

Notice of Proposed Rule

DEPARTMENT OF EDUCATION

State Board of Education

RULE NO.: RULE TITLE:

6A-1.09981 Implementation of Florida's System of School Improvement and Accountability

PURPOSE AND EFFECT: The purpose and effect of this rule revision is to conform the rule to statutory changes by creating a new school grades calculation model for all schools and a new district grades model for all districts.

SUMMARY: The proposed rule provides school and district grading definitions and policies, including the components of the school and district grading systems, the processes for calculating grades, requirements for receiving an A, B, C, D, or F grade, and processes for school districts to review data and provide corrected data to the Department. The rule is substantially rewritten.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION: The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has been prepared by the Agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs. More specifically, the agency intends to implement the rule with existing staff and the proposal does not increase the reporting requirements or any other requirements on districts. It is anticipated that districts may incur some indeterminate level of costs educating staff on the new rule.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 1001.02, 1008.22 (12), 1008.34, 1008.3415, 1008.345 FS.

LAW IMPLEMENTED: 1008.34, 1008.3415, 1008.345 FS.

A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:

DATE AND TIME: January 6, 2016, 9:00 a.m.

PLACE: Room LL03, The Capitol, 400 South Monroe Street, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Jane Fletcher, Assistant Deputy Commissioner, Office of Accountability and Policy Research, Division of Accountability, Research, and Measurement, Florida Department of Education, 325 West Gaines Street, Suite 514, Tallahassee, Florida 32399-0400, (850)245-0437

THE FULL TEXT OF THE PROPOSED RULE IS:

Substantial rewording of Rule 6A-1.09981 follows. See Florida Administrative Code for present text.

6A-1.09981 School and District Implementation of Florida's System of School Improvement and Accountability.

(1) Purpose. The purpose of this rule is to provide the definitions and policies for school and district grades accountability systems.

(2) Definitions. For the purpose of this rule, the following definitions shall apply:

(a) "Full-year-enrolled student" means a student who is present for both the second and third period full-time equivalent (FTE) student membership surveys as specified in Rule 6A-1.0451, F.A.C., and who is still enrolled at the time of statewide standardized testing.

(b) "Learning gains" means that the student demonstrates growth from one year to the next year sufficient to meet the criteria below. Learning gains may be demonstrated in English Language Arts and Mathematics. Students may demonstrate learning gains in four (4) different ways.

1. Students who increase at least one (1) achievement level on the statewide standardized assessment in the same subject area.

2. Students who scored below Achievement Level 3 on the statewide standardized assessment in the prior year and who advance from one subcategory within Achievement Level 1 or 2 in the prior year to a higher subcategory in the current year in same subject area. Achievement Level 1 is comprised of three (3) equal subcategories and

Achievement Level 2 is comprised of two (2) equal subcategories. Subcategories are determined by dividing the scale of Achievement Level 1 into three (3) equal parts and dividing the scale of Achievement Level 2 into two (2) equal parts. If the scale range cannot be evenly divided into three (3) equal parts for Achievement Level 1 or into two (2) equal parts for Achievement Level 2, no subcategory may be more than one (1) scale score point larger than the other subcategories; the highest subcategories shall be the smallest.

3. Students whose score remained at Achievement Level 3 or 4 on the statewide standardized assessment in the current year and whose scale score is greater in the current year than the prior year in the same subject area. This does not apply to students who scored in a different achievement level in the prior year in the same subject area; and

4. Students who scored at Achievement Level 5 in the prior year on the statewide standardized assessment and who score in the same Achievement Level in the current year in the same subject area.

(c) "Passing" means that the student must attain a statewide standardized assessment score of Achievement Level 3 or higher, except for the 2014-15 school year; for the Florida Alternate Assessment, a student must score at Level 4 or higher.

(d) "School grade component" means the areas listed in paragraphs (4)(a), (4)(b), and (4)(c) of this rule.

(e) "School grades school year" means the fall, winter, spring, and the preceding summer for the purposes of the school grades calculation.

(f) "Statewide standardized assessments" means the assessments required in Section 1008.22(3), F.S., including the comprehensive statewide assessments, the end-of-course assessments, and the Florida Alternate Assessment.

(g) "Students in the lowest twenty-five (25) percent" means current year full-year-enrolled students whose prior year assessment scores are in the lowest performing twenty-five (25) percent on the statewide standardized assessments in the subject areas of English Language Arts or Mathematics for each school.

(h) "Subject areas" means the four (4) areas of English Language Arts (English Language Arts in grades 3 through 10), Mathematics (Mathematics in grades 3 through 8, Algebra 1, Geometry, and Algebra 2), Science (Science in grades 5 and 8, and Biology 1), and Social Studies (Civics and U.S. History).

(3) School Accountability Framework.

(a) Each school shall be assigned a letter grade of A, B, C, D, or F annually.

(b) A school shall receive a grade based solely on the components for which it has sufficient data. Sufficient data exists when at least ten (10) students are eligible for inclusion in the calculation of the component. If a school has less than ten (10) eligible students with data for a particular component, that component shall not be calculated for the school.

(c) Student performance data for alternative schools that choose to receive a school improvement rating and are not charter schools shall be included in the school grade of the student's home-zoned school. This data is limited to the components listed in paragraph (4)(a) of this rule.

(d) Student performance data for hospital and homebound students shall be included in the school grade of the student's home-zoned school. This data is limited to the components listed in paragraph (4)(a) of this rule.

(e) To ensure that student data accurately represent school performance, schools shall assess at least ninety-five (95) percent of their students to qualify for a school grade, unless the school only has sufficient data for the components found in paragraphs (4)(b) and (c) of this rule.

(f) To be included as an assessed student, in the percent-tested measure, a student must be enrolled during the third period full-time equivalent (FTE) student membership survey, as specified in Rule 6A-1.0451, F.A.C., enrolled at the time of testing, and assessed on the statewide standardized assessments or the English Language Proficiency Assessment, for a student who is a first year English Language Learner as provided in Rule 6A-1.09432, F.A.C., and did not take the English Language Arts statewide assessment.

(g) English Language Learners, as defined in Rule 6A-6.0901, F.A.C., shall be included in the achievement components in subparagraphs (4)(a)1.-4. of this rule, once they have been enrolled in school in the United States for two (2) years. English Language Learners will be included in the learning gains components in subparagraphs (4)(a)5.-8. of this rule, beginning with their first year in school in the United States. For English Language Learners in their first year in school in the United States, who do not take the statewide standardized English Language Arts assessment, an English Language Arts linked score will be calculated for them based on their English Language Proficiency Assessment results. This linked score will be used as the prior year score in the learning gains calculation.

(h) High school students' statewide end-of-course assessment scores used for achievement and learning gains measures will be scores for the assessments administered to students for the first time in high school and must be for a course in which the student was enrolled. If a student took the assessment for the first time in high school and then retaken the assessment during the same school grades school year while enrolled in the course, the highest score will be included in the calculation.

(i) Middle school students' statewide end-of-course assessment scores used for achievement, learning gains, and middle school component measures will be scores for a course in which the student was enrolled. If a student retaken the assessment during the same school grades school year while enrolled in the course, the highest score will be included in the calculation.

(4) School Grading System. The school grade components shall be calculated as a percentage, with the possible points listed by the component.

(a) School Grading Components for all Schools.

1. English Language Arts Achievement. (100 points) The percentage of full-year-enrolled students who took and passed a statewide standardized assessment for grades 3 through 10 in English Language Arts or the Florida Alternate Assessment in Reading.

2. Mathematics Achievement (100 points). The percentage of full-year-enrolled students who took and passed the statewide standardized assessment in Mathematics for grades 3 through 8, the statewide standardized end-of-course assessment in Algebra 1, Geometry, or Algebra 2, or the Florida Alternate Assessment in Mathematics. If a student is enrolled in more than one (1) mathematics course that has an associated statewide standardized assessment, the student's highest score shall be used in the calculation.

3. Science Achievement. (100 points) The percentage of full-year-enrolled students who took and passed the statewide standardized assessment in Science for grades 5 or 8, the statewide standardized end-of-course assessment in Biology 1, or the Florida Alternate Assessment in Science.

4. Social Studies Achievement. (100 points) The percentage of full-year-enrolled students who took and passed the statewide standardized end-of-course assessment in Civics or U.S. History. If a student is enrolled in more than one (1) social studies course that has an associated statewide end-of-course assessment, the student's highest score shall be used in the calculation.

5. Learning gains in English Language Arts. (100 points) The percentage of full-year-enrolled students demonstrating learning gains in English Language Arts.

6. Learning gains in Mathematics. (100 points) The percentage of full-year-enrolled students demonstrating learning gains in Mathematics.

7. Learning gains of the lowest twenty-five (25) percent of students in English Language Arts. (100 points) The percentage of full-year-enrolled students who scored in the lowest twenty-five (25) percent in the prior year who demonstrated current year learning gains in English Language Arts.

8. Learning gains of the lowest twenty-five (25) percent of students in Mathematics. (100 points) The percentage of full-year-enrolled students who scored in the lowest twenty-five (25) percent in the prior year who demonstrated current year learning gains in Mathematics.

(b) School Grading Component for Middle Schools. (100 points) The middle school grading component shall be calculated for schools comprised of grades 6, 7, and 8 and schools comprised of grades 7 and 8. In addition, if a school includes grades 6, 7, and 8 or grades 7 and 8 with other grade levels, that school shall be included in the middle school component.

1. An eligible student for this component is a full-year-enrolled student, who is a current year grade 8 student who scored at or above Achievement Level 3 on the Mathematics statewide standardized assessments in the prior year, or is a full-year-enrolled student in grade 6, 7, or 8, who took a high school level statewide standardized end-of-course assessment or an industry certification identified in the industry certification funding list adopted in Rule 6A-6.0573, F.A.C.

2. The middle school component shall be calculated as the percentage of eligible students who passed one (1) or more high school level statewide standardized end-of-course assessments in Algebra 1, Geometry, Algebra 2, Biology 1, or U.S. History; or who earned a high school industry certification, identified in the Industry Certification Funding List adopted in Rule 6A-6.0573, F.A.C.

3. For the purpose of calculating the middle school component, a student shall be included no more than once.

(c) School Grading Components for High Schools. The high school grading component shall be calculated for schools comprised of grades 9, 10, 11, and 12 or grades 10, 11, and 12. In addition, if a school includes grades 9, 10, 11, and 12 or grades 10, 11, and 12, with other grade levels, that school shall be included for the high school grading component. In addition, schools comprised of grades 11 and 12 shall be eligible for the high school grading component. High school grades shall include the following components.

1. Graduation Rate. (100 points) The four-year high school graduation rate of the school as measured according to 34 CFR § 200.19, Other Academic Indicators, effective November 28, 2008, (<http://www.flrules.org/Gateway/reference.asp?No=Ref-01332>) and referred to as the four-year adjusted cohort graduation rate. This federal regulation is incorporated by reference and may be obtained by contacting the Division of Accountability, Research, and Measurement, Department of Education, 325 West Gaines Street, Tallahassee, Florida 32399.

2. College and Career Acceleration. (100 points) The percentage of students included as graduates in the graduation rate from subparagraph (4)(c)1. of this rule, who, while in high school, earned the following:

a. A score making them eligible to earn college credit through College Board Advanced Placement (AP) examinations, International Baccalaureate (IB) examinations, or Advanced International Certificate of Education (AICE) examinations according to the requirements of Rule 6A-10.024, F.A.C.;

b. College credit through dual enrollment courses according to the requirements of Rule 6A-14.064, F.A.C.; or

c. Career and Professional Education (CAPE) industry certification or a CAPE acceleration industry certification identified in the Industry Certification Funding List adopted in Rule 6A-6.0573, F.A.C.

For the purpose of calculating a school's college and career acceleration component, a student shall be included no more than once.

(d) Procedures for Calculating School Grades.

1. A school letter grade of A, B, C, D, or F shall be calculated based on the percentage of possible points earned by each school for the components applicable to the school. In the calculation of a school's grade, 100 points are available for each component with sufficient data, with one (1) point earned for each percentage of students meeting the criteria for the component. The points earned for each component shall be expressed as whole numbers by rounding the percentages. Percentages with a value of .5 or greater will be rounded up to the nearest whole number, and percentages with a value of less than .5 will be rounded down to the nearest whole number.

2. The school's grade is determined by summing the points earned for each component and dividing this sum by the total number of available points for all components with sufficient data. The percentage resulting from this calculation shall be expressed as a whole number using the rounding convention described in this subparagraph.

3. Letter grades shall be assigned to schools based on the percentage of total applicable points earned as follows:

a. Sixty-two (62) percent of total applicable points or higher equals a letter grade of A;

b. Fifty-four (54) to sixty-one (61) percent of total applicable points equals a letter grade of B;

c. Forty-one (41) to fifty-three (53) percent of total applicable points equals a letter grade of C;

d. Thirty-two (32) to forty (40) percent of total applicable points equals a letter grade of D; and

e. Thirty-one (31) percent of total applicable points or less equals a letter grade of F.

(5) District Grading System. The Commissioner shall assign a letter grade of A, B, C, D, or F to each school district annually as provided in Section 1008.34(5), F.S., based on the components in subsection (4) of this rule and the processes in subsections (2) and (3). In addition to the students included in the district's schools' grades, students who were not full-year-enrolled at a school but who were full-year-enrolled within the district shall be included in the district's grade.

(6) Withholding or Revoking a Grade. Notwithstanding paragraph (3)(a) and subsection (5) of this rule, a school or district grade shall be withheld or revoked, and designated as incomplete, (I), if the data does not accurately represent the progress of the school or district.

(a) The circumstances where data does not accurately represent the progress of a school or district are where:

1. The percent of students tested at the school or district is less than ninety-five (95) percent of the school's or district's eligible student population; or

2. Before, during, or following the administration of any state assessment, the validity or integrity of the test administration or results are under review and investigation based upon allegations of test administration and security violations as described in Section 1008.24, F.S. or Rule 6A-10.042, F.A.C.

(b) Upon conclusion of the review and investigation, and a determination by the Department that the data accurately represent the progress of the school or district, the Department shall assign a letter grade to the school or district, based upon the provisions of this rule.

(7) School District Responsibility and Review Process.

(a) Each school district shall be responsible for providing to the Department accurate, complete, and timely school district data so that the Department can calculate school grades in accordance with the requirements of this rule and Section 1008.34, F.S.

(b) Each school district superintendent shall designate a school accountability contact person who is responsible for verifying the data submitted to the Department for use in school grades.

(c) Based upon the data provided by school districts, the Department shall create data files from which grades will be calculated and provide districts the opportunity to review these files and make corrections, updates, and provide additional matches.

(d) Subsequent to the review process described in paragraph (7)(c) of this rule, the Department shall provide school districts preliminary school grades for the schools in the district.

(e) Districts shall be afforded an opportunity to contest or appeal a preliminary school grade within thirty (30) days of the release of the preliminary school grade.

(f) A successful grade appeal requires that the district clearly demonstrate the following:

1. Due to the omission of student data, a data miscalculation, or a special circumstance beyond the control of the district, a different grade would be assigned to a school; or

2. Where the percent of students tested is less than ninety-five (95) percent at a school and the school did not receive a grade, that the student data accurately represents the progress of the school.

(g) An appeal shall not be granted under the following circumstances:

1. It was not timely received;

2. It was not submitted by the district superintendent;

3. It would not result in a different grade, if granted;

4. It relies upon data that the district had the opportunity to correct but failed to do so, under the process described in paragraph (7)(c) of this rule or the data reporting processes as defined in Rule 6A-1.0014, Comprehensive Management Information Systems.

(h) In order to ensure that districts have the opportunity to submit and review data upon which grades are calculated, the Department shall annually publish at www.schoolgrades.fldoe.org, the timeframes and deadlines for these activities. Districts shall be afforded a minimum of fourteen (14) days to submit corrections as a result of the review opportunity set forth in paragraph (7)(c) of this rule.

Rulemaking Authority 1001.02, 1008.22, 1008.34, 1008.345 FS. Law Implemented 1008.22, 1008.34, 1008.345, 1008.36 FS. History--New 10-11-93, Amended 12-19-95, 3-3-97, 1-24-99, 2-2-00, 2-11-02, 12-23-03, 5-15-06, 6-19-08, 11-26-08, 11-12-09, 6-21-11, 7-16-12, 1-17-13, 5-21-13, 12-3-13, _____

NAME OF PERSON ORIGINATING PROPOSED RULE: Juan Copa, Deputy Commissioner, Division of Accountability, Research and Measurement

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Pam Stewart, Commissioner, Department of Education.

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 8, 2015

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: October 13, 2015