

## 2016 Legislation regarding Middle/High School Athletics – HB 7029

### Substantive Changes (changes in current practice)

1. **Eligibility of students who transfer** is immediate, with certain limiting conditions
  - a. School Districts, FHSAA, Charter Schools may NOT delay eligibility if student changes schools due to controlled open enrollment or choice. New controlled open enrollment provisions go into effect in 2017-18.
  - b. Students may not participate in the same sport in the same year at more than one school (see list of exceptions below that are clarifying language)
  - c. Mid-season transfers may seek to immediately join a team under certain conditions:
    - i. Roster for the sport has not reached maximum size
    - ii. Coach determines student has skill and ability
    - iii. May not participate if already participated in same sport at another school that same year – unless meeting exception list (military, foster placement, court-order, school district placement by policy).
2. **Recruiting** punishments have been increased and burden of proof has been decreased.
  - a. Recruiting violations targeting school district employees and contractors include incremental punishments: First offense: \$5,000 forfeiture of salary payments: Second offense: suspension without pay from coaching for 12 months and \$5,000 forfeiture of salary payments; Third offense: \$5,000 forfeiture of salary payment and automatic review of teaching certificate (if probable cause is found, certificate shall be revoked for 3 years). *Important to note these are not fines to be collected by FHSAA*
  - b. Recruiting will be determined by a “preponderance” of evidence rather than “clear and convincing” evidence – this establishes a lower burden of proof
3. **Definition of “participation”** -in regard to required medical forms - has been expanded to include off-season conditioning, summer workouts, and preseason conditioning, regardless of whether student has been placed on a team.
4. **Non-member, small private schools** (125 students or less) may now participate at zoned public school in whatever sport(s) their private school does not offer.
5. District School Board, Charter Schools, and Private Schools must **include student eligibility standards and related disciplinary actions in Student Code of Conduct** – specifics to be included are in new statute 1006.195
6. FHSAA must allow **private schools an option of full membership or joining by sport** and simultaneously maintain membership in another association. The FHSAA may allow a public school the option to apply for consideration to join another athletic association.

### Clarifying Language:

1. Throughout the statute, references to the controlled open enrollment statute 1002.31 replace the terminology “approval by district or inter-district controlled open enrollment provisions”
2. A student may transfer and participate in a sport (mid-season) even if they participated at another school if they meet one of the following criteria (all of these are current practice):
  - a. Children of active duty military whose move resulted from military orders
  - b. Children relocated due to foster care placement
  - c. Children who move due to a court-ordered change in custody due to separation or divorce, or serious illness or death of a custodial parent.
  - d. Good cause policy in district or charter (district placement)

## 2016 Legislation – Excerpts from HB 7029 – Impact on High School Athletics by Statute Number

New Language underlined; deletions shown with ~~strikethrough~~

### 1002.20 K-12 Student and Parent Rights

(17) ATHLETICS; PUBLIC HIGH SCHOOL.—

(a) *Eligibility.*—Eligibility requirements for all students participating in high school athletic competition must allow a student to be immediately eligible in the school in which he or she first enrolls each school year, the school in which the student makes himself or herself a candidate for an athletic team by engaging in practice before enrolling, or the school to which the student has transferred ~~with approval of the district school board~~, in accordance with ~~the provisions of s.1006.20(2)(a).~~

### 1002.31 – Controlled Open Enrollment

(6)(a) A school district or charter school may not delay eligibility or otherwise prevent a student participating in controlled open enrollment or a choice program from being immediately eligible to participate in interscholastic and intrascholastic extracurricular activities.

(b) A student may not participate in a sport if the student participated in that same sport at another school during that school year, unless the student meets one of the following criteria:

1. Dependent children of active duty military personnel whose move resulted from military orders.
2. Children who have been relocated due to a foster care placement in a different school zone.
3. Children who move due to a court-ordered change in custody due to separation or divorce, or the serious illness or death of a custodial parent.
4. Authorized for good cause in district or charter school policy.

### 1006.15 – Student Standards for participation in interscholastic...

(3)(a) As used in this section and s. 1006.20, the term "eligible to participate" includes, but is not limited to, a student participating in tryouts, off-season conditioning, summer workouts, preseason conditioning, in-season practice, or contests. The term does not mean that a student must be placed on any specific team for interscholastic or intrascholastic extracurricular activities. To be eligible to participate in interscholastic extracurricular student activities, a student must:

*All requirements remain the same (GPA, conduct) except:*

(3)(c) An individual home education student is eligible to participate at the public school to which the student would be assigned according to district school board attendance area policies or which the student could choose to attend pursuant to s. 1002.31 ~~district or interdistrict controlled open enrollment provisions~~, or may develop an agreement to participate at a private school, in the interscholastic extracurricular...

**1006.15 – Student Standards for participation in interscholastic...(continued)**

(3)(d) *Pertaining to charter school students...*

An individual charter school student pursuant to s.1002.33 is eligible to participate at the public school to which the student would be assigned according to district school board attendance area policies or which the student could choose to attend, ~~pursuant to district or interdistrict controlled open-enrollment provisions,~~ in any interscholastic extracurricular activity of that school, unless such activity is provided by the student's charter school, if the following conditions are met:

(3)(e): *Pertaining to conditions for virtual students...*

(e) A student of the Florida Virtual School full-time program may participate in any interscholastic extracurricular activity at the public school to which the student would be assigned according to district school board attendance area policies or which the student could choose to attend, pursuant to s. 1002.31 ~~district or interdistrict controlled open-enrollment policies,~~ if the student:

(3)(h): *new language*

(h)1. A school district or charter school may not delay eligibility or otherwise prevent a student participating in controlled open enrollment, or a choice program, from being immediately eligible to participate in interscholastic and intrascholastic extracurricular activities.

2. A student may not participate in a sport if the student participated in that same sport at another school during that school year, unless the student meets one of the following criteria:

a. Dependent children of active duty military personnel whose move resulted from military orders.

b. Children who have been relocated due to a foster care placement in a different school zone.

c. Children who move due to a court-ordered change in custody due to separation or divorce, or the serious illness or death of a custodial parent.

d. Authorized for good cause in district or charter school policy.

(8)(a) – *private school student able to participate at public school that is zoned for their address... if:*

1. The private school in which the student is enrolled is not a member of the FHSAA ~~and does not offer an interscholastic or intrascholastic athletic program.~~

(9)(a) – *New language*

(9)(a) A student who transfers to a school during the school year may seek to immediately join an existing team if the roster for the specific interscholastic or intrascholastic extracurricular activity has not reached the activity's identified maximum size and if the coach for the activity determines that the student has the requisite skill and ability to participate. The FHSAA and school district or charter school may not declare such a student ineligible because the student did not have the opportunity to comply with qualifying requirements.

(b) A student may not participate in a sport if the student participated in that same sport at another school during that school year, unless the student meets one of the following criteria:

**1006.15 – Student Standards for participation in interscholastic...(continued)**

(9)(b) – new language continued

1. Dependent children of active duty military personnel whose move resulted from military orders.
2. Children who have been relocated due to a foster care placement in a different school zone.
3. Children who move due to a court-ordered change in custody due to separation or divorce, or the serious illness or death of a custodial parent.
4. Authorized for good cause in district or charter school policy.

**1006.195 – NEW Section –**

1006.195 District school board, charter school authority and responsibility to establish student eligibility regarding participation in interscholastic and intrascholastic extracurricular activities.—

Notwithstanding any provision to the contrary in ss. 1006.15, 1006.18, and 1006.20, regarding student eligibility to participate in interscholastic and intrascholastic extracurricular activities:

(1)(a) A district school board must establish, through its code of student conduct, student eligibility standards and related student disciplinary actions regarding student participation in interscholastic and intrascholastic extracurricular activities. The code of student conduct must provide that:

1. A student not currently suspended from interscholastic or intrascholastic extracurricular activities, or suspended or expelled from school, pursuant to a district school board's suspension or expulsion powers provided in law, including ss. 1006.07, 1006.08, and 1006.09, is eligible to participate in interscholastic and intrascholastic extracurricular activities.

2. A student may not participate in a sport if the student participated in that same sport at another school during that school year, unless the student meets the criteria in s. 1006.15(3)(h).

3. A student's eligibility to participate in any interscholastic or intrascholastic extracurricular activity may not be affected by any alleged recruiting violation until final disposition of the allegation pursuant to s. 1006.20(2)(b).

(b) Students who participate in interscholastic and intrascholastic extracurricular activities for, but are not enrolled in, a public school pursuant to s. 1006.15(3)(c)-(e) and (8), are subject to the district school board's code of student conduct for the limited purpose of establishing and maintaining the student's eligibility to participate at the school.

(c) The provisions of this subsection apply to interscholastic and intrascholastic extracurricular activities conducted by charter schools and private schools, as applicable, except that the charter school governing board, or equivalent private school authority, is responsible for the authority and responsibility otherwise provided to district school boards.

(2)(a) The Florida High School Athletic Association (FHSAA) continues to retain jurisdiction over the following provisions in s. 1006.20, which may not be implemented in a manner contrary to this section: membership in the FHSAA; recruiting prohibitions and violations; student medical evaluations; investigations; and sanctions for coaches; school eligibility and forfeiture of contests; student concussions or head injuries; the sports medical advisory committee; and the general operational provisions of the FHSAA.

(b) The FHSAA must adopt, and prominently publish, the text of this section on its website and in its bylaws, rules, procedures, training and education materials, and all other governing authority documents by August 1, 2016.

## 1006.20 – Athletics in public k-12 schools –

### (1) Governing Nonprofit Organization –

...The FHSAA must allow a private school the option of maintaining full membership in the association or joining by sport and may not discourage a private school from simultaneously maintaining membership in another athletic association. The FHSAA may allow a public school the option to apply for consideration to join another athletic association. The FHSAA may not deny or discourage interscholastic competition between its member schools and non- FHSAA member Florida schools, including members of another athletic governing organization, and may not take any retributory or discriminatory action against any of its member...

## 1006.20 – Athletics in public k-12 schools –

### (2) Adoption of Bylaws, Policies, or Guidelines –

(a) The FHSAA shall adopt bylaws that, unless specifically provided by statute, establish eligibility requirements for all students who participate in high school athletic competition in

its member schools. The bylaws governing residence and transfer shall allow the student to be immediately eligible in the school in which he or she first enrolls each school year or the school in which the student makes himself or herself a candidate for an athletic team by engaging in a practice prior to enrolling in the school. The bylaws shall also allow the student to be immediately eligible in the school to which the student has transferred ~~during the school year if the transfer is made by a deadline established by the FHSAA, which may not be prior to the date authorized for the beginning of practice for the sport. These transfers shall be allowed pursuant to the district school board policies in the case of transfer to a public school or pursuant to the private school policies in the case of transfer to a private school.~~ The student shall be eligible in that school so long as he or she remains enrolled in that school. Subsequent eligibility shall be determined and enforced through the FHSAA's bylaws. Requirements governing eligibility and transfer between member schools shall be applied similarly to public school students and private school students.

(b) The FHSAA shall adopt bylaws that specifically prohibit the recruiting of students for athletic purposes. The bylaws shall prescribe penalties and an appeals process for athletic recruiting violations.

1. If it is determined that a school has recruited a student in violation of FHSAA bylaws, the FHSAA may require the school to participate in a higher classification for the sport in which the recruited student competes for a minimum of one classification cycle, in addition to the penalties in subparagraphs 2. and 3. and any other appropriate fine or and sanction imposed on the school, its coaches, or adult representatives who violate recruiting rules.

2. Any recruitment by a school district employee or contractor in violation of FHSAA bylaws results in escalating punishments as follows:

a. For a first offense, a \$5,000 forfeiture of pay for the school district employee or contractor who committed the violation.

b. For a second offense, suspension without pay for 12 months from coaching, directing, or advertising an extracurricular activity and a \$5,000 forfeiture of pay for the school district employee or contractor who committed the violation.

**1006.20 – Athletics in public k-12 schools – (continued)**

(2) (b) 2 c. For a third offense, a \$5,000 forfeiture of pay for the school district employee or contractor who committed the violation. If the individual who committed the violation holds an educator certificate, the FHSAA shall also refer the violation to the department for review pursuant to s. 1012.796 to determine whether probable cause exists, and, if there is a finding of probable cause, the commissioner shall file a formal complaint against the individual. If the complaint is upheld, the individual's educator certificate shall be revoked for 3 years, in addition to any penalties available under s. 1012.796. Additionally, the department shall revoke any adjunct teaching certificates issued pursuant to s. 1012.57 and all permissions under ss. 1012.39 and 1012.43, and the educator is ineligible for such certificates or permissions for a period of time equal to the period of revocation of his or her state-issued certificate.

3. Notwithstanding any other provision of law, a school, team, or activity shall forfeit all competitions, including honors resulting from such competitions, in which a student who participated in any fashion was recruited in a manner prohibited pursuant to state law or the FHSAA bylaws.

4. A student may not be declared ineligible based on violation of recruiting rules unless the student or parent has falsified any enrollment or eligibility document or accepted any benefit ~~or any promise of benefit~~ if such benefit is not generally available to the school's students or family members or is based in any way on athletic interest, potential, or performance.

5. A student's eligibility to participate in any interscholastic or intrascholastic extracurricular activity, as determined by a district school board pursuant to s. 1006.195(1)(a)3., may not be affected by any alleged recruiting violation until final disposition of the allegation.

(2) 5 (c) – *in middle of section...*

Results of such medical evaluation must be provided to the school. ~~A student is not~~ ~~No student shall be~~ eligible to participate, as provided in s. 1006.15(3), in any interscholastic athletic competition or engage in any practice, tryout, workout, or other physical activity associated with the student's candidacy for an interscholastic athletic team until the results of the medical evaluation have been received and approved by the school.

(2)5(g) 1. Ineligibility must be established by a preponderance of the clear and convincing evidence;

**1012.795 Education Practices Commission: authority to discipline**

In Section 1 – add new section “(o)”:

(o) Has committed a third recruiting offense as determined by the Florida High School Athletic Association (FHSAA) pursuant to s. 1006.20(2)(b).

(5) Each district school superintendent and the governing authority of each university lab school, state-supported school, or private school, and the FHSAA shall report to the department the name of any person certified pursuant to this chapter or employed and qualified pursuant to s. 1012.39:

### **1012.796 – Complaints against teachers and administrators**

(3) The department staff shall advise the commissioner concerning the findings of the investigation and of all referrals by the Florida High School Athletic Association (FHSAA) pursuant to ss. 1006.20(2)(b) and 1012.795. The department general counsel or members of that staff shall review the investigation or the referral and advise the commissioner concerning probable cause or lack thereof. The determination of probable cause shall be made by the commissioner. The commissioner shall provide an opportunity for a conference, if requested, prior to determining probable cause. The commissioner may enter into deferred prosecution agreements in lieu of finding probable cause if, in his or her judgment, such agreements are in the best interests of the department, the certificate holder, and the public. Such deferred prosecution agreements shall become effective when filed with the clerk of the Education Practices Commission. However, a deferred prosecution agreement shall not be entered into if there is probable cause to believe that a felony or an act of moral turpitude, as defined by rule of the State Board of Education, has occurred, or for referrals by the FHSAA. Upon finding no probable cause, the commissioner shall dismiss the complaint.

*At end of section (3) added:*

The penalties imposed under this subsection are in addition to, and not in lieu of, the penalties required for a third recruiting offense pursuant to s. 1006.20(2)(b).