either or both fiscal years. The commissioner is authorized to negotiate for the sale or lease of tests, scoring protocols, test scoring services, and related materials developed pursuant to law. Pursuant to the statewide assessment program, the commissioner shall:

(a) Submit proposed Next Generation Sunshine State Standards to the State Board of Education for adoption and periodic review and revision under s. 1003.41.

(b) Develop and implement a uniform system of indicators to describe the performance of public school students and the characteristics of the public school districts and the public schools. These indicators must include, ~~without limitation,~~ information gathered by the comprehensive management information system created pursuant to s. 1008.385 and student achievement information obtained pursuant to this section.

(c) Develop and implement a student achievement assessment testing program as follows:

1. The Florida Comprehensive Assessment Test (FCAT) measures a student's content knowledge and skills in reading, writing, science, and mathematics. The content knowledge and skills assessed by the FCAT must be aligned to the core curricular content established in the Next Generation Sunshine State Standards. ~~FCAT Other content areas may be included as directed by the commissioner. Comprehensive assessments of Reading and FCAT Mathematics shall be administered annually in grades 3 through 10 except, beginning with the 2010-2011 school year, the administration of grade 9 FCAT Mathematics shall be discontinued, and beginning with the 2011-2012 school year, the administration of grade 10 FCAT Mathematics shall be discontinued, except as required for students who have not attained minimum performance expectations for graduation as provided in paragraph (9)(c). FCAT Writing and FCAT Science shall be administered at least once at the elementary, middle, and high school levels except, beginning with the 2011-2012 school year, the administration of FCAT Science at the high school level shall be discontinued. Students enrolled in an Algebra I, geometry, or Biology I course or an equivalent course with a statewide, standardized end-of-course assessment are not required to take the corresponding grade-level FCAT assessment.~~

~~2.a. End-of-course assessments for a subject shall be administered in addition to the comprehensive assessments required under subparagraph 1. End-of-course assessments must be rigorous, statewide, standardized, and developed or approved by the department. The content knowledge and skills assessed by end-of-course assessments must be aligned to the core curricular content established in the Next Generation Sunshine State Standards.~~

(I) Statewide, standardized end-of-course assessments in mathematics shall be administered according to this sub-sub-subparagraph. Beginning with the 2010-2011 school year, all students enrolled in Algebra I or an equivalent course must take the Algebra I end-of-course assessment. For students entering grade 9 during the 2010-2011 school year and who are enrolled in Algebra I or an equivalent, each student's performance on the end-of-course assessment in Algebra I shall constitute 30 percent of the student's final course grade. Beginning with students entering grade 9 in the 2011-2012 school year, a student who is enrolled in Algebra I or an equivalent must earn a passing score on the end-of-course assessment in Algebra I or attain an equivalent score as described in subsection (11) in order to earn course credit. Beginning with the 2011-2012 school year, all students enrolled in geometry or an equivalent course must take the geometry end-

of-course assessment. For students entering grade 9 during the 2011-2012 school year, each student's performance on the end-of-course assessment in geometry shall constitute 30 percent of the student's final course grade. Beginning with students entering grade 9 during the 2012-2013 school year, a student must earn a passing score on the end-of-course assessment in geometry or attain an equivalent score as described in subsection (11) in order to earn course credit.

(II) Statewide, standardized end-of-course assessments in science shall be administered according to this sub-sub-subparagraph. Beginning with the 2011-2012 school year, all students enrolled in Biology I or an equivalent course must take the Biology I end-of-course assessment. For the 2011-2012 school year, each student's performance on the end-of-course assessment in Biology I shall constitute 30 percent of the student's final course grade. Beginning with students entering grade 9 during the 2012-2013 school year, a student must earn a passing score on the end-of-course assessment in Biology I in order to earn course credit.

b. During the 2012-2013 school year, an end-of-course assessment in civics education shall be administered as a field test at the middle school level. During the 2013-2014 school year, each student's performance on the statewide, standardized end-of-course assessment in civics education shall constitute 30 percent of the student's final course grade. Beginning with the 2014-2015 school year, a student must earn a passing score on the end-of-course assessment in civics education in order to pass the course and be promoted from the middle grades. The school principal of a middle school shall determine, in accordance with State Board of Education rule, whether a student who transfers to the middle school and who has successfully completed a civics education course at the student's previous school must take an end-of-course assessment in civics education.

c. The commissioner may select one or more nationally developed comprehensive examinations, which may include, but need not be limited to, examinations for a College Board Advanced Placement course, International Baccalaureate course, or Advanced International Certificate of Education course, or industry-approved examinations to earn national industry certifications identified in the Industry Certification Funding List, pursuant to rules adopted by the State Board of Education, for use as end-of-course assessments under this paragraph, if the commissioner determines that the content knowledge and skills assessed by the examinations meet or exceed the grade level expectations for the core curricular content established for the course in the Next Generation Sunshine State Standards. The commissioner may collaborate with the American Diploma Project in the adoption or development of rigorous end-of-course assessments that are aligned to the Next Generation Sunshine State Standards.

d. Contingent upon funding provided in the General Appropriations Act, including the appropriation of funds received through federal grants, the Commissioner of Education shall establish an implementation schedule for the development and administration of additional statewide, standardized

end-of-course assessments in English/Language Arts II, Algebra II, chemistry, physics, earth/space science, United States history, and world history. Priority shall be given to the development of end-of-course assessments in English/Language Arts II. The Commissioner of Education shall evaluate the feasibility and effect of transitioning from the grade 9 and grade 10 FCAT Reading and high school level FCAT Writing to an end-of-course assessment in English/Language Arts II. The commissioner shall report the results of the evaluation to the President of the Senate and the Speaker of the House of Representatives no later than July 1, 2011.

3. The assessment testing program shall measure student content knowledge and skills adopted by the State Board of Education as specified in paragraph (a) and measure and report student performance levels of all students assessed in reading, writing, mathematics, and science. The commissioner shall provide for the tests to be developed or obtained, as appropriate, through contracts and project agreements with private vendors, public vendors, public agencies, postsecondary educational institutions, or school districts. The commissioner shall obtain input with respect to the design and implementation of the assessment testing program from state educators, assistive technology experts, and the public.

4. The assessment testing program shall be composed of criterion-referenced tests that shall, to the extent determined by the commissioner, include test items that require the student to produce information or perform tasks in such a way that the core content knowledge and skills he or she uses can be measured.

5. FCAT Reading, Mathematics, and Science and all statewide, standardized end-of-course assessments shall measure the content knowledge and skills a student has attained on the assessment by the use of scaled scores and achievement levels. Achievement levels shall range from 1 through 5, with level 1 being the lowest achievement level, level 5 being the highest achievement level, and level 3 indicating satisfactory performance on an assessment. For purposes of FCAT Writing, student achievement shall be scored using a scale of 1 through 6 and the score earned shall be used in calculating school grades. A score shall be designated for each subject area tested, below which score a student's performance is deemed inadequate. The school districts shall provide appropriate remedial instruction to students who score below these levels.

6. The State Board of Education shall, by rule, designate a passing score for each part of the grade 10 assessment test and end-of-course assessments. Any rule that has the effect of raising the required passing scores may apply only to students taking the assessment for the first time after the rule is adopted by the State Board of Education. Except as otherwise provided in this subparagraph and as provided in s. 1003.428(8)(b) or s. 1003.43(11)(b), students must earn a passing score on grade 10 FCAT Reading and grade 10 FCAT Mathematics or attain concordant scores as described in subsection (10) in order to qualify for a standard high school diploma.

7. In addition to designating a passing score under subparagraph 6., the State Board of Education shall also designate, by rule, a score for each statewide, standardized end-of-course assessment which indicates that a student is high achieving and has the potential to meet college-readiness standards by the time the student graduates from high school.

8. Participation in the assessment testing program is mandatory for all students attending public school, including students served in Department of Juvenile Justice programs, except as otherwise prescribed by the commissioner. A student who has not earned passing scores on the grade 10 FCAT as provided in subparagraph 6. must participate in each retake of the assessment until the student earns passing scores or achieves scores on a standardized assessment which are concordant with passing scores pursuant to subsection (10). If a student does not participate in the statewide assessment, the district must notify the student's parent and provide the parent with information regarding the implications of such nonparticipation. A parent must provide signed consent for a student to receive classroom instructional accommodations that would not be available or permitted on the statewide assessments and must acknowledge in writing that he or she understands the implications of such instructional accommodations. The State Board of Education shall adopt rules, based upon recommendations of the commissioner, for the provision of test accommodations for students in exceptional education programs and for students who have limited English proficiency. Accommodations that negate the validity of a statewide assessment are not allowable in the administration of the FCAT or an end-of-course assessment. However, instructional accommodations are allowable in the classroom if included in a student's individual education plan. Students using instructional accommodations in the classroom that are not allowable as accommodations on the FCAT or an end-of-course assessment may have the FCAT or an end-of-course assessment requirement waived pursuant to the requirements of s. 1003.428(8)(b) or s. 1003.43(11)(b).

9. A student seeking an adult high school diploma must meet the same testing requirements that a regular high school student must meet.

10. District school boards must provide instruction to prepare students in the core curricular content established in the Next Generation Sunshine State Standards adopted under s. 1003.41, including the core content knowledge and skills necessary for successful grade-to-grade progression and high school graduation. If a student is provided with instructional accommodations in the classroom that are not allowable as accommodations in the statewide assessment program, as described in the test manuals, the district must inform the parent in writing and must provide the parent with information regarding the impact on the student's ability to meet expected performance levels in reading, writing, mathematics, and science. The commissioner shall conduct studies as necessary to verify that the required core curricular content is part of the district instructional programs.

11. District school boards must provide opportunities for students to demonstrate an acceptable performance level on an alternative standardized

assessment approved by the State Board of Education following enrollment in summer academies.

12. The Department of Education must develop, or select, and implement a common battery of assessment tools that will be used in all juvenile justice programs in the state. These tools must accurately measure the core curricular content established in the Next Generation Sunshine State Standards.

13. For students seeking a special diploma pursuant to s. 1003.438, the Department of Education must develop or select and implement an alternate assessment tool that accurately measures the core curricular content established in the Next Generation Sunshine State Standards for students with disabilities under s. 1003.438.

14. The Commissioner of Education shall establish schedules for the administration of statewide assessments and the reporting of student test results. When establishing the schedules for the administration of statewide assessments, the commissioner shall consider the observance of religious and school holidays. The commissioner shall, by August 1 of each year, notify each school district in writing and publish on the department's Internet website the testing and reporting schedules for, at a minimum, the school year following the upcoming school year. The testing and reporting schedules shall require that:

a. There is the latest possible administration of statewide assessments and the earliest possible reporting to the school districts of student test results which is feasible within available technology and specific appropriations; however, test results for the FCAT must be made available no later than the week of June 8. Student results for end-of-course assessments must be provided no later than 1 week after the school district completes testing for each course. The commissioner may extend the reporting schedule under exigent circumstances.

b. FCAT Writing may not be administered earlier than the week of March 1, and a comprehensive statewide assessment of any other subject may not be administered earlier than the week of April 15.

c. A statewide, standardized end-of-course assessment is administered at the end of the course. The commissioner shall select an administration period for assessments that meets the intent of end-of-course assessments and provides student results prior to the end of the course. School districts shall administer tests in accordance with the schedule determined by the commissioner. For an end-of-course assessment administered at the end of the first semester, the commissioner shall determine the most appropriate testing dates based on a review of each school district's academic calendar.

The commissioner may, based on collaboration and input from school districts, design and implement student testing programs, for any grade level and subject area, necessary to effectively monitor educational

achievement in the state, including the measurement of educational achievement of the Next Generation Sunshine State Standards for students with disabilities. Development and refinement of assessments shall include universal design principles and accessibility standards that will prevent any unintended obstacles for students with disabilities while ensuring the validity and reliability of the test. These principles should be applicable to all technology platforms and assistive devices available for the assessments. The field testing process and psychometric analyses for the statewide assessment program must include an appropriate percentage of students with disabilities and an evaluation or determination of the effect of test items on such students.

(d) Conduct ongoing research to develop improved methods of assessing student performance, including, without limitation, the use of technology to administer tests, score, or report the results of, the use of electronic transfer of data, the development of work-product assessments, and the development of process assessments.

(e) Conduct ongoing research and analysis of student achievement data, including, without limitation, monitoring trends in student achievement by grade level and overall student achievement, identifying school programs that are successful, and analyzing correlates of school achievement.

(f) Provide technical assistance to school districts in the implementation of state and district testing programs and the use of the data produced pursuant to such programs.

(g) Beginning with the 2014-2015 school year, require that all statewide end-of-course assessments ~~shall~~ be administered online.

(7) **REQUIRED ANALYSES.**—The commissioner shall provide, at a minimum, for the following analyses of data produced by the student achievement assessment ~~testing~~ program:

(a) The statistical system for the annual assessments shall use measures of student learning, such as the FCAT, to determine teacher, school, and school district statistical distributions, which shall be determined using available data from the FCAT, and other data collection as deemed appropriate by the Department of Education, to measure the differences in student prior year achievement compared to the current year achievement for the purposes of accountability and recognition.

(b) The statistical system shall provide the best estimates of teacher, school, and school district effects on student progress. The approach used by the department shall be approved by the commissioner before implementation.

(c) The annual assessment ~~testing~~ program shall be administered to provide for valid statewide comparisons of learning gains to be made for purposes of accountability and recognition. District school boards shall not

establish school calendars that jeopardize or limit the valid testing and comparison of student learning gains.

(8) LOCAL ASSESSMENTS.—

(a) Measurement of the learning gains of students in all subjects and grade levels other than subjects and grade levels required for the state student achievement assessment testing program is the responsibility of the school districts.

Section 6. Section 1008.33, Florida Statutes, is amended to read:

1008.33 Authority to enforce public school improvement.—

(1) The State Board of Education shall comply with the federal Elementary and Secondary Education Act (ESEA), 20 U.S.C. ss. 6301 et seq., and its implementing regulations, and the ESEA flexibility waiver approved for Florida by the United States Secretary of Education. ~~The state board of Education is authorized to adopt rules in compliance with the ESEA and, after evaluating and determining that the ESEA and its implementing regulations are consistent with the statements of purpose set forth in the ESEA (2002), may adopt rules to maintain compliance with the ESEA and the ESEA flexibility waiver.~~

(2)(a) Pursuant to subsection (1) and ss. 1008.34, 1008.345, and 1008.385, the State Board of Education shall hold all school districts and public schools accountable for student performance. The state board is responsible for a state system of school improvement and education accountability that assesses student performance by school, identifies schools in which students are not making adequate progress toward state standards, and institutes appropriate measures for enforcing improvement.

(b) The state system of school improvement and education accountability must provide for uniform accountability standards, provide assistance of escalating intensity to low-performing schools, direct support to schools in order to improve and sustain performance, focus on the performance of student subgroups, and enhance student performance.

(c) School districts must be held accountable for improving the academic achievement of all students and for identifying and turning around low-performing schools.

(3)(a) The academic performance of all students has a significant effect on the state school system. Pursuant to Art. IX of the State Constitution, which prescribes the duty of the State Board of Education to supervise Florida's public school system, the state board of Education shall equitably enforce the accountability requirements of the state school system and may impose state requirements on school districts in order to improve the academic performance of all districts, schools, and students based upon the provisions of the Florida K-20 Education Code, chapters 1000-1013; ~~and the federal ESEA Elementary and Secondary Education Act, 20 U.S.C. ss. 6301 et seq., and its~~

implementing regulations; and the ESEA flexibility waiver approved for Florida by the United States Secretary of Education.

~~(b) For the purpose of determining whether a public school requires action to achieve a sufficient level of school improvement, Beginning with the 2011-2012 2010-2011 school year, the Department of Education shall annually identify each categorize a public school in need of intervention and support to improve student academic performance. All schools earning a grade of "D" or "F" pursuant to s. 1008.34 are schools in need of intervention and support in one of six categories based on the following:~~

~~1. A school's grade based upon statewide assessments administered pursuant to s. 1008.22; and~~

~~2. The level and rate of change in student performance in the areas of reading and mathematics, disaggregated into student subgroups as described in the federal Elementary and Secondary Education Act, 20 U.S.C. s. 6311(b)(2)(C)(v)(II).~~

~~(c) The state board shall adopt by rule a differentiated matrix of intervention and support strategies for assisting traditional public schools identified under this section and rules for implementing s. 1002.33(9)(n), relating to charter schools. Appropriate intervention and support strategies shall be applied to schools that require action to achieve a sufficient level of improvement as described in paragraph (b). The intervention and support strategies must address student performance and may include, including, but not limited to, improvement planning, leadership quality improvement, educator quality improvement, professional development, curriculum alignment and pacing, and the use of continuous improvement and monitoring plans and processes. In addition, the state board of Education may prescribe reporting requirements to review and monitor the progress of the schools. The rule must define the intervention and support strategies for school improvement for schools earning a grade of "D" or "F" and the roles for the district and department. The rule shall differentiate among schools earning consecutive grades of "D" or "F," or a combination thereof, and provide for more intense monitoring, intervention, and support strategies for these schools.~~

~~(4) The Department of Education shall create a matrix that reflects intervention and support strategies to address the particular needs of schools in each category.~~

~~(a) Intervention and support strategies shall be applied to schools based upon the school categorization pursuant to paragraph (3)(b). The Department of Education shall apply the most intense intervention strategies to the lowest-performing schools. For all but the lowest category and "F" schools in the second lowest category, the intervention and support strategies shall be administered solely by the districts and the schools.~~

~~(b) The lowest-performing schools are schools that are categorized pursuant to paragraph (3)(b) and have received:~~

~~1. A grade of "F" in the most recent school year and in 4 of the last 6 years; or~~

~~2. A grade of "D" or "F" in the most recent school year and meet at least three of the following criteria:~~

~~a. The percentage of students who are not proficient in reading has increased when compared to measurements taken 5 years previously;~~

~~b. The percentage of students who are not proficient in mathematics has increased when compared to measurements taken 5 years previously;~~

~~c. At least 65 percent of the school's students are not proficient in reading; or~~

~~d. At least 65 percent of the school's students are not proficient in mathematics.~~

(4)(5)(a) The state board shall apply the most intense intervention and support strategies to schools earning a grade of "F." In the first full school year after a school is initially earns a grade of "F," identified as a school in the lowest-performing category, the school district must implement intervention and support strategies prescribed in rule under paragraph (3)(c), select a turnaround option from those provided in subparagraphs (b)1.-5., and submit a plan for implementing the turnaround option to the department for approval by the state board. Upon approval by the state board, the turnaround option must be implemented in the following school year.

(b) Except as provided in subsection (5), the turnaround options available to a school district to address a school that earns a grade of "F" are a plan, which is subject to approval by the State Board of Education, for implementing one of the following options at the beginning of the next school year. The plan must be implemented unless the school moves from the lowest-performing category:

1. Convert the school to a district-managed turnaround school by means that include implementing a turnaround plan approved by the Commissioner of Education which shall become the school's improvement plan;

2. Reassign students to another school and monitor the progress of each reassigned student;

3. Close the school and reopen the school as one or more charter schools, each with a governing board that has a demonstrated record of effectiveness; or

4. Contract with an outside entity that has a demonstrated record of effectiveness to operate the school; or

5. Implement a hybrid of turnaround options set forth in subparagraphs 1.-4. or other turnaround models that have a demonstrated record of effectiveness.

(c) Except for schools required to implement a turnaround option pursuant to subsection (5), a school earning a grade of "F" shall have a planning year followed by 2 full school years to implement the initial turnaround option selected by the school district and approved by the state board. Implementation of the turnaround option is no longer required if the school improves by at least one letter grade.

(d) A school earning a grade of "F" that improves its letter grade must continue to implement strategies identified in its school improvement plan pursuant to s. 1001.42(18)(a). The department must annually review implementation of the school improvement plan for 3 years to monitor the school's continued improvement.

(e)(b) If a school earning a grade of "F" does not improve by at least one letter grade after 2 full school years of implementing the turnaround option selected by the school district under move from the lowest-performing category during the initial year of implementing one of the options in paragraph (b) (a), the school district must select a different option and submit another implementation a plan to the department for, which is subject to approval by the state board. Implementation of the approved plan must begin the State Board of Education, for implementing a different option in paragraph (a) at the beginning of the next school year following the implementation period of the existing turnaround option, unless the state board of Education determines that the school is likely to improve a letter grade move from the lowest-performing category if additional time is provided to implement the existing turnaround option intervention and support strategies. The State Board of Education shall determine whether a school district may continue to implement an option beyond 1 year while a school remains in the lowest-performing category.

(6) In order to advance to a higher category, a school must make significant progress by improving its school grade and by increasing student performance in mathematics and reading. Student performance must be evaluated for each student subgroup as set forth in paragraph (3)(b).

(5)(7) A school that earns a grade of "F" within 2 years after raising its grade from a grade of "F" or that earns a grade of "F" within 2 years after exiting the lowest-performing category under s. 3, chapter 2009-144, Laws of Florida, must implement one of the turnaround options in subparagraphs (4)(b)2.-5. Beginning July 1, 2009, the Department of Education shall commence its duties under this section.

(6) A school that earns a grade of "D" for 3 consecutive years must implement the district-managed turnaround option pursuant to subparagraph (4)(b)1. The school district must submit an implementation plan to the department for approval by the state board.

(7) A school classified in the lowest-performing category under s. 3, chapter 2009-144, Laws of Florida, before July 1, 2012, is not required to continue implementing any turnaround option unless the school earns a grade of “F” or a third consecutive “D” for the 2011-2012 school year. A school earning a grade of “F” or a third consecutive “D” for the 2011-2012 school year may not restart the number of years it has been low performing by virtue of the 2012 amendments to this section.

(8) By July 1, 2010, The state board of Education shall adopt rules pursuant to ss. 120.536(1) and 120.54 to administer this section. The rules shall include timelines for submission of implementation plans, approval criteria for implementation plans, and timelines for implementing intervention and support strategies. The state board shall consult with education stakeholders in developing the rules.

Section 7. Paragraph (c) of subsection (5) of section 1008.331, Florida Statutes, is amended to read:

1008.331 Supplemental educational services in Title I schools; school district, provider, and department responsibilities.—

(5) RESPONSIBILITIES OF THE DEPARTMENT OF EDUCATION.

(c) For the 2012-2013 school year, school districts shall may use an amount equivalent to 15 percent of the Title I, Part A funds allocated to Title I schools to meet the requirements for supplemental educational services, as provided in the Elementary and Secondary Education Act, as amended. Supplemental educational services shall be provided in Title I schools to students who are performing at Level 1 or Level 2 on the FCAT. Each school district shall contract with supplemental educational service providers that have been approved by the department.

Section 8. Section 1008.34, Florida Statutes, is amended to read:

1008.34 School grading system; school report cards; district grade.—

(1) ANNUAL REPORTS.—The Commissioner of Education shall prepare annual reports of the results of the statewide assessment program which describe student achievement in the state, each district, and each school. The commissioner shall prescribe the design and content of these reports, which must include, ~~without limitation,~~ descriptions of the performance of all schools participating in the assessment program and all of their major student populations as determined by the commissioner. The report of Education, and must also include the percent of students performing at or above grade level and making a year’s learning growth in a year’s time in reading and mathematics. ~~the median scores of all eligible students who scored at or in the lowest 25th percentile of the state in the previous school year; provided, however, that~~ The provisions of s. 1002.22 pertaining to student records apply to this section.

(2) SCHOOL GRADES.—The annual report shall identify schools as having one of the following grades, defined according to rules of the State Board of Education:

- (a) “A,” schools making excellent progress.
- (b) “B,” schools making above average progress.
- (c) “C,” schools making satisfactory progress.
- (d) “D,” schools making less than satisfactory progress.
- (e) “F,” schools failing to make adequate progress.

Each school ~~that earns designated with a grade of “A,” making excellent progress, or improves having improved at least two letter grades~~ grade levels, shall have greater authority over the allocation of the school’s total budget generated from the FEFP, state categoricals, lottery funds, grants, and local funds, as specified in state board rule. The rule must provide that the increased budget authority shall remain in effect until the school’s grade declines.

(3) DESIGNATION OF SCHOOL GRADES.—

(a) Each school that has students who are tested and included in the school grading system shall receive a school grade, except as follows:

1. A school shall not receive a school grade if the number of its students tested and included in the school grading system is less than the minimum sample size necessary, based on accepted professional practice, for statistical reliability and prevention of the unlawful release of personally identifiable student data under s. 1002.22 or 20 U.S.C. s. 1232g.

2. An alternative school may choose to receive a school grade under this section or a school improvement rating under s. 1008.341. For charter schools that meet the definition of an alternative school pursuant to State Board of Education rule, the decision to receive a school grade is the decision of the charter school governing board.

3. A school that serves any combination of students in kindergarten through grade 3 which does not receive a school grade because its students are not tested and included in the school grading system shall receive the school grade designation of a K-3 feeder pattern school identified by the Department of Education and verified by the school district. A school feeder pattern exists if at least 60 percent of the students in the school serving a combination of students in kindergarten through grade 3 are scheduled to be assigned to the graded school.

(b)1. A school’s grade shall be based on a combination of:

a. Student achievement scores, including achievement as measured by ~~on all~~ FCAT assessments administered under s. 1008.22(3)(c)1., statewide, standardized end-of-course assessments administered under s. 1008.22(3)(c) 2.a. and b. ~~1008.22(3)(c)2.a.~~, and achievement scores for students seeking a special diploma.

b. Student learning gains in reading and mathematics as measured by FCAT and statewide, standardized end-of-course assessments, as described in s. 1008.22(3)(c)1. and 2.a., including learning gains for students seeking a special diploma, as measured by an alternate assessment tool, ~~shall be included not later than the 2009-2010 school year.~~

c. Improvement of the lowest 25th percentile of students in the school in reading and mathematics on the FCAT or end-of-course assessments described in s. 1008.22(3)(c)2.a., unless these students are exhibiting satisfactory performance.

2. Beginning with the 2011-2012 school year, for schools comprised of middle school grades 6 through 8 or grades 7 and 8, the school's grade shall include the performance and participation of its students enrolled in high school level courses with end-of-course assessments administered under s. 1008.22(3)(c)2.a. Performance and participation must be weighted equally. As valid data becomes available, the school grades shall include the students' attainment of national industry certification identified in the Industry Certification Funding List pursuant to rules adopted by the state board of Education.

3. Beginning with the 2009-2010 school year for schools comprised of high school grades 9, 10, 11, and 12, or grades 10, 11, and 12, at least 50 percent of the school grade shall be based on a combination of the factors listed in sub-subparagraphs 1.a.-c. and the remaining percentage ~~50 percent~~ on the following factors:

a. The high school graduation rate of the school;

b. As valid data becomes available, the performance and participation of the school's students in College Board Advanced Placement courses, International Baccalaureate courses, dual enrollment courses, and Advanced International Certificate of Education courses; and the students' achievement of national industry certification identified in the Industry Certification Funding List, pursuant to rules adopted by the state board of Education;

c. Postsecondary readiness of all of the school's on-time graduates students as measured by the SAT, the ACT, the Postsecondary Education Readiness Test, or the common placement test;

d. The high school graduation rate of at-risk students, who are students scoring who scored at Level 1 or Level 2 or lower on the grade 8 FCAT Reading and FCAT Mathematics examinations;

e. As valid data becomes available, the performance of the school's students on statewide, standardized end-of-course assessments administered under s. 1008.22(3)(c)2.c. and d.; and

f. The growth or decline in the components listed in sub-subparagraphs a.-e. from year to year.

(c) Student assessment data used in determining school grades shall include:

1. The aggregate scores of all eligible students enrolled in the school who have been assessed on the FCAT and statewide, standardized end-of-course assessments in courses required for high school graduation, including, beginning with the ~~2011-2012~~ 2010-2011 school year, the end-of-course assessment in Algebra I; and beginning with the ~~2012-2013~~ 2011-2012 school year, the end-of-course assessments in geometry and Biology I; and beginning with the ~~2014-2015~~ 2013-2014 school year, on the statewide, standardized end-of-course assessment in civics education at the middle school level.

2. The aggregate scores of all eligible students enrolled in the school who have been assessed on the FCAT and statewide, standardized end-of-course assessments as described in s. 1008.22(3)(c)2.a., and who have scored at or in the lowest 25th percentile of students in the school in reading and mathematics, unless these students are exhibiting satisfactory performance.

3. The achievement scores and learning gains of eligible students attending alternative schools that provide dropout prevention and academic intervention services pursuant to s. 1003.53. The term "eligible students" in this subparagraph does not include students attending an alternative school who are subject to district school board policies for expulsion for repeated or serious offenses, who are in dropout retrieval programs serving students who have officially been designated as dropouts, or who are in programs operated or contracted by the Department of Juvenile Justice. The student performance data for eligible students identified in this subparagraph shall be included in the calculation of the home school's grade. As used in this subparagraph and s. 1008.341, the term "home school" means the school to which the student would be assigned if the student were not assigned to an alternative school. If an alternative school chooses to be graded under this section, student performance data for eligible students identified in this subparagraph shall not be included in the home school's grade but shall be included only in the calculation of the alternative school's grade. A school district that fails to assign the FCAT and statewide, standardized end-of-course assessment as described in s. 1008.22(3)(c)2.a. scores of each of its students to his or her home school or to the alternative school that receives a grade shall forfeit Florida School Recognition Program funds for 1 fiscal year. School districts must require collaboration between the home school and the alternative school in order to promote student success. This collaboration must include an annual discussion between the principal of the alternative

school and the principal of each student's home school concerning the most appropriate school assignment of the student.

4. The achievement scores and learning gains of students designated as hospital- or homebound. Student assessment data for students designated as hospital- or homebound shall be assigned to their home school for the purposes of school grades. As used in this subparagraph, the term "home school" means the school to which a student would be assigned if the student were not assigned to a hospital- or homebound program.

5. For schools comprised of high school grades 9, 10, 11, and 12, or grades 10, 11, and 12, the data listed in subparagraphs 1.-3. and the following data as the Department of Education determines such data are valid and available:

a. The high school graduation rate of the school as calculated by the department of ~~Education~~;

b. The participation rate of all eligible students enrolled in the school and enrolled in College Board Advanced Placement courses; International Baccalaureate courses; dual enrollment courses; Advanced International Certificate of Education courses; and courses or sequences of courses leading to national industry certification identified in the Industry Certification Funding List, pursuant to rules adopted by the State Board of Education;

c. The aggregate scores of all eligible students enrolled in the school in College Board Advanced Placement courses, International Baccalaureate courses, and Advanced International Certificate of Education courses;

d. Earning of college credit by all eligible students enrolled in the school in dual enrollment programs under s. 1007.271;

e. Earning of a national industry certification identified in the Industry Certification Funding List, pursuant to rules adopted by the State Board of Education;

f. The aggregate scores of all eligible students enrolled in the school in reading, mathematics, and other subjects as measured by the SAT, the ACT, the Postsecondary Education Readiness Test, and the common placement test for postsecondary readiness;

g. The high school graduation rate of all eligible at-risk students enrolled in the school who scored at Level 2 or lower on the grade 8 FCAT Reading and FCAT Mathematics examinations;

h. The performance of the school's students on statewide, standardized end-of-course assessments administered under s. 1008.22(3)(c)2.c. and d.; and

i. The growth or decline in the data components listed in sub-subparagraphs a.-h. from year to year.

The State Board of Education shall adopt appropriate criteria for each school grade. The criteria must also give added weight to student achievement in reading. Schools earning designated with a grade of “C,” making satisfactory progress, shall be required to demonstrate that adequate progress has been made by students in the school who are in the lowest 25th percentile in reading and mathematics on the FCAT and end-of-course assessments as described in s. 1008.22(3)(c)2.a., unless these students are exhibiting satisfactory performance. ~~Beginning with the 2009-2010 school year~~ For schools comprised of high school grades 9, 10, 11, and 12, or grades 10, 11, and 12, the criteria for school grades must also give added weight to the graduation rate of all eligible at-risk students, as defined in this paragraph. ~~Beginning in the 2009-2010 school year,~~ In order for a high school to earn be designated as having a grade of “A,” making excellent progress, the school must demonstrate that its at-risk students, as defined in this paragraph, in the school are making adequate progress.

(4) SCHOOL IMPROVEMENT RATINGS.—The annual report shall identify each school’s performance as having improved, remained the same, or declined. This school improvement rating shall be based on a comparison of the current year’s and previous year’s student and school performance data. A school ~~Schools that improves its rating by~~ improve at least one grade level ~~is~~ are eligible for school recognition awards pursuant to s. 1008.36.

(5) SCHOOL REPORT CARD.—The Department of Education shall annually develop, in collaboration with the school districts, a school report card to be provided by the school district delivered to parents within the ~~throughout each school~~ district. The report card shall include the school’s grade, information regarding school improvement, an explanation of school performance as evaluated by the federal Elementary and Secondary Education Act (ESEA), 20 U.S.C. ss. 6301 et seq. ~~No Child Left Behind Act of 2001,~~ and indicators of return on investment. Each school’s report card shall be published annually by the department on its website, ~~and the school district shall provide the school report card to each parent.~~

(6) PERFORMANCE-BASED FUNDING.—The Legislature may factor in the performance of schools in calculating any performance-based funding policy that is provided for annually in the General Appropriations Act.

(7) DISTRICT GRADE.—The annual report required by subsection (1) shall include the school district’s grade. A school district’s grade shall be calculated using student performance and learning gains data on statewide assessments used for determining school grades under subparagraph (3)(b)1. for each eligible student enrolled for a full school year in the district. This calculation methodology captures each eligible student in the district who may have transferred among schools within the district or is enrolled in a school that does not receive a grade ~~district grades, which shall consist of weighted district average grades, by level, for all elementary schools, middle schools, and high schools in the district. A district’s weighted average grade~~

~~shall be calculated by weighting individual school grades determined pursuant to subsection (2) by school enrollment.~~

(8) RULES.—The State Board of Education shall adopt rules under ss. 120.536(1) and 120.54 to administer this section.

Section 9. Paragraph (d) of subsection (6) and paragraph (b) of subsection (7) of section 1008.345, Florida Statutes, are amended to read:

1008.345 Implementation of state system of school improvement and education accountability.—

(6)

(d) The commissioner shall assign a community assessment team to each school district or governing board with a school that earned a grade of graded “F” or three consecutive grades of “D” pursuant to s. 1008.34 ~~a school in the lowest performing category pursuant to s. 1008.33~~ to review the school performance data and determine causes for the low performance, including the role of school, area, and district administrative personnel. The community assessment team shall review a high school’s graduation rate calculated without GED tests for the past 3 years, disaggregated by student ethnicity. The team shall make recommendations to the school board or the governing board and to the State Board of Education which address the causes of the school’s low performance and may be incorporated into the school improvement plan. The assessment team shall include, but not be limited to, a department representative, parents, business representatives, educators, representatives of local governments, and community activists, and shall represent the demographics of the community from which they are appointed.

(7) As a part of the system of educational accountability, the Department of Education shall:

(b) Administer the statewide assessment ~~testing~~ program created by s. 1008.22.

Section 10. Section 1012.07, Florida Statutes, is amended to read:

1012.07 Identification of critical teacher shortage areas.—The term “critical teacher shortage area” means high-need content areas and high-priority location areas identified by the State Board of Education. The State Board of Education shall adopt rules pursuant to ss. 120.536(1) and 120.54 necessary to annually identify critical teacher shortage areas. The state board must consider current and emerging educational requirements and workforce demands in determining critical teacher shortage areas. School grade levels may also be designated critical teacher shortage areas. Individual district school boards may identify and submit other critical teacher shortage areas. Such submissions must be aligned to current and emerging educational requirements and workforce demands in order to be approved by the State Board of Education. High-priority location areas shall

be in high-density, low-economic urban schools; low-density, low-economic rural schools; and schools that earned a grade of “F” or three consecutive grades of “D” pursuant to s. 1008.34 ~~identified as lowest performing under s. 1008.33 (4)(b).~~

Section 11. Paragraph (c) of subsection (1) of section 1012.22, Florida Statutes, is amended to read:

1012.22 Public school personnel; powers and duties of the district school board.—The district school board shall:

(1) Designate positions to be filled, prescribe qualifications for those positions, and provide for the appointment, compensation, promotion, suspension, and dismissal of employees as follows, subject to the requirements of this chapter:

(c) Compensation and salary schedules.—

1. Definitions.—As used in this paragraph:

a. “Adjustment” means an addition to the base salary schedule that is not a bonus and becomes part of the employee’s permanent base salary and shall be considered compensation under s. 121.021(22).

b. “Grandfathered salary schedule” means the salary schedule or schedules adopted by a district school board before July 1, 2014, pursuant to subparagraph 4.

c. “Instructional personnel” means instructional personnel as defined in s. 1012.01(2)(a)-(d), excluding substitute teachers.

d. “Performance salary schedule” means the salary schedule or schedules adopted by a district school board pursuant to subparagraph 5.

e. “Salary schedule” means the schedule or schedules used to provide the base salary for district school board personnel.

f. “School administrator” means a school administrator as defined in s. 1012.01(3)(c).

g. “Supplement” means an annual addition to the base salary for the term of the negotiated supplement as long as the employee continues his or her employment for the purpose of the supplement. A supplement does not become part of the employee’s continuing base salary but shall be considered compensation under s. 121.021(22).

2. Cost-of-living adjustment.—A district school board may provide a cost-of-living salary adjustment if the adjustment:

a. Does not discriminate among comparable classes of employees based upon the salary schedule under which they are compensated.

b. Does not exceed 50 percent of the annual adjustment provided to instructional personnel rated as effective.

3. Advanced degrees.—A district school board may not use advanced degrees in setting a salary schedule for instructional personnel or school administrators hired on or after July 1, 2011, unless the advanced degree is held in the individual's area of certification and is only a salary supplement.

4. Grandfathered salary schedule.—

a. The district school board shall adopt a salary schedule or salary schedules to be used as the basis for paying all school employees hired before July 1, 2014. Instructional personnel on annual contract as of July 1, 2014, shall be placed on the performance salary schedule adopted under subparagraph 5. Instructional personnel on continuing contract or professional service contract may opt into the performance salary schedule if the employee relinquishes such contract and agrees to be employed on an annual contract under s. 1012.335. Such an employee shall be placed on the performance salary schedule and may not return to continuing contract or professional service contract status. Any employee who opts into the performance salary schedule may not return to the grandfathered salary schedule.

b. In determining the grandfathered salary schedule for instructional personnel, a district school board must base a portion of each employee's compensation upon performance demonstrated under s. 1012.34 and shall provide differentiated pay for both instructional personnel and school administrators based upon district-determined factors, including, but not limited to, additional responsibilities, school demographics, critical shortage areas, and level of job performance difficulties.

5. Performance salary schedule.—By July 1, 2014, the district school board shall adopt a performance salary schedule that provides annual salary adjustments for instructional personnel and school administrators based upon performance determined under s. 1012.34. Employees hired on or after July 1, 2014, or employees who choose to move from the grandfathered salary schedule to the performance salary schedule shall be compensated pursuant to the performance salary schedule once they have received the appropriate performance evaluation for this purpose. However, a classroom teacher whose performance evaluation utilizes student learning growth measures established under s. 1012.34(7)(e) shall remain under the grandfathered salary schedule until his or her teaching assignment changes to a subject for which there is an assessment or the school district establishes equally appropriate measures of student learning growth as defined under s. 1012.34 and rules of the State Board of Education.

a. Base salary.—The base salary shall be established as follows:

(I) The base salary for instructional personnel or school administrators who opt into the performance salary schedule shall be the salary paid in the prior year, including adjustments only.

(II) Beginning July 1, 2014, instructional personnel or school administrators new to the district, returning to the district after a break in service without an authorized leave of absence, or appointed for the first time to a position in the district in the capacity of instructional personnel or school administrator shall be placed on the performance salary schedule.

b. Salary adjustments.—Salary adjustments for highly effective or effective performance shall be established as follows:

(I) The annual salary adjustment under the performance salary schedule for an employee rated as highly effective must be greater than the highest annual salary adjustment available to an employee of the same classification through any other salary schedule adopted by the district.

(II) The annual salary adjustment under the performance salary schedule for an employee rated as effective must be equal to at least 50 percent and no more than 75 percent of the annual adjustment provided for a highly effective employee of the same classification.

(III) The performance salary schedule shall not provide an annual salary adjustment for an employee who receives a rating other than highly effective or effective for the year.

c. Salary supplements.—In addition to the salary adjustments, each district school board shall provide for salary supplements for activities that must include, but are not limited to:

(I) Assignment to a Title I eligible school.

(II) Assignment to a school that earned a grade of “F” or three consecutive grades of “D” pursuant to s. 1008.34 in the bottom two categories of the school improvement system under s. 1008.33 such that the supplement remains in force for at least 1 year following improved performance in that school.

(III) Certification and teaching in critical teacher shortage areas. State-wide critical teacher shortage areas shall be identified by the State Board of Education under s. 1012.07. However, the district school board may identify other areas of critical shortage within the school district for purposes of this sub-sub-subparagraph and may remove areas identified by the state board which do not apply within the school district.

(IV) Assignment of additional academic responsibilities.

If budget constraints in any given year limit a district school board’s ability to fully fund all adopted salary schedules, the performance salary schedule shall not be reduced on the basis of total cost or the value of individual

awards in a manner that is proportionally greater than reductions to any other salary schedules adopted by the district.

Section 12. Subsection (2) of section 1012.2315, Florida Statutes, is amended to read:

1012.2315 Assignment of teachers.—

(2) ~~ASSIGNMENT TO SCHOOLS GRADED “D” or “F” CATEGORIZED AS IN NEED OF IMPROVEMENT.~~—School districts may not assign a higher percentage than the school district average of temporarily certified teachers, teachers in need of improvement, or out-of-field teachers to schools graded “D” or “F” pursuant to s. 1008.34 in one of the three lowest performing categories under s. 1008.33(3)(b). Each school district shall annually certify to the Commissioner of Education that this requirement has been met. If the commissioner determines that a school district is not in compliance with this subsection, the State Board of Education shall be notified and shall take action pursuant to s. 1008.32 in the next regularly scheduled meeting to require compliance.

Section 13. This act shall take effect July 1, 2012.

Approved by the Governor April 27, 2012.

Filed in Office Secretary of State April 27, 2012.