



Constitutional Accountability Commission

FINAL REPORT
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The education of children is a fundamental value of the people of the State of Florida. It is, therefore, a paramount duty of the state to make adequate provision for the education of all children residing within its borders. Adequate provision shall be made by law for a uniform, efficient, safe, secure, and high quality system of free public schools that allows students to obtain a high quality education and for the establishment, maintenance, and operation of institutions of higher learning and other public education programs that the needs of the people may require.

-Article IX, Section 1, Florida Constitution

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INTRODUCTION

The purpose of the Constitutional Accountability Commission was to provide context for, and interpretation of, the new Florida education clause. Specifically, the Commission was a group of Floridians gathered to provide the State its collective sense of the standards within which to define a high quality education system.

The Commission was formally convened in January 2004. Over the course of the next 15 months, the commission met six times at several locations throughout Florida. At these meetings, Commissioners received testimony from a variety of constitutional and education experts. In addition, the general public was invited to attend each meeting to provide input. During the interim between full commission meetings, the Commission's Drafting Committee met to further research and outline the various sections of this report for subsequent review and approval by the full Commission.

The analysis described in the Report followed several steps: (1) an examination of the plain language of the current state education clause, allowing Commission members to develop a yardstick of constitutional accountability; (2) a comparison of Florida's education clause to the education clauses of other states, and a review of the judicial enforcement experience of some of these states; (3) an analysis of the particular challenges Florida faces in education and the role of accountability in a high quality education system; and (4) a comparison of Florida and other states on selected elements of public education performance and funding. The Report ends with conclusions and recommendations based on this analysis.

The 1968 revision to the education clause placed a paramount duty on all branches of State government to make adequate provision for a high quality system of free public schools.

Each constitutional amendment is an exercise of the political power of the people expressly protected in Article I, Section 1, of the Florida Constitution, which states, in part, "All political power is inherent in the people." To gain a historical understanding of the will of the people in their approval of a constitutional amendment, the first step is to examine the intent of the drafters who framed the amendment.

It is clear from the constitutional debate that the 1998 revision to the education clause placed a paramount duty on all branches of State government. At the January 13, 1998 meeting of the Florida Constitutional Revision Commission, member Robert M. Brochin provided the following explanation of the intent of this revision:

"I, first of all, reject this notion that this amendment of this proposal shifts responsibility from the Legislature to the courts. Under our system of government, all three branches have an obligation to follow the dictates and the mandate of the Constitution, whether you're in the legislative branch, the judicial branch or the executive branch because the Constitution is supposed to be the document for the people and the policy set by the people of this state.

And what this proposal does is, it tells us all three branches of government, not just the judicial and not just the legislative, but all three, that this is the minimum level of education that the people of this state demand from its government. . . . And if the legislative branch fails to do so, then the judicial branch, as it's done in all so many other cases, will enforce it until the Legislature complies. If the Legislature . . . does meet the minimum standards set out by this proposal, then the judiciary will never get involved."

Changes to the Florida Education Clause Resulting from Voter Approval of the 1998 Amendment and Subsequent Reinforcing Amendments

- ◆ *The Florida education clause states that the education of all children is a fundamental value of the people of the State of Florida.*
- ◆ *A paramount duty has been placed on the State in the revised Florida education clause to make adequate provision that all children obtain a high quality education.*
- ◆ *Adequate provision in the Florida education clause mandates an efficient, safe, secure, and high quality system of free public schools.*
- ◆ *The demand for an adequately provided State education system is met when students are allowed to obtain a high quality education.*

Constitutional Revision No. 6 to Article IX, section 1, Florida Constitution, as proposed by the 1997-98 Constitutional Revision Commission and approved by the people in 1998, substantially revised the Florida education clause. Below are the first three sentences of revised Article IX, Section 1, blacklined to show the changes from the prior language, resulting from the approval by the people of Revision No. 6:

ARTICLE IX EDUCATION

SECTION 1. ~~System of Public education.--~~The education of children is a fundamental value of the people of the State of Florida. It is, therefore, a paramount duty of the state to make adequate provision for the education of all children residing within its borders. Adequate provision shall be made by law for a uniform, efficient, safe, secure, and high quality system of free public schools that allows students to obtain a high quality education and for the establishment, maintenance, and operation of institutions of higher learning and other public education programs that the needs of the people may require.

In approving Revision No. 6, the people ordered four fundamental changes to the Florida education clause:

First, the Florida education clause now clearly states that *the education of children is a fundamental value of the people of the State of Florida*. With the approval by the people of Revision No. 6, no further constitutional interpretation is required—the education of children is a fundamental value of all Floridians.

Second, a duty has been placed on the State, not just the Legislature, *to make adequate provision for the education of all children*, and the people have designated this as a *paramount duty*. Under the revised language, a paramount duty is placed on the State and such duty transcends specific constitutional duties assigned to one branch or another in any analysis of separation of powers. Under the language of Revision No. 6, the people have directed that it is "a paramount duty of the state to make adequate provision for the education of

all children." In comparison, the pre-1998 Florida education clause placed the duty on the Legislature: "Adequate provision shall be made by law for a uniform system of free public schools."

The change in language to spread the educational duty to the State as an entity rather than placing the duty on a single branch is constitutionally significant. This expansion of the paramount duty to make adequate provision for education to all branches of state government supplements the constitutional authority of local school boards in Article IX, section 4(b), Florida Constitution, to "operate, control and supervise all free public schools within the school district and determine the rate of school district taxes." While Article VII, section 9(a), Florida Constitution, authorizes school districts to levy ad valorem taxes, section 9(b) of Article VII places a 10 mill limit on the operational funding capacity of such taxes for school purposes. In the past, the State has often responded to an education funding need by mandating that the operating millage be increased as a required local effort.

Third, in approving the revision, the people added standards and context to the phrase "adequate provision" in the Florida constitutional education clause. In order to meet the requirement of "adequate," the system must be "a uniform, efficient, safe, secure and high quality system of free public schools."

Fourth, in approving this revision, the people created a constitutional test to measure whether the constitutional standard of adequacy is being met. As the people directed in their approval of Revision No. 6—adequate provision shall result in a State education system "that allows students to obtain a high quality education."

- ◆ *The class size initiative incorporated three additional requirements that must be met to satisfy the high quality education mandate of the Florida education clause: (1) a capital facilities commitment requires a sufficient number of classrooms to ensure that maximum student assignments are not exceeded; (2) the number of students assigned to each teacher for pre-kindergarten through grade 12 cannot exceed maximum limits; and (3) the responsibility for class size funding is placed on the State and not the local school districts.*
- ◆ *The universal pre-kindergarten initiative requires the State to provide to every four-year-old child in Florida a voluntary, high quality, and free pre-kindergarten education opportunity.*

The demand by the people for the creation of a high quality State education system was reaffirmed in their approval of an additional amendment to the Florida education clause to limit class size. The amendment to limit class size was embedded in the constitutional test forged by Revision No. 6. To ensure that citizens obtain a high quality education, in 2002 the people demanded that the Legislature limit class size at least in core curriculum classes within specific measurable limits and within specific time frames. The class size amendment placed in the Florida Constitution makes this specific objective standard one indicator to measure satisfaction of the constitutional demand for a high quality education. No other state education clause has a comparable objective standard of compliance.

The class size initiative established three additional requirements or criteria that must be met to satisfy the high quality education mandate of the Florida education clause:

First, the class size limitation amendment incorporated a capital facilities commitment to ensure "there are a sufficient number of classrooms so that" the maximum student assignments to each teacher are not exceeded.

Second, a maximum number of students who can be assigned to "each teacher who is teaching in public school classrooms" cannot exceed the numerical limits constitutionally established for the following categories: pre-kindergarten through grade 3, grades 4 through 8, and grades 9 through 12.

Third, the responsibility for funding the costs for class size reduction is placed on the State and not the local school districts:

Payment of the costs associated with reducing class size to meet these requirements is the responsibility of the state and not of local school districts.

The funding obligation of the State is reinforced by the last sentence of the class size initiative language:

Beginning with the 2003-2004 fiscal year, the legislature shall provide sufficient funds to reduce the average number of students in each classroom by at least two students per year until the maximum number of students per classroom does not exceed the requirements of this subsection.

In 2002, the people again approved a constitutional amendment reflecting their belief that the education of children is a fundamental value. This amendment directed the State to provide every four-year-old in Florida a voluntary "high quality pre-kindergarten learning opportunity in the form of an early childhood development and education program." The characteristics of such a program were directly required by the people to be "voluntary, high quality, free, and delivered according to professionally applied standards." Such high quality education initiative was placed in Article IX, section 1, Florida Constitution, as new subsections (b) and (c) and was mandated to be implemented no later than the beginning of the 2005 school year.

All three amendments to the Florida education clause have the common element of a demand by the people for a high quality Florida education system.

All amendments to the Florida education clause have the common element of a demand by the people for a high quality Florida education system. They are individually and collectively a clear statement that the education of children is a fundamental value of all Floridians and a paramount duty of the State. This background and direction frames the issues in any future determination of whether the State is meeting its paramount constitutional duty under the Florida education clause.

Florida's Education Clause Compared to the Education Clauses of Other States

- ◆ *Educational scholars have organized the education clauses in the various state constitutions into four separate categories based on the level and character of the duty imposed on the state to provide for public education. State education clauses containing the highest duty are placed in Category IV.*
- ◆ *Before the 1998 revision, Florida's education clause was considered a Category II provision.*
- ◆ *After the 1998 revision, the Florida education clause is unique among state education clauses in its detailed description of the duty placed on the State. The unique combination of constitutional elements in the Florida education clause sets it above all other state clauses into a category of its own with a higher imposed duty than the educational clauses placed in Category IV.*

A comparison of Article IX of the Florida constitution with the education clauses of other states shows the uniqueness of Florida's mandate to provide a system of public schools. Florida's amended Article IX is unique because of the way in which it sets high standards for the state's education system and imposes a strong mandate upon all branches of the state to meet those standards.

Scholars have organized the various states' constitutional education provisions into four separate categories. These categories are based upon the level and character of the duty the state's constitution imposes upon the state to provide for children's education.

The first group of provisions, Category I provisions, simply require the state to provide some kind of a system of free public schools. No standard of quality or obligation to support the system is set out in the constitutional language. Eighteen states have education clauses that are considered to be Category I. One example of a Category I constitutional provision is Oklahoma's, which provides that "[t]he legislature shall establish and maintain a system of free public schools wherein all the children of the State may be educated." In a Category I state, the constitutional minimum would be met if the state merely established a system of free public schools. The constitution does not require that the system meet particular standards. By contrast, Florida's constitution includes qualitative standards that the state's educational system is obliged to meet.

Category II provisions require the state to provide an educational system of a specific quality. Twenty-one states operate under Category II provisions. One example of a Category II provision is Pennsylvania's constitution, which requires the legislature to provide for the "maintenance and support of a thorough and efficient system of public education." Other states' constitutions require a "uniform" system of education. Category II constitutional provisions typically provide only one or two general qualitative terms from which standards may or may not be derived by the state and by the courts. Prior to its 1998 revision, Florida's education clause was considered a typical example of a Category II provision. However, since the 1998 revision, Florida's constitutional clause contains five separate qualitative terms: "uniform, efficient, safe,

secure, and high quality." Florida's education clause contains more legally significant qualitative terms than other Category II state's constitution. This degree of constitutional standard setting for a state's system of public education is unique.

Category III provisions establish a level of quality and also provide a strong mandate to achieve it. Six states currently operate under Category III provisions. The form and strength of the mandate varies in different states' constitutions. The mandate may take the form of a purpose preamble that sets out the basic reasons for a sound system of public education. For example, California's constitution provides for a system of public schools to promote the "general diffusion of knowledge and intelligence . . . essential to the preservation or rights and liberties of the people." Less explicitly, Florida's constitution characterizes the education of children as "a fundamental value of the people of the State of Florida." A purpose preamble is not a direct mandate because it does not tell the state anything explicitly. Instead, a mandate for the state to organize and support a public education system is plainly implied in the preamble's statement that education is of basic or fundamental importance to the state and its citizens. Article IX's provision that education is a "fundamental value" of the people of Florida implies such a mandate.

Another form of mandate common in state constitutions is a means statement. A means statement sets forth the lengths to which a state is obliged to establish and maintain a public education system. Rhode Island's constitution provides that the legislature shall "promote public schools . . . and . . . adopt all means which it may deem necessary and proper to secure to the people the advantages and opportunities of education." A means statement tells the state that it is obliged to commit certain moneys and other public resources to establish and maintain a system of public education. The Florida constitution does not have a typical means statement. It provides only that the state shall make "adequate provision" "by law" for the education of the children of the state.

Scholars have designated states with constitutions that have high-duty mandates as Category IV. Five states currently operate under Category IV provisions. Florida is among these very few states to have a particularly strong or high-duty mandate. More explicit than a purpose preamble, the high-duty mandate specifies that to provide an adequate system of public education is among the most important or highest duties of the state. The Washington state constitution provides that education of the state's citizens is "the paramount duty" of the state. Georgia considers education to be a "primary obligation" of the state. The Illinois and Michigan constitutions make it a "primary duty." Florida ranks the establishment and maintenance of a high quality system of public education as "a paramount duty" of the state. A Category IV constitutional high-duty mandate is significant because, in a world of competing legislative priorities and limited resources, it places education at or near the front of the line to receive legislative attention and public resources.

In conclusion, the Florida constitution's revised education clause is unique among state constitution education clauses. According to the expert testimony provided by William E. Thro, a constitutional lawyer and scholar with a special expertise in state constitutional challenges to school finance systems, Florida's education clause is the only one in the country that does all of the following: it mandates a specific quality of education; it mandates specific characteristics of the education system; and it elevates education above other governmental functions. This unique combination of elements sets Florida's education clause above all others in a category of its own.

Judicial Descriptions of Education Standards and Remedies Under Other State Education Clauses

- ◆ *The revised language in the Florida education clause sets up two tests to determine adequacy of public education: one dealing with the system itself and the other dealing with its output.*
- ◆ *The method for evaluating the system itself incorporates a series of standards to define adequacy: efficient; safe; secure; and high quality.*
- ◆ *The test to measure the output of the education system is the requirement that it allow students to obtain a high quality education.*

One of the major issues regarding Article IX is its enforceability. There have been multiple attempts in courts in Florida and other states to enforce constitutional educational standards. Education litigation normally focuses on either or both of the following:

1. Uniformity/Equity, or the relative disparity of both resources and quality of education between wealthier and poorer school districts; and
2. Adequacy, or the overall sufficiency of an education system, both in the level of financial support and in the quality of instruction.

In Florida, uniformity has been a part of the educational clause since the constitution of 1868. Since 1973, the Florida Education Finance Program has ensured a relatively uniform distribution of the funds provided for education and has served as a national model for the equitable distribution of education funding. Whether the system is adequate is a separate issue.

Legal Meaning of Adequacy in the Text of Article IX

The new language sets up two requirements for adequacy of public education: one dealing with the system itself and the other dealing with the output of the system. The standards for evaluating the system itself can be derived directly from words in the revision: efficient; safe; secure; and high quality. Each of these terms was discussed during the Revision Commission debates and has expected meanings. "Efficient" was intended to emphasize that the system be effective at achieving goals and that financial wastefulness or inefficient use of resources is not compatible with the goals of the constitution. The terms "safe" and "secure" have similar implications but were separated to emphasize different issues. "Safe" was intended to emphasize qualities such as healthy buildings and educational environment. "Secure" was intended to emphasize security from physical harm such as weapons and intrusions. "High quality" was intended as a measuring stick against which the system and the systems operations are compared to other systems.

Each of these standards should be viewed as a separate criterion. In other words, the system falls short of constitutional standards if it fails in any category. The test for each term requires evaluation of facts systemwide. Reference to the system and the use of the term "fundamental value" rather than "fundamental right" is that evaluation is of the statewide system and NOT the impact on one particular individual.

The language requires a second type of test in addition to evaluation of the system. The language "that allows students to obtain a high quality education" refers to the results or output of the education system. In other words, this is an output-oriented test to determine whether the students in the system received a high quality education. As with the previous use of the term "high quality," the words were used advisedly; the addition of the word "high" leaves no doubt as to the intent. Consequently, the term raises the bar above average, mediocre, or even acceptable.

These two standards—that is, the standard for the system and the standard for the output of the system—describe the duty of the state. The duty of the state is "to make adequate provision" by law to meet these standards. The terms "fundamental value" and "paramount duty" further emphasize education's special place in the constitution since these terms are not used elsewhere in that document. Clearly, the implication is that meeting the adequacy standard is a high priority to the people of the state.

As discussed previously, the textual changes place Florida's constitutional requirements among the most demanding—if not making them the most demanding—in the country.

Constitutional standards of education have been enforced in other states when the courts have found that the state did not identify and bring to bear adequate resources to meet the requirements of the state's education clause.

Enforceability of Article IX

Prior to the 1998 revision of Florida's education clause, the Florida Supreme Court, in *Coalition for Adequacy v. Chiles*, found that the courts could not review the adequacy of the state's education system because the constitutional text did not contain specific standards to allow such a review. Note, however, that a majority of the court indicated that under certain facts, even under the constitution of that time, the system could have been found unconstitutional.

The revisions of 1998 specifically contemplated the Coalition case. Sponsors indicated the text was intended to provide the standards found absent in *Coalition*. Therefore, the intent was to provide not only standards for education, but also standards that could be enforced through the courts. The future of the adequacy provision in Florida will depend upon a number of factors.

There has been no direct legal test of the adequacy provision at this time. Pragmatically, such a test under the new provision would require factual showings of deficiencies in the system and require evidence that the system failed in one or more ways under the text and intent of Article IX. Other states have found their systems to be "inadequate" through such evidentiary demonstrations.

Experience in Other States

Constitutional standards for education have been enforced in other states when the courts have found that a state did not provide adequate resources to meet the requirements of the education clause in the state's constitution. Table 1 (Page 11) gives examples of three state supreme courts that have interpreted their respective state constitutions as requiring the legislature of each state to meet enumerated standards. These standards included measures and findings that defined the needs of the education system and compelled legislative actions, which typically included a funding solution. Several other states have followed these precedents. Note that these standards were derived from constitutions that have less explicit textual terms and are less demanding than Florida's constitution. Given that Florida's education clause is the only one in the country that mandates a specific quality of education, mandates specific characteristics of the education system, and elevates education above other governmental functions, the enforceability of Florida's education clause seems likely.

Table 1

Kentucky—Category II	West Virginia—Category II	North Carolina—Category II
<p>The Kentucky Supreme Court found an "adequate" education to be a necessary element of an "efficient" school system and provided the following guidance as requirements of an "adequate" education:</p> <p>"We concur with the trial court that an efficient system of education must have as its goal to provide each and every child with at least the seven following capacities:</p> <p>(i) sufficient oral and written communication skills to enable students to function in a complex and rapidly changing civilization;</p> <p>(ii) sufficient knowledge of economic, social, and political systems to enable the student to make informed choices;</p> <p>(iii) sufficient understanding of governmental processes to enable the student to understand the issues that affect his or her community, state, and nation;</p> <p>(iv) sufficient self-knowledge and knowledge of his or her mental and physical wellness;</p> <p>(v) sufficient grounding in the arts to enable each student to appreciate his or her cultural and historical heritage;</p> <p>(vi) sufficient training or preparation for advanced training in either academic or vocational fields so as to enable each child to choose and pursue life work intelligently; and</p> <p>(vii) sufficient levels of academic or vocational skills to enable public school students to compete favorably with their counterparts in surrounding states, in academics or in the job market."</p>	<p>The West Virginia Supreme Court defined a "thorough and efficient" system of public schools as follows:</p> <p>"Legally recognized elements in this definition are development in every child to his or her capacity of:</p> <p>(1) literacy;</p> <p>(2) ability to add, subtract, multiply and divide numbers;</p> <p>(3) knowledge of government to the extent that the child will be equipped as a citizen to make informed choices among persons and issues that affects his own governance;</p> <p>(4) self-knowledge and knowledge of his or her total environment to allow the child to intelligently choose life work—to know his or her options;</p> <p>(5) work-training and advanced academic training as the child may intelligently choose;</p> <p>(6) recreational pursuits;</p> <p>(7) interest in all creative arts, such as music, theater, literature, and the visual arts;</p> <p>(8) social ethics, both behavioral and abstract, to facilitate compatibility with others in this society.</p> <p>Implicit are supportive services:</p> <p>(1) good physical facilities, instructional materials and personnel;</p> <p>(2) careful state and local supervision to prevent waste and to monitor pupil, teacher and administrative competency."</p>	<p>The North Carolina Supreme Court provided the following guidance as to the requirements of a "sound basic education":</p> <p>"For the purposes of our Constitution, a 'sound basic education' is one that will provide the student with at least:</p> <p>(1) sufficient ability to read, write, and speak the English language and a sufficient knowledge of fundamental mathematics and physical science to enable the student to function in a complex and rapidly changing society;</p> <p>(2) sufficient fundamental knowledge of geography, history, and basic economic and political systems to enable the student to make informed choices with regard to issues that affect the student's community, state, and nation;</p> <p>(3) sufficient academic and vocational skills to enable the student to successfully engage in post-secondary education or vocational training; and</p> <p>(4) sufficient academic and vocational skills to enable the student to compete on an equal basis with others in further formal education or gainful employment in contemporary society."</p> <p>The Court also specifically listed three factors to consider in making this determination:</p> <p>(1) educational goals and standards adopted by the legislature;</p> <p>(2) "output" measurements of student performance; and</p> <p>(3) "input" measurements of state education expenditures and per-pupil spending.</p>

Description of Unique Public Education Challenges Within Florida

- ◆ *The public education system in Florida is faced with unique challenges not experienced in most other states and perhaps by no other state in our country.*
- ◆ *Florida's population increases by approximately 750 people per day. One-third of this overall growth is a result of international migration and one-third comes from domestic migration.*
- ◆ *From 1993 to 2002, overall growth in public school enrollment was just short of 500,000 students; this growth alone would fill more than 625 average size schools.*
- ◆ *From 1976 to 2001, the number of minority students in Florida's public schools increased by 163.6 percent and the Hispanic student population grew by 409 percent.*
- ◆ *Between 1992 and 2002, the percentage of students in the free and reduced-price lunch program grew from 37.6 percent to 43.7 percent.*
- ◆ *Between 1992 and 2002, enrollment in Limited English Proficiency programs more than doubled.*
- ◆ *Between 1983 and 2003, total student public school enrollment increased by 70 percent while public enrollment in exceptional student education programs increased by 167 percent.*

The public education system in Florida is faced with unique challenges not experienced in most other states, and perhaps by no other state, in our country. The two prime drivers are growth/demographics and voter mandates.

Challenges Driven by Growth and Changes in Demographics

Florida is the fourth most populous state in the nation and ranks third among all states in increase in population count from 1990 to 2000. According to the Census Bureau, Florida's population increases by about 750 people every day. One-third of this overall growth is the result of international migration and one-third comes from domestic migration. The number of foreign-born citizens residing in the state rose from 1.6 million in 1990 to 2.4 million in 1997, suggesting an annual increase of over 100,000 through immigration.

Florida's public schools educate one in every 20 students in the nation. From 1993 to 2002, overall growth in enrollment was just short of 500,000 students—this growth alone would fill more than 625 average size schools. During this same period, enrollment in pre-kindergarten through eighth grade accounted for more than half of that enrollment growth. Looking to the future, Florida's population of children under five is ranked 17th largest in the nation. Thus, we will continue to see steady and rapid growth in the state's public school system.

In addition to the issues and concerns associated with this general student population growth, there has been a shift in the general composition of the student population. According to the 2000 U.S. Census data and the fall 2000 school membership data from the Florida Department of Education, Florida's public school student membership has higher proportional minority representation than the state's overall population and the number of students coming from abroad is also escalating disproportionately. From 1976 to 2001, the number of minority students in Florida's public schools increased by 163.6 percent and the Hispanic student population grew by 409 percent. As a result, in the 2002-2003 school year, about 51 percent of Florida's public school students were white, non-Hispanic, 24 percent were black, 21 percent were Hispanic, and 4 percent were Asian, Pacific Islander, American Indian, Alaskan Native, or multi-racial.

Florida's schools serve an extremely diverse student population in which some sub-populations of students are more costly to educate. These groups include students in poverty, non-English speaking students, and students in exceptional student education programs. Between 1992 and 2002, the percentage of students in the free and reduced-price lunch program grew from 37.6 percent to 43.7 percent. In the same period, enrollment in Limited English Proficiency programs more than doubled. Between 1983 and 2003, total public school enrollment increased by 70 percent while program enrollment in exceptional student education programs increased by 167 percent.

Voter-Triggered Challenges

Florida public schools are being affected by two constitutional amendments approved by voters in the 2002 general election. Amendment 8 requires the state to offer free, voluntary universal pre-kindergarten to all four-year-olds by 2005. It is estimated that Amendment 8 will create the need for over 200,000 new pre-k placements. To give perspective, if all public and private pre-school classroom resources in the state today were focused on this need, there would still be a considerable shortage of classroom space needed in order to satisfy the constitutional mandate.

Amendment 9 mandates that class sizes in Florida public schools be gradually reduced until 2010, with class sizes to be no larger than 18 in grades pre-kindergarten through 3, 22 in grades 4 through 8, and 25 in grades 9 through 12. The amendment specifies a two student per year reduction in average class size until the maximum number of students per classroom does not exceed the 2010 maximum. District compliance will be based upon district class size averages in 2003-04 through 2005-06. For 2006-07 and 2007-08, compliance will be based on individual school averages. Finally, in 2008-09 and thereafter, compliance will be determined at the individual classroom level.

Summary

While all states face their own unique challenges, Florida faces more formidable obstacles to providing a high quality education for its students. In addition to overall student and general population growth, changes in student demographics, and increased numbers of students in need of special programs and services, constitutional amendments passed by the voters make the challenges even more daunting. These conditions require a greater effort by the State to provide the high quality education guaranteed by the constitution.

The Role of Accountability in the Provision of a High Quality System of Public Schools

Florida's accountability system can provide some insight into the academic progress and performance of Florida's public school students through an assessment based on Florida's standards in reading, writing, and math. However, it does not allow comparison with performance of students in other states, or in the nation as a whole.

Florida's education accountability measures are currently intra-state in nature; there are no statutory requirements mandating comparisons of Florida's students or schools with external standards. Although Florida participates in the National Assessment of Educational Progress (NAEP), no rewards or sanctions are initiated as a result of student performance on this test.

The role of accountability is to provide all stakeholders assurance that best efforts are being expended to provide a high quality system of public schools, and that policies directing those efforts are effective and appropriate. A reliable accountability system gives decision-makers at all levels the information needed to link inputs and outcomes and to adjust policies and/or rewards and sanctions to improve performance on an ongoing basis. Finally, accountability provides an incentive for excellence and a mechanism to enforce compliance with established policies and procedures.

Accountability, together with policy and implementation, is part of a cyclic system designed to accomplish goals. Policy makers set goals and choose the means to accomplish them; the means are implemented; and those responsible for implementation are held accountable for whether the outcomes meet the desired goals. Policy makers then analyze the resulting information to see whether the implementation was accomplished according to policy and whether it has worked as expected. The result of that analysis becomes the basis of new policy decisions that reinforce what is most effective and reward or sanction those elements of the system that are excellent or deficient (and are responsible for excellence or deficiency). The analysis is also used to identify areas of overall excellence and deficiency that are systemic in nature and to suggest modifications of policy to expand or minimize those areas.

This then, is an iterative process. The initial policy decisions, allocations of resources, and positive and negative consequences are established; those policies are implemented; the results are tracked and analyzed and used to inform the next round of policy making. Accountability also provides a mechanism to give parties who influence outcomes an incentive to exert their best efforts and to punish those who withhold those efforts.

Florida's academic accountability system—the A+ Plan—incorporates three basic components: standards, assessment, and rewards and sanctions. Florida's Sunshine State Standards set forth the standards and expectations for student achievement. Essentially, these Standards specifically outline what students are expected to know and be able to do at each grade level. The Florida Comprehensive Assessment Test (FCAT) is designed to measure the degree to which students have mastered the Sunshine State Standards achievement goals in reading, writing, math, and science. FCAT scores also serve to establish minimum levels of competence for the promotion and graduation of students. In addition, the FCAT is used to comply with the assessment and reporting requirements of the federal No Child Left Behind Act (NCLB). Further, as a result of

student performance on the FCAT, a variety of rewards and sanctions may ensue. Examples of A+ Plan rewards include increased local control and additional funding. Examples of sanctions include the imposition of voucher eligibility and reduced local control.

In addition to the A+ Plan, other accountability at the district, school, and classroom level is delegated to, and vested in, superintendents, school boards, school advisory councils, principals, teachers, parents, and community members. Local accountability measures on the classroom level may take the form of tests, grades, and promotions. On the personnel level it may take the form of wages, contracts, and professional development requirements.

Florida has also established several fiscal accountability systems. These include the use of a Return on Investment (ROI) metric—which measures learning gains versus costs; performance-based funding—which requires a portion of certain K-12 appropriations to be conditional on performance standards; and district financial management audits—which are conducted by the state Office of Program Policy Analysis and Government Accountability.

In conclusion, Florida has established a state accountability system that is integrated with district level accountability measures. Florida's accountability system can provide some insight into the academic progress and performance of Florida's public school students whose assessment is based on Florida's standards in reading, writing, math, and science. However, it does not provide a basis for comparison to any external standard, such as the progress and performance of students in other states, or in the nation as a whole. Also, the absence of a systematic connection between educational inputs and performance outcomes prevents any assurance of efficiency. Therefore, additional assessment tools and criteria are needed to guide and gauge the degree to which Florida provides a high quality education.

Public Education performance and Funding: Florida Compared with Other States

- ◆ *Florida's students compete on a national and international basis as they seek to utilize their public education skills in today's society.*
- ◆ *No standards have been adopted by the Legislature by which Florida may compare its education performance with the performance of the rest of the country.*
- ◆ *Comparing the Florida public education system in performance and funding to the performance and funding of the rest of the nation is clearly a minimum standard by which the State may evaluate whether it is delivering a "high quality" system.*

The accountability measures discussed in Part V can show changes in the educational system but are limited in their ability to indicate the system's quality. For this, the system needs to be measured against an external standard. One such external standard can be a national ranking, showing how Florida's public education system compares on certain measures with the education systems of other states in the nation.

Comparison of education performance and funding in Florida's public school system with performance and funding in other states is an available and objective measure of whether Florida is meeting its constitutional mandate for providing a high quality education system. Where Florida ranks nationally is a real-world barometer for evaluating its public education system and measuring the system's output. Such national comparison is often a significant factor considered by courts in their determination of whether a state constitutional standard is being met.

Education Performance

The state has not adopted standards by which to assess Florida's educational performance. In the absence of these standards, the Commission explored several methods of assessment and decided that one comparing Florida to the other states would be meaningful. The Commission researched several statistical data sets that would permit such an assessment, using the following guidelines:

1. Data sets were selected that compared Florida to all states unless there was a compelling reason for using a set with a smaller comparison range.
2. Purposefully, no attempt was made to adjust data for socioeconomic or racial demographic population characteristics, forcing a clear focus on the total end product of the educational system.
3. The measures chosen here are performance measures, not measures of financial resources expended or specific teaching methods utilized: output rather than input.
4. The measures selected represent performance from elementary school through college, utilizing recent data from well-recognized and identifiable sources.

Using these guidelines, ten data sets were identified, as shown in Table 2 (Page 17). The column headings show the performance category, its source, the year of origin for the data, the number of states in the data sample, Florida's ranking in the sample, and Florida's quartile rank, with "First" being the highest performing quartile.

Table 2

#	PERFORMANCE CATEGORY	DATA SOURCE	YEAR	NUMBER REPORTED	FLORIDA'S RANKING	FLORIDA'S QUARTILE
1	NAEP 4th Grade Reading-Scale Score	National Assessment of Education Progress	2003	50	31	Third
2	NAEP 4th Grade Math-Scale Score	NAEP	2003	50	32	Third
3	NAEP 8th Grade Reading-Scale Score	NAEP	2003	50	41	Fourth
4	NAEP 8th Grade Math-Scale Score	NAEP	2003	50	38	Fourth
5	High School Graduation Rate	Manhattan Institute for Policy Research	2001	50	50	Fourth
6	ACT Scores among states with comparable percentage of eligible population tested*	ACT, Inc.	2004	25	19	Fourth
7	SAT scores among states with comparable percentage of eligible population tested*	The College Board	2004	25	22	Fourth
8	Students completing bachelor's level degree within 6 years	National Center for Public Policy and Higher Education	2004	50	27	Third
9	Students returning for second year of study at 2-year college	NCPPE based on ACT Institutional Data Questionnaire	2004	45	1	First
10	Median Pupil Teacher Ratio in Primary Grades	National Center for Education Statistics	2002	48	38	Fourth

* This measure does not conform to the criterion of comparison with all 50 states. Because different states vary widely in students' participation rates in the SAT and ACT, the Commission chose the 24 states that were adjacent (12 immediately above and 12 immediately below) to Florida when ranked by participation rates for these tests. Participation rates for the ACT in the included states ranged from 30% to 80% with Florida at 40%, and the rates for the SAT ranged from 32% to 87% with Florida at 67%.

Education Funding

The 1998 Constitutional Revision cites not only a "high quality system" and "high quality education" but also "adequate provision." For this reason, the Commission also compared Florida to other states on four measures of financial resources spent on education. In citing these data, the Commission acknowledges the considerable discussion in academic and political circles about the correlation, or the lack of correlation, between educational expenditures and performance outcomes. However, the Commission members believe that a sufficient level of state financial resources must be allocated to the public education system if the state is to meet the Florida constitutional mandate to establish a high quality education system. To determine how Florida compares with the other states, the same guidelines used in identifying categories for comparing educational performance were used to identify four data sets for ranking expenditure measures. The expenditure categories and Florida's ranking are shown in Table 3.

Table 3

#	EXPENDITURE CATEGORY	DATA SOURCE	YEAR	NUMBER REPORTED	FLORIDA'S RANKING	FLORIDA'S QUARTILE
1	Expenditure per Student Based on Fall Enrollment	National Center for Education Statistics	2002	50	46	Fourth
2	Average Teacher Salary, Adjusted for Cost of Living	Education Week: Quality Counts 2004	2002	50	31	Third
3	Average Beginning Teacher Salary, Adjusted for Cost of Living	Education Week: Quality Counts 2004	2002	50	13	Second
4	Appropriations for Higher Education per \$1,000 of Personal Income	NCPPE	2003	50	28	Third

Conclusions and Recommendations

Conclusions

- ◆ *The education clause in the Florida Constitution states clearly that the education of children is a fundamental value of the people of Florida.*
- ◆ *A duty has been placed on all branches of state government, rather than on any one sector, to make adequate provision for the education of all children. This is a paramount duty.*
- ◆ *Revision 6 is unique among the education provisions of all the state constitutions as it places a higher demand on Florida than that required in any other state.*
- ◆ *The language of Revision 6 creates a clearly enforceable mandate for the State to provide an education system of high quality.*
- ◆ *Florida faces specific public education challenges. Primary among these are general population growth, minority and exceptional student population growth, and constitutionally mandated class size reduction and introduction of universal pre-kindergarten. In response to these challenges, extraordinary steps may be necessary if Florida is to fulfill its constitutional mandate.*
- ◆ *Since Revision 6 was approved by voters, some measures have been adopted to address elements of the amendment to the constitution—such as safe schools initiatives, efficiency audits, and academic performance standards and assessment—but no standards have been adopted by the legislature that will allow an assessment of Florida's educational performance, as required in Revision 6.*
- ◆ *To assure its citizens that the State is fulfilling its constitutional responsibility to provide a high quality education and a high quality education system, the State must be able to monitor its educational performance. To accomplish this, the State must identify suitable education performance criteria, measure Florida's performance against those criteria, and achieve those levels of performance.*
- ◆ *The education and financial data sets in this report provide categories that can be used for establishing criteria and measuring educational performance. The data in these categories are collected in all states annually and are easily accessible. The value of using Florida's national ranking as a measure of performance has been explained earlier.*

Recommendations

The Commission recommends the following:

- ◆ *That the legislature adopt the ten performance categories and four expenditure categories identified in Part VI of this report as appropriate categories within which to compare Florida's education performance on a national basis.*
- ◆ *That the legislature set a standard that achieving the following will fulfill the requirements of the Constitution:*
 1. *Florida will not rank in the fourth quartile of any measure.*
 2. *Florida will rank in the top two quartiles on at least half of all measures.*
- ◆ *That the legislature identify and provide the resources that will enable Florida to meet or exceed the performance standards and recommendations of this report.*
- ◆ *That the Department of Education provide an annual report to the governor, Legislature, and general public showing Florida's ranking against other states on the adopted measures.*
- ◆ *That the State take a leadership role in advocating the establishment of broad, national measurement tools to assess quality in education. Advocate measures that will allow comprehensive comparison of education system quality in all 50 states. Seek sponsors or developers of such sectors as business and industry, institutions of higher learning, private foundations, and the federal government.*
- ◆ *That the State periodically amend the adopted measures referenced above to reflect availability of new performance measures and/or newly identified areas in which data are needed.*

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