

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

MICHAEL and LOGAN McLEOD,
as parents of two public high school
students and as ex rel on behalf of
their children, two public high
school students;

Case No.

FRANK M. BAGLIONE, Ph.D., J.D;
ROBERT HOLLADAY, as individuals and
educators at a State College in Florida;

AMERICAN COUNCIL OF
TRUSTEES AND ALUMNI, a foreign non-profit
Corporation, and

TALLAHASSEE HISTORICAL SOCIETY, Inc.
a Florida non-profit corporation, and

Petitioners,

v.

FLORIDA DEPARTMENT OF
EDUCATION, STATE BOARD OF EDUCATION,

Respondent.

**PETITION FOR ADMINISTRATIVE DETERMINATION OF
INVALIDITY OF PROPOSED AMENDMENT TO RULE 6A-10.02413, F.A.C.**

Petitioners, Michael and Logan McLeod, as parents of two high school students, Frank M. Baglione, Ph.D., J.D., Robert Holladay, as individuals and educators at Tallahassee Community College, the American Council of Trustees and Alumni, a non-profit that promotes educational reform and the teaching of civics, and the Tallahassee Historical Society, Inc., a non-profit organization promotes the study and love of history, (“Petitioners”) pursuant to sections 120.52(8), 120.56(1) and (2), Florida Statutes (2020) and rule 28.106.201, Florida Administrative Code, file this Petition for Administrative Determination of Invalidity of Proposed Rule Revision (“Petition”)

challenging a specific portion to newly proposed amendment to rule 6A-10.02413, F.A.C., as published by the Florida Department of Education, State Board of Education, addressing Civic Literacy Competency. The proposed amendment to rule 6A-10.02413 is an invalid exercise of delegated legislative authority for the following reasons:

- The proposed rule allows a student to demonstrate civic literacy by passing a newly created civics test that was not in existence at the time of the passage of section 1007.25, Florida Statutes.
- The proposed rule’s addition of the newly created test as a measure of civic literacy is contrary to the legislative directive that a student’s civic literacy be determined by an assessment, not a memorization test.
- The proposed rule is being applied retroactively contrary to law.
- The State Board of Education failed to follow appropriate rulemaking in proposing the rule by delegating the responsibility to the Commissioner of Education.

In support of the Petition, Petitioners state the following:

I. Identification of Parties and Counsel

1. The affected agency is the Florida Department of Education, State Board of Education (“Department”), whose address is 325 West Gaines Street, Tallahassee, Florida 32399.

2. The Petitioners are Michael and Logan McLeod, the American Council of Trustees and Alumni, the Tallahassee Historical Society, Inc., and Robert Holladay. For this litigation, the Petitioner’s address is that of his counsel. Petitioner is represented by Mr. Thomas Crapps and Mr. James Ross, Meenan P.A., 300 S. Duval Street, Suite 410, Tallahassee, Florida 32301; 850-425-4000; tom@meenanlawfirm.com and jross@meenanlawfirm.com.

II. Substantial Interests

3. Michael and Logan McLeod (“The McLeods”) are residents of Leon County Florida and the parents of two high school students. The McLeods are active in the lives and education of their two children. The McLeods desire that their children receive a high-quality education that

encourages civic literacy, so that their children may become knowledgeable adults who make a positive contribution to their community. The McLeods' children plan to attend Tallahassee Community College upon graduation from the public high school. The McLeods are substantially affected because they believe the Department's proposed rule diminishes the encouragement and development of civic literacy for students. Further, the McLeods' minor children will be required to demonstrate their civic literacy along-side other students who, under the mandates of the new rule, will be given the opportunity to take a memorization test instead of truly proving competency through successful completion of a civic literacy course or by achieving a passing score on an assessment.

4. Frank M. Baglione, Ph.D., and J.D., is a Professor of History at Tallahassee Community College. He has taught American, European, and Chinese history, and will teach history at Tallahassee Community College in the 2020-2021 school year.

5. Mr. Holladay is a life-long historian and an adjunct History professor at Tallahassee Community College. Mr. Holladay has taught U.S. history in the past, and he will teach U.S. History at the state college level in the 2020-2021 year.

6. The Department's proposed rule permits students to satisfy the civic literacy requirement by taking and minimally passing a multiple-choice test; thus, avoiding taking an entry level U.S. History or U.S. Government class. Dr. Baglione's and Mr. Holladay's substantial interest in being able to teach minimally proficient students and promoting the study of history is substantially diminished by the Department's proposed rule. If the Proposed Rule is adopted, Dr. Baglione and Mr. Holladay, and other teachers like them, will necessarily need to re-assess his incoming students to see who is actually proficient in civics and who has simply memorized the answer to a test. Further, because students will be able to satisfy their core educational requirement concerning civic literacy by taking a simple multiple-choice test, fewer students will register for the introductory U.S. history and U.S. Government classes. Thus, Dr. Baglione's and Mr. Holladay's

opportunities to teach and encourage the study of history will be reduced. Finally, Dr. Baglione's and Mr. Holladay's interest in the Proposed rule is important and significant because they, as educators, are charged with the duty to guide pupils of vastly different civic literacy proficiencies and create a civics curriculum for his classes that can accommodate all ability levels.

7. The American Council of Trustees and Alumni ACTA is an independent, non-profit organization that is committed to academic freedom, excellence and accountability in America's colleges and universities. See <https://www.goacta.org/about/mission> Launched in 1995, ACTA is "the only organization that works with alumni, donors, trustees, and education leaders across the United States to support liberal arts education, uphold high academic standards, safeguard the free exchange of ideas on campus, and ensure that the next generation receives a philosophically rich, high-quality college education at an affordable price." <https://www.goacta.org/about/mission>. ACTA advocates for academic excellence in universities and colleges through best practices research and advocacy, and by promoting a rigorous and coherent core curriculum. The organization's annual survey of 1,130 general education programs, *What Will They Learn?*[®], urges colleges and universities to strengthen their general education programs in order to "prepare students for rewarding careers, engaged citizenship, and meaningful community participation." <https://www.whatwilltheylearn.com/about>.

8. The ACTA has specifically studied instruction in U.S. History and Civics at the collegiate level and advocated for stronger curricula. In its 2016 report titled "*No U.S. History?*," ACTA assessed standards within history major programs. Only seven of the top 25 liberal arts colleges, and only 6 of the top 25 public universities, require majors to take a course in U.S. history that treats a broad chronology. https://www.goacta.org/issues/academic_excellence. To complete a bachelor's degree, only 18% of colleges require students to complete a foundational course in U.S. history or politics. It shows. ACTA's 2016 report, "*A Crisis in Civics Education*," "found that 10% of four-

year college graduates thought that Judith Scheindlin—otherwise known as TV’s “Judge Judy”—served on the Supreme Court.” https://www.goacta.org/issues/academic_excellence. A more recent 2019 survey, “*America’s Knowledge Crisis*,” found that 51% of college graduates could not correctly identify the term lengths for members of Congress. <https://www.goacta.org/publications/americas-knowledge-crisis>. To remedy this, ACTA partnered with Princeton University historian Allen Guelzo to publish “*10 Things Everyone Should Know About American History*.” <https://www.goacta.org/publications/10-things-everyone-should-know-about-american-history>. The organization is now in the process of mailing the report to 23,000 trustees and 1,100 state legislators with an urgent call to action: universities must do a better job for preparing graduates for informed citizenship because civic literacy is foundational to a healthy public discourse and functioning representative institutions.

9. The ACTA has studied Florida’s higher education system extensively. *Florida Rising*, published in 2013, assessed Florida’s system of public universities, focusing on issues of cost, speech codes, core curriculum, and graduation rates. https://www.goacta.org/publications/florida_rising. At that point, ACTA noted that only one Florida university (Florida Agricultural and Mechanical University) required all students to take a foundational course in U.S. government or history. Section 1007.25, Florida Statutes, remedied this deficiency in principle, and ACTA proceeded to point to it as an example. As recently as February 3, 2020, ACTA wrote to over 1,000 state legislators serving on education committees about general education reform, highlighting the learning objectives in Florida’s statute as a model to emulate.

10. The ACTA’s substantial interest and advocacy in promoting core curriculum in state colleges concerning U.S. History and Civics is affected by the Department’s proposed rule which allows a student to show a civic literacy competency by passing a multiple-choice test based on the U.S. Naturalization and Immigration Test, as modified by the Department. If the intent behind

educating college students in American history and government is the perpetuation of an informed and engaged citizenry, the Department of Education’s proposed rule allows students to bypass the objective.

11. Founded in 1933, the Tallahassee Historical Society is a 501(c)(3), non-profit corporation, in Tallahassee, Florida “that welcomes individuals who enjoy learning about and sharing state and local history.” <https://tallahasseehistoricalsociety.org/>. Part of the Tallahassee Historical Society’s mission is to “cooperate with appropriate individuals, organization and institutions to promote and sustain a general interest in history.” Tallahassee Historical Society, Bylaws Art. II, § 4. The Department’s proposed rule devalues the teaching of history by encouraging students to satisfy a college history requirement by taking and minimally passing a multiple-choice test. Thus, the Department’s proposed amendment to the rule directly affects the Tallahassee Historical Society’s substantial interests in teaching and promoting the study of history.

III. Notice of Proposed Rule Change

12. The proposed amendment to rule 6A-10.02413, F.A.C., amends the Department’s rule addressing how a student in the Florida College System institution may demonstrate competency in civic literacy to earn an associate in arts or baccalaureate degree. The proposed rule allows a student, beginning in June 2020, in the Florida College System institution to demonstrate civic literacy by passing the U.S. Citizenship and Immigration Services Naturalization Test – Civics (U.S. history and government) with supplemental questions. The Department provided Notice of the Proposed rule amendment with a rule-making workshop held on March 27, 2020. Department of Education, Notice of Development of Rulemaking, Rule 6A-10.02413, on 3/12/2020 F.A.R. Vol. 46/50.¹ The Department published Notice of the Proposed Rule for a final hearing before the Department and

¹ The text of the rule amendment was not contained in the Notice; however, the text of the proposed rule amendment was made available by an internet link before the March 27, 2020, workshop.

State Board of Education that occurred on May 13, 2020. Dep't of Education, Notice of Proposed Rule 6A-10.02413, on April 14, 2020, F.A.R. 4/14.2020, Vol. 46/73.

13. This Petition is filed within 10 days of the date of the Department's final public hearing as required by section 120.56(2), Florida Statutes.

14. A copy of the Proposed Rule 6A-10.02413, F.A.C., is attached as **Exhibit 1**.

IV. Background Facts

15. The Florida Legislature passed section 1007.25(4), Florida Statutes, in 2017, creating the requirement for students in the State College System to demonstrate competency in civic literacy. Section 1007.25(4), Florida Statutes, states:

(4) Beginning with students initially entering a Florida College System institution or state university in the 2018-2019 school year and thereafter, each student must demonstrate competency in civic literacy. **Students must have the option to demonstrate competency through successful completion of a civic literacy course or by achieving a passing score on an assessment. The State Board of Education must adopt in rule and the Board of Governors must adopt in regulation at least one existing assessment that measures competencies consistent with the required course competencies outlined in paragraph (b).** The chair of the State Board of Education and the chair of the Board of Governors, or their respective designees, shall jointly appoint a faculty committee to:

(a) Develop a new course in civic literacy or revise an existing general education core course in American History or American Government to include civic literacy.

(b) Establish course competencies and identify outcomes that include, at a minimum, an understanding of the basic principles of American democracy and how they are applied in our republican form of government, an understanding of the United States Constitution, knowledge of the founding documents and how they have shaped the nature and functions of our institutions of self-governance, and an understanding of landmark Supreme Court cases and their impact on law and society. §1007.25(4), Fla. Stat., emphasis added.

16. The Florida Legislature requires that students entering the Florida College System demonstrate competency in civic literacy. The law directs that a student may demonstrate civic competency by either: 1) successful completion of civic literacy course or revise an existing general education core course in American History or American Government to include civic literacy; or 2) by achieving a passing score on an assessment. The law then directs the State Board of Education

to adopt “at least one existing assessment that measures the competencies consistent with the course competencies outlined in [subparagraph] b” of the section 1007.25(4), Florida Statutes.

17. The legislative history for section 1007.25(4), Florida Statutes, clearly sets out the Florida Legislature’s goals and reasons for enacting the Civic Literacy requirement. The legislative history shows that section 1007.25(4), Florida Statutes, was part of a larger educational bill that:

[R]evises the statutory priorities for Florida’s K-20 education system under s. 1000.03, F.S. to expressly state that it is a priority of the system to prepare students to become “civically engaged and knowledgeable adults who make positive contributions to their community.” Florida House of Representatives Staff Analysis, CS/CS/HB 7057 (Apr. 7, 2017), attached as **Exhibit 2**.

18. The Florida Legislature’s staff analysis shows that it recognized that “Civic literacy is recognized as integral to the maintenance and improvement of constitutional democracy in the United States.” *Id.*

19. As part of the comprehensive Civic Literacy legislation, the staff analysis recognized that, in 2017, “there are no civics education requirements for students enrolled in public postsecondary institutions in Florida.” Thus, the staff analysis shows that to “bolster civics instruction in Florida and prepare students to be civically engage, knowledgeable adults, the bill:”

20. Further, the legislative history for section 1007.25(4), Florida Statutes, sets out the factual findings for why the legislature sought to increase Civic Literacy in postsecondary education. The legislative staff analysis recognized that “[a]lthough the law provides for civics-related academic standards and promotion and graduation requirements, there is no postsecondary civics course requirement in Florida.” Florida House of Representatives Staff Analysis, CS/CS/HB 7057, page 3 (Apr. 7, 2017), attached as Exhibit 2.

21. Moreover, the legislative staff found that students entering the Florida College System were required to complete at least one social sciences course as part of the general education

core course requirements. Students were able to meet the social sciences requirement by taking a course in one of the following six courses:

- American History;
- Government;
- Economics ;
- Anthropology;
- Sociology; and
Psychology

The legislative staff found that of the Florida College Students and State University System students “who took a general education core course in social sciences in the 2014-2015 school year, only 16 percent took Government.”²

22. To address Civic Literacy in the postsecondary education level, the staff analysis stated that the effect of the proposed legislation, as follows:

The bill also requires that, beginning with the 2018-2019 school year, students who enter a FCS or SUS institution for the first time demonstrate competency in civic literacy. Competency may be demonstrated either by completion of a civic literacy course or by passing an assessment adopted in state board rule or in Board of Governors (BOG) regulation depending on the type of institution in which the student is enrolled. The chair of the SBE and the chair of the BOG, or their respective designees must jointly appoint a faculty committee to:

- develop a new course in civic literacy or revise an existing general education core course in American Government or American History to include civic literacy; and
- establish course competencies and identify outcomes that include, at a minimum:
 - an understanding of the basic principles of American democracy and how they are applied in our nation's republican form of government;
 - an understanding of the U.S. Constitution;
 - knowledge of the founding documents and how they have shaped the nature and functions of our institutions of self-

² The legislative staff analysis shows that most students satisfied the postsecondary social sciences requirement by enrolling in Psychology.

- governance; and
- o an understanding of landmark Supreme Court cases and their impact on law and society.

The assessment must be an existing assessment that measures competencies consistent with the minimum course competencies under the bill.

Florida House of Representatives Staff Analysis, CS/CS/HB 7057, pages 5-6 (Apr. 7, 2017), attached as **Exhibit 2**.

23. The Civic Literacy bill became law was signed into law by Governor Rick Scott on June 15, 2017, effective on July 1, 2017.

24. On May 30, 2018, the Department implemented section 1007.25(4), Florida Statutes, with the adoption of rule 6a-10.2413, F.A.C. Civic Literacy Competency. Rule 6A-10.2413, F.A.C., attached as **Exhibit 3**.

25. Consistent with the plain language of section 1007.25(4), Florida Statutes, and consistent with the staff legislative analysis, Rule 6A-10.02413, F.A.C., provided that first time in college student entering the Florida College System institution in the 2018-19 school year, and thereafter, demonstrate competency in civic literacy by successfully passing a class focused on American Government or American History, or by successfully passing an existing assessment. Specifically, rule 6A-10.02413, provides that a student may show civic literacy by:

- (1) Successfully passing either POSX041 American Government or AMHX020 Introductory Survey Since 1877. Each of the courses must include the following competencies:
 - (a) Understanding of the basic principles and practices of American democracy and how they are applied in our republican form of government;
 - (b) An understanding of the United States Constitution and its application;
 - (c) Knowledge of the founding documents and how they have shaped the nature and functions of our institutions of self-government; and
 - (d) An understanding of landmark Supreme Court cases, landmark legislation and landmark executive actions and their impact on law and society.
- (2) Achieving the standard score on one of the following assessments:

Assessment	Standard Score
AP Government and Politics: United States	3
AP United States History	4
CLEP: American Government	50

26. The Department initiated rulemaking on March 12, 2020, providing Notice that it sought to amend rule 6A-10.02413, F.A.C. to include the following language:

(2) Achieving the standard score on one of the following assessments:

Assessment	Standard Score
AP Government and Politics: United States	3
AP United States History	4
CLEP: American Government	50
<u>Beginning June 2020</u> <u>U.S. Citizenship and Immigration Services</u> <u>Naturalization Test – Civics (U.S. history</u> <u>and government) with supplemental</u> <u>questions</u>	60

Exhibit 1, proposed rule amendment rule 6A-10.02413, F.A.C.

V. The proposed amendment to rule 6A-10.02413, F.A.C. is an invalid exercise of delegated legislative authority.

A. The Proposed Rule adopts a New Test, not an existing Assessment to measure a student’s Civic Literacy.

27. The “test” to referenced by the amendment, U.S. Citizenship and Immigration Services Naturalization Test- Civics with supplemental questions is a “new test” that was created by the University of Central Florida, Lou Frey Institute. This new test is referred to by the Department as “The Florida Civic Literacy Test.”

28. Based on information and belief, the Florida Civic Literacy Test, adopted by the Department, is a multiple-choice test based on the U.S. Citizenship and Immigration Services Naturalization Test. See Florida Department of Education website, Civic Literacy (“In 2017, a college-level civic literacy requirement was put into state law. The pilot civic literacy exam for high school students will be the *Florida Civic Literacy Test*, the same exam used at the college level. This

is a 100-question, multiple-choice, Pass/Fail exam (60% correct to pass). A State Board of Education rule will be proposed to require colleges to accept passing scores earned by high school students to meet the college-level civic literacy requirement. As an additional incentive, the proposed rule will retroactively apply to students graduating in 2020 that pass the pilot exam. More information on the pilot civic literacy exam can be found in the Civic Literacy Exam Pilot Guidance memo”) found at <http://www.fldoe.org/civicliteracy/>.

29. The Florida Civic Literacy Test was created by the Frey Institute in 2018 and was not an existing assessment at the time section 1007.25(4), Florida Statutes, became law.

30. The Florida Legislature in creating a statute knows the difference between “existing” and “new” in setting out the requirement. *See Fla. Dep’t of State, Div. of Elections v. Martin*, 916 So. 2d 763, 768 (Fla. 2005) (“The doctrine of *in pari materia* is a principle of statutory construction that requires that statutes relating to the same subject or object be construed together to harmonize the statutes and to give effect to the Legislature’s intent.”). The “U.S. Citizenship and Immigration Services Naturalization Test – Civics (U.S. history and government) with supplemental questions” is a “new” test created after the enactment of section 1007.25, Florida Statutes, thus is not an “existing” test that may be used to measure a student’s civic competency.

31. By attempting to implement this new test, the proposed rule is enlarging, modifying, or contravening the law implemented and is therefore an invalid exercise of delegated legislative authority. *See* s. 120.52(8)(c), Fla. Stat.

B. The Proposed Rule adopting the Florida Civic Literacy Test is not an “Assessment.”

32. Section 1007.25(4), Florida Statutes, specifically requires that students have the option of passing “an assessment.” The “U.S. Citizenship and Immigration Services Naturalization Test – Civics (U.S. history and government) with supplemental questions” is comprised of 100 multiple

choice questions, 44 of which, along with their answers are available at the U.S. Immigration Services website:

<https://www.uscis.gov/sites/default/files/USCIS/Office%20of%20Citizenship/Citizenship%20Resource%20Center%20Site/Publications/100q.pdf>

33. The Legislature was precise in its use of “assessment,” and was undoubtedly aware of the difference between a mere test and an assessment. *See Fla. Dep’t of State, Div. of Elections v. Martin, supra*³

34. The Department has stated that its proposed Florida Civic Literacy Test is a “100-question, multiple-choice test, Pass/Fail exam (60 % correct to pass)⁴” to satisfy the “college-level civic literacy requirement.” See Dep’t of Ed. Website at <http://www.fldoe.org/civicliteracy/>

³ The Department of Education itself recognizes that the use of the Naturalization Test with supplemental questions is not adequate to meet a postsecondary requirement, evidenced by its intent to amend section 1007.25(4), Florida Statutes, to require postsecondary coursework. In February 2020 the Department of Education, through Commissioner Corcoran, requested introduction of CS/CS/HB 7079 (2020), sponsored in the House of Representatives by Representative Vance Aloupis, and CS/SB 1498 (2020), sponsored in the Senate by Senator Manny Diaz, which included the following language:

Beginning with students initially entering a Florida College System institution or state university in the 2020-2021 ~~2018-2019~~ school year and thereafter, each student must demonstrate competency in civic literacy. ~~Students must have the option to demonstrate competency~~ through the successful completion of a civic literacy course and ~~or~~ by achieving a passing score on an assessment. The State Board of Education must adopt in rule and the Board of Governors must adopt in regulation at least one existing assessment that measures competencies consistent with the required course competencies outlined in paragraph (b). A student may fulfill the assessment requirement by earning a passing score on the assessment while in high school under s. 1003.4282(3)(d). The chair of the State Board of Education and the chair of the Board of Governors, or their respective designees, shall jointly appoint a faculty committee to:

See CS/CS/HB 7079 (2020), section 7; CS/SB 1498 (2020), section 8.

⁴ It is highly debatable whether a 60% passing rate of an on-line test demonstrates civic literacy.

35. Practice exams of the Department’s proposed Florida Civic Literacy Test are available on-line for students to take the practice examine as many times as needed to reach the Department’s passing rate of 60% to show civic literacy. See e.g. Florida Gulf Coast University website, <https://www.fgcu.edu/testing/programs/civic-literacy-exam#PracticeBeforetheTest>

36. The practice Florida Civic Literacy Test for Florida Gulf Coast University is attached as **Exhibit 4** and found at <https://fgcu.instructure.com/courses/500938/quizzes/849742/take>.

37. A multiple-choice test with its questions and answers available online, does not “assess” a student’s understanding of the basic principles of American democracy. *See* s. 1007.25(4), Fla. Stat. For example, question 10 of the practice Florida Literacy Test asks:

10. What did the Declaration of Independence do?
- declared independence from Spain
 - declared independence from Germany
 - declared independence from France
 - declared independence from Great Britain

This test question determines whether a student knows the fact that the United States declared independence from Great Britain. However, the test question fails to assess the student’s understanding of the importance of the Declaration of Independence and what it accomplished. For example, the Preamble states, in part, that:

We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.--That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed.

Our understanding of equality before the law, the right to vote, that a government serves the People, and that we have rights to life, liberty and pursuit of happiness are all built upon the Declaration of Independence’s Preamble. That foundational understanding is not enhanced by encouraging students

to memorize a test answer that what the Declaration of Independence “did” was declare independence from Great Britain. Unlike the Department’s proposed test, an assessment determines the student’s ability to think, not memorize facts. In short, all assessments are tests, but not all tests are assessments.

38. This distinction is elaborated by Penn State University at <http://tutorials.istudy.psu.edu/testing/testing2.html>:

- A **test** or **quiz** is used to examine someone's knowledge of something to determine what he or she knows or has learned. Testing measures the level of skill or knowledge that has been reached.
- **Evaluation** is the process of making judgments based on criteria and evidence.
- **Assessment** is the process of documenting knowledge, skills, attitudes and beliefs, usually in measurable terms. The goal of assessment is to make improvements, as opposed to simply being judged. In an educational context, assessment is the process of describing, collecting, recording, scoring, and interpreting information about learning.

39. The Florida Legislature in directing that students demonstrate civic competency desires students show that they think about and understand the concepts as opposed to memorizing the answers to a test that can be found on-line. The proposed rule “shortchanges” civic literacy in favor of memorization of facts. Consequently, the proposed rule is an invalid exercise of delegated legislative authority because it enlarges, modifies, or contravenes section 1007.25(4), Florida Statutes. *See* s. 120.52(8)(c), Fla. Stat.

C. The Proposed Rule improperly states that it will be applied retroactively.

40. The State Board of Education has declared in the notice of proposed rule that one of the purposes of the proposed rule is: “By adding this assessment, high school students who passed the Florida Civic Literacy Test during the 2019-20 school year as part of the civic literacy exam pilot will have demonstrated postsecondary civic literacy competency at Florida College System institutions.” *See* n.1, *supra*.

41. The Department of Education stated in a memorandum dated January 31, 2020:

In 2017, a college-level civic literacy requirement was put into state law. The pilot civic literacy exam for high school students will be the same exam used at the college level – the Florida Civic Literacy Test. This is a 100-question, multiple-choice exam that is Pass/Fail (60% correct to pass). A State Board of Education rule will be developed proposing that colleges be required to accept passing scores earned by high school students to meet the college-level civic literacy requirement. *The proposed rule will retroactively include students participating in the pilot exam during the 2019-2020 school year, which is another good incentive for high schools to participate.*

(Emphasis added.) Available at: <https://info.fldoe.org/docushare/dsweb/Get/Document-8823/dps-2020-08.pdf>.

42. Based upon its own written memoranda plus the agency’s comments at its March 27, 2020 workshop, the State Board of Education intends that proposed rule 6A-10.02413 will be applied retroactively, something made clear in its “Purpose and Effect” language in the notice of proposed rule and the accompanying the rule text: “high school students who passed the Florida Civic Literacy Test during the 2019-20 school year ... will have demonstrated postsecondary civic literacy competency at Florida College System institutions.”

43. Since the rule language clearly states that students will be able to take the test beginning in June of 2020, and all but seven Florida county public school systems will end their year between May 22 and May 29, the rule is clearly intended to be applied retroactively, something expressly prohibited by section 120.54(1)(f), Florida Statutes.

D. The Proposed Rule is creating an unadopted rule allowing retroactive application.

44. The Administrative Procedure Act expressly prohibits retroactive rules, *supra*, the State Board of Education will be implementing an unadopted rule, also expressly prohibited by the Administrative Procedure Act. *See* s. 120.52(20), Fla. Stat.

45. The proposed rule will become effective in mid-June of 2020 and will apply to high school students who have already taken the new test during the 2019-2020 school year.

46. If the State Board of Education intended for the rule to be applied in the 2019-20 school year, it was incumbent upon it to adopt the rule pursuant to the rulemaking procedures of section 120.54, Florida Statutes, prior to promising high school students that taking the test as part of the pilot program would demonstrate civic literacy at the postsecondary level pursuant section 1007.25(4), Florida Statutes.

E. The Commissioner of Education cannot approve the Proposed Rule.

47. Section 1007.25(4), Florida Statutes, grants rulemaking authority to the State Board of Education: “The *State Board of Education must adopt in rule* and the Board of Governors must adopt in regulation at least one existing assessment that measures competencies consistent with the required course competencies outlined in paragraph (b).” (Emphasis added.)

48. The notice of proposed rule states that the agency head who approved the proposed rule is “Richard Corcoran, Commissioner, Department of Education” and Commissioner Corcoran approved the rule language on April 8, 2020. *See* n.1, *supra*.

49. Section 120.54(1)(k), Florida Statutes, states that an agency head may not delegate or transfer its rulemaking responsibilities under section 120.54(3)(a)1., Florida Statutes, governing the notices of proposed rules. Section 120.54(3)(a)1., Florida Statutes, reiterates this requirement by requiring the agency head to approve notices of proposed rules prior to publication in the Florida Administrative Register.⁵ It is not enough that the State Board of Education will approve the proposed rule after it is noticed in the Florida Administrative Register at its May 13, 2020, meeting.

⁵ (3) ADOPTION PROCEDURES.—

(a) *Notices*.—

1. Prior to the adoption, amendment, or repeal of any rule other than an emergency rule, an agency, upon approval of the agency head, shall give notice of its intended action, setting forth a

50. Section 120.52(3), Florida Statutes, defines the “Agency head” as: “[T]he person or collegial body in a department or other governmental unit statutorily responsible for final agency action. An agency head appointed by and serving at the pleasure of an appointing authority remains subject to the direction and supervision of the appointing authority, but actions taken by the agency head as authorized by statute are official acts.”

51. The State Board of Education is a collegial body “consist[ing] of seven members appointed by the governor to staggered 4-year terms, subject to confirmation by the senate. The state board of education shall appoint the commissioner of education.” Art. IX, s. 2, Fla. Const. *See also* s. 20.15(2), Florida Statutes (“The Commissioner of Education is appointed by the State Board of

short, plain explanation of the purpose and effect of the proposed action; the full text of the proposed rule or amendment and a summary thereof; a reference to the grant of rulemaking authority pursuant to which the rule is adopted; and a reference to the section or subsection of the Florida Statutes or the Laws of Florida being implemented or interpreted. The notice must include a summary of the agency’s statement of the estimated regulatory costs, if one has been prepared, based on the factors set forth in s. 120.541(2); a statement that any person who wishes to provide the agency with information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower cost regulatory alternative as provided by s. 120.541(1), must do so in writing within 21 days after publication of the notice; and a statement as to whether, based on the statement of the estimated regulatory costs or other information expressly relied upon and described by the agency if no statement of regulatory costs is required, the proposed rule is expected to require legislative ratification pursuant to s. 120.541(3). The notice must state the procedure for requesting a public hearing on the proposed rule. Except when the intended action is the repeal of a rule, the notice must include a reference both to the date on which and to the place where the notice of rule development that is required by subsection (2) appeared.

2. The notice shall be published in the Florida Administrative Register not less than 28 days prior to the intended action. The proposed rule shall be available for inspection and copying by the public at the time of the publication of notice.

3. The notice shall be mailed to all persons named in the proposed rule and to all persons who, at least 14 days prior to such mailing, have made requests of the agency for advance notice of its proceedings. The agency shall also give such notice as is prescribed by rule to those particular classes of persons to whom the intended action is directed.

4. The adopting agency shall file with the committee, at least 21 days prior to the proposed adoption date, a copy of each rule it proposes to adopt; a copy of any material incorporated by reference in the rule; a detailed written statement of the facts and circumstances justifying the proposed rule; a copy of any statement of estimated regulatory costs that has been prepared pursuant to s. 120.541; a statement of the extent to which the proposed rule relates to federal standards or rules on the same subject; and the notice required by subparagraph 1.

Education and serves as the Executive Director of the Department of Education.”). Moreover, “[t]he State Board of Education is the head of the Department of Education.” *See* s. 20.15(1), Fla. Stat. Thus, the Commissioner is not the agency head of the State Board of Education and the State Board of Education cannot delegate its statutory authority to the commissioner to approve proposed rule language prior to publication in the Florida Administrative Register. The State Board of Education did not meet on April 8, 2020, and this proposed rule was not on the April 1, 2020, agenda of the State Board of Education meeting: <http://www.fldoe.org/policy/state-board-of-edu/meetings/2020/>. Furthermore, there is no record that the State Board of Education discussed the language of this rule or approved, by formal vote, its verbiage.

52. The State Board of Education’s apparent reliance on section 1001.02(1), Florida Statutes, as authority for delegation of the authority to propose rule language contradicts section 120.54(1)(k), Florida Statutes. A well-established principle of statutory construction is that a more specific statute controls over a general pronouncement. Section 120.54(1)(k) was enacted by the legislature in 2008, *see* ch. 2008-104, s. 5, Laws of Fla., and it specifically prohibits the agency head from delegating the rulemaking responsibilities pursuant to section 120.54(3)(a)1., Florida Statutes, and therefore is more specific than the general responsibilities that are delegable pursuant to section 1001.02(1). Consequently, the State Board of Education may not delegate its rule-making authority to the Commissioner of Education. Even if the Commissioner of Education were empowered to implement the rulemaking process by virtue of signing rulemaking documents as required, only the Board of Education can ultimately approve the rule language.

53. The State Board of Education’s failure to approve the proposed rule language prior to publication in the Florida Administrative Register constitutes a material failure to follow the rulemaking procedures and requirements of chapter 120, Florida Statutes, and is therefore an invalid exercise of delegated legislative authority. *See* s. 120.52(8)(a), Fla. Stat.

F. Department's Statement of Estimated Regulatory Costs fails to conduct a meaningful review of the regulatory costs of the proposed rule.

54. The Department conducted a cursory Statement of Estimated Regulatory Costs that, on its face, ignores the requirements of section 120.541, Florida Statutes.

55. The Department's Revised Statement of Estimated Regulatory Costs, dated May 6, 2020, fails to identify the potential transactional costs to state colleges and students or to make a good faith estimate of the regulatory costs. The Department states that the estimated regulatory costs will be minimal stating:

Florida College System students who are required to demonstrate civic literacy competency may incur costs, depending on the method chosen to demonstrate competency. Under the existing rule, the range of costs to students is \$0 (for students who took one of the approved AP exams), to approximately \$80 (for students who took CLEP), to approximately \$215.94 (for students who take a 3-hour approved course with a standard tuition of \$71.98 multiplied by 3 credit hours). The cost for the Florida Civic Literacy Test will be as low as \$0. However, colleges may assess students a fee; this amount is indeterminable and will vary by college. It is possible the Florida Civic Literacy Test would save students and institutions money, as there is no charge to institutions offering the test, and costs of the CLEP or a course are high.

56. The Department's quoted language shows that it made no effort to determine the number of students that will be affected, or the costs that the Department is passing on to the state colleges by adopting the Florida Civic Literacy Test.

57. The Department's failure to materially comply with section 120.541, Florida Statutes, in conducting a Statement of Estimated Regulatory Costs is a failure to materially comply with the rulemaking law; thus, the proposed rule is an invalid exercise of delegated legislative authority.

58. Petitioners reserve the right to amend the Petition, if warranted by discovery.

VI. Statement of Disputed Issues Fact and Law

59. Whether the proposed amendment to rule 6A-10.02413, F.A.C. is an invalid exercise of delegated legislative authority under section 120.52(8), Florida Statutes, because:

- a. The proposed rule improperly enlarges, modifies or contravenes section 1007.25(4), Florida Statutes, by adopting a “new test” to determine a student’s civic competency that was not in existence at the time of legislation;
- b. The proposed rule improperly enlarges, modifies or contravenes section 1007.25(4), Florida Statutes, by adopting a civic literacy “test” as opposed to an assessment as required by statute;
- c. The proposed rule improperly allows a retroactive application which is expressly prohibited section 120.54(1)(f), Florida Statutes;
- d. The proposed rule’s retroactive application is an unadopted rule;
- e. The proposed rule is not approved by the appropriate “Agency Head,” the State Board of Education, contrary to sections 1007.25(4), and 120.54(1), Florida Statutes; and
- f. The Department’s cursory Statement of Estimated Regulatory Costs is not in compliance with section 120.541, Florida Statutes.
- g. The Department wholly failed to adequately comply with section 120.54(3)(c) in properly holding a public hearing and accepting comment on the rule.

VII. Statutes and rules requiring reversal of the proposed rule.

60. Section 1007.25(4), Florida Statutes, and section 120.52(8), 120.541, Florida Statutes, require invalidation of the Departments' proposed amendment to rule 6A-10.02413, F.A.C.

VIII. Relief Requested

Petitioners request that the instant case be set for an administrative hearing and that a Final Order determining that the Department's amendment to proposed rule 6A-10.02413, F.A.C, is an invalid exercise of delegated legislative authority based on the reasons set forth in this Petition., and award attorney's fees and costs in bringing the Petition.

Respectfully submitted this 26th day May, 2020.

/s/ Thomas P. Crapps
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CERTIFICATE OF SERVICE

I hereby certify that this Petition to Determine Invalidity of Florida Administrative Code Rule 6A-10.02413, F.A.C., been filed electronically with the Division of Administrative Hearings on this 26th day of May 2020.

/S/ Thomas P. Crapps

Exhibit 1

Notice of Proposed Rule

DEPARTMENT OF EDUCATION

State Board of Education

RULE NO.: RULE TITLE:

6A-10.02413: Civic Literacy Competency

PURPOSE AND EFFECT: To identify an additional assessment that college students can use to satisfy civic literacy as required by administering s.1007.25(4), F.S. General education courses; common prerequisites; other degree requirements. The effect of the proposed amendment is to add the U.S. Citizenship and Immigration Services Naturalization Test – Civics (U.S. history and government) with supplemental questions, also known as the Florida Civic Literacy Test, as an option by which students can demonstrate civic literacy competency. This amendment aligns the rule with the Board of Governors regulation 8.006 and presents a low-cost option for students. By adding this assessment, high school students who passed the Florida Civic Literacy Test during the 2019-20 school year as part of the civic literacy exam pilot will have demonstrated postsecondary civic literacy competency at Florida College System institutions.

SUMMARY: Students initially entering a Florida College System institution in 2018-19 and thereafter must demonstrate competency in civic literacy through the successful completion of a course (POSX041 American Government or AMHX020 Introductory Survey Since 1877) or by achieving a passing score on an assessment (AP Government and Politics: United States, AP United States History, or CLEP: American Government). The effect of this amended rule will be to provide information to Florida College System institutions about an additional assessment that will be authorized to demonstrate civic literacy competency—the Florida Civic Literacy Test.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

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

In summary, the Florida Department of Education (FLDOE) Office of Assessment maintains the Florida Civic Literacy Test. There is no fee for institutions to begin using the test on a local level. FLDOE will work with each institution to provide the questions and answer key at no cost. Locally, individual institutions will establish procedures for administering the assessment, with consideration given to technology, modality and proctoring. Under the existing rule, the range of costs to students is \$0 (for students who took one of the approved AP exams), to approximately \$80 (for students who took CLEP), to approximately \$215.94 (for students who take a 3-credit hour approved course with a standard tuition of \$71.98 multiplied by 3 credit hours). The cost for the Florida Civic Literacy Test will be as low as \$0. However, colleges may choose to assess students a fee; this amount is interminable and will vary by college. It is possible the Florida Civic Literacy Test would save students and institutions money, as there is no charge to institutions in offering the test, and the costs of the CLEP or a course are high.

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

RULEMAKING AUTHORITY: 1001.02(1), 1007.25(4), F.S.

LAW IMPLEMENTED: 1007.25, F.S.

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

DATE AND TIME: May 13, 2020, 9:00 a.m.

PLACE: Conference call 1(888)220-8451, confirmation code 697978.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Dr. Carrie Henderson, Executive Vice Chancellor, Carrie.Henderson@fldoe.org or (850)245-0407.

THE FULL TEXT OF THE PROPOSED RULE IS:

6A-10.02413 Civic Literacy Competency.

Prior to the award of an associate in arts or baccalaureate degree, first-time-in-college students entering a Florida



College System institution in the 2018-19 school year, and thereafter must demonstrate competency in civic literacy through one of the following options prior to graduation:

(1) No change.

(2) Achieving the standard score on one of the following assessments:

Assessment	Standard Score
AP Government and Politics: United States	3
AP United States History	4
CLEP: American Government	50

Beginning June 2020

U.S. Citizenship and Immigration Services Naturalization 60

Test – Civics (U.S. history and government) with supplemental questions

Rulemaking Authority 1001.02(1), 1007.25(4) FS. Law Implemented 1007.25 FS. History–New 6-19-18.

NAME OF PERSON ORIGINATING PROPOSED RULE: Kathy Hebda, Chancellor, Division of Florida Colleges.

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 8, 2020

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: March 12, 2020

Exhibit 2

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 7057 PCB PKQ 17-01 Civic Literacy
SPONSOR(S): Education Committee; PreK-12 Appropriations Subcommittee; PreK-12 Quality Subcommittee, Raburn
TIED BILLS: None **IDEN./SIM. BILLS:** SB 1710

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: PreK-12 Quality Subcommittee	15 Y, 0 N	Brink	Duncan
1) PreK-12 Appropriations Subcommittee	15 Y, 0 N, As CS	Seifert	Potvin
2) Education Committee	18 Y, 0 N, As CS	Brink	Hassell

SUMMARY ANALYSIS

Civic literacy is recognized as integral to the maintenance and improvement of constitutional democracy in the United States. Florida law incorporates several aspects of civic instruction into the public education system, including:

- academic standards for civics at all grade levels K-12;
- required instruction on the history, significance, and principles of the Declaration of Independence and the Constitution of the United States, flag education, and the arguments in support of adopting our republican form of government;
- civics and U.S. government course requirements in middle school and high school, respectively;
- a civics end-of-course assessment that constitutes 30 percent of a student's final grade for the middle grades civics course; and
- Celebrate Freedom Week, during which public school students must receive specified instruction on the Declaration of Independence and recite the Declaration at the beginning of each school day.

Currently, there are no civics education requirements for students enrolled in public postsecondary institutions in Florida.

To bolster civics instruction in Florida and prepare students to be civically engaged, knowledgeable adults, the bill.

- designates the month of September as "American Founders' Month" and authorizes the Governor to issue a proclamation urging public and private organizations within the state to celebrate the month;
- encourages all public schools to coordinate instruction on the founding fathers with "American Founders' Month;"
- requires the Just Read, Florida! Office to develop sequenced, content-rich programming to help elementary schools incorporate social studies, science, and fine arts content into literacy skills instruction;
- provides that it is a priority of the K-20 public education system to prepare students to become civically engaged and knowledgeable adults who make positive contributions to their community;
- requires students entering a Florida College System or State University System institution in 2018-2019 or thereafter to demonstrate competence in civic literacy either through a general education civics course or by passing an assessment adopted by the State Board of Education (SBE) or the Board of Governors (BOG); and
- requiring the chairs of the SBE and BOG to jointly appoint a faculty committee to:
 - develop a new course in civic literacy or revise an existing general education core course in American Government or American History to include civic literacy; and
 - establish competencies and identify outcomes for the course.

The bill does not appear to have a fiscal impact.

The bill takes effect July 1, 2017.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.
STORAGE NAME: h7057c EDC
DATE: 4/7/2017



FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Required Instruction

Florida law requires each district school board to provide instruction regarding the history, significance, and principles of the Declaration of Independence and the Constitution of the United States, flag education, and the arguments in support of adopting our republican form of government.¹ The law also requires districts to provide a character-development program in kindergarten through grade 12. Each school district must develop or adopt a curriculum for its K-12 character-development program and submit it to the Department of Education for approval.² The curriculum must "stress the qualities of patriotism; responsibility; citizenship; kindness; respect for authority, life, liberty and personal property; honesty; charity; self-control; racial, ethnic, and religious tolerance; and cooperation."³ For grades 9-12, the character-development program must include instruction on:

- Developing leadership skills, interpersonal skills, organization skills, and research skills;
- Creating a resume;
- Developing and practicing the skills necessary for employment interviews;
- Managing stress and expectations; and
- Developing skills that enable students to become more resilient and self-motivated.⁴

Civics Instruction

Currently, Florida's Next Generation Sunshine State Standards for social studies include civics content in kindergarten through grade 8 and in grades 9-12.⁵ The standards were initially adopted after a review process in 2008 and then revised in 2014 by the State Board of Education (SBE).⁶

Each middle grades student must successfully complete three middle school or higher courses in social studies in order to be promoted to high school.⁷ One semester of the three courses must be in civics. Students enrolled in the civics course must take the statewide Civics end-of-course (EOC) assessment. The Civics EOC assessment, which was administered initially in the 2012-2013 school year, counts toward 30 percent of the student's course grade; however, students are not required to pass the assessment in order to be promoted. Results from the assessment are included in the school grades calculation for middle schools.⁸

The percentage of 7th grade students achieving a Level 3 (passing score) or a Level 4 on the Civics EOC assessment has steadily increased since the 2013-14 school year.⁹

¹ Section 1003.42(2)(a)-(d), F.S.

² Section 1003.42(2)(s), F.S.

³ *Id.*

⁴ *Id.*

⁵ See CPALMS, *Browse and Search Standards*, <http://www.cpalms.org/Public/SearchStandards> (last visited Feb. 27, 2017) (providing the Next Generation Sunshine State Standards for each subject area, by grade level).

⁶ See rule 6A-1.09401, F.A.C. See also Lou Frey Institute, *Civic Education in Florida: hearing before the House PreK-12 Quality Subcommittee* (Feb. 15, 2017), available at

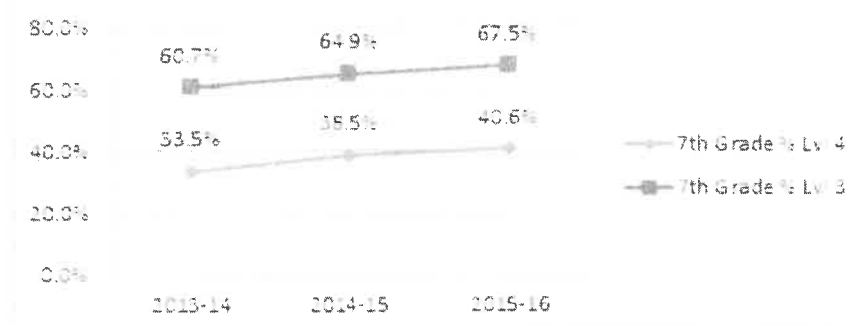
<http://www.mylouisianapost.com/Sections/Documentas/landing.aspx?PublicationType=Committees&CommitteeId=2800&Session=2017&DocumentType=Meeting%20Process&File=Name.php%201517.pdf>.

⁷ Section 1003.4156(1)(c), F.S.

⁸ See ss. 1003.4156(1)(c), 1008.34(3)(b)1.i., F.S.

⁹ Florida Department of Education, PK-12 Education Information Portal: *Civics EOC*, <https://www.flde.org/FLAS/ASPortal.html> (last visited Feb. 27, 2017).

7th Grade Civics EOC Assessment Performance



In addition to the middle grades civics requirement, each public high school student must earn a one-half course credit each in U.S. Government and economics, including financial literacy, and one credit each in World History and U.S. History.¹⁰ Like middle grades Civics, the U.S. History course includes an EOC assessment that counts as 30 percent of a student's final course grade.¹¹

Although the law provides for civics-related academic standards and promotion and graduation requirements, there is no postsecondary civics course requirement in Florida.¹² Currently, students entering postsecondary education at a Florida College System (FCS) or State University System (SUS) institution must complete at least one social sciences course as part of the general education core course requirement.¹³ The six courses that students can select to satisfy the social sciences requirement include:

- American History;
- Government;
- Economics;
- Anthropology;
- Sociology; and
- Psychology.¹⁴

Of the FCS and SUS students who took a general education core course in social sciences in the 2014-2015 school year, only 16 percent took Government. The most popular social sciences course was Psychology, in which 35 percent of the students enrolled.¹⁵ Currently, only nine states have postsecondary civics education requirements, including Texas, Oklahoma, Utah, Arkansas, California, Georgia, Massachusetts, Missouri, and Nevada.¹⁶

¹⁰ Section 1003.4282(3)(d), F.S.

¹¹ *Id.*

¹² Office of Program Policy Analysis and Government Accountability, *OPPAGA Research on Postsecondary Civics Education: hearing before the House PreK-12 Quality Subcommittee* (Feb. 15, 2017), available at

http://www.floridahouse.gov/Sections/Documents/oadddoc.aspx?PublicationType=Committee&CommitteeID=2009&Session=2017&Packet=2017&FileID=2017Packets&FileName=oppaga_2017-15-17.pdf.

¹³ See s. 1007.25(3), F.S.

¹⁴ See rule 6A-14.0303(1)(c), F.A.C. (establishing FCS general core course options for social sciences); Florida Board of Governors Regulation 8.005(1)(e) (establishing SUS general core course options for social sciences).

¹⁵ Office of Program Policy Analysis and Government Accountability, *OPPAGA Research on Postsecondary Civics Education: hearing before the House PreK-12 Quality Subcommittee* (Feb. 15, 2017), available at

http://www.floridahouse.gov/Sections/Documents/oadddoc.aspx?PublicationType=Committee&CommitteeID=2009&Session=2017&Packet=2017&FileID=2017Packets&FileName=oppaga_2017-15-17.pdf.

¹⁶ *See id.*

Without a postsecondary requirement for demonstrating competence in civics, little data exists on the effectiveness of K-12 civics instruction and accountability initiatives.

Background Knowledge

Research has shown that a student's background knowledge—the prior knowledge students need to master new ideas—is positively correlated with his or her ability to comprehend text, remember new concepts, and solve problems.¹⁷ This is because a person with a broad depth of background knowledge and a knowledge-related vocabulary can successfully make the necessary inferences to understand texts, express viewpoints, and apply knowledge.¹⁸ Generally, the earlier children develop a large vocabulary, the greater their reading comprehension will be in later grades. Because developing a vocabulary is a gradual process, it must begin in early grades to put students in a position for reading success.¹⁹

Studies have shown that K-3 teachers spend only 16 minutes on social studies each day, with daily science instruction receiving 19 minutes. The difference in time spent on instruction in literacy skills as compared to science and social studies instruction has been associated with students' decreased reading comprehension.²⁰

	Grades K-3	Grades 4-6
Reading/Language Arts	89 mins.	83 mins.
Mathematics	54 mins.	61 mins.
Science	19 mins.	24 mins.
Social Studies	16 mins.	21 mins.

Only teachers who indicated they teach reading/language arts, mathematics, science and social studies to one class of students were included in these analyses.

Some districts, such as the Washington D.C. public school system, have adopted English language arts scope and sequence guides to help integrate information-rich texts covering social studies, science, and literary content in order to gradually develop a broad base of student knowledge.²² The State of New York has adopted a model Core Knowledge Language Arts curriculum to help local districts increase background knowledge and literacy skills for students in kindergarten through grade 2.²³ Students in New York classrooms that participated in a 3-year pilot program using the curriculum

¹⁷ Daniel Willingham, *How Knowledge Helps*, http://www.all.org/periodical/american_educator/spring_2006/how-knowledge-helps (last visited Feb. 28, 2017).

¹⁸ See Doug Lemov, *How Knowledge Powers Reading*, <http://www.ascd.org/publications/educational-leader/sep-16/17/vol13/num05/How-Knowledge-Powers-Reading.aspx> (last visited Feb. 28, 2017). See also E.D. Hirsch, Jr., *Building Knowledge: The Case for Bringing Content into the Language Arts Block and for a Knowledge-Rich Curriculum Core for all Children*, http://www.all.org/periodical/american_educator/spring_2006/building-knowledge (last visited Feb. 28, 2017).

¹⁹ See *id.*

²⁰ Knowledge Matters Campaign, *Restoring Wonder and Excitement to the Classroom* (2012) at 5, available at <http://knowledgematterscampaign.org/wp-content/uploads/2016/03/Why-KnowledgeMatters-1.pdf>.

²¹ *Id.* at 5.

²² See, e.g., District of Columbia Public Schools, *Scope and Sequence: Fifth Grade* (2014), available at http://www.dcpschools.org/publications/curriculum/NY_4-1_5_2014_V2017r1g_2015-2018_VS.pdf.

²³ New York State Education Department, *New York State ELA Curriculum*, <https://www.empathy.org/english-language-art/> (last visited Feb. 28, 2017).

were shown to have greater gains in reading, science, and social studies than students in comparison schools.²⁴

Just Read, Florida! Office

In 2001, Florida Governor Jeb Bush established the Just Read, Florida! initiative, which aimed at helping students become successful, independent readers.²⁵ The Legislature formally created the Just Read, Florida! Office within the Department of Education in 2006.²⁶

Among other things, the Office must:

- create multiple designations of effective reading instruction, with accompanying credentials, which encourage all teachers to integrate reading instruction into their content areas;
- train K-12 teachers and school principals on effective content-area-specific reading strategies (these strategies must be developed for all content areas in the K-12 curriculum-- for secondary teachers, emphasis must be on technical text);
- provide parents with information and strategies for assisting their children in reading in the content area;
- work with the Florida Center for Reading Research to provide information on research-based reading programs and effective reading in the content area strategies;
- periodically review teacher certification examinations, including alternative certification exams, to ascertain whether the examinations measure the skills needed for research-based reading instruction and instructional strategies for teaching reading in the content areas; and
- work with initial teacher preparation programs to integrate research-based reading instructional strategies and reading in the content area instructional strategies into teacher preparation programs.²⁷

Effect of Proposed Changes

The bill designates the month of September as “American Founders’ Month” and authorizes the Governor to issue a proclamation urging public and private organizations within the state to celebrate the month. The bill encourages all public schools in the state to coordinate instruction related to the nation’s founding fathers with “American Founders’ Month.”

The bill revises the statutory priorities for Florida’s K-20 education system under s. 1000.03, F.S., to expressly state that it is a priority of the system to prepare students to become “civically engaged and knowledgeable adults who make positive contributions to their community.”

To help increase background knowledge and literacy skills, the bill requires the Just Read, Florida! Office to develop and provide access to sequenced, content-rich curriculum programming, instructional practices, and resources that help elementary schools use state-adopted instructional materials to increase students’ background knowledge and literacy skills, including attainment of the Next Generation Sunshine State Standards in social studies, science, and the arts.

The bill also requires that, beginning with the 2018-2019 school year, students who enter a FCS or SUS institution for the first time demonstrate competency in civic literacy. Competency may be demonstrated either by completion of a civic literacy course or by passing an assessment adopted in state board rule or in Board of Governors (BOG) regulation depending on the type of institution in which the student is enrolled. The chair of the SBE and the chair of the BOG, or their respective designees, must jointly appoint a faculty committee to:

²⁴ The Core Knowledge Foundation. *The NYC Core Knowledge Early Literacy Pilot* (2012) at 13, available at

<http://www.coreknowledge.org/media/mimik/uploads/documents/2012-13-early-literacy-pilot-report-2012-2013-2014-2015.pdf>.

²⁵ Exec. Order No. 01-260 (2001).

²⁶ Section 8, ch. 2006-74, L.O.F.

²⁷ Section 1001.215, F.S.

- develop a new course in civic literacy or revise an existing general education core course in American Government or American History to include civic literacy; and
- establish course competencies and identify outcomes that include, at a minimum:
 - an understanding of the basic principles of American democracy and how they are applied in our nation's republican form of government;
 - an understanding of the U.S. Constitution;
 - knowledge of the founding documents and how they have shaped the nature and functions of our institutions of self-governance; and
 - an understanding of landmark Supreme Court cases and their impact on law and society.

The assessment must be an existing assessment that measures competencies consistent with the minimum course competencies under the bill.

B. SECTION DIRECTORY:

Section 1. Creates s. 683.1455, F.S., designating the month of September as "American Founders' Month."

Section 2. Amends s. 1000.03, F.S., revising the priorities of Florida's K-20 education system.

Section 3. Amends s. 1001.215, F.S., revising the duties of the Just Read, Florida! Office to including developing and providing access to certain resources for elementary schools.

Section 4. Amends s. 1003.44, F.S., encouraging districts to provide instruction on founding fathers during "American Founders' Month."

Section 5. Amends s. 1007.25, F.S., providing that postsecondary students must demonstrate competency in civic literacy; providing requirements for demonstrating competency in civic literacy; providing for the development of a new course or revision of an existing course in civic literacy; providing for the establishment of course competencies.

Section 6. Amends s. 943.22, F.S., conforming a cross reference.

Section 7. Amends s. 1001.64, F.S., conforming cross references.

Section 8. Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill requires the SBE and the BOG to identify in rule and regulation, as applicable, one or more assessments that students can pass in order to demonstrate competency in civic literacy.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 28, 2017, the PreK-12 Appropriations Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The amendment specifies that an existing civics assessment must be used to demonstrate student competency, instead of creating a new assessment. The amendment removed any possible fiscal to create a new assessment.

The analysis is drafted to reflect the committee substitute.

On April 6, 2017, the Education Committee adopted one amendment and reported the bill favorably as a committee substitute for a committee substitute. The amendment specifies that the joint faculty committee may revise an existing general education core course in American History or American Government to include civic literacy for the purpose of demonstrating competence in civic literacy at a state college or state university.

The analysis is drafted to reflect the committee substitute for the committee substitute.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: PCS/SB 1710 (613868)

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Pre- K- 12 Education); and Senators Stargel and Grimsley

SUBJECT: Education

DATE: April 24, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Bouck</u>	<u>Graf</u>	<u>ED</u>	<u>Favorable</u>
2.	<u>Sikes</u>	<u>Elwell</u>	<u>AED</u>	<u>Recommend: Fav/CS</u>
3.	<u>Sikes</u>	<u>Hansen</u>	<u>AP</u>	<u>Pre-meeting</u>
4.	_____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/SB 1710 designates the month of September as "American Founders' Month" and authorizes the Governor to issue a proclamation urging all civic, fraternal, and religious organizations and public and private educational institutions to recognize, observe, and celebrate the month. Specifically, the bill:

- Encourages all public schools to observe "American Founders' Month" with appropriate instruction and activities.
- Establishes civic literacy as a priority of Florida's K-20 education system.
- Requires the Just Read, Florida! Office to develop and provide access to sequenced, content-rich programming, instructional practices, and resources to increase students' core knowledge and literacy skills including student attainment of state standards for social studies, science, and the arts.
- Requires students initially entering a Florida College System institution or state university in 2018-2019 and thereafter, to demonstrate civic literacy through successful completion of a course or by achieving a passing score on an assessment adopted in rule by the State Board of Education or in regulation by the Board of Governors, as applicable.

The bill does not impact state revenues or expenditures.

The bill takes effect on July 1, 2017.

II. Present Situation:

Florida has established mechanisms to increase the civic awareness and engagement among students through civic-engagement skills in the curriculum standards for all subjects,¹ and specifically social studies;² a middle grades civics education course³ and end-of-course assessment;⁴ and the inclusion of such end-of-course assessment in the calculation of school grades.⁵

Priorities of the K-20 Education System

The mission of Florida's K-20 education system is to allow students to increase their proficiency by providing the opportunity to expand their knowledge and skills through rigorous and relevant learning opportunities.⁶ As such, the priorities of Florida's K-20 education system include:⁷

- Demonstration that all students meet the expected academic standards consistently at all levels of their education.
- Learning and completion at all levels, so that all students demonstrate increased learning and completion at all levels, graduate from high school, and are prepared to enter postsecondary education without remediation.
- Alignment of standards and resources for every level of the K-20 education system.
- Improved educational leadership at all levels of K-20 education.
- Alignment of workforce education with skills required by the new global economy.
- Collaboration between parents, students, families, educational institutions, and communities as important to each individual student's success; the goals of Florida's K-20 education system are not guarantees that each individual student will succeed or that each individual school will perform at the level indicated in the goals.
- Comprehensive K-20 career and education planning to better prepare all students at every level for the transition from school to postsecondary education or work.

Patriotic Programs

District school boards are authorized to adopt rules that require patriotic programs in district schools that encourage respect for the United States government, the national anthem, and the flag.⁸ The law also specifies procedures for the playing of the national anthem and recitation of the pledge of allegiance to the flag in public schools and at school-sponsored functions.⁹ The

¹ Section 1003.41(1), F.S.

² Section 1003.41(2)(d), F.S.

³ Section 1003.4156(1)(c), F.S. The one-semester civics education course must include the roles and responsibilities of federal, state, and local governments; the structures and functions of the legislative, executive, and judicial branches of government; and the meaning and significance of historic documents, such as the Articles of Confederation, the Declaration of Independence, and the Constitution of the United States. *Id.*

⁴ Section 1008.22(3)(b)1., F.S.

⁵ Section 1008.34(3)(b)1.d., F.S.

⁶ Section 1000.03(4), F.S.

⁷ *Id.* at (5).

⁸ Section 1003.44(1), F.S.

⁹ *Id.*

pledge must be recited at the beginning of the day in each public school in the state.¹⁰ Students must be excused from reciting the pledge if his or her parent submits a written request.¹¹

Postsecondary Requirements

Civics Instruction

Currently, there is not a state civics requirement for students attending a Florida public postsecondary institution.¹² Students in the Florida College System and State University System are offered opportunities to study civics through courses in their general education core curriculum, as well as in civics courses in specific programs of study.¹³

Florida law requires a student to complete at least one social science course as a part of the general education core degree requirement.¹⁴ The courses available to complete this requirement are in:¹⁵

- American History;
- Anthropology;
- Macroeconomics;
- American Government;
- Psychology; and
- Sociology.

Of the social science courses taken in 2014-15, 45 percent were civics related.¹⁶ Also, 17 percent of all university undergraduates, and 21 percent of all college students enrolled in college-credit courses took at least one civics-related course in 2014-2015.¹⁷

Degree Requirements

The following state-level requirements apply to students seeking an associate in arts or baccalaureate degree from a Florida public postsecondary institution:

- Completion of 36 semester hours of general education coursework in the areas of communication, humanities, mathematics, natural science, and social science.¹⁸

¹⁰ *Id.*

¹¹ *Id.*

¹² Office of Program Policy Analysis and Government Accountability, *OPPAGA Research on Postsecondary Civics Education*, at 8, presentation to the House of Representatives PreK-12 Quality Subcommittee (Feb. 15, 2017), available at <http://www.myfloridahouse.gov/Sections/Documents/loadDoc.aspx?PublicationType=Committees&CommitteeId=2909&Session=2017&DocumentType=Meeting%20Packets&FileName=rls%202-15-17.pdf>.

¹³ *Id.* at 10.

¹⁴ Section 1007.25(3), F.S.

¹⁵ Rule 6A-14.0303, F.A.C.

¹⁶ Office of Program Policy Analysis and Government Accountability, *OPPAGA Research on Postsecondary Civics Education*, at 14, presentation to the House of Representatives PreK-12 Quality Subcommittee (Feb. 15, 2017), available at <http://www.myfloridahouse.gov/Sections/Documents/loadDoc.aspx?PublicationType=Committees&CommitteeId=2909&Session=2017&DocumentType=Meeting%20Packets&FileName=rls%202-15-17.pdf>. Psychology was the most popular social science general education course.

¹⁷ *Id.* at 11. These include American History, Government, and Economics.

¹⁸ Section 1007.25, F.S. See also Rule 6A-10.024(2)(a) and (3)(a), F.A.C., Rule 6A-10.030(1) and (2), F.A.C., and BOG Regulation 6.017(1)(a).

- Beginning with students initially entering a Florida College System institution or state university in 2015-2016 and thereafter, complete at least one identified core course in each subject area as part of the general education course requirements.¹⁹
- Beginning with students initially entering a Florida College System institution or state university in 2014-2015 and thereafter, coursework for an associate in arts degree must include demonstration of competency in a foreign language.²⁰
- Completion of six semester hours of English coursework, six semester hours of other coursework in which the student is required to demonstrate college-level writing skills through multiple assignments, and six semester hours of mathematics at the level of college algebra or higher.²¹
- For associate in arts degrees, students initially entering a Florida College System institution in 2013-2014 and thereafter, must indicate a baccalaureate degree program offered by an institution of interest by the time the student earns 30 semester hours.²²
- For an associate in arts degree, completion of no more than 60 semester hours of college credit;²³ for a baccalaureate degree, completion of no more than 120 semester hours of college credit.²⁴

Students in associate in science and associate in applied science degree programs must satisfactorily complete a planned program of instruction comprised of the established credit hour length²⁵ and complete fifteen semester credit hours of general education coursework.²⁶

Just Read, Florida!

In 2001,²⁷ Governor Jeb Bush established Just Read, Florida! as a comprehensive and coordinated reading initiative intended to establish reading as a core value in this state. In 2006,²⁸ the Legislature created within the DOE the Just Read, Florida! Office. Among its duties, the Just Read, Florida! Office must:²⁹

- Create multiple designations of effective reading instruction, with accompanying credentials, which encourage all teachers to integrate reading instruction into their content areas.
- Train K-12 teachers and school principals on effective content-area-specific reading strategies. For secondary teachers, emphasis must be on technical text.
- Provide parents with information and strategies for assisting their children in reading in the content area.

¹⁹ Section 1007.25(3), F.S.

²⁰ Section 1007.25(7), F.S.

²¹ Rule 6A-10.030, F.A.C. and BOG Regulation 6.017(1)(a)

²² Section 1007.23(3), F.S. and 6A-10.024(4), F.A.C.

²³ Students must achieve a cumulative grade point average of 2.0. Rule 6A-10.024, F.A.C.

²⁴ 1007.25(7) and (8), F.S. See also Rule 6A-14.030(2), F.A.C., Rule 6A-10.024(3)(a), F.A.C., and BOG Regulation 6.017(1)(c). The 120 semester hour limit may be waived with prior approval by the Board of Governors for baccalaureate degree programs offered by state universities and by the State Board of Education for baccalaureate degree programs offered by Florida College System institutions. Section 1007.25(8), F.S.

²⁵ Rule 6A-6.0571, F.A.C.

²⁶ Rule 6A-14.030, F.A.C. and 6A-10.024(6)(b), F.A.C.

²⁷ Executive Order 01-260 (2001)

²⁸ Section 8, ch. 2006-74, L.O.F.

²⁹ Section 1001.215, F.S.

- Provide technical assistance to school districts in the development and implementation of the K-12 comprehensive reading plan.
- Work with the Florida Center for Reading Research to provide information on research-based reading programs and effective reading in the content area strategies.
- Periodically review the Sunshine State Standards for reading at all grade levels.
- Periodically review teacher certification examinations, including alternative certification exams, to ascertain whether the examinations measure the skills needed for research-based reading instruction and instructional strategies for teaching reading in the content areas.
- Work with approved teacher preparation programs to integrate research-based reading instructional strategies and reading in the content area instructional strategies.

III. Effect of Proposed Changes:

Section 1 creates s. 683.1455, F.S., to designate the month of September as “American Founders’ Month” and authorize the Governor to issue a proclamation urging all civic, fraternal, and religious organizations and public and private educational institutions to recognize, observe, and celebrate the month. Specifically, this section:

- Encourages all public schools to observe “American Founders’ Month” with appropriate instruction and activities.
- Establishes civic literacy as a priority of Florida’s K-20 education system.
- Requires the Just Read, Florida! Office to develop and provide access to sequenced, content-rich programming, instructional practices, and resources to increase students’ core knowledge and literacy skills including student attainment of state standards for social studies, science, and the arts.
- Requires students initially entering a Florida College System institution or state university in 2018-2019 and thereafter, to demonstrate civic literacy through successful completion of a course or by achieving a passing score on an assessment adopted in rule by the State Board of Education or in regulation by the Board of Governors, as applicable.

Priorities of the K-20 Education System (Section 2)

Section 2 amends s. 1000.03, F.S., to extend the scope of Florida’s K-20 education system to establish civic literacy as a priority. Specifically, this section includes as a priority of Florida’s K-20 education system that students “are prepared become civically engaged and knowledgeable adults who make positive contributions to their communities.”

Patriotic Programs (Sections 1 and 4)

As a component of the required instruction relating to patriotic programs, section 4 amends s. 1003.44, F.S., to encourage all public schools in Florida to coordinate, at all grade levels, instruction related to our nation’s Founding Fathers in “American Founders’ Month.” Also, section 1 encourages civic, fraternal, and religious organizations and public and private educational institutions to recognize and observe “American Founders’ Month” through programs, meetings, services, or celebrations in which state, county, and local government officials are invited to participate.

Postsecondary Requirements (Sections 5, 6, and 7)

Section 5 amends s. 1007.25, F.S., to create an additional requirement for students in degree programs at Florida public postsecondary institutions. This section requires that, beginning with students initially entering a Florida College System institution or state university in 2018-2019 and thereafter, each student must demonstrate competency in civic literacy. Demonstration of competency may be through successful completion of a new civic literacy course or revised American History or American Government course, which includes civic literacy, or by achieving a passing score on an existing assessment adopted in State Board of Education (SBE) rule or Board of Governors (BOG) regulation. The chairs of the SBE and BOG must jointly appoint a faculty committee to:

- Develop a new course in civic literacy or revise an existing American History or American Government course, which includes civic literacy.
- Establish course competencies and identify outcomes that include, at a minimum:
 - An understanding of the basic principles of American democracy and how they are applied in our republican form of government.
 - An understanding of the United States Constitution.
 - Knowledge of the founding documents and how they have shaped the nature and functions of our institutions of self-governance.
 - An understanding of landmark Supreme Court cases and their impact on law and society.

Sections 6 and 7 amend ss. 943.22 and 1001.64, F.S., respectively, to correct cross references changed as a result of the modifications to s. 1007.25, F.S.

Just Read, Florida! (Section 3)

Section 3 amends s. 1001.215, F.S., to require the Just Read, Florida! Office to develop and provide access to sequenced, content-rich curriculum programming, instructional practices, and resources that help elementary schools use state-adopted instructional materials to increase students' core knowledge and literacy skills, including student attainment of the Next General Sunshine State Standards for social studies, science, and the arts.

The bill takes effect on July 1, 2017.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

This bill may have a fiscal impact on students if the students are required to pay for the cost of the civics literacy assessment. In addition, if civic literacy competence is a graduation requirement, a student unable to pass the required assessment or course may have to pay additional tuition and fees to retake a course or may delay graduation.

C. Government Sector Impact:

The bill does not impact state revenues or expenditures.

VI. Technical Deficiencies:

Lines 75-77 of the bill require each student initially enrolling in a Florida College System institution or state university in 2018-2019, and thereafter, to demonstrate competency in civic literacy. However, it is unclear if civic literacy competency is a graduation requirement. It is also unclear if the requirement applies to all students or only degree-seeking students.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 943.22, 1000.03, 1001.215, 1001.64, 1003.44, and 1007.25.

This bill creates section 683.1455 of Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**Recommended CS by Appropriations Subcommittee on Pre-K-12 Education on April 13, 2017:**

The committee substitute modifies the postsecondary civic literacy requirement by:

- Specifying that the State Board of Education and Board of Governors must adopt at least one existing civics assessment to measure course competencies established in the bill.
- Specifying that the joint faculty committee established in the bill must develop a new civic literacy course or revise an existing general education core course in American History or American Government to include civic literacy.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

Exhibit 3

6A-10.02413 Civic Literacy Competency.

Prior to the award of an associate in arts or baccalaureate degree, first-time-in-college students entering a Florida College System institution in the 2018-19 school year, and thereafter must demonstrate competency in civic literacy through one of the following options prior to graduation:

(1) Successfully passing either POSX041 American Government or AMHX020 Introductory Survey Since 1877. Each of the courses must include the following competencies:

(a) Understanding of the basic principles and practices of American democracy and how they are applied in our republican form of government;

(b) An understanding of the United States Constitution and its application;

(c) Knowledge of the founding documents and how they have shaped the nature and functions of our institutions of self-government; and

(d) An understanding of landmark Supreme Court cases, landmark legislation and landmark executive actions and their impact on law and society.

(2) Achieving the standard score on one of the following assessments:

Assessment	Standard Score
AP Government and Politics: United States	3
AP United States History	4
CLEP: American Government	50

Rulemaking Authority 1001.02(1), 1007.25(4) FS. Law Implemented 1007.25 FS. History—New 6-19-18.



Exhibit 4

Complete the Civic Literacy Practice Exam

Started: May 22 at 12:12pm

Quiz Instructions

This practice exam is built from the 100 multiple-choice questions found on the Civic Literacy Exam. Each question has four answer choices. Read each question and answer choice carefully and choose the ONE best answer.

Just as with the Civic Literacy Exam, in this practice exam you have 2 hours to complete the exam. Be sure to allocate your time carefully so you are able to complete the entire exam within the allotted time. You may go back and review your answers at any time during the testing session.

A minimum score of 60 is required to pass the Civic Literacy Exam. You can take this practice exam as many times as you want to or need to. No one sees your practice exam results or the number of attempts.

Question 1

1 pts

Which United States Supreme Court decision resulted in reduced power for state governments?

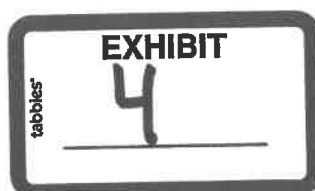
- Roe v. Wade* (1973)
- Citizens United v. Federal Election Commission* (2010)
- U.S. v. Nixon* (1974)
- Hazelwood v. Kuhlmeier* (1988)

Question 2

1 pts

Which United States Supreme Court case focused on executive privilege?

- Bush v. Gore* (2000)
- U.S. v. Nixon* (1974)



- Johnson v. Texas* (1989)
- Marbury v. Madison* (1803)

Question 3**1 pts**

Which of the following was established by a constitutional amendment?

- Senators may serve no more than two terms.
- The Senate may ratify treaties negotiated by the House of Representatives.
- The President may sign bills passed by both houses of Congress.
- The President may serve no more than two elected terms.

Question 4**1 pts**

Which phrase from a letter written by Abigail Adams to her husband John Adams in 1776 is reflected in the Nineteenth Amendment?

- "I desire you would Remember the Ladies, and be more generous and favourable to them"
- "some individuals discoverd [sic] a sense of honour and justice"
- "Are not . . . the common people vassals"
- "that generous . . . principal [sic] of doing to others as we would that others should do unto us. . . ."

Question 5**1 pts**

What is the length of a U.S. Senator's elected term?

- eight years
- four years
- two years
- six years

Question 6**1 pts**

Which document represents the supreme law of the land?

- the U.S. Constitution
- the Articles of Confederation
- the Declaration of Independence
- the Mayflower Compact

Question 7**1 pts**

Based on the U.S. Constitution, which part of government was intended to hold the least power?

- the military
- the judiciary
- the legislative branch
- the executive branch

Question 8**1 pts**

Which phrase in the U.S. Constitution addresses the power to seize property?

- writ of habeas corpus
- eminent domain
- reserved powers
- bills of attainder

Question 9

1 pts

How many U.S. Senators represent each state?

- One
- It varies based on the state's population.
- Two
- It varies based on the state's geographic size.

Question 10

1 pts

What did the Declaration of Independence do?

- declared independence from Spain
- declared independence from Germany
- declared independence from France
- declared independence from Great Britain

Question 11

1 pts

What are two natural rights identified in the Declaration of Independence?

- life and liberty
- bear arms and life
- jury trials and liberty
- jury trials and bear arms

Question 12

1 pts

Which of the following documents provided an outline for a state-centered government?

- Articles of Confederation
- Bill of Rights
- Common Sense*
- Federalist Papers*

Question 13

1 pts

Which United States Supreme Court case is correctly paired with the constitutional amendment on which it focused?

- Citizens United v. Federal Election Commission* (2010) - First Amendment
- Hazelwood v. Kuhlmeier* (1988) - Fourth Amendment
- U.S. v. Nixon* (1974) - First Amendment
- Bush v. Gore* (2000) - Fourth Amendment

Question 14**1 pts**

Which of the following documents provided a rationale for the Declaration of Independence?

- Common Sense*
- U.S. Constitution
- Bill of Rights
- Federalist Papers*

Question 15**1 pts**

What is the social contract?

- The people give up some liberty to receive governmental protection.
- The people promise to not commit crimes as a condition of parole.
- The government requires new citizens to register to vote.
- The government promises to protect countries that become independent.

Question 16**1 pts**

What is an example of representation?

- The U.S. Congress passes a law.
- The Chief Justice of the U.S. Supreme Court writes a majority opinion.
- The court system rules on a dispute between two states.
- The bureaucracy establishes national regulations.

Question 17**1 pts**

Which point of view is reflected in *Common Sense*?

- Representatives should be appointed.
- The monarchy supports self-government.
- Representatives should be elected.
- The monarchy creates limited government.

Question 18**1 pts**

Who signs proposed bills into federal laws?

- the Chief Justice of the U.S. Supreme Court
- the Speaker of the House of Representatives
- the President of the United States
- the Majority Leader of the U.S. Senate

Question 19**1 pts**

What is one branch of the U.S. federal government?

- monarchical
- legislative
- parliamentary

state

Question 20

1 pts

Which action is an example of petitioning the government?

- lobbying officials
- serving on a jury
- paying taxes
- becoming politically informed

Question 21

1 pts

What is one right included in the First Amendment?

- bear arms
- free speech
- jury trial
- legal representation

Question 22

1 pts

Which of the following pairs of cases limited the rights of African Americans?

- Brown v. Board of Education* (1954) and *McCulloch v. Maryland* (1819)
- Tinker v. Des Moines* (1969) and *McCulloch v. Maryland* (1819)

- Plessy v. Ferguson* (1896) and *Dred Scott v. Sandford* (1857)
- Gideon v. Wainwright* (1963) and *Brown v. Board of Education* (1954)

Question 23

1 pts

What is an example of federalism?

- the principle that the national and state governments share power
- Congress's power to declare war
- separation of powers between branches of government
- the President's power to nominate ambassadors

Question 24

1 pts

Which United States Supreme Court decision was based on the Free Exercise Clause?

- Marbury v. Madison* (1803)
- McCulloch v. Maryland* (1819)
- West Virginia v. Barnette* (1943)
- Plessy v. Ferguson* (1896)

Question 25

1 pts

What is the length of a U.S. President's elected term?

- two years
- eight years
- six years
- four years

Question 26**1 pts**

Which right did the colonists consider “inalienable” in the Declaration of Independence?

- trial by jury
- privacy
- pursuit of happiness
- voting

Question 27**1 pts**

Which phrase from the English Bill of Rights (1689) is reflected in the U.S. Constitution’s Third Amendment?

- “That . . .keeping a standing army within the kingdom in time of peace . . .is against law”
- “That the . . .power of suspending the laws . . .without consent of Parliament is illegal”
- “That election of members . . .ought to be free”
- “That excessive bail ought not to be required . . .nor cruel and unusual punishments inflicted”

Question 28**1 pts**

Which is a core theme of the *Anti-Federalist Papers*?

- The Constitution should reflect checks and balances.
- Government should support enumerated individual rights.
- Government should support executive orders.
- The Constitution should promote a strong central government.

Question 29

1 pts

The U.S. Constitution requires that the President be elected by whom?

- state legislatures
- the Electoral College
- Congress
- the popular vote

Question 30

1 pts

Who is Commander in Chief of the military?

- the Secretary of Defense
- the Attorney General
- the Speaker of the House
- the President

Question 31**1 pts**

Which United States Supreme Court case focused on whether an enslaved person, having lived in free territory, should be free?

- Plessy v. Ferguson* (1896)
- McCulloch v. Maryland* (1819)
- Marbury v. Madison* (1803)
- Dred Scott v. Sandford* (1857)

Question 32**1 pts**

Which scenario represents a violation of the Equal Protection Clause?

- A proposed constitutional amendment establishes a minimum age to serve on the U.S. Supreme Court.
- A state law establishes a higher minimum wage for men than for women.
- A proposed constitutional amendment establishes a minimum education requirement to serve as President.
- A state law establishes a minimum driving speed on federal highways.

Question 33**1 pts**

Which of the following represents the principle of consent of the governed?

- The people elect the Chief Justice of the U.S. Supreme Court.
- The people debate on social media.
- Individuals have the right to jury trials.

- Individuals elect members of the House of Representatives.

Question 34**1 pts**

How did the U.S. Constitution resolve the dispute between slave and free states over representation?

- Commerce Clause
- Three-Fifths Compromise
- Missouri Compromise
- Supremacy Clause

Question 35**1 pts**

Which phrase from a letter written by Sarah Grimké in 1837 is reflected in the Fourteenth Amendment?

- "I ask no favors for my sex. I surrender not our claim to equality."
- "But I am in search of truth;"
- "opposition to a corrupt public opinion"
- "It is impossible that we should fulfill our duties, unless we comprehend them"

Question 36**1 pts**

What is due process?

- the process for assigning bills to committee

- the process for electing the president
- fair treatment in judicial proceedings
- procedures required to enact laws

Question 37**1 pts**

What is the purpose of the Seventeenth Amendment?

- to limit judicial power
- to establish congressional term limits
- to promote democratic participation
- to eliminate the bureaucracy

Question 38**1 pts**

According to the authors of the Declaration of Independence, who is responsible for protecting natural rights?

- the people
- political parties
- the government
- interest groups

Question 39**1 pts**

Which two steps are required in order for someone to become Chief Justice of the U.S. Supreme Court?

- nomination by the Vice President, confirmation by the Senate
- nomination by the Vice President, confirmation by the House of Representatives
- nomination by the President, confirmation by the Senate
- nomination by the President, confirmation by the House of Representatives

Question 40

1 pts

Which of the following correctly pairs a document with a core theme of that document?

	Document Name	Document Theme
A	Declaration of Independence	Formed a state- centered government
B	Magna Carta	Established the principle of rule of law
C	U.S. Constitution	Formed a unitary government
D	Articles of Confederation	Established the principle of consent of the governed

- B
- C
- A
- D

Question 41**1 pts**

The colonists used a political cartoon with the caption "Join or Die" to support which action?

- forming their own government
- establishing their own schools
- promoting international treaties
- creating local communities

Question 42**1 pts**

What is an example of a democratic process?

- The Environmental Protection Agency adopts a regulation.
- The U.S. Supreme Court rules on a case.
- The people elect a Governor.
- The President signs an executive order.

Question 43**1 pts**

Who is in charge of the executive branch?

- the Speaker
- the President
- the Majority Leader
- the Chief Justice

Question 44

1 pts

What are the first ten amendments to the U.S. Constitution called?

- the Federalist Papers
- the Declaration of Rights
- the Articles of Confederation
- the Bill of Rights

Question 45

1 pts

Which United States Supreme Court decision focused on how states count popular votes for president and vice president?

- Baker v. Carr* (1962)
- Citizens United v. Federal Election Commission* (2010)
- Bush v. Gore* (2000)
- U.S. v. Nixon* (1974)

Question 46

1 pts

Which government officials are elected by the people?

- mayors
- federal court judges

- bureaucrats
- federal congressional staffers

Question 47**1 pts**

What is the length of a U.S. Representative's elected term?

- six years
- eight years
- four years
- two years

Question 48**1 pts**

What is the "rule of law"?

- No one is above the law.
- Only citizens must follow the law.
- Government officials are exempt from the law.
- The President may suspend laws in an emergency.

Question 49**1 pts**

Who has the power to veto bills?

- the Chief Justice

- the President
- the Senate Majority Leader
- the Speaker of the House

Question 50**1 pts**

Which United States Supreme Court holding impacted the way that religious practice was approached in public schools?

- Brown v. Board of Education* (1954)
- Engel v. Vitale* (1962)
- Roe v. Wade* (1973)
- McCulloch v. Maryland* (1819)

Question 51**1 pts**

Which is a core theme of the *Federalist Papers*?

- The proposed Constitution should be ratified.
- The proposed Bill of Rights should be ratified.
- State governments should have greater say in decisions of the federal government.
- Federal action should require approval by a majority of the states.

Question 52**1 pts**

How did the holding in the United States Supreme Court case *Miranda v. Arizona* (1966) impact criminal defendants?

- It established that defendants had the right to a speedy trial.
- It established that defendants had the right to counsel.
- It established that defendants had freedom of speech.
- It established that defendants were protected against self-incrimination.

Question 53

1 pts

Why does Article I, Section 7 of the U.S. Constitution require that tax bills be introduced in the House of Representatives?

- because the original English colonists were taxed without their consent
- because the president must spend authorized funds
- because the president must enact a budget
- because financial contracts between the original English colonists and their home country were not honored

Question 54

1 pts

Which United States Supreme Court case established the power of judicial review?

- Plessy v. Ferguson* (1896)
- Dred Scott v. Sandford* (1857)
- McCulloch v. Maryland* (1819)
- Marbury v. Madison* (1803)

Question 55**1 pts**

Which of the following cases held that reproductive rights were an element of the right to privacy under the Bill of Rights and the Fourteenth Amendment?

- Miranda v. Arizona* (1966)
- District of Columbia v. Heller* (2008)
- Mapp v. Ohio* (1961)
- Roe v. Wade* (1973)

Question 56**1 pts**

What is a purpose of civil rights movements?

- to create new rights
- to expand state power
- to secure equalities
- to advance communism

Question 57**1 pts**

What is an example of judicial review?

- the power of the President to issue pardons to convicted criminals
- the power of the President to nominate federal judges

- the power of the House of Representatives to impeach public officials
- the power of the Supreme Court to find laws unconstitutional

Question 58**1 pts**

Which phrase from a letter written by President Thomas Jefferson in 1802 reflects a freedom in the Bill of Rights?

- "my duties dictate a faithful and zealous pursuit of the interests of my constituents"
- "the legitimate powers of government reach actions only"
- "Adhering to this expression of the supreme will of the nation"
- "building a wall of separation between Church & State"

Question 59**1 pts**

Which phrase is included in the Declaration of Independence?

- "promote the general welfare"
- "all men are created equal"
- "I pledge allegiance, to the flag"
- "in order to form a more perfect union"

Question 60**1 pts**

What stops one branch of government from becoming too powerful?

- bills of attainder
- eminent domain
- checks and balances
- the Electoral College

Question 61**1 pts**

Which United States Supreme Court decision was based on the First Amendment?

- McCulloch v. Maryland* (1819)
- Marbury v. Madison* (1803)
- U.S. v. Nixon* (1974)
- Tinker v. Des Moines* (1969)

Question 62**1 pts**

What is one chamber of the U.S. Congress?

- Cabinet
- Democrats
- Republicans
- Senate

Question 63**1 pts**

Which of the following cases impacted Fourth Amendment protections at the state level?

- Miranda v. Arizona* (1966)
- District of Columbia v. Heller* (2008)
- Mapp v. Ohio* (1961)
- Roe v. Wade* (1973)

Question 64

1 pts

Which statement from the English Bill of Rights is reflected in the U.S. Constitution's Eighth Amendment?

- "That excessive bail ought not to be required . . .nor cruel and unusual punishments inflicted;"
- "That the freedom of speech . . .in Parliament ought not to be . . .questioned in any court"
- "That . . .keeping a standing army within the kingdom in time of peace . . .is against law;"
- "That the . . .power of suspending the laws . . .without consent of Parliament is illegal"

Question 65

1 pts

Which of the following pairs of cases impacted First Amendment rights?

- U.S. v. Nixon* (1974) and *Brown v. Board of Education* (1954)
- Texas v. Johnson* (1989) and *Hazelwood v. Kuhlmeier* (1988)
- Miranda v. Arizona* (1966) and *McCulloch v. Maryland* (1819)
- West Virginia v. Barnette* (1943) and *U.S. v. Nixon* (1974)

Question 66**1 pts**

What is the minimum number of members of the U.S. House of Representatives representing each state?

- three
- four
- two
- one

Question 67**1 pts**

How did the holding in the United States Supreme Court case *Gideon v. Wainwright* (1963) impact criminal defendants?

- It established that defendants had freedom of speech.
- It established that defendants had the right to a speedy trial.
- It established that defendants had the right to counsel.
- It established that defendants were protected against self-incrimination.

Question 68**1 pts**

Which part of government was created to reflect the colonists' position that governments derive their powers from the consent of the governed?

- the bureaucracy

- the executive
- the judiciary
- the legislature

Question 69**1 pts**

Which document was adopted by the newly independent United States to organize the national government after declaring independence?

- the Articles of Confederation
- the Mayflower Compact
- the Magna Carta
- the Northwest Ordinance

Question 70**1 pts**

What is popular sovereignty?

- rule by an oligarchy
- rule by a monarch
- rule by a dictator
- rule by the people

Question 71**1 pts**

Which right from the English Bill of Rights is reflected in the U.S. Constitution's First Amendment?

- "to petition the king"
- "election of members . . . ought to be free"
- "excessive bail ought not to be required"
- "may have arms for their defense"

Question 72

1 pts

Which of the following cases reinforced the power of the courts?

- McCulloch v. Maryland* (1819)
- Plessy v. Ferguson* (1896)
- Marbury v. Madison* (1803)
- Dred Scott v. Sandford* (1857)

Question 73

1 pts

What is the first phrase of the U.S. Constitution?

- "The present situation of the world is indeed without a parallel"
- "Each state retains its sovereignty, freedom, and independence"
- "When in the course of human events"
- "We the people of the United States, in order to form a more perfect union"

Question 74**1 pts**

Which of the following pairs of United States Supreme Court cases resulted in limiting the power for local governments?

- Brown v. Board of Education* (1954) and *District of Columbia v. Heller* (2008)
- Plessy v. Ferguson* (1896) and *West Virginia v. Barnette* (1943)
- Engel v. Vitale* (1962) and *Citizens United v. Federal Election Commission* (2010)
- Hazelwood v. Kuhlmeier* (1988) and *Bush v. Gore* (2000)

Question 75**1 pts**

What is one power of the U.S. Senate?

- declare laws unconstitutional
- ratify constitutional amendments
- impeach government officials
- ratify international treaties

Question 76**1 pts**

If both the U.S. President and the U.S. Vice President are unable to serve, who acts as president?

- the Chief Justice
- the Secretary of State
- the Speaker of the House

- the Senate Majority Leader

Question 77**1 pts**

How did *District of Columbia v. Heller* (2008) impact states' rights?

- It reduced the ability of states to seize "illegal proceeds of a crime before trial" under the Fourth Amendment.
- It reduced the ability of states to place restrictions on Second Amendment rights.
- It expanded the ability of states to create "free speech zones" that limited First Amendment rights.
- It expanded the ability of states to implement the death penalty under the Eighth Amendment.

Question 78**1 pts**

Who does a U.S. Senator represent?

- the residents of several states
- the residents of a single congressional district
- the residents of Washington, DC
- the residents of a single state

Question 79**1 pts**

What does the U.S. Constitution do?

- It declares political independence.
- It creates a unitary government.
- It sets up a federal government.
- It lists grievances against the British king.

Question 80**1 pts**

Which of the following is a right reserved for U.S. citizens only?

- purchasing a home
- getting an education
- working for pay
- running for federal office

Question 81**1 pts**

Which of the following represents the goal of the Supremacy Clause?

- States may not pass laws that conflict with federal laws.
- Presidents may not form congressional committees.
- The U.S. Supreme Court may decide to reject an appeal from a lower court.
- Congress may settle disputes between the United States and another country.

Question 82**1 pts**

What is one responsibility of only U.S. citizens?

- attending public meetings
- paying taxes
- petitioning the government
- serving on a jury

Question 83

1 pts

Why did many colonists fight the British during the American Revolution?

- because they opposed the formation of courts
- because they opposed the federal system
- because they opposed taxation without representation
- because they opposed the parliamentary system

Question 84

1 pts

Which United States Supreme Court decision was based on the Equal Protection Clause?

- Plessy v. Ferguson* (1896)
- Marbury v. Madison* (1803)
- Engel v. Vitale* (1962)
- McCulloch v. Maryland* (1819)

Question 85**1 pts**

Which Supreme Court ruling held that the authors of the U.S. Constitution did not intend for African Americans to be U.S. citizens?

- Brown v. Board of Education* (1954)
- Plessy v. Ferguson* (1896)
- Dred Scott v. Sandford* (1857)
- McCulloch v. Maryland* (1819)

Question 86**1 pts**

Which structure found in the U.S. Constitution was included as a response to a concern expressed in the Declaration of Independence?

- limited monarchy
- unitary government
- separation of powers
- universal suffrage

Question 87**1 pts**

What is the purpose of the Selective Service System?

- to draft for compulsory military service
- to promote equality
- to establish justice

- to protect presidential candidates during the campaign

Question 88**1 pts**

Which of the following cases impacted interpretation of the Fourteenth Amendment?

- Miranda v. Arizona* (1966)
- Gideon v. Wainwright* (1963)
- Brown v. Board of Education* (1954)
- Marbury v. Madison* (1803)

Question 89**1 pts**

How many amendments does the U.S. Constitution currently have?

- 22
- 17
- 10
- 27

Question 90**1 pts**

What is an example of a power reserved to the states?

- coining money
- creating school systems

- making treaties
- declaring war

Question 91**1 pts**

What is the highest federal court in the United States?

- the Supreme Court
- the District Court
- the Court of Appeals
- the Circuit Court

Question 92**1 pts**

What is one qualification to serve as a member of the U.S. House of Representatives?

- be a natural born U.S. citizen
- be a resident of his or her state for at least 10 years
- be at least 25 years old
- be at least 40 years old

Question 93**1 pts**

What are the first two paragraphs of the Declaration of Independence called?

- the Amendments
- the Article
- the Sections
- the Preamble

Question 94**1 pts**

In what 1620 document do the writers form a “civil body politic”?

- the Mayflower Compact
- the Declaration of Independence
- the Magna Carta
- the Articles of Confederation

Question 95**1 pts**

Which United States Supreme Court case held that persons accused of crimes must be advised of their Fifth and Sixth Amendment rights upon their arrest?

- Tinker v. Des Moines* (1969)
- Miranda v. Arizona* (1966)
- Gideon v. Wainwright* (1963)
- Engel v. Vitale* (1962)

Question 96**1 pts**

Which United States Supreme Court decision was based on the Necessary and Proper Clause?

- Marbury v. Madison* (1803)
- Plessy v. Ferguson* (1896)
- West Virginia v. Barnette* (1943)
- McCulloch v. Maryland* (1819)

Question 97

1 pts

Which part of the U.S. Constitution protects the freedom of religion?

- the Bill of Rights
- the Preamble
- Article I
- Article II

Question 98

1 pts

Which of the following pairs of cases focused on the rights of public school students?

- Engel v. Vitale* (1962) and *Miranda v. Arizona* (1966)
- Gideon v. Wainwright* (1963) and *Engel v. Vitale* (1962)
- Tinker v. Des Moines* (1969) and *Hazelwood v. Kuhlmeier* (1988)
- Miranda v. Arizona* (1966) and *Gideon v. Wainwright* (1963)

Question 99**1 pts**

Which of the following cases reinforced the federal government's authority to run a federal institution without interference by a state?

- Engel v. Vitale* (1962)
- Brown v. Board of Education* (1954)
- Plessy v. Ferguson* (1896)
- McCulloch v. Maryland* (1819)

Question 100**1 pts**

Which is a shared power in the federal system?

- collecting taxes
- declaring war
- making treaties
- establishing post offices

Not saved

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