

Tab 1	SB 372 by Lee (CO-INTRODUCERS) Cruz, Harrell, Broxson; (Similar to CS/H 00171) Postsecondary Education for Certain Military Personnel					
669140	D	S	ED, Lee	Delete everything after	12/05	12:49 PM
Tab 2	SB 376 by Lee; (Identical to H 00143) English Language Learners					
246418	A	S	ED, Lee	Delete L.25 - 109:	12/06	08:22 AM
Tab 3	SB 418 by Diaz; (Similar to H 00725) Workforce Education					
455398	A	S	ED, Diaz	Delete L.24 - 25:	12/06	07:55 AM
Tab 4	SB 434 by Montford; Designation of School Grades					
979684	A	S	ED, Montford	Delete L.66:	12/06	07:51 AM
Tab 5	SB 486 by Bradley; Florida Best and Brightest Programs					
Tab 6	SB 534 by Diaz (CO-INTRODUCERS) Baxley; Education					
525626	A	S	ED, Diaz	Delete L.158 - 598:	12/06	11:04 AM
Tab 7	SB 602 by Montford; Open Educational Resources Grant Program					
174910	A	S	ED, Montford	Delete L.25 - 48:	12/06	08:24 AM

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

EDUCATION
Senator Diaz, Chair
Senator Montford, Vice Chair

MEETING DATE: Monday, December 9, 2019

TIME: 1:30—3:30 p.m.

PLACE: Pat Thomas Committee Room, 412 Knott Building

MEMBERS: Senator Diaz, Chair; Senator Montford, Vice Chair; Senators Baxley, Berman, Cruz, Perry, Simmons, and Stargel

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 372 Lee (Similar CS/H 171)	Postsecondary Education for Certain Military Personnel; Requiring the Board of Governors and State Board of Education, in consultation with the Department of Veterans' Affairs, to create a uniform process for the awarding of postsecondary credit to certain servicemembers and veterans of the United States Armed Forces; requiring certain postsecondary institutions to award credit for specified courses taken and occupations held by individuals during military service beginning on a specified date; requiring postsecondary institutions to waive the transcript fee for active duty members of the United States Armed Forces, certain veterans, and their spouses and dependents, etc.	MS 11/13/2019 Favorable ED 12/09/2019 AP
2	SB 376 Lee (Identical H 143)	English Language Learners; Exempting certain English language learners from a specified graduation requirement; requiring such English language learners to meet other criteria to earn a standard high school diploma; revising school grade components to include certain English language learners who meet specified criteria, etc.	ED 12/09/2019 AED AP
3	SB 418 Diaz (Similar H 725)	Workforce Education; Revising the workforce education programs that school district career centers are authorized to conduct, etc.	ED 12/09/2019 AED AP
4	SB 434 Montford	Designation of School Grades; Revising the components on which a school's grade is based, etc.	ED 12/09/2019 AED AP

COMMITTEE MEETING EXPANDED AGENDA

Education

Monday, December 9, 2019, 1:30—3:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
5	SB 486 Bradley (Similar S 440)	Florida Best and Brightest Programs; Repealing provisions relating to the Florida Best and Brightest Teacher Program and the Florida Best and Brightest Principal Program, etc. ED 12/09/2019 AED AP	
6	SB 534 Diaz	Education; Requiring the Department of Education to maintain a disqualification list that includes the identities of certain persons; requiring district school boards to investigate certain complaints and report certain results of such investigations to the department; prohibiting an individual who is on the disqualification list from being employed by a charter school or serving as a member of a charter school governing board; requiring certain private schools to adopt policies establishing standards of ethical conduct for certain employees, etc. ED 12/09/2019 AP RC	
7	SB 602 Montford	Open Educational Resources Grant Program; Establishing the Open Educational Resources Grant Program; requiring the Department of Education and the Board of Governors to administer the program; requiring participating state universities to use grant funds for a specified purpose; specifying that implementation of the program is subject to legislative appropriation, etc. ED 12/09/2019 AED AP	

Other Related Meeting Documents

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 Education

BILL: SB 372

INTRODUCER: Senator Lee

SUBJECT: Postsecondary Education for Certain Military Personnel

DATE: December 6, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Brown</u>	<u>Caldwell</u>	<u>MS</u>	<u>Favorable</u>
2.	<u>Bouck</u>	<u>Sikes</u>	<u>ED</u>	<u>Pre-meeting</u>
3.	_____	_____	<u>AP</u>	_____

I. Summary:

SB 372 promotes uniformity in the application of military experience, training, and education toward postsecondary credit by public postsecondary educational institutions; and establishes a fee waiver for active duty members and honorably discharged veterans of the United States Armed Forces. Specifically, the bill requires:

- The Articulation Coordinating Committee of the Florida Department of Education to convene a workgroup to develop a uniform process for determining when military experience and credentials are appropriate for postsecondary credit. The committee must approve a list of postsecondary course equivalencies, including minimum credit, based on military experience and credentials.
- The Board of Governors of the State University System of Florida (BOG) and the State Board of Education (SBE), in consultation with the Florida Department of Veterans' Affairs to adopt regulations and rules, respectively, which create a uniform system for the awarding of postsecondary credit based on military experience, training, and education. Public postsecondary institutions must award credit based on such rule and regulation beginning January 1, 2022.
- A state university, Florida College System institution, career center operated by a school district, or a charter technical career center to waive transcript fees for active duty servicemembers and honorably discharged veterans, and their spouses and dependents.

The bill would have a minimal fiscal impact on the BOG, SBE, state colleges, and universities.

The bill takes effect on July 1, 2020.

II. Present Situation:

Florida provides active duty servicemembers and honorably discharged veterans with a number of educational benefits.

Academic College Credit for Training and Education Acquired in the Military

Florida law requires the Board of Governors of the State University System (BOG) and the State Board of Education (SBE) to enable, through regulation and rule, eligible servicemembers and veterans to earn academic college credit at public postsecondary educational institutions based on college-level training and education acquired in the military.¹

In adopting regulations and rules, the BOG and the SBE must include procedures to evaluate credentials and the award of academic college credit, including providing for the:

- Equivalency and alignment of military coursework with appropriate college courses;
- Course descriptions;
- Type and amount of college credit that may be awarded; and
- Transfer of credit.²

Tuition and Fee Waivers

Florida law provides tuition and fee waivers to students, in certain circumstances, including veterans and active duty members of the United States Armed Forces (Armed Forces) who meet specified criteria.³ Some waivers are mandatory,⁴ while others are permissive.⁵

The following fee waivers apply to current or former members of the Armed Forces or United States Reserve Forces:

- A person who resides in-state while enrolled in a program who is an honorably discharged veteran of the Armed Forces, the U.S. Reserve Forces, or the National Guard; or who uses the educational assistance provided by the United States Department of Veterans Affairs is eligible for, and must receive an out-of-state fee waiver from a state university, a Florida College System (FCS) institution, a career center operated by a school district, or a charter technical career center.⁶
- An active duty member of the Armed Forces residing or stationed out-of-state is eligible for, and must receive an out-of-state fee waiver from a state university, FCS institution, career center operated by a school district, or charter technical career center.⁷
- An active duty member of the Armed Forces using military tuition assistance provided by the United States Department of Defense is eligible for, and may receive a waiver of any portion of the student activity and service, fee, the financial aid fee, the technology fee, the capital improvement fee, and any other fees otherwise authorized in law from an FCS institution.⁸
- A recipient of a Purple Heart or another combat decoration superior in precedence who is currently or was at the time of the military action a resident of the state is eligible for, and must receive a tuition waiver for an undergraduate or career certificate program from a state

¹ Section 1004.096, F.S.; *see also* Board of Governors Regulation 6.013 and Rule 6A-14.0302, F.A.C.

² *Id.*

³ Section 1009.26, F.S.

⁴ Section 1009.26 (5), (7)-(8), (12)-(14), F.S.

⁵ Section 1009.26 (1)-(4), (6), (9)-(11), and (15), F.S.

⁶ Section 1009.26(13)(a), F.S.

⁷ Section 1009.26(14)(a), F.S.

⁸ Section 1009.26(15), F.S.

university, an FCS institution, a career center operated by a school district, or a charter technical career center.⁹

Articulation Coordinating Committee

The Commissioner of Education, in consult with the Chancellor of the State University System, establishes the Articulation Coordinating Committee (ACC), whose primary role is to recommend statewide articulation policies.¹⁰ Specifically, the ACC must monitor the alignment between the exit requirements of one education system and admission requirements of another education system into which students typically transfer. The ACC also proposes guidelines for interinstitutional agreements between institutions, including universities, career, and technical centers, and recommends to the BOG and the SBE dual enrollment courses for approval.¹¹ The Office of K-20 Articulation within the Florida Department of Education provides administrative support to the ACC.¹²

The American Council on Education's Military Guide

In 1945, the American Council on Education (ACE) established the Commission on Accreditation of Service Experiences, renamed the Commission on Educational Credit and Credentials in 1979, to evaluate military educational programs and aid institutions in determining and granting academic credit. Credit recommendations and detailed summaries for formal courses and occupations offered by branches of the military are published in the ACE Military Guide. All recommendations are based on ACE reviews conducted by college and university faculty members who are actively teaching in the areas they review. Courses and occupations are evaluated for college credit based on appropriate content, scope, and rigor. New courses and occupations are continually considered and added to the Military Guide on a rolling basis. ACE only reviews courses and occupations selected by the military services.¹³

III. Effect of Proposed Changes:

Academic College Credit for Training and Education Acquired in the Military

SB 372 promotes uniformity in the application of military experience, training, and education toward postsecondary credit by public postsecondary educational institutions, and requires the Board of Governors of the State University System (BOG) and the State Board of Education (SBE), in consultation with the Department of Veterans' Affairs (FDVA), to adopt regulations and rules, respectively, to create a uniform system for the awarding of postsecondary credit based on military experience, training, and education.

The bill requires the Articulation Coordinating Committee (ACC) to convene a workgroup by July 15, 2020, to establish a process for developing a process for determining postsecondary course equivalencies and the minimum postsecondary credit that must be awarded for courses

⁹ Section 1009.26(8), F.S.

¹⁰ Section 1007.01(3), F.S.

¹¹ Section 1007.01(3)(a) and (b), F.S.

¹² Section 1007.01(3), F.S.; s. 20.15(3)(h), F.S.

¹³ American Council on Education, *The Military Guide*, <https://www.acenet.edu/news-room/Pages/Military-Guide-Online.aspx> (last visited Nov. 25, 2019).

taken and occupations held by individuals during their service in the military. To determine course equivalencies and credit, the workgroup must consult the American Council on Education Military Guide for courses and occupations listed since January 1, 2000.¹⁴

The workgroup must consist of the following 13 members:

- The chair of the ACC, or his or her designee, serving as chair;
- Four members representing academic affairs administrators and faculty from state universities, appointed by the chair of the BOG;
- Four members representing academic affairs administrators and faculty from FCS institutions, appointed by the chair of the SBE;
- Two members representing faculty from career centers, appointed by the chair of the SBE; and
- Two members representing veterans, appointed by the executive director of the FDVA.

The Office of K-20 Articulation must provide administrative support for the workgroup.

The bill requires the workgroup to submit to the ACC a recommended list of postsecondary course equivalencies and the minimum postsecondary credit that must be awarded for courses taken and occupations held by individuals while in the military. The ACC must review the list for approval by September 1, 2021.¹⁵ The approved list must then be adopted in regulation by the BOG and rule by the SBE by December 1, 2021. As of January 1, 2022, the bill requires state universities,¹⁶ FCS institutions, and career centers to award credit for approved courses and occupations included in the list, if the credit is applicable to the student's degree or certificate. Credit awarded on these bases is guaranteed to transfer to other public postsecondary institutions as if the credit were earned at the receiving institution.

Requiring the BOG and the SBE to adopt a uniform system and specified course equivalencies could lend greater consistency to the process of awarding academic credit based on military experience or occupations across all public postsecondary institutions.

Fee Waivers

The bill provides active duty servicemembers and honorably discharged veterans, and their spouses and dependents a fee waiver on a transcript from a state university, FCS institution, career center operated by a school district, or a charter technical career center. Each of these institutions must annually report to the BOG and the SBE the number and value of transcript fee

¹⁴ An analysis of the ACE Military Guide indicates that there are 4,952 courses and 967 occupations evaluated by ACE since January 1, 2000. American Council on Education, *The Military Guide*, <https://www.acenet.edu/news-room/Pages/Military-Guide-Online.aspx> (last visited Nov. 25, 2019).

¹⁵ According to BOG staff, the timeline required in the bill to establish a list of postsecondary course equivalencies, from July 15, 2020 to August 31, 2021, is insufficient to review the list of military training occupations provided by ACE as outlined in the bill. Board of Governors, *2020 Agency Analysis of SB 372* (Nov. 4, 2019), at 6.

¹⁶ It is unclear if such credit awarded would be included in the calculation of excess hours as required in s. 1009.286(4), F.S., and BOG Regulation 7.003(21). Board of Governors, *2020 Agency Analysis of SB 372* (Nov. 4, 2019), at 7. Credit hours earned through examinations (e.g., Advanced Placement or International Baccalaureate) or courses taken by active-duty military personnel are not included in the calculation of excess hours at a state university. Section 1009.286(4)(a) and (e), F.S.

waivers granted. The BOG and the SBE are required to adopt regulations and rules, respectively, to administer the transcript fee waivers.

The transcript fee waiver may further assist with making higher education more affordable for active duty members and honorably discharged veterans of the Armed Forces.

The bill takes effect on July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Qualifying servicemembers and veterans may save money through the transcript fee waiver, which will also apply to spouses and dependents.

C. Government Sector Impact:

The Board of Governors of the State University System (BOG) and the State Board of Education (SBE) may incur fiscal costs from the bill, based on the provisions that require the BOG and the SBE to amend or adopt new regulations and rules, and that require a workgroup to convene and draft recommendations.

Additionally, institutions will have to waive the transcript fee for active duty servicemembers and honorably discharged veterans, and their spouses and dependents, and annually report the number of waivers to the BOG and the SBE.

Based on data provided by the BOG, a total of approximately 8,000 veterans or active duty members enrolled during the 2017-18 academic year could generate between \$48,000 to \$80,000 in transcript fees.¹⁷

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 1004.096 and 1009.26.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

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

¹⁷ Board of Governors, *2020 Legislative Bill Analysis of SB 372* (Nov. 4, 2019), at 9.



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LEGISLATIVE ACTION

Senate

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House

The Committee on Education (Lee) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 1004.096, Florida Statutes, is amended
to read:

1004.096 College credit for military training and education
courses.—

(1) In consultation with the Department of Veterans'
Affairs, the Board of Governors shall adopt regulations and the
State Board of Education shall adopt rules that create a process



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12 that enables ~~enable~~ eligible servicemembers or veterans of the
13 United States Armed Forces to earn uniform postsecondary
14 ~~academic college~~ credit across all Florida ~~at~~ public
15 postsecondary educational institutions for college-level
16 training and education acquired in the military. The regulations
17 and rules shall include procedures for credential evaluation and
18 the uniform award of postsecondary ~~academic college~~ credit or
19 career education clock hours, including, but not limited to,
20 equivalency and alignment of military coursework with
21 appropriate postsecondary ~~college~~ courses and, course
22 descriptions, ~~type and amount of college credit that may be~~
23 ~~awarded, and transfer of credit.~~

24 (2) The Articulation Coordinating Committee shall convene a
25 workgroup by July 15, 2020, which is responsible for developing
26 a process for determining postsecondary course equivalencies and
27 the minimum postsecondary credit or career education clock hours
28 that must be awarded for courses taken and occupations held by
29 individuals during their service in the military.

30 (a) The workgroup shall be composed of the following 13
31 members:

32 1. The chair of the Articulation Coordinating Committee, or
33 his or her designee, who shall serve as chair.

34 2. Four members representing academic affairs
35 administrators and faculty from state universities, appointed by
36 the chair of the Board of Governors.

37 3. Four members representing academic affairs
38 administrators and faculty from Florida College System
39 institutions, appointed by the chair of the State Board of
40 Education.



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41 4. Two members representing faculty from career centers,
42 appointed by the State Board of Education.

43 5. Two members representing veterans, appointed by the
44 executive director of the Department of Veterans' Affairs.

45 (b) The Office of K-20 Articulation shall provide
46 administrative support for the workgroup.

47 (c) The workgroup shall establish a process for
48 prioritizing and determining postsecondary course equivalencies
49 and the minimum postsecondary credit or career education clock
50 hours that must be awarded for courses taken and occupations
51 held by individuals during their service in the military. The
52 workgroup shall provide recommendations to the Board of
53 Governors and the State Board of Education by December 1, 2020,
54 for approval at the next meeting of each board to allow for
55 adequate public notice.

56 (d) Upon approval of the workgroup's recommendations by the
57 Board of Governors and the State Board of Education, the
58 Articulation Coordinating Committee shall facilitate the review
59 of courses taken and occupations held by individuals during
60 their service in the military for postsecondary course
61 equivalencies and the minimum postsecondary credit or career
62 education clock hours that must be awarded in accordance with
63 the approved process.

64 (e) Within 1 year after approval of the workgroup's
65 recommendations by the Board of Governors and the State Board of
66 Education pursuant to paragraph (c), the Articulation
67 Coordinating Committee shall approve a prioritized list of
68 postsecondary course equivalencies and the minimum postsecondary
69 credit or career education clock hours that must be awarded for



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70 courses taken and occupations held by individuals during their
71 service in the military. The list must be updated annually. The
72 Board of Governors and the State Board of Education shall timely
73 adopt the list approved by the Articulation Coordinating
74 Committee at the next meeting of each board to allow for
75 adequate public notice. For the purpose of statewide
76 application, postsecondary course equivalencies and the minimum
77 postsecondary credit or career education clock hours that must
78 be awarded for courses taken and occupations held by individuals
79 during their service in the military shall be delineated by the
80 State Board of Education and the Board of Governors in the
81 statewide articulation agreement required by s. 1007.23(1).

82 (f) State universities, Florida College System
83 institutions, and career centers must award postsecondary credit
84 or career education clock hours for courses taken and
85 occupations held by individuals during their service in the
86 military based on the list adopted by the Board of Governors and
87 the State Board of Education pursuant to paragraph (e) if the
88 credit or career education clock hours are applicable toward the
89 student's degree or certificate. Institutions may award
90 additional postsecondary credit or career education clock hours
91 if appropriate. Credit or career education clock hours awarded
92 in accordance with minimum postsecondary credit and clock hour
93 requirements, respectively, are guaranteed to transfer to other
94 state universities, Florida College System institutions, and
95 career centers.

96 Section 2. Subsection (17) is added to section 1009.26,
97 Florida Statutes, to read:

98 1009.26 Fee waivers.—



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99 (17) (a) Each state university, Florida College System
100 institution, career center operated by a school district under
101 s. 1001.44, and charter technical career center under s. 1002.34
102 shall waive the transcript fee for a person who is an active
103 duty member or an honorably discharged veteran of the United
104 States Armed Forces and his or her spouse and dependents.

105 (b) Each state university, Florida College System
106 institution, career center operated by a school district under
107 s. 1001.44, and charter technical career center under s. 1002.34
108 shall report to the Board of Governors and the State Board of
109 Education, respectively, the number and value of fee waivers
110 granted annually under this subsection.

111 (c) The Board of Governors and the State Board of Education
112 shall adopt regulations and rules, respectively, to administer
113 this subsection.

114 Section 3. This act shall take effect upon becoming a law.

115
116 ===== T I T L E A M E N D M E N T =====

117 And the title is amended as follows:

118 Delete everything before the enacting clause
119 and insert:

120 A bill to be entitled
121 An act relating to postsecondary education for certain
122 military personnel; amending s. 1004.096, F.S.;
123 requiring the Board of Governors and the State Board
124 of Education, in consultation with the Department of
125 Veterans' Affairs, to create a process for the uniform
126 award of postsecondary credit or career education
127 clock hours to certain servicemembers and veterans of



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128 the United States Armed Forces; requiring the
129 Articulation Coordinating Committee to convene a
130 workgroup by a specified date; providing for
131 membership and duties of the workgroup; providing
132 administrative support for the workgroup; requiring
133 the workgroup to provide recommendations to the Board
134 of Governors and the State Board of Education by a
135 specified date; requiring the Board of Governors and
136 the State Board of Education to approve the
137 recommendations; requiring the Articulation
138 Coordinating Committee to facilitate the review of
139 courses taken and occupations held by individuals
140 during their service in the military for postsecondary
141 credit and career education clock hours; requiring the
142 Articulation Coordinating Committee to approve and the
143 Board of Governors and the State Board of Education to
144 adopt a specified list within a specified timeframe;
145 requiring delineation of credit and career education
146 clock hours in the statewide articulation agreement;
147 requiring certain postsecondary institutions to award
148 uniform postsecondary credit or career education clock
149 hours for specified courses taken and occupations held
150 by individuals during their service in the military;
151 authorizing the award of additional credits or career
152 education clock hours; requiring certain credits and
153 career education clock hours to transfer between
154 specified postsecondary institutions; amending s.
155 1009.26, F.S.; requiring specified postsecondary
156 institutions to waive the transcript fee for active



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157 duty members of the United States Armed Forces,
158 certain veterans, and their spouses and dependents;
159 providing reporting requirements for such fee waivers;
160 requiring the Board of Governors and the State Board
161 of Education to adopt regulations and rules,
162 respectively; providing an effective date.
163

By Senator Lee

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1 A bill to be entitled
 2 An act relating to postsecondary education for certain
 3 military personnel; amending s. 1004.096, F.S.;
 4 requiring the Board of Governors and State Board of
 5 Education, in consultation with the Department of
 6 Veterans' Affairs, to create a uniform process for the
 7 awarding of postsecondary credit to certain
 8 servicemembers and veterans of the United States Armed
 9 Forces; requiring the Articulation Coordinating
 10 Committee to convene a workgroup by a specified date;
 11 providing membership and duties of the workgroup;
 12 providing administrative support for the workgroup;
 13 requiring the workgroup to submit to the Articulation
 14 Coordinating Committee a list of recommended
 15 postsecondary course equivalencies and the minimum
 16 postsecondary credit that must be awarded if certain
 17 specifications are met; requiring the Articulation
 18 Coordinating Committee to review the list provided by
 19 the workgroup for approval by a specified date;
 20 requiring the Board of Governors and the State Board
 21 of Education to adopt, in regulation and in rule,
 22 respectively, the list approved by the Articulation
 23 Coordinating Committee by a specified date; requiring
 24 certain postsecondary institutions to award credit for
 25 specified courses taken and occupations held by
 26 individuals during military service beginning on a
 27 specified date; authorizing the award of additional
 28 credits; requiring that certain credits be
 29 transferrable between specified postsecondary

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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30 institutions; amending s. 1009.26, F.S.; requiring
 31 postsecondary institutions to waive the transcript fee
 32 for active duty members of the United States Armed
 33 Forces, certain veterans, and their spouses and
 34 dependents; providing reporting requirements for such
 35 institutions; requiring the Board of Governors and the
 36 State Board of Education to adopt regulations and
 37 rules, respectively; providing an effective date.

38
 39 Be It Enacted by the Legislature of the State of Florida:

40
 41 Section 1. Section 1004.096, Florida Statutes, is amended
 42 to read:
 43 1004.096 College credit for military experience and
 44 training and education courses.—
 45 (1) In consultation with the Department of Veterans'
 46 Affairs, the Board of Governors shall adopt regulations and the
 47 State Board of Education shall adopt rules that create a uniform
 48 process that enables ~~enable~~ eligible servicemembers or veterans
 49 of the United States Armed Forces to earn postsecondary ~~academic~~
 50 ~~college~~ credit at public postsecondary educational institutions
 51 for experience and college-level training and education acquired
 52 in the military. The regulations and rules shall include
 53 procedures for credential evaluation and the award of
 54 postsecondary ~~academic college~~ credit, including, but not
 55 limited to, equivalency and alignment of military coursework
 56 with appropriate postsecondary ~~college~~ courses, and course
 57 descriptions, ~~type and amount of college credit that may be~~
 58 ~~awarded, and transfer of credit.~~

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59 (2) The Articulation Coordinating Committee shall convene a
 60 workgroup by July 15, 2020, to establish a process for
 61 developing a uniform process for determining postsecondary
 62 course equivalencies and the minimum postsecondary credit that
 63 must be awarded for courses taken and occupations held by
 64 individuals during their service in the military. For the
 65 purposes of determining course equivalencies and minimum
 66 postsecondary credit, the workgroup shall review the courses and
 67 occupations evaluated by the American Council on Education and
 68 listed on its Military Guide since January 1, 2000.

69 (a) The workgroup shall be composed of the following 13
 70 members:

71 1. The chair of the Articulation Coordinating Committee, or
 72 his or her designee, who shall serve as chair.

73 2. Four members representing academic affairs
 74 administrators and faculty from state universities, appointed by
 75 the chair of the Board of Governors.

76 3. Four members representing academic affairs
 77 administrators and faculty from Florida College System
 78 institutions, appointed by the chair of the State Board of
 79 Education.

80 4. Two members representing faculty from career centers,
 81 appointed by the chair of the State Board of Education.

82 5. Two members representing veterans, appointed by the
 83 executive director of the Department of Veterans' Affairs.

84 (b) The Office of K-20 Articulation shall provide
 85 administrative support for the workgroup.

86 (c) The workgroup shall submit to the Articulation
 87 Coordinating Committee a recommended list of postsecondary

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88 course equivalencies and the minimum postsecondary credit that
 89 must be awarded for courses taken and occupations held by
 90 individuals during their service in the military.

91 (d) The Articulation Coordinating Committee shall review
 92 the list submitted under paragraph (c) for approval by September
 93 1, 2021.

94 (e) By December 1, 2021, the Board of Governors in
 95 regulation and the State Board of Education in rule shall adopt
 96 the list approved by the Articulation Coordinating Committee.

97 (f) Beginning on January 1, 2022, state universities,
 98 Florida College System institutions, and career centers must
 99 award postsecondary credit for courses taken and occupations
 100 held by individuals during their service in the military
 101 pursuant to the list adopted under paragraph (c), if the credit
 102 is applicable toward the student's degree or certificate.
 103 Institutions may award additional postsecondary credit if
 104 appropriate. Credit awarded in accordance with minimum credit
 105 requirements is guaranteed to transfer to other state
 106 universities, Florida College System institutions, and career
 107 centers as if the credit were earned at the receiving
 108 institution.

109 Section 2. Subsection (17) is added to section 1009.26,
 110 Florida Statutes, to read:

111 1009.26 Fee waivers.—

112 (17) (a) A state university, Florida College System
 113 institution, career center operated by a school district under
 114 s. 1001.44, or charter technical career center shall waive the
 115 transcript fee for a person who is an active duty member or an
 116 honorably discharged veteran of the United States Armed Forces

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117 and his or her spouse and dependents.

118 (b) Each state university, Florida College System
119 institution, career center operated by a school district under
120 s. 1001.44, and charter technical career center shall report to
121 the Board of Governors and the State Board of Education,
122 respectively, the number and value of fee waivers granted
123 annually under this subsection.

124 (c) The Board of Governors and the State Board of Education
125 shall adopt regulations and rules, respectively, to administer
126 this subsection.

127 Section 3. This act shall take effect July 1, 2020.

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 Education

BILL: SB 376

INTRODUCER: Senator Lee

SUBJECT: English Language Learners

DATE: December 6, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Sagues	Sikes	ED	Pre-meeting
2.			AED	
3.			AP	

I. Summary:

SB 376 modifies the requirements for a standard high school diploma and student assessment program for English Language Learners (ELLs) in public schools. The bill authorizes ELLs who enrolled in a public school in grade 9 or later beginning in the 2020-2021 school year, to be exempt from passing the grade 10 English Language Arts (ELA) assessment in order to earn a standard high school diploma. In lieu of passing the grade 10 ELA assessment the student must show sufficient learning gains in ELA, as demonstrated on the World-Class Instructional Design and Assessment (WIDA) Consortium ACCESS for ELLs assessment at thresholds set by the State Board of Education (SBE).

The bill also modifies the college and career acceleration component of the school grading model for high schools by adding the percentage of students who enrolled in a public school in grade 9 or later as an ELL and passed the grade 10 ELA assessment.

The bill takes effect on July 1, 2020.

II. Present Situation:

Every Student Succeeds Act (ESSA)

The Every Student Succeeds Act (ESSA), which reauthorized the Elementary and Secondary Education Act (ESEA), was signed into law on December 10, 2015. ESSA includes provisions to:¹

- Help ensure success for students and schools through advancing equity by upholding protections for disadvantaged and high-need students.

¹ U.S. Department of Education, *Every Student Succeeds Act (ESSA)*, <https://www.ed.gov/essa?src=rn> (last visited Nov. 20, 2019).

- Require that all students be taught to high academic standards that will prepare them to succeed in college and careers.
- Ensure that vital information is provided to educators, families, students, and communities through annual statewide assessments that measure students' progress.
- Support and grow local innovations.
- Increase access to high-quality preschool.
- Maintain an expectation that there will be accountability and action to effect positive change in the lowest-performing schools.

ESSA requires that statewide assessments be administered in mathematics and reading or language arts to all students, including students with disabilities and English Language Learners (ELLs) in each of grades 3 through 8 and at least once in grades 9 through 12. Science assessments are required to be administered three times, including at least one time during grades 3 through 5, one time in grades 6 through 9, and one time in grades 10 through 12.²

Under ESSA, states must annually assess the English language proficiency of ELLs, provide reasonable accommodations for ELLs on state assessments, and develop new accountability systems that include long-term goals and measures of progress for ELLs.³ ESSA requires that at least 95 percent of students in each school, as well as 95 percent of students in each specified subgroup⁴ including ELLs, be tested in mathematics and reading or language arts using a statewide assessment.⁵

ESSA allows for an assessment exception for recently arrived ELLs who have been enrolled in a school for less than 12 months. A state may choose to:⁶

- Exclude an ELL from one administration of the reading or language arts assessment requirements and exclude the ELL's results on any of the required assessments for the first year of the ELLs enrollment in school for the purposes of the State-determined accountability system; or
- Assess and report the performance of an ELL on the reading or language arts and mathematics assessments required in each year of the student's enrollment in school. For the purposes of the State-determined accountability system, exclude the results on the assessments required in the first year of the student's enrollment, include a measure of student growth on the assessments in the second year of the student's enrollment, and include proficiency on the assessments in the third and each succeeding year of the student's enrollment in school.

² 20 U.S.C. s. 6311(b)(2).

³ U.S. Department of Education, *Our Nation's English Learners*, <https://www2.ed.gov/datastory/el-characteristics/index.html#four> (last visited Nov. 20, 2019).

⁴ Subgroups include each major racial and ethnic group, economically disadvantaged students, children with disabilities, English proficiency, gender, and migrant status. 20 U.S.C. s. 6311(b)(2)(B)(xi).

⁵ 20 U.S.C. s. 6311(c)(4)(E)(i).

⁶ 20 U.S.C. s. 6311(b)(3)(A).

English Language Learners (ELLs)

ELLs are a growing part of the K–12 student population in the United States. Between the 2009–10 and 2014–15 school years, the percentage of ELL students increased in more than half of the states, with increases of over 40 percent in five states.

Over 4.8 million ELLs were enrolled in schools across the country in 2016-17.⁷ This represents 10 percent of the total K-12 student population. Nearly all ELLs (97 percent) participated in language instruction education programs.⁸

In total, ELLs in public schools speak over 400 different languages. In 2014–15, more than three-quarters of all ELLs spoke Spanish. The next most commonly spoken non-English languages were Arabic, Chinese, and Vietnamese. However, these languages were spoken much less commonly than Spanish, representing about 2 percent each.⁹

World-Class Instructional Design and Assessment (WIDA) Consortium

The World-Class Instructional Design and Assessment (WIDA) Consortium is an educational consortium of state departments of education. Currently, 37 states and territories, including Florida, participate in the WIDA Consortium. WIDA designs and implements proficiency standards and assessment for grade K-12 students who are ELLs.¹⁰

The WIDA ACCESS for ELLs assessment is given yearly and the results are used to determine the student's growth and progress, as well as to inform instruction for the next year. This test has been administered annually in WIDA member states beginning in the 2005-2006 academic year. The assessment is used in the U.S. and several other countries as a test of English language proficiency.¹¹

English Language Learners (ELLs) in Florida

In Florida, English Language Learner (ELL) means “Limited English Proficient Student.”¹² A limited English proficient student is defined as having sufficient difficulty speaking, reading, writing, or listening to the English language to deny such individual the opportunity to learn successfully in classrooms where the language of instruction is English, and who:¹³

- Was not born in the U.S. and whose native language is a language other than English;
- Comes from a home environment where a language other than English is spoken in the home; or

⁷ National Center of Education Statistics, *ELL Students Enrolled in Public Elementary and Secondary Schools* https://nces.ed.gov/programs/digest/d18/tables/dt18_204.20.asp (last visited Nov. 25, 2019).

⁸ U.S. Department of Education, *Our Nation's English Learners*, <https://www2.ed.gov/datastory/el-characteristics/index.html#four> (last visited Nov. 25, 2019).

⁹ *Id.*

¹⁰ WIDA Consortium, *Development and Field Test of WIDA Model, 2014* available at: <https://wida.wisc.edu/sites/default/files/resource/MODEL-tech-report-grades6to12-2012.pdf>

¹¹ Wikipedia, *WIDA Consortium* https://en.wikipedia.org/wiki/WIDA_Consortium (last visited Nov. 19, 2019).

¹² Rule 6A-6.0901, F.A.C.

¹³ Section 1003.56, F.S.

- Is an American Indian or Alaskan native and who comes from an environment where a language other than English has had a significant impact on his or her English language proficiency.

Instruction for limited English proficient students is designed to rapidly develop the student's mastery of four language skills; listening, speaking, reading, and writing.¹⁴ School districts must engage in a number of procedures to meet instructional requirements for ELL students. School districts must:¹⁵

- Develop and submit a plan for providing English language instruction to the Florida Department of Education (DOE) for review and approval.
- Identify limited English proficient students through assessment.
- Provide limited English proficient students with English for Speakers of Other Languages (ESOL) instruction in English and ESOL instruction or home language instruction in the basic subject areas of reading, mathematics, science, social studies, and computer literacy.
- Maintain a student plan.
- Provide qualified teachers.
- Provide equal access to other programs based on need.
- Provide for parental involvement.

English Language Learners (ELLs) and Florida's Every Student Succeeds Act (ESSA)

Florida's ESSA plan received approval from the United States Department of Education on September 26, 2018.¹⁶ As required under ESSA, ELLs are expected to master the same grade-level academic standards as all other students.¹⁷

Spanish is the most prevalent language other than English spoken by Florida students. The percent of English Language Arts (ELA) test takers who are Spanish-speaking ELLs is 6.8 percent.¹⁸ There are an additional 240 languages spoken by Florida's other ELLs, which account for 2.1 percent of the ELA student test takers.¹⁹ Florida, which has one of the largest populations of ELLs in the nation, serves its population of ELLs through a comprehensive program of teaching, assessing, and, where necessary, providing additional assistance to such students in an English-language environment.

Florida's goal is to transition ELLs to full English proficiency in as few years as possible. The SBE has a 2015-2020 strategic plan goal to close the achievement gap by reducing the gap between ELL and non-ELL students in each subject area by one-third.²⁰ In 2018-19, there was

¹⁴ English for Speakers of Other Languages (ESOL) and English Learners (ELs) are other terms used to describe limited English proficient students and instructional programs. *Id.* and U.S. Department of Education, *Our Nation's English Learners*, <https://www2.ed.gov/datastory/el-characteristics/index.html#four> (last visited Nov. 25, 2019).

¹⁵ Section 1003.56(3), F.S.

¹⁶ Florida Department of Education, *Every Student Succeeds Act (ESSA)*, <http://www.fldoe.org/academics/essa.stml> (last visited Nov. 20, 2019).

¹⁷ *Id.* at 8.

¹⁸ Florida Department of Education, *ESSA State Plan, September, 24, 2018*, available at <http://www.fldoe.org/core/fileparse.php/14196/urlt/FL-ESSA-StatePlan.pdf> at 7.

¹⁹ *Id.*

²⁰ Florida Department of Education, *Framework for the State Board of Education Strategic Plan, April 2018* available at <http://www.fldoe.org/core/fileparse.php/7734/urlt/Framework.pdf>.

improvement in three of the four measured subject areas, although no subject area was on track to meet the 2020 target.²¹ In November, 2019, the SBE adopted a new strategic plan for 2020-2025 with targets to continue to reduce the achievement gap between student subgroups, including ELL students.²²

A large proportion of Florida's ELLs enter the public school system in kindergarten. These children typically become proficient in English quickly while others who enter the U.S. later in life or with little formal schooling may need more time to become proficient.²³ The timeline for students to achieve English language proficiency is variable based on the needs of the individual student. Florida's timeline for students to achieve English language proficiency is five or fewer years. Florida's ELLs can exit the program if they score at level 4 or above on the WIDA ACCESS for ELLs assessment and also score at least a level 4 on the Reading subtest, and score at level 3 or above on the ELA assessment.²⁴

In order to graduate from a Florida public high school, all students are required to pass the grade 10 ELA Florida Standards Assessment (FSA). In 2018-2019, there were 14,736 ELL students in grade 9, 13,956 in grade 10, 13,032 in grade 11, and 9,976 in grade 12.²⁵ The percent of grade 10 ELL students who scored a level 3 or above on the ELA FSA was 7.2 percent compared to 56.3 percent of non-ELL students in the 2018-19 school year.²⁶ ELLs who fail to pass the required grade 10 ELA FSA are eligible for an additional year of public education, or "thirteenth year," to allow these students additional time to pass the required grade 10 ELA FSA and earn a standard high school diploma.²⁷ A recently adopted SBE rule allows ELLs that have exited the ESOL program within two years, to receive accommodations on statewide assessments.²⁸

Under the Florida ESSA plan, for recently arrived ELLs who have been enrolled in a Florida school for less than 12 months, Florida has chosen to assess and report the performance of ELLs on the reading or language arts and mathematics assessments required in each year of the student's enrollment in school. For the purposes of the State-determined accountability system, Florida excludes the results on the assessments required in the first year of the student's enrollment, includes a measure of student growth on the assessments in the second year of the student's enrollment, and includes proficiency on the assessments in the third and each succeeding year of the student's enrollment in school.²⁹

²¹ Florida Department of Education, *Strategic Plan 2015-2020 State Board of Education Update, August 21, 2019* available at <http://www.fldoe.org/core/fileparse.php/7734/urlt/StrategicPlan-0819.pdf>.

²² Florida Department of Education, *Strategic Plan 2020-2025 Complete details of Proposed Measures, November 15, 2019* available at <http://fldoe.org/core/fileparse.php/18826/urlt/StrategicPlanWorkingDoc.pdf> at 7.

²³ Florida Department of Education, *ESSA State Plan, September, 24, 2018*, available at <http://www.fldoe.org/core/fileparse.php/14196/urlt/FL-ESSA-StatePlan.pdf> at 16.

²⁴ *Id.*

²⁵ Florida Department of Education, *PK-12 Education Information Portal, Student Enrollment* <https://edstats.fldoe.org/SASWebReportStudio/gotoReportSection.do?sectionNumber=1> (last visited Oct. 17, 2019).

²⁶ Florida Department of Education, *PK-12 Education Information Portal* <https://edstats.fldoe.org/SASWebReportStudio/gotoReportSection.do?sectionNumber=1> (last visited Oct. 17, 2019).

²⁷ Rule 6A-6.0909 F.A.C.

²⁸ Rule 6A-6.09091 F.A.C. Adopted in November 2019.

²⁹ Florida Department of Education, *ESSA State Plan, September, 24, 2018*, available at <http://www.fldoe.org/core/fileparse.php/14196/urlt/FL-ESSA-StatePlan.pdf> at 10.

The ELL high school graduation rate in Florida for the 2017-2018 school year was 75 percent, up 7.7 percentage points from the 2016-2017 school year (67.3 percent³⁰), but still lower than the overall graduation rate of 86.1 percent.³¹

Graduation Requirements

In Florida, a student must successfully complete 24 credits specified in law, an International Baccalaureate curriculum, or an Advanced International Certificate of Education curriculum to earn a standard high school diploma.³² The required credits may be earned through equivalent, applied, or integrated courses or career education courses, including work-related internships approved by the SBE and identified in the course code directory. However, any must-pass assessment requirements must be met.³³ A student may also earn a standard high school diploma through the 18 credit Academically Challenging Curriculum to Enhance Learning Option (ACCEL)³⁴ or the Career and Technical Education Graduation Pathway Option.³⁵ Both 18 credit options also require students to meet English language arts, mathematics, science, and social studies credit and assessment requirements.³⁶

To graduate, a student must complete the specified requirements and earn a cumulative grade point average (GPA) of 2.0 or higher on a 4.0 scale.³⁷ A student must also pass the statewide, standardized grade 10 ELA FSA and the statewide, standardized Algebra I End-of-Course (EOC) assessment. Concordant and comparative scores may be used to satisfy the passing score requirements for the statewide ELA FSA and Algebra 1 EOC assessments, respectively.³⁸ Students typically have multiple opportunities to retake the grade 10 FSA ELA and Algebra 1 EOC assessments prior to graduation.³⁹

Statewide Assessment Program

The primary purpose of the student assessment program is to provide student academic achievement and learning gains data to students, parents, teachers, school administrators, and school district staff. The data is to be used by districts to improve instruction; by students, parents, and teachers to guide learning objectives; by education researchers to assess national and

³⁰ Florida Department of Education, *PK-12 Education Information Portal*

<https://edstats.fldoe.org/SASWebReportStudio/gotoReportSection.do?sectionNumber=1> (last visited Oct. 17, 2019).

³¹ Department of Education, *Florida's Federal Graduation Rates by Special Category by School and District* <http://www.fldoe.org/core/fileparse.php/7584/urlt/FedGradRateCategory1718.xls> (last visited Nov 25, 2019).

³² Section 1003.4282(1)(a), F.S.

³³ *Id.* at (1)(b). An equivalent course is one or more courses identified by content-area experts as being a match to the core curricular content of another course, based upon review of the Next Generation Sunshine State Standards for that subject. An applied course aligns with Next Generation Sunshine State Standards and includes real-world applications of a career and technical education standard used in business or industry. An integrated course includes content from several courses within a content area or across content areas.

³⁴ Section 1002.3105, F.S.

³⁵ Section 1003.4282(11), F.S.

³⁶ *Id.* and Section 1002.3105 F.S.

³⁷ Section 1003.4282(6)(a), F.S.

³⁸ Florida Department of Education, *2020 Agency Analysis of SB 376* (Nov. 19, 2019) at 2.

³⁹ *Id.* at 3.

international education comparison data; and by the public to assess the cost benefit of the expenditure of taxpayer dollars.⁴⁰

The statewide assessment program for Florida's public schools includes statewide, standardized assessments for ELA (grades 3-10) and mathematics (grades 3-8); end-of-course (EOC) assessments for Algebra I, Geometry, Biology I, Civics, and U.S. History; and the Statewide Science Assessment (grades 5 and 8).⁴¹ Results from the assessments are used to calculate school grades and school improvement ratings⁴² and determine student readiness for promotion to 4th grade and high school graduation.⁴³

School Grading System

School grades provide an easily understandable way to measure the performance of a school. Parents and the general public can use the school grade and its components to understand how well each school is serving its students.⁴⁴ School grades are used in the state system of school improvement and accountability to determine the need for school intervention and support,⁴⁵ or to determine whether a school is eligible for school recognition funds.⁴⁶

Schools are graded using one of the following grades:⁴⁷

- “A,” schools making excellent progress (62 percent or higher of total applicable points).
- “B,” schools making above average progress (54 to 61 percent of total applicable points).
- “C,” schools making satisfactory progress (41 to 53 percent of total applicable points).
- “D,” schools making less than satisfactory progress (32 to 40 percent of total applicable points).
- “F,” schools failing to make adequate progress (31 percent or less of total applicable points).

Elementary schools, middle schools, and high schools each share a basic model for determining school grades, based on the percentage of total points earned by a school for each component in the model. All schools are graded on the percentage of eligible students who pass assessments in ELA, mathematics, science, and social studies; student learning gains in ELA and mathematics; and students in the lowest 25 percent of ELA and mathematics performers who make learning gains.⁴⁸ Middle and high school models include additional components beyond the basic model.⁴⁹

⁴⁰ Section 1008.22(1) F.S.

⁴¹ Sections 1008.22(3) and 1003.4156 F.S.

⁴² See ss. 1008.34 and 1008.341, F.S.

⁴³ See ss. 1008.25(5) and 1003.4282(3)(a) and (b), F.S.

⁴⁴ Florida Department of Education, *2019 School Grades Overview*, available at <http://www.fldoe.org/core/fileparse.php/18534/urlt/SchoolGradesOverview19.pdf>.

⁴⁵ See s. 1008.33(4), F.S.

⁴⁶ See s. 1008.36, F.S.

⁴⁷ Section 1008.34(2), F.S.; rule 6A-1.09981(4)(d), F.A.C.

⁴⁸ Section 1008.34(3)(b), F.S. If a school does not have at least 10 students with complete data for one or more of the components, those components may not be used in calculating the school's grade. Section 1008.34(3)(a), F.S.

⁴⁹ See s. 1008.34(3)(b), F.S.; rule 6A-1.09981(4)(a)-(c), F.A.C.

For a high school comprised of grades 9 through 12 or grades 10 through 12, the school's grade is also based on following components:⁵⁰

- The 4-year high school graduation rate of the school as defined by State Board of Education (SBE) rule.⁵¹
- The percentage of students who were eligible to earn college and career credit through College Board Advanced Placement (AP) examinations, International Baccalaureate (IB) examinations, dual enrollment courses, or Advanced International Certificate of Education (AICE) examinations; or who, at any time during high school, earned national industry certification identified in the CAPE Industry Certification Funding List, pursuant to rules adopted by the SBE.

In addition, Federal Percent of Points Index data are calculated and reported to comply with Florida's approved ESSA plan. The federal index incorporates the existing school grades calculation and components with one additional component, English Language Proficiency (ELP) Progress. The ELP Progress component is based on the percentage of students who show progress on the WIDA ACCESS for ELLs assessments, including the Alternate ACCESS for ELLs assessments.⁵²

III. Effect of Proposed Changes:

The bill amends ss. 1003.4282 and 1008.22, F.S., to exempt an English Language Learner (ELL) who enrolls in a public school in grade 9 or later from the requirement to pass the grade 10 English Language Arts (ELA) Florida Standards Assessment (FSA) to earn a standard high school diploma, beginning with the 2020-2021 school year. In lieu of meeting this requirement, the bill requires the student to show sufficient learning gains in ELA, as demonstrated on the World-Class Instructional Design and Assessment (WIDA) ACCESS for ELLs assessment at thresholds set by the State Board of Education (SBE). The student must take the grade 10 ELA FSA for progress monitoring purposes.

The bill may require the Florida Department of Education (DOE) to amend the current approved Every Student Succeeds Act (ESSA) plan and obtain approval of the amended plan by the United States Department of Education.⁵³

Exempting ELLs from the grade 10 ELA FSA graduation requirement may lead to more ELLs graduating from high school and improving the state's high school graduation rates.

The bill also amends ss. 1008.34, F.S., and modifies the school grading model for high schools by adding the percentage of students who enrolled in a public school in grade 9 or later as an ELL and passed the grade 10 ELA FSA as a school grade component.

The bill takes effect on July 1, 2020.

⁵⁰ Section 1008.34(3)(b)2., F.S., and rule 6A-1.09981(4)(c)2. and 3., F.A.C.

⁵¹ The four-year high school graduation rate of the school as measured according to 34 CFR §200.19, Other Academic Indicators, effective November 28, 2008. Rule 6A-1.09981(4)(c)1., F.A.C.

⁵² Florida Department of Education, *2020 Agency Analysis of SB 376* (Nov. 19, 2019) at 3.

⁵³ *Id.* at 7.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

According to the Florida Department of Education (DOE), it is unclear whether the requirements of the bill are consistent with the requirements of the Every Student Succeeds Act (ESSA). Florida will likely need to amend its current ESSA plan based on the requirements of the bill. If the amended ESSA plan is not approved by the United States Department of Education it could impact Florida's eligibility for certain federal education funding.⁵⁴

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

⁵⁴ Florida Department of Education, *2020 Agency Analysis of SB 376* (Nov. 19, 2019) at 7.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 1003.4282, 1008.22, and 1008.34.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

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



246418

LEGISLATIVE ACTION

Senate

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House

The Committee on Education (Lee) recommended the following:

Senate Amendment

Delete lines 25 - 109

and insert:

beginning with the 2020-2021 school year, at the discretion of a district school board or a charter school governing board, as applicable, an English Language Learner who enrolled in a public school within the school district in grade 9 or later is exempt from the assessment requirements of this paragraph and, in lieu of such requirements, must show sufficient Learning Gains in English Language Arts, as demonstrated on the ACCESS for ELLs



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12 assessment and at thresholds established by the State Board of
13 Education, to earn a standard high school diploma. Such student
14 must take the grade 10 ELA assessment and any necessary
15 assessment retakes for progress monitoring purposes.

16 Section 2. Present subsections (11), (12), and (13) of
17 section 1008.22, Florida Statutes, are redesignated as
18 subsections (12), (13), and (14), respectively, and a new
19 subsection (11) is added to that section, to read:

20 1008.22 Student assessment program for public schools.—

21 (11) EXEMPTION FROM ASSESSMENT REQUIREMENTS.—Beginning in
22 the 2020-2021 school year, at the discretion of a district
23 school board or a charter school governing board, as applicable,
24 an English language learner who enrolled in a public school
25 within the school district in grade 9 or later is exempt from
26 the grade 10 ELA assessment graduation requirement pursuant to
27 s. 1003.4282(3)(a). However, such student must take the grade 10
28 ELA assessment and any necessary assessment retakes for progress
29 monitoring purposes.

30 Section 3. Paragraph (b) of subsection (3) of section
31 1008.34, Florida Statutes, is amended to read:

32 1008.34 School grading system; school report cards;
33 district grade.—

34 (3) DESIGNATION OF SCHOOL GRADES.—

35 (b)1. Beginning with the 2014-2015 school year, a school's
36 grade shall be based on the following components, each worth 100
37 points:

38 a. The percentage of eligible students passing statewide,
39 standardized assessments in English Language Arts under s.
40 1008.22(3).



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41 b. The percentage of eligible students passing statewide,
42 standardized assessments in mathematics under s. 1008.22(3).

43 c. The percentage of eligible students passing statewide,
44 standardized assessments in science under s. 1008.22(3).

45 d. The percentage of eligible students passing statewide,
46 standardized assessments in social studies under s. 1008.22(3).

47 e. The percentage of eligible students who make Learning
48 Gains in English Language Arts as measured by statewide,
49 standardized assessments administered under s. 1008.22(3).

50 f. The percentage of eligible students who make Learning
51 Gains in mathematics as measured by statewide, standardized
52 assessments administered under s. 1008.22(3).

53 g. The percentage of eligible students in the lowest 25
54 percent in English Language Arts, as identified by prior year
55 performance on statewide, standardized assessments, who make
56 Learning Gains as measured by statewide, standardized English
57 Language Arts assessments administered under s. 1008.22(3).

58 h. The percentage of eligible students in the lowest 25
59 percent in mathematics, as identified by prior year performance
60 on statewide, standardized assessments, who make Learning Gains
61 as measured by statewide, standardized Mathematics assessments
62 administered under s. 1008.22(3).

63 i. For schools comprised of middle grades 6 through 8 or
64 grades 7 and 8, the percentage of eligible students passing high
65 school level statewide, standardized end-of-course assessments
66 or attaining national industry certifications identified in the
67 CAPE Industry Certification Funding List pursuant to rules
68 adopted by the State Board of Education.

69



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70 In calculating Learning Gains for the components listed in sub-
71 subparagraphs e.-h., the State Board of Education shall require
72 that learning growth toward achievement levels 3, 4, and 5 is
73 demonstrated by students who scored below each of those levels
74 in the prior year. In calculating the components in sub-
75 subparagraphs a.-d., the state board shall include the
76 performance of English language learners only if they have been
77 enrolled in a school in the United States for more than 2 years.

78 2. For a school comprised of grades 9, 10, 11, and 12, or
79 grades 10, 11, and 12, the school's grade shall also be based on
80 the following components, each worth 100 points:

81 a. The 4-year high school graduation rate of the school as
82 defined by state board rule.

83 b. The percentage of students who were eligible to earn
84 college and career credit through College Board Advanced
85 Placement examinations, International Baccalaureate
86 examinations, dual enrollment courses, or Advanced International
87 Certificate of Education examinations; ~~or~~ who, at any time
88 during high school, earned national industry certification
89 identified in the CAPE Industry Certification Funding List; or
90 who enrolled in the school in grade 9 or later as an English
91 Language Learner and passed the grade 10 ELA assessment
92 administered under s. 1008.22(3)(a), pursuant to rules

By Senator Lee

20-00665-20

2020376__

A bill to be entitled

An act relating to English language learners; amending s. 1003.4282, F.S.; exempting certain English language learners from a specified graduation requirement; requiring such English language learners to meet other criteria to earn a standard high school diploma; amending s. 1008.22, F.S.; conforming provisions to changes made by the act; amending s. 1008.34, F.S.; revising school grade components to include certain English language learners who meet specified criteria; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraph (a) of subsection (3) of section 1003.4282, Florida Statutes, is amended to read:

1003.4282 Requirements for a standard high school diploma.—

(3) STANDARD HIGH SCHOOL DIPLOMA; COURSE AND ASSESSMENT REQUIREMENTS.—

(a) *Four credits in English Language Arts (ELA).*—The four credits must be in ELA I, II, III, and IV. A student must pass the statewide, standardized grade 10 Reading assessment or, when implemented, the grade 10 ELA assessment, or earn a concordant score, in order to earn a standard high school diploma. However, beginning with the 2020-2021 school year, an English Language Learner who enrolled in a public school within the state in grade 9 or later is exempt from the assessment requirements of this paragraph and, in lieu of such requirements, must show sufficient Learning Gains in English Language Arts, as

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demonstrated on the WIDA test and at thresholds established by the State Board of Education, to earn a standard high school diploma. Such student must take the grade 10 ELA assessment and any necessary assessment retakes for progress monitoring purposes.

Section 2. Present subsections (11), (12), and (13) of section 1008.22, Florida Statutes, are redesignated as subsections (12), (13), and (14), respectively, and a new subsection (11) is added to that section, to read:

1008.22 Student assessment program for public schools.—

(11) EXEMPTION FROM ASSESSMENT REQUIREMENTS.—Beginning in the 2020-2021 school year, an English Language Learner who enrolled in a public school within the state in grade 9 or later is exempt from the grade 10 ELA assessment graduation requirement pursuant to s. 1003.4282(3)(a). However, such student must take the grade 10 ELA assessment and any necessary assessment retakes for progress monitoring purposes.

Section 3. Paragraph (b) of subsection (3) of section 1008.34, Florida Statutes, is amended to read:

1008.34 School grading system; school report cards; district grade.—

(3) DESIGNATION OF SCHOOL GRADES.—

(b)1. Beginning with the 2014-2015 school year, a school's grade shall be based on the following components, each worth 100 points:

a. The percentage of eligible students passing statewide, standardized assessments in English Language Arts under s. 1008.22(3).

b. The percentage of eligible students passing statewide,

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59 standardized assessments in mathematics under s. 1008.22(3).

60 c. The percentage of eligible students passing statewide,
61 standardized assessments in science under s. 1008.22(3).

62 d. The percentage of eligible students passing statewide,
63 standardized assessments in social studies under s. 1008.22(3).

64 e. The percentage of eligible students who make Learning
65 Gains in English Language Arts as measured by statewide,
66 standardized assessments administered under s. 1008.22(3).

67 f. The percentage of eligible students who make Learning
68 Gains in mathematics as measured by statewide, standardized
69 assessments administered under s. 1008.22(3).

70 g. The percentage of eligible students in the lowest 25
71 percent in English Language Arts, as identified by prior year
72 performance on statewide, standardized assessments, who make
73 Learning Gains as measured by statewide, standardized English
74 Language Arts assessments administered under s. 1008.22(3).

75 h. The percentage of eligible students in the lowest 25
76 percent in mathematics, as identified by prior year performance
77 on statewide, standardized assessments, who make Learning Gains
78 as measured by statewide, standardized Mathematics assessments
79 administered under s. 1008.22(3).

80 i. For schools comprised of middle grades 6 through 8 or
81 grades 7 and 8, the percentage of eligible students passing high
82 school level statewide, standardized end-of-course assessments
83 or attaining national industry certifications identified in the
84 CAPE Industry Certification Funding List pursuant to rules
85 adopted by the State Board of Education.

86
87 In calculating Learning Gains for the components listed in sub-

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88 subparagraphs e.-h., the State Board of Education shall require
89 that learning growth toward achievement levels 3, 4, and 5 is
90 demonstrated by students who scored below each of those levels
91 in the prior year. In calculating the components in sub-
92 subparagraphs a.-d., the state board shall include the
93 performance of English language learners only if they have been
94 enrolled in a school in the United States for more than 2 years.

95 2. For a school comprised of grades 9, 10, 11, and 12, or
96 grades 10, 11, and 12, the school's grade shall also be based on
97 the following components, each worth 100 points:

98 a. The 4-year high school graduation rate of the school as
99 defined by state board rule.

100 b. The percentage of students who were eligible to earn
101 college and career credit through College Board Advanced
102 Placement examinations, International Baccalaureate
103 examinations, dual enrollment courses, or Advanced International
104 Certificate of Education examinations; ~~or~~ who, at any time
105 during high school, earned national industry certification
106 identified in the CAPE Industry Certification Funding List; or
107 who enrolled in a public school in this state in grade 9 or
108 later as an English language learner and passed the grade 10 ELA
109 assessment administered under s. 1008.22(3), pursuant to rules
110 adopted by the state board.

111 Section 4. This act shall take effect July 1, 2020.

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 Education

BILL: SB 418

INTRODUCER: Senator Diaz

SUBJECT: Workforce Education

DATE: December 6, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Bouck</u>	<u>Sikes</u>	<u>ED</u>	<u>Pre-meeting</u>
2.	_____	_____	<u>AED</u>	_____
3.	_____	_____	<u>AP</u>	_____

I. Summary:

SB 418 authorizes school district career centers to offer an associate in applied science or associate in science degree program in nursing, but only to graduates of a licensed practical nursing program offered at that same career center.

The bill has no impact on state revenues or expenditures.

The bill takes effect on July 1, 2020.

II. Present Situation:

Workforce Education

Workforce education includes adult general education and career education, and may consist of a course or a program of study leading to an occupational completion point (OCP),¹ a career certificate, an applied technology diploma, or a career degree.² Specifically, workforce education includes:³

- Adult general education programs;⁴
- Career certificate programs;⁵

¹ An “occupational completion point”(OCP) means the occupational competencies that qualify a person to enter an occupation that is linked to a career and technical program. Section 1004.02(21), F.S.

² Section 1004.02(25), F.S.

³ Section 1011.80(1), F.S.

⁴ “Adult general education” means comprehensive instructional programs designed to improve the employability of the state’s workforce through adult basic education, adult secondary education, English for Speakers of Other Languages, applied academics for adult education instruction, and instruction for adults with disabilities. Section 1004.02(3), F.S.

⁵ A “career certificate program” means a course of study that leads to at least one OCP. The program may also confer credit that may articulate with a diploma or career degree education program. Section 1004.02(20), F.S.

- Applied technology diploma (ATD) programs;⁶
- Continuing workforce education courses;⁷
- Degree career education programs;⁸ and
- Apprenticeship⁹ and preapprenticeship¹⁰ programs.

Any workforce education program may be conducted by a Florida College System (FCS) institution or a school district, except that college credit in an associate in applied science (AAS) or an associate in science (AS) degree may be awarded only by an FCS institution. However, if an AAS or an AS degree program contains within it an OCP that confers a certificate or an ATD, that portion of the program may be conducted by a school district career center.¹¹

Career Centers

A district school board may, as a part of the district school system, operate a career center.¹² A career center is an educational institution offering terminal courses of a technical nature and courses for out-of-school youth and adults. A career center is administered by a director responsible through the district school superintendent to the local district school board.¹³

Currently, there are 49 career centers operating in 31 school districts in Florida.¹⁴ All are accredited by the Council on Occupational Education (COE).¹⁵ The COE accredits postsecondary occupational institutions that offer career certificate, diploma, or applied associate degree programs. The COE does not accredit institutions that offer credentials above an applied

⁶ An “applied technology diploma (ATD) program” means a course of study that is part of a technical degree program, is less than 60 credit hours, and leads to employment in a specific occupation. An ATD program may consist of either technical credit or college credit. A public school district may offer an ATD program only as technical credit, with college credit awarded to a student upon articulation to a Florida College System (FCS) institution. Section 1004.02(7), F.S.

⁷ “Continuing workforce education” means instruction that does not result in a technical certificate, diploma, associate in applied science (AAS) degree, or associate in science (AS) degree. Continuing workforce education is for: (1) individuals who are required to have training for licensure renewal or certification renewal by a regulatory agency or credentialing body; (2) new or expanding businesses; (3) business, industry, and government agencies whose products or services are changing so that retraining of employees is necessary or whose employees need training in specific skills to increase efficiency and productivity; or (4) individuals who are enhancing occupational skills necessary to maintain current employment, to cross train, or to upgrade employment. Section 1004.02(12), F.S.

⁸ A “degree career education program” or “technical degree education program” means a course of study that leads to an AAS degree or an AS degree. A technical degree program may contain within it one or more program progression points and may lead to certificates or diplomas within the course of study. Section 1004.02(13), F.S.

⁹ Registered apprenticeship programs enable employers to develop and apply industry standards to training programs for registered apprentices that can increase productivity and improve the quality of the workforce. Apprentices who complete registered apprenticeship programs are accepted by the industry as journey workers. Florida Department of Education, *Apprenticeship Programs*, <http://fldoe.org/academics/career-adult-edu/apprenticeship-programs/> (last visited Nov. 20, 2019).

¹⁰ Registered pre-apprenticeship programs provide an avenue for both adults and youth who are at least 16 years old to become qualified to enter registered apprenticeship programs. Pre-apprenticeship programs are sponsored and operated by registered apprenticeship programs in the same trade or trades. Florida Department of Education, *Preapprenticeship*, <http://fldoe.org/academics/career-adult-edu/apprenticeship-programs/preapprenticeship.shtml> (last visited Nov. 20, 2019).

¹¹ Section 1011.80(2), F.S.

¹² Section 1001.44(1), F.S.

¹³ Section 1001.44(3)(a), F.S.

¹⁴ Florida Department of Education, *District Postsecondary Institutions*, <http://www.fldoe.org/academics/career-adult-edu/dist-ps-instit.shtml> (last visited Nov. 21, 2019).

¹⁵ Council on Occupational Education, *Membership Directory* (March 2017), available at <https://council.org/wp-content/uploads/2017/02/Accredited-Institutions-3-30-2017.pdf>.

associate degree.¹⁶ The COE is one of the national accrediting agencies recognized by the U.S. Department of Education for eligibility to offer federal student financial aid.¹⁷

Florida College System Institutions

The FCS is composed of 28 colleges and 72 campuses that serve each of Florida's counties.¹⁸ The purpose of the FCS is to maximize open access for students, respond to community needs for postsecondary academic education and career degree education, and provide associate and baccalaureate degrees that will best meet the state's employment needs.¹⁹ The State Board of Education supervises the FCS, and each FCS institution is governed by a local board of trustees.²⁰ Each FCS institution is accredited by the Southern Association of Colleges and Schools Commission on Colleges.²¹

Articulation of Career Education to Degree Programs

Florida law guarantees that students who complete specified career certificate programs or ATDs at a career center or FCS institution are able to articulate the non-college-credit program into a college-credit AAS or AS degree program at an FCS institution.²² There are currently 46 career certificate program to AAS/AS degree articulation agreements, and 8 ATD program to AAS/AS degree articulation agreements.²³ The amount of credit applied to the degree program varies by program and is determined by school district career center and FCS institution college faculty. According to the Practical Nursing certificate program articulation agreement, students who complete the 1350-clock hour Practical Nursing program are guaranteed 10 college credits upon entrance into the 72-credit AS degree program in Nursing.²⁴

¹⁶ Council on Occupational Education, *FAQs*, <https://council.org/accreditation-frequently-asked-questions/> (last visited Nov. 20, 2019).

¹⁷ *Id.*

¹⁸ Florida Department of Education, *Division of Florida Colleges*, <http://www.fldoe.org/schools/higher-ed/fl-college-system/> (last visited Dec. 2, 2019). Each Florida College System institution is assigned one or more counties as a part of its service delivery area. Section 1000.21(3), F.S.

¹⁹ Section 1001.60(1), F.S.

²⁰ Art. IX, s. 8, Fla. Const.

²¹ The Southern Association of Colleges and Schools Commission on Colleges (SACSCOC) is the regional body for the accreditation of degree-granting higher education institutions in the southern states. It serves as the common denominator of shared values and practices among the diverse institutions in Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Texas, Virginia and Latin America and other international sites approved by the SACSCOC Board of Trustees that award associate, baccalaureate, master's, or doctoral degrees. Southern Association of Colleges and Schools Commission on Colleges, <http://sacscoc.org/> (last visited Nov. 19, 2019). All FCS institutions except Hillsborough Community College are accredited to the baccalaureate degree level. SACSCOC, *Florida*, <http://sacscoc.org/searchResults.asp> (last visited Nov. 19, 2019).

²² Section 1007.23(4), F.S. The statewide articulation agreement guarantees the statewide articulation of appropriate workforce development programs and courses between school districts and FCS institutions and specifically provide that every ATD graduate must be granted the same amount of credit upon admission to an AAS or AS degree program.

²³ Florida Department of Education, *PSAV to AAS/AS Degree*, <http://www.fldoe.org/academics/career-adult-edu/career-technical-edu-agreements/psav-to-aas-as-degree.stml> (last visited Nov. 19, 2019), and *Applied Technology Diploma to Associate in Science or Associate in Applied Science Program Articulation 2019-20* (Apr. 2019), available at <http://www.fldoe.org/core/fileparse.php/7525/urlt/atd-to-asandaas-articulationagreements.pdf>.

²⁴ Florida Department of Education, *Postsecondary Adult Vocational (PSAV) to AAS/AS Degree Articulation, Statewide Agreement Worksheet Summary* (Feb. 28, 2018), available at <http://www.fldoe.org/core/fileparse.php/7525/urlt/p1-practicalnursing.rtf>.

Florida Public Postsecondary Nursing Programs

Any educational institution that wishes to conduct a program in Florida for the pre-licensure education of professional or practical nurses must apply to the Department of Health, and be approved by the Florida Board of Nursing.²⁵

Each FCS institution offers a 72-credit hour AS degree in nursing to prepare students for employment as Registered Nurses. Each AS degree must also include a minimum of 15 college credits of general education coursework.²⁶ The standards for all Florida AS degree programs, including nursing, are determined in the curriculum frameworks maintained by the Department of Education (DOE).²⁷ All Florida AS nursing degree programs are accredited by the Accreditation Commission for Education in Nursing (ACEN).²⁸ There is currently no curriculum framework for an AAS degree in nursing, and no AAS degree programs in nursing are offered by FCS institutions.

There are 39 COE-accredited career centers and career center branches that offer a practical nursing program.²⁹ The program is designed to prepare students for employment as licensed practical nurses (LPNs). The 1350-hour LPN program standards are listed in the Practical Nursing curriculum framework maintained by the DOE.³⁰ Only the Broward County School District has received ACEN accreditation at the practical nursing level.³¹

²⁵ Section 464.019, F.S. The Florida Board of Nursing is a 13-member board within the Department of Health that licenses, monitors, disciplines, educates and, when appropriate, rehabilitates its licensees to assure their fitness and competence in providing health care services for the people of Florida. Section 464.004, F.S., and Florida Board of Nursing, <https://floridasnursing.gov/> (last visited Dec. 3, 2019).

²⁶ Rule 6A-14.030(4), F.A.C.

²⁷ The Career & Technical Education (CTE) Programs section in the DOE is responsible for developing and maintaining educational programs that prepare individuals for occupations important to Florida's economic development. These programs are organized into 17 different career clusters and are geared toward middle school, high school, district technical school, and FCS students throughout the state. With the help of partners in education, business and industry, and trade associations, each program includes the academic and technical skills required to be successful in today's economy. Florida Department of Education, *Career & Technical Education*, <http://www.fldoe.org/academics/career-adult-edu/career-tech-edu/> (last visited Dec. 3, 2019).

²⁸ The purpose of the ACEN is to provide specialized accreditation for all levels of nursing education and transition-to-practice programs. The ACEN accredits nursing education programs in secondary, postsecondary, and hospital-based governing organizations that offer certificates, diplomas, or degrees. The ACEN serves as a Title IV gatekeeper for all types of nursing education programs offered by certain institutions that are eligible to participate in financial aid programs administered by the United States Department of Education or other federal agencies. Accreditation Commission for Education in Nursing, *Mission, Purpose, Goals*, <https://www.acenursing.org/> (last visited Nov. 19, 2019).

²⁹ Florida Department of Education, *Florida Postsecondary Adult Vocational Certificate Programs, 2019-20 Council of Occupational Education (COE) Matrix* (Oct. 31, 2019), available at <http://www.fldoe.org/core/fileparse.php/5652/urlt/coematrix.xls>.

³⁰ Florida Department of Education, *Curriculum Framework, Practical Nursing* (2019-2020), available at <http://fldoe.org/core/fileparse.php/18703/urlt/H170607-1920.rtf>.

³¹ Accrediting Commission for Education in Nursing, *Search ACEN Accredited Nursing Programs*, <http://www.acenursing.us/accreditedprograms/programsearch.asp> (last visited Nov. 19, 2019).

III. Effect of Proposed Changes:

SB 418 authorizes school district career centers to offer an associate in applied science (AAS) or associate in science (AS) degree program, but only to graduates of a licensed practical nursing (LPN) program offered at that same career center.

The bill expands the number of institutions that may offer an associate degree in nursing, and so may increase access to such programs for students. Students who complete such programs and are licensed may increase the supply of nurses in Florida. Career centers that implement associate degree programs will be required to comply with additional requirements related to college credit programs and to institution and program accreditation.

Associate Degree Program Requirements

Students entering a college-credit nursing program who are not otherwise exempt would be required to complete a common placement test to assess basic mathematics and communication skills.³² In addition, a career center offering an AS nursing degree would be required to include in the program 15 credit hours of general education coursework. This general education coursework requirement would also apply to an AAS nursing program. However, since there is currently no AAS nursing curriculum framework, there is no mechanism to enroll students into AAS programs.

In addition, the career center that offers the college-credit (professional) nursing program would be required to meet faculty qualifications that are more rigorous than those required for a practical nursing program.³³

Institution Accreditation

In addition to seeking approval from the Board of Nursing for an AS degree program in nursing, in order to remain eligible for federal financial aid the career center would be required to seek institutional accreditation from an agency other than the Council on Occupational Education, which does not accredit institutions that offer credentials higher than an AAS degree. The career center would also be required to seek program accreditation for its nursing program. Florida law requires that a nursing education program that prepares students for the practice of professional nursing and that is approved by the Board of Nursing must become an accredited program within 5 years after the date of enrolling the program's first students.³⁴

³² Section 1008.30, F.S. The State Board of Education, in conjunction with the Board of Governors, is required to develop and implement a common placement test for the purpose of assessing the basic computation and communication skills of students who intend to enter a degree program at any public postsecondary educational institution. A student who entered 9th grade in a Florida public school in the 2003-2004 school year, or any year thereafter, and earned a Florida standard high school diploma or a student who is serving as an active duty member of any branch of the United States Armed Services is not be required to take the common placement test. *Id.*

³³ An associate degree program requires the program director and at least 50 percent of the faculty to be registered nurses who have a master's or higher degree in nursing or a bachelor's degree in nursing and a master's or higher degree in a field related to nursing; a practical nursing program requires similar faculty to have bachelor's degrees. Section 464.019(1)(a), F.S.

³⁴ Section 464.019(11), F.S.

College Credit Program Tuition and Fees

Florida law³⁵ specifies tuition that applies to students enrolled in workforce education programs who are reported for funding. College credit fees for associate degree programs are determined in law and are specific only to Florida College System (FCS) institutions.³⁶ It is unclear if such fees currently applied to FCS institution college-credit programs would be applied to school district career center college-credit programs.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

³⁵ Section 1009.22, F.S. The tuition for programs leading to a career certificate or an ATD is \$2.33 per contact hour for residents and nonresidents and the out-of-state fee is \$6.99 per contact hour. Adult general education programs have a block tuition of \$45 per half year or \$30 per term. Fees are determined by the district school board or FCS institution.

³⁶ Section 1009.23, F.S. For FCS institution college credit, developmental education, and educator preparation institute programs, the standard tuition is \$71.98 per credit hour for residents and nonresidents, and the out-of-state fee is \$215.94 per credit hour. Fees are specified in law.

C. Government Sector Impact:

School district career centers that choose to implement an associate degree nursing program would likely incur expenses related Board of Nursing approval, institution accreditation from another entity, and nursing program accreditation. For example:

- There is a \$1,000 application fee to the Board of Nursing.
- An institution seeking accreditation from the Southern Association of Colleges and Schools would incur a \$10,000 application fee, \$2,500 candidate fee, plus additional fees for site visits.³⁷
- Accreditation Commission for Education in Nursing fees include \$3,500 for candidacy and initial accreditation, plus additional fees for site visits and full accreditation.³⁸

VI. Technical Deficiencies:

The bill authorizes a career center to offer an associate in applied science (AAS) or associate in science (AS) degree program in nursing. However, the bill specifies that a career center offering only the AS degree may offer such degree to graduates of a licensed practical nursing programs at that career center, and appears to omit that restriction for a career center offering the AAS degree.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 1011.80 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

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

³⁷ Southern Association of Colleges and Schools Commission on Colleges, *Dues, Fees, and Expenses* (Aug. 2018), available at <http://www.sacscoc.org/pdf/081705/Dues.pdf>.

³⁸ Accreditation Commission for Education in Nursing, *2020 Schedule of Fees*, <https://www.acenursing.org/for-programs/general-resources/2020-schedule-of-fees/> (last visited Nov. 20, 2019).



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LEGISLATIVE ACTION

Senate

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House

The Committee on Education (Diaz) recommended the following:

Senate Amendment

Delete lines 24 - 25

and insert:

science degree program in nursing if the career center
offering the associate in applied science or associate in
science degree program in nursing offers it

By Senator Diaz

36-00457-20

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1 A bill to be entitled
2 An act relating to workforce education; amending s.
3 1011.80, F.S.; revising the workforce education
4 programs that school district career centers are
5 authorized to conduct; providing an effective date.
6

7 Be It Enacted by the Legislature of the State of Florida:
8

9 Section 1. Subsection (2) of section 1011.80, Florida
10 Statutes, is amended to read:

11 1011.80 Funds for operation of workforce education
12 programs.—

13 (2) Any workforce education program may be conducted by a
14 Florida College System institution or a school district, except
15 that college credit in an associate in applied science or an
16 associate in science degree may be awarded only by a Florida
17 College System institution. However, a school district career
18 center may conduct the following:

19 (a) Portions of ~~if~~ an associate in applied science or an
20 associate in science degree program ~~which contain~~ ~~contains~~
21 ~~within it~~ an occupational completion point that confers a
22 certificate or an applied technology diploma.

23 (b) An associate in applied science or an associate in
24 science degree nursing program if the technical center offering
25 the associate in science nursing degree program offers it only
26 to graduates of a licensed practical nursing program offered by
27 the same center, ~~that portion of the program may be conducted by~~
28 a school district career center. Any instruction designed to
29 articulate to a degree program is subject to guidelines and

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30 standards adopted by the State Board of Education pursuant to s.
31 1007.25.

32 Section 2. This act shall take effect July 1, 2020.

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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 Education

BILL: SB 434

INTRODUCER: Senator Montford

SUBJECT: Designation of School Grades

DATE: December 6, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Bouck</u>	<u>Sikes</u>	<u>ED</u>	<u>Pre-meeting</u>
2.	_____	_____	<u>AED</u>	_____
3.	_____	_____	<u>AP</u>	_____

I. Summary:

SB 434 modifies the high school acceleration component of the school grading model to add to the calculation career certificate dual enrollment courses resulting in 450 or more clock hours that are identified by the State Board of Education.

The bill has no impact on state revenues or expenditures.

The bill take effect on July 1, 2020.

II. Present Situation:

School grades provide an easily understandable way to measure the performance of a school. Parents and the general public can use the school grade and its components to understand how well each school is serving its students.¹ School grades are used in the state system of school improvement and accountability to determine the need for school intervention and support,² or to determine whether a school is eligible for school recognition funds.³

Schools are graded using one of the following grades:⁴

- “A,” schools making excellent progress (62 percent or higher of total applicable points).
- “B,” schools making above average progress (54 to 61 percent of total applicable points).
- “C,” schools making satisfactory progress (41 to 53 percent of total applicable points).
- “D,” schools making less than satisfactory progress (32 to 40 percent of total applicable points).

¹ Florida Department of Education, *2019 School Grades Overview*, available at <http://www.fldoe.org/core/fileparse.php/18534/urlt/SchoolGradesOverview19.pdf>.

² See s. 1008.33(4), F.S.

³ See s. 1008.36, F.S.

⁴ Section 1008.34(2), F.S., and Rule 6A-1.09981(4)(d), F.A.C.

- “F,” schools failing to make adequate progress (31 percent or less of total applicable points).

Elementary schools, middle schools, and high schools each share a basic model for determining school grades, based on the percentage of total points earned by a school for each component in the model. All schools are graded on the percentage of eligible students who pass assessments in English Language Arts (ELA), mathematics, science, and social studies; student learning gains in ELA and mathematics; and students in the lowest 25 percent of ELA and mathematics performers who make learning gains.⁵ Middle and high school models include additional components beyond the basic model.⁶

For a high school comprised of grades 9 through 12 or grades 10 through 12, the school’s grade is also based on following components:⁷

- The 4-year high school graduation rate of the school as defined by State Board of Education (SBE) rule.⁸
- The percentage of students who were eligible to earn college and career credit through College Board Advanced Placement (AP) examinations, International Baccalaureate (IB) examinations, dual enrollment courses, or Advanced International Certificate of Education (AICE) examinations; or who, at any time during high school, earned a national industry certification identified in the career and professional education (CAPE) Industry Certification Funding List, pursuant to rules adopted by the SBE.

The SBE determines the examinations, dual enrollment courses, and industry certifications to be included in the school grades acceleration component, as follows:

- AP, IB, and AICE passing examination scores and applicable college credit⁹ and CAPE industry certifications¹⁰ are determined in SBE rule.
- The Commissioner of Education is required to recommend to the SBE postsecondary courses and credits completed through dual enrollment that will meet high school graduation requirements.¹¹ The SBE annually approves the *Dual Enrollment Course—High School*

⁵ Section 1008.34(3)(b), F.S. If a school does not have at least 10 students with complete data for one or more of the components, those components may not be used in calculating the school’s grade. Section 1008.34(3)(a), F.S.

⁶ See s. 1008.34(3)(b), F.S., and Rule 6A-1.09981(4)(a)-(c), F.A.C.

⁷ Section 1008.34(3)(b)2., F.S., and Rule 6A-1.09981(4)(c)2. and 3., F.A.C.

⁸ The four-year high school graduation rate of the school as measured according to 34 CFR s. 200.19, Other Academic Indicators, effective November 28, 2008. Rule 6A-1.09981(4)(c)1., F.A.C.

⁹ The *Articulation Coordinating Committee Credit-by-Exam Equivalencies* establishes passing scores and course and credit equivalents for Advanced Placement (AP), Advanced International Certificate of Education Program (AICE), International Baccalaureate (IB), DSST (DANTES), Defense Language Proficiency Test (DLPT), UExcel (Excelsior College Exams), and College-Level Examination Program (CLEP) exams. Public community colleges and universities in Florida are required to award the minimum recommended credit for AP, AICE, IB, DSST, DLPT, UExcel (Excelsior), and CLEP exams as designated. Section 1007.27(2), F.S., and Rule 6A-10.024(8)(a), F.A.C. See also Florida Department of Education, *Articulation Coordinating Committee Credit-by-Exam Equivalencies* (June 2019), available at <https://www.flrules.org/gateway/reference.asp?No=Ref-10512>.

¹⁰ Section 1008.44, F.S., requires the SBE to annually identify CAPE industry certifications that meet specified requirements. The approved list is used to distribution of funding to school districts. Approved CAPE industry certifications are incorporated into Rule 6A-6.0573, F.A.C.

¹¹ Section 1007.271(9), F.S.

*Subject Area Equivalency List*¹² for both college-credit academic and non-college-credit career certificate courses.

Only college-credit-bearing courses are considered dual enrollment courses for the purposes of the school grade calculation.¹³ Non-college-credit (clock hour) career certificate dual enrollment courses are not included in the school grade calculation.¹⁴

III. Effect of Proposed Changes:

SB 434 modifies the high school acceleration component of the school grading model to add to the calculation career certificate dual enrollment courses resulting in 450 or more clock hours that are identified by the State Board of Education (SBE) pursuant to law.

The specification in the bill that only those career certificate courses that result in 450 or more clock hours is consistent with financial aid definitions regarding full-time instruction. For financial aid purposes, full-time is defined as either 12 postsecondary credit hours or 450 clock hours per semester.¹⁵ In the most recent *Dual Enrollment Course—High School Subject Area Equivalency List* approved by the SBE, there are a total of 961 postsecondary career certificate courses approved for dual enrollment. Of these, 86 career certificate courses are offered for at least 450 clock hours, and may be included in the school grades calculation as modified in the bill.¹⁶

The bill may incentivize school districts to increase the enrollment of high school students in career certificate courses through dual enrollment, which may have a positive effect on a high school's grade calculation. Students may then have more opportunities to complete career education programs and industry certifications.

¹² The academic courses are available at: Florida Department of Education, *2019-2020 Dual Enrollment Course-High School Subject Area Equivalency List* (approved by the SBE on May 22, 2019), available at <http://www.fldoe.org/core/fileparse.php/5421/urlt/AcademicList1920.pdf>, Career courses are available at: Florida Department of Education, *2019-2020 Dual Enrollment Course- High School Subject Area Equivalency List, Career Dual Enrollment Credit* (approved by the SBE on May 22, 2019), available at <http://www.fldoe.org/core/fileparse.php/5421/urlt/CareerTechList1920.pdf>.

¹³ Florida Department of Education, *2018-19 Guide to Calculating School Grades, District Grades, and the Federal Percent of Points Index* (July 2019), available at <http://www.fldoe.org/core/fileparse.php/18534/urlt/SchoolGradesCalcGuide19.pdf>, at 2 and 27.

¹⁴ College credit is the type of credit assigned by a postsecondary institution to courses or course equivalent learning that is part of an organized and specified program leading to a baccalaureate, associate degree, certificate, or Applied Technology Diploma. One (1) college credit is based on the learning expected from the equivalent of fifteen (15) fifty-minute periods of classroom instruction; with credits for such activities as laboratory instruction, internships, and clinical experience determined by the institution based on the proportion of direct instruction to the laboratory exercise, internship hours, or clinical practice hours. A clock hour is the unit assigned to courses or course equivalent learning that is part of an organized and specified program leading to an Applied Technology Diploma or a Career and Technical Certificate. It applies to postsecondary adult career courses. One (1) clock hour is based on the learning expected from the equivalent of thirty (30) hours of instruction. Rule 6A-14.030(1)(a)1. and 2., F.A.C.

¹⁵ Section 1009.40(1)(b), F.S., and 6A-20.001(17), F.A.C.

¹⁶ In the career dual enrollment course list approved by the SBE, 75 clock hours is equivalent to 0.5 high school credit; 3.0 high school credits are equivalent to 450 hours. Florida Department of Education, *2019-2020 Dual Enrollment Course- High School Subject Area Equivalency List, Career Dual Enrollment Credit* (approved by the SBE on May 22, 2019), available at <http://www.fldoe.org/core/fileparse.php/5421/urlt/CareerTechList1920.pdf>.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill has no impact on state revenues or expenditures. However, a high school with students who complete approved career education courses through dual enrollment may realize an increase in that high school's grade, which may increase the likelihood of the school becoming eligible for school recognition funds.¹⁷

VI. Technical Deficiencies:

None.

¹⁷ The Florida School Recognition Program provides financial awards to public schools that: (1) sustain high performance by receiving a school grade of "A;" or (2) demonstrate exemplary improvement by improving at least one letter grade or by improving more than one letter grade and sustaining the improvement the following school year. Section 1008.36, F.S. The 2019-2020 school recognition program awarded \$100 per student to 1,731 schools. School awards ranged from \$1,679 to \$465,499. Florida Department of Education, *2019-20 Florida School Recognition Program Awards by School Based on 2018-19 Performance Data*, available at <http://www.fldoe.org/core/fileparse.php/7765/urlt/2019schools.xls>.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 1008.34 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

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



979684

LEGISLATIVE ACTION

Senate

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. .
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. .
. .

House

The Committee on Education (Montford) recommended the following:

Senate Amendment

Delete line 66

and insert:

enrollment courses resulting in 300 hours or more of clock hours

By Senator Montford

3-00550A-20

2020434__

1 A bill to be entitled
2 An act relating to designation of school grades;
3 amending s. 1008.34, F.S.; revising the components on
4 which a school's grade is based; providing an
5 effective date.

6
7 Be It Enacted by the Legislature of the State of Florida:

8
9 Section 1. Paragraph (b) of subsection (3) of section
10 1008.34, Florida Statutes, is amended to read:

11 1008.34 School grading system; school report cards;
12 district grade.—

13 (3) DESIGNATION OF SCHOOL GRADES.—

14 (b)1. Beginning with the 2014-2015 school year, a school's
15 grade shall be based on the following components, each worth 100
16 points:

17 a. The percentage of eligible students passing statewide,
18 standardized assessments in English Language Arts under s.
19 1008.22(3).

20 b. The percentage of eligible students passing statewide,
21 standardized assessments in mathematics under s. 1008.22(3).

22 c. The percentage of eligible students passing statewide,
23 standardized assessments in science under s. 1008.22(3).

24 d. The percentage of eligible students passing statewide,
25 standardized assessments in social studies under s. 1008.22(3).

26 e. The percentage of eligible students who make Learning
27 Gains in English Language Arts as measured by statewide,
28 standardized assessments administered under s. 1008.22(3).

29 f. The percentage of eligible students who make Learning

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30 Gains in mathematics as measured by statewide, standardized
31 assessments administered under s. 1008.22(3).

32 g. The percentage of eligible students in the lowest 25
33 percent in English Language Arts, as identified by prior year
34 performance on statewide, standardized assessments, who make
35 Learning Gains as measured by statewide, standardized English
36 Language Arts assessments administered under s. 1008.22(3).

37 h. The percentage of eligible students in the lowest 25
38 percent in mathematics, as identified by prior year performance
39 on statewide, standardized assessments, who make Learning Gains
40 as measured by statewide, standardized Mathematics assessments
41 administered under s. 1008.22(3).

42 i. For schools comprised of middle grades 6 through 8 or
43 grades 7 and 8, the percentage of eligible students passing high
44 school level statewide, standardized end-of-course assessments
45 or attaining national industry certifications identified in the
46 CAPE Industry Certification Funding List pursuant to rules
47 adopted by the State Board of Education.

48
49 In calculating Learning Gains for the components listed in sub-
50 subparagraphs e.-h., the State Board of Education shall require
51 that learning growth toward achievement levels 3, 4, and 5 is
52 demonstrated by students who scored below each of those levels
53 in the prior year. In calculating the components in sub-
54 subparagraphs a.-d., the state board shall include the
55 performance of English language learners only if they have been
56 enrolled in a school in the United States for more than 2 years.

57 2. For a school comprised of grades 9, 10, 11, and 12, or
58 grades 10, 11, and 12, the school's grade shall also be based on

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59 the following components, each worth 100 points:

60 a. The 4-year high school graduation rate of the school as
61 defined by state board rule.

62 b. The percentage of students who were eligible to earn
63 college and career credit through College Board Advanced
64 Placement examinations, International Baccalaureate
65 examinations, dual enrollment courses, including career dual
66 enrollment courses resulting in 450 hours or more of clock hours
67 which are identified by the state board as meeting the
68 requirements of s. 1007.271, or Advanced International
69 Certificate of Education examinations; or who, at any time
70 during high school, earned national industry certification
71 identified in the CAPE Industry Certification Funding List,
72 pursuant to rules adopted by the state board.

73 Section 2. This act shall take effect July 1, 2020.

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 Education

BILL: SB 486

INTRODUCER: Senator Bradley

SUBJECT: Florida Best and Brightest Programs

DATE: December 6, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Brick	Sikes	ED	Pre-meeting
2.			AED	
3.			AP	

I. Summary:

SB 486 repeals the Florida Best and Brightest Teacher Program, the Florida Best and Brightest Principal Program, and the Florida Best and Brightest Teacher and Principal Allocation.

In the 2019-2020 fiscal year, the legislature appropriated \$284.5 million for the Florida Best and Brightest Teacher and Principal Allocation through the Florida Education Finance Program.

The bill takes effect July 1, 2020.

II. Present Situation:

In 2015, the legislature established the Florida Best and Brightest Teacher Scholarship Program to award scholarships to highly effective classroom teachers who demonstrate a high level of academic achievement.¹ In 2017, the legislature established the Florida Best and Brightest Principal Scholarship Program to provide categorical funding for scholarships to school principals who recruit and retain a high percentage of best and brightest teachers.² In 2019, the legislature revised the Best and Brightest Teacher Scholarship Program to remove a teacher's scores on qualifying academic assessments as a factor in determining eligibility for the award and created the Florida Best and Brightest Teacher and Principal Allocation to fund both programs within the Florida Education Finance Program (FEFP).³

The Florida Best and Brightest Teacher Program authorizes three types of monetary awards for teachers – recruitment, retention and recognition – each with distinct criteria for determining

¹ Specific Appropriation 99A, s. 2, ch. 2015-232L.O.F.

² Section 47, ch. 2017-116, L.O.F.

³ Sections 19-20, ch. 2019-23, L.O.F.

eligibility.⁴ The Florida Best and Brightest Principal Program authorizes monetary awards to school principals based on school performance.

The Florida Best and Brightest Teacher Program

The Florida Best and Brightest Teacher Program provides bonuses to recruit, retain, and recognize teachers who meet the needs of the state and achieve success in the classroom. The law provides the following awards:⁵

- Recruitment awards for newly hired teachers who are content experts in mathematics, science, computer science, reading, or civics.⁶
- Retention awards for teachers rated as “highly effective” or “effective” the preceding year who teach in a school that has demonstrated academic improvement, as evidenced by the school improving an average of three percentage points or more in the percentage of total possible points achieved for determining school grades over the prior 3 years.
- Recognition awards for instructional personnel rated as “highly effective” or “effective” and selected by the school principal based on performance criteria and policies adopted by the district school board.

The Florida Best and Brightest Principal Program

A school principal is eligible for an award under the Florida Best and Brightest Principal Program if the principal has been serving as school principal at his or her school for at least four consecutive school years, and the school has improved an average of three percentage points or more in the percentage of total possible points achieved for determining school grades over the prior 3 years.⁷

The Florida Best and Brightest Teacher and Principal Allocation

The Florida Best and Brightest Teacher and Principal Allocation provides the funding for the Best and Brightest Teacher and Principal programs. All award amounts for the programs are specified annually in the General Appropriations Act (GAA) and distributed to each school district based on the district’s proportionate share of FEFP base funding.⁸ For the 2019-2020 fiscal year, the legislature appropriated \$284.5 million for Best and Brightest Teacher and Principal program awards, including:⁹

- One-time recruitment awards of up to \$4,000;
- Retention awards of \$2,500 for highly effective teachers and \$1,000 for effective teachers;
- Principal awards of \$5,000.

⁴ Section 1012.731, F.S.

⁵ Section 1012.731, F.S.

⁶ The Florida Department of Education establishes the criteria, which is set forth in Rule 6A-1.0503, F.A.C., for determining which teachers qualify as content experts. Section 1012.731(3)(a), F.S.

⁷ Section 1012.732, F.S.

⁸ Section 1011.62(18), F.S.

⁹ Specific Appropriation 93, s. 2, ch. 2019-115, L.O.F.

If the calculated awards exceed the allocation, a school district may prorate the awards.¹⁰ A school district may provide recognition awards for instructional personnel from funds remaining after the payment of all awards for principals and teacher recruitment and retention.¹¹

III. Effect of Proposed Changes:

SB 486 repeals the Florida Best and Brightest Teacher Program, the Florida Best and Brightest Principal Program, and the Florida Best and Brightest Teacher and Principal Allocation. The repeal of these programs and the associated allocation may result in the elimination of awards available for eligible teachers, principals, and instructional personnel under the programs.

The bill takes effect July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

SB 486 may result in the elimination of awards currently available for eligible teachers, principals, and instructional personnel under the Florida Best and Brightest Teacher and Principal programs.

¹⁰ Section 1011.62(18), F.S.

¹¹ Section 1012.731(3)(c), F.S.

C. Government Sector Impact:

In the 2019-2020 fiscal year, the legislature appropriated \$284.5 million for the Florida Best and Brightest Teacher and Principal Allocation through the Florida Education Finance Program. The appropriation of such funds may no longer be necessary with the repeal of the Florida Best and Brightest Teacher and Principal programs and the associated allocation.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends ss. 1011.62 and 1011.71, F.S.
The bill repeals ss. 1012.731 and 1012.732, F.S.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

By Senator Bradley

5-00798-20

2020486__

1 A bill to be entitled
 2 An act relating to the Florida Best and Brightest
 3 programs; repealing s. 1012.731, F.S., relating to the
 4 Florida Best and Brightest Teacher Program; repealing
 5 s. 1012.732, F.S., relating to the Florida Best and
 6 Brightest Principal Program; amending s. 1011.62,
 7 F.S.; conforming provisions to changes made by the
 8 act; amending s. 1011.71, F.S.; conforming a cross-
 9 reference; providing an effective date.

10

11 Be It Enacted by the Legislature of the State of Florida:

12

13 Section 1. Section 1012.731, Florida Statutes, is repealed.
 14 Section 2. Section 1012.732, Florida Statutes, is repealed.
 15 Section 3. Paragraph (a) of subsection (4) and subsections
 16 (11), (14), and (18) of section 1011.62, Florida Statutes, are
 17 amended to read:

18 1011.62 Funds for operation of schools.—If the annual
 19 allocation from the Florida Education Finance Program to each
 20 district for operation of schools is not determined in the
 21 annual appropriations act or the substantive bill implementing
 22 the annual appropriations act, it shall be determined as
 23 follows:

24 (4) COMPUTATION OF DISTRICT REQUIRED LOCAL EFFORT.—The
 25 Legislature shall prescribe the aggregate required local effort
 26 for all school districts collectively as an item in the General
 27 Appropriations Act for each fiscal year. The amount that each
 28 district shall provide annually toward the cost of the Florida
 29 Education Finance Program for kindergarten through grade 12

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30 programs shall be calculated as follows:
 31 (a) *Estimated taxable value calculations.*—
 32 1.a. Not later than 2 working days before July 19, the
 33 Department of Revenue shall certify to the Commissioner of
 34 Education its most recent estimate of the taxable value for
 35 school purposes in each school district and the total for all
 36 school districts in the state for the current calendar year
 37 based on the latest available data obtained from the local
 38 property appraisers. The value certified shall be the taxable
 39 value for school purposes for that year, and no further
 40 adjustments shall be made, except those made pursuant to
 41 paragraphs (c) and (d), or an assessment roll change required by
 42 final judicial decisions as specified in paragraph (18) (b)
 43 ~~(19) (b)~~. Not later than July 19, the Commissioner of Education
 44 shall compute a millage rate, rounded to the next highest one
 45 one-thousandth of a mill, which, when applied to 96 percent of
 46 the estimated state total taxable value for school purposes,
 47 would generate the prescribed aggregate required local effort
 48 for that year for all districts. The Commissioner of Education
 49 shall certify to each district school board the millage rate,
 50 computed as prescribed in this subparagraph, as the minimum
 51 millage rate necessary to provide the district required local
 52 effort for that year.

53 b. The General Appropriations Act shall direct the
 54 computation of the statewide adjusted aggregate amount for
 55 required local effort for all school districts collectively from
 56 ad valorem taxes to ensure that no school district's revenue
 57 from required local effort millage will produce more than 90
 58 percent of the district's total Florida Education Finance

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59 Program calculation as calculated and adopted by the
60 Legislature, and the adjustment of the required local effort
61 millage rate of each district that produces more than 90 percent
62 of its total Florida Education Finance Program entitlement to a
63 level that will produce only 90 percent of its total Florida
64 Education Finance Program entitlement in the July calculation.

65 2. On the same date as the certification in sub-
66 subparagraph 1.a., the Department of Revenue shall certify to
67 the Commissioner of Education for each district:

68 a. Each year for which the property appraiser has certified
69 the taxable value pursuant to s. 193.122(2) or (3), if
70 applicable, since the prior certification under sub-subparagraph
71 1.a.

72 b. For each year identified in sub-subparagraph a., the
73 taxable value certified by the appraiser pursuant to s.
74 193.122(2) or (3), if applicable, since the prior certification
75 under sub-subparagraph 1.a. This is the certification that
76 reflects all final administrative actions of the value
77 adjustment board.

78 (11) VIRTUAL EDUCATION CONTRIBUTION.—The Legislature may
79 annually provide in the Florida Education Finance Program a
80 virtual education contribution. The amount of the virtual
81 education contribution shall be the difference between the
82 amount per FTE established in the General Appropriations Act for
83 virtual education and the amount per FTE for each district and
84 the Florida Virtual School, which may be calculated by taking
85 the sum of the base FEFP allocation, the discretionary local
86 effort, the state-funded discretionary contribution, the
87 discretionary millage compression supplement, the research-based

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88 reading instruction allocation, ~~the best and brightest teacher~~
89 ~~and principal allocation~~, and the instructional materials
90 allocation, and then dividing by the total unweighted FTE. This
91 difference shall be multiplied by the virtual education
92 unweighted FTE for programs and options identified in s.
93 1002.455 and the Florida Virtual School and its franchises to
94 equal the virtual education contribution and shall be included
95 as a separate allocation in the funding formula.

96 (14) QUALITY ASSURANCE GUARANTEE.—The Legislature may
97 annually in the General Appropriations Act determine a
98 percentage increase in funds per K-12 unweighted FTE as a
99 minimum guarantee to each school district. The guarantee shall
100 be calculated from prior year base funding per unweighted FTE
101 student, which shall include the adjusted FTE dollars as
102 provided in subsection (18) ~~(19)~~, quality guarantee funds, and
103 actual nonvoted discretionary local effort from taxes. From the
104 base funding per unweighted FTE, the increase shall be
105 calculated for the current year. The current year funds from
106 which the guarantee shall be determined shall include the
107 adjusted FTE dollars as provided in subsection (18) ~~(19)~~ and
108 potential nonvoted discretionary local effort from taxes. A
109 comparison of current year funds per unweighted FTE to prior
110 year funds per unweighted FTE shall be computed. For those
111 school districts which have less than the legislatively assigned
112 percentage increase, funds shall be provided to guarantee the
113 assigned percentage increase in funds per unweighted FTE
114 student. Should appropriated funds be less than the sum of this
115 calculated amount for all districts, the commissioner shall
116 prorate each district's allocation. This provision shall be

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117 implemented to the extent specifically funded.

118 ~~(18) THE FLORIDA BEST AND BRIGHTEST TEACHER AND PRINCIPAL~~
119 ~~ALLOCATION.~~

120 ~~(a) The Florida Best and Brightest Teacher and Principal~~
121 ~~Allocation is created to recruit, retain, and recognize~~
122 ~~classroom teachers and instructional personnel who meet the~~
123 ~~criteria established in s. 1012.731 and reward principals who~~
124 ~~meet the criteria established in s. 1012.732. Subject to annual~~
125 ~~appropriation, each school district shall receive an allocation~~
126 ~~based on the district's proportionate share of PEFP base~~
127 ~~funding. The Legislature may specify a minimum allocation for~~
128 ~~all districts in the General Appropriations Act.~~

129 ~~(b) From the allocation, each district shall provide the~~
130 ~~following:~~

131 ~~1. A one-time recruitment award, as provided in s.~~

132 ~~1012.731(3)(a);~~

133 ~~2. A retention award, as provided in s. 1012.731(3)(b); and~~

134 ~~3. A recognition award, as provided in s. 1012.731(3)(c)~~
135 ~~from the remaining balance of the appropriation after the~~
136 ~~payment of all other awards authorized under ss. 1012.731 and~~
137 ~~1012.732.~~

138 ~~(c) From the allocation, each district shall provide~~
139 ~~eligible principals an award as provided in s. 1012.732(3).~~

140

141 ~~If a district's calculated awards exceed the allocation, the~~
142 ~~district may prorate the awards.~~

143 Section 4. Subsection (1) of section 1011.71, Florida
144 Statutes, is amended to read:

145 1011.71 District school tax.-

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146 (1) If the district school tax is not provided in the
147 General Appropriations Act or the substantive bill implementing
148 the General Appropriations Act, each district school board
149 desiring to participate in the state allocation of funds for
150 current operation as prescribed by s. 1011.62(18) ~~s. 1011.62(19)~~
151 shall levy on the taxable value for school purposes of the
152 district, exclusive of millage voted under s. 9(b) or s. 12,
153 Art. VII of the State Constitution, a millage rate not to exceed
154 the amount certified by the commissioner as the minimum millage
155 rate necessary to provide the district required local effort for
156 the current year, pursuant to s. 1011.62(4)(a)1. In addition to
157 the required local effort millage levy, each district school
158 board may levy a nonvoted current operating discretionary
159 millage. The Legislature shall prescribe annually in the
160 appropriations act the maximum amount of millage a district may
161 levy.

162 Section 5. This act shall take effect July 1, 2020.

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 Education

BILL: SB 534

INTRODUCER: Senators Diaz and Baxley

SUBJECT: Education

DATE: December 6, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Brick	Sikes	ED	Pre-meeting
2.			AP	
3.			RC	

I. Summary:

SB 534 requires the Department of Education (DOE) to maintain a list of persons permanently disqualified from employment in a public school or a private school that participates in a state educational scholarship program. The bill requires the disqualification list to include the identities of persons whose misconduct affects the health, safety, or welfare of a student and proscribes public schools, private schools participating in state scholarship programs, and approved virtual instruction providers from employing a person in a position with direct contact with students if the person is included on the disqualification list. The bill also:

- Requires that educational support employees be included to the same extent required for instructional personnel and school administrators in policies establishing standards of ethical conduct and procedures for investigating, reporting, and terminating personnel.
- Requires the complete investigation of complaints of misconduct by public school personnel and provides authority for the DOE to place a person on the disqualification list.
- Provides that a person commits a felony of the third degree for employing a person identified on the disqualification list.
- Provides authority for the DOE to remove a person from the disqualification list.
- Prohibits district school boards from rescreening an employee of an approved virtual instruction provider who has been screened in accordance with the rules for instructional and noninstructional personnel with direct contact with students in a district school system.

The bill takes effect July 1, 2020.

II. Present Situation:

The Department of Education (DOE) is required to provide technical assistance to school districts, charter schools, the Florida School for the Deaf and the Blind, and private schools that accept scholarship students who participate in a state scholarship program in the development of policies, procedures, and training related to employment practices and standards of ethical conduct for

instructional personnel and school administrators. The DOE is required to provide authorized staff of school districts, charter schools, the Florida School for the Deaf and the Blind, and private schools that accept scholarship students with access to:¹

- The Professional Practices' Database of Disciplinary Actions Against Educators;
- The DOE's Teacher Certification Database; and
- Data necessary for performing employment history checks of the instructional personnel and school administrators included in the databases.

The commissioner may deny, suspend, or revoke a private school's participation in a scholarship program if the commissioner determines that:²

- An owner or operator of the private school is operating or has operated an educational institution in this state or in another state or jurisdiction in a manner contrary to health, safety or welfare of the public; or
- The owner or operator has exhibited a previous pattern of failure to comply with the relevant law or specific requirements identified within respective scholarship program laws.

Disqualification from Employment

Before employing a person in any position that requires direct contact with students in a district school, charter school, or private school participating in a state scholarship program, the employer must conduct employment history checks of each of the person's previous employers, screen instructional personnel and school administrators using the Professional Practices' Database of Disciplinary Actions Against Educators and the DOE's Teacher Certification Database, and document the findings.³

A person is ineligible for an educator certification or employment in any position that requires direct contact with students in a district school system, charter school, or private school participating in a state scholarship program if the person has been convicted of certain offenses specified in law.⁴ District school boards and charter school governing boards must disqualify instructional personnel and school administrators from employment in any position that requires direct contact with students if the person is ineligible for employment due to a conviction of any of the specified offenses.

Criminal History Background Screening

Public Schools

Instructional and noninstructional personnel who are hired or contracted to fill positions that require direct contact with students in any public school, including a charter school, must file with the district school board a complete set of fingerprints, which are submitted to the Florida Department of Law Enforcement (FDLE) for statewide criminal and juvenile records checks and

¹ Section 1001.10(4) and (5), F.S.

² Section 1002.421(3), F.S.

³ Sections 1002.33(12), 1002.421(1), and 1012.27(6), F.S.

⁴ Section 1012.315, F.S.

to the Federal Bureau of Investigation (FBI) for national criminal records checks.⁵ The screening cost is borne by the district school board, the charter school, the employee, the contractor, or other person subject to the screening requirements.⁶ FBI criminal history record information may be used solely for the purpose requested and cannot be disseminated outside the receiving departments, related agencies, or other authorized entities.⁷ The FDLE must retain the fingerprints and report any arrest record of a person that is identified with the retained fingerprints to the employing or contracting school district or the school district with which the person is affiliated.⁸ Employees and contracted personnel subject to these fingerprinting requirements must be rescreened every five years.⁹

Private Schools Accepting State Scholarship Students

A private school that participates in a state educational scholarship program must require each employee, contracted personnel, and owner or operator with direct student contact to undergo a state and national background screening by electronically filing a complete set of fingerprints with the FDLE.¹⁰ The FDLE must retain the fingerprints and report any arrest record of a person that is identified with the retained fingerprints to the employing or contracting private school.¹¹ Employees and contracted personnel subject to these fingerprinting requirements must be rescreened every five years.¹²

Approved Virtual Instruction Programs

An approved virtual instruction provider must require all instructional staff to hold certificates issued by the DOE and conduct background screening for all instructional and noninstructional personnel who are hired or contracted to fill positions that require direct contact with students, using state and national criminal history records.¹³ Instructional and noninstructional personnel of an approved virtual instructional provider who are contracted to fill positions that require direct contact with students in any public school must also satisfy the screening, fingerprint retention, and rescreening requirements of the public school with which the personnel are contracted.¹⁴

Standards of Ethical Conduct for Education Personnel

District school boards, charter school governing boards, and private schools participating in state educational scholarship programs are required to adopt policies establishing standards of ethical conduct for instructional personnel and school administrators.¹⁵

⁵ Section 1012.32(2), F.S. This requirement is subject to limited exceptions for noninstructional contractors who meet the requirements specified in s. 1012.468, F.S.

⁶ *Id.*

⁷ 28 C.F.R. s. 50.12(b).

⁸ Section 1012.32(3), F.S.

⁹ Sections 1012.465 and 1012.56(10), F.S.

¹⁰ Section 1002.421(1)(m) and (p), F.S.

¹¹ Section 1002.421(1)(m), F.S.

¹² *Id.*

¹³ Section 1002.45(2)(a), F.S.

¹⁴ Section 1012.32, F.S.

¹⁵ Sections 1001.42(6), 1002.33(12)(g), 1002.421(1)(n), 1012.796(1)(d), F.S.

The policies must require all instructional personnel and school administrators to complete training on the standards of ethical conduct, establish the duty of, and procedures for, instructional personnel and school administrators to report alleged misconduct by other instructional personnel and school administrators which affects the health, safety, or welfare of a student. These policies must also include an explanation of liability protections for reporting child abuse and disclosing information concerning former employees.

A school district or private school that participates in a state scholarship program may not enter into a confidentiality agreement regarding terminated or dismissed instructional personnel or school administrators, or personnel or administrators who resign in lieu of termination. School districts and private schools that participate in a state scholarship program must disclose misconduct that affects the health, safety, or welfare of a student when discussing performance with prospective employers in another educational setting. Any part of an agreement or contract that has the purpose or effect of concealing misconduct by instructional personnel or school administrators which affects the health, safety, or welfare of a student is void, is contrary to public policy, and may not be enforced.¹⁶

District school board policies must additionally require the superintendent to report to law enforcement misconduct by instructional personnel or school administrators that would result in disqualification from educator certification or employment.

District school board officials and superintendents, charter schools, and private schools participating in state scholarship programs are subject to penalties for failing to adopt policies establishing standards of ethical conduct. Specifically:

- If a school board member knowingly fails to adopt policies that require instructional personnel and school administrators to report misconduct, the member forfeits his or her salary for one year.¹⁷
- A district school superintendent who knowingly fails to investigate or report such misconduct, or knowingly files a false report of misconduct, also forfeits his or her salary for one year.¹⁸
- The sponsor¹⁹ of the charter school must terminate the charter.²⁰
- The DOE must suspend the payment of funds to a private school and shall prohibit the school from enrolling new scholarship students for one fiscal year and until the school complies. In the event the private school consistently fails to comply, the commissioner may determine that the private school is ineligible to participate in a scholarship program.

Complaints against Teachers and Administrators

A person seeking employment at a public school as a school supervisor, principal, teacher, library media specialist, counselor, athletic coach, or in another instructional capacity must hold

¹⁶ *Id.*

¹⁷ Section 1001.42(7)(b), F.S.

¹⁸ Section 1001.51(12), F.S.

¹⁹ The local district school board or a state university may sponsor a charter school. Section 1002.33(5), F.S.

²⁰ Section 1002.33(12)(g)5., F.S.

a certificate issued by the DOE.²¹ If allegations arise against an employee who possesses an educator certificate and is employed in an educator-certificated position in any public school, charter school, or private school participating in a state scholarship program, the school must file a legally sufficient complaint with the DOE within 30 days from the date the school had notice of the incident, regardless of whether the subject of the allegations is still employed by the school.²²

The DOE is tasked with investigating any legally sufficient complaint filed before it or otherwise called to its attention that contains grounds for sanctions against an educator certificate and must immediately investigate any legally sufficient complaint that involves misconduct by any certificated personnel which affects the health, safety, or welfare of a student, giving the complaint priority over other pending complaints—even if the complainant withdraws the complaint.²³ The DOE may investigate a complaint filed against a person whose educator certificate has expired if the act or acts that are the basis for the complaint were allegedly committed while that person possessed an educator certificate.²⁴

A school district superintendent must report to the DOE an arrest or conviction of any administrative or instructional personnel for certain offenses specified by the DOE within twenty-four hours of a matter coming to the attention of a school district. The same reporting requirements apply to substantiated allegations of misconduct by any administrative or instructional personnel that would constitute any of offenses specified by the DOE, regardless of whether there has been an arrest or conviction.²⁵

The Education Practices Commission

The Education Practices Commission (EPC) is a quasi-judicial body of peers, law enforcement and lay persons that interprets and applies the standards of professional practice established by the SBE.²⁶ The EPC is assigned to the DOE for administrative purposes but is not subject to control, supervision, or direction by the DOE.²⁷

The EPC may impose one or more of the following penalties against a person with an educator certificate:²⁸

- Suspend the educator certificate of any instructional personnel or school administrator, for up to five years, thereby denying that person the right to teach or otherwise be employed by a district school board or public school in any capacity requiring direct contact with students for that period of time, after which the person may return to teaching;

²¹ Sections 1002.33(12)(f) (charter school teachers) and 1012.55(1), F.S. District school boards and charter school governing boards are authorized to hire non-certified individuals who possess expertise in a given field to serve in an instructional capacity. Rule 6A-1.0502, F.A.C.; ss. 1002.33(12)(f) and 1012.55(1)(c), F.S. Occupational therapists, physical therapists, audiologists, and speech therapists are not required to be certified educators. Rule 6A-1.0502(10) and (11), F.A.C.

²² Section 1012.796(1)(e), F.S.

²³ Section 1012.796(1), F.S.

²⁴ *Id.*

²⁵ Rule 6A-10.082, F.A.C.

²⁶ Section 1012.79, F.S.

²⁷ Section 1012.79(6)(a), F.S.

²⁸ Section 1012.795(1), F.S.

- Revoke the educator certificate of any person, thereby denying that person the right to teach or otherwise be employed by a district school board or public school in any capacity requiring direct contact with students for up to 10 years, with reinstatement subject to law;
- Permanently revoke the educator certificate of any person thereby denying that person the right to teach or otherwise be employed by a district school board or public school in any capacity requiring direct contact with students; or
- Suspend an educator's certificate, upon an order of the court or notice by the Department of Revenue relating to the payment of child support; or impose any other penalty provided by law.

III. Effect of Proposed Changes:

SB 534 requires the Department of Education (DOE) to maintain a list of persons permanently disqualified from employment in a public school or a private school that participates in a state educational scholarship program. The bill requires the disqualification list to include the identities of persons whose misconduct affects the health, safety, or welfare of a student and proscribes public schools, private schools participating in state scholarship programs, and approved virtual instruction providers from employing a person in a position with direct contact with students if the person is included on the disqualification list. The bill also:

- Requires that educational support employees be included to the same extent required for instructional personnel and school administrators in policies establishing standards of ethical conduct and procedures for investigating, reporting, and terminating personnel.
- Requires the complete investigation of complaints of misconduct by public school personnel and provides authority for the DOE to place a person on the disqualification list.
- Provides that a person commits a felony of the third degree for employing a person identified on the disqualification list.
- Provides authority for the DOE to remove a person from the disqualification list.
- Prohibits district school boards from rescreening an employee of an approved virtual instruction provider who has been screened in accordance with the rules for instructional and noninstructional personnel with direct contact with students in a district school system.

The Florida Department of Education

The bill requires the DOE to maintain a list of persons permanently disqualified from employment in a public school or a private school participating in a state scholarship program. The bill requires the disqualification list to include the identity of any person who has been:

- Permanently denied a certificate or whose educator certificate has been permanently revoked and has been placed on the list by the Education Practices Commission (EPC);
- Permanently disqualified by the Commissioner of Education (commissioner) as an owner or operator of a private school participating in a state educational scholarship program for a reason that reflects a risk of harm to the health, safety, or welfare of a student;
- Terminated, or has resigned in lieu of termination, from employment with a district school board as a result of misconduct that affects the health, safety, or welfare of a student; and
- Disqualified from employment due to a conviction of any of the offenses specified in law.

The bill authorizes the DOE to remove a person from the disqualification list if the person demonstrates that:

- A completed law enforcement investigation resulted in an exoneration or no conviction or finding of guilt, and a completed investigation and proceeding, as applicable, by the responsible education agency resulted in no finding that the person committed disqualifying conduct; or
- The person was not the subject of the report of disqualifying conduct and was included on the disqualification list in error or as a result of mistaken identity.

The bill authorizes the EPC to direct the DOE to place employees or contractual personnel of any public school, charter school, charter school governing board, or private school that participates in a state scholarship program on the disqualification list for conduct that would render the person ineligible for employment.

The bill requires the DOE to adopt rules to implement the disqualification list.

Disqualification from Employment

The bill adds the disqualification list to the employment screening tools provided by the DOE to staff of school districts, charter schools, the Florida School for the Deaf and the Blind, and private schools that accept scholarship students who participate in a state scholarship program under chapter 1002.

The bill disqualifies a person included on the disqualification list from educator certification or employment in a position that requires direct contact with students²⁹ in a district school system, charter school, approved virtual instruction program, or private school participating in a state scholarship program.

The bill requires that staff of school districts, charter schools, the Florida School for the Deaf and the Blind, and private schools that accept scholarship students conduct employment history checks on educational support employees to the same extent currently required for instructional personnel and school administrators.

The bill provides that a person commits a felony of the third degree if the person:

- Is included on the disqualification list and serves or applies to serve as an employee or contractual personnel at any public school or private school participating in a state scholarship program under chapter 1002.
- Hires a person who is included on the disqualification list to serve as an employee or contractual personnel at any public school or private school participating in a state scholarship program under chapter 1002.

The bill requires a law enforcement agency to make certain notifications to the appropriate employer regarding the arrest of public school contractors and private school employees and contractors. This notification is in addition to the existing requirement that a law enforcement agency must, within 48 hours, notify the appropriate district school superintendent of the name and address of any employee of the school district who is charged with a felony or with a

²⁹ s. 1012.315, F.S

misdemeanor involving the abuse of a minor child or the sale or possession of a controlled substance.

Standards of Ethical Conduct for Education Personnel

Educational Support Employees

The bill requires district school boards, charter schools, and private schools participating in state scholarship programs to include educational support employees to the same extent required for instructional personnel and school administrators in policies establishing standards of ethical conduct and procedures for investigating, reporting, and terminating personnel.

Public Schools

The bill adds to existing requirements that subject a school board official to penalties for failing to adopt policies to investigate misconduct and report misconduct to the DOE. Specifically, the bill subjects a school board official to existing penalties if the school board official knowingly fails to adopt policies that require:

- The complete investigation of all reports of misconduct of specified personnel, regardless of whether the personnel resign or are terminated before the conclusion of the investigation.
- The superintendent to notify the DOE of the result of the investigation and whether the misconduct warranted termination, regardless of whether the person resigned or was terminated prior to the conclusion of the investigation.

Approved Virtual Instruction Providers

The bill requires an approved virtual instruction provider to:

- Receive arrest reports for all employees or contracted personnel.
- Comply with the requirements in law for reporting complaints of misconduct against educational support employees, teachers, and administrators and designate at least one administrator to be responsible for the duties and requirements assigned to a district school board and superintendent pursuant to that section.
- Inform the district school board of a complaint regarding misconduct or an arrest of instructional or noninstructional personnel of an approved virtual instruction provider.
- Participate in the fingerprint retention and arrest record search process by payment of an annual fee to the Florida Department of Law Enforcement (FDLE) and by informing FDLE of any change in the affiliation, employment, or contractual status or place of affiliation, employment, or contracting of its instructional and noninstructional personnel whose fingerprints are retained.

The bill prohibits a district school board from requiring employees or contractual personnel of an approved virtual instruction provider to undergo additional background screening.

Private Schools

The bill authorizes the commissioner to permanently revoke or deny the authority of an owner or operator to establish or operate a private school participating in a state scholarship program if the commissioner decides that the owner or operator is operating or has operated an educational

institution in this state or another state or jurisdiction in a manner contrary to the health, safety, or welfare of the public.

The Florida Department of Law Enforcement

The bill requires the FDLE to retain the fingerprints of instructional and noninstructional personnel who are hired or contracted to fill positions that require direct contact with students in a virtual instruction program and report any arrest record that is identified with the retained fingerprints to the employing or contracting approved virtual instruction provider.

The bill requires the FDLE to set the annual fees to be imposed on approved virtual instruction providers for performing searches of arrest records, the retention of fingerprints, and the dissemination of search results.

Complaints against Educational Personnel

The bill adds educational support employees to the list of personnel about whom the DOE receives and maintains reports of complaints. The bill requires district school boards and charter school governing boards to:

- Immediately investigate any legally sufficient complaint that involves misconduct by an educational support employee, instructional personnel, or administrative personnel which affects the health, safety, or welfare of a student and would result in termination.
- Report an investigation that results in termination, or the accused person's resignation in lieu of termination, to the DOE for inclusion on the disqualification list.

The bill clarifies that the duty of:

- School districts to maintain confidentiality of employee personnel files does not absolve the school district of any legally required notifications or duties to report allegations of misconduct to the DOE.
- District school boards to investigate complaints of misconduct and report findings and conclusions to the DOE is not limited by the district school board's notification to the DOE of the resignation or termination of the subject of a legally sufficient complaint prior to the conclusion of the school district's investigation.
- The DOE to maintain reports of misconduct as a public record in a personnel's certification files does not limit or restrict the power and duty of the DOE to investigate complaints regarding certificated personnel, nor does it create a duty for the DOE to investigate complaints regarding noncertificated personnel.

The bill requires charter schools to comply with the requirements in law for reporting complaints of misconduct against educational support employees, teachers, and administrators, and assigns the duties of a district school superintendent to charter school administrative personnel.

The bill codifies the requirement that each school district superintendent immediately report to the DOE an arrest, conviction, or substantiated allegation of misconduct of any administrative or instructional personnel for certain offenses specified by the DOE. The bill expands this reporting requirement to include educational support employees and charter school governing boards,

approved virtual instruction providers, and private schools participating in state scholarship programs.

The bill requires a complete investigation before the DOE may issue a new certificate to a person whose educator certificate has expired if the person is the subject of a complaint for which the act or acts that were the basis for the complaint were allegedly committed while that person possessed an educator certificate.

The bill takes effect July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Department of Education may have costs associated with the development of the disqualification list. These costs could be absorbed within existing resources.³⁰

³⁰ Florida Department of Education, *Legislative Bill Analysis for SB 1444* (Mar. 14, 2019) (SB 1444 was substantively similar to SB 534 regarding the disqualification list.)

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 1001.10, 1001.42, 1002.33, 1002.421, 1002.45, 1006.061, 1012.31, 1012.315, 1012.32, 1012.795, 1012.796, and 1012.797, F.S.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate

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House

The Committee on Education (Diaz) recommended the following:

Senate Amendment (with title amendment)

Delete lines 158 - 598

and insert:

(d) The State Board of Education shall adopt rules to implement the disqualification list.

(5) The Department of Education shall provide authorized staff of school districts, charter schools, the Florida School for the Deaf and the Blind, and private schools that accept scholarship students who participate in a state scholarship program under chapter 1002 with access to electronic



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12 verification of information from the following employment
13 screening tools:

14 (a) The Professional Practices' Database of Disciplinary
15 Actions Against Educators; ~~and~~

16 (b) The Department of Education's Teacher Certification
17 Database; and

18 (c) The Department of Education's disqualification list
19 maintained pursuant to paragraph (4) (b).

20
21 This subsection does not require the department to provide
22 these staff with unlimited access to the databases. However, the
23 department shall provide the staff with access to the data
24 necessary for performing employment history checks of the
25 educational support employees, instructional personnel, and
26 school administrators included in the databases.

27 Section 2. Subsections (6) and (7) of section 1001.42,
28 Florida Statutes, are amended, and paragraph (c) is added to
29 subsection (5) of that section, to read:

30 1001.42 Powers and duties of district school board.—The
31 district school board, acting as a board, shall exercise all
32 powers and perform all duties listed below:

33 (5) PERSONNEL.—

34 (c) Immediately investigate any legally sufficient
35 complaint that involves misconduct by an educational support
36 employee, instructional personnel, or administrative personnel
37 which affects the health, safety, or welfare of a student and
38 would result in termination. An investigation that results in
39 termination, or the accused person's resignation in lieu of
40 termination, must be reported to the department, and the



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41 department shall place the person on the disqualification list
42 maintained pursuant to s. 1001.10(4)(b).

43 (6) STANDARDS OF ETHICAL CONDUCT FOR EDUCATIONAL SUPPORT
44 EMPLOYEES, INSTRUCTIONAL PERSONNEL, ADMINISTRATIVE PERSONNEL,
45 AND SCHOOL OFFICERS.—Adopt policies establishing standards of
46 ethical conduct for educational support employees, instructional
47 personnel, administrative personnel, and school officers. The
48 policies must require all educational support employees,
49 instructional personnel, administrative personnel, and school
50 officers, as defined in s. 1012.01, to complete training on the
51 standards; establish the duty of educational support employees,
52 instructional personnel, administrative personnel, and school
53 officers to report, and procedures for reporting, alleged
54 misconduct by other educational support employees, instructional
55 or administrative personnel, and school officers which affects
56 the health, safety, or welfare of a student, including
57 misconduct that involves engaging in or soliciting sexual,
58 romantic, or lewd conduct with a student; require the district
59 school superintendent to report to law enforcement misconduct by
60 educational support employees, instructional personnel, or
61 school administrators that would result in disqualification from
62 educator certification or employment as provided in s. 1012.315;
63 and include an explanation of the liability protections provided
64 under ss. 39.203 and 768.095. A district school board, or any of
65 its employees or personnel, may not enter into a confidentiality
66 agreement regarding terminated or dismissed educational support
67 employees, instructional or administrative personnel, or school
68 officers who resign in lieu of termination, based in whole or in
69 part on misconduct that affects the health, safety, or welfare



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70 of a student, and may not provide educational support employees,
71 instructional personnel, administrative personnel, or school
72 officers with employment references or discuss the employees',
73 personnel's, or officers' performance with prospective employers
74 in another educational setting, without disclosing the
75 employees', personnel's, or officers' misconduct. Any part of an
76 agreement or contract that has the purpose or effect of
77 concealing misconduct by educational support employees,
78 instructional personnel, administrative personnel, or school
79 officers which affects the health, safety, or welfare of a
80 student is void, is contrary to public policy, and may not be
81 enforced.

82 (7) DISQUALIFICATION FROM EMPLOYMENT.—Disqualify
83 educational support employees, instructional personnel, and
84 administrative personnel, as defined in s. 1012.01, from
85 employment in any position that requires direct contact with
86 students if the employees or personnel are ineligible for such
87 employment under s. 1012.315, and, if the disqualifying conduct
88 occurs subsequent to employment, report the disqualified
89 employees or personnel and the disqualifying circumstances to
90 the department for inclusion on the disqualification list
91 maintained by the department pursuant to 1001.10(4)(b). An
92 elected or appointed school board official forfeits his or her
93 salary for 1 year if:

94 (a) The school board official knowingly signs and transmits
95 to any state official a report of alleged misconduct by
96 educational support employees, instructional personnel, or
97 administrative personnel which ~~affects the health, safety, or~~
98 ~~welfare of a student and~~ the school board official knows the



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99 ~~report~~ to be false or incorrect; or

100 (b) The school board official knowingly fails to adopt
101 policies that require:

102 1. Educational support employees, instructional personnel,
103 and administrative personnel to report alleged misconduct by
104 other educational support employees, instructional personnel,
105 and administrative personnel;

106 2. The district school superintendent to report misconduct
107 by educational support employees, instructional personnel, or
108 school administrators that would result in disqualification from
109 educator certification or employment as provided in s. 1012.315
110 to the law enforcement agencies with jurisdiction over the
111 conduct and the department as required by s. 1012.796; or

112 3. The complete investigation of all reports of alleged
113 misconduct by educational support employees, instructional
114 personnel, and administrative personnel, if the misconduct
115 affects the health, safety, or welfare of a student, regardless
116 of whether the educational support employees, instructional
117 personnel, or administrative personnel resign or are terminated
118 before the conclusion of the investigation. The policy must
119 require the superintendent to notify the department of the
120 result of the investigation and whether the misconduct warranted
121 termination, regardless of whether the person resigned or was
122 terminated prior to the conclusion of the investigation.

123 Section 3. Paragraph (g) of subsection (12) and paragraphs
124 (b) and (c) of subsection (16) of section 1002.33, Florida
125 Statutes, are amended to read:

126 1002.33 Charter schools.—

127 (12) EMPLOYEES OF CHARTER SCHOOLS.—



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128 (g)1. A charter school shall employ or contract with
129 employees who have undergone background screening as provided in
130 s. 1012.32. Members of the governing board of the charter school
131 shall also undergo background screening in a manner similar to
132 that provided in s. 1012.32. A person may not be employed by a
133 charter school or serve as a member of a charter school
134 governing board if the person is ineligible pursuant to s.
135 1012.315 or is included on the disqualification list maintained
136 by the department pursuant to s. 1001.10(4)(b).

137 2. A charter school shall disqualify educational support
138 employees, instructional personnel, and school administrators,
139 as defined in s. 1012.01, from employment in any position that
140 requires direct contact with students if the employees,
141 personnel, or administrators are ineligible for such employment
142 under s. 1012.315, and, if the disqualifying conduct occurs
143 subsequent to employment, report the person and the
144 disqualifying circumstances to the department for inclusion on
145 the disqualification list maintained pursuant to s.
146 1001.10(4)(b).

147 3. The governing board of a charter school shall adopt
148 policies establishing standards of ethical conduct for
149 educational support employees, instructional personnel, and
150 school administrators. The policies must require all educational
151 support employees, instructional personnel, and school
152 administrators, as defined in s. 1012.01, to complete training
153 on the standards; establish the duty of educational support
154 employees, instructional personnel, and school administrators to
155 report, and procedures for reporting, alleged misconduct by
156 other educational support employees, instructional personnel,



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157 and school administrators which affects the health, safety, or
158 welfare of a student; and include an explanation of the
159 liability protections provided under ss. 39.203 and 768.095. A
160 charter school, or any of its employees, may not enter into a
161 confidentiality agreement regarding terminated or dismissed
162 educational support employees, instructional personnel, or
163 school administrators, or personnel or administrators who resign
164 in lieu of termination, based in whole or in part on misconduct
165 that affects the health, safety, or welfare of a student, and
166 may not provide educational support employees, instructional
167 personnel, or school administrators with employment references
168 or discuss the employees', personnel's, or administrators'
169 performance with prospective employers in another educational
170 setting, without disclosing the employees', personnel's or
171 administrators' misconduct. Any part of an agreement or contract
172 that has the purpose or effect of concealing misconduct by
173 educational support employees, instructional personnel, or
174 school administrators which affects the health, safety, or
175 welfare of a student is void, is contrary to public policy, and
176 may not be enforced.

177 4. Before employing a person ~~instructional personnel or~~
178 ~~school administrators~~ in any position that requires direct
179 contact with students, a charter school shall conduct employment
180 history checks of each of the person's ~~personnel's or~~
181 ~~administrators'~~ previous employers, screen the person
182 ~~instructional personnel or school administrators~~ through use of
183 the ~~educator~~ screening tools described in s. 1001.10(5), and
184 document the findings. If unable to contact a previous employer,
185 the charter school must document efforts to contact the



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186 employer.

187 5. The sponsor of a charter school that knowingly fails to
188 comply with this paragraph shall terminate the charter under
189 subsection (8).

190 (16) EXEMPTION FROM STATUTES.—

191 (b) ~~Additionally,~~ A charter school also shall be in
192 compliance with the following statutes:

193 1. Section 286.011, relating to public meetings and
194 records, public inspection, and criminal and civil penalties.

195 2. Chapter 119, relating to public records.

196 3. Section 1003.03, relating to the maximum class size,
197 except that the calculation for compliance pursuant to s.
198 1003.03 shall be the average at the school level.

199 4. Section 1012.22(1)(c), relating to compensation and
200 salary schedules.

201 5. Section 1012.33(5), relating to workforce reductions.

202 6. Section 1012.335, relating to contracts with
203 instructional personnel hired on or after July 1, 2011.

204 7. Section 1012.34, relating to the substantive
205 requirements for performance evaluations for instructional
206 personnel and school administrators.

207 8. Section 1006.12, relating to safe-school officers.

208 9. Section 1006.07(7), relating to threat assessment teams.

209 10. Section 1006.07(9), relating to School Environmental
210 Safety Incident Reporting.

211 11. Section 1006.1493, relating to the Florida Safe Schools
212 Assessment Tool.

213 12. Section 1006.07(6)(c), relating to adopting an active
214 assailant response plan.



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215 13. Section 943.082(4)(b), relating to the mobile
216 suspicious activity reporting tool.

217 14. Section 1012.584, relating to youth mental health
218 awareness and assistance training.

219 15. Section 1012.796, relating to complaints against
220 educational support employees, teachers, and administrators.

221 (c) For purposes of subparagraphs (b)4.-7. and 15.:

222 1. The duties assigned to a district school superintendent
223 apply to charter school administrative personnel, as defined in
224 s. 1012.01(3)(a) and (b), and the charter school governing board
225 shall designate at least one administrative person to be
226 responsible for such duties.

227 2. The duties assigned to a district school board apply to
228 a charter school governing board.

229 3. A charter school may hire instructional personnel and
230 other employees on an at-will basis.

231 4. Notwithstanding any provision to the contrary,
232 instructional personnel and other employees on contract may be
233 suspended or dismissed any time during the term of the contract
234 without cause.

235 Section 4. Paragraphs (n) and (o) of subsection (1) and
236 subsection (3) of section 1002.421, Florida Statutes, are
237 amended, and paragraph (r) of subsection (1) is added to that
238 section, to read:

239 1002.421 State school choice scholarship program
240 accountability and oversight.—

241 (1) PRIVATE SCHOOL ELIGIBILITY AND OBLIGATIONS.—A private
242 school participating in an educational scholarship program
243 established pursuant to this chapter must be a private school as



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244 defined in s. 1002.01(2) in this state, be registered, and be in
245 compliance with all requirements of this section in addition to
246 private school requirements outlined in s. 1002.42, specific
247 requirements identified within respective scholarship program
248 laws, and other provisions of Florida law that apply to private
249 schools, and must:

250 (n) Adopt policies establishing standards of ethical
251 conduct for educational support employees, instructional
252 personnel, and school administrators. The policies must require
253 all educational support employees, instructional personnel, and
254 school administrators, as defined in s. 1012.01, to complete
255 training on the standards; establish the duty of educational
256 support employees, instructional personnel, and school
257 administrators to report, and procedures for reporting, alleged
258 misconduct by other educational support employees, instructional
259 personnel, and school administrators which affects the health,
260 safety, or welfare of a student; and include an explanation of
261 the liability protections provided under ss. 39.203 and 768.095.
262 A private school, or any of its employees, may not enter into a
263 confidentiality agreement regarding terminated or dismissed
264 educational support employees, instructional personnel, or
265 school administrators, or personnel or administrators who resign
266 in lieu of termination, based in whole or in part on misconduct
267 that affects the health, safety, or welfare of a student, and
268 may not provide the employees, ~~instructional~~ personnel, or
269 school administrators with employment references or discuss the
270 employees', personnel's, or administrators' performance with
271 prospective employers in another educational setting, without
272 disclosing the employees', personnel's, or administrators'



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273 misconduct. Any part of an agreement or contract that has the
274 purpose or effect of concealing misconduct by educational
275 support employees, instructional personnel, or school
276 administrators which affects the health, safety, or welfare of a
277 student is void, is contrary to public policy, and may not be
278 enforced.

279 (o) Before employing an individual ~~instructional personnel~~
280 ~~or school administrators~~ in any position that requires direct
281 contact with students, conduct employment history checks of ~~each~~
282 ~~of the personnel's or administrators'~~ previous employers, screen
283 the individual using the ~~personnel or administrators through use~~
284 ~~of the educator~~ screening tools described in s. 1001.10(5), and
285 document the findings. If unable to contact a previous employer,
286 the private school must document efforts to contact the
287 employer. The private school must deny employment to any
288 individual whose educator certificate is revoked, who is barred
289 from reapplication for an educator certificate, or who is
290 identified on the disqualification list maintained by the
291 department pursuant to s. 1001.10(4)(b).

292 (r) Disqualify educational support employees, instructional
293 personnel, and school administrators from employment in any
294 position that requires direct contact with students if the
295 personnel or administrators are ineligible for such employment
296 pursuant to this section or s. 1012.315, and, if the
297 disqualifying conduct occurs subsequent to employment, report
298 the person and the disqualifying circumstances to the department
299 for inclusion on the disqualification list maintained pursuant
300 to s. 1001.10(4)(b).

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302 The department shall suspend the payment of funds to a private
303 school that knowingly fails to comply with this subsection, and
304 shall prohibit the school from enrolling new scholarship
305 students, for 1 fiscal year and until the school complies. If a
306 private school fails to meet the requirements of this subsection
307 or has consecutive years of material exceptions listed in the
308 report required under paragraph (q), the commissioner may
309 determine that the private school is ineligible to participate
310 in a scholarship program.

311 (3) COMMISSIONER OF EDUCATION AUTHORITY AND OBLIGATIONS.—

312 The Commissioner of Education:

313 (a) Shall deny, suspend, or revoke a private school's
314 participation in a scholarship program if it is determined that
315 the private school has failed to comply with this section or
316 exhibits a previous pattern of failure to comply. However, if
317 the noncompliance is correctable within a reasonable amount of
318 time, not to exceed 45 days, and if the health, safety, or
319 welfare of the students is not threatened, the commissioner may
320 issue a notice of noncompliance which provides the private
321 school with a timeframe within which to provide evidence of
322 compliance before taking action to suspend or revoke the private
323 school's participation in the scholarship program.

324 (b) May deny, suspend, or revoke a private school's
325 participation in a scholarship program if the commissioner
326 determines that an owner or operator of the private school is
327 operating or has operated an educational institution in this
328 state or in another state or jurisdiction in a manner contrary
329 to the health, safety, or welfare of the public or if the owner
330 or operator has exhibited a previous pattern of failure to



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331 comply with this section or specific requirements identified
332 within respective scholarship program laws. For purposes of this
333 subsection, the term "owner or operator" has the same meaning as
334 provided in paragraph (1) (p).

335 (c) May permanently deny or revoke the authority of an
336 owner or operator to establish or operate a private school
337 participating in an educational scholarship program pursuant to
338 this chapter if the commissioner decides that the owner or
339 operator is operating or has operated an educational institution
340 in this state or another state or jurisdiction in a manner
341 contrary to the health, safety, or welfare of the public, and
342 shall include such person on the disqualification list
343 maintained by the department pursuant to s. 1001.10(4) (b).

344 (d)-(e)1. In making such a determination, may consider
345 factors that include, but are not limited to, acts or omissions
346 by an owner or operator which led to a previous denial,
347 suspension, or revocation of participation in a state or federal
348 education scholarship program; an owner's or operator's failure
349 to reimburse the department or scholarship-funding organization
350 for scholarship funds improperly received or retained by a
351 school; the imposition of a prior criminal sanction related to
352 an owner's or operator's management or operation of an
353 educational institution; the imposition of a civil fine or
354 administrative fine, license revocation or suspension, or
355 program eligibility suspension, termination, or revocation
356 related to an owner's or operator's management or operation of
357 an educational institution; or other types of criminal
358 proceedings in which an owner or operator was found guilty of,
359 regardless of adjudication, or entered a plea of nolo contendere



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360 or guilty to, any offense involving fraud, deceit, dishonesty,
361 or moral turpitude.

362 2. The commissioner's determination is subject to the
363 following:

364 a. If the commissioner intends to deny, suspend, or revoke
365 a private school's participation in the scholarship program, the
366 department shall notify the private school of such proposed
367 action in writing by certified mail and regular mail to the
368 private school's address of record with the department. The
369 notification shall include the reasons for the proposed action
370 and notice of the timelines and procedures set forth in this
371 paragraph.

372 b. The private school that is adversely affected by the
373 proposed action shall have 15 days after receipt of the notice
374 of proposed action to file with the department's agency clerk a
375 request for a proceeding pursuant to ss. 120.569 and 120.57. If
376 the private school is entitled to a hearing under s. 120.57(1),
377 the department shall forward the request to the Division of
378 Administrative Hearings.

379 c. Upon receipt of a request referred pursuant to this
380 subparagraph, the director of the Division of Administrative
381 Hearings shall expedite the hearing and assign an administrative
382 law judge who shall commence a hearing within 30 days after the
383 receipt of the formal written request by the division and enter
384 a recommended order within 30 days after the hearing or within
385 30 days after receipt of the hearing transcript, whichever is
386 later. Each party shall be allowed 10 days in which to submit
387 written exceptions to the recommended order. A final order shall
388 be entered by the agency within 30 days after the entry of a



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389 recommended order. The provisions of this sub-subparagraph may
390 be waived upon stipulation by all parties.

391 (e)~~(d)~~ May immediately suspend payment of scholarship funds
392 if it is determined that there is probable cause to believe that
393 there is:

394 1. An imminent threat to the health, safety, or welfare of
395 the students;

396 2. A previous pattern of failure to comply with this
397 section; or

398 3. Fraudulent activity on the part of the private school.
399 Notwithstanding s. 1002.22, in incidents of alleged fraudulent
400 activity pursuant to this section, the department's Office of
401 Inspector General is authorized to release personally
402 identifiable records or reports of students to the following
403 persons or organizations:

404 a. A court of competent jurisdiction in compliance with an
405 order of that court or the attorney of record in accordance with
406 a lawfully issued subpoena, consistent with the Family
407 Educational Rights and Privacy Act, 20 U.S.C. s. 1232g.

408 b. A person or entity authorized by a court of competent
409 jurisdiction in compliance with an order of that court or the
410 attorney of record pursuant to a lawfully issued subpoena,
411 consistent with the Family Educational Rights and Privacy Act,
412 20 U.S.C. s. 1232g.

413 c. Any person, entity, or authority issuing a subpoena for
414 law enforcement purposes when the court or other issuing agency
415 has ordered that the existence or the contents of the subpoena
416 or the information furnished in response to the subpoena not be
417 disclosed, consistent with the Family Educational Rights and



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418 Privacy Act, 20 U.S.C. s. 1232g, and 34 C.F.R. s. 99.31.

419

420 The commissioner's order suspending payment pursuant to this
421 paragraph may be appealed pursuant to the same procedures and
422 timelines as the notice of proposed action set forth in
423 subparagraph (d)2. ~~subparagraph (c)2.~~

424 Section 5. Paragraph (a) of subsection (2) of section
425 1002.45, Florida Statutes, is amended to read:

426 1002.45 Virtual instruction programs.—

427 (2) PROVIDER QUALIFICATIONS.—

428 (a) The department shall annually publish online a list of
429 providers approved to offer virtual instruction programs. To be
430 approved by the department, a provider must document that it:

431 1. Is nonsectarian in its programs, admission policies,
432 employment practices, and operations;

433 2. Complies with the antidiscrimination provisions of s.
434 1000.05;

435 3. Locates an administrative office or offices in this
436 state, requires its administrative staff to be state residents,
437 requires all instructional staff to be Florida-certified
438 teachers under chapter 1012, and conducts background screenings
439 and receives arrest reports for all employees or contracted
440 personnel, as required by s. 1012.32, using state and national
441 criminal history records, and designates at least one
442 administrator to be responsible for the duties and requirements
443 related to background screening assigned to a district school
444 board and superintendent under ss. 1012.465 and 1012.56(10);

445 4. Disqualifies educational support employees,
446 instructional personnel, and administrative personnel, as



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447 defined in s. 1012.01, from employment in any position that
448 requires direct contact with students, if the employees or
449 personnel are ineligible for such employment under s. 1012.315,
450 and, if the disqualifying conduct occurs subsequent to
451 employment, reports the disqualified employees or personnel and
452 the disqualifying circumstances to the department for inclusion
453 on the disqualification list maintained by the department
454 pursuant to s. 1001.10(4)(b).

455
456 ===== T I T L E A M E N D M E N T =====

457 And the title is amended as follows:

458 Delete line 9

459 and insert:

460 requiring the State Board of Education to adopt rules;
461 requiring the

By Senator Diaz

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1 A bill to be entitled
 2 An act relating to education; amending s. 1001.10,
 3 F.S.; requiring the Department of Education to
 4 maintain a disqualification list that includes the
 5 identities of certain persons; providing requirements
 6 for the disqualification list; authorizing the
 7 department to remove a person from the
 8 disqualification list if certain conditions are met;
 9 requiring the department to adopt rules; requiring the
 10 department to provide certain staff with access to
 11 information from such disqualification list; amending
 12 s. 1001.42, F.S.; requiring district school boards to
 13 investigate certain complaints and report certain
 14 results of such investigations to the department;
 15 requiring the department to place a person who is
 16 terminated, or resigns in lieu of termination, for a
 17 certain reason on the disqualification list; requiring
 18 district school boards to adopt policies establishing
 19 standards of ethical conduct for educational support
 20 employees; requiring district school boards to
 21 disqualify educational support employees from
 22 employment in certain circumstances; requiring
 23 district school boards to report a disqualified person
 24 to the department for inclusion on the
 25 disqualification list; revising the circumstances for
 26 which a school board official shall forfeit his or her
 27 salary for 1 year; amending s. 1002.33, F.S.;
 28 prohibiting an individual who is on the
 29 disqualification list from being employed by a charter

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30 school or serving as a member of a charter school
 31 governing board; requiring a charter school to
 32 disqualify certain persons and make a report to the
 33 department for inclusion of the person on the
 34 disqualification list; requiring charter school
 35 governing boards to adopt policies establishing
 36 standards of ethical conduct for certain employees;
 37 requiring charter schools to perform a certain
 38 screening before employing a person in any position
 39 that requires direct contact with students; requiring
 40 charter schools to comply with a specified provision;
 41 assigning duties to certain charter school
 42 administrative personnel and a charter school
 43 governing board; amending s. 1002.421, F.S.; requiring
 44 certain private schools to adopt policies establishing
 45 standards of ethical conduct for certain employees;
 46 revising requirements for certain private schools
 47 relating to employment; requiring certain private
 48 schools to disqualify certain persons and make a
 49 report to the department for the inclusion of the
 50 person on the disqualification list; authorizing the
 51 Commissioner of Education to deny or revoke the
 52 authority of an owner or operator of a certain private
 53 school to establish or operate a private school under
 54 certain conditions; requiring the commissioner to
 55 include such person on the disqualification list;
 56 amending s. 1002.45, F.S.; revising virtual
 57 instruction program provider qualifications for
 58 department approval; expanding the screening

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59 requirements for employees and personnel of an
 60 approved virtual instruction program provider;
 61 requiring an approved virtual instruction program
 62 provider to disqualify certain persons and make a
 63 report to the department for inclusion of the person
 64 on the disqualification list; requiring an approved
 65 virtual instruction program provider to comply with a
 66 specified provision; requiring an approved virtual
 67 instruction program provider to inform the district
 68 school board of a certain complaint; amending s.
 69 1006.061, F.S.; requiring certain schools to include
 70 information related to certain employees in a required
 71 posting; amending s. 1012.31, F.S.; clarifying a
 72 school district reporting requirement; amending s.
 73 1012.315, F.S.; expanding ineligibility for educator
 74 certification or employment to persons who are on the
 75 disqualification list; amending s. 1012.32, F.S.;
 76 expanding requirements for screening of certain
 77 personnel of a virtual instruction program;
 78 prohibiting district school boards from requiring
 79 additional background screening of certain employees
 80 and personnel; amending s. 1012.795, F.S.; expanding
 81 the authority of the Education Practices Commission to
 82 discipline certain employees and personnel; amending
 83 s. 1012.796, F.S.; requiring the department to
 84 complete an investigation before issuing a new
 85 educator certificate to certain persons; clarifying
 86 the duty of a district school board to perform certain
 87 investigations; requiring certain entities to report

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88 certain arrests and allegations of misconduct of
 89 certain employees, personnel, and administrators to
 90 the department; requiring district school boards to
 91 adopt certain policies and procedures regarding
 92 educational support employees; requiring school
 93 superintendents to report certain misconduct of
 94 educational support employees to the department;
 95 requiring the department to include certain employees,
 96 personnel, and administrators on the disqualification
 97 list; requiring the department to maintain certain
 98 reports of misconduct; clarifying the department's
 99 duty to investigate certificated personnel; requiring
 100 a district school superintendent to suspend and
 101 reassign educational support employees for a certain
 102 allegation of misconduct; expanding penalties that may
 103 be imposed by the commission; authorizing the
 104 commission to direct the department to include a
 105 certain person on the disqualification list for
 106 certain conduct; prohibiting persons on the
 107 disqualification list from serving or applying to
 108 serve as employees or contract personnel at certain
 109 institutions; providing criminal penalties; amending
 110 s. 1012.797, F.S.; expanding the list of entities that
 111 law enforcement agencies must notify of certain
 112 charges; requiring law enforcement agencies to notify
 113 certain institutions of certain charges against
 114 employees or contractors; providing an effective date.

115
116 Be It Enacted by the Legislature of the State of Florida:

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Section 1. Subsections (4) and (5) of section 1001.10, Florida Statutes, are amended to read:

1001.10 Commissioner of Education; general powers and duties.—

(4)(a) The Department of Education shall provide technical assistance to school districts, charter schools, the Florida School for the Deaf and the Blind, and private schools that accept scholarship students who participate in a state scholarship program under chapter 1002 in the development of policies, procedures, and training related to employment practices and standards of ethical conduct for instructional personnel and school administrators, as defined in s. 1012.01.

(b) The department shall maintain a disqualification list, which must include the following information:

1. The identity of any person who has been permanently denied a certificate or whose educator certificate has been permanently revoked and has been placed on the list as directed by the Education Practices Commission pursuant to s. 1012.795(1) or s. 1012.796(7);

2. The identity of any person who has been permanently disqualified by the commissioner as an owner or operator of a private school participating in state scholarship programs pursuant to s. 1002.421 for a reason that reflects a risk of harm to the health, safety, or welfare of a student;

3. The identity of any person who has been terminated, or has resigned in lieu of termination, from employment with a district school board as a result of misconduct that affects the health, safety, or welfare of a student; and

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4. The identity of any person who has been disqualified from employment pursuant to s. 1012.315.

(c) The department may remove a person from the disqualification list if the person demonstrates that:

1. A completed law enforcement investigation resulted in an exoneration or no conviction or finding of guilt, and a completed investigation and proceeding, as applicable, by the responsible education agency resulted in no finding that the person committed disqualifying conduct; or

2. The person was not the subject of the report of disqualifying conduct and was included on the disqualification list in error or as a result of mistaken identity.

(d) The department shall adopt rules to implement the disqualification list.

(5) The Department of Education shall provide authorized staff of school districts, charter schools, the Florida School for the Deaf and the Blind, and private schools that accept scholarship students who participate in a state scholarship program under chapter 1002 with access to electronic verification of information from the following employment screening tools:

(a) The Professional Practices' Database of Disciplinary Actions Against Educators; ~~and~~

(b) The Department of Education's Teacher Certification Database; and

(c) The Department of Education's disqualification list maintained pursuant to paragraph (4)(b).

This subsection does not require the department to provide these

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175 staff with unlimited access to the databases. However, the
 176 department shall provide the staff with access to the data
 177 necessary for performing employment history checks of the
 178 educational support employees, instructional personnel, and
 179 school administrators included in the databases.

180 Section 2. Subsections (6) and (7) of section 1001.42,
 181 Florida Statutes, are amended, and paragraph (c) is added to
 182 subsection (5) of that section, to read:

183 1001.42 Powers and duties of district school board.—The
 184 district school board, acting as a board, shall exercise all
 185 powers and perform all duties listed below:

186 (5) PERSONNEL.—

187 (c) Immediately investigate any legally sufficient
 188 complaint that involves misconduct by an educational support
 189 employee, instructional personnel, or administrative personnel
 190 which affects the health, safety, or welfare of a student and
 191 would result in termination. An investigation that results in
 192 termination, or the accused person's resignation in lieu of
 193 termination, must be reported to the department, and the
 194 department shall place the person on the disqualification list
 195 maintained pursuant to s. 1001.10(4)(b).

196 (6) STANDARDS OF ETHICAL CONDUCT FOR EDUCATIONAL SUPPORT
 197 EMPLOYEES, INSTRUCTIONAL PERSONNEL, ADMINISTRATIVE PERSONNEL,
 198 AND SCHOOL OFFICERS.—Adopt policies establishing standards of
 199 ethical conduct for educational support employees, instructional
 200 personnel, administrative personnel, and school officers. The
 201 policies must require all educational support employees,
 202 instructional personnel, administrative personnel, and school
 203 officers, as defined in s. 1012.01, to complete training on the

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204 standards; establish the duty of educational support employees,
 205 instructional personnel, administrative personnel, and school
 206 officers to report, and procedures for reporting, alleged
 207 misconduct by other educational support employees, instructional
 208 or administrative personnel, and school officers which affects
 209 the health, safety, or welfare of a student, including
 210 misconduct that involves engaging in or soliciting sexual,
 211 romantic, or lewd conduct with a student; require the district
 212 school superintendent to report to law enforcement misconduct by
 213 educational support employees, instructional personnel, or
 214 school administrators that would result in disqualification from
 215 educator certification or employment as provided in s. 1012.315;
 216 and include an explanation of the liability protections provided
 217 under ss. 39.203 and 768.095. A district school board, or any of
 218 its employees or personnel, may not enter into a confidentiality
 219 agreement regarding terminated or dismissed educational support
 220 employees, instructional or administrative personnel, or school
 221 officers who resign in lieu of termination, based in whole or in
 222 part on misconduct that affects the health, safety, or welfare
 223 of a student, and may not provide educational support employees,
 224 instructional personnel, administrative personnel, or school
 225 officers with employment references or discuss the employees',
 226 personnel's, or officers' performance with prospective employers
 227 in another educational setting, without disclosing the
 228 employees', personnel's, or officers' misconduct. Any part of an
 229 agreement or contract that has the purpose or effect of
 230 concealing misconduct by educational support employees,
 231 instructional personnel, administrative personnel, or school
 232 officers which affects the health, safety, or welfare of a

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233 student is void, is contrary to public policy, and may not be
234 enforced.

235 (7) DISQUALIFICATION FROM EMPLOYMENT.—Disqualify
236 educational support employees, instructional personnel, and
237 administrative personnel, as defined in s. 1012.01, from
238 employment in any position that requires direct contact with
239 students if the employees or personnel are ineligible for such
240 employment under s. 1012.315, and report the disqualified
241 employees or personnel and the disqualifying circumstances to
242 the department for inclusion on the disqualification list
243 maintained by the department pursuant to 1001.10(4)(b). An
244 elected or appointed school board official forfeits his or her
245 salary for 1 year if:

246 (a) The school board official knowingly signs and transmits
247 to any state official a report of alleged misconduct by
248 educational support employees, instructional personnel, or
249 administrative personnel which ~~affects the health, safety, or~~
250 ~~welfare of a student and~~ the school board official knows the
251 ~~report~~ to be false or incorrect; or

252 (b) The school board official knowingly fails to adopt
253 policies that require:

254 1. Educational support employees, instructional personnel,
255 and administrative personnel to report alleged misconduct by
256 other educational support employees, instructional personnel,
257 and administrative personnel;

258 2. The district school superintendent to report misconduct
259 by educational support employees, instructional personnel, or
260 school administrators that would result in disqualification from
261 educator certification or employment as provided in s. 1012.315

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262 to the law enforcement agencies with jurisdiction over the
263 conduct and the department as required by s. 1012.796; or

264 3. The complete investigation of all reports of alleged
265 misconduct by educational support employees, instructional
266 personnel, and administrative personnel, if the misconduct
267 affects the health, safety, or welfare of a student, regardless
268 of whether the educational support employees, instructional
269 personnel, or administrative personnel resign or are terminated
270 before the conclusion of the investigation. The policy must
271 require the superintendent to notify the department of the
272 result of the investigation and whether the misconduct warranted
273 termination, regardless of whether the person resigned or was
274 terminated prior to the conclusion of the investigation.

275 Section 3. Paragraph (g) of subsection (12) and paragraphs
276 (b) and (c) of subsection (16) of section 1002.33, Florida
277 Statutes, are amended to read:

278 1002.33 Charter schools.—

279 (12) EMPLOYEES OF CHARTER SCHOOLS.—

280 (g)1. A charter school shall employ or contract with
281 employees who have undergone background screening as provided in
282 s. 1012.32. Members of the governing board of the charter school
283 shall also undergo background screening in a manner similar to
284 that provided in s. 1012.32. A person may not be employed by a
285 charter school or serve as a member of a charter school
286 governing board if the person is ineligible pursuant to s.
287 1012.315 or is included on the disqualification list maintained
288 by the department pursuant to s. 1001.10(4)(b).

289 2. A charter school shall disqualify educational support
290 employees, instructional personnel, and school administrators,

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291 as defined in s. 1012.01, from employment in any position that
 292 requires direct contact with students if the employees,
 293 personnel, or administrators are ineligible for such employment
 294 under s. 1012.315, and report the person and the disqualifying
 295 circumstances to the department for inclusion on the
 296 disqualification list maintained pursuant to s. 1001.10(4)(b).

297 3. The governing board of a charter school shall adopt
 298 policies establishing standards of ethical conduct for
 299 educational support employees, instructional personnel, and
 300 school administrators. The policies must require all educational
 301 support employees, instructional personnel, and school
 302 administrators, as defined in s. 1012.01, to complete training
 303 on the standards; establish the duty of educational support
 304 employees, instructional personnel, and school administrators to
 305 report, and procedures for reporting, alleged misconduct by
 306 other educational support employees, instructional personnel,
 307 and school administrators which affects the health, safety, or
 308 welfare of a student; and include an explanation of the
 309 liability protections provided under ss. 39.203 and 768.095. A
 310 charter school, or any of its employees, may not enter into a
 311 confidentiality agreement regarding terminated or dismissed
 312 educational support employees, instructional personnel, or
 313 school administrators, or personnel or administrators who resign
 314 in lieu of termination, based in whole or in part on misconduct
 315 that affects the health, safety, or welfare of a student, and
 316 may not provide educational support employees, instructional
 317 personnel, or school administrators with employment references
 318 or discuss the employees', personnel's, or administrators'
 319 performance with prospective employers in another educational

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320 setting, without disclosing the employees', personnel's or
 321 administrators' misconduct. Any part of an agreement or contract
 322 that has the purpose or effect of concealing misconduct by
 323 educational support employees, instructional personnel, or
 324 school administrators which affects the health, safety, or
 325 welfare of a student is void, is contrary to public policy, and
 326 may not be enforced.

327 4. Before employing a person ~~instructional personnel or~~
 328 ~~school administrators~~ in any position that requires direct
 329 contact with students, a charter school shall conduct employment
 330 history checks of each of the person's ~~personnel's or~~
 331 ~~administrators'~~ previous employers, screen the person
 332 ~~instructional personnel or school administrators~~ through use of
 333 the ~~educator~~ screening tools described in s. 1001.10(5), and
 334 document the findings. If unable to contact a previous employer,
 335 the charter school must document efforts to contact the
 336 employer.

337 5. The sponsor of a charter school that knowingly fails to
 338 comply with this paragraph shall terminate the charter under
 339 subsection (8).

340 (16) EXEMPTION FROM STATUTES.—

341 (b) ~~Additionally,~~ A charter school also shall be in
 342 compliance with the following statutes:

- 343 1. Section 286.011, relating to public meetings and
- 344 records, public inspection, and criminal and civil penalties.
- 345 2. Chapter 119, relating to public records.
- 346 3. Section 1003.03, relating to the maximum class size,
- 347 except that the calculation for compliance pursuant to s.
- 348 1003.03 shall be the average at the school level.

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- 349 4. Section 1012.22(1)(c), relating to compensation and
350 salary schedules.
- 351 5. Section 1012.33(5), relating to workforce reductions.
- 352 6. Section 1012.335, relating to contracts with
353 instructional personnel hired on or after July 1, 2011.
- 354 7. Section 1012.34, relating to the substantive
355 requirements for performance evaluations for instructional
356 personnel and school administrators.
- 357 8. Section 1006.12, relating to safe-school officers.
- 358 9. Section 1006.07(7), relating to threat assessment teams.
- 359 10. Section 1006.07(9), relating to School Environmental
360 Safety Incident Reporting.
- 361 11. Section 1006.1493, relating to the Florida Safe Schools
362 Assessment Tool.
- 363 12. Section 1006.07(6)(c), relating to adopting an active
364 assailant response plan.
- 365 13. Section 943.082(4)(b), relating to the mobile
366 suspicious activity reporting tool.
- 367 14. Section 1012.584, relating to youth mental health
368 awareness and assistance training.
- 369 15. Section 1012.796, relating to complaints against
370 educational support employees, teachers, and administrators.
- 371 (c) For purposes of subparagraphs (b)4.-7. and 15.:
- 372 1. The duties assigned to a district school superintendent
373 apply to charter school administrative personnel, as defined in
374 s. 1012.01(3)(a) and (b), and the charter school governing board
375 shall designate at least one administrative person to be
376 responsible for such duties.
- 377 2. The duties assigned to a district school board apply to

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- 378 a charter school governing board.
- 379 3. A charter school may hire instructional personnel and
380 other employees on an at-will basis.
- 381 4. Notwithstanding any provision to the contrary,
382 instructional personnel and other employees on contract may be
383 suspended or dismissed any time during the term of the contract
384 without cause.
- 385 Section 4. Paragraphs (n) and (o) of subsection (1) and
386 subsection (3) of section 1002.421, Florida Statutes, are
387 amended, and paragraph (r) of subsection (1) is added to that
388 section, to read:
- 389 1002.421 State school choice scholarship program
390 accountability and oversight.—
- 391 (1) PRIVATE SCHOOL ELIGIBILITY AND OBLIGATIONS.—A private
392 school participating in an educational scholarship program
393 established pursuant to this chapter must be a private school as
394 defined in s. 1002.01(2) in this state, be registered, and be in
395 compliance with all requirements of this section in addition to
396 private school requirements outlined in s. 1002.42, specific
397 requirements identified within respective scholarship program
398 laws, and other provisions of Florida law that apply to private
399 schools, and must:
- 400 (n) Adopt policies establishing standards of ethical
401 conduct for educational support employees, instructional
402 personnel, and school administrators. The policies must require
403 all educational support employees, instructional personnel, and
404 school administrators, as defined in s. 1012.01, to complete
405 training on the standards; establish the duty of educational
406 support employees, instructional personnel, and school

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407 administrators to report, and procedures for reporting, alleged
 408 misconduct by other educational support employees, instructional
 409 personnel, and school administrators which affects the health,
 410 safety, or welfare of a student; and include an explanation of
 411 the liability protections provided under ss. 39.203 and 768.095.
 412 A private school, or any of its employees, may not enter into a
 413 confidentiality agreement regarding terminated or dismissed
 414 educational support employees, instructional personnel, or
 415 school administrators, or personnel or administrators who resign
 416 in lieu of termination, based in whole or in part on misconduct
 417 that affects the health, safety, or welfare of a student, and
 418 may not provide the employees, instructional personnel, or
 419 school administrators with employment references or discuss the
 420 employees', personnel's, or administrators' performance with
 421 prospective employers in another educational setting, without
 422 disclosing the employees', personnel's, or administrators'
 423 misconduct. Any part of an agreement or contract that has the
 424 purpose or effect of concealing misconduct by educational
 425 support employees, instructional personnel, or school
 426 administrators which affects the health, safety, or welfare of a
 427 student is void, is contrary to public policy, and may not be
 428 enforced.

429 (o) Before employing an individual instructional personnel
 430 ~~or school administrators~~ in any position that requires direct
 431 contact with students, conduct employment history checks of ~~each~~
 432 ~~of the personnel's or administrators'~~ previous employers, screen
 433 the individual using the personnel or administrators through use
 434 ~~of the educator~~ screening tools described in s. 1001.10(5), and
 435 document the findings. If unable to contact a previous employer,

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436 the private school must document efforts to contact the
 437 employer. The private school must deny employment to any
 438 individual whose educator certificate is revoked, who is barred
 439 from reapplication for an educator certificate, or who is
 440 identified on the disqualification list maintained by the
 441 department pursuant to s. 1001.10(4)(b).
 442 (r) Disqualify educational support employees, instructional
 443 personnel, and school administrators from employment in any
 444 position that requires direct contact with students if the
 445 personnel or administrators are ineligible for such employment
 446 pursuant to this section or s. 1012.315, and report the person
 447 and the disqualifying circumstances to the department for
 448 inclusion on the disqualification list maintained pursuant to s.
 449 1001.10(4)(b).
 450
 451 The department shall suspend the payment of funds to a private
 452 school that knowingly fails to comply with this subsection, and
 453 shall prohibit the school from enrolling new scholarship
 454 students, for 1 fiscal year and until the school complies. If a
 455 private school fails to meet the requirements of this subsection
 456 or has consecutive years of material exceptions listed in the
 457 report required under paragraph (q), the commissioner may
 458 determine that the private school is ineligible to participate
 459 in a scholarship program.
 460 (3) COMMISSIONER OF EDUCATION AUTHORITY AND OBLIGATIONS.—
 461 The Commissioner of Education:
 462 (a) Shall deny, suspend, or revoke a private school's
 463 participation in a scholarship program if it is determined that
 464 the private school has failed to comply with this section or

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465 exhibits a previous pattern of failure to comply. However, if
 466 the noncompliance is correctable within a reasonable amount of
 467 time, not to exceed 45 days, and if the health, safety, or
 468 welfare of the students is not threatened, the commissioner may
 469 issue a notice of noncompliance which provides the private
 470 school with a timeframe within which to provide evidence of
 471 compliance before taking action to suspend or revoke the private
 472 school's participation in the scholarship program.

473 (b) May deny, suspend, or revoke a private school's
 474 participation in a scholarship program if the commissioner
 475 determines that an owner or operator of the private school is
 476 operating or has operated an educational institution in this
 477 state or in another state or jurisdiction in a manner contrary
 478 to the health, safety, or welfare of the public or if the owner
 479 or operator has exhibited a previous pattern of failure to
 480 comply with this section or specific requirements identified
 481 within respective scholarship program laws. For purposes of this
 482 subsection, the term "owner or operator" has the same meaning as
 483 provided in paragraph (1)(p).

484 (c) May permanently deny or revoke the authority of an
 485 owner or operator to establish or operate a private school
 486 participating in an educational scholarship program pursuant to
 487 this chapter if the commissioner decides that the owner or
 488 operator is operating or has operated an educational institution
 489 in this state or another state or jurisdiction in a manner
 490 contrary to the health, safety, or welfare of the public, and
 491 shall include such person on the disqualification list
 492 maintained by the department pursuant to s. 1001.10(4)(b).

493 (d)(e)1. In making such a determination, may consider

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494 factors that include, but are not limited to, acts or omissions
 495 by an owner or operator which led to a previous denial,
 496 suspension, or revocation of participation in a state or federal
 497 education scholarship program; an owner's or operator's failure
 498 to reimburse the department or scholarship-funding organization
 499 for scholarship funds improperly received or retained by a
 500 school; the imposition of a prior criminal sanction related to
 501 an owner's or operator's management or operation of an
 502 educational institution; the imposition of a civil fine or
 503 administrative fine, license revocation or suspension, or
 504 program eligibility suspension, termination, or revocation
 505 related to an owner's or operator's management or operation of
 506 an educational institution; or other types of criminal
 507 proceedings in which an owner or operator was found guilty of,
 508 regardless of adjudication, or entered a plea of nolo contendere
 509 or guilty to, any offense involving fraud, deceit, dishonesty,
 510 or moral turpitude.

511 2. The commissioner's determination is subject to the
 512 following:

513 a. If the commissioner intends to deny, suspend, or revoke
 514 a private school's participation in the scholarship program, the
 515 department shall notify the private school of such proposed
 516 action in writing by certified mail and regular mail to the
 517 private school's address of record with the department. The
 518 notification shall include the reasons for the proposed action
 519 and notice of the timelines and procedures set forth in this
 520 paragraph.

521 b. The private school that is adversely affected by the
 522 proposed action shall have 15 days after receipt of the notice

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523 of proposed action to file with the department's agency clerk a
 524 request for a proceeding pursuant to ss. 120.569 and 120.57. If
 525 the private school is entitled to a hearing under s. 120.57(1),
 526 the department shall forward the request to the Division of
 527 Administrative Hearings.

528 c. Upon receipt of a request referred pursuant to this
 529 subparagraph, the director of the Division of Administrative
 530 Hearings shall expedite the hearing and assign an administrative
 531 law judge who shall commence a hearing within 30 days after the
 532 receipt of the formal written request by the division and enter
 533 a recommended order within 30 days after the hearing or within
 534 30 days after receipt of the hearing transcript, whichever is
 535 later. Each party shall be allowed 10 days in which to submit
 536 written exceptions to the recommended order. A final order shall
 537 be entered by the agency within 30 days after the entry of a
 538 recommended order. The provisions of this sub-subparagraph may
 539 be waived upon stipulation by all parties.

540 (e) ~~(d)~~ May immediately suspend payment of scholarship funds
 541 if it is determined that there is probable cause to believe that
 542 there is:

- 543 1. An imminent threat to the health, safety, or welfare of
 544 the students;
- 545 2. A previous pattern of failure to comply with this
 546 section; or
- 547 3. Fraudulent activity on the part of the private school.
 548 Notwithstanding s. 1002.22, in incidents of alleged fraudulent
 549 activity pursuant to this section, the department's Office of
 550 Inspector General is authorized to release personally
 551 identifiable records or reports of students to the following

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552 persons or organizations:

553 a. A court of competent jurisdiction in compliance with an
 554 order of that court or the attorney of record in accordance with
 555 a lawfully issued subpoena, consistent with the Family
 556 Educational Rights and Privacy Act, 20 U.S.C. s. 1232g.

557 b. A person or entity authorized by a court of competent
 558 jurisdiction in compliance with an order of that court or the
 559 attorney of record pursuant to a lawfully issued subpoena,
 560 consistent with the Family Educational Rights and Privacy Act,
 561 20 U.S.C. s. 1232g.

562 c. Any person, entity, or authority issuing a subpoena for
 563 law enforcement purposes when the court or other issuing agency
 564 has ordered that the existence or the contents of the subpoena
 565 or the information furnished in response to the subpoena not be
 566 disclosed, consistent with the Family Educational Rights and
 567 Privacy Act, 20 U.S.C. s. 1232g, and 34 C.F.R. s. 99.31.

568
 569 The commissioner's order suspending payment pursuant to this
 570 paragraph may be appealed pursuant to the same procedures and
 571 timelines as the notice of proposed action set forth in
 572 subparagraph (d)2. ~~subparagraph (e)2.~~

573 Section 5. Paragraph (a) of subsection (2) of section
 574 1002.45, Florida Statutes, is amended to read:

575 1002.45 Virtual instruction programs.—

576 (2) PROVIDER QUALIFICATIONS.—

577 (a) The department shall annually publish online a list of
 578 providers approved to offer virtual instruction programs. To be
 579 approved by the department, a provider must document that it:

- 580 1. Is nonsectarian in its programs, admission policies,

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581 employment practices, and operations;

582 2. Complies with the antidiscrimination provisions of s.
583 1000.05;

584 3. Locates an administrative office or offices in this
585 state, requires its administrative staff to be state residents,
586 requires all instructional staff to be Florida-certified
587 teachers under chapter 1012, and conducts background screenings
588 and receives arrest reports for all employees or contracted
589 personnel, as required by s. 1012.32, using state and national
590 criminal history records;

591 4. Disqualifies educational support employees,
592 instructional personnel, and administrative personnel, as
593 defined in s. 1012.01, from employment in any position that
594 requires direct contact with students, if the employees or
595 personnel are ineligible for such employment under s. 1012.315,
596 and reports the disqualified employees or personnel and the
597 disqualifying circumstances to the department for inclusion on
598 the disqualification list pursuant to s. 1001.10(4)(b).

599 ~~5.4-~~ Provides to parents and students specific information
600 posted and accessible online that includes, but is not limited
601 to, the following teacher-parent and teacher-student contact
602 information for each course:

- 603 a. How to contact the instructor via phone, e-mail, or
604 online messaging tools.
605 b. How to contact technical support via phone, e-mail, or
606 online messaging tools.
607 c. How to contact the administration office via phone, e-
608 mail, or online messaging tools.
609 d. Any requirement for regular contact with the instructor

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610 for the course and clear expectations for meeting the
611 requirement.

612 e. The requirement that the instructor in each course must,
613 at a minimum, conduct one contact via phone with the parent and
614 the student each month;

615 ~~6.5-~~ Possesses prior, successful experience offering online
616 courses to elementary, middle, or high school students as
617 demonstrated by quantified student learning gains in each
618 subject area and grade level provided for consideration as an
619 instructional program option. However, for a provider without
620 sufficient prior, successful experience offering online courses,
621 the department may conditionally approve the provider to offer
622 courses measured pursuant to subparagraph (8)(a)2. Conditional
623 approval shall be valid for 1 school year only and, based on the
624 provider's experience in offering the courses, the department
625 shall determine whether to grant approval to offer a virtual
626 instruction program;

627 ~~7.6-~~ Is accredited by a regional accrediting association as
628 defined by State Board of Education rule;

629 ~~8.7-~~ Ensures instructional and curricular quality through a
630 detailed curriculum and student performance accountability plan
631 that addresses every subject and grade level it intends to
632 provide through contract with the school district, including:

- 633 a. Courses and programs that meet the standards of the
634 International Association for K-12 Online Learning and the
635 Southern Regional Education Board.
636 b. Instructional content and services that align with, and
637 measure student attainment of, student proficiency in the Next
638 Generation Sunshine State Standards.

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639 c. Mechanisms that determine and ensure that a student has
640 satisfied requirements for grade level promotion and high school
641 graduation with a standard diploma, as appropriate;

642 ~~9.8-~~ Publishes for the general public, in accordance with
643 disclosure requirements adopted in rule by the State Board of
644 Education, as part of its application as a provider and in all
645 contracts negotiated pursuant to this section:

646 a. Information and data about the curriculum of each full-
647 time and part-time program.

648 b. School policies and procedures.

649 c. Certification status and physical location of all
650 administrative and instructional personnel.

651 d. Hours and times of availability of instructional
652 personnel.

653 e. Student-teacher ratios.

654 f. Student completion and promotion rates.

655 g. Student, educator, and school performance accountability
656 outcomes;

657 ~~10.9-~~ If the provider is a Florida College System
658 institution, employs instructors who meet the certification
659 requirements for instructional staff under chapter 1012; and

660 ~~11.10-~~ Performs an annual financial audit of its accounts
661 and records conducted by an independent certified public
662 accountant which is in accordance with rules adopted by the
663 Auditor General, is conducted in compliance with generally
664 accepted auditing standards, and includes a report on financial
665 statements presented in accordance with generally accepted
666 accounting principles.

667 12. Complies with s. 1012.796, relating to complaints

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668 against educational support employees, teachers, and
669 administrators and designates at least one administrator to be
670 responsible for the duties and requirements assigned to a
671 district school board and superintendent pursuant to that
672 section. A virtual instruction provider must inform the district
673 school board of a complaint regarding misconduct or an arrest of
674 instructional or noninstructional personnel.

675 Section 6. Subsection (2) of section 1006.061, Florida
676 Statutes, is amended to read:

677 1006.061 Child abuse, abandonment, and neglect policy.—Each
678 district school board, charter school, and private school that
679 accepts scholarship students who participate in a state
680 scholarship program under chapter 1002 shall:

681 (2) Post in a prominent place at each school site and on
682 each school's Internet website, if available, the policies and
683 procedures for reporting alleged misconduct by educational
684 support employees, instructional personnel, or school
685 administrators which affects the health, safety, or welfare of a
686 student; the contact person to whom the report is made; and the
687 penalties imposed on educational support employees,
688 instructional personnel, or school administrators who fail to
689 report suspected or actual child abuse or alleged misconduct by
690 other educational support employees, instructional personnel, or
691 school administrators.

692
693 The Department of Education shall develop, and publish on the
694 department's Internet website, sample notices suitable for
695 posting in accordance with subsections (1), (2), and (4).

696 Section 7. Paragraph (a) of subsection (3) of section

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697 1012.31, Florida Statutes, is amended to read:

698 1012.31 Personnel files.—Public school system employee
699 personnel files shall be maintained according to the following
700 provisions:

701 (3) (a) Public school system employee personnel files are
702 subject to the provisions of s. 119.07(1), except as follows:

703 1. Any complaint and any material relating to the
704 investigation of a complaint against an employee shall be
705 confidential and exempt from the provisions of s. 119.07(1)
706 until the conclusion of the preliminary investigation or until
707 such time as the preliminary investigation ceases to be active.
708 If the preliminary investigation is concluded with the finding
709 that there is no probable cause to proceed further and with no
710 disciplinary action taken or charges filed, a statement to that
711 effect signed by the responsible investigating official shall be
712 attached to the complaint, and the complaint and all such
713 materials shall be open thereafter to inspection pursuant to s.
714 119.07(1). If the preliminary investigation is concluded with
715 the finding that there is probable cause to proceed further or
716 with disciplinary action taken or charges filed, the complaint
717 and all such materials shall be open thereafter to inspection
718 pursuant to s. 119.07(1). If the preliminary investigation
719 ceases to be active, the complaint and all such materials shall
720 be open thereafter to inspection pursuant to s. 119.07(1). For
721 the purpose of this subsection, a preliminary investigation
722 shall be considered active as long as it is continuing with a
723 reasonable, good faith anticipation that an administrative
724 finding will be made in the foreseeable future. An investigation
725 shall be presumed to be inactive if no finding relating to

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726 probable cause is made within 60 days after the complaint is
727 made. This subparagraph does not absolve the school district of
728 any legally required notifications, including the ~~its~~ duty to
729 provide any legally sufficient complaint to the department in
730 accordance with ~~within 30 days after the date on which the~~
731 ~~subject matter of the complaint comes to the attention of the~~
732 ~~school district pursuant to s. 1012.796(1) (d)1. and 3.~~,
733 regardless of the status of the complaint.

734 2. An employee evaluation prepared pursuant to s. 1012.33,
735 s. 1012.34, or s. 1012.56 or rules adopted by the State Board of
736 Education or district school board under the authority of those
737 sections shall be confidential and exempt from the provisions of
738 s. 119.07(1) until the end of the school year immediately
739 following the school year in which the evaluation was made. No
740 evaluation prepared before July 1, 1983, shall be made public
741 pursuant to this section.

742 3. No material derogatory to an employee shall be open to
743 inspection until 10 days after the employee has been notified
744 pursuant to paragraph (2) (c).

745 4. The payroll deduction records of an employee shall be
746 confidential and exempt from the provisions of s. 119.07(1).

747 5. Employee medical records, including psychiatric and
748 psychological records, shall be confidential and exempt from the
749 provisions of s. 119.07(1); however, at any hearing relative to
750 the competency or performance of an employee, the administrative
751 law judge, hearing officer, or panel shall have access to such
752 records.

753 Section 8. Section 1012.315, Florida Statutes, is amended
754 to read:

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755 1012.315 Disqualification from employment.—A person is
 756 ineligible for educator certification or employment in any
 757 position that requires direct contact with students in a
 758 district school system, charter school, or private school that
 759 accepts scholarship students who participate in a state
 760 scholarship program under chapter 1002 if the person is included
 761 in the disqualification list maintained by the department
 762 pursuant to s. 1001.10(4)(b) or has been convicted of:

763 (1) Any felony offense prohibited under any of the
 764 following statutes:

765 (a) Section 393.135, relating to sexual misconduct with
 766 certain developmentally disabled clients and reporting of such
 767 sexual misconduct.

768 (b) Section 394.4593, relating to sexual misconduct with
 769 certain mental health patients and reporting of such sexual
 770 misconduct.

771 (c) Section 415.111, relating to adult abuse, neglect, or
 772 exploitation of aged persons or disabled adults.

773 (d) Section 782.04, relating to murder.

774 (e) Section 782.07, relating to manslaughter, aggravated
 775 manslaughter of an elderly person or disabled adult, aggravated
 776 manslaughter of a child, or aggravated manslaughter of an
 777 officer, a firefighter, an emergency medical technician, or a
 778 paramedic.

779 (f) Section 784.021, relating to aggravated assault.

780 (g) Section 784.045, relating to aggravated battery.

781 (h) Section 784.075, relating to battery on a detention or
 782 commitment facility staff member or a juvenile probation
 783 officer.

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784 (i) Section 787.01, relating to kidnapping.

785 (j) Section 787.02, relating to false imprisonment.

786 (k) Section 787.025, relating to luring or enticing a
 787 child.

788 (l) Section 787.04(2), relating to leading, taking,
 789 enticing, or removing a minor beyond the state limits, or
 790 concealing the location of a minor, with criminal intent pending
 791 custody proceedings.

792 (m) Section 787.04(3), relating to leading, taking,
 793 enticing, or removing a minor beyond the state limits, or
 794 concealing the location of a minor, with criminal intent pending
 795 dependency proceedings or proceedings concerning alleged abuse
 796 or neglect of a minor.

797 (n) Section 790.115(1), relating to exhibiting firearms or
 798 weapons at a school-sponsored event, on school property, or
 799 within 1,000 feet of a school.

800 (o) Section 790.115(2)(b), relating to possessing an
 801 electric weapon or device, destructive device, or other weapon
 802 at a school-sponsored event or on school property.

803 (p) Section 794.011, relating to sexual battery.

804 (q) Former s. 794.041, relating to sexual activity with or
 805 solicitation of a child by a person in familial or custodial
 806 authority.

807 (r) Section 794.05, relating to unlawful sexual activity
 808 with certain minors.

809 (s) Section 794.08, relating to female genital mutilation.

810 (t) Chapter 796, relating to prostitution.

811 (u) Chapter 800, relating to lewdness and indecent
 812 exposure.

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813 (v) Section 800.101, relating to offenses against students
 814 by authority figures.
 815 (w) Section 806.01, relating to arson.
 816 (x) Section 810.14, relating to voyeurism.
 817 (y) Section 810.145, relating to video voyeurism.
 818 (z) Section 812.014(6), relating to coordinating the
 819 commission of theft in excess of \$3,000.
 820 (aa) Section 812.0145, relating to theft from persons 65
 821 years of age or older.
 822 (bb) Section 812.019, relating to dealing in stolen
 823 property.
 824 (cc) Section 812.13, relating to robbery.
 825 (dd) Section 812.131, relating to robbery by sudden
 826 snatching.
 827 (ee) Section 812.133, relating to carjacking.
 828 (ff) Section 812.135, relating to home-invasion robbery.
 829 (gg) Section 817.563, relating to fraudulent sale of
 830 controlled substances.
 831 (hh) Section 825.102, relating to abuse, aggravated abuse,
 832 or neglect of an elderly person or disabled adult.
 833 (ii) Section 825.103, relating to exploitation of an
 834 elderly person or disabled adult.
 835 (jj) Section 825.1025, relating to lewd or lascivious
 836 offenses committed upon or in the presence of an elderly person
 837 or disabled person.
 838 (kk) Section 826.04, relating to incest.
 839 (ll) Section 827.03, relating to child abuse, aggravated
 840 child abuse, or neglect of a child.
 841 (mm) Section 827.04, relating to contributing to the

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842 delinquency or dependency of a child.
 843 (nn) Section 827.071, relating to sexual performance by a
 844 child.
 845 (oo) Section 843.01, relating to resisting arrest with
 846 violence.
 847 (pp) Chapter 847, relating to obscenity.
 848 (qq) Section 874.05, relating to causing, encouraging,
 849 soliciting, or recruiting another to join a criminal street
 850 gang.
 851 (rr) Chapter 893, relating to drug abuse prevention and
 852 control, if the offense was a felony of the second degree or
 853 greater severity.
 854 (ss) Section 916.1075, relating to sexual misconduct with
 855 certain forensic clients and reporting of such sexual
 856 misconduct.
 857 (tt) Section 944.47, relating to introduction, removal, or
 858 possession of contraband at a correctional facility.
 859 (uu) Section 985.701, relating to sexual misconduct in
 860 juvenile justice programs.
 861 (vv) Section 985.711, relating to introduction, removal, or
 862 possession of contraband at a juvenile detention facility or
 863 commitment program.
 864 (2) Any misdemeanor offense prohibited under any of the
 865 following statutes:
 866 (a) Section 784.03, relating to battery, if the victim of
 867 the offense was a minor.
 868 (b) Section 787.025, relating to luring or enticing a
 869 child.
 870 (3) Any criminal act committed in another state or under

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871 federal law which, if committed in this state, constitutes an
872 offense prohibited under any statute listed in subsection (1) or
873 subsection (2).

874 (4) Any delinquent act committed in this state or any
875 delinquent or criminal act committed in another state or under
876 federal law which, if committed in this state, qualifies an
877 individual for inclusion on the Registered Juvenile Sex Offender
878 List under s. 943.0435(1)(h)1.d.

879 Section 9. Paragraph (a) of subsection (2) and paragraph
880 (b) of subsection (3) of section 1012.32, Florida Statutes, are
881 amended to read:

882 1012.32 Qualifications of personnel.—

883 (2)(a) Instructional and noninstructional personnel who are
884 hired or contracted to fill positions that require direct
885 contact with students in any district school system, virtual
886 instruction program, or university lab school must, upon
887 employment or engagement to provide services, undergo background
888 screening as required under s. 1012.465 or s. 1012.56, whichever
889 is applicable. A district school board may not require employees
890 or contractual personnel of a virtual instruction provider
891 approved pursuant to s. 1002.45(2) to undergo additional
892 background screening.

893
894 Fingerprints shall be submitted to the Department of Law
895 Enforcement for statewide criminal and juvenile records checks
896 and to the Federal Bureau of Investigation for federal criminal
897 records checks. A person subject to this subsection who is found
898 ineligible for employment under s. 1012.315, or otherwise found
899 through background screening to have been convicted of any crime

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900 involving moral turpitude as defined by rule of the State Board
901 of Education, shall not be employed, engaged to provide
902 services, or serve in any position that requires direct contact
903 with students. Probationary persons subject to this subsection
904 terminated because of their criminal record have the right to
905 appeal such decisions. The cost of the background screening may
906 be borne by the district school board, the charter school, the
907 employee, the contractor, or a person subject to this
908 subsection. A district school board shall reimburse a charter
909 school the cost of background screening if it does not notify
910 the charter school of the eligibility of a governing board
911 member or instructional or noninstructional personnel within the
912 earlier of 14 days after receipt of the background screening
913 results from the Florida Department of Law Enforcement or 30
914 days of submission of fingerprints by the governing board member
915 or instructional or noninstructional personnel.

916 (3)

917 (b) The Department of Law Enforcement shall search all
918 arrest fingerprints received under s. 943.051 against the
919 fingerprints retained in the statewide automated biometric
920 identification system under paragraph (a). Any arrest record
921 that is identified with the retained fingerprints of a person
922 subject to the background screening under this section shall be
923 reported to the employing or contracting school district,
924 virtual instruction provider approved pursuant to s. 1002.45(2),
925 or the school district with which the person is affiliated. All
926 school districts and approved virtual instruction providers are
927 ~~Each school district is~~ required to participate in this search
928 process by payment of an annual fee to the Department of Law

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929 Enforcement and by informing the Department of Law Enforcement
 930 of any change in the affiliation, employment, or contractual
 931 status or place of affiliation, employment, or contracting of
 932 its instructional and noninstructional personnel whose
 933 fingerprints are retained under paragraph (a). The Department of
 934 Law Enforcement shall adopt a rule setting the amount of the
 935 annual fee to be imposed upon each school district and approved
 936 virtual instruction provider for performing these searches and
 937 establishing the procedures for the retention of instructional
 938 and noninstructional personnel fingerprints and the
 939 dissemination of search results. The fee may be borne by the
 940 district school board, the approved virtual instruction
 941 provider, the contractor, or the person fingerprinted.

942 Section 10. Subsection (1) of section 1012.795, Florida
 943 Statutes, is amended to read:

944 1012.795 Education Practices Commission; authority to
 945 discipline.—

946 (1) The Education Practices Commission may suspend the
 947 educator certificate of any instructional personnel or school
 948 administrator, as defined in s. 1012.01(2) or (3), for up to 5
 949 years, thereby denying that person the right to teach or
 950 otherwise be employed by a district school board or public
 951 school in any capacity requiring direct contact with students
 952 for that period of time, after which the person may return to
 953 teaching as provided in subsection (4); may revoke the educator
 954 certificate of any person, thereby denying that person the right
 955 to teach or otherwise be employed by a district school board or
 956 public school in any capacity requiring direct contact with
 957 students for up to 10 years, with reinstatement subject to

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958 subsection (4); may permanently revoke the educator certificate
 959 of any person thereby denying that person the right to teach or
 960 otherwise be employed by a district school board or public
 961 school in any capacity requiring direct contact with students;
 962 may suspend a person's educator certificate, upon an order of
 963 the court or notice by the Department of Revenue relating to the
 964 payment of child support; may direct the department to place
 965 employees or contractual personnel of any public school, charter
 966 school, charter school governing board, or private school that
 967 participates in a state scholarship program under chapter 1002
 968 on the disqualification list maintained by the department
 969 pursuant to s. 1001.10(4)(b) for misconduct that would render
 970 the person ineligible pursuant to s. 1012.315; or may impose any
 971 other penalty provided by law, if the person:

972 (a) Obtained or attempted to obtain an educator certificate
 973 by fraudulent means.

974 (b) Knowingly failed to report actual or suspected child
 975 abuse as required in s. 1006.061 or report alleged misconduct by
 976 instructional personnel or school administrators which affects
 977 the health, safety, or welfare of a student as required in s.
 978 1012.796.

979 (c) Has proved to be incompetent to teach or to perform
 980 duties as an employee of the public school system or to teach in
 981 or to operate a private school.

982 (d) Has been guilty of gross immorality or an act involving
 983 moral turpitude as defined by rule of the State Board of
 984 Education, including engaging in or soliciting sexual, romantic,
 985 or lewd conduct with a student or minor.

986 (e) Has had an educator certificate or other professional

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987 license sanctioned by this or any other state or has had the
 988 authority to practice the regulated profession revoked,
 989 suspended, or otherwise acted against, including a denial of
 990 certification or licensure, by the licensing or certifying
 991 authority of any jurisdiction, including its agencies and
 992 subdivisions. The licensing or certifying authority's acceptance
 993 of a relinquishment, stipulation, consent order, or other
 994 settlement offered in response to or in anticipation of the
 995 filing of charges against the licensee or certificateholder
 996 shall be construed as action against the license or certificate.
 997 For purposes of this section, a sanction or action against a
 998 professional license, a certificate, or an authority to practice
 999 a regulated profession must relate to being an educator or the
 1000 fitness of or ability to be an educator.

1001 (f) Has been convicted or found guilty of, has had
 1002 adjudication withheld for, or has pled guilty or nolo contendere
 1003 to a misdemeanor, felony, or any other criminal charge, other
 1004 than a minor traffic violation.

1005 (g) Upon investigation, has been found guilty of personal
 1006 conduct that seriously reduces that person's effectiveness as an
 1007 employee of the district school board.

1008 (h) Has breached a contract, as provided in s. 1012.33(2)
 1009 or s. 1012.335.

1010 (i) Has been the subject of a court order or notice by the
 1011 Department of Revenue pursuant to s. 409.2598 directing the
 1012 Education Practices Commission to suspend the certificate as a
 1013 result of noncompliance with a child support order, a subpoena,
 1014 an order to show cause, or a written agreement with the
 1015 Department of Revenue.

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1016 (j) Has violated the Principles of Professional Conduct for
 1017 the Education Profession prescribed by State Board of Education
 1018 rules.

1019 (k) Has otherwise violated the provisions of law, the
 1020 penalty for which is the revocation of the educator certificate.

1021 (l) Has violated any order of the Education Practices
 1022 Commission.

1023 (m) Has been the subject of a court order or plea agreement
 1024 in any jurisdiction which requires the certificateholder to
 1025 surrender or otherwise relinquish his or her educator's
 1026 certificate. A surrender or relinquishment shall be for
 1027 permanent revocation of the certificate. A person may not
 1028 surrender or otherwise relinquish his or her certificate prior
 1029 to a finding of probable cause by the commissioner as provided
 1030 in s. 1012.796.

1031 (n) Has been disqualified from educator certification under
 1032 s. 1012.315.

1033 (o) Has committed a third recruiting offense as determined
 1034 by the Florida High School Athletic Association (FHSAA) pursuant
 1035 to s. 1006.20(2)(b).

1036 (p) Has violated test security as provided in s. 1008.24.
 1037 Section 11. Section 1012.796, Florida Statutes, is amended
 1038 to read:

1039 1012.796 Complaints against educational support employees,
 1040 teachers, and administrators; procedure; penalties.—

1041 (1) (a) The Department of Education shall cause to be
 1042 investigated expeditiously any complaint filed before it or
 1043 otherwise called to its attention which, if legally sufficient,
 1044 contains grounds for the revocation or suspension of a

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1045 certificate or any other appropriate penalty as set forth in
 1046 subsection (7). The complaint is legally sufficient if it
 1047 contains the ultimate facts ~~that which~~ show a violation has
 1048 occurred as provided in s. 1012.795 and defined by rule of the
 1049 State Board of Education. The department shall investigate or
 1050 continue to investigate and take appropriate action on a
 1051 complaint even though the original complainant withdraws the
 1052 complaint or otherwise indicates a desire not to cause it to be
 1053 investigated or prosecuted to completion. The department may
 1054 investigate or continue to investigate and take action on a
 1055 complaint filed against a person whose educator certificate has
 1056 expired if the act or acts that are the basis for the complaint
 1057 were allegedly committed while that person possessed an educator
 1058 certificate and may not issue a new certificate to such person
 1059 unless an investigation has been completed.

1060 (b) The department shall immediately investigate any
 1061 legally sufficient complaint that involves misconduct by any
 1062 certificated personnel which affects the health, safety, or
 1063 welfare of a student, giving the complaint priority over other
 1064 pending complaints. The department must investigate or continue
 1065 to investigate and take action on such a complaint filed against
 1066 a person whose educator certificate has expired if the act or
 1067 acts that are the basis for the complaint were allegedly
 1068 committed while that person possessed an educator certificate.

1069 (c) When an investigation is undertaken, the department
 1070 shall notify the certificateholder or applicant for
 1071 certification and the district school superintendent or the
 1072 university laboratory school, charter school, or private school
 1073 in which the certificateholder or applicant for certification is

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1074 employed or was employed at the time the alleged offense
 1075 occurred. In addition, the department shall inform the
 1076 certificateholder or applicant for certification of the
 1077 substance of any complaint ~~that which~~ has been filed against
 1078 that certificateholder or applicant, unless the department
 1079 determines that such notification would be detrimental to the
 1080 investigation, in which case the department may withhold
 1081 notification.

1082 (d)1. Each school district shall file in writing with the
 1083 department all legally sufficient complaints within 30 days
 1084 after the date on which subject matter of the complaint comes to
 1085 the attention of the school district, regardless of whether the
 1086 subject of the complaint is still an employee of the school
 1087 district. A complaint is legally sufficient if it contains
 1088 ultimate facts that show a violation has occurred as provided in
 1089 s. 1012.795 and defined by rule of the State Board of Education.
 1090 The school district shall include all information relating to
 1091 the complaint which is known to the school district at the time
 1092 of filing.

1093 2. A school district shall immediately notify the
 1094 department if the subject of a legally sufficient complaint of
 1095 misconduct affecting the health, safety, or welfare of a student
 1096 resigns or is terminated before the conclusion of the school
 1097 district's investigation. Upon receipt of the notification, the
 1098 department shall place an alert on the person's certification
 1099 file indicating that he or she resigned or was terminated before
 1100 an investigation involving allegations of misconduct affecting
 1101 the health, safety, or welfare of a student was concluded. In
 1102 such circumstances, the database may not include specific

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1103 information relating to the alleged misconduct until permitted
 1104 by subsection (4). This subparagraph does not limit or restrict
 1105 the duty of the district school board to investigate the
 1106 complaint and misconduct and report the findings and conclusion
 1107 to the department.

1108 3. Each district school board or superintendent, charter
 1109 school governing board, approved virtual instruction provider,
 1110 and private school that participates in a state scholarship
 1111 program under chapter 1002 shall immediately report to the
 1112 Department of Education an arrest or conviction of educational
 1113 support employees, administrative or instructional personnel, or
 1114 school officials for an offense that reflects a risk of harm to
 1115 the health, safety, or welfare of a student or would render the
 1116 person ineligible pursuant to s. 1012.315, as determined by
 1117 state board rule adopted pursuant to this section. The same
 1118 reporting requirements apply to a substantiated allegation of
 1119 such misconduct by educational support employees, administrative
 1120 or instructional personnel, or school officials, regardless of
 1121 whether the accused person has been arrested or convicted in
 1122 relation to the misconduct.

1123 4.3- Each district school board shall develop and adopt
 1124 policies and procedures to comply with this reporting
 1125 requirement. School board policies and procedures must include
 1126 standards for screening, hiring, and terminating educational
 1127 support employees, instructional personnel, and school
 1128 administrators, as defined in s. 1012.01; standards of ethical
 1129 conduct for educational support employees, instructional
 1130 personnel, and school administrators; the duties of educational
 1131 support employees, instructional personnel, and school

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1132 administrators for upholding the standards; detailed procedures
 1133 for reporting alleged misconduct by educational support
 1134 employees, instructional personnel, and school administrators
 1135 which affects the health, safety, or welfare of a student;
 1136 requirements for the reassignment of educational support
 1137 employees, instructional personnel, ~~and~~ school administrators
 1138 pending the outcome of a misconduct investigation; and penalties
 1139 for failing to comply with s. 1001.51 or s. 1012.795. The
 1140 district school board policies and procedures must ~~shall~~ include
 1141 appropriate penalties for all personnel of the district school
 1142 board for nonreporting and procedures for promptly informing the
 1143 district school superintendent of each legally sufficient
 1144 complaint. The district school superintendent is charged with
 1145 knowledge of these policies and procedures and is accountable
 1146 for the training of all educational support employees,
 1147 instructional personnel, and school administrators of the school
 1148 district on the standards of ethical conduct, policies, and
 1149 procedures.

1150 5.4- If the district school superintendent has knowledge of
 1151 a legally sufficient complaint and does not report the
 1152 complaint, or fails to enforce the policies and procedures of
 1153 the district school board, and fails to comply with the
 1154 requirements of this subsection, in addition to other actions
 1155 against certificateholders authorized by law, the district
 1156 school superintendent is subject to penalties as specified in s.
 1157 1001.51(12).

1158 6.5- If the superintendent determines that misconduct by
 1159 educational support employees, instructional personnel, or
 1160 school administrators who hold an educator certificate affects

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1161 the health, safety, or welfare of a student and the misconduct
 1162 warrants termination, the educational support employees,
 1163 instructional personnel, or school administrators may resign or
 1164 be terminated, and the superintendent must report the misconduct
 1165 to the department in the format prescribed by the department.
 1166 The department shall place such educational support employees,
 1167 instructional personnel, or school administrators on the
 1168 disqualification list maintained by the department pursuant to
 1169 s. 1001.10(4)(b). The department shall maintain each report of
 1170 misconduct as a public record in the educational support
 1171 employees', instructional personnel's, or school administrators'
 1172 certification files. This paragraph does not limit or restrict
 1173 the power and duty of the department to investigate complaints
 1174 regarding certificated personnel, regardless of the school
 1175 district's untimely filing, or failure to file, complaints and
 1176 followup reports. This subparagraph does not create a duty for
 1177 the department to investigate complaints regarding
 1178 noncertificated personnel.

1179 (e) If allegations arise against an employee who is
 1180 certified under s. 1012.56 and employed in an educator-
 1181 certificated position in any public school, charter school or
 1182 governing board thereof, or private school that accepts
 1183 scholarship students who participate in a state scholarship
 1184 program under chapter 1002, the school shall file in writing
 1185 with the department a legally sufficient complaint within 30
 1186 days after the date on which the subject matter of the complaint
 1187 came to the attention of the school, regardless of whether the
 1188 subject of the allegations is still an employee of the school. A
 1189 complaint is legally sufficient if it contains ultimate facts

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1190 that show a violation has occurred as provided in s. 1012.795
 1191 and defined by rule of the State Board of Education. The school
 1192 shall include all known information relating to the complaint
 1193 with the filing of the complaint. This paragraph does not limit
 1194 or restrict the power and duty of the department to investigate
 1195 complaints, regardless of the school's untimely filing, or
 1196 failure to file, complaints and followup reports. A school
 1197 described in this paragraph shall immediately notify the
 1198 department if the subject of a legally sufficient complaint of
 1199 misconduct affecting the health, safety, or welfare of a student
 1200 resigns or is terminated before the conclusion of the school's
 1201 investigation. Upon receipt of the notification, the department
 1202 shall place an alert on the person's certification file
 1203 indicating that he or she resigned or was terminated before an
 1204 investigation involving allegations of misconduct affecting the
 1205 health, safety, or welfare of a student was concluded. In such
 1206 circumstances, the database may not include specific information
 1207 relating to the alleged misconduct until permitted by subsection
 1208 (4).

1209 (f) Notwithstanding any other law, all law enforcement
 1210 agencies, state attorneys, social service agencies, district
 1211 school boards, and the Division of Administrative Hearings shall
 1212 fully cooperate with and, upon request, shall provide unredacted
 1213 documents to the Department of Education to further
 1214 investigations and prosecutions conducted pursuant to this
 1215 section. Any document received may not be redisclosed except as
 1216 authorized by law.

1217 (2) The Commissioner of Education shall develop job
 1218 specifications for investigative personnel employed by the

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1219 department. Such specifications shall be substantially
 1220 equivalent to or greater than those job specifications of
 1221 investigative personnel employed by the Department of Business
 1222 and Professional Regulation. The department may contract with
 1223 the Department of Business and Professional Regulation for
 1224 investigations. No person who is responsible for conducting an
 1225 investigation of a teacher or administrator may prosecute the
 1226 same case. The department general counsel or members of that
 1227 staff may conduct prosecutions under this section.

1228 (3) The department staff shall advise the commissioner
 1229 concerning the findings of the investigation and of all
 1230 referrals by the Florida High School Athletic Association
 1231 (FHSAA) pursuant to ss. 1006.20(2)(b) and 1012.795. The
 1232 department general counsel or members of that staff shall review
 1233 the investigation or the referral and advise the commissioner
 1234 concerning probable cause or lack thereof. The determination of
 1235 probable cause shall be made by the commissioner. The
 1236 commissioner shall provide an opportunity for a conference, if
 1237 requested, prior to determining probable cause. The commissioner
 1238 may enter into deferred prosecution agreements in lieu of
 1239 finding probable cause if, in his or her judgment, such
 1240 agreements are in the best interests of the department, the
 1241 certificateholder, and the public. Such deferred prosecution
 1242 agreements shall become effective when filed with the clerk of
 1243 the Education Practices Commission. However, a deferred
 1244 prosecution agreement may not be entered into if there is
 1245 probable cause to believe that a felony or an act of moral
 1246 turpitude, as defined by rule of the State Board of Education,
 1247 has occurred, or for referrals by the FHSAA. Upon finding no

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1248 probable cause, the commissioner shall dismiss the complaint and
 1249 may issue a letter of guidance to the certificateholder.

1250 (4) The complaint and all information obtained pursuant to
 1251 the investigation by the department shall be confidential and
 1252 exempt from the provisions of s. 119.07(1) until the conclusion
 1253 of the preliminary investigation of the complaint, until such
 1254 time as the preliminary investigation ceases to be active, or
 1255 until such time as otherwise provided by s. 1012.798(6).
 1256 However, the complaint and all material assembled during the
 1257 investigation may be inspected and copied by the
 1258 certificateholder under investigation, or the
 1259 certificateholder's designee, after the investigation is
 1260 concluded, but prior to the determination of probable cause by
 1261 the commissioner. If the preliminary investigation is concluded
 1262 with the finding that there is no probable cause to proceed, the
 1263 complaint and information shall be open thereafter to inspection
 1264 pursuant to s. 119.07(1). If the preliminary investigation is
 1265 concluded with the finding that there is probable cause to
 1266 proceed and a complaint is filed pursuant to subsection (6), the
 1267 complaint and information shall be open thereafter to inspection
 1268 pursuant to s. 119.07(1). If the preliminary investigation
 1269 ceases to be active, the complaint and all such material shall
 1270 be open thereafter to inspection pursuant to s. 119.07(1),
 1271 except as otherwise provided pursuant to s. 1012.798(6). For the
 1272 purpose of this subsection, a preliminary investigation shall be
 1273 considered active as long as it is continuing with a reasonable,
 1274 good faith anticipation that an administrative finding will be
 1275 made in the foreseeable future.

1276 (5) When an allegation of misconduct by educational support

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1277 employees, instructional personnel, or school administrators, as
 1278 defined in s. 1012.01, is received, if the alleged misconduct
 1279 affects the health, safety, or welfare of a student, the
 1280 district school superintendent in consultation with the school
 1281 principal, or upon the request of the Commissioner of Education,
 1282 must immediately suspend the educational support employees,
 1283 instructional personnel, or school administrators from regularly
 1284 assigned duties, with pay, and reassign the suspended employees,
 1285 personnel, or administrators to positions that do not require
 1286 direct contact with students in the district school system. Such
 1287 suspension shall continue until the completion of the
 1288 proceedings and the determination of sanctions, if any, pursuant
 1289 to this section and s. 1012.795.

1290 (6) Upon the finding of probable cause, the commissioner
 1291 shall file a formal complaint and prosecute the complaint
 1292 pursuant to the provisions of chapter 120. An administrative law
 1293 judge shall be assigned by the Division of Administrative
 1294 Hearings of the Department of Management Services to hear the
 1295 complaint if there are disputed issues of material fact. The
 1296 administrative law judge shall make recommendations in
 1297 accordance with the provisions of subsection (7) to the
 1298 appropriate Education Practices Commission panel which shall
 1299 conduct a formal review of such recommendations and other
 1300 pertinent information and issue a final order. The commission
 1301 shall consult with its legal counsel prior to issuance of a
 1302 final order.

1303 (7) A panel of the commission shall enter a final order
 1304 either dismissing the complaint or imposing one or more of the
 1305 following penalties:

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1306 (a) Denial of an application for a certificate or for an
 1307 administrative or supervisory endorsement on a teaching
 1308 certificate. The denial may provide that the applicant may not
 1309 reapply for certification, and that the department may refuse to
 1310 consider that applicant's application, for a specified period of
 1311 time or permanently.

1312 (b) Revocation or suspension of a certificate.

1313 (c) Imposition of an administrative fine not to exceed
 1314 \$2,000 for each count or separate offense.

1315 (d) Placement of the teacher, administrator, or supervisor
 1316 on probation for a period of time and subject to such conditions
 1317 as the commission may specify, including requiring the certified
 1318 teacher, administrator, or supervisor to complete additional
 1319 appropriate college courses or work with another certified
 1320 educator, with the administrative costs of monitoring the
 1321 probation assessed to the educator placed on probation. An
 1322 educator who has been placed on probation shall, at a minimum:

1323 1. Immediately notify the investigative office in the
 1324 Department of Education upon employment or separation from
 1325 employment in any public or private position requiring a Florida
 1326 educator's certificate.

1327 2. Have his or her immediate supervisor submit annual
 1328 performance reports to the investigative office in the
 1329 Department of Education.

1330 3. Pay to the commission within the first 6 months of each
 1331 probation year the administrative costs of monitoring probation
 1332 assessed to the educator.

1333 4. Violate no law and fully comply with all district school
 1334 board policies, school rules, and State Board of Education

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1335 rules.

1336 5. Satisfactorily perform his or her assigned duties in a
1337 competent, professional manner.

1338 6. Bear all costs of complying with the terms of a final
1339 order entered by the commission.

1340 (e) Restriction of the authorized scope of practice of the
1341 teacher, administrator, or supervisor.

1342 (f) Reprimand of the teacher, administrator, or supervisor
1343 in writing, with a copy to be placed in the certification file
1344 of such person.

1345 (g) Imposition of an administrative sanction, upon a person
1346 whose teaching certificate has expired, for an act or acts
1347 committed while that person possessed a teaching certificate or
1348 an expired certificate subject to late renewal, which sanction
1349 bars that person from applying for a new certificate for a
1350 period of 10 years or less, or permanently.

1351 (h) Refer the teacher, administrator, or supervisor to the
1352 recovery network program provided in s. 1012.798 under such
1353 terms and conditions as the commission may specify.

1354 (i) Direct the department to place educational support
1355 employees, instructional personnel, or school administrators on
1356 the disqualification list maintained by the department pursuant
1357 to s. 1001.10(4)(b) for conduct that would render the person
1358 ineligible pursuant to s. 1012.315.

1359 The penalties imposed under this subsection are in addition to,
1360 and not in lieu of, the penalties required for a third
1361 recruiting offense pursuant to s. 1006.20(2)(b).

1362 (8) Violations of the provisions of a final order shall
1363

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1364 result in an order to show cause issued by the clerk of the
1365 Education Practices Commission if requested by the Department of
1366 Education. Upon failure of the educator, at the time and place
1367 stated in the order, to show cause satisfactorily to the
1368 Education Practices Commission why a penalty for violating the
1369 provisions of a final order should not be imposed, the Education
1370 Practices Commission shall impose whatever penalty is
1371 appropriate as established in s. 1012.795(6). The Department of
1372 Education shall prosecute the individual ordered to show cause
1373 before the Education Practices Commission. The Department of
1374 Education and the individual may enter into a settlement
1375 agreement, which shall be presented to the Education Practices
1376 Commission for consideration. Any probation period will be
1377 tolled when an order to show cause has been issued until the
1378 issue is resolved by the Education Practices Commission;
1379 however, the other terms and conditions of the final order shall
1380 be in full force and effect until changed by the Education
1381 Practices Commission.

1382 (9) All moneys collected by, or awarded to, the commission
1383 as fees, fines, penalties, or costs shall be deposited into the
1384 Educational Certification and Service Trust Fund pursuant to s.
1385 1012.59.

1386 (10) Persons included on the disqualification list
1387 maintained by the department pursuant to s. 1001.10(4)(b) may
1388 not serve or apply to serve as employees or contractual
1389 personnel at any public school or private school participating
1390 in a state scholarship program under chapter 1002. A person who
1391 knowingly violates this subsection, or an employer who knowingly
1392 hires a person in violation of this subsection, commits a felony

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1393 of the third degree, punishable as provided in s. 775.082 or s.
1394 775.083.

1395 Section 12. Section 1012.797, Florida Statutes, is amended
1396 to read:

1397 1012.797 Notification by law enforcement ~~of district school~~
1398 ~~superintendent~~ of certain charges against or convictions of
1399 employees.-

1400 (1) Notwithstanding ~~the provisions of~~ s. 985.04(7) or any
1401 other ~~provision of~~ law to the contrary, a law enforcement agency
1402 shall, within 48 hours, notify the appropriate district school
1403 superintendent, charter school governing board, or private
1404 school owner or administrator, as applicable, of the name and
1405 address of any employee or contractor of the school district,
1406 charter school, or private school, as applicable, who is charged
1407 with a felony or with a misdemeanor involving the abuse of a
1408 minor child or the sale or possession of a controlled substance.
1409 The notification shall include the specific charge for which the
1410 employee or contractor ~~of the school district~~ was arrested. Such
1411 notification shall include other education providers such as the
1412 Florida School for the Deaf and the Blind, university lab
1413 schools, and private elementary and secondary schools.

1414 (2) Except to the extent necessary to protect the health,
1415 safety, and welfare of other students, the information obtained
1416 by the district school superintendent pursuant to this section
1417 may be released only to appropriate school personnel or as
1418 otherwise provided by law.

1419 Section 13. This act shall take effect July 1, 2020.

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 Education

BILL: SB 602

INTRODUCER: Senator Montford

SUBJECT: Open Educational Resources Grant Program

DATE: December 6, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Dew	Sikes	ED	Pre-meeting
2.			AED	
3.			AP	

I. Summary:

SB 602 creates the Open Educational Resources Grant Program to provide grant assistance to state universities for the development of open educational resources for students. The bill requires participating state universities to use grant funds to curate or adopt open educational resources for general education courses.

The bill has no impact on state revenues or expenditures. The grant program is contingent upon legislative appropriation.

The bill takes effect July 1, 2020.

II. Present Situation:

Textbook Affordability

The Board of Governors (BOG) and the State Board of Education (SBE) are required by law to adopt policies, procedures, and guidelines to minimize the cost of textbooks and instructional materials for students.¹ The policies, procedures, and guidelines must include the consideration of expanding the use of open-access textbooks and instructional materials.² Further, the BOG and SBE are required to submit a report on their respective college affordability initiatives to the Governor, the President of the Senate, and the Speaker of the House of Representatives by December 31 of each year.³

¹ Section 1004.085(6), F.S. See Florida Board of Governors, *Action Plan for the Pricing of Textbooks and Other Instructional Materials* (August 29, 2019), <https://www.flbog.edu/wp-content/uploads/2019-TextbookActionPlanFinal-REV.pdf>.

² Section 1004.085(6)(g)2., F.S.

³ Section 1004.084, F.S.

Each institution in the State University System (SUS) is required to submit to the Chancellor of the SUS an annual report by September of each year that addresses:

- The selection process for textbooks and instructional materials for general education courses identified with a wide cost variance and those with high enrollments;
- Specific initiatives of the university designed to reduce the costs of textbooks and instructional materials;
- University policies for posting textbook and instructional material information for students; and
- The number of courses and course sections for which the university was unable to meet the posting deadline in the previous academic year.⁴

Each Florida College System (FCS) institution and state university board of trustees is authorized to adopt policies in consultation with textbook and instructional material providers to allow for the use of innovative pricing techniques and payment options, which may be approved only if there is documented evidence that the options reduce the cost of textbooks and instructional materials for students taking a course.⁵

Open Educational Resources

The Florida Virtual Campus (FLVC) was created in 2012 and works collaboratively with Florida's 12 public universities, 28 public colleges, and 74 K-12 school districts to provide shared educational services for the state of Florida.⁶ FLVC services include the Florida Academic Library Services Cooperative (FALSC) and the Orange Grove.⁷

The FALSC was established as a division of the FLVC in 2014.⁸ FALSC offers a single library automation system and associated resources and services for the use of Florida's public postsecondary institutions.⁹ FALSC is responsible for developing and managing a portal and tools for use by FCS institutions and state universities, including:

- An Internet-based searchable collection of electronic resources including, but not be limited to, full-text journals, articles, databases, and specified electronic books; and
- A statewide searchable database that includes an inventory of digital archives and collections held by public postsecondary education institutions.¹⁰

The Orange Grove is Florida's supplemental digital repository for instructional resources, including higher education resources for Florida postsecondary institutions.¹¹

⁴ Section 1004.085, F.S. See State University System of Florida, *Textbook and Instructional Materials Report*, <https://www.flbog.edu/resources/textbook-affordability/textbook-and-instructional-materials-report/> (last visited Nov. 11, 2019).

⁵ Section 1004.085(4), F.S.

⁶ Florida Virtual Campus, *Organization Profile*, <https://www.flvc.org/organization-profile> (last visited Nov. 21, 2019).

⁷ *Id.*

⁸ Section 15, ch. 2014-56, L.O.F.

⁹ Section 1006.73, F.S.

¹⁰ Section 1004.649, F.S.

¹¹ FloridaShines, *The Orange Grove*, <https://www.floridashines.org/orange-grove> (last visited Nov. 18, 2019).

State universities have adopted institution-wide programs to reduce the costs of textbooks and instructional materials, including open access materials. For example, the Florida State University (FSU) Libraries Alternative Textbook Grant Program has been projected to save students \$79,029 by Summer 2019 through its support of faculty development of open or library-licensed course materials that are free and available to students.¹² The University of South Florida (USF) has provided open access to 676,261 unique e-books through a program that can be adopted for courses at no cost to students.¹³

In 2018, 26 of the 28 FCS institutions (93 percent) indicated the use of open educational resources in general education core courses.¹⁴

General Education in Florida

The general education curriculum of each state university and FCS institution requires completion of 36 semester hours in the subject areas of communication, mathematics, social sciences, humanities, and natural sciences for students working toward an associate in arts or baccalaureate degree.¹⁵

An associate in arts degree must require no more than 60 semester hours of college credit and include 36 semester hours of general education coursework. A baccalaureate degree program requires no more than 120 semester hours of college credit and includes 36 semester hours of general education coursework. Each institution is responsible for determining general education courses at that institution.

The SBE, in rule, and the BOG, in regulation, are required to identify courses designated as general education core.¹⁶

General education core course options:

- Consist of a maximum of five courses within each of the subject areas of communication, mathematics, social sciences, humanities, and natural sciences;
- Must each contain high-level academic and critical thinking skills and common competencies that students must demonstrate to successfully complete the course; and
- Must be successfully completed prior to the award of an associate in arts or baccalaureate degree for first-time-in-college students.¹⁷

¹² State University System of Florida Board of Governors, *State University System Textbook and Instructional Materials Affordability Report* (Fall 2018), <https://www.flbog.edu/wp-content/uploads/ChancellorSummaryUniversityTextbookInstructionalFall2018.pdf>, at 3.

¹³ Textbook Affordability Project, *Ebooks for the Classroom+*, <http://ebplus.lib.usf.edu/> (last visited Nov. 22, 2019).

¹⁴ The Florida College System, *Florida College System Textbook and Instructional Materials Affordability Report* (November 2018), https://www.floridacollegesystem.com/sites/www/Uploads/Publications/Other%20Reports/Florida%20College%20System%20Textbook%20Affordability%20Report_2018.pdf, at 5.

¹⁵ Rule 6A-10.024(2)(a), F.A.C. The required number for an associate in science degree is set at a minimum of 15 semester hours in the general education subject areas. Rule 6A-10.024(6)(b), F.A.C.

¹⁶ Section 1007.25(5), F.S.

¹⁷ Section 1007.25(3), F.S. *See also* Rule 6A-14.0303, F.A.C.

III. Effect of Proposed Changes:

SB 602 creates the Open Educational Resources Grant Program to provide grant assistance to state universities for the development of open educational resources for students. The bill requires participating state universities to use grant funds to curate or adopt open educational resources for general education courses.

The bill defines the term “open educational resources” to mean licensed teaching, learning, and research resources, including open-access textbooks and instructional materials, that reside in the public domain or have been released under a license that allows their free use, reuse, modification, and sharing with others.

The bill authorizes a state university to apply for a grant under the program in a format prescribed by the Department of Education (DOE). The DOE, in coordination with the Board of Governors of the State University System (BOG), must consider each application and may award grants to state universities that demonstrate a plan for the development of open educational resources. However, the bill requires each participating state university to use the grant funds to curate or adopt open educational resources for general education courses. It is unclear whether state universities must develop new resources or use existing open educational resources. In addition, it is unclear if the priority given to general education courses required in the bill applies to general education core courses identified in rule and regulation or to all institution-determined general education courses.

Although the bill does not authorize Florida College System (FCS) institutions to apply for a grant under the program, any open educational resources developed through the use of grant funds may be made available for use by students at all Florida postsecondary institutions. As such, the creation of additional high-quality, low-cost open educational resources may allow students to save on the cost of textbooks and instructional materials to the extent these materials are used by Florida postsecondary institutions.

The bill requires the department to adopt rules, and authorizes the board to adopt regulations, to implement the grant program.¹⁸

The bill takes effect July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

¹⁸ Adopting rules to implement provisions of law for the state system of K-20 public education falls under the authority of the State Board of Education; the Department of Education is not authorized to adopt rules. Section 1007.25(3), F.S., specifies that general education core course options are adopted in rule by the State Board of Education and regulated by the Board of Governors.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

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

None.

B. Private Sector Impact:

Students may save on the cost of textbooks and instructional materials to the extent that open educational resources are developed under the proposed grant program and made available through Florida postsecondary institutions.

C. Government Sector Impact:

The bill has no impact on state revenues or expenditures. The grant program is contingent upon legislative appropriation.

VI. Technical Deficiencies:

The Department of Education is not authorized to adopt rules. The State Board of Education is the chief implementing and coordinating body of public education in Florida, and has the authority to adopt rules to implement provisions of law for the improvement of the state system of K-20 public education except for the State University System.¹⁹

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 1004.086 of the Florida Statutes.

¹⁹ Art. IX, s. 2, Fla. Const. and s. 1001.02(1), F.S.

IX. Additional Information:

- A. **Committee Substitute – Statement of Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

- B. **Amendments:**

None.

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



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LEGISLATIVE ACTION

Senate

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House

The Committee on Education (Montford) recommended the following:

Senate Amendment (with title amendment)

Delete lines 25 - 48

and insert:

Education in coordination with the Board of Governors and the State Board of Education. The purpose of the program is to provide grant assistance to state universities and Florida College System institutions for the development of high-quality, low-cost open educational resources for students.

(b) The term "open educational resources" means licensed teaching, learning, and research resources that reside in the



12 public domain or have been released under a license that allows
13 their free use, reuse, modification, and sharing with others.
14 The term includes open-access textbooks and instructional
15 materials.

16 (2) A state university or Florida College System
17 institution may submit an application in a format prescribed by
18 the department to be awarded a grant under the program. The
19 department, in coordination with the Board of Governors and the
20 State Board of Education, shall consider each proposal and may
21 award grants to state universities and Florida College System
22 institutions that demonstrate, to the satisfaction of the
23 department and the boards, a plan for the development of open
24 educational resources.

25 (3) Each participating state university and Florida College
26 System institution shall use the grant to curate or adopt open
27 educational resources for general education courses. In curating
28 and adopting the open educational resources, each state
29 university and Florida College System institution must give
30 priority to required general education courses as provided in
31 the statewide articulation agreement.

32 (4) The State Board of Education shall adopt rules, and the
33 Board of Governors may

34
35 ===== T I T L E A M E N D M E N T =====

36 And the title is amended as follows:

37 Delete lines 5 - 13

38 and insert:

39 Program; requiring the Department of Education, the
40 Board of Governors, and the State Board of Education



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41 to administer the program; providing the purpose of
42 the program; defining the term "open educational
43 resources"; authorizing state universities and Florida
44 College System institutions to submit applications for
45 grant awards under the program; requiring the
46 department, in coordination with specified entities,
47 to consider all applications; authorizing the
48 department in coordination with the boards to make
49 awards; requiring participating state universities and
50 Florida College System institutions to use grant funds
51 for a specified purpose and, in curating and adopting
52 open educational resources, to give priority to
53 certain courses; requiring the state board to adopt
54 rules; authorizing the Board of Governors to adopt
55 regulations; specifying

By Senator Montford

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A bill to be entitled

An act relating to the Open Educational Resources Grant Program; creating s. 1004.086, F.S.; establishing the Open Educational Resources Grant Program; requiring the Department of Education and the Board of Governors to administer the program; providing the purpose of the program; defining the term "open educational resources"; providing for application requirements and the application process of the program; requiring participating state universities to use grant funds for a specified purpose; requiring the department to adopt rules; authorizing the board to adopt regulations; specifying that implementation of the program is subject to legislative appropriation; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 1004.086, Florida Statutes, is created to read:

1004.086 Open educational resources grant program.-

(1) (a) There is created the Open Educational Resources Grant Program, which shall be administered by the Department of Education in coordination with the Board of Governors. The purpose of the program is to provide grant assistance to state universities for the development of high-quality, low-cost open educational resources for students.

(b) The term "open educational resources" means licensed

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teaching, learning, and research resources that reside in the public domain or have been released under a license that allows their free use, reuse, modification, and sharing with others. The term includes open-access textbooks and instructional materials.

(2) A state university may submit an application in a format prescribed by the department to be awarded a grant under the program. The department, in coordination with the board, shall consider each proposal and may award grants to state universities that demonstrate, to the satisfaction of the department and the board, a plan for the development of open educational resources.

(3) Each participating state university shall use the grant to curate or adopt open educational resources for general education courses. In curating and adopting the open educational resources, each state university must give priority to required general education courses as provided in the statewide articulation agreement.

(4) The department shall adopt rules, and the board may adopt regulations, to implement this section.

(5) Implementation of the program is subject to legislative appropriation.

Section 2. This act shall take effect July 1, 2020.

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.