

Tab 1	CS/SB 52 by ED, Rodrigues; (Similar to H 00281) Postsecondary Education					
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917324	A	S	RCS	AED, Rodrigues	Before L.35:	02/10 03:12 PM
105930	A	S	RCS	AED, Rodrigues	Delete L.93 - 94:	02/10 03:12 PM
284764	A	S	RCS	AED, Rodrigues	btw L.128 - 129:	02/10 03:12 PM
694192	A	S	RCS	AED, Rodrigues	btw L.128 - 129:	02/10 03:12 PM

Tab 2	CS/SB 264 by ED, Rodrigues; (Similar to H 00233) Higher Education					
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100826	A	S	RS	AED, Rodrigues	Delete L.105 - 107:	02/10 03:12 PM
889170	SA	S	RCS	AED, Rodrigues	Delete L.105 - 108:	02/10 03:12 PM

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA
APPROPRIATIONS SUBCOMMITTEE ON EDUCATION
Senator Broxson, Chair
Senator Diaz, Vice Chair

MEETING DATE: Tuesday, February 9, 2021
TIME: 2:00—3:30 p.m.
PLACE: Pat Thomas Committee Room, 412 Knott Building

MEMBERS: Senator Broxson, Chair; Senator Diaz, Vice Chair; Senators Cruz, Gibson, Gruters, Hutson, Passidomo, Polsky, and Wright

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
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PUBLIC TESTIMONY WILL BE RECEIVED FROM ROOM A3 AT THE DONALD L. TUCKER CIVIC CENTER, 505 W PENSACOLA STREET, TALLAHASSEE, FL 32301

1	CS/SB 52 Education / Rodrigues (Similar H 281)	Postsecondary Education; Clarifying fee exemptions for the Department of Children and Families; establishing the Dual Enrollment Scholarship Program; requiring students participating in dual enrollment programs to meet specified minimum eligibility requirements in order for institutions to receive reimbursements; authorizing university boards of trustees to implement a bonus scheme for state university system employees based on awards for work performance or employee recruitment and retention, etc. ED 01/26/2021 Fav/CS AED 02/09/2021 Fav/CS AP	Fav/CS Yeas 6 Nays 3
2	CS/SB 264 Education / Rodrigues (Similar H 233)	Higher Education; Requiring the State Board of Education to require each Florida College System institution to conduct an annual assessment related to intellectual freedom and viewpoint diversity; requiring the State Board of Education to annually publish such assessments by a specified date; prohibiting the State Board of Education from shielding Florida College System institution students from certain speech; requiring the Board of Governors to annually publish such assessments by a specified date; prohibiting the Board of Governors from shielding state university students from certain speech, etc. ED 01/26/2021 Fav/CS AED 02/09/2021 Fav/CS AP	Fav/CS Yeas 6 Nays 3

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 Appropriations Subcommittee on Education

BILL: PCS/CS/SB 52 (684342)

INTRODUCER: Appropriations Subcommittee on Education; Education Committee; and Senator Rodrigues

SUBJECT: Postsecondary Education

DATE: February 10, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Westmark</u>	<u>Bouck</u>	<u>ED</u>	<u>Fav/CS</u>
2.	<u>Underhill</u>	<u>Elwell</u>	<u>AED</u>	<u>Recommend: Fav/CS</u>
3.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/CS/SB 52 contains provisions to help postsecondary institutions provide certain educational and financial benefits and support to students and employees. Specifically, the bill:

- Clarifies that postsecondary tuition and fee exemptions apply to a student who is currently in the custody of the Department of Children and Families or a specified relative or nonrelative, or who was at the time he or she reached 18 years of age.
- Establishes the Dual Enrollment Scholarship Program to reimburse eligible postsecondary institutions for tuition and related costs for dual enrollment courses taken by certain students, and specifies reporting deadlines.
- Authorizes a university board of trustees, subject to approval by the Board of Governors, to target certain employees for bonuses by implementing a bonus scheme based on awards for work performance or employee recruitment and retention.

For the 2021-2022 fiscal year, the Dual Enrollment Scholarship Program is estimated to cost \$28.5 million.

The bill takes effect July 1, 2021.

II. Present Situation:

Fee Waivers and Exemptions

All students in workforce education programs, Florida College System (FCS) institutions, and state universities must be charged fees unless a fee waiver or exemption applies.¹ Tuition and fee exemptions can be distinguished from fee waivers or educational benefits. An exemption is “provided for certain students who are, by statutory definition, exempt from the payment of tuition and fees, including lab fees” and may generally include students who are in dual enrollment, apprenticeship programs, welfare transition, and in the custody of a relative, among other categories. In contrast, waivers transpire when students have their fees waived or forgiven by an institution. Examples of waivers include those related to state employees, college employees and their dependents, Purple Heart recipients, and certain classroom teachers.²

A student who is or was at the time he or she reached 18 years of age in the custody of the Department of Children and Families (DCF) or in the custody of a relative or nonrelative specified in law,³ is exempt from the payment of tuition and fees at a state university, FCS institution, or Florida school district that provides workforce education programs. Such exemption includes fees associated with enrollment in applied academics for adult education instruction and remains valid until the student reaches 28 years of age.⁴ Such exemptions are outlined by year in the following tables:

State University System DCF Specified Fee Exemptions by Academic Year⁵

	2017-18		2018-19		2019-20	
	Headcount	Amount	Headcount	Amount	Headcount	Amount
Adopted	1,156	\$3,204,829	1,485	\$4,076,209	1,704	\$4,836,057
Foster Care/State Custody	1,035	\$2,911,275	811	\$2,444,456	801	\$2,477,687
Non-State Custody	127	\$365,738	449	\$1,118,653	488	\$1,255,052
Total	2,318	\$6,481,842	2,745	\$7,639,318	2,993	\$8,568,796

¹ Sections 1009.22, 1009.23, and 1009.24, F.S., respectively.

² The Florida College System, *Exemptions and Waivers in The Florida College System* (March 2012), available at <http://www.fldoe.org/core/fileparse.php/7724/urlt/0072361-fyi2012-02exemptions.pdf> at 1.

³ Section 39.5085, F.S., or s. 39.6225, F.S.

⁴ Section 1009.25(1)(c) and (d), F.S..

⁵ Florida Board of Governors (BOG) ODA Analysis (Nov. 9, 2020), Email, Troy Miller, Deputy Chief Data Officer, BOG (Nov. 10, 2020) (on file with the Senate Committee on Education).

Florida College System DCF Specified Fee Exemptions by Academic Year⁶

	2017-18		2018-19		2019-20	
	Headcount ⁷	Amount	Headcount	Amount	Headcount	Amount
Adopted from DCF Services	1,459	\$2,459,399	1,735	\$2,972,262	1,833	\$3,207,602
Custody of DCF	2,459	\$4,281,744	2,464	\$4,280,172	2,325	\$4,040,160
Custody of a Relative	283	\$501,827	318	\$588,870	324	\$573,952
Total	4,201	\$7,242,970	4,517	\$7,841,304	4,482	\$7,821,714

It is unclear to what extent all postsecondary institutions apply the tuition and fee exemptions to students who qualify for the exemption and begin postsecondary education before the age of 18.⁸

Dual Enrollment

Students in secondary schools are required to have access to advanced coursework, which is intended to shorten the time necessary for students to complete the requirements associated with conferring a high school diploma and a postsecondary degree, broaden the scope of curricular options available to students, or increase the depth of study available for a particular subject.⁹

Dual enrollment is the enrollment of an eligible secondary student or home education student in a postsecondary course creditable toward both a high school diploma and a career certificate or an associate or baccalaureate degree.¹⁰ To be eligible for dual enrollment a student must be enrolled in grades 6 through 12 in a Florida public school or in a Florida private school that is in compliance with the requirements specified in law¹¹ and provides a secondary curriculum pursuant to law.¹² Students who meet the eligibility requirements and who participate in dual enrollment programs are exempt from the payment of registration, tuition, and laboratory fees.¹³

⁶ The Florida College System, *Summary of Student Fee Exemptions and Waivers For the 2017-2018 Fiscal Year* (2018), version 1, available at <http://www.fldoe.org/core/fileparse.php/19874/urlt/1718ExemptWaiverSS.PDF> at 1; The Florida College System, *Summary of Student Fee Exemptions and Waivers For the 2018-2019 Fiscal Year* (2019), version 1, available at <http://www.fldoe.org/core/fileparse.php/19874/urlt/1819ExemptWaiverSS.PDF> at 1; and The Florida College System, *Summary of Student Fee Exemptions and Waivers For the 2019-2020 Fiscal Year* (2020), version 1, available at <http://www.fldoe.org/core/fileparse.php/19874/urlt/1920ExemptWaiveresSS.pdf> at 1.

⁷ Numbers reflect unduplicated headcount.

⁸ Email, Alan F. Abramowitz, Executive Director, Florida Statewide Guardian ad Litem Office (Oct. 1, 2020) (on file with the Senate Committee on Education); see also *DCF Fee Exemptions in the Florida College System, FAQ*, The Florida College System, available at <http://www.fldoe.org/core/fileparse.php/7480/urlt/0082785-faqscdfexemption.pdf> (last visited Jan. 6, 2021).

⁹ Section 1007.27(1), F.S.

¹⁰ Section 1007.271(1), F.S.

¹¹ Section 1002.42, F.S., provides the following requirements: private schools must comply with statutory database requirements including the type, name, address, and telephone number of the institution; the names of administrative officers; the enrollment by grade or special group; the number of graduates; the number of instructional and administrative personnel; the number of days the school is in session; and background checks. A private school must comply with requirements regarding retention of records, attendance records and reports, school-entry health examinations, and immunizations, in addition to the annual private school survey.

¹² Section 1007.271(2), F.S.

¹³ Section 1007.271(16), F.S. However, s. 1011.62(1)(i), F.S., specifies that the provisions of law which exempt dual enrolled and early admission students from payment for instructional materials and tuition and fees, including laboratory fees, do not apply to students who select the option of enrolling in an eligible independent institution. An eligible independent institution is an independent college or university, which is not-for-profit, is accredited by a regional or national accrediting agency recognized by the United States Department of Education, and confers degrees as defined in s. 1005.02. *Id.*

A growing body of research suggests that participation in dual enrollment leads to improved academic outcomes, especially for students from low-income backgrounds and first-generation college students. Research suggests that participation in dual enrollment leads to better grades in high school, increased enrollment in college following high school, higher rates of persistence in college, greater credit accumulation, and increased rates of credential attainment.¹⁴ In addition, research indicates that allowing students in high school to complete even a single college class may significantly increase their chances of attending college and eventually graduating.¹⁵ For example, students who had completed college algebra for dual enrollment had associate degree attainment rates that were 23 percentage points higher and bachelor’s degree attainment rates 24 percentage points higher than students with no such experience.¹⁶

The following table shows the 2019-2020 academic year dual enrollment participation by public and private school and home education program students at FCS institutions,¹⁷ state universities,¹⁸ and for the 2018-2019 academic year students at eligible private colleges and universities.

	FCS Institutions	State Universities	Private Colleges and Universities
Public School	75,778	10,235	6,908
Private School	2,590	539	
Home Education	3,941	204	

Generally, about three times more students take dual enrollment courses at an FCS institution during the fall and spring terms than in the summer term.¹⁹ More than 15 times as many students take dual enrollment courses at a state university in the fall and spring compared to the summer term.²⁰

Eligibility Criteria

Student eligibility requirements for initial enrollment in college credit dual enrollment courses include a 3.0 unweighted high school grade point average (GPA) and obtaining at least the minimum score on a common placement test,²¹ which is adopted by the State Board of Education

¹⁴ United States Department of Education, *FACT SHEET: Expanding College Access Through the Dual Enrollment Pell Experiment* (May 16, 2016), <https://www.ed.gov/news/press-releases/fact-sheet-expanding-college-access-through-dual-enrollment-pell-experiment> (last visited Jan. 6, 2021).

¹⁵ Jobs for the Future, *Taking College Courses in High School: A Strategy for College Readiness* (Oct. 2012), available at https://jfforg-prod-prime.s3.amazonaws.com/media/documents/TakingCollegeCourses_101712.pdf.

¹⁶ *Id.*

¹⁷ Email, Alexis Calatayud, Legislative Affairs Director, DOE (Jan. 22, 2021) (on file with the Senate Committee on Education).

¹⁸ Email, Jason Jones, Chief Data Officer, BOG (Jan. 21, 2021) (on file with the Senate Committee on Education).

¹⁹ Email, Alexis Calatayud, Legislative Affairs Director, DOE (Jan. 22, 2021) (on file with the Senate Committee on Education).

²⁰ Email, Jason Jones, Chief Data Officer, BOG (Jan. 21, 2021) (on file with the Senate Committee on Education).

²¹ The Postsecondary Education Readiness Test (PERT) is Florida's customized common placement test. Florida Department of Education, *Common Placement Testing*, <http://www.fldoe.org/schools/higher-ed/fl-college-system/common-placement-testing.stml> (last visited Jan. 6, 2021). The placement testing requirement for student eligibility for dual enrollment for courses taken through December 31, 2020 was suspended pursuant to DOE emergency order 2020-EO-02. State of Florida

(SBE) and indicates that the student is ready for college-level coursework. For continued enrollment in college credit dual enrollment courses, students must maintain a 3.0 unweighted high school GPA and the minimum postsecondary GPA established by the postsecondary institution. For initial and continued enrollment in career certificate dual enrollment courses, students must have a 2.0 unweighted high school GPA. Exceptions to the required GPA and additional eligibility criteria authorized in law must be included in the dual enrollment articulation agreement.²²

Dual Enrollment Articulation Agreements

A dual enrollment articulation agreement establishes the guidelines for implementing the program for eligible students.²³ Specifically, Florida law requires:

- Each district school superintendent and each public postsecondary institution president to develop a comprehensive dual enrollment articulation agreement for the respective school district and postsecondary institution. District school boards may not refuse to enter into a dual enrollment articulation agreement with a local FCS institution if that institution has the capacity to offer dual enrollment courses.
- Each public postsecondary institution to enter into a home education articulation agreement with each home education student seeking enrollment in a dual enrollment course and such student's parent.
- Each public postsecondary institution to enter into a private school articulation agreement with each eligible private school in its geographic service area seeking to offer dual enrollment courses to its students.²⁴

In addition, district school boards and FCS institutions may enter into dual enrollment articulation agreements with state universities, and school districts may also enter into dual enrollment articulation agreements with eligible independent colleges and universities.²⁵

Instructional Materials

Instructional materials assigned for use within dual enrollment courses must be made available free of charge to dual enrollment students from Florida public high schools.²⁶ Florida law neither prohibits nor requires an FCS institution to provide free instructional materials to a home education student or a student from a private school.²⁷ Instructional materials purchased by a

Department of Education, *DOE Order No. 2020-EO-02* (May 13, 2020), available at <http://www.fldoe.org/core/fileparse.php/19861/urlt/DOEEmergencyOrder2020-EO-02.pdf>, at 7.

²² Section 1007.271(3), F.S.

²³ DOE, *Dual Enrollment Frequently Asked Questions*, available at <http://www.fldoe.org/core/fileparse.php/5421/urlt/DualEnrollmentFAQ.pdf>, at 13.

²⁴ Section 1007.271, F.S.

²⁵ *Id.*

²⁶ Section 1007.271(17), F.S. The 2020 General Appropriations Act provided \$10,590,529 to public school districts for the provision of dual enrollment instructional materials. Specific Appropriation 92, ch. 2020-111, L.O.F.

²⁷ The private school articulation agreement must include a provision concerning the student's responsibilities for providing his or her own instructional materials. Section 1007.271(24)(a), F.S. The 2020 General Appropriations Act provided \$550,000 to Florida College System institutions for dual enrollment instructional materials. Specific Appropriation 132, ch. 2020-111, L.O.F.

district school board or FCS institution board of trustees on behalf of dual enrollment students remain the property of the board against which the purchase is charged.²⁸

Funding for Dual Enrollment

The dual enrollment articulation agreement between a district school superintendent and a public postsecondary institution president must address specified information including a funding provision that delineates costs incurred by each entity in the following manner:

- School districts are required to pay public postsecondary institutions the standard tuition rate²⁹ per credit hour from funds provided in the Florida Education Finance Program (FEFP)³⁰ when dual enrollment course instruction takes place on the postsecondary institution's campus and the course is taken during the fall or spring term.
- When dual enrollment is provided on the high school site by postsecondary institution faculty, the school district must reimburse the costs associated with the postsecondary institution's proportion of salary and benefits to provide the instruction.
- When dual enrollment course instruction is provided on the high school site by school district faculty, the school district is not responsible for payment to the postsecondary institution.³¹

Florida law does not specify a similar funding provision for private schools to pay public postsecondary education institutions for the dual enrollment instruction that such institutions provide to the private school dual enrollment students. However, postsecondary institutions are not prohibited from charging a fee to private schools for the dual enrollment of its students.³²

Subject to annual appropriation in the General Appropriations Act, a public postsecondary institution must receive an amount of funding equivalent to the standard tuition rate per credit hour for each dual enrollment course taken by a student during the summer term.³³

Collegiate High School Program

In 2014, the Legislature codified the collegiate high school program and specified related requirements.³⁴ Florida law requires each FCS institution to work with each district school board in its designated service area³⁵ to establish one or more collegiate high school programs.³⁶

²⁸ Section 1007.271(17), F.S.

²⁹ The standard in-state tuition rate is set by law at \$2.33 per contract hour for programs leading to a career certificate or an applied technology diploma. Section 1009.22(3)(c), F.S. The standard tuition for lower-division courses at a FCS institution is \$71.98 per credit hour. Section 1009.23(3)(a), F.S. The standard undergraduate tuition rate at a state university is \$105.07 per credit hour. Section 1009.24(4)(a), F.S.

³⁰ The FEFP is the primary mechanism for funding the operating costs of Florida school districts. *See generally* Florida DOE, *2020-21 Funding for Florida School Districts (2020)*, available at <http://www.fldoe.org/core/fileparse.php/7507/urlt/fefpdist.pdf>.

³¹ Section 1007.271(21)(n), F.S.

³² The private school articulation agreement must include a provision that costs associated with tuition and fees, including registration, and laboratory fees, will not be passed along to the student. Section 1007.271(24)(b)5., F.S.

³³ Section 1007.271(21)(n)2., F.S.

³⁴ Ch. 14-184, s. 10, Laws of Fla.

³⁵ Section 1000.21(3), F.S.

³⁶ Section 1007.273(1), F.S.

Purpose

At a minimum, collegiate high school programs must include an option for public school students in grade 11 or grade 12 participating in the program, for at least 1 full school year, to earn Career and Professional Education (CAPE) industry certifications and to successfully complete 30 credit hours through dual enrollment toward the first year of college for an associate degree or baccalaureate degree while enrolled in the program.³⁷

Program Contract

Each district school board and its local FCS institution must execute a contract to establish one or more collegiate high school programs at a mutually agreed upon location or locations. If the FCS institution does not establish a program with a district school board in its designated service area, another FCS institution may execute a contract with that district school board to establish the program.³⁸

In addition to executing a contract with the local FCS institution, Florida law authorizes a district school board to execute a contract to establish a collegiate high school program with an eligible state university or an independent college or university.³⁹

Florida law specifies the information that must be addressed in the contract which must be executed by January 1 of each school year for implementation of the program during the next school year.⁴⁰

Student Performance Contract

Each student participating in a collegiate high school program must enter into a student performance contract which must be signed by the student, the parent, and a representative of the school district and the applicable FCS institution, state university, or eligible independent college or university.⁴¹ The performance contract must include the schedule of courses, by semester, and industry certifications to be taken by the student, student attendance requirements, and course grade requirements.

Funding for Collegiate High School Programs

The collegiate high school program is funded in accordance with the funding for dual enrollment through the FEFP. The SBE enforces compliance with the law regarding the collegiate high school program by withholding the transfer of funds for the school districts and the FCS institutions.⁴²

³⁷ Section 1007.273(2), F.S.

³⁸ Section 1007.273(3), F.S.

³⁹ Section 1007.273(5), F.S. To participate in a collegiate high school program, an independent college or university must be an institution that is eligible to participate in the William L. Boyd, IV, Effective Access to Student Education Grant Program, that is a nonprofit independent college or university located and chartered in this state, and that is accredited by the Commission on Colleges of the Southern Association of Colleges and Schools to grant baccalaureate degrees. *Id.*

⁴⁰ Section 1007.273(3), F.S.

⁴¹ Section 1007.273(4), F.S.

⁴² Section 1007.273(6), F.S.

Extra Compensation - Bonus Schemes

In 2011, section 215.425, F.S., was amended to modify the prohibition on extra compensation made to public employees after the service has been rendered or the contract made to authorize specified bonus plans or severance pay.⁴³

Current law requires that any policy, ordinance, rule, or resolution designed to implement a bonus scheme must:

- Base the award of a bonus on work performance;
- Describe the performance standards and evaluation process by which a bonus will be awarded;
- Notify all employees of the policy, ordinance, rule, or resolution before the beginning of the evaluation period on which a bonus will be based; and
- Consider all employees for the bonus.⁴⁴

III. Effect of Proposed Changes:

Fee Exemptions

The bill amends s. 1009.25, F.S., to clarify that tuition and fee exemptions apply to a student who is currently in the custody of the Department of Children and Families (DCF) or in the custody of a relative or nonrelative defined in law, or was so at the time he or she reached 18 years of age. Therefore, the bill may reduce confusion in the identification of students under DCF custody who are eligible for a tuition and fee exemption, specifically those students who enroll at a postsecondary institution prior to the age of 18.

Dual Enrollment Scholarship Program

The bill creates s. 1009.30, F.S., to establish the Dual Enrollment Scholarship Program (Program), administered by the Department of Education (DOE) in accordance with rules adopted by the State Board of Education (SBE). The goal of the Program is to support postsecondary institutions in providing dual enrollment.

The bill establishes the following requirements for reimbursements to postsecondary institutions for students participating in dual enrollment:

- Beginning in the 2021 fall term, the Program reimburses eligible postsecondary institutions for tuition and related instructional materials costs for dual enrollment courses taken by private school or home education program secondary students during the fall or spring terms.
- Beginning in the 2022 summer term, the Program reimburses institutions for tuition and related instructional materials costs for dual enrollment courses taken by public school, private school, or home education program secondary students during the summer term.

⁴³ Chapter 2011-143, L.O.F.

⁴⁴ Section 215.425(3), F.S.

The bill specifies the following reimbursement rates, which provide:

- Florida College System institutions the in-state resident tuition rate established in s. 1009.23(3)(a), F.S.
- State University System institutions and independent postsecondary institutions the standard tuition rate established in s. 1009.24(4)(a), F.S.
- All eligible postsecondary institutions instructional materials costs based on a rate specified in the General Appropriations Act (GAA).

The Program requires a student participating in a dual enrollment program to meet minimum eligibility requirements specified in law⁴⁵ for the institution to receive reimbursement.

The bill establishes reporting requirements for participating postsecondary institutions, such that:

- Annually by March 15, each participating institution must report to the DOE any eligible secondary students from private schools or home education programs enrolled during the previous fall or spring terms.
- Annually by July 15, each participating institution must report to the DOE any eligible public school, private school, or home education program students enrolled during the summer term.
- For each dual enrollment course in which the student is enrolled, the report must include a unique student identifier,⁴⁶ the postsecondary institution name, the postsecondary course number, and the postsecondary course name.

The bill specifies that reimbursement is contingent upon an appropriation in the GAA each year. If the statewide reimbursement amount is greater than the appropriation, the institutional reimbursement amounts must be prorated among the institutions that have reported eligible students to the DOE by the deadlines specified. The bill specifies that dual enrollment courses taken during the following terms shall be reimbursed according to the following deadlines:

- For courses taken during the fall and spring terms, by April 15 of the same year.
- For courses taken during the summer term, by August 15 of the same year, before the beginning of the next academic year.

The bill requires the SBE to adopt rules to implement this section.

The establishment of a dedicated funding source to help defray the costs of dual enrollment for postsecondary institutions and private secondary schools may enhance student access to dual enrollment courses. The Program may also reduce the cost of dual enrollment for private school and home education students through providing additional funds for instructional materials.

⁴⁵ Section 1007.271, F.S.

⁴⁶ The bill requires postsecondary institutions to assign unique student identifiers for private school and home school program students. BOG, *Senate Bill 52 Agency Bill Analysis* (Jan 5, 2021) (on file with the Senate Appropriations Subcommittee Committee on Education). Public school students are assigned a Florida student identification number by the school district. Section 1008.386, F.S.

Collegiate High School Program (Early College Program)

The bill modifies s. 1007.273, F.S., and changes the name of the collegiate high school program to the early college program. In addition, the bill:

- Changes the purpose of the program to remove specified grade levels and credit thresholds to specify that an early college program means a structured high school acceleration program in which a cohort of students is enrolled full-time in postsecondary courses toward an associate degree.
- Requires that early college programs prioritize courses applicable as general education core courses⁴⁷ for an associate degree or a baccalaureate degree, and specifies that the early college program contract between a district school board and the local FCS institution. The contract must include a delineation of dual enrollment courses available, including general education core courses.⁴⁸
- Specifies that a charter school may execute a contract directly with the local FCS institution or another postsecondary institution to establish an early college program at a mutually agreed upon location.

Additionally, the bill includes conforming provisions to change the name of the collegiate high school program to the early college program related to K-12 student and parent rights and educational choice,⁴⁹ and requirements for a standards high school diploma for students with a disability.⁵⁰

The modifications to the early college program may increase access to such programs by students in charter schools, and may assist students in choosing dual enrollment courses that satisfy associate and baccalaureate degree requirements at public postsecondary institutions.

Bonus for State University System Employees

The bill creates s. 1012.978, F.S., to authorize a university board of trustees to implement a bonus scheme based on awards for work performance or employee recruitment and retention. Therefore, the bill expands the purpose in current law for a bonus scheme to include not only work performance, but also employee recruitment and retention, and allows the university to target certain employees for a bonus.

The bill requires the board of trustees to submit to the Board of Governors (BOG) the bonus scheme, including the evaluation criteria by which a bonus will be awarded, and requires the BOG to approve any such bonus scheme prior to implementation.

⁴⁷ Section 1007.25 and Fla. Admin. Code R. 6A-14.0303.

⁴⁸ 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. Beginning with students initially entering an FCS institution or state university in 2015-2016 and thereafter, each student must complete at least one identified core course in each subject area as part of the general education course requirements. The general education core course options must be adopted in rule by the SBE and in regulation by the Board of Governors. Section 1007.25(3), F.S. See also Rule 6A-10.0303 and Board of Governors Regulation 8.005.

⁴⁹ Section 1002.20(6)(a), F.S.

⁵⁰ Section 1003.4282(10)(c)2., F.S.

The bill takes effect July 1, 2021.

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:

PCS/CS/SB 52 may reduce expenses for private schools no longer required to pay costs associated with dual enrollment students. The financial supports for dual enrollment courses may increase opportunities for Florida secondary students to take college-credit courses that will count toward an associate or baccalaureate degree while still in high school, which may reduce costs for students and families.

C. Government Sector Impact:

For the 2021-2022 fiscal year, the Dual Enrollment Scholarship Program is estimated to cost \$28.5 million. The estimate is based on tuition and instructional materials costs for the estimated number of private school and home education program students participating in dual enrollment in the fall and spring terms, and all dual enrollment students in the summer term.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill requires each participating institution to report annually by March 15th to the DOE any eligible secondary students from private schools or home education programs enrolled during the previous fall or spring terms and by July 15th for summer terms. According to the BOG, it is unclear if all student data will be available by such dates.⁵¹

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 1002.20, 1003.4282, 1007.273, and 1009.25.

This bill creates the following sections of the Florida Statutes: 1009.30 and 1012.978.

IX. Additional Information:

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

Recommended CS/CS by the Appropriations Subcommittee on Education on February 9, 2021:

The committee substitute makes the following changes to the bill:

- Removes from the required institution reporting under the Dual Enrollment Scholarship Program the number of credits earned by the student.
- Changes the name of the “collegiate high school program” to the “early college program” and: (1) provides a definition of the early college program; (2) removes references to industry certifications in the program; and (3) authorizes charter schools to establish an early college program directly with a Florida College System or other institution.
- Conforms provisions to update the name of the “collegiate high school program” to the “early college program.”

CS by Education on January 26, 2021:

The committee substitute authorizes appropriate flexibility to universities for bonus award criteria, to expand the criteria for award of a bonus to include not only work performance but also targeted recruitment and retention.

- B. **Amendments:**

None.

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

⁵¹ BOG, *Senate Bill 52 Agency Bill Analysis* (Jan 5, 2021) (on file with the Senate Appropriations Subcommittee Committee on Education).



917324

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/10/2021	.	
	.	
	.	
	.	

Appropriations Subcommittee on Education (Rodrigues) recommended the following:

Senate Amendment (with title amendment)

Before line 35

insert:

Section 1. Section 1007.273, Florida Statutes, is amended to read:

1007.273 Early college ~~Collegiate high school~~ program.—

(1) Each Florida College System institution shall work with each district school board in its designated service area to establish one or more early college ~~collegiate high school~~



917324

11 programs. As used in this section, the term "early college
12 program" means a structured high school acceleration program in
13 which a cohort of students is enrolled full time in
14 postsecondary courses toward an associate degree. The early
15 college program must prioritize courses applicable as general
16 education core courses under s. 1007.25 for an associate degree
17 or a baccalaureate degree.

18 ~~(2) At a minimum, collegiate high school programs must~~
19 ~~include an option for public school students in grade 11 or~~
20 ~~grade 12 participating in the program, for at least 1 full~~
21 ~~school year, to earn CAPE industry certifications pursuant to s.~~
22 ~~1008.44 and to successfully complete 30 credit hours through the~~
23 ~~dual enrollment program under s. 1007.271 toward the first year~~
24 ~~of college for an associate degree or baccalaureate degree while~~
25 ~~enrolled in the program.~~

26 ~~(3)~~ Each district school board and its local Florida
27 College System institution shall execute a contract to establish
28 one or more early college ~~collegiate high school~~ programs at a
29 mutually agreed upon location or locations. ~~Beginning with the~~
30 ~~2015-2016 school year,~~ If the institution does not establish a
31 program with a district school board in its designated service
32 area, another Florida College System institution may execute a
33 contract with that district school board to establish the
34 program. The contract must be executed by January 1 of each
35 school year for implementation of the program during the next
36 school year. The contract must:

37 (a) Identify the grade levels to be included in the early
38 college ~~collegiate high school~~ program which must, ~~at a minimum,~~
39 ~~include grade 12.~~



917324

40 (b) Describe the early college ~~collegiate high school~~
41 program, including the delineation of courses ~~and industry~~
42 ~~certifications~~ offered, including online course availability;
43 the high school and college credits earned for each
44 postsecondary course completed ~~and industry certification~~
45 ~~earned~~; student eligibility criteria; and the enrollment process
46 and relevant deadlines.

47 (c) Describe the methods, medium, and process by which
48 students and their parents are annually informed about the
49 availability of the early college ~~collegiate high school~~
50 program, the return on investment associated with participation
51 in the program, and the information described in paragraphs (a)
52 and (b).

53 (d) Identify the delivery methods for instruction and the
54 instructors for all courses.

55 (e) Identify student advising services and progress
56 monitoring mechanisms.

57 (f) Establish a program review and reporting mechanism
58 regarding student performance outcomes.

59 (g) Describe the terms of funding arrangements to implement
60 the early college ~~collegiate high school~~ program.

61 ~~(3)~~~~(4)~~ Each student participating in an early college ~~a~~
62 ~~collegiate high school~~ program must enter into a student
63 performance contract which must be signed by the student, the
64 parent, and a representative of the school district and the
65 applicable Florida College System institution, state university,
66 or other institution participating pursuant to subsection (4)
67 ~~(5)~~. The performance contract must include the schedule of
68 courses, by semester, ~~and industry certifications to be taken by~~



917324

69 ~~the student,~~ student attendance requirements, and course grade
70 requirements.

71 (4)~~(5)~~ In addition to executing a contract with the local
72 Florida College System institution under this section, a
73 district school board may execute a contract to establish an
74 early college ~~a collegiate high school~~ program with a state
75 university or an institution that is eligible to participate in
76 the William L. Boyd, IV, Effective Access to Student Education
77 Grant Program, that is a nonprofit independent college or
78 university located and chartered in this state, and that is
79 accredited by the Commission on Colleges of the Southern
80 Association of Colleges and Schools to grant baccalaureate
81 degrees. Such university or institution must meet the
82 requirements specified under subsections (2) and (3) ~~(3)~~ and
83 ~~(4)~~.

84 (5) A charter school may execute a contract directly with
85 the local Florida College System institution or another
86 institution as authorized under this section to establish an
87 early college program at a mutually agreed upon location.

88 (6) The early college ~~collegiate high school~~ program must
89 ~~shall~~ be funded pursuant to ss. 1007.271 and 1011.62. The State
90 Board of Education shall enforce compliance with this section by
91 withholding the transfer of funds for the school districts and
92 the Florida College System institutions in accordance with s.
93 1008.32.

94
95 ===== T I T L E A M E N D M E N T =====

96 And the title is amended as follows:

97 Between lines 2 and 3



917324

98 insert:
99 s. 1007.273, F.S.; renaming collegiate high school
100 programs as early college programs; defining the term
101 "early college program"; requiring early college
102 programs to prioritize certain courses; deleting
103 obsolete language; conforming provisions to changes
104 made by the act; authorizing charter schools to
105 execute contracts with certain institutions to
106 establish an early college program; amending



105930

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/10/2021	.	
	.	
	.	
	.	

Appropriations Subcommittee on Education (Rodrigues) recommended the following:

Senate Amendment

Delete lines 93 - 94
and insert:
number, and the postsecondary course name.



284764

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/10/2021	.	
	.	
	.	
	.	

Appropriations Subcommittee on Education (Rodrigues) recommended the following:

Senate Amendment (with title amendment)

Between lines 128 and 129

insert:

Section 4. Paragraph (c) of subsection (10) of section 1003.4282, Florida Statutes, is amended to read:

1003.4282 Requirements for a standard high school diploma.-

(10) STUDENTS WITH DISABILITIES.-Beginning with students entering grade 9 in the 2014-2015 school year, this subsection applies to a student with a disability.



284764

11 (c) A student with a disability who meets the standard high
12 school diploma requirements in this section may defer the
13 receipt of a standard high school diploma if the student:

14 1. Has an individual education plan that prescribes special
15 education, transition planning, transition services, or related
16 services through age 21; and

17 2. Is enrolled in accelerated college credit instruction
18 pursuant to s. 1007.27, industry certification courses that lead
19 to college credit, an early college ~~a collegiate high school~~
20 program, courses necessary to satisfy the Scholar designation
21 requirements, or a structured work-study, internship, or
22 preapprenticeship program.

23
24 The State Board of Education shall adopt rules under ss.
25 120.536(1) and 120.54 to implement this subsection, including
26 rules that establish the minimum requirements for students
27 described in this subsection to earn a standard high school
28 diploma. The State Board of Education shall adopt emergency
29 rules pursuant to ss. 120.536(1) and 120.54.

30
31 ===== T I T L E A M E N D M E N T =====

32 And the title is amended as follows:

33 Delete line 30

34 and insert:

35 such bonus scheme before its implementation; amending
36 s. 1003.4282, F.S.; updating the term "collegiate high
37 school program" to "early college program"; providing



694192

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/10/2021	.	
	.	
	.	
	.	

Appropriations Subcommittee on Education (Rodrigues) recommended the following:

Senate Amendment (with title amendment)

Between lines 128 and 129
insert:

Section 4. Paragraph (a) of subsection (6) of section 1002.20, Florida Statutes, is amended to read:

1002.20 K-12 student and parent rights.—Parents of public school students must receive accurate and timely information regarding their child’s academic progress and must be informed of ways they can help their child to succeed in school. K-12



694192

11 students and their parents are afforded numerous statutory
12 rights including, but not limited to, the following:

13 (6) EDUCATIONAL CHOICE.—

14 (a) *Public educational school choices.*—Parents of public
15 school students may seek any public educational school choice
16 options that are applicable and available to students throughout
17 the state. These options may include controlled open enrollment,
18 single-gender programs, lab schools, virtual instruction
19 programs, charter schools, charter technical career centers,
20 magnet schools, alternative schools, special programs, auditory-
21 oral education programs, advanced placement, dual enrollment,
22 International Baccalaureate, International General Certificate
23 of Secondary Education (pre-AICE), CAPE digital tools, CAPE
24 industry certifications, early college ~~collegiate high school~~
25 programs, Advanced International Certificate of Education, early
26 admissions, credit by examination or demonstration of
27 competency, the New World School of the Arts, the Florida School
28 for the Deaf and the Blind, and the Florida Virtual School.
29 These options may also include the public educational choice
30 options of the Opportunity Scholarship Program and the McKay
31 Scholarships for Students with Disabilities Program.

32
33 ===== T I T L E A M E N D M E N T =====

34 And the title is amended as follows:

35 Delete line 30

36 and insert:

37 such bonus scheme before its implementation; amending
38 s. 1002.20, F.S.; updating the term "collegiate high
39 school program" to "early college program"; providing

By the Committee on Education; and Senator Rodrigues

581-01285-21

202152c1

1 A bill to be entitled
 2 An act relating to postsecondary education; amending
 3 s. 1009.25, F.S.; clarifying fee exemptions for the
 4 Department of Children and Families; creating s.
 5 1009.30, F.S.; providing legislative findings;
 6 establishing the Dual Enrollment Scholarship Program;
 7 providing for the administration of the program;
 8 providing for the reimbursement of tuition and costs
 9 to eligible postsecondary institutions; requiring
 10 students participating in dual enrollment programs to
 11 meet specified minimum eligibility requirements in
 12 order for institutions to receive reimbursements;
 13 requiring participating institutions to annually
 14 report specified information to the Department of
 15 Education by certain dates; providing a reimbursement
 16 schedule for tuition and instructional materials
 17 costs; requiring the Department of Education to
 18 reimburse institutions by specified dates; providing
 19 that reimbursement for dual enrollment courses is
 20 contingent upon appropriations; providing for the
 21 prorating of reimbursements under certain
 22 circumstances; requiring the State Board of Education
 23 to adopt rules; creating s. 1012.978, F.S.;
 24 authorizing university boards of trustees to implement
 25 a bonus scheme for state university system employees
 26 based on awards for work performance or employee
 27 recruitment and retention; requiring a board of
 28 trustees to submit the bonus scheme to the Board of
 29 Governors; requiring the Board of Governors to approve

Page 1 of 5

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

581-01285-21

202152c1

30 such bonus scheme before its implementation; providing
 31 an effective date.
 32

33 Be It Enacted by the Legislature of the State of Florida:
 34

35 Section 1. Paragraphs (c) and (d) of subsection (1) of
 36 section 1009.25, Florida Statutes, are amended to read:

37 1009.25 Fee exemptions.—

38 (1) The following students are exempt from the payment of
 39 tuition and fees, including lab fees, at a school district that
 40 provides workforce education programs, Florida College System
 41 institution, or state university:

42 (c) A student who is or was at the time he or she reached
 43 18 years of age in the custody of the Department of Children
 44 and Families or who, after spending at least 6 months in the
 45 custody of the department after reaching 16 years of age, was
 46 placed in a guardianship by the court. Such exemption includes
 47 fees associated with enrollment in applied academics for adult
 48 education instruction. The exemption remains valid until the
 49 student reaches 28 years of age.

50 (d) A student who is or was at the time he or she reached
 51 18 years of age in the custody of a relative or nonrelative
 52 under s. 39.5085 or s. 39.6225 or who was adopted from the
 53 Department of Children and Families after May 5, 1997. Such
 54 exemption includes fees associated with enrollment in applied
 55 academics for adult education instruction. The exemption remains
 56 valid until the student reaches 28 years of age.

57 Section 2. Section 1009.30, Florida Statutes, is created to
 58 read:

Page 2 of 5

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

581-01285-21

202152c1

59 1009.30 Dual Enrollment Scholarship Program.--

60 (1) The Legislature finds and declares that dual enrollment
 61 is an integral part of the education system in this state and
 62 should be available for all eligible secondary students without
 63 cost to the student. There is established the Dual Enrollment
 64 Scholarship Program to support postsecondary institutions in
 65 providing dual enrollment.

66 (2) The Department of Education shall administer the Dual
 67 Enrollment Scholarship Program in accordance with rules adopted
 68 by the State Board of Education pursuant to subsection (9).

69 (3) (a) Beginning in the 2021 fall term, the program shall
 70 reimburse eligible postsecondary institutions for tuition and
 71 related instructional materials costs for dual enrollment
 72 courses taken by private school or home education program
 73 secondary students during the fall or spring terms.

74 (b) Beginning in the 2022 summer term, the program shall
 75 reimburse institutions for tuition and related instructional
 76 materials costs for dual enrollment courses taken by public
 77 school, private school, or home education program secondary
 78 students during the summer term.

79 (4) A student participating in a dual enrollment program
 80 must meet the minimum eligibility requirements specified in s.
 81 1007.271 in order for the institution to receive a
 82 reimbursement.

83 (5) Annually, by March 15, each participating institution
 84 must report to the department any eligible secondary students
 85 from private schools or home education programs who were
 86 enrolled during the previous fall or spring terms. Annually, by
 87 July 15, each participating institution must report to the

581-01285-21

202152c1

88 department any eligible public school, private school, or home
 89 education program students who were enrolled during the summer
 90 term. For each dual enrollment course in which the student is
 91 enrolled, the report must include a unique student identifier,
 92 the postsecondary institution name, the postsecondary course
 93 number, the postsecondary course name, and the number of
 94 postsecondary course credits earned by the student.

95 (6) (a) Florida College System institutions shall be
 96 reimbursed at the in-state resident tuition rate established in
 97 s. 1009.23(3) (a).

98 (b) State University System institutions and independent
 99 postsecondary institutions shall be reimbursed at the standard
 100 tuition rate established in s. 1009.24(4) (a).

101 (c) Institutions shall be reimbursed for instructional
 102 materials costs based on a rate specified in the General
 103 Appropriations Act.

104 (7) For dual enrollment courses taken during the fall and
 105 spring terms, the department must reimburse institutions by
 106 April 15 of the same year. For dual enrollment courses taken
 107 during the summer term, the department must reimburse
 108 institutions by August 15 of the same year, before the beginning
 109 of the next academic year.

110 (8) Reimbursement for dual enrollment courses is contingent
 111 upon an appropriation in the General Appropriations Act each
 112 year. If the statewide reimbursement amount is greater than the
 113 appropriation, the institutional reimbursement amounts specified
 114 in subsection (6) shall be prorated among the institutions that
 115 have reported eligible students to the department by the
 116 deadlines specified in subsection (5).

581-01285-21

202152c1

117 (9) The State Board of Education shall adopt rules to
118 implement this section.
119 Section 3. Section 1012.978, Florida Statutes, is created
120 to read:
121 1012.978 Bonuses for state university system employees.—
122 Notwithstanding s. 215.425(3), a university board of trustees
123 may implement a bonus scheme based on awards for work
124 performance or employee recruitment and retention. The board of
125 trustees must submit to the Board of Governors the bonus scheme,
126 including the evaluation criteria by which a bonus will be
127 awarded. The Board of Governors must approve any bonus scheme
128 created under this section before its implementation.
129 Section 4. This act shall take effect July 1, 2021.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR RAY WESLEY RODRIGUES
27th District

January 27, 2021

The Honorable Doug Broxson
Senate Appropriations Subcommittee on Education, Chair
201 The Capitol
404 South Monroe Street
Tallahassee, FL 32399

RE: CS/SB 52- An act relating to postsecondary education

Dear Mr. Chair:

Please allow this letter to serve as my respectful request to place CS/SB 52, relating to postsecondary education, on the next committee agenda.

Your kind consideration of this request is greatly appreciated. Please feel free to contact my office for any additional information.

Sincerely,

A handwritten signature in cursive script that reads "Ray Rodrigues".

Ray Rodrigues
Senate District 27

Cc: Tim Elwell, Staff Director
JoAnne Bennett, Administrative Assistant

COMMITTEES:

Governmental Oversight and Accountability, *Chair*
Appropriations Subcommittee on Agriculture,
Environment, and General Government, *Vice Chair*
Appropriations Subcommittee on Health and
Human Services
Banking and Insurance
Finance and Tax
Judiciary
Regulated Industries

JOINT COMMITTEES:

Joint Select Committee on Collective Bargaining,
Alternating Chair
Joint Committee on Public Counsel Oversight

REPLY TO:

- 2000 Main Street, Suite 401, Fort Myers, Florida 33901 (239) 338-2570
- 305 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5027

Senate's Website: www.flsenate.gov

WILTON SIMPSON
President of the Senate

AARON BEAN
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/9/21

Meeting Date

SB 52

Bill Number (if applicable)

Topic SB 52

Amendment Barcode (if applicable)

Name Martin Balinsky

Job Title Professor, TCC - United Faculty of Fla.

(888)

Address 3200 Locksley Ln

Phone 980-1949

Street

City

Tik

FL

State

32312

Zip

Email balinsky1@gmail.com

Com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing United Faculty of Florida

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/9/21

Meeting Date

SB52

Bill Number (if applicable)

Topic Education

Amendment Barcode (if applicable)

Name Alexis Laroe

Job Title leg. Affairs

Address 4566 Salisbury Rd.

Phone 802-363-1011

Street

Jacksonville

FL

32556

Email alaroe@sufs.org

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Step up for students

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2-9-21
Meeting Date

SB 52
Bill Number (if applicable)

Topic Postsecondary Education - Dual Enrollment Amendment Barcode (if applicable)

Name BRENDA DICKINSON

Job Title LOBBYIST

Address PO Box 12563

Phone 850-264-2184

TALLAHASSEE FL 32317
City State Zip

Email CONSULTINGbrenda@GMAIL.COM

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing FLORIDA COUNCIL OF INDEPENDENT SCHOOLS

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE

APPEARANCE RECORD

2/9/2021

Meeting Date

SB 52

Bill Number (if applicable)

Topic Postsecondary Education - Dual Enrollment

Amendment Barcode (if applicable)

Name Michael Barrett

Job Title Associate for Education

Address 201 W. Park Ave

Phone (850) 205-6823

Street

Tallahassee

FL

32301

Email mbarrett@flaccb.org

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Conference of Catholic Bishops

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/9/21

Meeting Date

52

Bill Number (if applicable)

Topic Senate Bill 52 - Post 2nd Education

Amendment Barcode (if applicable)

Name Adam Gaffey

Job Title Head of School

Address 2272 Lumen Rd.

Phone 561-310-0230

Street

Quincy

City

FL

State

32352

Zip

Email adam.gaffey@rfmunroe.org

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Robert F. Munroe Day School

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/9/21

Meeting Date

SB 52

Bill Number (if applicable)

Topic Post secondary Education

Amendment Barcode (if applicable)

Name Brita Lincoln

Job Title Volunteer

Address 5003 Garrick Ct

Phone 813 541-6256

Street

Tampa FL 33624

City

State

Zip

Email BritaLincoln@gmail.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida PTA

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Feb. 9, 2021
Meeting Date

52
Bill Number (if applicable)

Topic Postsecondary Education

Amendment Barcode (if applicable)

Name James Herzog

Job Title Director of Legislative Services

Address 464 Bay Point Way N
Street

Phone (850) 339-1217

Saint Johns FL 32259
City State Zip

Email jherzog@faans.org

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Association of Academic Nonpublic Schools

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE

APPEARANCE RECORD

9 FEB 21

Meeting Date

52

Bill Number (if applicable)

Topic Postsecondary Education

Amendment Barcode (if applicable)

Name Debbie Mortham

Job Title State Advocacy Director

Address 215 S Monroe Street, Ste. 420

Phone 850-251-2278

Street

Tallahassee

FL

32301

Email debbie@afloridapromise.org

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing The Foundation for Florida's Future

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

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 Appropriations Subcommittee on Education

BILL: PCS/CS/SB 264 (126670)

INTRODUCER: Appropriations Subcommittee on Education; Education Committee; and Senator Rodrigues

SUBJECT: Higher Education

DATE: February 10, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Brick</u>	<u>Bouck</u>	<u>ED</u>	<u>Fav/CS</u>
2.	<u>Underhill</u>	<u>Elwell</u>	<u>AED</u>	<u>Recommend: Fav/CS</u>
3.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/CS/SB 264 adds requirements designed to protect the expression of diverse viewpoints at Florida College System (FCS) institutions and state universities. The bill:

- Requires each FCS institution and state university to annually assess the intellectual freedom and viewpoint diversity at that institution using a survey adopted by the State Board of Education (SBE) or the Board of Governors of the State University System (BOG), as applicable.
- Specifies that the SBE, the BOG, FCS institutions, and state universities may not shield students from protected free speech.
- Includes in the definition of protected expressive activities the recording and publishing of video and audio recorded in classrooms, and clarifies that protected expressive activities include the nonconsensual recording and publication of video and audio recorded in outdoor areas of campus and in classrooms.

The bill does not have a state fiscal, but will have a minimal impact on state colleges and universities. See Fiscal Analysis section.

The bill takes effect July 1, 2021.

II. Present Situation:

Operation of State Universities and Florida College System Institutions

The Board of Governors of the State University System (BOG) is required to operate, regulate, control, and be fully responsible for the management of the state university system.¹ The State Board of Education (SBE) is responsible for supervising the state college system.² Each state university is administered by, and each Florida College System (FCS) institution is governed by, distinct local boards of trustees.³

Constitutional Guarantees of Free Speech and Expression

Speech and religious expression by students and teachers or professors is protected by the First Amendment of the U.S. Constitution and Article I of the State Constitution.⁴ The government or a public actor may nevertheless regulate an individual's freedom of speech or expression within constitutional limits.⁵ The ability to regulate expression on government-owned property is determined, in part, by the characterization of the type of public forum created on government property.⁶

There are three types of public forums: traditional public forums, limited public forums, and closed public forums.⁷

Traditional Public Forum

A "traditional" or "open public forum" is a place with a longstanding tradition of freedom of expression, such as a public park, sidewalk, or street corner.⁸ In an open public forum, the government may only impose content-neutral restrictions on the time, place, and manner of expression.⁹

Limited Public Forum

A limited public forum is a venue opened only for certain groups or topics.¹⁰ A public actor may regulate the subject area content or categories of organizations allowed in limited public forums, but may not restrict expression based on a favorable or unfavorable viewpoint of a speaker or organization.¹¹

¹ Art. IX, s. 7(d), Fla. Const.

² Art. IX, s. 8(b), Fla. Const.

³ Art. IX, ss. 7(c) and 8(c), Fla. Const.

⁴ U.S. Const. Amend. 1; and Art. I, s. 4, Fla. Const.

⁵ *International Society for Krishna Consciousness, Inc. v. Lee*, 505 U.S. 672, 678 (1992).

⁶ *Id.* at 678-79.

⁷ *Id.*

⁸ *Perry Education Association v. Perry Local Educators Association*, 460 U.S. 37, 45-46 (1992).

⁹ *Id.* at 45-46.

¹⁰ *Id.* at 46.

¹¹ *Pleasant Grove City v. Summum*, 555 U.S. 460, 470 (2009).

Closed Public Forum

A “closed public forum” is a place that is not traditionally open to public expression, such as the teacher’s school mailroom or a military base. Restrictions on speech in a closed public forum may only be reasonable and may not be designed to silence an unfavorable viewpoint.¹²

Free Speech in Public Schools

Special rules apply to speech in public schools. A school is not an open public forum unless the school or a law has intentionally designated the school as an open public forum.¹³ A school creates a limited public forum by permitting outside groups to use a venue for certain subjects or categories of organizations.¹⁴

Furthermore, educators are entitled to exercise greater control over school-sponsored student expression than over students’ personal speech.¹⁵ In this regard, “a school may in its capacity as publisher of a school newspaper or producer of a school play disassociate itself, not only from speech that would substantially interfere with its work ... or impinge upon the rights of other students, but also from speech that is, for example, ungrammatical, poorly written, inadequately researched, biased or prejudiced, vulgar or profane, or unsuitable for immature audiences.”¹⁶ On the other hand, “[i]n order for the State in the person of school officials to justify prohibition of a particular expression of opinion, it must be able to show that its action was caused by something more than a mere desire to avoid the discomfort and unpleasantness that always accompany an unpopular viewpoint.”¹⁷ A student’s right to free speech and expression of personal speech is protected to the extent it does not “materially and substantially interfere with the requirements of appropriate discipline in the operation of the school and without colliding with the rights of others.”¹⁸

In *Tinker v. Des Moines Independent Community School District*, where several high school students expressed opposition to the Vietnam war by wearing black armbands to school which did not cause disruption or interfere with the rights of others, the students’ suspension by school administration was deemed a violation of the students’ first amendment rights.¹⁹ On the other hand, in *Morse v. Frederick*, a high school principal did not violate a student’s first amendment rights by confiscating a banner the student was waving at a school event which advocated the

¹² *Perry*, 460 U.S. 37.

¹³ *Hazelwood Sch. Dist. v. Kuhlmeier*, 484 U.S. 260 (1988).

¹⁴ *Good News Club v. Milford Central School*, 533 U.S. 98, 106–07 (2001) (school’s exclusion of Christian children’s club from meeting after hours based on its religious nature was unconstitutional viewpoint discrimination because the public school had opened a limited public forum).

¹⁵ *Hazelwood Sch. Dist. v. Kuhlmeier*, 484 U.S. 260 (1988).

¹⁶ *Id.* (internal citations omitted).

¹⁷ *Tinker v. Des Moines Independent Community School District*, 393 U.S. 503, 509 (1969) (“First Amendment rights, applied in light of the special characteristics of the school environment, are available to teachers and students. It can hardly be argued that either students or teachers shed their constitutional rights to freedom of speech or expression at the schoolhouse gates.”); see also *Mergens*, 496 U.S. at 230, 250 (1990), and *Chandler v. Siegelman*, 230 F.3d 1313, 1316-1317 (11th Cir. 2001) *cert. denied*, 533 U.S. 916 (2001).

¹⁸ *Id.* at 513.

¹⁹ *Id.* at 503.

use of illegal drugs, when the student could not demonstrate that the banner served a political purpose.²⁰

Free Speech on Public University and College Campuses

The U.S. Supreme Court has recognized that “the college classroom with its surrounding environs is peculiarly the ‘marketplace of ideas.’”²¹ Further, “[t]he vigilant protection of constitutional freedoms is nowhere more vital than in the community of American schools[,]’ ... and we break no new constitutional ground in reaffirming this Nation’s dedication to safeguarding academic freedom.”²²

Notably, there is a distinction between the public expression of adults, which includes most college students, and the public expression of minors, which includes most high school students; college students have wider latitude in expressing themselves in public places than minors have in public schools.²³

The U.S. Supreme Court has characterized public universities and college campuses generally as limited public fora for purposes of regulating speech. Once the forum is created and opened, the university or college is forbidden from exercising any type of viewpoint-based discrimination.²⁴ In addition, outdoor areas of campus at public institutions of higher education in Florida have been specifically designated by law as traditional public forums.²⁵

Expressive activities protected on campuses of public institutions of higher education include, but are not limited to, any lawful oral or written communication of ideas, including all forms of peaceful assembly, protests, and speeches; distributing literature; carrying signs; circulating petitions; and the recording and publication, including the Internet publication, of video or audio recorded in outdoor areas of campus. Protected expressive activities do not include commercial speech.²⁶

Intellectual Freedom and Viewpoint Diversity in Higher Education

All state universities and FCS institutions in Florida are accredited by the Commission on Colleges of the Southern Association of Colleges and Schools (commission).²⁷ The commission requires member institutions to preserve intellectual and academic freedom²⁸ and asserts that “[t]he essential role of institutions of higher education is the pursuit and dissemination of knowledge. Academic freedom respects the dignity and rights of others while fostering

²⁰ *Morse v. Frederick*, 551 U.S. 393 (2007).

²¹ *Healy v. James*, 408 U.S. 169, 180, 187 (1972).

²² *Id.* at 180-81 (quoting *Shelton v. Tucker*, 364 U.S. 479, 487 (1960)).

²³ *Bethel School Dist. No. 403 v. Fraser*, 478 U.S. 675, 682-83 (1986).

²⁴ *Rosenberger v. Rector and Visitors of Univ. of Va.*, 515 U.S. 819, 829 (1995).

²⁵ Section 1004.097(3)(c), F.S.

²⁶ Section 1004.097(3)(a), F.S. Commercial speech is expression related solely to the economic interests of the speaker and its audience. See *Cent. Hudson Gas & Elec. Corp. v. Pub. Serv. Comm'n of New York*, 447 U.S. 557, 561 (1980).

²⁷ Commission on Colleges of the Southern Association of Colleges and Schools, *Accredited and Candidate List* (May 2020), available at <https://sacscoc.org/app/uploads/2019/11/Institutionswebmemlist.pdf> (last visited Jan. 15, 2021).

²⁸ Southern Association of Colleges and Schools, *The Principles of Accreditation: Foundations for Quality Enhancement* (Dec. 2017), available at <https://sacscoc.org/app/uploads/2019/08/2018PrinciplesOfAccreditation.pdf> at principles 6.1 and 6.4.

intellectual freedom of faculty to teach, research, and publish. Responsible academic freedom enriches the contributions of higher education to society.”²⁹

In January 2015, the Committee on Freedom of Expression at the University of Chicago produced a free speech policy statement (referred to as the “Chicago Statement”) that affirmed the centrality of unfettered debate to the university’s mission.³⁰ The statement provided in part:

[I]t is not the proper role of the University to attempt to shield individuals from ideas and opinions they find unwelcome, disagreeable, or even deeply offensive. Although the University greatly values civility, and although all members of the University community share in the responsibility for maintaining a climate of mutual respect, concerns about civility and mutual respect can never be used as a justification for closing off discussion of ideas, however offensive or disagreeable those ideas may be to some members of our community.

The 2017 National Survey of Student Engagement revealed that most students surveyed (64 percent) felt that postsecondary coursework generally respected the expression of diverse ideas, and that the postsecondary institution generally demonstrated a commitment to diversity (71 percent). This was reflected when specific forms of diversity were considered, such as gender, religious affiliation, or disability status. When political affiliation was considered, only half of students surveyed felt their postsecondary institution was generally supportive of different political ideas.³¹

The Campus Free Expression Act became Florida law in 2018.³² Under the law, outdoor areas of campus are considered traditional public forums for individuals, organizations, and guest speakers. A public institution of higher education may create and enforce restrictions that are reasonable and content-neutral on time, place, and manner of expression and that are narrowly tailored to a significant institutional interest. Restrictions must be clear and published and must provide for ample alternative means of expression.³³ A public institution of higher education may not otherwise designate any area of campus as a free-speech zone or create policies restricting expressive activities to a particular outdoor area of campus.³⁴ A person whose expressive rights are violated may bring an action against a public institution of higher education in a court of competent jurisdiction to obtain declaratory and injunctive relief, reasonable court costs, and attorney fees.³⁵

²⁹ Southern Association of Colleges and Schools, *Resource Manual for the Principles of Accreditation: Foundations for Quality Enhancement* (2018), available at https://www.usf.edu/system/documents/system-consolidation/referential_guiding_documents/sacscoc-resource-manual-section-06-faculty.pdf at 53.

³⁰ University of Chicago, *Report of the Committee on Free Expression* (2015), available at <https://provost.uchicago.edu/sites/default/files/documents/reports/FOECommitteeReport.pdf> (last visited Jan. 13, 2021).

³¹ National Survey of Student Engagement, *2017 Topical Module: Inclusiveness and Engagement with Cultural Diversity*, available at https://scholarworks.iu.edu/dspace/bitstream/handle/2022/23392/NSSE_2017_Annual_Results.pdf?sequence=1&isAllowed=y (last visited Jan. 15, 2021).

³² Chapter 2018-4, s. 6, L.O.F.

³³ Section 1004.097, F.S.

³⁴ *Id.*

³⁵ *Id.*

In April of 2019, the president of the state university system, all twelve state university presidents, and the chair of the FCS Council of Presidents signed resolutions affirming their commitment to providing for free expression on campus.³⁶

In 2020, according to the Foundation for Individual Rights in Education (FIRE) only three out of the eleven state universities in Florida that FIRE evaluated had policies that did not inhibit free expression.³⁷ A national survey revealed, in part, that:

- 22 percent of students would have felt very uncomfortable publicly disagreeing with a professor about a controversial topic.
- 29 percent of students felt that the college administration did not make it clear that free speech was protected on campus.
- 60 percent of students had felt they could not express their opinion on a subject because of how students, a professor, or the administration would respond.
- 60 percent of students could recall at least one time during their college experience when they did not share their perspective for fear of how others would respond. Students who identified as Conservative were more likely to report a prior self-censorship incident (72 percent for Conservative students, 55 percent for Liberal students).³⁸

Nonconsensual Interception of Communications

Federal law authorizes private individuals to record wire, oral, or electronic communications if one of the parties consents. Thirty-eight states have laws following the federal one-party consent regime. Eleven states, including Florida, require the consent of all recorded parties.³⁹

Chapter 934, F.S., governs the security of various types of communications in the state, limits the ability to intercept, monitor, and record such communications, and provides criminal penalties⁴⁰ and civil remedies.⁴¹ Section 934.03, F.S., makes it a third degree felony⁴² to intentionally

³⁶ William Mattox, The James Madison Institute, *Combatting 'Idea Suppression' How Florida Universities Can Continue their Rise to National Prominence* (2020), https://www.jamesmadison.org/wp-content/uploads/2020/10/PolicyBrief_CampusSpeech_Oct2020_v02.pdf (last visited Jan. 14, 2021); see also Executive Office of the Governor, *Governor Ron DeSantis Calls on State Colleges and Universities to Adopt Free Speech Resolution* (Apr. 15, 2019), available at <https://www.flgov.com/2019/04/15/governor-ron-desantis-calls-on-state-colleges-and-universities-to-adopt-free-speech-resolution/>.

³⁷ The James Madison Institute, *Combatting 'Idea Suppression' How Florida Universities Can Continue their Rise to National Prominence* (2020). The three Florida universities with policies that were not found to inhibit free speech include the University of Florida, Florida State University, and the University of North Florida. Florida Polytechnic University has never been rated by FIRE.

³⁸ College Pulse, et al., *College Free Speech Rankings: What's the Climate for Free Speech on America's College Campuses?* (2020), available at <https://reports.collegepulse.com/college-free-speech-rankings>, p. 2, 53-59 (enter name and e-mail in designated fields to download report) (last visited Jan. 20, 2021).

³⁹ 18 U.S.C. s. 2511; Rauvin Johl, *Reassessing Wiretap and Eavesdropping Statutes: Making One-Party Consent the Default*, 12 Harv. L. & Pol'y Rev. 177, 179 (2018).

⁴⁰ Sections 934.04, 934.21, 934.215, 934.31, and 934.43, F.S.

⁴¹ Section 934.05, F.S.

⁴² A third degree felony is punishable by up to 5 years in state prison and a fine of up to \$5,000. Sections 775.082 and 775.083, F.S.

“intercept” an “oral communication.”⁴³ For example, the law prohibits an individual from using an electronic scanning device to monitor private telephone calls.⁴⁴

Family Educational Rights and Privacy Act (FERPA)⁴⁵

With limited exceptions, the FERPA prohibits the distribution of federal funds to an educational agency that has a policy or practice of disclosing the education records of a student without parental or student consent. Section 1002.225, F.S., incorporates the FERPA into Florida law as it applies to public postsecondary educational institutions. The FERPA only applies to records created for an educational purpose and maintained by an educational agency.⁴⁶

III. Effect of Proposed Changes:

Free speech at State Universities and Florida College System Institutions

The bill amends s. 1001.03, F.S., to require the State Board of Education (SBE) to select or create an objective, nonpartisan, and statistically valid survey which considers the extent to which competing ideas and perspectives are presented and members of the college community feel free to express their beliefs and viewpoints on campus and in the classroom. The bill amends s. 1001.706, F.S., to require the Board of Governors of the State University System (BOG) to select or create a survey for an identical purpose applicable to the university community. The bill also:

- Directs the SBE and the BOG to require each state college or university, as applicable, to conduct an annual assessment of the intellectual freedom and viewpoint diversity at that institution. The bill defines “intellectual freedom and viewpoint diversity” as the exposure of students to, and the encouragement of students’ exploration of, a variety of ideological and political perspectives.
- Requires the SBE and the BOG to annually compile and publish the assessments by September 1 of each year, beginning on September 1, 2022.
- Authorizes the SBE to adopt rules to implement the survey.

To comply with the timeline specified in the bill, the SBE and the BOG are required to select a survey for use at Florida College System (FCS) institutions and state universities during the 2021-2022 academic year. The required surveys on intellectual freedom and viewpoint diversity may assist the SBE and the BOG to identify strengths and weaknesses in public postsecondary institutions’ efforts to protect free speech rights.

The bill specifies that the SBE, the BOG, FCS institutions, and state universities may not shield students at FCS institutions or state universities, as applicable, from free speech protected under the First Amendment to the United States Constitution and Art. I of the State Constitution. The

⁴³ Section 934.02(3), F.S., defines “intercept” as the aural or other acquisition of the contents of any wire, electronic, or oral communication through the use of any electronic, mechanical, or other device. Section 934.02(2), F.S., defines “oral communication” as any oral communication uttered by a person exhibiting an expectation that such communication is not subject to interception under circumstances justifying such expectation and does not mean any public oral communication uttered at a public meeting or any electronic communication.

⁴⁴ *State v. Mozo*, 655 So. 2d 1115, 1116 (Fla. 1995).

⁴⁵ 20 U.S.C. s. 1232g.

⁴⁶ *Id.*

bill defines “shield” to mean to limit students’ access to or observation of ideas and opinions they may find uncomfortable, unwelcome, disagreeable, or offensive.

The prohibition against shielding students from protected free speech may clarify to students the range of expressive activities that are protected on the campuses of FCS institutions and state universities.

Nonconsensual Recording and Publication of Video and Audio Recordings

The bill includes in the definition of protected expressive activities the recording and publishing of video and audio recorded in classrooms for personal use of the student and clarifies that protected expressive activities include the nonconsensual recording and publication of video and audio recorded in outdoor areas of campus and in classrooms, subject to the privacy protections provided in the Family Educational Rights and Privacy Act (FERPA).⁴⁷ The bill makes it clear that the recording and publication of video and audio recorded in outdoor areas of campus and in classrooms would not be a felony under Florida law, even if all the parties to the recording did not consent to be recorded.

The bill takes effect July 1, 2021.

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.

⁴⁷ 20 U.S.C. s. 1232g.

B. Private Sector Impact:

None.

C. Government Sector Impact:

PCS/CS/SB 264 does not affect state expenditures or revenues. However, the bill would result in a minimal increase in expenditures for Florida College System and State University System institutions to administer the annual intellectual freedom and viewpoint diversity assessment.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 1001.03, 1001.706, and 1004.097.

IX. Additional Information:

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

Recommended CS/CS by Appropriations Subcommittee on Education on February 9, 2021:

The committee substitute clarifies that the right of a student to record communications in the classroom extends only to recordings made for the personal use of the student. The CS retains the right of a student to record video and audio in outdoor areas of campus.

CS by Education on January 26, 2021

The committee substitute:

- Extends to Florida College System institutions and state universities the provision of the bill prohibiting the State Board of Education (SBE) and the Board of Governors of the State University System from shielding students from constitutionally protected free speech.
- Defines the term “shield” to mean to limit students’ access to or observation of ideas and opinions they may find uncomfortable, unwelcome, disagreeable, or offensive.
- Clarifies that the right provided in the bill to record and publish audio and video recorded in classrooms and outdoor areas of campus is subject to the privacy protections provided by the Family Educational Rights and Privacy Act.
- Authorizes the SBE to adopt rules to implement the survey on intellectual freedom and viewpoint diversity, which is required by the bill.

B. Amendments:

None.

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



100826

LEGISLATIVE ACTION

Senate	.	House
Comm: RS	.	
02/10/2021	.	
	.	
	.	
	.	

Appropriations Subcommittee on Education (Rodrigues) recommended the following:

Senate Amendment (with title amendment)

Delete lines 105 - 107
and insert:
literature; carrying signs; circulating petitions; and,
notwithstanding s. 934.03(1), the recording for personal use and
publication, including the Internet publication, of video or
audio ~~recorded~~

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



100826

11 And the title is amended as follows:

12 Delete lines 24 - 25

13 and insert:

14 institutions to record audio and video in outdoor
15 areas of the campus and in classrooms for personal use
16 only and not for publication, subject to certain
17 federal and state



889170

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/10/2021	.	
	.	
	.	
	.	

Appropriations Subcommittee on Education (Rodrigues) recommended the following:

1 **Senate Substitute for Amendment (100826) (with title**
2 **amendment)**
3
4 Delete lines 105 - 108
5 and insert:
6 literature; carrying signs; circulating petitions; and,
7 notwithstanding s. 934.03(1), the recording for personal use of
8 video or audio in classrooms and the recording and publication,
9 including the Internet publication, of video or audio ~~recorded~~
10 in outdoor areas of campus, subject to the



889170

11
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19

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

And the title is amended as follows:

Delete lines 24 - 25

and insert:

institutions to record video or audio in classrooms
for personal use and record and publish, including
Internet publishing, video or audio in outdoor areas
of campus, subject to certain federal and state

By the Committee on Education; and Senator Rodrigues

581-01284-21

2021264c1

1 A bill to be entitled
 2 An act relating to higher education; amending s.
 3 1001.03, F.S.; defining terms; requiring the State
 4 Board of Education to require each Florida College
 5 System institution to conduct an annual assessment
 6 related to intellectual freedom and viewpoint
 7 diversity; providing criteria relating to such
 8 assessment; requiring the State Board of Education to
 9 annually publish such assessments by a specified date;
 10 authorizing the State Board of Education to adopt
 11 rules; prohibiting the State Board of Education from
 12 shielding Florida College System institution students
 13 from certain speech; amending s. 1001.706, F.S.;

14 defining terms; requiring the Board of Governors to
 15 require each state university to conduct an annual
 16 assessment related to intellectual freedom and
 17 viewpoint diversity; providing criteria relating to
 18 such assessment; requiring the Board of Governors to
 19 annually publish such assessments by a specified date;
 20 prohibiting the Board of Governors from shielding
 21 state university students from certain speech;
 22 amending s. 1004.097, F.S.; defining the term
 23 "shield"; allowing students at public postsecondary
 24 institutions to record certain audio and video in
 25 classrooms, subject to certain federal and state
 26 provisions; prohibiting Florida College System
 27 institutions or state universities from shielding
 28 students from expressive activities; providing an
 29 effective date.

Page 1 of 4

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

581-01284-21

2021264c1

30
 31 Be It Enacted by the Legislature of the State of Florida:
 32
 33 Section 1. Subsection (19) is added to section 1001.03,
 34 Florida Statutes, to read:
 35 1001.03 Specific powers of State Board of Education.—
 36 (19) INTELLECTUAL FREEDOM AND VIEWPOINT DIVERSITY
 37 ASSESSMENT.—
 38 (a) For the purposes of this subsection, the term:
 39 1. "Intellectual freedom and viewpoint diversity" means the
 40 exposure of students to, and the encouragement of students'
 41 exploration of, a variety of ideological and political
 42 perspectives.
 43 2. "Shield" means to limit students' access to or
 44 observation of ideas and opinions they may find uncomfortable,
 45 unwelcome, disagreeable, or offensive.
 46 (b) The State Board of Education shall require each Florida
 47 College System institution to conduct an annual assessment of
 48 the intellectual freedom and viewpoint diversity at that
 49 institution. The state board shall select or create an
 50 objective, nonpartisan, and statistically valid survey to be
 51 used by each institution which considers the extent to which
 52 competing ideas and perspectives are presented and members of
 53 the college community feel free to express their beliefs and
 54 viewpoints on campus and in the classroom. The state board shall
 55 annually compile and publish the assessments by September 1 of
 56 each year, beginning on September 1, 2022. The state board may
 57 adopt rules to implement this paragraph.
 58 (c) The state board may not shield students at Florida

Page 2 of 4

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

581-01284-21 2021264c1

59 College System institutions from free speech protected under the
 60 First Amendment to the United States Constitution and Art. I of
 61 the State Constitution.

62 Section 2. Subsection (13) is added to section 1001.706,
 63 Florida Statutes, to read:

64 1001.706 Powers and duties of the Board of Governors.—

65 (13) INTELLECTUAL FREEDOM AND VIEWPOINT DIVERSITY

66 ASSESSMENT.—

67 (a) For the purposes of this subsection, the term:

68 1. "Intellectual freedom and viewpoint diversity" means the
 69 exposure of students to, and the encouragement of students'
 70 exploration of, a variety of ideological and political
 71 perspectives.

72 2. "Shield" means to limit students' access to or
 73 observation of ideas and opinions they may find uncomfortable,
 74 unwelcome, disagreeable, or offensive.

75 (b) The Board of Governors shall require each state
 76 university to conduct an annual assessment of the intellectual
 77 freedom and viewpoint diversity at that institution. The Board
 78 of Governors shall select or create an objective, nonpartisan,
 79 and statistically valid survey to be used by each state
 80 university which considers the extent to which competing ideas
 81 and perspectives are presented and members of the university
 82 community feel free to express their beliefs and viewpoints on
 83 campus and in the classroom. The Board of Governors shall
 84 annually compile and publish the assessments by September 1 of
 85 each year, beginning on September 1, 2022.

86 (c) The Board of Governors may not shield students at state
 87 universities from free speech protected under the First

581-01284-21 2021264c1

88 Amendment to the United States Constitution and Art. I of the
 89 State Constitution.

90 Section 3. Paragraph (a) of subsection (3) of section
 91 1004.097, Florida Statutes, is amended, and paragraph (f) of
 92 subsection (2) and paragraph (f) of subsection (3) are added to
 93 that section, to read:

94 1004.097 Free expression on campus.—

95 (2) DEFINITIONS.—As used in this section, the term:

96 (f) "Shield" means to limit students' access to or
 97 observation of ideas and opinions they may find uncomfortable,
 98 unwelcome, disagreeable, or offensive.

99 (3) RIGHT TO FREE-SPEECH ACTIVITIES.—

100 (a) Expressive activities protected under the First
 101 Amendment to the United States Constitution and Art. I of the
 102 State Constitution include, but are not limited to, any lawful
 103 oral or written communication of ideas, including all forms of
 104 peaceful assembly, protests, and speeches; distributing
 105 literature; carrying signs; circulating petitions; and, not
 106 withstanding s. 934.03(1), the recording and publication,
 107 including the Internet publication, of video or audio recorded
 108 in outdoor areas of campus and in classrooms, subject to the
 109 protections provided in the Family Educational Rights and
 110 Privacy Act, 20 U.S.C. 1232g and ss. 1002.22 and 1002.225.
 111 Expressive activities protected by this section do not include
 112 commercial speech.

113 (f) A Florida College System institution or a state
 114 university may not shield students from expressive activities.

115 Section 4. This act shall take effect July 1, 2021.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR RAY WESLEY RODRIGUES
27th District

January 27, 2021

The Honorable Doug Broxson
Senate Appropriations Subcommittee on Education, Chair
201 The Capitol
404 South Monroe Street
Tallahassee, FL 32399

RE: CS/SB 264- An act relating to higher education

Dear Mr. Chair:

Please allow this letter to serve as my respectful request to place CS/SB 264, relating to higher education, on the next committee agenda.

Your kind consideration of this request is greatly appreciated. Please feel free to contact my office for any additional information.

Sincerely,

A handwritten signature in cursive script that reads "Ray Rodrigues".

Ray Rodrigues
Senate District 27

Cc: Tim Elwell, Staff Director
JoAnne Bennett, Administrative Assistant

COMMITTEES:

Governmental Oversight and Accountability, *Chair*
Appropriations Subcommittee on Agriculture,
Environment, and General Government, *Vice Chair*
Appropriations Subcommittee on Health and
Human Services
Banking and Insurance
Finance and Tax
Judiciary
Regulated Industries

JOINT COMMITTEES:

Joint Select Committee on Collective Bargaining,
Alternating Chair
Joint Committee on Public Counsel Oversight

REPLY TO:

- 2000 Main Street, Suite 401, Fort Myers, Florida 33901 (239) 338-2570
- 305 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5027

Senate's Website: www.flsenate.gov

WILTON SIMPSON
President of the Senate

AARON BEAN
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/9/21

Meeting Date

SB 264

Bill Number (if applicable)

Topic SB 264

Amendment Barcode (if applicable)

Name Martin Balinsky

Job Title Professor, TCC

Address 3200 Locksley Ln

Phone (800) 980 1949

Street

Tallahassee FL 32312

City

State

Zip

Email balinsky1@gmail.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing United Faculty of Florida

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM

THE FLORIDA SENATE

APPEARANCE RECORD

2/9/2021

Meeting Date

264

Bill Number (if applicable)

Topic Higher Education

Amendment Barcode (if applicable)

Name Cathy Boehme (pronounce to rhyme with fame. Say Bame.)

Job Title Legislative Specialist and retired teacher

Address 213 S. Adams Street

Phone 850-224-2078

Street

Tallahassee

Florida

32301

Email cathy.boehme@floridaea.org

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Education Association

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM

THE FLORIDA SENATE

APPEARANCE RECORD

February 9, 2021

Meeting Date

264

Bill Number (if applicable)

Topic Higher Education

Amendment Barcode (if applicable)

Name Barney Bishop III

Job Title President & CEO

Address 2215 Thomasville Road

Phone 850.510.9922

Street

Tallahassee

FL

32308

Email Barney@BarneyBishop.com

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Barney Bishop Consulting

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2.9.21

Meeting Date

SB 264

Bill Number (if applicable)

Topic HIGHER ED SURVEY (SPONSORED BY SEN. RAY RODRIGUES)

Amendment Barcode (if applicable)

Name WILLIAM MATTOX

Job Title DIRECTOR, STAN MARSHALL CENTER @ JMI

Address 100 N. DUVAL ST

Phone (850) 241-4422

Street

TALLAHASSEE

City

FL

State

32301

Zip

Email bmattox@jamesmadison.org

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing JAMES MADISON INSTITUTE

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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This form is part of the public record for this meeting.

S-001 (10/14/14)

CourtSmart Tag Report

Room: KN 412
Caption: Senate Appropriations Subcommittee on Education

Case No.:

Type:
Judge:

Started: 2/9/2021 1:59:49 PM
Ends: 2/9/2021 2:59:08 PM **Length:** 00:59:20

2:00:09 PM Sen. Broxson (Chair)
2:01:24 PM TAB 1 - CS/SB 52 on Postsecondary Education by Senator Rodrigues
2:01:35 PM Sen. Rodrigues
2:01:46 PM Sen. Broxson
2:01:53 PM Sen. Rodrigues
2:03:15 PM Sen. Broxson
2:03:20 PM Am. 917324
2:03:21 PM Sen. Rodrigues
2:04:25 PM Sen. Broxson
2:05:24 PM Am. 105930
2:05:27 PM Sen. Rodrigues
2:06:07 PM Sen. Broxson
2:06:10 PM Sen. Cruz
2:06:41 PM Sen. Rodrigues
2:08:18 PM Sen. Broxson
2:09:00 PM Am. 284764
2:09:02 PM Sen. Rodrigues
2:09:17 PM Sen. Broxson
2:09:33 PM Am. 694192
2:09:37 PM Sen. Rodrigues
2:09:49 PM Sen Broxson
2:10:43 PM Sen. Gibson
2:11:07 PM Sen. Rodrigues
2:11:42 PM Sen. Gibson
2:11:53 PM Sen. Rodrigues
2:12:00 PM Sen. Gibson
2:12:15 PM Sen. Rodrigues
2:13:33 PM Sen. Broxson
2:13:48 PM Martin Balinsky, Professor at TCC, United Faculty of Florida
2:16:09 PM Sen. Broxson
2:16:27 PM Alexis Laroe, Legislative Affairs, Step Up for Students (waives in support)
2:16:29 PM Sen. Broxson
2:16:42 PM Michael Barrett, Associate for Education, Florida Conference of Catholic Bishops (waives in support)
2:16:44 PM Sen. Broxson
2:16:49 PM Brenda Dickinson, Lobbyist, Florida Council of Independent Schools (waives in support)
2:16:52 PM Sen. Gibson
2:16:58 PM Sen. Broxson
2:17:41 PM Adam Gaffey, Head of School, Robert F. Munroe Day School
2:19:57 PM Sen. Broxson
2:20:19 PM James Herzog, Director of Legislative Services, Florida Association of Academic Non-public Schools
(waives in support)
2:20:24 PM Sen. Broxson
2:20:44 PM Sen. Cruz
2:23:13 PM Sen. Broxson
2:23:18 PM Sen. Gibson
2:24:45 PM Sen. Broxson
2:24:52 PM Sen. Diaz
2:25:15 PM Sen. Broxson
2:25:26 PM Sen. Rodrigues
2:26:00 PM Sen. Broxson
2:26:32 PM TAB 2 - CS/SB 264 on Higher Education by Senator Rodrigues
2:26:40 PM Sen. Rodrigues

2:26:52 PM	Sen. Broxson
2:27:06 PM	Sen. Rodrigues
2:27:55 PM	Am. 100826
2:28:39 PM	Sen. Broxson
2:28:54 PM	Sen. Rodrigues
2:28:55 PM	Am. 889170
2:29:44 PM	Sen. Broxson
2:29:48 PM	Sen. Hutson
2:30:21 PM	Sen. Rodrigues
2:30:36 PM	Sen. Broxson
2:30:42 PM	Sen. Gibson
2:30:57 PM	Sen. Rodrigues
2:31:18 PM	Sen. Gibson
2:31:44 PM	Sen. Rodrigues
2:32:23 PM	Sen. Cruz
2:32:36 PM	Sen. Rodrigues
2:32:45 PM	Sen. Cruz
2:32:49 PM	Sen. Rodrigues
2:33:05 PM	Sen. Cruz
2:33:18 PM	Sen. Rodrigues
2:33:37 PM	Sen. Cruz
2:33:45 PM	Sen. Rodrigues
2:33:53 PM	Sen. Broxson
2:34:07 PM	Sen. Rodrigues
2:34:50 PM	Sen. Broxson
2:35:50 PM	M. Balinsky
2:38:10 PM	Sen. Broxson
2:38:34 PM	Cathy Boehme, Legislative Specialist and retired teacher, Florida Education Association
2:42:06 PM	Sen. Broxson
2:42:10 PM	C. Boehme
2:42:12 PM	Sen. Broxson
2:42:20 PM	C. Boehme
2:42:52 PM	Sen. Broxson
2:42:58 PM	C. Boehme
2:43:01 PM	Sen. Broxson
2:43:10 PM	C. Boehme
2:43:16 PM	Sen. Broxson
2:43:38 PM	Barney Bishop, President & CEO, Barney Bishop Consulting
2:46:17 PM	Sen. Broxson
2:46:25 PM	Sen. Polsky
2:46:43 PM	B. Bishop
2:47:52 PM	Sen. Polsky
2:48:13 PM	B. Bishop
2:49:00 PM	Sen. Broxson
2:49:27 PM	Sen. Polsky
2:51:40 PM	Sen. Gibson
2:54:14 PM	Sen. Cruz
2:55:44 PM	Sen. Broxson
2:57:00 PM	Sen. Rodrigues
2:57:07 PM	Sen Broxson