

IN THE CIRCUIT COURT OF THE SECOND JUDICIAL CIRCUIT
IN AND FOR LEON COUNTY, FLORIDA

MICHELLE RHEA, THERESA BUTLER,
GERALDINE CALLAGHAN, WENDY CHASTAIN,
PAM EVERETT, ALEXA HASANIA,
SCOTT HASTINGS, AMANDA H,
MELINDA HOHMAN, BRANDY KINKADE,
RHONDA NICKERSON, BRANDY PATERNOSTER,
SUZANNE ROWLAND, and GABRIELLE WEAVER,

Plaintiffs,

v.

CASE NO.:

PAM STEWART, in her official capacity as
Commissioner of the FLORIDA DEPARTMENT
OF EDUCATION, STATE BOARD OF EDUCATION,
SCHOOL BOARD OF ORANGE COUNTY,
SCHOOL BOARD OF HERNANDO COUNTY,
SCHOOL BOARD OF OSCEOLA COUNTY,
SCHOOL BOARD OF SARASOTA COUNTY,
SCHOOL BOARD OF BROWARD COUNTY,
SCHOOL BOARD OF SEMINOLE COUNTY,
and SCHOOL BOARD OF PASCO COUNTY,

Defendants.

VERIFIED EMERGENCY COMPLAINT SEEKING
DECLARATORY AND INJUNCTIVE RELIEF

COME NOW, MICHELLE RHEA, THERESA BUTLER, GERALDINE
CALLAGHAN, WENDY CHASTAIN, PAM EVERETT, ALEXA HASANIA, SCOTT
HASTINGS, AMANDA HAZARD, MELINDA HOHMAN BRANDY KINKADE, RHONDA
NICKERSON, BRANDY PATERNOSTER, SUZANNE ROWLAND, and GABRIELLE
WEAVER, through counsel, sue defendants, PAM STEWART, as Commissioner of the
FLORIDA DEPARTMENT OF EDUCATION, STATE BOARD OF EDUCATION, SCHOOL
BOARD OF ORANGE COUNTY, SCHOOL BOARD OF HERNANDO COUNTY, SCHOOL

BOARD OF OSCEOLA COUNTY, SCHOOL BOARD OF SARASOTA COUNTY, SCHOOL BOARD OF BROWARD COUNTY, SCHOOL BOARD OF SEMINOLE COUNTY, SCHOOL BOARD OF PASCO COUNTY, and allege as follows:

Introduction

Parents of students who received report cards with passing grades—some of whom were honor roll students—seek emergency declaratory and injunctive relief alleging that, because they opted out of standardized testing for their child, defendants arbitrarily and capriciously interpreted statutes and rules in a manner that requires retention, rather than promotion, of third grade students. The result is that students with no reading deficiency are retained in the third grade solely because they opt-out of standardized testing. Defendants’ policy means that a third-grader who takes standardized tests and scores poorly—whether intentionally or not—can still be promoted. Yet, an outstanding student who regularly produces proficient school work in the classroom for which they receive passing grades will be retained simply for not taking a standardized test that they are permitted to opt of under the Florida Statutes. Because the receipt of federal dollars is at stake unless 95 percent of students participate in standardized testing, test participation is treated as more important than actual performance. These actions produce an arbitrary and capricious result that violates the Equal Protection Clause and the Due Process Clause.

Nature of the Emergency

Emergency relief is warranted because Honor Roll students with no reading deficiency who earned passing grades will be retained in the third grade for the school year beginning in mid-August 2016. Plaintiffs did not receive notice that their child would be retained under the mandatory retention provision until late in the school year or after the school year had concluded.

School districts across the state concede that they dropped the ball on the portfolio exemption because the Department of Education gave inconsistent guidance throughout the school year on what is required under the student portfolio exemption, which is provided for in Fla. Admin. Code Ann. r. 6A-1.094221 and Fla. Stat., § 1008.25(6). The irreparable injury caused by such actions warrants emergency injunctive relief because similarly situated students are treated quite differently without any rational basis or legitimate governmental objective. Absent emergency relief, the Plaintiffs will suffer irreparable harm by having to repeat the third grade, which will cause devastating effects to students with no reading deficiencies who actually earned passing grades.

JURISDICTION AND VENUE

1. Plaintiffs bring this civil rights lawsuit pursuant to the Declaratory Judgments Act, Fla. Stat. §§ 86.011–.111, for violations of the Equal Protection and Due Process Clauses of the Florida Constitution and the Fourteenth Amendment of the United States Constitution.

2. Plaintiffs seek declaratory and injunctive relief against the defendants’ arbitrary and capricious implementation of Fla. Admin. Code Ann. r. 6A-1.094221 and Fla. Stat., § 1008.25(5)(b), that bars promotion of their children to the fourth grade because they opted out of standardized testing.

3. This Court has jurisdiction under Fla. Stat. §§ 26.012(3), 86.011, and 86.061. This Court has concurrent jurisdiction over claims brought under 42 U.S.C. §§ 1983 and 1988. *See Page v. Valentine*, 552 So.2d 212, 213 (Fla. 4th DCA 1989) *approved sub nom. Town of Lake Clarke Shores v. Page*, 569 So.2d 1256 (Fla. 1990).

4. Venue is proper in Leon County, Florida, because state agencies enjoy the home-venue privilege. See *Levy County v. Diamond*, 7 So. 3d 564, 566 (Fla. 1st DCA 2009) (“A state agency has a right to be sued in the county where it maintains its headquarters.”).

PARTIES

5. Plaintiff, Michelle Rhea, is the parent and next friend of B.R., a student within the School District of Orange County.

6. Plaintiff, Theresa Butler, is the parent and next friend of N.B., a student within the School District of Hernando County.

7. Geraldine Callaghan is the parent and next friend of G.C., a student within the School District of Osceola County.

8. Wendy Chastain is the parent and next friend of A.C., a student within the School District of Sarasota County.

9. Plaintiff, Pam Everett, is the parent and next friend of H.E., a student within the School District of Hernando County.

10. Plaintiff, Alexa Hasania, is the parent and next friend of S.H., a student within the School District of Hernando County.

11. Plaintiff, Scott Hastings, is the parent and next friend of J.H., a student within the School District of Pasco County.

12. Plaintiff, Amanda Hazard, is the parent and next friend of Z.H., a student within the School District of Hernando County.

13. Plaintiff, Melinda Hohman, is the parent and next friend of M.H., a student within the School District of Hernando County.

14. Plaintiff, Brandy Kinkade, is the parent and next friend of M.K, a student within the School District of Hernando County.

15. Plaintiff, Rhonda Nickerson, is the parent and next friend of S.N., a student within the School District of Seminole County, Florida.

16. Brandy Paternoster, is the parent and next friend of D.P. and J.P., students within the School District of Broward County, Florida

17. Plaintiff, Suzanne Rowland, is the parent and next friend of A.R., a student within the School District of Hernando County.

18. Plaintiff, Gabrielle Weaver, is the parent and next friend of C.W., a student within the School District of Seminole County.

19. Defendant, Pam Stewart, is the Commissioner of Education (Commissioner) and the chief education officer of the state and the agency head of the Florida Department of Education (FLDOE). Defendant STEWART is responsible for providing assistance to the STATE BOARD OF EDUCATION in enforcing compliance with the mission and goals of Florida's K-20 education system. She is sued in her official capacity.

20. Defendant, STATE BOARD OF EDUCATION, (SBOE) is a corporation created pursuant to § 1001.01, Fla. Stat., and consists of seven (7) members appointed by the Governor. SBOE is responsible for adopting comprehensive educational objectives for public education, and approving plans for cooperation with other public agencies in the development of rules and enforcement of laws for which it and such agencies are responsible. Unless provided otherwise by statute, the general powers of the SBOE are delegated to the Commissioner.

21. Defendant, SCHOOL BOARD OF ORANGE COUNTY, is a constitutionally created body pursuant to article IX, § 4, Fla. Const., and § 1001.32(2), Fla. Stat., and a

corporation pursuant to § 1001.40, Fla. Stat., with the power to sue and be sued pursuant to § 1001.41(4), Fla. Stat. It operates the School District of Orange County, Florida.

22. Defendant, SCHOOL BOARD OF HERNANDO COUNTY, is a constitutionally created body pursuant to article IX, § 4, Fla. Const., and § 1001.32(2), Fla. Stat., and a corporation pursuant to § 1001.40, Fla. Stat., with the power to sue and be sued pursuant to § 1001.41(4), Fla. Stat. It operates the School District of Hernando County, Florida.

23. Defendant, SCHOOL BOARD OF OSCEOLA COUNTY, is a constitutionally created body pursuant to article IX, § 4, Fla. Const., and § 1001.32(2), Fla. Stat., and a corporation pursuant to § 1001.40, Fla. Stat., with the power to sue and be sued pursuant to § 1001.41(4), Fla. Stat. It operates the School District of Osceola County, Florida.

24. Defendant, SCHOOL BOARD OF SARASOTA COUNTY, is a constitutionally created body pursuant to article IX, § 4, Fla. Const., and § 1001.32(2), Fla. Stat., and a corporation pursuant to § 1001.40, Fla. Stat., with the power to sue and be sued pursuant to § 1001.41(4), Fla. Stat. It operates the School District of Sarasota County, Florida.

25. Defendant, SCHOOL BOARD OF BROWARD COUNTY, is a constitutionally created body pursuant to article IX, § 4, Fla. Const., and § 1001.32(2), Fla. Stat., and a corporation pursuant to § 1001.40, Fla. Stat., with the power to sue and be sued pursuant to § 1001.41(4), Fla. Stat. It operates the School District of Broward County, Florida.

26. Defendant, SCHOOL BOARD OF SEMINOLE COUNTY, is a constitutionally created body pursuant to article IX, § 4, Fla. Const., and § 1001.32(2), Fla. Stat., and a corporation pursuant to § 1001.40, Fla. Stat., with the power to sue and be sued pursuant to § 1001.41(4), Fla. Stat. It operates the School District of Seminole County, Florida.

27. Defendant, SCHOOL BOARD OF PASCO COUNTY, is a constitutionally created body pursuant to article IX, § 4, Fla. Const., and § 1001.32(2), Fla. Stat., and a corporation pursuant to § 1001.40, Fla. Stat., with the power to sue and be sued pursuant to § 1001.41(4), Fla. Stat. It operates the School District of Pasco County, Florida.

Facts Common to All Counts

Federal and state testing requirements

28. Federal law mandates that school districts in each state “[a]nnually measure the achievement of not less than 95 percent of all students[.]” 20 U.S.C.A. § 6311 (West). School districts that fail to do so are at risk of losing federal dollars under Title I. *See* Letter of Ann Whalen, United States Dep’t of Education, Dec. 22, 2015, attached hereto as Exhibit 1.¹

29. State law also requires that “[e]ach school must assess at least 95 percent of its eligible students” § 1008.34(3)(a), Fla. Stat. Failure to do so could result in a loss of school recognition funds. *See* § 1008.36 Fla. Stat.

30. § 1008.22(3), Fla. Stat., requires that defendant STEWART design and implement a statewide, standardized assessment program (“standardized testing” or “standardized tests”). Subsection (4) requires that each public school participate in the standardized testing program. Performance data derived from standardized testing must be used by school districts in a variety of ways, including evaluating instructional and administrative personnel, assigning staff, allocating resources, acquiring instructional materials and technology, implementing performance-based budgeting, and promoting and assigning students to educational programs. *Id.*

¹ The Department of Education issued the letter to more than a dozen states. *See* Valerie Strauss, *U.S. Education Department threatens to sanction states over test opt-outs*, Washington Post (Jan. 28, 2016), available at <https://www.washingtonpost.com/news/answer-sheet/wp/2016/01/28/u-s-education-department-threatens-to-sanction-states-over-test-opt-outs/>, (last accessed Aug. 9, 2016).

31. § 1008.25(5)(a), Fla. Stat., provides that any student who exhibits a substantial deficiency in reading “based upon locally determined or statewide assessments ... or through teacher observations, must be given intensive reading instruction immediately following the identification of the reading deficiency.” *Id.*

32. A student's reading proficiency “must be monitored ... until the student demonstrates grade level proficiency in a manner determined by the district, **which may include** achieving a Level 3 on the [standardized tests].” (Emphasis added). *Id.*²

Parental notice requirement

33. Federal law mandates parental notification of information regarding a school districts policy regarding student participation in any assessments mandated by federal law as well as the policy, procedure, or parental right to opt the child out of such assessment. *See* 20 U.S.C.A. § 6312(e)(2)(A) (West).

34. Florida law also requires parental notification by a school district with information regarding the implications of nonparticipation in the standardized testing program. § 1008.22(3), Fla. Stat.

35. In addition, § 1008.25(5)(c), Fla. Stat., mandates written parental notice of any student who exhibits a substantial deficiency in reading. The written notice must include: (1) that the child has been identified as having a substantial deficiency in reading; (2) a description of the current services provided to the child; (3) a description of the proposed supplemental instructional services and supports that will be provided to the child that are designed to remediate the identified area of reading deficiency; (4) that if the child's reading deficiency is not remediated by the end of grade 3, the child must be retained unless exempt from mandatory

² This portion of subsection 5(a) was added by the Legislature in 2015. *See* 2015 Fla. Sess. Law Serv. Ch. 2015-6, § 9 (C.S.H.B. 7069) (WEST).

retention for good cause; (5) strategies for parents to use in helping their child succeed in reading proficiency; (6) that the statewide, standardized English Language Arts assessment is not the sole determiner of promotion and that additional evaluations, portfolio reviews, and assessments are available to the child to assist parents and the school district in knowing when a child is reading at or above grade level and ready for grade promotion; (7) the district's specific criteria and policies for a portfolio and evidence required for a student to demonstrate mastery of Florida's academic standards for English Language Arts; (8) of the district's specific criteria and policies for midyear promotion. § 1008.25(5)(c)1-8, Fla. Stat.

36. Subsection 5(c)7 requires that “[a] parent of a student in grade 3 who is identified anytime during the year as being at risk of retention may request that the school immediately begin collecting evidence for a portfolio.”

37. In order for a student to be promoted to grade 4, a student must score a Level 2 or higher on the standardized tests required under § 1008.22 for grade 3. *See* § 1008.25(5)(b) Fla. Stat.

38. Subsection (6)(b) sets forth additional requirements and contains a good cause exemption whereby a district school board may exempt students from mandatory retention. The two exemptions relevant here are those set forth in subsection (6)(b)3 and 4, which provide an exemption for:

3. Students who demonstrate an acceptable level of performance on an alternative standardized reading or English Language Arts assessment approved by the State Board of Education.

4. A student who demonstrates through a student portfolio that he or she is performing at least at Level 2 on the statewide, standardized English Language Arts assessment.

§ 1008.25(6)(b)3 & 4, Fla. Stat.

39. Subsection (6)(c)1 requires the student's teacher to submit appropriate documentation to the school principal that indicates promotion of the student is appropriate "based upon the student's academic record consisting only of the existing progress monitoring plan, individual education plan, if applicable, report card, or student portfolio."

40. The school principal must then review and discuss such recommendation with the teacher and make the determination as to whether the student should be promoted or retained. If the school principal determines the student should be promoted, he or she must make such recommendation in writing to the district school superintendent, who shall accept or reject the recommendation.

41. If the school principal determines the student should be retained, no recommendation is made to the district school superintendent and the principal's decision is final.

42. Defendant, SBOE, is responsible for adopting rules to implement § 1008.25. *See* § 1008.25(9), Fla. Stat.

43. In 2015, the Florida Legislature amended § 1008.25. *See* 2015 Fla. Sess. Law Serv. Ch. 2015-6, § 9 (C.S.H.B. 7069) (WEST).

Florida's recent history of standardized testing

44. In September 2013, Governor Rick Scott ended Florida's participation in the Partnership for Assessment of Readiness for College and Careers (PARCC), and directed the Commissioner of Education to issue a competitive solicitation to select Florida's next state assessment for standardized testing. *See* Exhibit 2, attached hereto.

45. What was previously called the Florida Comprehensive Assessment Test (FCAT) was replaced by the Florida Standards Assessment (FSA).

46. In the school year 2014-2015, the entity administering Florida's standardized testing was unable to provide testing results before the beginning of the next calendar school year. As a result, the SBOE simply allowed report cards to be used as the basis for promotion. See Exhibit 3, attached hereto.

Chaos in proposed rulemaking

47. During the 2015-2016 school year, defendant STEWART and the FLDOE provided school districts throughout the state with conflicting information on what was required under the student portfolio exemption.

48. The misinformation included, but was not limited to, the following:

- a. that an alternative standardized reading assessment test approved by the SBOE was required even if a student was relying on the portfolio exemption set forth in § 1008.25(6)(b)4;
- b. that without a standardized test score at Level 2 or higher a student could not be promoted to the fourth grade;
- c. that promotion to the fourth grade could not be based on the student's academic record consisting only of a report card; and
- d. that promotion to the fourth grade could not be based solely on the student's academic record consisting only of a student portfolio.

49. On October 23, 2015, defendant STEWART, acting at the direction and under the control of the SBOE, published a Notice of Development of Rulemaking as it related to Fla. Admin. Code Ann. r. 6A-1.094221 "to better align the rule with section 1008.25, Florida Statutes." See Exhibit 4, attached hereto. The preliminary text of the proposed rule development, however, was not made available at the time the proposed rule development was published.

50. On January 14, 2016, defendant STEWART, acting at the direction of the SBOE, published a Notice of Proposed Rule as it related to Fla. Admin. Code Ann. r. 6A-1.094221. Under the notice, substantial changes were proposed to the requirements for the portfolio exemption. *See* Exhibit 5, attached hereto. Notably, the proposed changes for the student portfolio criteria included that the criteria must be selected by the school district, rather than the teacher. The proposed rule changes would allow the portfolio exemption to consist of a student's "successful completion of multiple choice items, text-based responses, chapter or unit tests from the district or school core reading curriculum, or the state-provided third grade student portfolio." *Id.*

51. Less than two weeks after publication of the proposed rule change, defendant STEWART withdrew the proposal. *See* Exhibit 6, attached hereto.

52. On April 26, 2016, defendant STEWART, acting at the direction of the SBOE, published another Notice of Proposed Rule as it related to Fla. Admin. Code Ann. r. 6A-1.094221. The stated purpose and effect of the proposed rule was to "[a]lign the rule to Florida Statutes based on revisions made to section 1008.25, F.S., in House Bill 7069." Other than stylistic changes, this notice proposed no substantive changes to the rule as it existed prior to the 2015 legislation. *See* Exhibit 7, attached hereto.

53. On June 23, 2016, the proposed rule was finalized and adopted with no substantive changes from the version of the rule that existed prior to the 2015 legislation. *See* Exhibit 8, attached hereto.

54. During the course of the proposed rule changes to Fla. Admin. Code Ann. r. 6A-1.094221, Defendant STEWART publicly expressed opposition to students who opt out of standardized tests. During a Call with Superintendents on February 24, 2016, defendant

STEWART published the following statement about parents with students who opt out of standardized testing:

We all know there have been questions about opt out and that there were situations where this occurred last year. Section 1008.22, F.S., regarding statewide, standardized assessments, states clearly that participation is mandatory for all districts and all students attending public schools. My belief is that students that do not want to test should not be sitting in public schools, as it is mandatory and required for students seeking a standard high school diploma. Statewide, standardized assessments are part of requirement to attend school, like immunization records. That is our message and what we send to you to be shared with your staff.

See Exhibit 9, attached hereto.

Inconsistencies among school districts

55. As a direct and proximate result of FLDOE's confusion over the student portfolio exemption throughout the 2015-2016 school year, school districts across the state implemented widely varying criteria for the student portfolio exemption as well as a student's academic record or report card when considering whether to promote a student to the fourth grade.

56. Some school districts would not allow the student portfolio exemption unless a student participated in the FSA or an alternative assessment such as the IOWA or SAT 10.

57. After an article appeared in the Sarasota Herald Tribune on May 26, 2016,³ Pasco County School Superintendent Kurt Browning received a call from the Florida Department of Education questioning the district's practice of allowing the use of good cause portfolios. The news article stated that Pasco district officials had promoted a third grader under the portfolio exemption without the requirement of any tests. Superintendent Browning gathered staff and held a conference call with DOE staff, during which they were initially told that "a student who does not have a score of two or higher on the 3rd grade FSA ELA or the DOE-approved

³ Shelby Webb, *Students who opted out of testing could be retained*, Sarasota Herald Tribune (May 26, 2016), available at <http://www.heraldtribune.com/article/20160526/ARTICLE/160529683>, (last accessed Aug. 9, 2016).

alternative assessment (SAT 10) must attend summer reading camp and be retained in 3rd grade until the next school year.” After Superintendent Browning raised concerns, he received a call back from DOE staff and was then told that Pasco’s process meets the requirements for the portfolio exemption. *See Exhibit 10, attached hereto.*

58. In Manatee County, Superintendent Diane Greene was given inconsistent information from FLDOE about the portfolio exemption and whether promotion to the third grade would be allowed absent a standardized test score. On May 31, 2016, Superintendent Greene released a statement expressing her frustration with FLDOE’s ever-changing position, stating:

To say that I am angry, frustrated and disappointed in the FLDOE’s lack of leadership on this extremely important issue is a massive understatement. To pass this difficult decision off to 67 different school districts is a gross abdication of responsibility.

See Exhibit 11, attached hereto.

59. At the meeting of the Manatee County School Board on June 20, 2016, the Board amended its Student Progression Plan to remove what it referred to as “outdated” portfolio requirements.

60. In Orange County, at least one parent notified school officials at the beginning of the school year that her child would not participate in standardized testing and requested that the school district provide guidance on the student portfolio requirements and for the child’s teacher to save any work she did in school for that purpose. *See Affidavit of Michelle Rhea, attached hereto as Exhibit 12.* Plaintiff RHEA was informed at least twice that the school district had no direction or guidance on the student portfolio requirements.

61. At the end of the school year, Plaintiff RHEA was told that even if she relied on the student portfolio exemption, a test was still required that would occur over the summer and

early fall. After additional inquiry, including attending a school board meeting, Plaintiff RHEA eventually learned that school district officials had concluded, after discussions with FLDOE, that no additional testing was required. However, her child's teacher was completely unaware of the portfolio criteria and had been waiting throughout the school year for the district to provide guidance on the portfolio requirements.

62. Another parent of a child at Pershing Elementary in the School District of Orange County was treated dissimilarly. The parent opted out of standardized testing and requested that a student portfolio be created for their child early in the school year. Although school officials initially insisted that a score from standardized testing was required, ultimately the school compiled a portfolio of work completed by the student throughout the school year and promoted that student to the fourth grade. *See* Affidavit of Robyn Barnes, attached hereto as Exhibit 13.

63. At an Orange County School Board meeting held on June 14, 2016, Nancy Robinson, the Vice Chair of the school board, acknowledged discrepancies in the district's struggles with the portfolio exemption. Vice Chair Robinson stated that an ongoing review of classroom work for the portfolio exemption for at least three students did not comply with the school district's policy for the portfolio exemption, but the students were being promoted anyway. *See* Excerpt of Transcript of Proceedings, School Bd. Of Orange Cty., June 14, 2016, attached hereto as Exhibit 14 at 2.

64. During the course of that same meeting, Orange County School Superintendent Dr. Barbara Jenkins stated that she had spoken to defendant STEWART at a recent meeting in Tampa and that defendant STEWART acknowledged "that there may have been misinformation." Dr. Jenkins said the issue "blew up because superintendents were pretty upset

about that.” According to Dr. Jenkins, defendant STEWART apologized and indicated that FLDOE staff had been corrected. *Id.*, Exhibit 14, at 8-9.

65. Dr. Jenkins indicated that teachers were worried about being responsible for creating criteria on their own and that, going forward, it would be better if the district provided the type of assessments teachers could use during the school year rather than every teacher creating their own. *Id.* at 11.

66. Dr. Jenkins also stated that when one principal indicated during the school year that they wanted to imbed portfolio criteria during the school year, there was resistance and that principal was emphatically told not to do so. *Id.* at 12.

67. Board member Linda Kobert stated that if the teachers had known in the beginning of the school year that they were responsible for selecting the material for the portfolio exemption, “they could have been doing it all year long.” *Id.* at 17. She added:

So whether we work together and parents inform us in the beginning -- and I believe there was one that the ball was dropped somewhere, I don't know where.

But if parents work with us from the beginning we can do that. Or if we as a district come up with a plan to imbed it, put it into our curriculum all year long so that we have evidence at the end of the year, our kids will be okay, our kids will be covered and protected. And then at the same time, we can continue to work with the DOE and the Legislature to try to actually fix the problem.

Id. at 18.

68. On June 14, 2016, Vice Chair Robinson sent Plaintiff RHEA an e-mail acknowledging that she was:

disappointed that Dommerich [Elementary School] didn't receive the needed guidance from the district to create a portfolio for her throughout the school year in an effort to meet the state's requirements for promotion.

See Affidavit of Michelle Rhea, Exhibit 12, at ¶ 13.

69. As late as April 16, 2016, the School District of Hernando County required a test score on the FSA or SAT 10 in order to qualify for any of the statutory exemptions, including the student portfolio exemption. Hernando County also took the position that the state had to provide the student portfolio.

70. The School District of Calhoun County keeps a portfolio on every student throughout the school year.

71. In Alachua County, the basis for making promotion decisions includes objective data and teacher judgment based on classroom performance, daily observation, formal and informal assessments, and parental input.

72. The School District of Broward County discourages the student portfolio option for promotion and has a policy that it is to be used only when all other good cause options, which include testing and assessments, have been exhausted.

73. In the School District of Collier County, the student portfolio is met when a teacher provides documentation that the promotion of the student is appropriate and is based upon the student's academic record. Such documentation consists of the existing Progress Monitoring Plan (PMP), Individual Educational Plan (IEP), if applicable, Standards-Based Progress Report or student portfolio and alternate assessment.

74. In the School District of Duval County, the student portfolio exemption is achieved by teacher judgment that the student has met applicable state standards in Language Arts as indicated by a final grade of D or above or final grades of S or N in Language Arts for students at Montessori schools. Report card grades are required to reflect a student's overall mastery of the grade level standards.

75. It was not until the end of May 2016 when FLDOE clarified its policy to school districts on the student portfolio exemption. *See* Jeffrey S. Solocheck, *Florida third-grade promotion decisions are local, Department of Education official says*, Tampa Bay Times (May 31, 2016), available at <http://www.tampabay.com/blogs/gradebook/florida-third-grade-promotion-decisions-are-local-department-of-education/2279675>.

76. By May 2016, it was too late for many school districts or schools to provide guidance to teachers on what was required for documentation of the student portfolio exemption. Students at those schools that maintained a student portfolio throughout the school year relied upon the portfolio exemption to be promoted to the fourth grade, while those schools that did not had inadequate documentation to meet the portfolio exemption criteria.

Different portfolio criteria for home schooled students

77. Students who are home schooled have entirely different criteria for the student portfolio exemption. § 1002.41, Fla. Stat., requires only the following:

1. A log of educational activities that is made contemporaneously with the instruction and that designates by title any reading materials used.
2. Samples of any writings, worksheets, workbooks, or creative materials used or developed by the student.

The Plaintiffs

A. Plaintiff Rhea

78. Plaintiff Rhea's child, B.R., attends a school in the School District of Orange County. As set forth in the Affidavit attached hereto as Exhibit 12, at no time during the school year did she receive written notice that her child was identified as having a substantial deficiency in reading or of any of the other written notifications required by § 1008.25(5)(c)1-8, Fla. Stat.

79. In fact, B.R. is an Honor Roll student and her report card, attached to Plaintiff Rhea's affidavit, states that she "continues to read and comprehend text on a third grade level.

80. Plaintiff Rhea opted out of standardized testing for her child.

81. Plaintiff Rhea's child received a report card with passing grades in all subjects with no noted reading deficiencies. In fact, the report card expressly states that B.R. is reading at third grade level. Notwithstanding, B.R.'s report card states that she is assigned to the third grade for the upcoming school year. Plaintiff Rhea was informed that B.R. is being retained in the third grade because of no FSA scores and because her teacher was not informed of the criteria for developing a student portfolio during the school year.

B. Plaintiff Everett

82. Plaintiff Everett's grandchild, H.E, attends a school within the School District of Hernando County. As set forth in the Affidavit attached hereto as Exhibit 15, at no time during the school year did she receive written notice that her grandchild was identified as having a substantial deficiency in reading or of any of the other written notifications required by § 1008.25(5)(c)1-8, Fla. Stat.

83. Plaintiff Everett opted out of standardized testing for her child.

84. Plaintiff Everett's grandchild received a report card on June 21, 2016, which is attached to her Affidavit, with passing grades in all subjects with no noted reading deficiencies. Notwithstanding, H.E.'s report card states that she was being retained in the third grade stating: H.E.'s grades for each quarter in English Language Arts was A, B, C and B, respectively, and straight A's and one B for other required courses.

85. For the report period of 08/01/2015 – 06/01/2016, The Accelerated Reader reported that H.E. scored a 92.3% with the points of 37.9 out of 41.0 *See* Exhibit 2 attached to Plaintiff Everett's Affidavit.

86. H.E.'s Star Reading, dated 01/08/16, noted that she was at "Above Average" showing that she reads "at a level equal to that of a typical fifth grader." *See* Exhibit 3 attached to Plaintiff Everett's Affidavit.

87. H.E.'s BIRT Student Performance, dated 06/01/16, notes that she had 92% of the Skills Mastered *See* Exhibit 4 attached to Plaintiff Everett's Affidavit.

88. On June 2, 2016, Chocachatti Elementary School awarded H.E. a certificate for Honor Roll for the 2015-2016 school year. *See* Exhibit 5 attached to Plaintiff Everett's Affidavit.

89. Notwithstanding, H.E.'s report card indicates that Plaintiff Everett's grandchild will not be promoted and is assigned to repeat third grade for the 2016-2017 school year, stating "RETENTION DUE TO FSA SCORES." *See* Exhibit 1 attached to Plaintiff Everett's Affidavit.

C. Plaintiff Paternoster

90. Plaintiff Paternoster's two children, D.P. and J.P. attend schools in the School District of Broward County. As set forth in the Affidavit attached hereto as Exhibit 16, at no time during the school year did she receive written notice that her children were identified as having a substantial deficiency in reading or of any of the other written notifications as required by § 1008.25(5)(c)1-8, Fla. Stat.

91. Plaintiff Paternoster opted out of standardized testing for both her children.

92. Plaintiff Paternoster's children received a report card, which are attached to her Affidavit, with passing grades in all subjects with no noted reading deficiencies. In fact, report cards for both D.P. and J.P. reflect that they are at grade level 3 in reading and Language Arts.

D. Plaintiff Butler

93. Plaintiff Butler's child, N.B., attends a school within the School District of Hernando County. As set forth in the Affidavit attached hereto as Exhibit 17, at no time during the school year did she receive written notice that her child was identified as having a substantial deficiency in reading or of any of the other written notifications required by § 1008.25(5)(c)1-8, Fla. Stat.

94. Plaintiff Butler opted out of standardized testing for her child.

95. Plaintiff Butler's child received a report card, which is attached to her Affidavit, with passing grades in all subjects with no noted reading deficiencies. Notwithstanding, N.B.'s report card states that she was being retained in the third grade stating: "RETENTION DUE TO FSA SCORES."

E. Plaintiff Hasania

96. Plaintiff Hasania's child, S.H., attends a school within the School District of Hernando County. As set forth in the Affidavit attached hereto as Exhibit 18, at no time during the school year did she receive written notice that her child was identified as having a substantial deficiency in reading or of any of the other written notifications required by § 1008.25(5)(c)1-8, Fla. Stat.

97. Plaintiff Hasania opted out of standardized testing for her child.

98. Plaintiff Hasania's child received a report card, which is attached to her Affidavit, with passing grades in all subjects with no noted reading deficiencies. Notwithstanding, S.H.'s report card states that she was being retained in the third grade stating: "RETENTION DUE TO FSA SCORES."

F. Plaintiff Hohman

99. Plaintiff Hohman's child, M.H., attends a school within the School District of Hernando County. As set forth in the Affidavit attached hereto as Exhibit 19, at no time during the school year did she receive written notice that her child was identified as having a substantial deficiency in reading or of any of the other written notifications required by § 1008.25(5)(c)1-8, Fla. Stat.

100. Plaintiff Hohman opted out of standardized testing for her child.

101. Plaintiff Hohman's child received a report card, which is attached to her Affidavit, with passing grades in all subjects with no noted reading deficiencies. Notwithstanding, M.H.'s report card states that she was being retained in the third grade stating: "RETENTION DUE TO FSA SCORES."

G. Plaintiff Kinkade

102. Plaintiff Kinkade's child, M.K., attends a school within the School District of Hernando County. As set forth in the Affidavit attached hereto as Exhibit 20, at no time during the school year did she receive written notice that her child was identified as having a substantial deficiency in reading or of any of the other written notifications required by § 1008.25(5)(c)1-8, Fla. Stat.

103. Plaintiff Kinkade opted out of standardized testing for her child.

104. Plaintiff Kinkade's child received a report card, which is attached to her Affidavit, with passing grades in all subjects with no noted reading deficiencies. Notwithstanding, M.K.'s report card states that she was being retained in the third grade stating: "RETENTION DUE TO FSA SCORES."

H. Plaintiff Rowland

105. Plaintiff Rowland's child, A.R., attends a school in the School District of Hernando County. As set forth in the Affidavit attached hereto as Exhibit 21, at no time during the school year did she receive written notice that her child was identified as having a substantial deficiency in reading or of any of the other written notifications required by § 1008.25(5)(c)1-8, Fla. Stat.

106. Plaintiff Rowland opted out of standardized testing for her child.

107. Plaintiff Rowland's child received a report card, which is attached to her Affidavit, with passing grades in all subjects with no noted reading deficiencies. Notwithstanding, A.R.'s report card states that she was being retained in the third grade stating: "RETENTION DUE TO FSA SCORES."

I. Plaintiff Callaghan

108. Plaintiff Callaghan's child, G.C., attends a school in the School District of Osceola County. As set forth in the Affidavit attached hereto as Exhibit 22, at no time during the school year did she receive written notice that her child was identified as having a substantial deficiency in reading or of any of the other written notifications required by § 1008.25(5)(c)1-8, Fla. Stat.

109. Plaintiff Callaghan opted out of standardized testing for her child.

110. Plaintiff Callaghan's child received a report card, which is attached to her Affidavit, with passing grades in all subjects with no noted reading deficiencies. Notwithstanding, Plaintiff Callaghan was informed that G.C. is being retained in the third grade because of no FSA scores.

J. Plaintiff Hastings

111. Plaintiff Hastings' child, J.H., attends a school in the School District of Pasco County. As set forth in the Affidavit attached hereto as Exhibit 23, at no time during the school year did he receive written notice that his child was identified as having a substantial deficiency in reading or of any of the other written notifications required by § 1008.25(5)(c)1-8, Fla. Stat.

112. Plaintiff Hastings opted out of standardized testing for her child.

113. Plaintiff Hastings' child received a report card, which is attached to his Affidavit, with passing grades in all subjects with no noted reading deficiencies. Notwithstanding, J.H.'s report card states that she is being retained in the third grade.

K. Plaintiff Chastain

114. Plaintiff Chastain's child, A.C., attends a school in the School District of Sarasota County. As set forth in the Affidavit attached hereto as Exhibit 24, at no time during the school year did she receive written notice that her child was identified as having a substantial deficiency in reading or of any of the other written notifications required by § 1008.25(5)(c)1-8, Fla. Stat.

115. Plaintiff Chastain opted out of standardized testing for her child.

116. Plaintiff Chastain's child received a report card, which is attached to her Affidavit, with passing grades in all subjects with no noted reading deficiencies. Notwithstanding, A.C.'s report card states that he is being retained in the third grade.

L. Plaintiff Nickerson

117. Plaintiff Nickerson's child, S.N., attends a school in the School District of Seminole County. As set forth in the Affidavit attached hereto as Exhibit 25, at no time during the school year did she receive written notice that her child was identified as having a substantial

deficiency in reading or of any of the other written notifications required by § 1008.25(5)(c)1-8, Fla. Stat.

118. Plaintiff Nickerson opted out of standardized testing for her child. In October 2015, in an e-mail to the school principal and others, Plaintiff Nickerson informed the school district that her child would not be taking the IOWA exam and requested an alternate assessment for her child. In response, the school's assistant principal, Jamie White, advised Plaintiff Nickerson that third grade students must show proficiency on the state standardized test, the FSA. *See* Exhibit 1, attached to Affidavit of Plaintiff Nickerson.

119. On December 4, 2015, Plaintiff Nickerson requested that a portfolio be created for her child. In response, Plaintiff Nickerson was notified on December 8, 2015, via email that:

The county is in the process of developing the requirements for the Portfolio. We hope to have all the information by January. I will make sure [S.N.] is put on a portfolio per your request. Once I have the information on what we will be gathering for the Portfolio, I will let you know.

See Exhibit 2, attached to Affidavit of Plaintiff Nickerson.

120. On February 25 and 29, 2016, the school informed Plaintiff Nickerson via e-mail for the first time of the district's requirements for a portfolio, which actually was a series of eight (8) tests. In the e-mail dated February 25, assistant Principal White stated "[w]e will build portfolios for any students we are concerned may not show proficiency on the FSA or IOWA." *See* Exhibit 3, attached to Affidavit of Plaintiff Nickerson.

121. On May 25, 2016, Plaintiff Nickerson I was informed by the school principal in a letter that her child had "refused the opportunity to demonstrate mastery of Florida's academic standards for English Language Arts by completing a student portfolio." *See* Exhibit 4, attached to Affidavit of Plaintiff Nickerson.

122. On May 26, 2016, Plaintiff Nickerson was informed via e-mail by the school principal that her child's report card would reflect a retention for third grade because "we have no FSA results, Iowa scores and no portfolio data." She was then offered for her child to take a test during summer school. In that same e-mail, she was also offered to "begin the portfolio immediately." *See* Exhibit 5, attached to Affidavit of Plaintiff Nickerson.

123. Plaintiff Nickerson's child, S.N., received a report card, which is attached to her Affidavit, with a final grade of A in English Language Arts with no noted reading deficiencies. Notwithstanding, S.N.'s report card states that she is being retained in the third grade. *See* Exhibit 6, attached to Affidavit of Plaintiff Nickerson.

M. Plaintiff Weaver

124. Plaintiff Weaver's child, C.W., attends a school in the School District of Seminole County. As set forth in the Affidavit attached hereto as Exhibit 26, at no time during the school year did she receive written notice that her child was identified as having a substantial deficiency in reading or of any of the other written notifications required by § 1008.25(5)(c)1-8, Fla. Stat.

125. Plaintiff Weaver opted out of standardized testing for her child.

126. Plaintiff Weaver's child, C.W., received a report card, which is attached to her Affidavit, with passing grades in all subjects with no noted reading deficiencies. Notwithstanding, Plaintiff Weaver was informed that C.W. is being retained in the third grade because of no FSA scores.

N. Plaintiff Hazard

127. Plaintiff Hazard's child, Z.H., attends a school in the School District of Hernando County. As set forth in the Affidavit attached hereto as Exhibit 27, at no time during the school

year did she receive written notice that her child was identified as having a substantial deficiency in reading or of any of the other written notifications required by § 1008.25(5)(c)1-8, Fla. Stat.

128. Plaintiff Hazard opted out of standardized testing for her child.

129. Plaintiff Hazard child received a report card, which is attached to her Affidavit, with passing grades in all subjects with no noted reading deficiencies. Notwithstanding, Z.H.'s report card states that he was being retained in the third grade stating: "RETENTION DUE TO FSA SCORES."

COUNT I

(Equal Protection – Florida Constitution)

130. Plaintiffs repeat paragraphs 1 through 129 as if fully set forth herein.

131. The Equal Protection Clause of Article I, section 2, of the Florida Constitution, provides that "[a]ll natural persons, female and male alike, are equal before the law."

132. The Equal Protection Clause requires that government treat similarly-situated persons similarly.

133. Defendants' inconsistency in accepting a student portfolio or report card based on classroom work throughout the course of the school year when there is no reading deficiency treats similarly-situated persons differently.

134. Defendants' widely varying implementation of Fla. Admin. Code Ann. r. 6A-1.094221 and Fla. Stat., § 1008.25(5)(b), during the 2015-2016 school year creates an arbitrary legal distinction between students attending schools in districts that allowed the student portfolio exemption without requiring a standardized test score and students attending schools in districts that mandated a standardized test score in order for the portfolio exemption to apply.

135. The different requirements for the portfolio exemption for students who are home schooled set forth in Fla. Stat., § 1002.41 creates an arbitrary legal distinction between students who are home schooled and students who attend public schools.

136. Defendants' unilateral promotion of third graders in the school year 2014-2015 based solely on report cards creates an arbitrary legal distinction between persons who attended school in 2014-2015 and persons who attend in years other than 2014-2015.

137. Defendants' interpretation of Fla. Admin. Code Ann. r. 6A-1.094221 and Fla. Stat., § 1008.25(5)(b), during the 2015-2016 school year was inconsistent and contrary to the plain language of the statute and rule that allows for a student portfolio exemption without having to submit to a standardized test.

138. As a direct and proximate result of defendants' actions, Plaintiffs were substantially harmed because schools and teachers either refused to recognize that the student portfolio exemption did not require a standardized test score, used widely varying criteria in applying the exemption, or did not maintain a portfolio throughout the school year by which to evaluate the exemption.

139. As a direct and proximate result of the defendants' actions, widely different methods were used in decisions involving the retention and promotion of third grade students resulting in students across the state being treated unequally under the statute and rule.

140. As a direct and proximate result of the defendants' actions, Plaintiffs' children have been subjected to arbitrary and capricious results that depend on which criteria, if any, were applied in different school districts.

141. Defendants have no compelling, substantial, or even legitimate interest in an interpretation of Fla. Admin. Code Ann. r. 6A-1.094221 and Fla. Stat., § 1008.25(5)(b), that does

not consider a student's report card or portfolio and bars promotion of their children to the fourth grade because they opted out of standardized testing when there is no reading deficiency.

142. Defendants have no compelling, substantial, or even legitimate interest in penalizing students who opt out of standardized tests through the arbitrary and capricious implementation and interpretation of Fla. Admin. Code Ann. r. 6A-1.094221 and Fla. Stat., § 1008.25(5)(b).

143. Defendants' implementation of Fla. Admin. Code Ann. r. 6A-1.094221 and Fla. Stat., § 1008.25(5)(b) in this manner is not necessary to achieve, narrowly tailored to achieve, or rationally related to any compelling, substantial, or legitimate governmental interest.

144. Defendants have no compelling, substantial, or even legitimate interest in treating test participation as more important than actual performance and actual proficiency.

145. Defendants have no compelling, substantial, or even legitimate interest in refusing to promote third grade students who opted out of standardized tests during the 2015-2016 school year, but otherwise earned passing grades on report cards and had no reading deficiencies, when defendants promoted third graders across-the-board during the 2015-2016 school year based solely on report cards because standardized test results were provided late.

146. Defendants' decision to retain Plaintiffs' children because they opted out of standardized tests, but otherwise earned passing grades on their report cards and had no reading deficiencies, is arbitrary and capricious and serves no rational governmental interest.

147. On its face and as applied to Plaintiffs, the widely varying implementation of Fla. Admin. Code Ann. r. 6A-1.094221 and Fla. Stat., § 1008.25(5)(b), during the 2015-2016 school year violates the Equal Protection Clause of Article I, section 2, of the Florida Constitution.

148. Plaintiffs have no other remedy by which to prevent or minimize the continuing irreparable harm to their constitutional rights.

149. Unless the defendants' conduct is declared unconstitutional and permanently enjoined, Plaintiffs will continue to suffer great and irreparable harm.

WHEREFORE, Plaintiffs respectfully request the following relief:

A. A declaration that the widely varying implementation of Fla. Admin. Code Ann. r. 6A-1.094221 and Fla. Stat., § 1008.25(5)(b), during the 2015-2016 school year, and the differing standards for the portfolio exemption for home schooled students, on its face and as applied to Plaintiffs violates the Equal Protection Clause of Article I, section 9, of the Florida Constitution.

B. Such other relief as the Court deems just.

COUNT II

(Substantive Due Process)

150. Plaintiffs repeat paragraphs 1 through 129 as if fully set forth herein.

151. The Due Process Clause of Article I, section 9, of the Florida Constitution provides that “[n]o person shall be deprived of life, liberty or property without due process of law.”

152. The Due Process Clause has a substantive component that protects, among other things, the right to be free from arbitrary and unreasonable governmental interference.

153. Defendants' implementation of Fla. Admin. Code Ann. r. 6A-1.094221 and Fla. Stat., § 1008.25(5)(b) is arbitrary and unreasonable.

154. Refusing to accept a student portfolio or report card based on classroom work throughout the course of the school year when there is no reading deficiency is arbitrary and irrational.

155. Refusing to properly implement the student portfolio exemption is wholly unreasonable.

156. Defendants have no compelling, substantial, or even legitimate interest in refusing to accept a student portfolio or report card based on classroom work throughout the course of the school year when there is no reading deficiency.

157. Refusing to accept a student portfolio or report card based on classroom work throughout the course of the school year when there is no reading deficiency is not necessary to achieve, narrowly tailored to achieve, or rationally related to any compelling, substantial, or legitimate governmental interest.

158. On its face and as applied to Plaintiffs, the refusal to accept a student portfolio or report card based on classroom work throughout the course of the school year when there is no reading deficiency violates the Due Process Clause of Article I, section 9, of the Florida Constitution.

WHEREFORE, Plaintiffs respectfully request the following relief:

A. A declaration that the refusal to accept a student portfolio or report card based on classroom work throughout the course of the school year when there is no reading deficiency on its face and as applied to Plaintiffs violates the Due Process Clause of Article I, section 9, of the Florida Constitution.

B. Such other relief as the Court deems just.

COUNT III

(Equal Protection – Federal Constitution)

159. Plaintiffs repeat paragraphs 1 through 129 as if fully set forth herein.

160. The Equal Protection Clause of the United States Constitution requires that government treat similarly-situated persons similarly.

161. Defendants' inconsistency in accepting a student portfolio or report card based on classroom work throughout the course of the school year when there is no reading deficiency treats similarly-situated persons differently.

162. Defendants' widely varying implementation of Fla. Admin. Code Ann. r. 6A-1.094221 and Fla. Stat., § 1008.25(5)(b), during the 2015-2016 school year creates an arbitrary legal distinction between students attending schools in districts that allowed the student portfolio exemption without requiring a standardized test score and students attending schools in districts that mandated a standardized test score in order for the portfolio exemption to apply.

163. The different requirements for the portfolio exemption for students who are home schooled set forth in Fla. Stat., § 1002.41 creates an arbitrary legal distinction between students who are home schooled and students who attend public schools.

164. Defendants' unilateral promotion of third graders in the school year 2014-2015 based solely on report cards creates an arbitrary legal distinction between persons who attend attended school from in that time period as compared to any other.

165. Defendants' interpretation of Fla. Admin. Code Ann. r. 6A-1.094221 and Fla. Stat., § 1008.25(5)(b), during the 2015-2016 school year was inconsistent and contrary to the plain language of the statute and rule that allows for a student portfolio exemption without having to submit to a standardized test.

166. As a direct and proximate result of defendants' actions, Plaintiffs were substantially harmed because schools and teachers either refused to recognize that the student portfolio exemption did not require a standardized test score, used widely varying criteria in

applying the exemption, or did not maintain a portfolio throughout the school year by which to evaluate the exemption.

167. As a direct and proximate result of the defendants' actions, widely different methods were used in decisions involving the retention and promotion of third grade students resulting in students across the state being treated unequally under the statute and rule.

168. As a direct and proximate result of the defendants' actions, Plaintiffs' children have been subjected to arbitrary and capricious results that depend on which criteria, if any, were applied in different school districts.

169. Defendants have no compelling, substantial, or even legitimate interest in an interpretation of Fla. Admin. Code Ann. r. 6A-1.094221 and Fla. Stat., § 1008.25(5)(b), that does not consider a student's report card or portfolio and bars promotion of their children to the fourth grade because they opted out of standardized testing when there is no reading deficiency.

170. Defendants have no compelling, substantial, or even legitimate interest in penalizing students who opt out of standardized tests through the arbitrary and capricious implementation and interpretation of Fla. Admin. Code Ann. r. 6A-1.094221 and Fla. Stat., § 1008.25(5)(b).

171. Defendants' implementation of Fla. Admin. Code Ann. r. 6A-1.094221 and Fla. Stat., § 1008.25(5)(b) in this manner is not necessary to achieve, narrowly tailored to achieve, or rationally related to any compelling, substantial, or legitimate governmental interest.

172. Defendants have no compelling, substantial, or even legitimate interest in treating test participation as more important than actual performance and actual proficiency.

173. Defendants have no compelling, substantial, or even legitimate interest in refusing to promote third grade students who opted out of standardized tests during the 2015-2016 school

year, but otherwise earned passing grades on report cards and had no reading deficiencies, when defendants promoted third graders across-the-board during the 2015-2016 school year based solely on report cards because standardized test results were provided late.

174. Defendants' decision to retain Plaintiffs' children because they opted out of standardized tests, but otherwise earned passing grades on their report cards and had no reading deficiencies, is arbitrary and capricious and serves no rational governmental interest.

175. On its face and as applied to Plaintiffs, the widely varying implementation of Fla. Admin. Code Ann. r. 6A-1.094221 and Fla. Stat., § 1008.25(5)(b), during the 2015-2016 school year violates the Equal Protection Clause of Article I, section 2, of the Florida Constitution.

176. Plaintiffs have no other remedy by which to prevent or minimize the continuing irreparable harm to their constitutional rights.

177. Unless the defendants' conduct is declared unconstitutional and permanently enjoined, Plaintiffs will continue to suffer great and irreparable harm.

178. Plaintiffs have retained counsel and are obligated to pay a reasonable attorney's fee to bring this action.

WHEREFORE, Plaintiffs respectfully request the following relief:

A. A declaration that the widely varying implementation of Fla. Admin. Code Ann. r. 6A-1.094221 and Fla. Stat., § 1008.25(5)(b), during the 2015-2016 school year, and the differing standards for the portfolio exemption for home schooled students, on its face and as applied to Plaintiffs violates the Equal Protection Clause of the Fourteenth Amendment.

B. Attorney's fees and costs.

C. Such other relief as the Court deems just.

COUNT IV

(Procedural Due Process)

179. Plaintiffs repeat paragraphs 1 through 129 as if fully set forth herein.

180. The Due Process Clause of the United States Constitution provides that no person shall be “deprived of life, liberty or property without due process of law[.]”

181. The Due Process Clause provides a procedural component that protects, among other things, important interests involving life, liberty and property without adequate notice and an opportunity to be heard.

182. Defendants failed to provide the required notice under federal and state law as set forth in 20 U.S.C.A. § 6312(e)(2)(A) (West), Fla. Stat., § 1008.22(3), Fla. Stat., and Fla. Stat. § 1008.25(5)(c)1-8.

183. Plaintiffs have a substantial liberty interest in their children being considered for promotion to the fourth grade under procedures that are fair, adequate, and provide an opportunity for a hearing.

184. Florida law allows for no due process or clear entry for the opportunity for due process when a school principal makes the determination that a student should or should not be promoted under the portfolio exemption.

185. A school principal’s decision to promote under the portfolio exemption is reviewed by the school district superintendent.

186. However, a school principal’s decision to retain under the portfolio exemption is not reviewed by the school district superintendent. See Fla. Stat. § 1008.25(6)(c)2.

187. On its face and as applied to Plaintiffs, the failure to provide due process or a clear entry for the opportunity for due process when a school principal makes the determination

that a student should or should not be promoted under the portfolio exemption violates the Due Process Clause of the Fifth Amendment.

188. On its face and as applied to Plaintiffs, the failure to provide the parental notice required under federal and state law as set forth in 20 U.S.C.A. § 6312(e)(2)(A) (West), Fla. Stat., § 1008.22(3), Fla. Stat., and Fla. Stat. § 1008.25(5)(c)1-8 violates the Due Process Clause of the Fifth Amendment.

WHEREFORE, Plaintiffs respectfully request the following relief:

A. A declaration that the failure to provide due process or a clear entry for the opportunity for due process when a school principal makes the determination that a student should or should not be promoted under the portfolio exemption on its face and as applied to Plaintiffs violates the Due Process Clause of the Fifth Amendment.

B. a declaration that the failure to provide the parental notice required under federal and state law as set forth in 20 U.S.C.A. § 6312(e)(2)(A) (West), Fla. Stat., § 1008.22(3), Fla. Stat., and Fla. Stat. § 1008.25(5)(c)1-8 on its face and as applied to Plaintiffs violates the Due Process Clause of the Fifth Amendment.

C. Award attorney's fees and costs.

D. Such other relief as the Court deems just.

COUNT V

(Injunctive Relief)

189. Plaintiff repeats paragraphs 1 through 129 as if fully set forth herein.

190. Plaintiffs have a substantial likelihood of success on the merits as there is no rational governmental interest served by the defendants' arbitrary and capricious decision to

retain plaintiffs' children because they opted out of standardized tests, but otherwise earned passing grades on their report cards and had no reading deficiencies.

191. Absent injunctive relief, plaintiffs will be irreparably harmed by the defendants' actions because research demonstrates that retaining a child is extremely detrimental to their education, places them at substantial risk of truancy or dropping out of school altogether, socially isolates from their peers, and produces negative resentment and attitudes towards the school and authority in general. The negative behaviors associated with retention are exacerbated here because each of the Plaintiffs' children received a report card with passing grades, some earning straight A's and Honor Roll for their hard work throughout the school year, but yet they will be retained in the third grade despite having no reading deficiency.

192. The requested injunction serves the public interest because the defendants' conduct in treating test participation as more important than actual classroom performance and individual student proficiency is contrary to a just and equitable educational system.

193. Plaintiffs have no other remedy by which to prevent or minimize the continuing irreparable harm to their constitutional rights.

WHEREFORE, Plaintiffs respectfully request the following relief:

A. A preliminary injunction enjoining defendants from refusing to accept a student portfolio or report card based on classroom work throughout the course of the school year when there is no reading deficiency.

B. Attorney's fees and costs.

C. Such other relief as the Court deems just.

Dated: August 9, 2016

Respectfully submitted,



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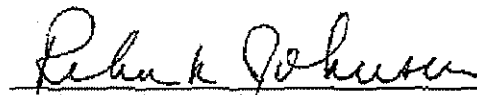
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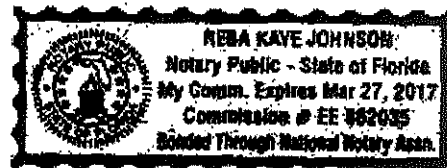
STATE OF FLORIDA

COUNTY OF ORANGE

BEFORE ME the undersigned authority, personally appeared Michelle Rhea, who is personally known to me or who produced Personally known as identification, and who, after first being duly sworn, deposes and says that she has read and understands the forgoing Verified Emergency Complaint for Declaratory and Injunctive Relief and that under the penalty of perjury, the information contained therein is true and correct.


MICHELLE RHEA


NOTARY PUBLIC, State of Florida
My Commission expires:





UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

DEC 2 2 2015

Dear Chief State School Officer:

Before the spring 2016 test administration, I would like to take this opportunity to remind you of key assessment requirements that exist under the Elementary and Secondary Education Act of 1965, as amended by the No Child Left Behind Act of 2001 (ESEA). These requirements will remain in place for the 2015–2016 school year, and similar requirements are included in the recently signed reauthorization of the ESEA, known as the Every Student Succeeds Act (ESSA).

A high-quality, annual statewide assessment system that includes all students is essential to provide local leaders, educators, and parents with the information they need to identify the resources and supports that are necessary to help every student succeed in school and in a career. Such a system also highlights the need for continued work toward equity and closing achievement gaps among subgroups of historically underserved students by holding all students to the same high expectations.

Section 1111(b)(3)¹ of the ESEA requires each State educational agency (SEA) that receives funds under Title I, Part A of the ESEA to implement in each local educational agency (LEA) in the State a set of high-quality academic assessments that includes, at a minimum, assessments in mathematics and reading/language arts administered in each of grades 3 through 8 and not less than once during grades 10 through 12; and in science not less than once during grades 3 through 5, grades 6 through 9, and grades 10 through 12. Furthermore, ESEA sections 1111(b)(3)(C)(i) and (ix)(I) require State assessments to “be the same academic assessments used to measure the achievement of *all* children” and “provide for the participation in such assessments of *all* students” (emphasis added). These requirements do not allow students to be excluded from statewide assessments. Rather, they set out the legal rule that all students in the tested grades must be assessed.

In applying for funds under Title I, Part A of the ESEA, your State assured that it would administer the Title I, Part A program in accordance with all applicable statutes and regulations (*see* ESEA section 9304(a)(1)). Similarly, each LEA that receives Title I, Part A funds in your State assured that it would administer its Title I, Part A program in accordance with all applicable statutes and regulations (*see* ESEA section 9306(a)(1)). Please note that the portions of the ESEA referenced above have not been waived for States, including States that received ESEA flexibility.

Over the last several months, many States have released 2014–2015 State assessment data. A few States did not assess at least 95 percent of students in the “all students” group or individual ESEA subgroup(s)

¹ Please note that all statutory citations in this letter refer to the Elementary and Secondary Education Act of 1965, as amended in 2001 by the No Child Left Behind Act. This law remains in effect during the remainder of the 2015-2016 school year and the requirements discussed in this letter continue under the ESSA.

statewide. Additionally, in some states, LEAs within some States did not assess at least 95 percent of their students. ED has asked each of these States to submit information on the steps it is taking to immediately address this problem and meet its assessment obligations under the ESEA. Each SEA was provided 30 days to submit its response to the Office of State Support (OSS), and ED is currently reviewing information submitted by these SEAs. As additional States release assessment results, ED will request such information if the State or its LEAs do not assess at least 95 percent of their students. If a State's response does not adequately address this problem and meet the State's assessment obligations under the ESEA, ED may take enforcement action.

In each request for information, the SEA was asked to demonstrate that it has taken or will take appropriate actions to enforce the requirements of the ESEA, describe how such actions will specifically address the problem that occurred in 2014–2015, and ensure that all students will participate in statewide assessments during the 2015–2016 school year and each year thereafter, recognizing that the extent of the non-participation and other relevant factors should inform the SEA's actions. Some examples of actions an SEA could take, alone or in combination, include:

- Lowering an LEA's or school's rating in the State's accountability system or amending the system to flag an LEA or school with a low participation rate.
- Counting non-participants as non-proficient in accountability determinations.
- Requiring an LEA or school to develop an improvement plan, or take corrective actions to ensure that all students participate in the statewide assessments in the future, and providing the SEA's process to review and monitor such plans.
- Requiring an LEA or school to implement additional interventions aligned with the reason for low student participation, even if the State's accountability system does not officially designate schools for such interventions.
- Designating an LEA or school as "high risk," or a comparable status under the State's laws and regulations, with a clear explanation for the implications of such a designation.
- Withholding or directing use of State aid and/or funding flexibility.

In addition, an SEA has a range of other enforcement actions at its disposal with respect to noncompliance by an LEA, including placing a condition on an LEA's Title I, Part A grant or withholding an LEA's Title I, Part A funds (*see, e.g.,* section 440 of the General Education Provisions Act).

If a State with participation rates below 95% in the 2014–2015 school year fails to assess at least 95% of its students on the statewide assessment in the 2015–2016 school year, ED will take one or more of the following actions: (1) withhold Title I, Part A State administrative funds; (2) place the State's Title I, Part A grant on high-risk status and direct the State to use a portion of its Title I State administrative funds to address low participation rates; or (3) withhold or redirect Title VI State assessment funds.

For all States, ED will consider the appropriate action to take for any State that does not assess at least 95 percent of its students in the 2015–2016 school year — overall and for each subgroup of students and among its LEAs. To determine what action is most appropriate, ED will consider SEA and LEA participation rate data for the 2015–2016 school year, as well as action the SEA has taken with respect to any LEA noncompliance with the assessment requirements of the ESEA.

We look forward to working with you to ensure that all students participate in statewide assessments during the 2015–2016 school year and each year thereafter, and in supporting implementation of the

Every Student Succeeds Act, which includes a new focus on auditing and reducing unnecessary State and local assessments and providing parents and families with better information about required testing. Additionally, States may find other useful information regarding assessments in the [Administration's Testing Action Plan](#), released in October 2015. As the Plan describes in greater detail, all tests should be worth taking, offer students an opportunity to learn while they take them, and allow them to apply real-world skills to meaningful problems. Tests must accommodate the needs of all students and measure student success in a fair, valid, and reliable way. In the coming months, ED will release additional resources and guidance to support your efforts to eliminate duplicative local or State assessments and continue to develop new and innovative approaches to using assessments effectively to support and inform classroom instruction.

Please do not hesitate to contact your State's program officer in the Office of State Support if you need additional information or clarification. Thank you for your continued commitment to enhancing education for all of your State's students.

Sincerely,

/s/

Ann Whalen
Delegated the authority to perform the functions
and duties of Assistant Secretary for Elementary
and Secondary Education

cc: State Title I Directors
State Assessment Directors



RICK SCOTT
GOVERNOR

EXHIBIT

2

September 23, 2013

Secretary Arne Duncan
United States Department of Education
400 Maryland Avenue, Southwest
Washington, District of Columbia 20202

Dear Secretary Duncan:

Floridians work hard each day to make Florida the best state to find a great job, get a quality education and build a family, and we know that continued growth and innovation in our state depends on the ability of our students to compete with their peers around the globe. We also know that in order to accomplish this, Florida students need the highest academic standards to achieve more in-depth understanding of concepts in reading, writing and math.

In 2010, the Florida State Board of Education adopted the Common Core State Standards in English Language Arts and Mathematics, after a process designed to continue the development of Florida's Next Generation Sunshine State Standards. This process began under former Governor Jeb Bush and continued in legislation that came from former Speaker Marco Rubio as an effort to make sure that all of our students in all of our schools were given the tools to succeed. This process resulted in the highest academic standards that could move our students and teachers away from "teaching to the test" and toward a more independent, analytical approach to reading, writing and math. It is the application of analytical skills that will lead them toward the type of problem solving they will need to ensure success in college and in their careers. The provision of these standards is a fundamental duty of our state government, while the operation, control and supervision of our schools remains, as the Florida Constitution directs, the purview of our local school boards.

Florida has participated in the Partnership for Assessment of Readiness for College and Careers (PARCC) over the past few years with the goal of assessing students' abilities to master these critical skills. In recent months, however, the debate over how to best accomplish this has devolved into whether Floridians and all Americans are simply "for Common Core" or "against Common Core," with federal government involvement in PARCC a central part of the problem for states.

Secretary Arne Duncan
September 23, 2013
Page Two

Unfortunately today, PARCC has become a primary entry point for the involvement of the federal government in many of these state and local decisions. The federal government, however, has absolutely no constitutional authority to involve itself in the state-level decisions on academic standards and assessments or the curriculum and instruction decisions of our local school boards.

Further, as outlined in the enclosed letter from Florida Senate President Don Gaetz and Speaker of the Florida House of Representatives Will Weatherford dated July 17, 2013, Florida has major concerns with the ability of PARCC to deliver an assessment that meets the expectations of Floridians.

As a result, I intend to ask that the State Board of Education direct the Commissioner of Education to end Florida's fiscal agent relationship with PARCC and to issue a competitive solicitation to select Florida's next state assessment. Certainly, all assessment providers, including PARCC, may be able to compete in this process, as long as assessment solutions are consistent with the necessary requirements laid out in Florida Executive Order 2013-276, released today. However, as the federal government continues to maintain its unwarranted involvement in PARCC, it is important that we examine other alternatives to select an assessment that best meets the needs of Florida students, parents and teachers, not the needs of the federal government or other states.

Thank you for your attention to this matter.

Sincerely,



Rick Scott
Governor

cc: Commissioner Mitchell Chester, Chairman, PARCC Governing Board
Florida Congressional Delegation
The Honorable Don Gaetz, President, Florida Senate
The Honorable Will Weatherford, Speaker, Florida House of Representatives
State Board of Education Members
Commissioner Pam Stewart, Florida Department of Education

Enclosures (2)

Orange County Public Schools HB 7069 Frequently Asked Questions

As promised, we are providing limited additional information after attending Florida Department of Education (FLDOE) meetings this week. While some guidance was provided, it was made clear in this meeting that some questions remain unanswered. It is important to note that districts are still required to assess student learning for all subjects and use student learning data for at least one-third of teacher evaluations. Clarification is provided in the format of "frequently asked questions" below. We will continue to provide information as it is received.

Is my student required to take state-wide assessments?

The Florida Commissioner of Education provided the following guidance to all in a January 2015 memo to the legislature:

"State law requires students to participate in the state assessment system; therefore, there is no opt out clause or process for students to opt out or for parents to opt their children out. The department, when asked questions by parents, district officials and other constituents related to opting out, has cited section 1008.22(3), F.S., which states, "Participation in the assessment program is mandatory for all school districts and all students attending public schools, including students seeking an adult high school diploma under s. 1003.4282 and students in Department of Juvenile Justice education programs, except as otherwise prescribed by law...."

In following state statute and the above guidance of the Florida Commissioner of Education, we require all students to take the statewide assessment. It has always been made clear that OCPS would not provide any accommodations for students who choose not to take the required statewide or district assessments. The testing environment should not have disruptions or distractions, and security protocols should be followed. Some parents have chosen to keep their students home during testing periods.

When will scores be provided for the Florida Standards Assessments?

The Florida Standards Assessments (FSA) were administered to students in Grades 3 through 10 in English/Language Arts (ELA), Grades 3 through 8 in Mathematics. New Florida Standards Assessment End of Course (EOC) assessments were provided to students taking Algebra I, Geometry, and Algebra II courses for the first time in the 2014-15 school year. These scores will not be provided by the Florida Department of Education to school districts and parents until a validity study has been conducted to determine the validity and appropriate use of the scores. This will likely occur in September.

State-wide Assessments

When will scores be provided for other state-wide assessments?

State-wide assessments aligned with Next Generation Sunshine State Standards (NGSSS) including Grade 5 and Grade 8 Science, Civics, Biology, US History, and retakes of NGSSS Algebra I and Grade 10 Reading assessments will receive scores on or before the week of June 8.

Will all state-wide End of Course (EOC) assessments have the 30% calculation included for 2014-15?

The Commissioner of Education indicated that the 30% requirement remains in place for all State-wide EOCs. However, a validity study is pending on the new Algebra I, Geometry, and

Algebra II EOC assessments. Final information from the Florida Department of Education (FLDOE) on this issue will be provided to districts Friday, May 15. We will communicate this information out to parents, guardians and schools as soon as the information is provided. Using flexibility provided to the school district, we are working on measures to limit negative impact for students.

K-2 Assessment

Why is Orange County Public Schools (OCPS) providing the Iowa Assessments for students in grades K-2?

K-2 assessments are not End of Course (EOC) assessments. They provide our schools with critical information concerning each student's progress. Historically, we have used the Florida Assessments for Instruction in Reading (FAIR) to assess the performance of students in grades K-2. After significant technology problems, the FLDOE ceased providing the FAIR to districts. In the absence of the FAIR, we are providing a national standardized assessment, Iowa Assessments for students. Some districts are using the national Stanford Achievement Test for grades K-2. OCPS has used the Iowa Assessment for several years for third grade exceptions to retention. We will continue to examine our K-2 assessments to ensure that we are providing the most appropriate means to ensure quality instruction and inform teacher development for these grade levels.

How much time does it take to complete the Iowa Assessment?

Most students spend around a total of two hours taking the assessment. This time is split over two days so that students have only around one hour a day spent on the assessment. Students participating in English Language Learner (ELL) and Exceptional Student Education (ESE) programs are provided needed accommodations when applicable.

When will I receive the results from the Iowa Assessment?

Results will be available for the Iowa Assessment near the end of the school year. There will be score reports available at schools upon the release of score reports that describe student results.

Will the results from the Iowa Assessment be used for the evaluation of teachers?

Yes. The results of the Iowa Assessment will be used for the evaluation of teachers who instruct students in grades K-2. State statute requires that all instructional personnel receive a portion of their evaluation based on the student learning growth of students they directly instruct.

Common Final Exams (Local EOCs)

Why is Orange County providing common final exams for courses not covered by state-wide assessments?

Common final exams are important for a large district where students are mobile. Additionally, consistent expectations across the district help to ensure that all students receive equitable opportunities to learn important course standards. State statutes also require that each teacher receive a portion of their annual evaluation based on the student learning of students they directly instruct. Orange County believes that teachers should have this portion of their evaluation constructed from the students they teach *and* the subjects they instruct.

Has Orange County eliminated any assessments due to increased flexibility provided by the state?

Last year before the passage of new legislation, OCPS eliminated 27 interim assessments. This year, OCPS has eliminated an additional 42 elementary assessments to ease assessment requirements on students in Kindergarten through Grade 5. Elementary students in Grade 5 will take assessments in elective subjects. We will be evaluating our assessment system after the State Board of Education sets additional rules on evaluation and assessment by August 1 as required per state statute. Feedback from teachers and students to improve our secure final exams will serve as quality assurance for consistent instruction and direct professional development plans.

How will common final exams (local EOCs) be used in student grades?

We will consider this first year of common final exams a baseline administration. Results from the first semester administration have provided some insight. District wide, 51,161 students took the common final assessments in single semester courses. No additional final exam was administered, per district direction, and they were calculated as 20% of the final grade. While results vary, 10.2% (5,258) of students had a lower grade due to the final. **Over 3.5% of students** (1,800) improved their semester grade due to high performance on the common final exams. No student dropped more than one letter grade or failed because of the final exams. We are looking at measures to lessen the impact for students during this baseline year.

Retention and Promotion

Without scores for third grade students, how will Orange County determine eligibility for promotion to 4th grade?

For this year, the FLDOE will not be providing scores for Grade 3 students. They will, however, be providing a list of the students who fall in the lowest quintile of students throughout the state on the new FSA in Grade 3 to each district. OCPS students who score below the 20th percentile of all students in the state of Florida will appear on our list in the coming weeks (no date certain provided). Parents or guardians of these children must be notified. Since validity studies will not be completed by this time, OCPS will use other means to determine remediation and retention needs. For this year, teams involving parents, teachers, and school principals will meet to help make these decisions for students of concern. Schools have been provided direction as noted on the attachment.

Please note that rules guiding the promotion of Grade 3 students will change for the 2015-16 school year per state statute.

What about seniors who are still in need of a state-wide assessment in order to graduate?

In the void of additional direction, OCPS does not intend to await outcomes from non-validated state exams to determine graduation decisions.

Teacher Evaluation

Which assessments are used in the evaluation of teachers?

All statewide assessments along with the common final exams will be used in the evaluation of teachers. As negotiated with the Classroom Teachers Association, cut scores for the exams hold teachers harmless for student learning growth this year.

Can Orange County Public Schools choose to not use assessments and student learning growth in the evaluation of teachers?

No. State statute requires the use of assessments and student learning growth for all instructional personnel. The new law provides that student learning growth should count for at least one-third of the teacher evaluation.

Some districts are choosing to eliminate some assessments and instead have allowed teachers and principals to construct their own assessments for evaluation. Why is Orange County not doing this?

Per state statute, teacher evaluations will impact a teacher's ability to stay employed by the school district and their ability to qualify for future pay increases. In order to ensure equity across the school district, OCPS common final exams allow these required decisions to be made fairly and consistently. At this late date, we are not asking each teacher to create an assessment. While some districts are reverting to the use of Reading and Mathematics scores for all teachers, we do not believe this is the best measure for all teachers. The State Board of Education will also be setting student learning growth cut points for teachers of statewide assessed courses that must be used by districts starting in the 2015-16 school year. With these strict, required evaluation standards in place, concerns about equity will become even more important to the evaluation system. Additionally, some of our best teachers helped create the exam questions and develop blueprints that were provided to teachers at the beginning of the year.

How will evaluation cut scores for student learning growth for teachers be set in 2014-15?

Per our Memorandum of Understanding with the teacher's association, the district will use its flexibility for cut points to set all teacher evaluation ratings for the student learning growth portion of their evaluation at 'Effective' for the 2014-15 school year. That was the case for last year as well, essentially holding teachers harmless for student outcomes during initial implementation of state and local tests. For the 2015-16 school year, the State Board of Education will set cut points that districts will be required to use for teachers in statewide assessed subjects.

When will evaluation scores for teachers be available for the 2014-15 school year?

In order to complete evaluation scores, districts must receive the results of the Florida Standards Assessments along with the statewide value-added model calculations that use the results of the Florida Standards Assessments. In prior years, evaluation scores were provided to teachers in late October/ early November. We anticipate that this date will be moved back this year due to the delayed release of scores.

Has the Florida Department of Education produced any additional information on the statewide value-added models?

Yes. The Florida Department of Education has produced a new video that helps explain value-added modeling. The link is provided below:
<http://data.fldoe.org/winmed2/eq/vam.wmv>

Accountability and School Grades

When will school grades using the new school grading formula be released?

School grades using the new formula will be released only if a validity study required by statute finds that the scores from the Florida Standards Assessments should be used for this purpose. If the validity study allows the state to move forward with the new grading formula, we will see the baseline grades in late 2015/early 2016

Notice of Development of Rulemaking

DEPARTMENT OF EDUCATION**State Board of Education**

RULE NO.: RULE TITLE:

6A-1.094221 Alternative Standardized Reading Assessment and Use of Student Portfolio for Good Cause Promotion

PURPOSE AND EFFECT: The purpose of this rule development is to better align the rule with section 1008.25, Florida Statutes. The rule provides school districts, administrators and parents with the criteria by which a third-grade student identified for retention may be promoted to fourth grade using an alternative assessment or the third-grade student portfolio. Criteria for identification of alternative assessments and the acceptable level of performance will be determined by the Department of Education and provided to the appropriate parties. Also included in the rule are criteria for the third-grade student portfolio, specifically, who may select items to be included in the portfolio, assurance that the items are appropriate and demonstrate the students ability to perform successfully on fourth grade standards. The portfolio must contain a percentage of informational and literary text and be signed by the student's teacher and principal.

SUBJECT AREA TO BE ADDRESSED: Reading.

RULEMAKING AUTHORITY: 1008.25(9) FS.

LAW IMPLEMENTED: 1008.25(6) FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE REGISTER.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Laurie Lee, Deputy Director, Just Read, Florida! 325 West Gaines Street, Suite 1432, Tallahassee, Florida, LAURIE.LEE@FLDOE.ORG. To request a rule development workshop, please contact: Cathy Schroeder, Agency Clerk, Department of Education, (850)245-9661 or email: cathy.schroeder@fldoe.org or go to <https://app1.fldoe.org/rules/default.aspx>

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

Notice of Proposed Rule

DEPARTMENT OF EDUCATION

State Board of Education

RULE NO.: RULE TITLE:

6A-1.094221 Alternative Standardized Reading Assessment and Use of Student Portfolio for Good Cause Promotion

PURPOSE AND EFFECT: The purpose and effect of this amendment is to align the rule with Section 1008.25, Florida Statutes based on revisions from the 2015 Legislative Session.

SUMMARY: The rule provides school districts, administrators and parents with the criteria by which a third-grade student identified for retention may be promoted to fourth grade using an alternative assessment or the third-grade student portfolio. Criteria for identification of alternative assessments and the acceptable level of performance will be determined by the Department of Education and provided to the appropriate parties. Also included in the rule are criteria for the third-grade student portfolio, specifically, who may select items to be included in the portfolio, assurance that the items are appropriate and demonstrate the students ability to perform successfully on fourth grade standards. The portfolio must contain a percentage of informational and literary text and be signed by the student's teacher and principal.

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 not 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 or if no SERC is required, the information expressly relied upon and described herein: There would be no economic impact from this amendment and the adverse impact or regulatory cost, if any, does not exceed nor would be expected to exceed any one of the economic analysis criteria set forth in Section 120.541(2)(a), Florida Statutes.

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: 1008.25(9), FS.

LAW IMPLEMENTED: 1008.25(6), FS.

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

DATE AND TIME: February 18, 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: Laurie Lee, Deputy Director, Just Read, Florida!, 325 West Gaines St., Suite 514, Tallahassee, FL 32399, Laurie.Lee@fldoe.org

THE FULL TEXT OF THE PROPOSED RULE IS:

6A-1.094221 Alternative Standardized Reading Assessment and Use of Student Portfolio for Good Cause Promotion.

(1) Pursuant to Section 1008.25(6), F.S., relating to the statewide public school student progression law eliminating social promotion, students who score at Level 1 on the ~~g~~Grade ~~three~~ 3 statewide English Language Arts assessment may be promoted to grade four if the student:

~~(a) demonstrates an acceptable level of performance on an alternative standardized reading assessment approved pursuant to subsection (2) of this rule. Scores at or above the 45th percentile on the Reading SAT-10;~~

~~(b) Demonstrates an acceptable level of performance on an alternative standardized reading assessment approved pursuant to subsection (2) of this rule;~~

~~(c) Demonstrates reading on grade level as evidenced through mastery of the Language Arts Florida Standards in reading equal to at least Level 2 performance on the Grade 3 statewide English Language Arts assessment.~~

(2) The Department of Education shall review and approve the use of alternative standardized reading assessments to be used as a good cause exemption for promotion to fourth grade and will provide a list of approved alternative assessments to districts.

(a) The approval of an alternative standardized reading assessment must be based on whether the assessment meets the following criteria established by the Department of Education.:

- ~~1. Internal consistency reliability coefficients of at least 0.85;~~
- ~~2. High validity evidenced by the alignment of the test with nationally recognized content standards, as well as specific evidence of content, concurrent, or criterion validity;~~
- ~~3. Norming studies within the last five (5) to ten (10) years, with norming within five (5) years being preferable; and~~
- ~~4. Serves as a measure of grade 3 achievement in reading comprehension.~~

(b) Districts may submit requests for the approval of alternative standardized reading assessments to be used as a good cause exemption for promotion to fourth grade. Once an assessment has been approved by the Department of Education, the assessment is approved for statewide use.

(c) The Department of Education shall approve the required percentile passing score for each approved alternative standardized reading assessment based on an analysis of Florida student achievement results. If an analysis is not feasible, students must score at or above the 50th percentile on the approved alternative standardized reading assessment.

(d) The earliest the alternative assessment may be administered for student promotion purposes is following administration of the gGrade three 3 statewide English Language Arts Florida assessment. An approved standardized reading assessment may be administered two (2) times if there are at least thirty (30) days between administrations and different test forms are administered.

(3) To promote a student using a student portfolio as a good cause exemption there must be evidence that demonstrates the student's mastery of the English Language Arts Florida Standards in reading equal to at least a Level 2 performance on the gGrade three 3 statewide English Language Arts assessment. Such evidence shall be an organized collection of the student's mastery of the English Language Arts Florida Standards that are assessed by the gGrade three 3 statewide English Language Arts Florida assessment. The student portfolio must meet the following criteria:

- (a) Be selected by the school district student's teacher,
 - (b) Be an accurate picture of the student's ability and only include student work that has been independently produced in the classroom,
 - (c) ~~Be an organized collection of~~ include evidence that shows student's mastery of the standards assessed by the gGrade three 3 statewide English Language Arts Florida assessment as required by rule 6A-1.094221, F.A.C. have been met. Evidence can is to include successful completion of multiple choice items and text-based responses, chapter or unit tests from the district or school core reading curriculum, or the state-provided third grade student portfolio. Portfolios should contain fifty (50) percent literary and fifty (50) percent informational text, and passages that are approximately sixty (60) percent literary text and forty (40) percent information text, and that are between 100-700 words with an average of 500 words. Such evidence could include chapter or unit tests from the district's/school's adopted core reading curriculum that are aligned with the Language Arts Florida Standards or teacher prepared assessments.
 - ~~(d) Be an organized collection of evidence of the student's mastery of the Language Arts Florida Standards that are assessed by the Grade 3 statewide English Language Arts assessment. For each standard, there must be at least three (3) examples of mastery as demonstrated by a grade of seventy (70) percent or above on each example, and~~
 - ~~(d)(e) Be signed by the teacher and the principal as an accurate assessment of the required reading skills.~~
- Rulemaking Authority 1008.25(9) FS. Law Implemented 1008.25(6) FS. History--New 5-19-03, Amended 7-20-04, 3-24-08, 2-1-09, 4-21-11, 11-4-14,_____.*

NAME OF PERSON ORIGINATING PROPOSED RULE: Hershel Lyons, Chancellor, K-12 Public Schools

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 12, 2016

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: October 23, 2015

Notice of Change/Withdrawal

DEPARTMENT OF EDUCATION**State Board of Education**

RULE NO.: RULE TITLE:

6A-1.094221 Alternative Standardized Reading Assessment and Use of Student Portfolio for Good Cause Promotion

NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 42 No. 9, January 14, 2016 issue of the Florida Administrative Register has been withdrawn.

Notice of Proposed Rule

DEPARTMENT OF EDUCATION**State Board of Education**

RULE NO.: RULE TITLE:

6A-1.094221 Alternative Standardized Reading Assessment and Use of Student Portfolio for Good Cause Promotion

PURPOSE AND EFFECT: Align the rule to Florida Statutes based on revisions made to section 1008.25, F.S., in House Bill 7069.

SUMMARY: The rule gives the criteria for school districts, administrators and parents to use when a third-grade student identified for retention may be promoted to fourth grade using an alternative assessment or the third-grade student portfolio. Criteria is determined through an analysis conducted by the Department of Education. Also included in the rule are criteria for the third-grade student portfolio, specifically, who may select items to be included in the portfolio, assurance that the items are appropriate and demonstrate the students ability to perform successfully on third grade standards. The portfolio must contain a percentage of informational and literary text and be signed by the student's teacher and principal.

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 not 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 or if no SERC is required, the information expressly relied upon and described herein: There would be no economic impact from this amendment and the adverse impact or regulatory cost, if any, does not exceed nor would be expected to exceed any one of the economic analysis criteria set forth in Section 120.541(2)(a), Florida Statutes.

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: 1008.25(9), Florida Statutes.

LAW IMPLEMENTED: 1008.25(6), Florida Statutes.

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

DATE AND TIME: May 20, 2016, 9:00 a.m.

PLACE: DoubleTree by Hilton, 5780 Major Blvd., Orlando, Florida 32819

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Richard Myhre, Executive Director, Just Read, Florida!, (850)245-9699, Richard.Myhre@fldoe.org.

THE FULL TEXT OF THE PROPOSED RULE IS:

6A-1.094221 Alternative Standardized Reading Assessment and Use of Student Portfolio for Good Cause Promotion.

(1) Pursuant to Section 1008.25(6), F.S., relating to the statewide public school student progression law eliminating social promotion, students who score at Level 1 on the ~~g~~Grade ~~three~~ 3 statewide English Language Arts ~~Florida Standards A~~assessment may be promoted to grade four if the student:

- (a) Scores at or above the 45th percentile on the Reading SAT-10;
- (b) Demonstrates an acceptable level of performance on an alternative standardized reading assessment approved pursuant to subsection (2) of this rule; or
- (c) Demonstrates reading on grade level as evidenced through mastery of the Language Arts Florida Standards in reading equal to at least Level 2 performance on the ~~g~~Grade ~~three~~ 3 statewide English Language Arts ~~Florida Standards A~~assessment through a student portfolio pursuant to subsection (3) of this rule.

(2) The Department of Education shall review and approve the use of alternative standardized reading assessments to be used as a good cause exemption for promotion to fourth grade and will provide a list of approved alternative assessments to districts.

- (a) The approval of an alternative standardized reading assessment must be based on whether the assessment

meets the following criteria:

1. Internal consistency reliability coefficients of at least 0.80 ~~0.85~~;
 2. High validity evidenced by the alignment of the test with nationally recognized content standards, as well as specific evidence of content, concurrent, or criterion validity;
 3. Norming studies within the last five (5) to ten (10) years, with norming within five (5) years being preferable;
- and

4. Serves as a measure of grade three ~~3~~ achievement in reading comprehension.

(b) Districts may submit requests for the approval of alternative standardized reading assessments to be used as a good cause exemption for promotion to fourth grade. Once an assessment has been approved by the Department of Education, the assessment is approved for statewide use.

(c) The Department of Education shall approve the required percentile passing score for each approved alternative standardized reading assessment based on an analysis of Florida student achievement results. If an analysis is not feasible, students must score at or above the 50th percentile on the approved alternative standardized reading assessment.

(d) The earliest the alternative assessment may be administered for student promotion purposes is following administration of the ~~g~~Grade three ~~3~~ statewide English Language Arts Florida Standards ~~A~~assessment. An approved standardized reading assessment may be administered two (2) times if there are at least thirty (30) days between administrations and different test forms are administered.

(3) To promote a student using a student portfolio as a good cause exemption there must be evidence that demonstrates the student's mastery of the Language Arts Florida Standards in reading equal to at least a Level 2 performance on the ~~g~~Grade three ~~3~~ statewide English Language Arts Florida Standards ~~A~~assessment. Such evidence shall be an organized collection of the student's mastery of the Language Arts Florida Standards that are assessed by the ~~g~~Grade three ~~3~~ statewide English Language Arts Florida Standards ~~A~~assessment. The student portfolio must meet the following criteria:

- (a) Be selected by the student's teacher,

(b) Be an accurate picture of the student's ability and only include student work that has been independently produced in the classroom,

(c) Include evidence that the standards assessed by the ~~g~~Grade three ~~3~~ statewide English Language Arts Florida Standards ~~A~~assessment have been met. Evidence is to include multiple choice items and passages that are approximately sixty (60) percent literary text and forty (40) percent information text, and that are between 100-700 words with an average of 500 words. Such evidence could include chapter or unit tests from the district's/school's adopted core reading curriculum that are aligned with the Language Arts Florida Standards or teacher-prepared assessments.

(d) Be an organized collection of evidence of the student's mastery of the Language Arts Florida Standards that are assessed by the ~~g~~Grade three ~~3~~ statewide English Language Arts Florida Standards ~~A~~assessment. For each standard, there must be at least three (3) examples of mastery as demonstrated by a grade of seventy (70) percent or above on each example, and

- (e) Be signed by the teacher and the principal as an accurate assessment of the required reading skills.

Rulemaking Authority 1008.25(9) FS. Law Implemented 1008.25(6) FS. History--New 5-19-03, Amended 7-20-04, 3-24-08, 2-1-09, 4-21-11, 11-4-14,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Hershel Lyons, Chancellor, K-12 Public Schools

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 22, 2016

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: October 23, 2015

6A-1.094221 Alternative Standardized Reading Assessment and Use of Student Portfolio for Good Cause Promotion.

(1) Pursuant to Section 1008.25(6), F.S., relating to the statewide public school student progression law eliminating social promotion, students who score at Level 1 on the grade three statewide English Language Arts Florida Standards Assessment may be promoted to grade four if the student:

(a) Scores at or above the 45th percentile on the Reading SAT-10;

(b) Demonstrates an acceptable level of performance on an alternative standardized reading assessment approved pursuant to subsection (2) of this rule; or

(c) Demonstrates reading on grade level as evidenced through mastery of the Language Arts Florida Standards in reading equal to at least Level 2 performance on the grade three statewide English Language Arts Florida Standards Assessment through a student portfolio pursuant to subsection (3) of this rule.

(2) The Department of Education shall review and approve the use of alternative standardized reading assessments to be used as a good cause exemption for promotion to fourth grade and will provide a list of approved alternative assessments to districts.

(a) The approval of an alternative standardized reading assessment must be based on whether the assessment meets the following criteria:

1. Internal consistency reliability coefficients of at least 0.80;

2. High validity evidenced by the alignment of the test with nationally recognized content standards, as well as specific evidence of content, concurrent, or criterion validity;

3. Norming studies within the last five (5) to ten (10) years, with norming within five (5) years being preferable; and,

4. Serves as a measure of grade three achievement in reading comprehension.

(b) Districts may submit requests for the approval of alternative standardized reading assessments to be used as a good cause exemption for promotion to fourth grade. Once an assessment has been approved by the Department of Education, the assessment is approved for statewide use.

(c) The Department of Education shall approve the required percentile passing score for each approved alternative standardized reading assessment based on an analysis of Florida student achievement results. If an analysis is not feasible, students must score at or above the 50th percentile on the approved alternative standardized reading assessment.

(d) The earliest the alternative assessment may be administered for student promotion purposes is following administration of the grade three statewide English Language Arts Florida Standards Assessment. An approved standardized reading assessment may be administered two (2) times if there are at least thirty (30) days between administrations and different test forms are administered.

(3) To promote a student using a student portfolio as a good cause exemption there must be evidence that demonstrates the student's mastery of the Language Arts Florida Standards in reading equal to at least a Level 2 performance on the grade three statewide English Language Arts Florida Standards Assessment. Such evidence shall be an organized collection of the student's mastery of the Language Arts Florida Standards that are assessed by the grade three statewide English Language Arts Florida Standards Assessment. The student portfolio must meet the following criteria:

(a) Be selected by the student's teacher,

(b) Be an accurate picture of the student's ability and only include student work that has been independently produced in the classroom,

(c) Include evidence that the standards assessed by the grade three statewide English Language Arts Florida Standards Assessment have been met. Evidence is to include multiple choice items and passages that are approximately sixty (60) percent literary text and forty (40) percent information text, and that are between 100-700 words with an average of 500 words. Such evidence could include chapter or unit tests from the district's/school's adopted core reading curriculum that are aligned with the Language Arts Florida Standards or teacher-prepared assessments.

(d) Be an organized collection of evidence of the student's mastery of the Language Arts Florida Standards that are assessed by the grade three statewide English Language Arts Florida Standards Assessment. For each standard, there must be at least three (3) examples of mastery as demonstrated by a grade of seventy (70) percent or above on each example, and,

(e) Be signed by the teacher and the principal as an accurate assessment of the required reading skills.

Call with Superintendents

February 24, 2016

NOTES

- Good morning and thank you for joining us today. Our thoughts are with those affected by the recent storms.
- There is not currently money in the proposed legislative budget for the Item Bank and Test Platform for 2016-17. We believe this tool is beneficial for districts. If you do as well, I encourage you to use your best lobbying for continued funding. If it is not in the budget, there will not be money to continue it next year.
- There is currently money in the House proposed legislative budget for CPALMS, but not in the Senate. CPALMS was not funded last year, but we managed to carry it through this year. We will not be able to do so in 2016-17 if it doesn't make the budget. CPALMS includes the Course Code Directory, which would go back to a PDF file if CPALMS is not funded. I suggest you do what you can to lobby the Senate to show them that FDOE is not the only group interested in keeping CPALMS. If you appreciate the use of CPALMS, use the remaining time left in the legislative session to try to get it included in the budget.
- As you are aware, we are only a few days away from the start of the 2016 spring administration of the Florida Standards Assessments. I know that you and your district's principals and educators have worked tirelessly throughout this academic year to ensure your students have the knowledge and skills they need to excel in the next grade and/or course.
- Unfortunately, we encountered a few separate issues last March that caused frustration for all of us, and I want to take this opportunity to reassure you that we have worked closely with AIR over the last year and that they have implemented new safeguards and enhancements to provide students with a smooth computer-based testing experience.
- Despite the challenges we faced last year, by the end of the testing windows, more students successfully tested than in previous years, a fact in which we can take great pride.
- It demonstrates our students' resiliency, which will benefit them greatly as they continue on their education journey and ultimately enter the workforce.
- I am pleased to report that AIR is confident that the improvements they have made will prevent disruptions and improve testing for students and assessment administrators.
- It is worth noting, however, that these changes address statewide issues, and there is always the potential that, even with all of our best effort and just like anything else in life, there is the risk of students running into some sort of complication.
- Last year, for example, one of our districts was impacted by a construction crew that accidentally took down cables that were essential to testing.
- As educators, we have a responsibility to ensure our students are prepared to respond when circumstances – in or out of the school environment – go differently than planned.
- We all know that it is the adults who set the tone in our schools, so I hope you will encourage all of your schools' educators and staff to remain positive and ease students' concerns by reminding them that they have worked hard all year and assessments are just an opportunity to show all the great information they have learned.
- For students, it is important they understand that if they experience an issue during testing, the best response is to remain calm and collected and report their problem to their test administrator.
- You are all well respected by the educators, students and parents in your districts, so I know that hearing this from you will have a tremendous impact.
- As a reminder, if schools experience technical issues during testing that cannot be resolved immediately, school staff should contact the FSA Help Desk.
 - Our Assessment Office will be distributing guidance to districts this week, including a list of information to have at the ready prior to contacting AIR, to help expedite help desk requests.
 - For instance, school staff should be prepared to share information, such as error code numbers/messages, device models, and operating systems prior to contacting the help desk (again, the Assessment Office will distribute a comprehensive list this week).

- If the school is not able to quickly resolve an issue on its own or after contacting the FSA Help Desk, the school should immediately contact the district office for guidance, and the district office should notify the DOE Assessment Office.
- It is very important that any issues that disrupt students DURING testing are reported immediately and that every attempt is made to resolve the issue and complete tests for students who began testing on the SAME DAY.
- School and district staff should be familiar with and have access to the appropriate manuals and guides available on the FSA Portal to ensure correct implementation of procedures and help troubleshoot any local issues.
- To avoid student frustration, if student testing is disrupted due to a technical issue, do not continue to have the student attempt to log in/test until the issue is resolved.
- The Assessment Office is also preparing an online testing incident/irregularity form for districts to use to report any issues, not just technical, to the DOE. More information and guidance about using this form will be provided by the Assessment Office when they distribute the form link to district assessment coordinators this week.
- We all know there have been questions about opt out and that there were situations where this occurred last year. Section 1008.22, F.S., regarding statewide, standardized assessments, states clearly that participation is mandatory for all districts and all students attending public schools. My belief is that students that do not want to test should not be sitting in public schools, as it is mandatory and required for students seeking a standard high school diploma. Statewide, standardized assessments are part of requirement to attend school, like immunization records. That is our message and what we send to you to be shared with your staff.
- As always, we are here to provide assistance, and I hope that you will let us know if there is anything we can do to help you.

News Archive

Thursday, June 02, 2016

Statement on 3rd Grade Retention by Superintendent Browning

Statement on 3rd Grade Retention

By Superintendent Kurt S. Browning

June 1, 2016

As superintendent of Pasco County Schools, I want to make it clear that I have no desire to retain third graders who clearly demonstrate that they have mastered state standards. Retaining students not only has questionable long-term benefits for the retained student, it also adds to the cost of educating them.

Pasco County has interpreted the law and State Board Rules to allow schools to compile portfolios for students who do not score a 2 or above on the English Language Arts Standards Assessment. Portfolios consist of standards-aligned classroom work samples and a variety of student performance data to show evidence those students have demonstrated mastery of the standards assessed on the FSA.

After a recent article (<http://www.heraldtribune.com/article/20160526/ARTICLE/160529683>) in the Sarasota Herald-Tribune, I received a call from the Department of Education questioning our practice of allowing the use of good cause portfolios. I gathered my staff on Tuesday and held a conference call with DOE staff, during which we were told that a student who does not have a score of two or higher on the 3rd grade FSA ELA or the DOE-approved alternative assessment (SAT10) must attend summer reading camp and be retained in 3rd grade until the next school year. This was very concerning to me as the Superintendent. A short time later, I received a call back, and after explaining our process again; I was then told that Pasco's process meets the requirements of Florida law in using a good cause portfolio for exemption from this mandatory retention.

We were confident that we were in compliance with the law, and we appreciate the DOE's confirmation that we are.

Permalink (http://www.pasco.k12.fl.us/archives/statement_on_3rd_grade_retention)

First of all, let me clearly state that the School District of Manatee County's stance on third-grade retention was not a decision or a conclusion developed in a vacuum. Last week, I reached out to the Florida Department of Education for guidance on this issue. I spoke on the phone with FLDOE Chancellor Hershel Lyons, FLDOE Vice Chancellor Mary Jane Tappen and attorneys affiliated with the FLDOE to make sure our school district was interpreting state statutes correctly.

I specifically asked for clarification regarding the requirement that a student must take some form of standardized assessment in order to qualify for a Good Cause Exemption. I carefully walked them through our school district's interpretation of the statutes to ensure that we were following Florida law.

The essence of the questions I posed on the phone and the FLDOE's response was summarized in an email (see below) I received from Vice Chancellor Tappen last Friday.

From: Tappen, Mary [<mailto:Mary.Tappen@fldoe.org>]

Sent: Friday, May 27, 2016 10:49 AM

To: Diana Greene <greened@manateeschools.net>

Cc: Lyons, Hershel <Hershel.Lyons@fldoe.org>; Hebda, Kathy <Kathy.Hebda@fldoe.org>; Mears, Matthew <Matthew.Mears@fldoe.org>

Subject: text from the Superintendent call - hope this is helpful

(My Questions):

Can a 3rd grade student be promoted if the student does not have a documented reading deficiency, has not taken the FSA, has not taken a state approved alternative standardized assessment, has not engaged in a Portfolio assessment, and does not qualify for other Good Cause exemptions?

(Vice Chancellor Tappen's Response):

Florida law, Section 1008.22 (3).....Participation in the assessment program is mandatory for all school districts and all students attending public schools,..."

Again, we suggest policy defined in the student progression plan that defines actions that are taken for any student who does not follow this law.

Promotion requirements for third grade students:

1– The requirement in Section 1008.25(5)(b) To be promoted to grade 4, a students must score a Level 2 or higher on the statewide, standardized English Language Arts assessment required under s. 1008.22.

2. An additional option approved by the State Board of Education includes: Rule 6A-1.094221 (a) Scores at or above the 45th percentile on the Reading SAT-10.

Section 1008.25 (6)(b) The district school board may only exempt students from mandatory retention, as provided in paragraph (5)(b), for good cause.

(6)(b)3. Students who demonstrate an acceptable level of performance on an alternative standardized reading or English Language Arts assessment approved by the State Board of Education.

A student can participate in reading camp – and be promoted through evidence in a portfolio developed during reading camp or a defined score on an alternate assessment.

Or the student can be given the alternate assessment now or upon entry into third grade again next year and be promoted to 4th within next year's school year if a defined score on an alternate assessment is met.

There are no other options approved in state law or rule for this student.

Mary Jane Tappen
Vice Chancellor
Division of Public Schools
Florida Department of Education
[850-245-0818](tel:850-245-0818)

Based on my conversation with FLDOE officials, and the email above, it was my understanding that our district's interpretation of the statutes regarding third-grade retention was affirmed and supported by the FLDOE.

Late today, without any advance notice from the FLDOE, I received word that a newspaper article in the Tampa Bay Times indicated FLDOE Director of Communications Meghan Collins stated that interpretation of the laws regarding third-grade retention were strictly up to individual school districts. In regards to whether or not a standardized test score was necessary to qualify for a Good Cause Exemption, the story quoted Ms. Collins as saying, "That wouldn't be something we (the FLDOE) would intervene in."

To say that I am angry, frustrated and disappointed in the FLDOE's lack of leadership on this extremely important issue is a massive understatement. To pass this difficult decision off to 67 different school districts is a gross abdication of responsibility.

I want to remind our parents and citizens that I was not a proponent of the Florida Standards Assessment a year ago, because of the haphazard way in which it was rushed out and implemented. However, as Superintendent of the School District of Manatee County, I felt it was my duty this year to fully accept its status as our state's primary public education accountability assessment, and therefore I felt compelled to not only encourage participation, but to support its requirements.

Today, based on the lack of direction and decisiveness from the FLDOE, I feel like trust in the FSA has once again been compromised.

Starting tomorrow, all third-grade students in Manatee County who did not have a Level 2 score or above on the FSA-ELA, as well as those students who had no score, will have access to the use of all six Good Cause Exemptions to attain promotion to the fourth grade (including the Stanford Achievement-10 assessment and/or a student portfolio that demonstrates mastery of State Standards).

I want all parents in Manatee County to know that it does not benefit the school district to retain a single student who can clearly demonstrate a mastery of State Standards. To the contrary, we work every single day to ensure students progress to the next grade level. The intent of the school district as described above was simply an effort to follow the law, as instructed.

Dr. Diana Greene
Superintendent

IN THE SECOND JUDICIAL CIRCUIT
IN AND FOR LEON COUNTY, FLORIDA

MICHELLE RHEA, et al.

Plaintiffs,

v.

CASE NO.:

PAM STEWART, et al.

Defendants.

_____ /

AFFIDAVIT OF MICHELLE RHEA

STATE OF FLORIDA

COUNTY OF ORANGE

I, MICHELLE RHEA, under penalty of perjury, state as follows:

1. During the school year 2015-16, my child was enrolled within the School District of Orange County.
2. At no time during the school year was I notified in writing of the following:
 - a. that my child was identified as having a substantial deficiency in reading.
 - b. a description of the current services provided to my child.
 - c. a description of the proposed supplemental instructional services and supports that would be provided my child that were designed to remediate any identified area of reading deficiency.
 - d. that if my child's reading deficiency was not remediated by the end of grade 3, my child would be retained unless he or she was exempt from mandatory retention for good cause.
 - e. strategies to use in helping my child succeed in reading proficiency.
 - f. that I had the right to request that the school immediately begin collecting evidence for a portfolio.

g. of the district's specific criteria and policies for midyear promotion.

3. At the beginning of the 2015-2016 school year, I sent an email to Dr. Junella Kriel, the principal at Dommerich Elementary. In the e-mail dated August 23, 2015, I specifically requested that the school district provide guidance on the student portfolio requirements and for my child's teacher to save any work she did in school for that purpose. *See* Exhibit 1, attached hereto. At the time of that e-mail, I was informed that the school district had no direction or guidance on the portfolio requirements.

4. In early February 2016, I met with Mr. Kahlil Ortiz, the new principal who took over Dommerich Elementary after Dr. Kriel did not return from maternity leave. I informed Mr. Ortiz that my child would not be taking the FSA test and that I would rely on the student portfolio of work collected by her teacher. Mr. Kriel informed me that the school district had not sent any specific criteria on what was required for the student portfolio. I asked that he seek clarification, but I was never provided any.

5. On or about May 20, 2016, I was informed that my child would need to take the IOWA assessment test or an extensive portfolio test over the period of the summer and fall.

6. On May 24, 2016, Mr. Ortiz informed me of a portfolio score card that the district used, but I was not provided a copy of it at that time.

7. On May 26, 2016, I went to the school and met with Mr. Ortiz. I was told that even if I relied on the portfolio exemption a test was still required that would occur over the summer and early fall. Mr. Ortiz acknowledged that my child has no reading deficiency, but that he cannot promote her unless she submits to testing. I requested the portfolio score card Mr. Ortiz previously mentioned, but I was not provided a copy.

8. On or about May 30, 2016, I was provided with the school district's generic portfolio scorecard that was provided to all schools in the district in October 2015. I also learned at this time that there is no test required under the portfolio exemption. I further learned that my child's teacher was completely unaware of the portfolio scorecard and that she had been waiting throughout the school year for the district to provide guidance on the portfolio requirements.

9. On June 2, 2016, I dropped off to the school my child's reading and vocabulary passages that had been sent home throughout the school year for the purpose of assessing the work under the new portfolio scorecard standards.

10. On June 7, 2016, I was informed that my child only met 50% of the required 22 standards assessed under the new portfolio scorecard standards.

11. On June 14, 2016, I was notified that my child had completed 50% of the items for the student portfolio and that, unless one of the good cause exemptions were met, she would be retained in the third grade.

12. At a school board meeting on June 14, 2016, the Vice Chair of the school board, Nancy Robinson, stated during the course of the meeting that the district had worked extensively to review the classroom work of several students to qualify them for promotion under the portfolio exemption. Vice Chair Robinson specifically stated that although this review of classroom work did not comply with the school district's policy for the portfolio exemption, the students were being promoted anyway. See Excerpt of Transcript of Proceedings, School Bd. Of Orange Cty., June 14, 2016, attached hereto as Exhibit 2.


13. On June 14, 2016, Vice Chair Robinson sent me an e-mail acknowledging that she was:

Disappointed that Dommerich [Elementary School] didn't receive the needed guidance from the district to create a portfolio for her throughout the school year in an effort to meet the state's requirements for promotion.

See Exhibit 3, attached hereto.

14. On June 23, 2016, I received my child's report card. Although my child's grades for each quarter in English Language Arts were B, C, B and A, respectively, and straight A's and one B for other required courses, the report card indicates that my child will not be promoted and is assigned to repeat third grade for the 2016-2017 school year. See Exhibit 4 attached hereto.

Under penalties of perjury, I declare that I have read the foregoing Affidavit and that the facts stated in it are true.


MICHELLE RHEA



Michelle Rhea <shellrhea4ever@gmail.com>

4 messages

Michelle Rhea <shellrhea4ever@gmail.com>

Sun, Aug 23, 2015 at 9:33 PM

To: rebekah.dooley@ocps.net

Cc: "junella.kreil@ocps.net" <junella.kreil@ocps.net>

Good morning ladies,

First off I would like to say that I am really looking forward to this year and have high hopes for what [REDACTED] will get from being in your class. As we discussed at the home visit I have included in this email a small list of topics I am not comfortable with my daughter learning in the public school system. If these items are in your curriculum please inform me prior to the day they will be taught so I can determine whether it is appropriate for my daughter to be in the classroom. As we discussed I do not anticipate this being an issue as I have not had issues with [REDACTED] thus far. However, having had multiple issues with my older kids I know first hand that this can be an issue, as they are in OCPS as well. I am just covering my basis ahead of time rather than having to deal with frustrations after the fact.

The following topics are not to be discussed with my daughter in any form in the classroom/school setting:

Anything of a sexual nature

Sexual orientation

Abortion

witchcraft

horoscopes

personal questions/ surveys (written or verbal) without me first seeing it

Birth control

I would like to know the context of the curriculum/ lesson on the following topics ahead of time:

World religions

evolution theories

Second amendment rights

I appreciate your respect in these issues. I do understand that there are things my child will need to learn about the world we live in today, that said, there are some topics I feel are inappropriate to learn from the school system.

Lastly, Dr. Kriel, I informed Mrs. Dooley about our discussion about the FSA (or whatever version of this the district decides on this year). The testing season is not until Spring so I will discuss a plan when the time is closer. If the district gives you any guidance on the student portfolio requirements that would be great. But for now I have asked Mrs. Dooley to save any work she does and I will save anything that is sent home. Thank you so much for your support in my decision for Berlynn to minimally participate in this test.

I am looking forward to a great year! Thank you for your support and can't wait to watch her blossom!

Please let me know if there is anything I can do to be supportive of you and the classroom.

Michelle Rhea

*** * ***

**Exhibit 2 of the Affidavit of Michelle Rhea
is attached as Exhibit 14**

*** * ***

601 Woodbury Rd.

Orlando, FL 32828

(407) 737-1490 ext. 2096625

Cisco IP: 209-6625

From: Michelle Rhea [mailto:shellrhea4ever@gmail.com]

Sent: Monday, June 13, 2016 5:59 PM

To: Jones, Rahim J. <Rahim.Jones@ocps.net>

Subject: [REDACTED]

[Quoted text hidden]

The information contained in this e-mail message is intended solely for the recipient(s) and may contain privileged information. Tampering with or altering the contents of this message is prohibited. This information is the same as any written document and may be subject to all rules governing public information according to Florida Statutes. Any message that falls under Chapter 119 shall not be altered in a manner that misrepresents the activities of Orange County Public Schools.

[References: Florida State Constitution I.24, Florida State Statutes Chapter 119, and OCPS Management Directive A-9.] If you have received this message in error, or are not the named recipient notify the sender and delete this message from your computer.

Robbinson, Nancy W. <nancy.robbinson@ocps.net>

Tue, Jun 14, 2016 at 11:37 PM

To: "Jones, Rahim J." <Rahim.Jones@ocps.net>, "shellrhea4ever@gmail.com" <shellrhea4ever@gmail.com>
Cc: "Diaz, Anna D." <anna.diaz@ocps.net>, "McKelvey, Brandon" <Brandon.McKelvey@ocps.net>, "Fernandez, Eileen D." <Eileen.Fernandez@ocps.net>, "Ortiz, Kahlil" <kahlil.ortiz@ocps.net>, "Verano, Karen E." <karen.verano@ocps.net>, "Permenter, Laura P." <Laura.Permenter@ocps.net>, "Bowen, Marguerite K." <Marguerite.Bowen@ocps.net>

Thank you Dr. Jones for this information.

Ms. Rhea, it was so nice to meet you face to face at tonight's meeting when you came to share your experience with the entire board and Superintendent. I am glad I got a chance to speak to you before the meeting began and offer a hug for the situation you have been going through with [REDACTED]

I respect your right to have had [REDACTED] minimally participate on the third grade FSA and am disappointed that Dommerich didn't receive the needed guidance from the district to create a portfolio for her throughout the school year in an effort to meet the state's requirements for promotion. Despite this though, I have to support the OCPS legal teams assessment of the situation that we find ourselves in.

The reality of where we are is that [REDACTED] still needs to meet the state requirements for promotion to 4th grade and since she minimally participated on the FSA and the school year has ended she only has the two options left that Dr. Jones lists in his email to meet the state's promotion requirements.

I hope you know that this whole situation makes me very sad and I plan to use this as my motivation to make sure it never happens again.

Vice
Chair
of
School
Board

Please let me know if I can help you further with the tough decision you have before you.

Sincerely,

Nancy Robinson
Vice Chairman
Orange County Public Schools
School Board Member, District 6

On Jun 14, 2016, at 3:41 PM, Jones, Rahim J. <Rahim.Jones@ocps.net<mailto:Rahim.Jones@ocps.net>> wrote:

Hi Michelle,

After meeting with our Legal Department to review your concerns, we confirmed that pursuant to Florida law [REDACTED] is eligible for two good cause exemptions that were previously offered to you, which include: 1) completion of a student portfolio or 2) completion of the alternate assessment (IOWA).

[REDACTED] has completed approximately 50% of the items for the student portfolio.

If [REDACTED] does not successfully complete one of the good cause exemptions, she will remain in 3rd grade for the 2016-2017 school year.

Please let us know how you would like us to proceed.

Rahim J. Jones, Ed.D.
Executive Area Director
East Learning Community
601 Woodbury Rd.
Orlando, FL 32828
(407) 737-1490 ext. 2096625
Cisco IP: 209-6625

From: Michelle Rhea [mailto:shellrhea4ever@gmail.com]
Sent: Monday, June 13, 2016 5:59 PM
To: Jones, Rahim J. <Rahim.Jones@ocps.net<mailto:Rahim.Jones@ocps.net>>
[Quoted text hidden]

Michelle Rhea <shellrhea4ever@gmail.com>
To: Cindy Hamilton <ch1134@aol.com>

Wed, Jun 15, 2016 at 3:49 PM

Just so you have it... I am saving it of course. Have a good weekend

Michelle Rhea

Sent from my iPhone

Begin forwarded message:

From: "Robbinson, Nancy W." <nancy.robbinson@ocps.net>
Date: June 14, 2016 at 11:37:30 PM EDT
To: "Jones, Rahim J." <Rahim.Jones@ocps.net>, "shellrhea4ever@gmail.com" <shellrhea4ever@gmail.com>
Cc: "Diaz, Anna D." <anna.diaz@ocps.net>, "McKelvey, Brandon" <Brandon.McKelvey@ocps.net>, "Fernandez, Eileen D." <Eileen.Fernandez@ocps.net>, "Ortiz, Kahlil" <kahlil.ortiz@ocps.net>, "Verano, Karen E." <karen.verano@ocps.net>, "Permenter, Laura P." <Laura.Permenter@ocps.net>, "Bowen, Marguerite K." <Marguerite.Bowen@ocps.net>

Subject: Re: [REDACTED]

[Quoted text hidden]

Orange County Public Schools
Dommerich Elementary School
GRADES 2-5 REPORT CARD
Dr. Barbara M. Jenkins, Superintendent

Student [REDACTED]Teacher Rebekah DooleyPrincipal Kahlil OrtizGrade 03Year 15/16

Dear Parents/Guardians:

This report card has been designed to help you understand your child's progress in school. We believe that you should not compare this report with others. Individual growth is the basis for evaluating the work of a child. This report attempts to show what degree your child is achieving at his/her own level. No written report can be all inclusive. Conferences may be arranged either by the parent or the teacher at any time.

Academic Progress

A = 90 - 100 (Outstanding Progress)

B = 80 - 89 (Above Average Progress)

C = 70 - 79 (Average Progress)

D = 60 - 69 (Lowest Acceptable Progress)

F = 59 - Below (Failure)

Academic, Personal and Social Development

O - Outstanding

S - Satisfactory

N - Needs Improvement

U - Unsatisfactory

Grade Level Performance

AL - Above Grade Level

AT - At Grade Level

BL - Below Grade Level

English Language Arts	1	2	3	4
Academic Progress	B	C	B	A
Grade Level Performance	AT	AT	AT	AT
Math	1	2	3	4
Academic Progress	B	A	A	A
Grade Level Performance	AT	AT	AT	AT
Science	1	2	3	4
Academic Progress	A	A	A	A
Social Studies	1	2	3	4
Academic Progress	A	A	A	A
Art	1	2	3	4
Academic Progress	O	O	O	O
Music	1	2	3	4
Academic Progress	O	S	S	O
Physical Education	1	2	3	4
Academic Progress	S	S	S	S
Academic Progress	1	2	3	4
Academic Progress				
Academic Progress	1	2	3	4
Academic Progress				
Academic Progress	1	2	3	4
Academic Progress				

Comments

1st: [REDACTED] is a pleasure to have in class. She is a hard-working student who is eager to participate. [REDACTED] raises her hand to share ideas as well as to ask questions. She is working hard to focus her energy more on her work and less on the social aspects of class. She is an asset to our classroom community.

2nd: [REDACTED] has worked very hard this marking period. She has done very well learning and understanding challenging new concepts in math. Taking more time to read the directions carefully and to answer each question fully will help build both her reading comprehension and fluency.

3rd: [REDACTED] has done an excellent job learning new concepts in geometry and measurement. She continues to read and comprehend text on a third grade level and I am very pleased with her research for Women's History Month. She did an excellent job preparing a biography on Marian Anderson that showcased her developing writing skills.

4th: [REDACTED] has had a wonderful year. She has grown so much both academically and socially. It has been my pleasure to be her teacher this year. Enjoy your summer!

Academic, Personal and Social Development	1	2	3	4
Identifies individual strengths and weaknesses as a learner	S	S	S	S
Plans, organizes, and completes classwork	N	S	S	S
Completes Homework	S	S	S	S
Follows classroom and school rules	S	S	S	S
Uses skills for goal setting, decision making, and problem solving	S	S	S	S
Demonstrates positive interpersonal and communication skills	N	S	N	S
Assumes responsibility for own actions	S	S	S	S

Attendance	1	2	3	4
Present	43	39	41	49
Absent	0	4	1	3
Tardy	0	1	1	2

This student is assigned to 3rd grade for the 2016-2017 school year.

Parent _____

Principal Kahlil Ortiz

Parent/Teacher Conference Requested: _____ Yes

IN THE SECOND JUDICIAL CIRCUIT
IN AND FOR LEON COUNTY, FLORIDA

MICHELLE RHEA, et al.

Plaintiffs,

v.

CASE NO.:

PAM STEWART, et al.

Defendants.

AFFIDAVIT OF ROBYN BARNES

STATE OF FLORIDA

COUNTY OF ORANGE

I, ROBYN BARNES, under penalty of perjury, state as follows:

1. During the school year 2015-16, my child was a third grade student enrolled at Pershing Elementary within the School District of Orange County.
2. My child received all A's and two B's on his report card for the year.
3. We informed his classroom teacher in the Fall that we would like her to create a portfolio of his class work and classroom tests that could be used to promote him to 4th grade should he not pass the FSA in the Spring.
4. We were told by the principal in October 2015 that the only acceptable "portfolio" would consist of the district approved passages.
5. Our son minimally participated in the FSA. We received a letter from the principal about possible retention due to no passing score on the FSA. The principal then informed us that he would be retained if he did not achieve a passing score on the IOWA, which was the district's approved alternate test.

6. We requested his class work and tests from the year to be used as evidence for promotion. His teacher was keeping copies of all of his tests and class work that was independently created during the year. I provided the teacher with the guidance from "Just Read Florida" that outlined what could be included in a portfolio.

7. When the principal asked the district for guidance, she was told that only the district-approved "portfolio assessments" could be used.

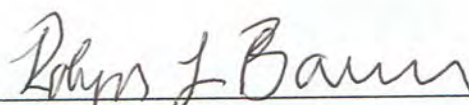
8. Our particular school uses a program called Performance Matters to track students' progress on the state standards throughout the year. This is available to all schools in Orange County, but apparently not all schools are using it. At the end of the year the school administration pulled info on our child's assignments from Performance Matters and unit tests to create his portfolio.

9. On June 21, 2016, we received our child's report card that stated "promotion pending."

10. We were informed at the end of July that he has been promoted to the 4th grade based on the portfolio of work throughout the school year.

Under penalties of perjury, I declare that I have read the foregoing Affidavit and that the facts stated in it are true.

Dated: August 8, 2016


ROBYN BARNES

In The Matter Of:
Orange County School Board Meeting

Audio Transcription
June 14, 2016



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ORANGE COUNTY SCHOOL BOARD MEETING

5

(Excerpt)

6

DATE TAKEN: June 14, 2016

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Transcribed by:

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Melissa England, CSR

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SPEAKERS:

Nancy Robbinson

Pam Gold

Linda Kobert

Barbara Jenkins

* * *

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* * *

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2 MS. ROBBINSON: I punched in a while ago. And
3 Ms. Kobert, if anybody else has anything to sort of
4 discuss, go ahead and punch in.

5 I wanted to come full circle to where we began
6 here tonight with the families who came, the parents
7 who came and spoke to us about their students that
8 minimally participated in FSA this year. And
9 they're 3rd graders. And how they were -- they
10 were told by their principals that they would not be
11 able to be promoted because they minimally
12 participated.

13 I was very -- I feel very fortunate. Last week
14 I had many of those parents reach out to me. And I
15 was able to connect them with Dr. McKelvey and Meg
16 Bowen.

17 And both of their departments worked like crazy
18 and over hours answering e-mails nonstop and
19 reviewing students' classwork to see what met
20 portfolios.

21 I actively connected them with eight families,
22 of which almost all of them have turned out well.
23 Of the four families that spoke tonight -- not
24 Ms. DiMarzio or Ms. Hamilton because
25 neither of them had a 3rd grader.

1 But the four that spoke tonight that had 3rd
2 graders, all -- three of the four were promoted
3 because the district worked really hard to look at
4 their students' actual classwork from the school
5 year, not the portfolio that is designated by OCBS
6 as acceptable, but actually the class work.

7 And they had to review it and made sure it met
8 all the state standards according to the state
9 rules: length of passage, word count, so on and so
10 forth, the different -- there's so many standards.
11 I learned so much in this.

12 And these guys are amazing, the things they do.
13 So three of the four of those that spoke, children
14 actually did -- from their own actual classwork that
15 happened through the course of the year, were
16 promoted.

17 Of the rest of the eight, there were some
18 others that actually did get promoted as well.
19 There is one family that is choosing to sue us and
20 is not choosing to give -- do the alternatives that
21 we offered them. And then there's one family that
22 -- two other families that are still in limbo,
23 trying to decide what they want to do.

24 So I learned so much working through that
25 process. And I just wanted to as a group have a

1 conversation because I think at our last board
2 meeting several weeks ago, there were some comments
3 made that implied that parents were harming their
4 children by having them minimally participate and
5 not take the FSA.

6 And I just have to defend those families. It's
7 their choice to send their child to public school to
8 begin with. It's their choice to have their
9 children participate in all the different things we
10 offer.

11 I understand that in the 3rd grade state
12 requirement says that they have to take the FSA, but
13 there are other options. If you read the statute,
14 there are other options. There's a portfolio
15 statute that you can start at the beginning of the
16 year.

17 Up until recently, it used to be that the
18 portfolio was really there for teachers for students
19 that they felt wouldn't be promoted because they
20 might not pass the test.

21 But through this little bit of crisis we went
22 through, going back and forth, like Mr. Cat said,
23 where the DOE threw the school boards under the bus,
24 the districts under the bus, through that, I think
25 we've all determined if you really read the statute

1 for what it says -- and it's very clear -- the
2 teachers can choose the portfolio items that they
3 want their students to have.

4 And we found that some of the teachers did a
5 really great job of providing the proper work. When
6 several of those families came in -- and I didn't
7 work with every family. Only worked with eight that
8 came to me.

9 There were some that had already been -- worked
10 with through the same department. They came in and
11 their work was so phenomenal that they just went
12 tick, tick, tick, tick and met all the standards.
13 It's was really phenomenal.

14 So that led me to think, why can't we -- why
15 can't we use the statute that the DOE is saying it's
16 our prerogative to do and be a little more
17 proactive, now that we know this is available?

18 Rather than having to be reactive and scramble
19 at the last minute, why don't we put out the
20 information at the beginning of the school year to
21 the 3rd grade parents, to the 3rd grade
22 teachers, to the principals, to the reading coaches,
23 and explain the statute, explain what their options
24 are, and explain what it looks like?

25 The one mother that you heard speak tonight --

1 and I feel her pain significantly. She actually
2 happens to be one of my constituents. And she and I
3 have been working on this. She was the first one
4 that came to me probably a month ago.

5 She started asking for a portfolio on August
6 23rd of 2015. And she didn't want the -- she didn't
7 even know at that point what a portfolio was. She
8 kept saying, what is a portfolio? Can you give me
9 the guidelines?

10 The teacher kept saying, I don't know, I'm
11 waiting on the district to tell us. The principal
12 kept saying, we don't know, we're waiting on the
13 district.

14 Well, as she stated, it did appear that in
15 October there was professional development for
16 reading coaches that explained portfolios. Now, did
17 they explain at that time that a portfolio could be
18 used in this scenario?

19 But from what I understand, we have allowed
20 families in the past, they want a portfolio, we
21 provide a portfolio. And somehow this family, this
22 young 3rd grade girl, it just didn't happen. So
23 we found ourselves stuck.

24 And I feel her frustration. This is no fault
25 of the little girl at all. This is no fault of the

1 parent. She asked. And somehow it didn't work.
2 And they did the review of her classwork, that young
3 lady's classwork, and unfortunately, it wasn't as
4 significant as some of the other classwork that we
5 did review.

6 I want to say she reached about 60 percent, if
7 I remember correctly, of the classwork showing the
8 -- meeting the state requirements for that
9 portfolio. And it was going to be significant, the
10 amount of work this young lady was going to have to
11 do to meet the rest of the requirements.

12 And this mother -- and she has every right to
13 believe this and choose this -- she doesn't also --
14 she doesn't support FSA. She also doesn't support
15 the Iowa test. So that wasn't an option for her.
16 She really all year wanted her child's classwork to
17 build that portfolio. So that was one of the ones
18 we're stuck on. And I would like to not ever have
19 to see this happen again.

20 So this is when I come to you tonight,
21 Dr. Jenkins, you and your staff, to see what can be
22 proposed going forward next year for potentially
23 imbedding the portfolio requirements into the 3rd
24 grade curriculum or just explaining to the teachers
25 that, here are OCBS options for the portfolio

1 standards, you can choose them for all your
2 students, you can you choose them for -- here's the
3 state ones, here's -- there are options.

4 Teachers don't have to take the time and put
5 this on their own shoulders. In fact, FAQ went out
6 to teachers about this, 3rd grade teachers that
7 said, do I have to make my own portfolio? They
8 said, no, we have this wonderful list you can choose
9 from.

10 So I'm just -- I'm struggling with this one
11 because I do not see these families as evil and I
12 know none of us do, but they feel that we do. And I
13 don't want them to feel that way. And I want to see
14 what we can do going forward to help families not be
15 in this situation again.

16 So Dr. Jenkins, suggestions, thoughts?

17 DR. JENKINS: I actually talked to Josh Katz
18 and Wendy Doromal was speaking with us as
19 well. And I met all of the parents over there. I
20 will tell you, staff has reached out repeatedly and
21 bent over backwards, as Ms. Robinson indicated, to
22 make sure we meet the requirements.

23 What's unfortunate, I believe, is some
24 misunderstanding. I spoke with the commissioner
25 about this when we were in Tampa. And she

1 acknowledged that there may have been
2 misinformation.

3 There was an instance or probably more than one
4 instance where they were simply saying to parents,
5 it's a local decision, abdicating their role. And
6 so -- and, in fact, something came out in the paper
7 and it just blew up because superintendents were
8 pretty upset about that.

9 What she said to the superintendents group in
10 Tampa was, I apologize for that, staff has been
11 corrected, what they will say now is it is a local
12 decision within the statute and the rule.

13 And so anyone that implies that it's purely our
14 decision to promote a child -- and she specifically
15 said, you can't just promote a child based on their
16 report card grades. Said that to the group.

17 So within the statute, you are certainly able
18 to work with parents. And so staff is willing
19 even -- I think we only had two or three
20 remaining -- still willing to work with those
21 individuals to make sure those students are
22 promoted.

23 But when Wendy and Josh and I were having this
24 conversation, I think you really touched on
25 something. It would probably be a bit disturbing to

1 teachers if they thought they were on their own to
2 try to comprise their own portfolios.

3 So instead, what we offered as a district is
4 highly useful. We can just provide all of the -- I
5 will tell you the one that's most intimidating --
6 and Wendy's aware of this -- the one that talks
7 about a reading passage that is so many words long,
8 between so many -- 100 to 700 words long, fiction,
9 nonfiction, has these characteristics, and then
10 multiple choice questions that the student answers
11 afterwards.

12 So some of those particulars, because they seem
13 so precise and because they're law and statute, we
14 certainly want to provide support to teachers. It
15 would be more reasonable to say instead, here are
16 several of those kinds of assessments you may use
17 during the school year in your classroom rather than
18 every teacher creating their own.

19 It was one of the most critical issues that
20 came up. Teachers are worried about assessment and
21 being responsible or left on their own to create.
22 So I really believe if we are able to just release a
23 battery that they can use and imbed in their
24 classroom.

25 Now, I will tell you Ms. -- actually, if

1 Ms. Flynn were here -- she probably wishes she could
2 buzz in -- she will recall that when a principal
3 said, I want to just imbed it, she got resistance.

4 Anybody remember that? They were going to
5 imbed it as a part of the school year and some folks
6 turned up to say, don't you do it. Because one of
7 the requirements are those small multiple choice
8 segments are required. And so we got some push
9 back.

10 There has to be a way instead to say to
11 teachers -- see, I don't want to leave teachers left
12 out on a limb to feel like it's all left up to them,
13 but there has to be a way to provide for them, here
14 are the guidelines, here are all the tools you need
15 if a parent wants that assessment.

16 I think what -- and I don't mean to speak for
17 CTA. Wendy just happened to get caught in the
18 aisle. I was trying to catch her about something
19 else.

20 Any time we can provide what parents need but
21 absolutely provide support for teachers and
22 flexibility for both, then that's certainly a
23 solution that we're looking to.

24 And I hate to just be -- and Ms. Robinson
25 attempted it. I hate to be the same, very vague

1 statements. I'm going to ask our general counsel,
2 associate general counsel who's been working on this
3 to go through the detail.

4 Because the assessment, the portfolio is not
5 simply a collection of work. It's pretty intense
6 what is required. And that's why it's intimidating
7 to teachers.

8 Ms. Fernandez, if you would, please.

9 MS. FERNANDEZ: Did you want me to -- pardon
10 me. Superintendent, do you want me to go over the
11 requirements that are listed in the rule --

12 DR. JENKINS: Yes.

13 MS. FERNANDEZ: -- for portfolios?

14 DR. JENKINS: Yes.

15 MS. FERNANDEZ: Okay. There are a total of
16 five different requirements that are listed in the
17 rule. The first is that it has to be selected by
18 the student's teacher, has to be an accurate picture
19 of the student's ability, and only includes student
20 work that has been independently produced in the
21 classroom.

22 It has to include evidence that the benchmarks
23 assessed by the grade 3 reading FSA have been met.
24 Evidence to include multiple choice items and
25 passages that are approximately 60 percent literary

1 text and 40 percent information text and that are
2 between 100 and 700 words with an average of 350
3 words.

4 Such evidence could include chapter unit test
5 from the districts, schools adopted core curriculum
6 that are aligned with the Sunshine State Standards
7 for teacher-prepared assessments.

8 Also has to be an organized collection of
9 evidence of the student's mastery of the Sunshine
10 State Standard benchmarks for language arts are
11 assessed by the grade 3 reading FSA.

12 And for each benchmark there must be five
13 examples of mastery as demonstrated by a grade of a
14 C or above. And finally, it has to be signed off by
15 the teacher and principal as an accurate assessment
16 of the required reading skills.

17 DR. JENKINS: Thank you, Ms. Fernandez.

18 I will commit to the board we will certainly
19 continue working with those final three, I believe,
20 as within the rules and the law. Certainly happy to
21 help those parents. And we certainly don't consider
22 them the enemy either. We are simply trying to
23 administer what is in place and hand it down.

24 I will also commit that Dr. McKelvey's office
25 has been gathering questions and responses. We're

1 certainly happy to post those as well.

2 Any indication of someone thinking they were
3 going to lose their job, I will tell you the only
4 thing that is included in teacher evaluation has to
5 do with student learning gains and the Van
6 [phonetic] model.

7 Teachers are held under pretty significant
8 requirement to produce learning gains. They would
9 not be fired simply because a parent does not want
10 to take the FSA.

11 I think one more thing though that Dr. McKelvey
12 may be able to provide for us in that written
13 response. If you compare the time for those
14 multiple choice items that Ms. Fernandez just read
15 off to you or the Iowa test, there's some indication
16 that the minutes spent for those smaller -- the
17 smaller multiple choice testing and for the Iowa
18 test may be actually more significant than the
19 actual reading exam on FSA.

20 But I understand parents who would say, I
21 prefer the portfolio with the mini assessments or I
22 prefer Iowa over FSA. If they have concerns about
23 it, we certainly respect that as well.

24 MS. ROBBINSON: Thank you, Dr. Jenkins. I have
25 three other folks lined up here to speak.

1 Were you-all wanting to address this topic?

2 Okay. Ms. Kobert.

3 MS. KOBERT: Thank you. So first I just want
4 to say that in the -- with the families that I
5 talked to, the parents that I talked to, I made it
6 very clear that we are only ever on the side of the
7 children.

8 That that's what I expect from the district and
9 that's what I expect for myself, is in this, when we
10 get sandwiched between the DOE and what the families
11 want, what really the statute says and how we
12 interpret it, that if we always put the children
13 first, we're going to be okay.

14 So it's also for me and the personnel in the
15 district that I've seen working with the children,
16 Dr. McKelvey's office, it's only been about
17 protecting the children.

18 Everyone knows that I have still serious
19 questions about the validity and the accuracy of the
20 FSA. That said, while we continue to work on that
21 issue, it's the law of the land.

22 I want to make it clear that I do believe that
23 it is a family's prerogative to make the final
24 education decisions for their children. That said,
25 we have to have mechanisms where we can work

1 together.

2 So I have also said from this board table
3 before that in the absence of clear direction from
4 the Department of Education, we do have to make some
5 decisions for ourselves.

6 And so I agree, I would like us to be very
7 proactive next year in finding a solution. I have
8 every confidence in the superintendent and
9 Dr. McKelvey's office that we can find a way to
10 protect these children and the rights of the parents
11 within the law.

12 We're just going to have to be proactive
13 together. And I would urge families to work with
14 us. We're willing to work with you. Let's work
15 together because in the end, it is about what's best
16 for the children. And in the same vein, we have to
17 make sure we give clear direction to the teachers so
18 that they're not then scrambling at the end of the
19 year.

20 I know one of my teachers and principals worked
21 over eight hours working on compiling this. If
22 they'd known in the beginning, they could have been
23 doing it all year long.

24 So whether we work together and parents inform
25 us in the beginning -- and I believe there was one

1 that the ball was dropped somewhere, I don't know
2 where.

3 But if parents work with us from the beginning
4 we can do that. Or if we as a district come up with
5 a plan to imbed it, put it into our curriculum all
6 year long so that we have evidence at the end of the
7 year, our kids will be okay, our kids will be
8 covered and protected. And then at the same time,
9 we can continue to work with the DOE and the
10 Legislature to try to actually fix the problem.

11 MS. ROBBINSON: Thank you, Ms. Kobert.

12 Ms. Moore, you have a different issue?

13 Ms. Gould, did you have something on this
14 issue? Okay.

15 MS. GOULD: I'm not going to repeat what I
16 agree with, but the few things I would like to
17 highlight are, it is parental choice. I think that
18 we have to be able to stay competitive and we need
19 to use every tool, even as they unfold in the
20 interpretations as we go with the DOE and the
21 Legislature to give parents and students as many
22 options as we possibly can.

23 I know that's challenging from the description
24 you've given here and in previous talks, but we're
25 -- we know there are challenges with the process and

1 the system that we have in place and we need to take
2 advantage of absolutely every option that is out
3 there for our students because this one size fits
4 all we know does not work.

5 And I think that is another way to demonstrate
6 to the state, the DOE, the Legislatures that the
7 more power we put back to the teachers' and the
8 parents' hands as partners, the better off our
9 students are going to be.

10 So I'm in favor of looking at any and every
11 option in supporting the superintendent and the
12 staff in every option that we can legally explore
13 while we continue to work on the legislative front.

14 MS. ROBBINSON: Thank you, Ms. Gould.

15 So the two of you have a different topic.

16 Closing out that topic, Dr. Jenkins, closing
17 out that topic and we're moving to a different one,
18 I want to say thank you to you for your willingness
19 to listen. You and I talked many times about this
20 and I thank you so much for that.

21 Will you -- do we need a work session to
22 discuss this later in the year or will you come back
23 to us sometime in the fall or in July or something
24 with your thoughts, suggestion, ideas on it?

25 Okay. Thank you for that.

CERTIFICATE OF TRANSCRIBER

STATE OF FLORIDA

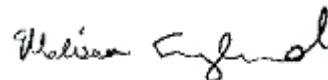
COUNTY OF MANATEE

I, Melissa England, for Imperial Court Reporting,
and Notary Public in and for the State of Florida at
Large:

DO HEREBY CERTIFY that the foregoing transcript,
pages 1 through 19, inclusive, constitute a true and
correct copy of the audio transcription of the Orange
County School Board Meeting, (electronically recorded and
transcribed to the best of my ability) in Manatee County,
Florida.

I FURTHER CERTIFY I am neither an attorney or
counsel for any of the parties hereto, nor a relative or
employee of any attorney or counsel employed by the
parties hereto, nor financially interested in the event
of said cause.

DATED this 7th day of August, 2016.



Melissa England
Notary Public, State of Florida
Commission No.: FF067691
Commission Expires: 11/9/2017

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IN THE SECOND JUDICIAL CIRCUIT
IN AND FOR LEON COUNTY, FLORIDA

MICHELLE RHEA, et al.

Plaintiffs,

v.

CASE NO.:

PAM STEWART, et al.

Defendants.

AFFIDAVIT OF PAMELA S. EVERETT

STATE OF FLORIDA

COUNTY OF HERNANDO

I, PAMELA S. EVERETT, under penalty of perjury, state as follows:

1. During the school year 2015-16, my grandchild was enrolled within the School District of Hernando County.
2. At no time during the school year was I notified in writing of the following:
 - a. that my grandchild was identified as having a substantial deficiency in reading.
 - b. a description of the current services provided to my grandchild.
 - c. a description of the proposed supplemental instructional services and supports that would be provided my grandchild that were designed to remediate any identified area of reading deficiency.
 - d. that if my grandchild's reading deficiency was not remediated by the end of grade 3, my grandchild would be retained unless he or she was exempt from mandatory retention for good cause.
 - e. strategies to use in helping my grandchild succeed in reading proficiency.
 - f. that I had the right to request that the school immediately begin collecting evidence for a portfolio.

g. of the district's specific criteria and policies for midyear promotion.

3. On June 21, 2016, I received my grandchild's report card. Although my grandchild's grades for each quarter in English Language Arts were A, B, C and B, respectively, and straight A's and one B for other required courses, the report card indicates that my grandchild will not be promoted and is assigned to repeat third grade for the 2016-2017 school year. *See Exhibit 1 attached hereto.*

4. For the report period of 08/01/2015 – 06/01/2016, The Accelerated Reader reported that my granddaughter scored a 92.3% with the points of 37.9 out of 41.0 *See Exhibit 2 attached hereto.*

5. Star Reading, dated 01/08/16, has my grandchild at "Above Average" showing that she reads "at a level equal to that of a typical fifth grader." *See Exhibit 3 attached hereto.*

6. The BIRT Student Performance, dated 06/01/16 notes my grandchild has 92% of the Skills Mastered *See Exhibit 4 attached hereto.*

7. On June 2, 2016, Chocachatti Elementary School awarded my grandchild a certificate for Honor Roll for the 2015-2016 school year. *See Exhibit 5 attached hereto.*

Under penalties of perjury, I declare that I have read the foregoing Affidavit and that the facts stated in it are true.

 8.7.16
PAMELA S. EVERETT

THE SCHOOL BOARD OF HERNANDO COUNTY

CHOCACHATTI ELEMENTARY SCHOOL
4135 CALIFORNIA STREET
BROOKSVILLE, FL 34604

9 WEEKS ENDING
06/08/2016

STUDENT GRADE REPORT

FOR [REDACTED]

03 WILL

STUDENT NO. GRADE 15YRS. ACCOMMODATIONS

Course Title	Teacher	1st 9 Weeks Grade x u	2nd 9 Weeks Grade x u	3rd 9 Weeks Grade x u	4th 9 Weeks Grade x u	Final Average	ABS x u	Teacher's Comment
THIRD GRADE	WILLIAM							
PHYSICAL EDUCATION	FLAHERT	S	S	S	S	S		45 BEHAVIOR MET EXPECTATIONS /
ATTENDANCE	WILLIAM	S	S	N	S	S		INSTRUCTED AT GRADE LEVEL
ART - INTERM 1	ROHOLEK	S	S	S	S	S	4	56 RETENTION DUE TO FSA SCORES
INTRO TO COMPUTERS	TRESE	S	S	S	S	S		
DANCE - INTERM 1	BOWERS	S	S	S	S	S		
TREASURE - INTERM 1	KLATT	S	S	S	S	S		
MUSIC - INTERM 1	KEANS	S	S	S	S	S		
MATH GRADE 3	WILLIAM	86 B	84 B	92 A	86 B			
SOC STUDIES 3	WILLIAM	S	S	S	S	S		
LANG ARTS GRADE 3	WILLIAM	91 A	83 B	75 C	84 B			
SCIENCE GRADE 2	WILLIAM	93 A	93 A	91 A	93 A			

PRIDE -
Preparing
Responsible
Individuals
Dedicated to
Excellence

Hernando eSchool provides part-time
and full-time virtual courses for
students in grades K-12. Full-time
enrollment for 2016-17 begins
4/11/16 and closes 7/11/16.
To learn more call 787-7072.



Progress Grade Code

A - OUTSTANDING (90-100)
B - ABOVE AVERAGE (80-89)
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D - BELOW AVERAGE (60-69)
F - INADEQUATE (0-59)
S - SATISFACTORY
N - NEEDS IMPROVEMENT
U - UNSATISFACTORY

Attendance Code

S = UNEXCUSED (0)
N = UNEXCUSED (1-4)
U = UNEXCUSED (5+)

Accommodation Plans

IEP - INDIVIDUAL EDUCATIONAL PLAN
504 - (504) ACCOMMODATIONS
ELL - ENGLISH LANGUAGE LEARNER

Key to Conduct Codes on back - Para responsible mile times

Notice:

Official report cards are identified by the
HCSB watermark seal in the center of the page.



Student Record Report

17 of 34

Printed Wednesday, June 1, 2016 8:41:31 AM

School: Chocachatti Elementary School

Reporting Period: 8/1/2015 - 6/1/2016
(2015-2016 to today)

Grade: 3
ID: 136211

Class: WILL
Teacher: K. WILLIAMS

Reading Practice – English

Date	Quiz Information				Questions			Points		ATOS BL
	Number	Lang.	Title	F/NF TWI	Corr.	Poss.	%	Earned	Poss.	
10/15/2015	121638	EN	Andy Shane and the Queen of Egypt	F U	10	10	100.0	0.5	0.5	3.5
10/15/2015	120416	EN	Dulcie's Taste of Magic	F U	8	10	80.0	0.8	1.0	3.2
10/13/2015	122591	EN	Couple of Boys Have the Best Week Ever, A	F U	5	5	100.0	0.5	0.5	3.4
10/ 1/2015	61519	EN	Junie B., First Grader: Boss of Lunch	F U	9	10	90.0	0.9	1.0	2.8
9/25/2015	24502	EN	Pocahontas	NF U	5	5	100.0	0.5	0.5	3.3
9/24/2015	112907	EN	Junie B., First Grader: Dumb Bunny	F U	9	10	90.0	0.9	1.0	2.8
9/21/2015	7456	EN	Berenstain Bears and the Bully, The	F U	10	10	100.0	0.5	0.5	3.4
9/18/2015	7453	EN	Berenstain Bears and the Bad Dream, The	F U	10	10	100.0	0.5	0.5	3.2
9/17/2015	157425	EN	Nancy Clancy, Secret Admirer	F U	10	10	100.0	1.0	1.0	3.2
9/17/2015	83154	EN	Class Election from the Black Lagoon, The	F U	9	10	90.0	0.5	0.5	3.3
9/11/2015	77127	EN	Lost Treasure of the Emerald Eye	F U	9	10	90.0	0.9	1.0	3.7
9/ 9/2015	74240	EN	Naughty Little Monkeys	F U	5	5	100.0	0.5	0.5	3.1
9/ 9/2015	12775	EN	Junie B. Jones Loves Handsome Warren	F U	9	10	90.0	0.9	1.0	2.7
9/ 3/2015	6065	EN	Frog Prince Continued, The	F U	5	5	100.0	0.5	0.5	3.2
Quizzes Passed/Taken: 56/57							92.3	37.9	41.0	3.7 ^a

^a Recorded Voice enabled during quiz^a Book level averages and word counts in summary are based on passed quizzes

Parent Report

STAR Reading® : Monday, 05/23/16, 09:10 AM

Test Date : 1/8/2016

Page 1

Chocachatti Elementary School

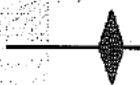
Teacher : Williams, Kathy

Grade : 3

Class : 3 Williams

Dear Parent or Guardian :

Hailey has taken a STAR Reading(R) computer-adaptive reading test. This report summarizes your child's scores on the test. As with any test, many factors can affect a student's scores. It is important to understand that these test scores provide only one picture of how your child is doing in school.

GE	PR	PR Range	Below Average	Average 50	Above Average	IRL	ZPD
5.2	89	66-96				4.6	3.5-5.5

National Norm Scores :

Grade Equivalent (GE) : 5.2

Grade Equivalent scores range from 0.0 to 12.9+. A GE score shows how your child's test performance compares with that of other students nationally. Based on the national norms, [REDACTED] reads at a level equal to that of a typical fifth grader after the second month of the school year.

Percentile Rank (PR) : 89

The Percentile Rank score compares your child's test performance with that of other students nationally in the same grade. With a PR of 89, [REDACTED] reads at a level greater than 89% of other students nationally in the same grade. This score is above average. The PR Range indicates that, if this student had taken the STAR Reading test numerous times, most of his or her scores would likely have fallen between 66 and 96.

Instructional Reading Level (IRL) : 4.6

The Instructional Reading Level (IRL) is the grade level at which [REDACTED] is at least 80% proficient at recognizing words and comprehending reading material. [REDACTED] achieved an IRL score of 4.6. This means that he or she is at least 80% proficient at reading fourth grade words and books.

Zone of Proximal Development (ZPD) : 3.5 - 5.5

The Zone of Proximal Development (ZPD) is the reading level range from which [REDACTED] should be selecting books for optimal growth in reading. It spans reading levels that are appropriately challenging for reading practice. This range is approximate. Success at any reading level depends on your child's interest and prior knowledge of a book's content.

I will be using these STAR Reading test scores to help [REDACTED] further develop his or her reading skills through the selection of books for reading practice at school. [REDACTED] should also read for a total of 60 minutes every day, tackle content materials by developing his or her study skills, and independently carry out reading assignments at home.

If you have any questions about your child's scores or these recommendations, please contact me at your convenience.

Teacher Signature : _____

Date : _____

Teacher Comments :

Rec'd only
PEARSON Pg 14
15

Student Performance

Reading

Report Run: 06/01/2016 08:26 AM

School: Chocachatti Elementary

Teacher: KATHLEEN WILLIAMS

Grade: 3

Group: NA

IP Level: 4.25
(Advanced)

IP Correct: 43

IP Attempted: 50

IP Percent Correct: 86%

IP Time Spent: 1:19

Placed: 09/21/15

Performance Summary

	Level Data				Instructional Performance				Mastery		
	Assigned Course Level	Current Course Level	IP Level	Gain	Exercises Correct	Exercises Attempted	Exercises Percent Correct	Retention Index (RI)	Skills Mastered	Skills Assessed	Skills Percent Mastered
Cumulative - Since IP	3.00	4.81	4.25	0.55	566	678	83%	88%	23	25	92%

	Support			Usage		
	Help Used	Audio Repeats Used	Report Card Views	Glossary Used	Time Spent	Average Session Time
Cumulative - Including IP	0	445	0	14	22:10	0:14

Performance by Strand - Cumulative

Strand	Strand Level	Exercises Correct	Exercises Attempted	Exercises Percent Correct
Comprehension	4.81	315	381	83%
Concepts of Print	‡	—	—	—
Fluency	4.69	—	—	—
Grammar	NA	NA	NA	NA
Phonics	4.65	113	134	84%
Phonological Awareness	‡	—	—	—
Spelling	4.76	15	20	75%
Vocabulary	4.74	123	138	89%
Totals		566	673	84%

Areas of Difficulty - 8 weeks

Skills not mastered

Strand	Level	Skill Description	Date at Risk
Phonics	4.65	Read words with irregular vowel variants	04/26/16

Other Performance (scores do not affect mastery status)

	Independent Practice			Remediation	
	Exercises Correct	Exercises attempted	Exercises Percent Correct	Exercises Correct	Exercises Percent Correct
Cumulative	45	69	65%	28	93%

Legend:	IP	Initial Placement
	NA	Not Applicable
	TOP	Topped out
	RI	Retention Index
	—	Data not available
	‡	Strand is on but level not yet reached

Reading Comprehension Level Based on National Assessment of Educational Progress (NAEP) descriptions, RCL defines the Initial Placement level for each student. The levels are: Advanced, Proficient, Basic and Below Basic

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Page: 9 of 18

Certificate of Achievement

This Certifies That



Of
Chocachatti Elementary School

Has Been Awarded This Certificate for
Honor Roll 2015-2016

Mrs. Williams

Teacher

Yara Silva

Principal

June 2, 2016

Date

d. That if my child's reading deficiency was not remediated by the end of grade 3, my child would be retained unless he or she was exempt from mandatory retention for good cause.

e. Strategies to use in helping my child succeed in reading proficiency.

f. That the statewide, standardized English Language Arts assessment is not the sole determiner of promotion and that additional evaluations, portfolio reviews, and assessments are available to my child to assist parents and the school district in knowing when my child is reading at or above grade level and ready for grade promotion.

g. The school district's specific criteria and policies for a portfolio as provided in subparagraph (6)(b)4. and the evidence required for my child to demonstrate mastery of Florida's academic standards for English Language Arts.

h. That I had the right to request that the school immediately begin collecting evidence for a portfolio.

i. Of the district's specific criteria and policies for midyear promotion.

Under penalties of perjury, I declare that I have read the foregoing [document] and that the facts stated in it are true.

Brandy J. Paternoster
[Name]

Broward County Progress Report Grade 3

Name: [REDACTED]
 School: Manatee Bay Elementary

Principal: Hedman-Devaughn, Heather Year: 2015-2016

Teacher: Rosa, Victoria

GRADE CODE			
A = 90 - 100	Superior Progress	D = 60 - 69	Below Average Progress
B = 80 - 89	Above Average	F = 50 or below	Failure
C = 70 - 79	Progress		

A circle indicates assessment reported by exceptional education teacher

READING	Marking Period			
	1	2	3	4
At/Above Grade Level (Indicate Instructional Level)	3	3	3	3
Below Grade Level (Indicate Instructional Level)				
Grade	C	B	C	B

LANGUAGE ARTS	Marking Period			
	1	2	3	4
At/Above Grade Level (Indicate Instructional Level)	3	3	3	3
Below Grade Level (Indicate Instructional Level)				
Grade	C	B	C	C

MATHEMATICS	Marking Period			
	1	2	3	4
At/Above Grade Level (Indicate Instructional Level)	3	3	3	3
Below Grade Level (Indicate Instructional Level)				
Grade	C	C	C	C

SCIENCE/HEALTH/SOCIAL STUDIES	Marking Period			
	1	2	3	4
SCIENCE/HEALTH	C	C	B	C
SOCIAL STUDIES	C	C	C	C

KEY			
1	=	Has mastered skill(s) independently	
2	=	Is learning skill(s) with assistance	
3	=	Area of Concern	
NA	=	Not Applicable	

RELATED ARTS/FOREIGN LANGUAGE

Understands appropriate concepts and processes skills as described in curriculum for:

ART	Marking Period			
	1	2	3	4
MUSIC	2	1	1	2
PHYSICAL EDUCATION	2	2	2	2
COMPUTER	2	1	1	1
	2	1	1	1

RECEIVING ESOL SERVICES (X)	Marking Period			
	1	2	3	4

STUDENT HAS A PROGRESS MONITORING PLAN FOR:	Marking Period			
	1	2	3	4
Reading	X			
Mathematics				

NOT MEETING CRITERIA FOR PROMOTION	Marking Period			
	1	2	3	4
				X

Place student for School Year 2016-2017 is Grade 3rd
 Teacher Signature (Fourth marking period only)

SOCIAL GROWTH

	Marking Period			
	1	2	3	4
Attempts new tasks	2	2	2	1
Demonstrates self-control	2	2	2	2
Respects individual differences	2	1	1	1
Works cooperatively	2	1	1	1
Uses appropriate behavior in a variety of situations	2	1	1	1
Respects authority	1	1	1	1
Shows respect for property and rights of others	2	1	1	1

STUDY SKILLS

	Marking Period			
	1	2	3	4
Uses appropriate technology effectively	2	2	2	2
Applies information in making decisions and solving problems	2	2	2	1
Completes assignments/activities on time	1	2	2	1
Thinks and works independently	2	1	1	1
Selects appropriate materials for learning tasks	1	2	1	1
Shows effort	1	1	1	1
Brings appropriate materials to class	1	1	1	1
Stays on task	2	3	2	2
Completes and returns homework assignments on time	2	1	1	1
Follows directions	2	2	2	1

Attendance

Marking Period	1	2	3	4	Total
	41.0	38.0	47.0	51.0	177.0
Days Absent	0.0	2.0	0.0	1.0	3.0
Days Tardy	0.0	0.0	0.0	3.0	3.0

A student must be in attendance in Broward County Schools 75 days within the marking period to receive a complete report.
 * Days present includes days tardy.

Broward County Progress Report Grade 3

Name: [REDACTED] Principal: Hedman-Devaughn, Heather Year: 2015-2016
 School: Manatee Bay Elementary Teacher: Rolg, Gema

GRADE CODE			
A = 90 - 100	Superior Progress	D = 60 - 69	Below Average Progress
B = 80 - 89	Above Average Progress	F = 59 or below	Failure
C = 70 - 79	Progress		

A circle indicates assessment reported by exceptional education teacher

	Marking Period			
	1	2	3	4
READING				
At/Above Grade Level (Indicate Instructional level)	3	3	3	3
Below Grade Level (Indicate Instructional level)				
Grade	C	A	B	B

	Marking Period			
	1	2	3	4
LANGUAGE ARTS				
At/Above Grade Level (Indicate Instructional level)	3	3	3	3
Below Grade Level (Indicate Instructional level)				
Grade	A	B	B	C

	Marking Period			
	1	2	3	4
MATHEMATICS				
At/Above Grade Level (Indicate Instructional level)	3	3	3	3
Below Grade Level (Indicate Instructional level)				
Grade	A	A	C	B

SCIENCE/HEALTH/SOCIAL STUDIES				
SCIENCE/HEALTH				
SOCIAL STUDIES				
	Marking Period			
	1	2	3	4
	A	B	B	B
	A	A	B	B

KEY			
1	= Has mastered skill(s) independently		
2	= Is learning skill(s) with assistance		
3	= Areas of Concern		
NA	= Not Applicable		

RELATED ARTS/FOREIGN LANGUAGE

Understands appropriate concepts and processes skills as described in curriculum for:

	Marking Period			
	1	2	3	4
ART	2	2	1	1
MUSIC	2	2	2	2
PHYSICAL EDUCATION	2	2	2	1
COMPUTER	2	2	2	2

	Marking Period			
	1	2	3	4
Receiving ESOL Services (X)				

	Marking Period			
	1	2	3	4
Student has a progress monitoring plan for:				
Reading				
Mathematics				
Teacher Completes on Attachment (X)				
Confidence requested (X)				

	Marking Period			
	1	2	3	4
NOT MEETING CRITERIA FOR PROMOTION				

Placement for School Year 2016-2017 is Grade 3rd
 Teacher Signature: [Signature]
 Date: 3/14

SOCIAL GROWTH

	Marking Period			
	1	2	3	4
Attempts new tasks	1	1	1	1
Demonstrates self-control	2	1	2	1
Respects individual differences	2	1	1	1
Works cooperatively	2	1	1	1
Uses appropriate behavior in a variety of situations	2	1	1	1
Respects authority	2	1	1	1
Shows respect for property and rights of others	2	1	1	1

STUDY SKILLS

	Marking Period			
	1	2	3	4
Uses appropriate technology effectively	2	1	1	1
Applies information in making decisions and solving problems	2	1	1	1
Completes assignments/activities on time	2	1	1	1
Thinks and works independently	2	1	1	1
Selects appropriate materials for learning tasks	2	1	1	1
Shows effort	2	1	1	1
Brings appropriate materials to class	2	1	1	1
Stays on task	2	1	1	2
Completes and returns homework assignments on time	2	1	1	1
Follows directions	2	1	1	1

Attendance

	Marking Period			
	1	2	3	4
*Days Present	37.0	37.0	46.0	50.0
Days Absent	4.0	2.0	1.0	2.0
Days Tardy	0.0	0.0	0.0	2.0
Total				170.0
Average				9.0

A student must be in attendance in Broward County Schools 25 days within the marking period to receive a complete report.
 *Days present include days tardy.

IN THE SECOND JUDICIAL CIRCUIT
IN AND FOR LEON COUNTY, FLORIDA

MICHELLE RHEA, et al.,

Plaintiffs,

v.

CASE NO.:

PAM STEWART, et al.,

Defendants.

AFFIDAVIT OF TERAISA BUTLER

STATE OF FLORIDA

COUNTY OF HERNANDO _____

I, TERAISA BUTLER, under penalty of perjury, state as follows:

1. During the school year 2015-16, my child was enrolled within the Hernando County School District.

2. At no time during the school year was I notified in writing of the following:

- a. That my child was identified as having a substantial deficiency in reading.
- b. A description of the current services that provided to my child.
- c. A description of the proposed supplemental instructional services and supports that would be provided my child that were designed to remediate any identified area of reading deficiency.
- d. That if my child's reading deficiency was not remediated by the end of grade 3, my child would be retained unless he or she was exempt from mandatory retention for good cause.
- e. Strategies to use in helping my child succeed in reading proficiency.
- f. That the statewide, standardized English Language Arts assessment is not the sole determiner of promotion and that additional evaluations, portfolio reviews, and assessments are available to my child to assist parents and the school district in

knowing when my child is reading at or above grade level and ready for grade promotion.

g. The school district's specific criteria and policies for a portfolio as provided in subparagraph (6)(b)4. and the evidence required for my child to demonstrate mastery of Florida's academic standards for English Language Arts.

h. That I had the right to request that the school immediately begin collecting evidence for a portfolio.

i. Of the district's specific criteria and policies for midyear promotion.

3. Attached hereto is my child's report card for the 2015-2016 school year.

Under penalties of perjury, I declare that I have read the foregoing [document] and that the facts stated in it are true.


TERAISA BUTLER 8/8/16

THE SCHOOL BOARD OF HERNANDO COUNTY

FLOYD K-8
3139 DUMONT AVENUE
SPRING HILL, FL 34609

STUDENT GRADE REPORT

FOR

STUDENT NO. GRADE HMMR ACCOMMODATIONS

03 HILL IEP

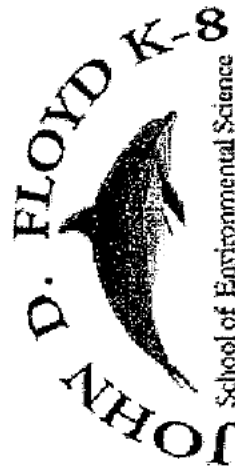
9 WEEKS ENDING
06/08/2016

Course Title	Teacher	1st 9 Weeks Grade x u	2nd 9 Weeks Grade x u	3rd 9 Weeks Grade x u	4th 9 Weeks Grade x u	Final Average x u	Teacher's Comment
MATH GRADE 3	BROWN, S	73 C	80 B	77 C	74 C	C	
SCIENCE GRADE 3	BROWN, S	84 B	92 A	76 C	81 B	B	
ART - INTERM 1	RIGAUD, S	S	S	S	S	S	
PHYSICAL EDUCATION	CREEK, S	S	S	S	S	S	
LANG ARTS GRADE 3	HILL, S	77 C	70 C	75 C	70 C	C	
SOC STUDIES 3	HILL, S	S	S	S	S	S	
THIRD GRADE	HILL, S	S	S	S	S	S	
ATTENDANCE	HILL, S	S	S	S	S	S	
							45 BEHAVIOR MET EXPECTATIONS / INSTRUCTED AT GRADE LEVEL. 56 RETENTION DUE TO FSA SCORES

Vision statement:

Attitude
Determines
Altitude!

Hernando eSchool provides part-time and full-time virtual courses for students in grades K-12. Full-time enrollment for 2016-17 begins 4/11/16 and closes 7/11/16. To learn more call 797-7072.



Progress Grade Code

- A - OUTSTANDING (90-100)
- B - ABOVE AVERAGE (80-89)
- C - AVERAGE (70-79)
- D - BELOW AVERAGE (60-69)
- F - INADEQUATE (0-59)
- S - SATISFACTORY
- N - NEEDS IMPROVEMENT
- U - UNSATISFACTORY

Attendance Code

- S = UNEXCUSED (0)
- N = UNEXCUSED (1-4)
- U = UNEXCUSED (5+)

Accommodation Plans

- IEP - INDIVIDUAL EDUCATIONAL PLAN
- 504 - (504) ACCOMMODATIONS
- ELL - ENGLISH LANGUAGE LEARNER

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Key to Conduct Codes on back - Para espanol mire atras

IN THE SECOND JUDICIAL CIRCUIT
IN AND FOR LEON COUNTY, FLORIDA

MICHELLE RHEA, et al.,

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Defendants.

AFFIDAVIT OF Alexa Cortez-Hasania

STATE OF FLORIDA

COUNTY OF HERNANDO

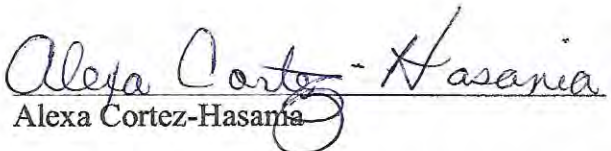
I, Alexa Cortez-Hasania, under penalty of perjury, state as follows:

1. During the school year 2015-16, my child was enrolled within the Hernando County School District.

2. At no time during the school year was I notified in writing of the following:

- a. That my child was identified as having a substantial deficiency in reading.
- b. A description of the current services that provided to my child.
- c. A description of the proposed supplemental instructional services and supports that would be provided my child that were designed to remediate any identified area of reading deficiency.
- d. Strategies to use in helping my child succeed in reading proficiency.
- e. That I had the right to request that the school immediately begin collecting evidence for a portfolio.

Under penalties of perjury, I declare that I have read the foregoing **AFFIDAVIT OF Alexa Cortez-Hasania** and that the facts stated in it are true.


Alexa Cortez-Hasania

THE SCHOOL BOARD OF HERNANDO COUNTY

FLOYD K-8
3139 DUMONT AVENUE
SPRING HILL, FL 34609

9 WEEKS ENDING
06/08/2016

STUDENT GRADE REPORT

FOR

03 WHITE

STUDENT NO. GRADE HMRM. ACCOMMODATIONS

Course Title	Teacher	1st 9 Weeks Grade x u	2nd 9 Weeks Grade x u	3rd 9 Weeks Grade x u	4th 9 Weeks Grade x u	Final Average	ABS x u	Teacher's Comment
MATH GRADE 3 SCIENCE GRADE 3 ART - INTERM 1 PHYSICAL EDUCATION LANG ARTS GRADE 3 SOC STUDIES 3 THIRD GRADE	WALDEN, WALDEN, RIGAUD, CREEK, WHITE, WHITE, WHITE,	86 B 85 B S 87 B S	92 A 82 B S 83 B S	90 A 88 B S 88 B S	89 B 94 A S 88 B S	B B S S B S		
ATTENDANCE	WHITE,	S 3	S	S	N 2 4	N	5 4	45 BEHAVIOR MET EXPECTATIONS / INSTRUCTED AT GRADE LEVEL 56 RETENTION DUE TO FSA SCORES

Vision statement:

Attitude
Determines
Altitude!

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and full-time virtual courses for
students in grades K-12. Full-time
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4/11/16 and closes 7/11/16.
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Attendance Code

S = UNEXCUSED (0)
N = UNEXCUSED (1-4)
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Accommodation Plans

IEP - INDIVIDUAL EDUCATIONAL PLAN
504 - (504) ACCOMMODATIONS
ELL - ENGLISH LANGUAGE LEARNER

Key to Conduct Codes on back - Para espanol mire atras



C. A description of the proposed supplemental instructional services and supports that would be provided my child that were designed to remediate any identified area of reading deficiency.

d. That if my child's reading deficiency was not remediated by the end of grade 3, my child would be retained unless he or she was exempt from mandatory retention for good cause.

e. Strategies to use in helping my child succeed in reading proficiency.

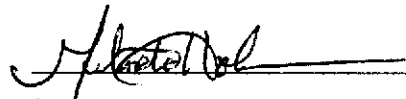
f. That the statewide, standardized English Language Arts assessment is not the sole determiner of promotion and that additional evaluations, portfolio reviews, and assessments are available to my child to assist parents and the school district in knowing when my child is reading at or above grade level and ready for grade promotion.

g. The school district's specific criteria and policies for a portfolio as provided in subparagraph (6)(b)4. and the evidence required for my child to demonstrate mastery of Florida's academic standards for English Language Arts.

h. That I had the right to request that the school immediately begin collecting evidence for a portfolio.

i. Of the district's specific criteria and policies for midyear promotion.

Under penalties of perjury, I declare that I have read the foregoing [document] and that the facts stated in it are true.


[Name]

THE SCHOOL BOARD OF HERNANDO COUNTY

CHOCACHATTI ELEMENTARY SCHOOL
4135 CALIFORNIA STREET
BROOKSVILLE, FL 34604

9 WEEKS ENDING
06/08/2016

STUDENT GRADE REPORT

FOR

03 OLSZ IEP

STUDENT NO. GRADE HMRM. ACCOMMODATIONS

Course Title	Teacher	1st 9 Weeks Grade x u	2nd 9 Weeks Grade x u	3rd 9 Weeks Grade x u	4th 9 Weeks Grade x u	Final Average x u	Teacher's Comment
THIRD GRADE	OLSZEWS						
PHYSICAL EDUCATION	FLAHERT	S	S	S	S	S	45 BEHAVIOR MET EXPECTATIONS / INSTRUCTED AT GRADE LEVEL,
ATTENDANCE	OLSZEWS	S	S	S	S	S	56 RETENTION DUE TO FSA SCORES
ART - INTERM 1	POHOLEK	S	S	S	S	S	
INTRO TO COMPUTERS	TYREE	S	S	S	S	S	
DANCE - INTERM 1	BOWERS	S	S	S	S	S	
THEATRE-INTERM 1	KRAFT	S	S	S	S	S	
MUSIC-INTERM 1	KRAUS	S	S	S	S	S	
MATH GRADE 3	OLSZEWS	87 B	81 B	83 B	78 C	B	
SOC STUDIES 3	OLSZEWS	85 B	90 A	87 B	87 B	B	
LANG ARTS GRADE 3	OLSZEWS	83 B	100 A	94 A	100 A	A	
SCIENCE GRADE 3	OLSZEWS						

PRIDE -
Preparing
Responsible
Individuals
Dedicated to
Excellence

Hernando eSchool provides part-time and full-time virtual courses for students in grades K-12. Full-time enrollment for 2016-17 begins 4/11/16 and closes 7/11/16. To learn more call 797-7072.



Notice:

Official report cards are identified by the HCSB watermark seal in the center of the page.

Progress Grade Code

A - OUTSTANDING (90-100)
B - ABOVE AVERAGE (80-89)
C - AVERAGE (70-79)
D - BELOW AVERAGE (60-69)
F - INADEQUATE (0-59)
S - SATISFACTORY
N - NEEDS IMPROVEMENT
U - UNSATISFACTORY

Attendance Code

S = UNEXCUSED (0)
N = UNEXCUSED (1-4)
U = UNEXCUSED (5+)

Accommodation Plans

IEP - INDIVIDUAL EDUCATIONAL PLAN
504 - (504) ACCOMMODATIONS
ELL - ENGLISH LANGUAGE LEARNER

Key to Conduct Codes on back - Para español mire atrás

IN THE SECOND JUDICIAL CIRCUIT
IN AND FOR LEON COUNTY, FLORIDA

MICHELLE RHEA, et al.,

Plaintiffs,

v.

CASE NO.:

PAM STEWART, et al.,

Defendants.

AFFIDAVIT OF BRANDY KINKADE [Name]

STATE OF FLORIDA

COUNTY OF HERNANDO

I, BRANDY KINKADE, under penalty of perjury, state as follows:

1. During the school year 2015-16, my child was enrolled within the
HERNANDO County School District.

2. At no time during the school year was I notified in writing of the following:

- a. That my child was identified as having a substantial deficiency in reading.
- b. A description of the current services that provided to my child.
- c. A description of the proposed supplemental instructional services and supports that would be provided my child that were designed to remediate any identified area of reading deficiency.
- d. That if my child's reading deficiency was not remediated by the end of grade 3, my child would be retained unless he or she was exempt from mandatory retention for good cause.
- e. Strategies to use in helping my child succeed in reading proficiency.
- f. That the statewide, standardized English Language Arts assessment is not the sole determiner of promotion and that additional evaluations, portfolio reviews, and assessments are available to my child to assist parents and the school district in

knowing when my child is reading at or above grade level and ready for grade promotion.

g. The school district's specific criteria and policies for a portfolio as provided in subparagraph (6)(b)4. and the evidence required for my child to demonstrate mastery of Florida's academic standards for English Language Arts.

h. That I had the right to request that the school immediately begin collecting evidence for a portfolio.

i. Of the district's specific criteria and policies for midyear promotion.

Under penalties of perjury, I declare that I have read the foregoing [document] and that the facts stated in it are true.


[Name]

THE SCHOOL BOARD OF HERNANDO COUNTY

CHOCACHATTI ELEMENTARY SCHOOL
4135 CALIFORNIA STREET
BROOKSVILLE, FL 34604

9 WEEKS ENDING
06/08/2016

STUDENT GRADE REPORT

FOR

STUDENT NO. [REDACTED] 03 LADI
GRADE HMRM. ACCOMMODATIONS

Course Title	Teacher	1st 9 Weeks Grade x u	2nd 9 Weeks Grade x u	3rd 9 Weeks Grade x u	4th 9 Weeks Grade x u	Final Average x u	ABS x u	Teacher's Comment
THIRD GRADE	LADINES							
PHYSICAL EDUCATION	FLAHERT							
ATTENDANCE	LADINES							
ART - INTERM 1	POHOLEK							
INTRO TO COMPUTERS	TYREE							
DANCE - INTERM 1	BOWERS,							
THEATRE-INTERM 1	KRAFT,							
MUSIC-INTERM 1	KRAUS,							
MATH GRADE 3	LADINES							
SOC STUDIES 3	LADINES							
LANG ARTS GRADE 3	LADINES							
SCIENCE GRADE 3	LADINES							

PRIDE -
Preparing
Responsible
Individuals
Dedicated to
Excellence

Hernando eschool provides part-time and full-time virtual courses for students in grades K-12. Full-time enrollment for 2016-17 begins 4/11/16 and closes 7/11/16. To learn more call 797-7072.



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- B - ABOVE AVERAGE (80-89)
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- D - BELOW AVERAGE (60-69)
- F - INADEQUATE (0-59)
- S - SATISFACTORY
- N - NEEDS IMPROVEMENT
- U - UNSATISFACTORY

Attendance Code

- S = UNEXCUSED (0)
- N = UNEXCUSED (1-4)
- U = UNEXCUSED (5+)

Accommodation Plans

- IEP - INDIVIDUAL EDUCATIONAL PLAN
- 504 - (504) ACCOMMODATIONS
- ELL - ENGLISH LANGUAGE LEARNER

Key to Conduct Codes on back - Para espanol mire atras

Elementary Key to Conduct Code

KEY TO CONDUCT CODE

KEY TO CONDUCT CODE	CLAVE PARA EL CODIGO DE CONDUCTA
1. RESPECTS PERSONS AND PROPERTY	1. RESPETAR A LAS PERSONAS Y LA PROPIEDAD AJENA
2. FOLLOWS CLASS/SCHOOL RULES	2. SEGUIR LAS REGLAS DE CLASE/ESCUELA
3. LISTENS ATTENTIVELY	3. ESCUCHA CON ATENCION
4. FOLLOWS DIRECTIONS	4. SIGUE INSTRUCCIONES
5. WORKS INDEPENDENTLY	5. TRABAJA INDEPENDIENTEMENTE
6. GRADE NOT EARNED	6. CALIFICACION NO OBTENIDA
7. PROGRESS BEING MONITORED	7. PROGRESO ESTA SIENDO MONITOREADO
8. MODIFICATIONS TO CURRICULUM	8. MODIFICACIONES AL CURRICULO
9. ACCOMMODATIONS TO CURRICULUM	9. ADAPTACIONES AL CURRICULO
11. PLANS AND ORGANIZES WORK	11. PLANIFICA Y ORGANIZA BIEN SU TRABAJO
12. COMPLETES CLASS WORK	12. COMPLETA EL TRABAJO DE LA CLASE
13. COMPLETES HOMEWORK	13. COMPLETA SU TAREA
14. GOOD EFFORT	14. BUEN ESFUERZO
15. TEACHER REQUESTS CONFERENCE	15. EL PROFESOR PIDE CONFERENCIA
21. MOTIVATED LEARNER	21. ESTUDIANTE MOTIVADO
22. WORK HAS IMPROVED	22.HA MEJORO TRABAJO
23. BEHAVIOR HAS IMPROVED	23.HA MEJORO COMPORTAMIENTO
24. POSITIVE ATTITUDE	24. ACTITUD POSITIVA
25. EXCESSIVE TARDIES	25. TARDANZAS EXCESIVAS
32. POSSIBLE RETENTION	32. POSIBLE RETENCION EN GRADO
33. INCOMPLETE CLASS WORK	33. TRABAJO EN CLASE INCOMPLETO
34. INCOMPLETE HOMEWORK	34. TAREA INCOMPLETA
35. WORK NEEDS IMPROVEMENT	35. NACEITA MAJORAR SU TRABAJO
40. BEHAVIOR INTERVENTION IN PLACE	40. INTERVENCION DE COMPORTAMIENTO EN PIE
41. ACADEMIC INTERVENTION IN PLACE TIER II	41. INTERVENCIONES ACADEMICAS – TIER II
42. ACADEMIC INTERVENTION IN PLACE TIER III	42. INTERVENCIONES ACADEMICAS – TIER III
43. HONOR ROLL	43. LISTA DE HONOR
44. PRINCIPAL'S LIST	44. LISTA DEL PRINCIPAL
45. BEHAVIOR MET/INSTRUCTED AT GL	45. CONDUCTA A NIVEL ESPERADO/EDUCADO A NIVEL DE GRADO
51. BEHAVIOR MET/INSTRUCTED BELOW GL	51. CONDUCTA A NIVEL ESPERADO/EDUCADO BAJO NIVEL DE GRADO
52. BEHAVIOR BELOW/INSTRUCTED AT GL	52. CONDUCTA BAJO NIVEL /EDUCADO A NIVEL DE GRADO
53. BEHAVIOR BELOW/INSTRUCTED BELOW GL	53. CONDUCTA BAJO NIVEL /EDUCADO BAJO NIVEL DE GRADO
54. PROMOTED	54. PROMOVIDO
55. RETAINED	55. RETENIDO
56. RETENTION DUE TO FSA SCORES	56. RETENCION DEBIDO A PUNTAJES DEL FSA (FL STANDARDS ASSESSMENTS)

Nota: Si desea que toda informacion enviada a casa le sea traducida o interpretada al espanol, por favor comuniquese con el profesor o el paraprofesional de ESOL de la escuela

IN THE SECOND JUDICIAL CIRCUIT
IN AND FOR LEON COUNTY, FLORIDA

MICHELLE RHEA, et al.,

Plaintiffs,

v.

CASE NO.:

PAM STEWART, et al.,

Defendants.

AFFIDAVIT OF SUZANNE ROWLAND

STATE OF FLORIDA

COUNTY OF HERNANDO _____

I, SUZANNE ROWLAND, under penalty of perjury, state as follows:

1. During the school year 2015-16, my child was enrolled within the Hernando County School District.

2. At no time during the school year was I notified in writing of the following:

- a. That my child was identified as having a substantial deficiency in reading.
- b. A description of the current services that provided to my child.
- c. A description of the proposed supplemental instructional services and supports that would be provided my child that were designed to remediate any identified area of reading deficiency.
- d. That if my child's reading deficiency was not remediated by the end of grade 3, my child would be retained unless he or she was exempt from mandatory retention for good cause.
- e. Strategies to use in helping my child succeed in reading proficiency.
- f. That the statewide, standardized English Language Arts assessment is not the sole determiner of promotion and that additional evaluations, portfolio reviews, and assessments are available to my child to assist parents and the school district in

knowing when my child is reading at or above grade level and ready for grade promotion.

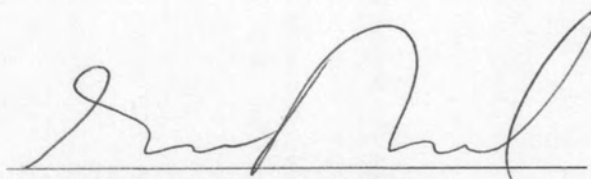
g. The school district's specific criteria and policies for a portfolio as provided in subparagraph (6)(b)4. and the evidence required for my child to demonstrate mastery of Florida's academic standards for English Language Arts.

h. That I had the right to request that the school immediately begin collecting evidence for a portfolio.

i. Of the district's specific criteria and policies for midyear promotion.

3. Attached hereto is my child's report card for the 2015-2016 school year.

Under penalties of perjury, I declare that I have read the foregoing [document] and that the facts stated in it are true.



SUZANNE ROWLAND 8/9/2016

THE SCHOOL BOARD OF HERNANDO COUNTY

WINDING WATERS K-8
12240 VESPA WAY
WEEKI WACHEE, FL 34614

9 WEEKS ENDING
06/08/2016

STUDENT GRADE REPORT

FOR

03 AMIC

STUDENT NO. GRADE HMRM. ACCOMMODATIONS

Course Title	Teacher	1st 9 Weeks Grade x u	2nd 9 Weeks Grade x u	3rd 9 Weeks Grade x u	4th 9 Weeks Grade x u	Final Average x u	Teacher's Comment
ATTENDANCE	AMICO,	N 1 7 1	N 1 4 3	N 1 5 3	N 1 3	N 1 16 10	56 RETENTION DUE TO FSA SCORES
LANG ARTS GRADE 3	AMICO,	66 D	72 C	75 C	72 C	C	
THIRD GRADE	AMICO,						
PHYSICAL EDUCATION	SUITERS	S	S	S	S	S	
ART - INTERM 1	STUCKEY	S	S	S	S	S	
MATH GRADE 3	KOZLOW,	S	S	S	S	S	
MUSIC-INTERM 1	BALLARD	S	S	S	S	S	
SCIENCE GRADE 3	ARNOLD,	S	S	S	S	S	
MATH GRADE 3	AMICO,	86 B	83 B	68 D	75 C	C	
SCIENCE GRADE 3	AMICO,	90 A	99 A	51 F	72 C	C	
SOC STUDIES 3	AMICO,	S	S	S	S	S	

Winding Waters K-8
creates a community of
leaders working together
to develop an inspiring
environment that
embraces learning
through the innovative
use of technology

Hernando eschool provides part-time
and full-time virtual courses for
students in grades K-12. Full-time
enrollment for 2016-17 begins
4/11/16 and closes 7/11/16.
To learn more call 797-7072.



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HCSB watermark seal in the center of the page.

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- A - OUTSTANDING (90-100)
- B - ABOVE AVERAGE (80-89)
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Attendance Code

- S = UNEXCUSED (0)
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Accommodation Plans

- IEP - INDIVIDUAL EDUCATIONAL PLAN
- 504 - (504) ACCOMMODATIONS
- ELL - ENGLISH LANGUAGE LEARNER

Key to Conduct Codes on back - Para espanol mire atras

IN THE SECOND JUDICIAL CIRCUIT
IN AND FOR LEON COUNTY, FLORIDA

MICHELLE RHEA, et al.,

Plaintiffs,

v.

CASE NO.:

PAM STEWART, et al.,

Defendants.

AFFIDAVIT OF GERALDINE B. CALLAGHAN

STATE OF FLORIDA

COUNTY OF OSCEOLA _____

I, GERALDINE B. CALLAGHAN, under penalty of perjury, state as follows:

1. During the school year 2015-16, my child was enrolled within the Osceola County School District.

2. At no time during the school year was I notified in writing of the following:

- a. That my child was identified as having a substantial deficiency in reading.
- b. A description of the current services that provided to my child.
- c. A description of the proposed supplemental instructional services and supports that would be provided my child that were designed to remediate any identified area of reading deficiency.
- d. That if my child's reading deficiency was not remediated by the end of grade 3, my child would be retained unless he or she was exempt from mandatory retention for good cause.
- e. Strategies to use in helping my child succeed in reading proficiency.
- f. That the statewide, standardized English Language Arts assessment is not the sole determiner of promotion and that additional evaluations, portfolio reviews, and assessments are available to my child to assist parents and the school district in

knowing when my child is reading at or above grade level and ready for grade promotion.

g. The school district's specific criteria and policies for a portfolio as provided in subparagraph (6)(b)4. and the evidence required for my child to demonstrate mastery of Florida's academic standards for English Language Arts.

h. That I had the right to request that the school immediately begin collecting evidence for a portfolio.

i. Of the district's specific criteria and policies for midyear promotion.

3. Attached hereto is my child's report card for the 2015-2016 school year.

Under penalties of perjury, I declare that I have read the foregoing [document] and that the facts stated in it are true.

Geraldine Callaghan
GERALDINE CALLAGHAN



The School District of Osceola County, Florida Grades K-5 REPORT CARD

Student Name	Grade	IPU	Year	Teacher(s)	Principal	School
OSCEOLA COUNTY	03	03	2015-2016	DEMMITT, BECKY	Libby Raymond	Cypress Elementary - 6851

Date entered: 2015-08-24 Date withdrawn:

Report Period	1st 9 Weeks	2nd 9 Weeks	3rd 9 Weeks	4th 9 Weeks	Total
Days Absent	0	0	0	6	6
Times Tardy	0	2	0	1	3

ACADEMIC DEVELOPMENT		GRADE 2-5 ACADEMIC PROGRESS CODES				
GRADE K-1 ACADEMIC PROGRESS CODES		A = 90-100 B = 80-89 C = 70-79 D = 60-69 F = 0-59 NG = Not Graded				
Academic progress codes reflect progress on Florida Standards		1st 9 Weeks	2nd 9 Weeks	3rd 9 Weeks	4th 9 Weeks	
READING GRADE 3		78 C	75 C	71 C	62 D	
MATH GRADE THREE		82 B	80 B	80 B	80 B	
SCIENCE GRADE THREE		80 D	78 C	76 C	84 B	
LANG ARTS GRADE 3		83 B	85 B	72 C	74 C	
SOC STUDIES 3		76 C	82 B	72 C	84 B	

PLACEMENT FOR NEXT SCHOOL YEAR	
X	Promoted to next grade
	Promoted with close monitoring

SPECIAL AREA DEVELOPMENT		1st 9 Weeks	2nd 9 Weeks	3rd 9 Weeks	4th 9 Weeks
PROGRESS CODES					
O = Outstanding					
S = Satisfactory					
N = Not demonstrated consistently					
U = Unsatisfactory					
NG = Not Graded					
ART - INTERM 1		S	O	S	S
MUSIC - INTERM 1		S	S	S	S
DANCE - INTERM 1		S	S	S	S
PHYSICAL EDUCATION 3		O	O	O	S
X indicates behavior concern					
WORK HABITS AND BEHAVIOR		1st 9 Weeks	2nd 9 Weeks	3rd 9 Weeks	4th 9 Weeks
Listens and Follows Directions					
Works Independently					
Completes Work in a Timely Manner			X	X	
Demonstrates Organization					
Completes Homework					
Participates in Class Activities					
Respects Rights/Property of Others					
Interacts Well with Others					
Demonstrates Reasoning Skills					
Respects Authority					
Accepts Responsibility for Actions					
X indicates behavior concern					

SPECIAL AREA DEVELOPMENT		1st 9 Weeks (all that apply)	2nd 9 Weeks (all that apply)
Attached			
Accelerated Curriculum			
Translation Attached			
ESOL Accommodation			
X ESE Progress Report Attached			
Tier 2 or 3 Interventions			
Conference Requested			
Attached			
Accelerated Curriculum			
Translation Attached			
ESOL Accommodation			
X ESE Progress Report Attached			
Possibility of Retention			
Tier 2 or 3 Interventions			
Conference Requested			
Attached			
Accelerated Curriculum			
Translation Attached			
ESOL Accommodation			
X ESE Progress Report Attached			
Possibility of Retention			
Tier 2 or 3 Interventions			
Conference Requested			
Attached			
Accelerated Curriculum			
Translation Attached			
ESOL Accommodation			
X ESE Progress Report Attached			
Tier 2 or 3 Interventions			

An equal opportunity employer

IN THE SECOND JUDICIAL CIRCUIT
IN AND FOR LEON COUNTY, FLORIDA

MICHELLE RHEA, et al.

Plaintiffs,

v.

CASE NO.:

PAM STEWART, et al.,

Defendants.

AFFIDAVIT OF SCOTT and BARBARA HASTINGS

STATE OF FLORIDA

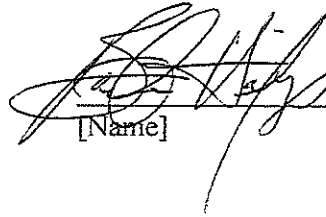
COUNTY OF Pasco

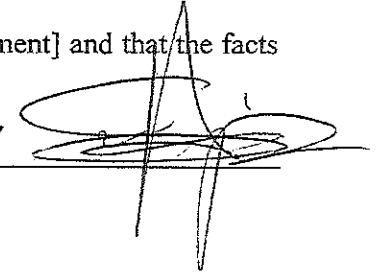
I, Scott & Barbara Hastings, under penalty of perjury, state as follows:

- During the school year 2015-16, my child was enrolled within the Pasco County School District.
- At no time during the school year was I notified in writing of the following:
- That my child was identified as having a substantial deficiency in reading.
- A description of the current services that provided to my child.
- A description of the proposed supplemental instructional services and supports that would be provided my child that were designed to remediate any identified area of reading deficiency.
- That if my child's reading deficiency was not remediated by the end of grade 3, my child would be retained unless he or she was exempt from mandatory retention for good cause.
- Strategies to use in helping my child succeed in reading proficiency.
- That the statewide, standardized English Language Arts assessment is not the sole determiner of promotion and that additional evaluations, portfolio reviews, and assessments are available to my child to assist parents and the school district in knowing when my child is reading at or above grade level and ready for grade promotion.

- The school district's specific criteria and policies for a portfolio as provided in subparagraph (6)(b)4. and the evidence required for my child to demonstrate mastery of Florida's academic standards for English Language Arts.
- That I had the right to request that the school immediately begin collecting evidence for a portfolio.
- Of the district's specific criteria and policies for midyear promotion.

Under penalties of perjury, I declare that I have read the foregoing [document] and that the facts stated in it are true.


[Name]



IN THE SECOND JUDICIAL CIRCUIT
IN AND FOR LEON COUNTY, FLORIDA

MICHELLE RHEA, et al.

Plaintiffs,

v.

CASE NO.:

PAM STEWART, et al.

Defendants.

_____ /

AFFIDAVIT OF _____ **Wendy Chastain** _____

STATE OF FLORIDA

COUNTY OF _____ Sarasota _____

I, **Wendy Chastain**, under penalty of perjury, state as follows:

1. During the school year 2015-16, my child was enrolled within the Sarasota County School District.
2. At no time during the school year was I notified in writing of the following:
 - a. That my child was identified as having a substantial deficiency in reading.
 - b. A description of the current services that provided to my child.
 - c. A description of the proposed supplemental instructional services and supports that would be provided my child that were designed to remediate any identified area of reading deficiency.
 - d. That if my child's reading deficiency was not remediated by the end of grade 3, my child would be retained unless he or she was exempt from mandatory retention for good cause.
 - e. Strategies to use in helping my child succeed in reading proficiency.
 - f. That the statewide, standardized English Language Arts assessment is not the sole determiner of promotion and that additional evaluations, portfolio reviews, and assessments are available to my child to assist parents and the school district in

knowing when my child is reading at or above grade level and ready for grade promotion.

g. The school district's specific criteria and policies for a portfolio as provided in subparagraph (6)(b)4. and the evidence required for my child to demonstrate mastery of Florida's academic standards for English Language Arts.

h. That I had the right to request that the school immediately begin collecting evidence for a portfolio.

i. Of the district's specific criteria and policies for midyear promotion.

Under penalties of perjury, I declare that I have read the foregoing [document] and that the facts stated in it are true.

_____Wendy Chastain_____

A handwritten signature in black ink that reads "Wendy Chastain". The signature is written in a cursive style with a large, looping "W" and a stylized "Chastain".



ELEMENTARY STUDENT REPORT CARD

SARASOTA COUNTY SCHOOLS, SARASOTA, FLORIDA
GRADES 2-5

STUDENT NAME		STUDENT ID		GRADE		SCHOOL NAME		SCHOOL YEAR		HOMEROOM TEACHER		PRINCIPAL	
				03		BRENTWOOD ELEMENTARY		2016		TANSILL, DIANNE		JOHN WEIDA	
GRADING PERIODS													
SUBJECTS	TEACHER NAME	1 ST		2 ND		3 RD		4 TH		FINAL		REPORT CARD CODES	
		LEVEL	LEVEL	LEVEL	LEVEL	LEVEL	LEVEL	LEVEL	LEVEL	LEVEL	LEVEL EXPLANATIONS		
		AC	EF	TC	AC	EF	TC	AC	EF	TC	AC		
		ON LEVEL		ON LEVEL		ON LEVEL		ON LEVEL		ON LEVEL			
MATH GRADE THREE	TANSILL	B	G		C	S	16	C	N	16	B	N	B
LANG ARTS GRADE 3	TANSILL	B	G	09	B	S	09,06	B	G	06,07,09	B	G	B
SCIENCE GRADE THREE	TANSILL	C	S		C	S		B	G		B	G	B
SOC STUDIES 3	TANSILL	A	E		B	G		C	S		C	S	B
ART - INTERM 1	BOARDMAN	S		S	S	S		S	S		S	S	S
MUSIC-INTERM 1	CHAPMAN	S		S	S	S		S	S		S	S	S
PHYSICAL EDUCATION 3	STORCK	S		S	S	S		N	U	N	U	N	U
AC - ACADEMIC GRADE KEY													
A = Outstanding Progress 90-100%													
B = Above Average Progress 80-89%													
C = Average Progress 70-79%													
D = Lowest Acceptable Progress 60-69%													
F = Failing 0-59%													
NA = Not assessed at this time													
~ Indicates Grade is from a transfer													
For Art, Music and PE:													
O = Outstanding Achievement S = Satisfactory Achievement													
G = Good Achievement U = Unsatisfactory Achievement													
E - REPORT CARD KEY													
E = Excellent: Demonstrates consistent outstanding participation. Strives beyond expectations with class assignments and homework. Is highly motivated and well organized.													
G = Good: Participates much of the time. Complete class assignments & homework. Is attentive, motivated and organized.													
S = Satisfactory: Usually Participates. Completes class assignments and homework. Is attentive.													
N = Needs Improvement: Rarely participates. Frequently does not complete assignments or homework. Is often inattentive and poorly organized.													
NA = Not Assessed at this time													
NOTE: SEE REVERSE SIDE FOR MORE INFORMATION													
PROMOTED TO: DATE													
RETAINED IN: 3rd Grade 06/06/2016													

ATTENDANCE					
	1	2	3	4	Total
Days Present	44.0	45.0	40.0	48.0	177.0
Days Absent	1.0	0.0	0.0	3.0	4.0
Days Tardy	0.0	0.0	0.0	1.0	1.0

TC - TEACHER COMMENTS	
01 - Works well in class, is courteous, respectful and cooperative.	12 - Please see the IEP progress report as your child's academic growth this quarter is best described by the IEP goals and objectives.
02 - Interacts well with peers.	13 - Please see supplemental report card for additional information.
03 - Works independently, without disturbing others, and with little assistance from the teacher.	14 - Would benefit from additional reading practice at home.
04 - Has made overall academic improvement this quarter.	15 - Would benefit from additional writing practice at home.
05 - Has made good overall improvement in his/her effort this quarter.	16 - Would benefit from additional math practice at home.
06 - Has difficulty following school/classroom rules and/or directions.	17 - Would benefit from having homework reviewed at home.
07 - Has difficulty playing with others.	18 - Would benefit from attending school regularly as frequent absences have a negative impact on his/her academic performance.
08 - Needs frequent assistance from the teacher	
09 - Often disturbs others during class.	
10 - Has difficulty completing classwork.	
11 - A parent teacher conference is requested.	

IN THE SECOND JUDICIAL CIRCUIT
IN AND FOR LEON COUNTY, FLORIDA

MICHELLE RHEA, et al.

Plaintiffs,

v.

CASE NO.:

PAM STEWART, et al.,

Defendants.

AFFIDAVIT OF RHONDA NICKERSON

STATE OF FLORIDA

COUNTY OF SEMINOLE

I, RHONDA NICKERSON, under penalty of perjury, state as follows:

1. During the school year 2015-16, my child was enrolled within the Seminole County School District.

2. At no time during the school year was I notified in writing of the following:

- a. That my child was identified as having a substantial deficiency in reading.
- b. A description of the current services provided to my child.
- c. A description of the proposed supplemental instructional services and supports that would be provided my child that were designed to remediate any identified area of reading deficiency.
- d. That if my child's reading deficiency was not remediated by the end of grade 3, my child would be retained unless he or she was exempt from mandatory retention for good cause.
- e. Strategies to use in helping my child succeed in reading proficiency.
- f. The school district's specific criteria and policies for a portfolio as provided in subparagraph (6)(b)4 and the evidence required for my child to demonstrate mastery of Florida's academic standards for English Language Arts.

g. Of the district's specific criteria and policies for midyear promotion.

3. In October 2015, in an e-mail to the school principal and others, I informed the school district that my child would not be taking the IOWA exam and requested an alternate assessment for my child. In response, the school's assistant principal, Jamie White, advised me that third grade students must show proficiency on the state standardized test, the FSA. *See Exhibit 1, attached hereto.*

4. On December 4, 2015, I requested that a portfolio be created for my child. In response, I was notified on December 8, 2015, via email that:

The county is in the process of developing the requirements for the Portfolio. We hope to have all the information by January. I will make sure [S.N.] is put on a portfolio per your request. Once I have the information on what we will be gathering for the Portfolio, I will let you know.

See Exhibit 2, attached hereto.

5. On February 25 and 29, 2016, the school informed me via e-mail for the first time of the district's requirements for a portfolio, which actually was a series of eight (8) tests. In the e-mail dated February 25, assistant principal White stated "[w]e will build portfolios for any students we are concerned may not show proficiency on the FSA or IOWA." *See Exhibit 3, attached hereto.*

6. At no time during the school year was I informed in writing that my child had a reading deficiency.

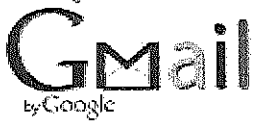
7. On May 25, 2016, I was informed by the school principal in a letter that my child had "refused the opportunity to demonstrate mastery of Florida's academic standards for English Language Arts by completing a student portfolio." *See Exhibit 4, attached hereto.*

8. On May 26, 2016, I was informed via e-mail by the school principal that my child's report card would reflect a retention for third grade because "we have no FSA results,

Iowa scores and no portfolio data." I was then offered for my child to take a test during summer school. In that same e-mail, I was also offered to "begin the portfolio immediately." See Exhibit 5, attached hereto.

Under penalties of perjury, I declare that I have read the foregoing Affidavit and that the facts stated in it are true.


RHONDA NICKERSON



Susan Nilon <susan@sarasotacriminallawyer.com>

THIRD GRADE RETENTION - [REDACTED] fwd email

rhonda nickerson <dot7773@gmail.com>
To: Susan Nilon <susan@sunshinelitigation.com>

Wed, Jul 6, 2016 at 6:44 AM

----- Forwarded message -----

From: **White, Jamie** <jamie_white@scps.k12.fl.us>
Date: Wed, Oct 21, 2015 at 8:48 AM
Subject: Re: IOWA
To: rhonda nickerson <dot7773@gmail.com>
Cc: "Garzia, Janet M." <janet_garzia@scps.k12.fl.us>

Ms. Nickerson,

In an effort to make sure you are aware of the state requirements for 3rd grade, I want to inform you that 3rd grade students must show proficiency on the State standardized test, FSA, which is given in the Spring of each year in order to be promoted to 4th grade. If you have questions about this test or dates it will be given, please feel free to contact me at any time.

Thank you,

Jamie White

Assistant Principal

Stenstrom Elementary School

1800 Alafaya Woods Blvd.

Oviedo, Fl. 32765

407-320-2479

From: rhonda nickerson <dot7773@gmail.com>
Sent: Monday, October 19, 2015 2:28 PM
To: Garzia, Janet M.; Miller, Lois; White, Jamie
Subject: IOWA

October 19, 2015

Dear Admin Team,

This is to inform you that my daughter, [REDACTED], will not be participating in the IOWA, other paper/pencil exams to be given this year to K-3 students, or any computer based diagnostics, for the purpose of progress monitoring, or assessments that require a unique log on, or which are graded by a third party. We have been examining the Florida State Statutes and have found no law requiring her to do so.

Because the purpose of administering the IOWA has not been satisfactorily explained to us by the district, we can only assume that the goal is to both judge teacher effectiveness for the Value Added Model and determine proficiency within all of the tested subjects, not just developing reading ability and skills as stated in state statute 1008.25(a), which says, "It is the ultimate goal of the Legislature that every student read at or above grade level. Any student who exhibits a substantial deficiency in reading, based upon locally determined or statewide assessments conducted in kindergarten or grade 1, grade 2, or grade 3, or through teacher observations, must be given intensive reading instruction immediately following the identification of the reading deficiency." Otherwise, there is no statute that mentions grades K-3.

Additionally, the statute, whether intentional or not, gives a choice of how a student is determined to be "at or above" grade level: *through a local or state test OR through teacher observations*. We trust our child's teachers to make decisions regarding their performance, and we choose the teachers in lieu of the test.

Please let us know what assessment you would prefer to use, to provide the best information, with which to inform instruction of [REDACTED]. If it is graded by her teacher for classroom use and not by the district or state to evaluate her teacher's effectiveness, I will enthusiastically allow her participation.

Please let me know if finding an alternate assessment or activity makes her teacher's job more complicated. That is not our intention. We are open to discussing how we can support her teacher while refusing our participation in a punitive, developmentally inappropriate evaluation system.

Thanks for all you do. Feel free to EMAIL me.

Thank you,

Rhonda & Jon Nickeson

[Florida has a very broad Public Records Law. Virtually all written communications to or from School District Personnel are public records available to the public and media upon request. E-mail sent or received on the School District system will be considered public and will only be withheld from disclosure if deemed confidential pursuant to State Law.]



Susan Nilon <susan@sarasotacriminallawyer.com>

THIRD GRADE RETENTION - [REDACTED] Fwd: Portfolio Request

rhonda nickerson <dot7773@gmail.com>
To: Susan Nilon <susan@sunshinelitigation.com>

Wed, Jul 6, 2016 at 6:50 AM

----- Forwarded message -----

From: **White, Jamie** <jamie_white@scps.k12.fl.us>
Date: Tue, Dec 8, 2015 at 1:24 PM
Subject: Re: Portfolio Request
To: rhonda nickerson <dot7773@gmail.com>

Mrs. Nickerson,

Thank you for your email. The county is in the process of developing the requirements for the Portfolio. We hope to have all the information by January. I will make sure [REDACTED] is put on a portfolio per your request. Once I have the information on what we will be gathering for the Portfolio, I will let you know.

Please contact me with any questions.

Jamie White

Assistant Principal

Stenstrom Elementary School

1800 Alafaya Woods Blvd.

Oviedo, Fl. 32765

407-320-2479

From: rhonda nickerson <dot7773@gmail.com>
Sent: Friday, December 4, 2015 10:35 AM
To: Miller, Lois
Cc: Garzia, Janet M.; White, Jamie; Jon Nickerson
Subject: Re: Portfolio Request



Susan Nilon <susan@sarasotacriminallawyer.com>

THIRD GRADE RETENTION - [REDACTED] Fwd: Portfolio Request

rhonda nickerson <dot7773@gmail.com>
To: Susan Nilon <susan@sunshinelitigation.com>

Wed, Jul 6, 2016 at 6:52 AM

----- Forwarded message -----

From: **White, Jamie** <jamie_white@scps.k12.fl.us>
Date: Mon, Feb 29, 2016 at 8:29 AM
Subject: Re: Portfolio Request
To: rhonda nickerson <dot7773@gmail.com>

Just to give some more clarification, the portfolio requirements are decided upon by our district in accordance to state requirements. The 8 tests the portfolio consists of was developed by Seminole County.

Please feel free to reach out to me with any questions!

Thank you,

Jamie White

Assistant Principal

Stenstrom Elementary School

1800 Alafaya Woods Blvd.

Oviedo, FL 32765

407-320-2479

From: rhonda nickerson <dot7773@gmail.com>
Sent: Monday, February 29, 2016 8:22 AM
To: White, Jamie
Subject: Re: Portfolio Request

I'll get back to you shortly.
Rhonda Nickerson

On Thu, Feb 25, 2016, 3:23 PM White, Jamie <jamie_white@scps.k12.fl.us> wrote:

Per the state requirements, a portfolio consists of 8 reading tests that will be given to ██████ in order to show she has mastered all the standards of 3rd grade. These tests are in addition to any regular classroom tests she may take. We will build portfolios for any students we are concerned may not show proficiency on the FSA or IOWA.

Please confirm with me your desire for us to begin to build a portfolio for [REDACTED]

[Quoted text hidden]



1800 Alafaya Woods Boulevard
Oviedo, Florida 32765
407-320-2450

May 25, 2016

Dear Ms. Nickerson,

This letter is to confirm the phone conversation with me on May 25, 2016 regarding [REDACTED]'s 3rd grade retention status. As discussed, [REDACTED] did not receive an FSA score; did not demonstrate an acceptable level of performance on the Iowa Assessment, which is the alternative standardized Reading Comprehension assessment approved by the State Board of Education and used by Seminole County Public Schools; and refused the opportunity to demonstrate mastery of Florida's academic standards for English Language Arts by completing a student portfolio.

On June 27th and 28th, the District is administering the Iowa Assessment at Summer Learning Camp host schools throughout the district. There is also time to allow your student to complete a student portfolio. If you would like to reconsider authorizing the school to move forward with the portfolio, we can begin that process immediately. If you are interested in either option, please contact me immediately.

For your reference, please see the related statutory language below.

FL Statute 1008.25(4)(a): "Each student must participate in the statewide standardized assessment program required by s. 1008.22. ..."

FL Statute 1008.25 (5)(b): "To be promoted to grade 4, a student must score a Level 2 or higher on the statewide, standardized English Language Arts assessment required under s. 1008.22 for grade 3. ..."

FL Statute 1008.25 (6)(b), "The district school board may only exempt students from mandatory retention, as provided in paragraph (5)(b), for good cause." The statute also states "Good cause exemptions are limited to the following:

1. Limited English proficient students who have had less than 2 years of instruction in an English for Speakers of Other Languages program based on the initial date of entry into a school in the United States.
2. Students with disabilities whose individual education plan indicates that participation in the statewide assessment program is not appropriate, consistent with the requirements of s. 1008.212.
3. Students who demonstrate an acceptable level of performance on an alternative standardized reading or English Language arts assessment approved by the State Board of Education.
4. A student who demonstrates through a student portfolio that he or she is performing at least at Level 2 on the statewide, standardized English Language Arts assessment.
5. Students with disabilities who take the statewide, standardized English Language arts assessment and who have an individual education plan or a Section 504 plan that reflects that the student has received intensive instruction in reading or English Language arts for more than 2 years but still demonstrates a deficiency and was previously retained in kindergarten, grade 1, grade 2, or grade 3.
6. Students who have received intensive reading intervention for 2 or more years but still demonstrate a deficiency in reading and who were previously retained in kindergarten, grade 1, grade 2, or grade 3 for a total of 2 years. A student may not be retained for more than one year in grade 3.

Dr. Janet M. Garzia
Principal

Jamie White
Assistant Principal



SEMINOLE COUNTY
PUBLIC SCHOOLS

Phone: (407) 320-2450
Fax: (407) 320 - 2488



Susan Nilon <susan@sarasotacriminallawyer.com>

THIRD GRADE RETENTION - [REDACTED] - last week of school email chain, final

rhonda nickerson <dot7773@gmail.com>

Sat, Jul 9, 2016 at 7:29 AM

To: Susan Nilon <susan@sunshinelitigation.com>

----- Forwarded message -----

From: rhonda nickerson <dot7773@gmail.com>

Date: Thu, May 26, 2016 at 7:26 AM

Subject: Re: To follow up

To: "Garzia, Janet M." <janet_garzia@scps.k12.fl.us>

Dear Dr. Garzia,

Thank you for your reply confirming the details of our phone conversation.

Sincerely,

Rhonda Nickerson

On May 26, 2016 7:24 AM, "Garzia, Janet M." <janet_garzia@scps.k12.fl.us> wrote:

Dear Mrs. Nickerson,

In our phone conversation on May 25, I informed you [REDACTED]'s report card would reflect a retention. This is based on the fact that we have no FSA results, Iowa scores and no portfolio data. I also told you [REDACTED] qualifies for a Good Cause exemption based on her report card grades which reflect As. The available Good Cause exemption is for [REDACTED] to take the Iowa assessment which will be administered during Summer Learning Camp on June 27 or 28. I also offered [REDACTED] the Good Cause alternative of completion of a portfolio. I did ask for an answer so that we could begin the portfolio immediately.

The letter I sent after our conversation requested you contact me immediately if you wished to pursue with the June 27 or 28 administration of the Iowa or for [REDACTED] to complete the student portfolio.

*Janet M. Garzia, Ed. D.**Principal**Stenstrom Elementary**1800 Alafaya Woods Blvd.**Oviedo, FL 32765**407-320-2450*

From: rhonda nickerson <dot7773@gmail.com>

Sent: Wednesday, May 25, 2016 3:17 PM

To: Garzia, Janet M.

Subject: Re: To follow up

Dear Dr Garzia,

Your attachment did not show up at first. It does now. I still want you to confirm or deny what I originally stated in my email as per our conversation.

Sincerely,

Rhonda Nickerson

On May 25, 2016 2:59 PM, dot7773@gmail.com wrote:

Dear Dr. Garzia,

Why do you refuse to acknowledge what was stated in our phone conversation in your email? I repeatedly requested you to email me the options and details of what you said and you would not respond on the phone, demanding a verbal answer from me. Now I email you my understanding of what was said and again you refuse to confirm or deny what you stated verbally to me. Please confirm or deny the minutes of our telephone conversation. Accurate or no for each point? Do you have some issue with making our conversation public record?

Sincerely,

Rhonda Nickerson

On May 25, 2016 2:08 PM, "Garzia, Janet M." <janet_garzia@scps.k12.fl.us> wrote:

Mrs. Nickerson,

I mailed a letter to you following our conversation this morning. The letter requests that you contact me immediately if you wish to pursue either of the options outlined in the letter. I am attaching a copy of the letter which I mailed earlier today.

Janet M. Garzia, Ed. D.

Principal

Stenstrom Elementary

1800 Alafaya Woods Blvd.

Oviedo, FL 32765

407-320-2450

From: rhonda nickerson <dot7773@gmail.com>

Sent: Wednesday, May 25, 2016 11:52 AM

To: Garzia, Janet M.

Cc: Jon Nickerson

Subject: To follow up

Dear Dr Garzia,

To follow up on your phone call to me at 11:40 am today, May 23, 2016.

1. [REDACTED]'s report card will say retained, despite her straight A's and no documented reading deficiency that I have ever been informed of.
2. She qualifies for a good cause which are 2 opportunities for the Iowa and summer school or a portfolio which you want to start today.
3. The county has told you they need an answer from me today. To which I have responded, no.

Is this correct on all counts. I need an answer today.

Sincerely,
Rhonda Nickerson

[Florida has a very broad Public Records Law. Virtually all written communications to or from School District Personnel are public records available to the public and media upon request. E-mail sent or received on the School District system will be considered public and will only be withheld from disclosure if deemed confidential pursuant to State Law.]

Seminole County Public Schools, Florida

Student Report Card/Tarjeta de Calificaciones del Estudiante

Student Name/Nombre del Estudiante: [REDACTED] Grade/Grado: 3rd Grade Teacher/Maestro(a): L. Miller
 School/Escola: Seastrom Elementary Year/Año: 2015 - 2016
 Principal/Director(a): J. Gauzia Phone/Número telefónico: (407) 320-2450

Subject/Materia Teacher/Maestro(a)	Grades/Calificación				Comments/Comentarios		
	1	2	3	Avg	Your child listens and follows directions Student is at risk of possible retention	Your child has good class participation	Your child assumes responsibility
ELA GR 3 / ELA G° 3 L. Miller	B	B	A	A			
MATH GR 3 / MAT. GRADO 3 L. Miller	A	A	A	A	Your child shows strong effort	Your child has good class participation	
SCIENCES GR 3 / CIENCIA G° 3 L. Miller	B	A	A	A			
SOC STUD GR 3 / ESTUD. SOC G° 3 L. Miller	A	B	A	A			
ART GR 3 / ARTE G° 3 K. Gow	S	S	S	S			
MUSIC GR 3 / MUSICA GRADO 3 M. Harbin	S	S	S	S			
PE GR 3 / EDUC. FIS. G° 3 A. Kanan	S	S	S	S			

Grading Scale/Escala de Calificaciones		Attendance/Asistencia				Totals/Totales	
♦A=100-90	♦S=Satisfactory/Satisfactorio					1	2
♦B=89-80	♦N=Needs Improvement/Necesita Mejorar					58.0	54.0
♦C=79-70						2.0	9.0
♦D=69-60						4.0	4.0
♦F=59-0							8.0
						Promotion Status - Student Retained in Grade: 3 / El estudiante ha sido retenido en el grado: 3	
						163.0	
						17.0	
						16.0	

EXHIBIT
6

IN THE SECOND JUDICIAL CIRCUIT
IN AND FOR LEON COUNTY, FLORIDA

MICHELLE RHEA, et al.,

Plaintiffs,

v.

CASE NO.:

PAM STEWART, et al.,

Defendants.

AFFIDAVIT OF GABRIELLE WEAVER [Name]

STATE OF FLORIDA

COUNTY OF SEMINOLE

I, GABRIELLE WEAVER, under penalty of perjury, state as follows:

1. During the school year 2015-16, my child was enrolled within the SEMINOLE County School District.
2. At no time during the school year was I notified in writing of the following:
 - a. That my child was identified as having a substantial deficiency in reading.
 - b. A description of the current services that provided to my child.
 - c. A description of the proposed supplemental instructional services and supports that would be provided my child that were designed to remediate any identified area of reading deficiency.
 - d. That if my child's reading deficiency was not remediated by the end of grade 3, my child would be retained unless he or she was exempt from mandatory retention for good cause.
 - e. Strategies to use in helping my child succeed in reading proficiency.
 - f. That the statewide, standardized English Language Arts assessment is not the sole determiner of promotion and that additional evaluations, portfolio reviews, and assessments are available to my child to assist parents and the school district in

knowing when my child is reading at or above grade level and ready for grade promotion.

g. The school district's specific criteria and policies for a portfolio as provided in subparagraph (6)(b)4. and the evidence required for my child to demonstrate mastery of Florida's academic standards for English Language Arts.

h. That I had the right to request that the school immediately begin collecting evidence for a portfolio.

i. Of the district's specific criteria and policies for midyear promotion.

Under penalties of perjury, I declare that I have read the foregoing [document] and that the facts stated in it are true.

Debrale Weaver
[Name]



Seminole County Public Schools, Florida
Student Report Card/Tarjeta de Calificaciones del Estudiante

Student Name/Nombre del Estudiante: [REDACTED] Grade/Grado: 3rd Grade Teacher/Maestro(a): K. Bibby
School/Escuela: Wekiva Elementary Year/Año: 2015 - 2016
Principal/Director(a): M. Adamczyk Phone/Número telefónico: (407) 746-3150

Subject/Materia Teacher/Maestro(a)	Grades/Calificación				Comments/Comentarios
	1	2	3	Avg	
ELA GR 3 / ELA G ^{ra} 3 K. Bibby	B	C	C	B	Your child has difficulty managing time wisely
MATH GR 3 / MAT. GRADO 3 K. Bibby	D	C	C	C	
SCIENCE GR 3 / CIENCIA G ^{ra} 3 K. Bibby	A	B	A	B	
SOC STUD GR 3 / ESTUD. SOC G ^{ra} 3 K. Bibby	B	B	C	B	
ART GR 3 / ARTE G ^{ra} 3 K. Kirk	S	S	S	S	
MUSIC GR 3 / MUSICA GRADO 3 C. Peloe	S	S	S	S	
PE GR 3 / EDUC. FIS. G ^{ra} 3 C. Hendricks	S	S	S	S	

Grading Scale/Escala de Calificaciones		Attendance/Asistencia				Totals Totales
• A=100-90	• S=Satisfactory/Satisfactorio	1				3
• D=89-80	• N=Needs Improvement/Necesita Mejorar	Days Present/Días Presente				57.0
• C=79-70		Days Absent/Días Ausente				3.0
• D=69-60		Days Tardy/Taranzas				1.0
• F=59-0		Promotion Status - Student Retained in Grade: 3 / El estudiante ha sido retenido en el grado: 3				0.0
						2.0

IN THE SECOND JUDICIAL CIRCUIT
IN AND FOR LEON COUNTY, FLORIDA

MICHELLE RHEA, et al.,

Plaintiffs,

v.

CASE NO.:

PAM STEWART, et al.,

Defendants.

AFFIDAVIT OF AMANDA HAZARD

STATE OF FLORIDA

COUNTY OF HERNANDO

Hernando

I, AMANDA HAZARD, under penalty of perjury, state as follows:

1. During the school year 2015-16, my child was enrolled within the Hernando County School District.

2. At no time during the school year was I notified in writing of the following:

- a. That my child was identified as having a substantial deficiency in reading.
- b. A description of the current services that provided to my child.
- c. A description of the proposed supplemental instructional services and supports that would be provided my child that were designed to remediate any identified area of reading deficiency.
- d. That if my child's reading deficiency was not remediated by the end of grade 3, my child would be retained unless he or she was exempt from mandatory retention for good cause.
- e. Strategies to use in helping my child succeed in reading proficiency.
- f. That the statewide, standardized English Language Arts assessment is not the sole determiner of promotion and that additional evaluations, portfolio reviews, and assessments are available to my child to assist parents and the school district in

knowing when my child is reading at or above grade level and ready for grade promotion.

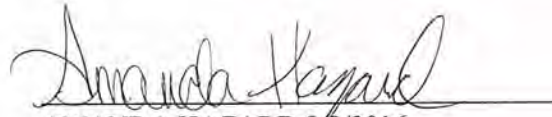
g. The school district's specific criteria and policies for a portfolio as provided in subparagraph (6)(b)4. and the evidence required for my child to demonstrate mastery of Florida's academic standards for English Language Arts.

h. That I had the right to request that the school immediately begin collecting evidence for a portfolio.

i. Of the district's specific criteria and policies for midyear promotion.

3. Attached hereto is my child's report card for the 2015-2016 school year.

Under penalties of perjury, I declare that I have read the foregoing [document] and that the facts stated in it are true.


AMANDA HAZARD 8/9/2016

THE SCHOOL BOARD OF HERNANDO COUNTY
 SUNCOAST ELEMENTARY SCHOOL
 11135 QUALITY DRIVE
 SPRING HILL, FL 34609

9 WEEKS ENDING
 06/08/2015

STUDENT GRADE REPORT

FOR [REDACTED] D3 CAME IEP

Course Title	Teacher	1st 9 Weeks Grade x u	2nd 9 Weeks Grade x u	3rd 9 Weeks Grade x u	4th 9 Weeks Grade x u	Final Average x u	Teacher's Comment
ATTENDANCE	CAMERON	S	S	S	S	S	56 RETENTION DUE TO ESA SCORES
ART - INTERM 1	DEANGEL	S	S	S	S	S	45 BEHAVIOR MEE EXPECTATIONS /
THIRD GRADE	CAMERON	S	S	S	S	S	INSTRUCTED AT GRADE LEVEL
MATH GRADE 3	CAMERON	79 C	76 C	67 D	69 D	C	42 ACADEMIC INTERVENTION TIER
PHYSICAL EDUCATION	WRIGHT	S	S	S	S	S	41 ACADEMIC INTERVENTION TIER
SOC STUDIES 1	CAMERON	S	S	S	S	S	
LANG ARTS GRADE 3	CAMERON	70 C	72 C	66 D	63 D	S	
SCIENCE GRADE 3	CAMERON	95 A	76 C	90 A	88 B	B	

Suncoast Students
 will brighten the
 future with the light
 of knowledge

Hernando school provides part-time and full-time virtual courses for students in grades K-12. Full-time enrollment for 2015-16 begins 7/1/15 and closes 7/15/15. To learn more call 797-7672

Notice:
 Official report cards are identified by the
 HCSB watermark seal in the center of the page.

Attendance Code
 S = UNEXCUSED (0)
 N = UNEXCUSED (1-4)
 U = UNEXCUSED (5+)

Progress Grade Code
 A - OUTSTANDING (90-100)
 B - ABOVE AVERAGE (80-89)
 C - AVERAGE (70-79)
 D - BELOW AVERAGE (60-69)
 F - INADEQUATE (0-59)
 S - SATISFACTORY
 N - NEEDS IMPROVEMENT
 U - UNSATISFACTORY

Accommodation Plans
 IEP - INDIVIDUAL EDUCATIONAL PLAN
 504 - (504) ACCOMMODATIONS
 ELL - ENGLISH LANGUAGE LEARNER

Key to Conduct Codes on back - Para español mira atras

