

By Senator Sobel

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1 A bill to be entitled
2 An act relating to education funding; providing a
3 short title; amending s. 1008.331, F.S.; providing
4 that a person must be a state-approved supplemental
5 educational services provider to offer supplemental
6 educational services in this state; providing
7 requirements for applying to be a state-approved
8 supplemental educational services provider;
9 prohibiting certain persons from being a supplemental
10 educational services provider or from continuing to
11 offer supplemental educational services; providing
12 that the service designations be based on student
13 learning gains, progress reports, and students' report
14 cards; requiring the Department of Education to create
15 an external complaint procedure in which parents or a
16 public school may file with the school district a
17 complaint against a state-approved supplemental
18 educational services provider; requiring the
19 department's supplemental educational services program
20 to undergo an annual audit; amending s. 1011.62, F.S.;
21 requiring each school district to use funding for
22 supplemental academic instruction to provide summer
23 school programs for certain students in kindergarten
24 through grade 12; providing an effective date.

25
26 Be It Enacted by the Legislature of the State of Florida:

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28 Section 1. This act may be cited as the "Student
29 Advancement Act."

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30 Section 2. Section 1008.331, Florida Statutes, is amended
31 to read:

32 1008.331 Supplemental educational services in Title I
33 schools; school district, provider, and department
34 responsibilities.—

35 (1) REQUIREMENTS.—A person may not offer supplemental
36 educational services pursuant to this section unless he or she
37 is a state-approved supplemental educational services provider.

38 (a) A person who applies to the department to be a state-
39 approved supplemental educational services provider shall:

40 1. Submit to the department an application.

41 2. Undergo a level 2 background screening pursuant to
42 chapter 435. The cost of the background screening is paid by the
43 applicant.

44 (b) A person who applies to the department to be a state-
45 approved supplemental educational services provider or receives
46 any profits from a state-approved supplemental educational
47 services provider may not have been convicted of any of the
48 following offenses designated in the Florida Statutes, a similar
49 offense in another jurisdiction, or a similar offense committed
50 in this state which has been redesignated from a former
51 provision of the Florida Statutes to one of the following
52 offenses:

53 1. Any offense listed in s. 943.0435(1)(a)1., relating to
54 the registration of an individual as a sexual offender.

55 2. Section 393.135, relating to sexual misconduct with
56 certain developmentally disabled clients and the reporting of
57 such sexual misconduct.

58 3. Section 394.4593, relating to sexual misconduct with

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59 certain mental health patients and the reporting of such sexual
60 misconduct.

61 4. Section 775.30, relating to terrorism.

62 5. Section 782.04, relating to murder.

63 6. Section 787.01, relating to kidnapping.

64 7. Section 787.025, relating to luring or enticing a child.

65 8. Section 794.05, relating to unlawful sexual activity
66 with certain minors.

67 9. Any offense under chapter 800, relating to lewdness and
68 indecent exposure.

69 10. Section 826.04, relating to incest.

70 11. Section 827.03, relating to child abuse, aggravated
71 child abuse, or neglect of a child.

72 12. Section 827.04, relating to contributing to the
73 delinquency or dependency of a child.

74 13. Former s. 827.05, relating to negligent treatment of
75 children.

76 14. Section 827.071, relating to sexual performance by a
77 child.

78 15. Section 985.701, relating to sexual misconduct in
79 juvenile justice programs.

80 16. Any felony offense under:

81 a. Chapter 812, relating to theft, robbery, and related
82 crimes.

83 b. Chapter 831, relating to forgery and counterfeiting.

84 c. Chapter 832, relating to the issuance of worthless
85 checks and drafts.

86 (2) REJECTION OR REMOVAL OF PROVIDERS.—If a person has been
87 convicted of any of the offenses listed in paragraph (1)(b), the

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88 department:

89 (a) May not approve the person as a state-approved
90 supplemental educational services provider; or

91 (b) Shall immediately and permanently remove the provider
92 from all state-approved lists of providers.

93 (3)~~(1)~~ INCENTIVES.—A provider or school district may not
94 provide incentives to entice a student or a student's parent to
95 choose a provider. After a provider has been chosen, the student
96 may be awarded incentives for performance or attendance, the
97 total value of which may not exceed \$50 per student per year.

98 (4)~~(2)~~ RESPONSIBILITIES OF SCHOOL DISTRICT AND PROVIDER.—

99 (a) School districts shall ~~must~~ create a streamlined parent
100 enrollment and provider selection process for supplemental
101 educational services and ensure that the process enables
102 eligible students to begin receiving supplemental educational
103 services no later than October 15 of each school year.

104 (b) Supplemental educational services enrollment forms must
105 be made freely available to the parents of eligible students and
106 providers both before ~~prior to~~ and after the start of the school
107 year.

108 (c) School districts shall notify ~~must provide notification~~
109 ~~to~~ parents of students eligible to receive supplemental
110 educational services before ~~prior to~~ and after the start of the
111 school year. Notification must ~~shall~~ include contact information
112 for state-approved providers as well as the enrollment form,
113 clear instructions, and timeline for the selection of providers
114 and commencement of services.

115 (d) State-approved supplemental educational services
116 providers must be able to provide services to eligible students

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117 no later than October 15 of each school year contingent upon
118 their receipt of their district-approved student enrollment
119 lists at least 20 days before ~~prior to~~ the start date.

120 (e) ~~If In the event that~~ the contract with a state-approved
121 provider is signed less than 20 days before ~~prior to~~ October 15,
122 the provider shall be afforded no less than 20 days from the
123 date the contract was executed to begin delivering services.

124 (f) A school district shall ~~must~~ hold open student
125 enrollment for supplemental educational services ~~unless or~~ until
126 it obtains ~~has obtained~~ a written election to receive or reject
127 services from parents in accordance with paragraph (5) (a)
128 ~~paragraph (3) (a)~~.

129 (g) School districts, using the same policies applied to
130 other organizations that have access to school sites, shall
131 provide access to school facilities to providers that wish to
132 use these sites for supplemental educational services. A school
133 district that has ~~with~~ a student population in excess of 300,000
134 may only charge a state-approved supplemental educational
135 services provider facility rental fees for the actual hours that
136 the classrooms are used for tutoring by the provider.

137 (5) (3) ~~COMPLIANCE; PENALTIES FOR NONCOMPLIANCE.-~~

138 (a) Compliance is met when the school district has obtained
139 evidence of reception or rejection of services from the parents
140 of at least a majority of the students receiving free or
141 reduced-price lunch in Title I schools that are eligible for
142 parental choice of transportation or supplemental educational
143 services unless a waiver is granted by the State Board of
144 Education. A waiver may ~~shall only~~ be granted only if there is
145 clear and convincing evidence of the district's efforts to

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146 secure evidence of the parent's decision. Requirements for
147 parental election to receive supplemental educational services
148 may ~~shall~~ not exceed the election requirements for the free and
149 reduced-price lunch program.

150 (b) A provider must be able to deliver supplemental
151 educational services to school districts in which the provider
152 is approved by the state. If a state-approved provider withdraws
153 from offering services to students in a school district in which
154 it is approved and in which it has signed either a contract to
155 provide services or a letter of intent and the minimums per site
156 set by the provider have been met, the school district shall
157 ~~must~~ report the provider to the department. The provider shall
158 be immediately removed from the state-approved list for the
159 current school year for that school district. Upon the second
160 such withdrawal in a given ~~any~~ school district, the provider may
161 not ~~shall be ineligible to~~ provide services in the state the
162 following year.

163 (6) ~~(4)~~ REALLOCATION OF FUNDS.—If a school district has not
164 spent the required supplemental educational services set-aside
165 funding, the district may apply to the Department of Education
166 after January 1 for authorization to reallocate the funds. If
167 the Commissioner of Education does not approve the reallocation
168 of funds, the district may appeal to the State Board of
169 Education. The State Board of Education shall ~~must~~ consider the
170 appeal within 60 days after ~~of~~ its receipt, and the decision of
171 the state board is ~~shall be~~ final.

172 (7) ~~(5)~~ RESPONSIBILITIES OF THE DEPARTMENT OF EDUCATION.—

173 (a) By May 1 of each year, each supplemental educational
174 services provider shall ~~must~~ report to the Department of

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175 Education, unless a prior agreement has been made with the local
176 school district, in an electronic form prescribed by the
177 department, the following information regarding services
178 provided to public school students in the district:

179 1. Student learning gains as demonstrated by mastery of
180 applicable benchmarks or access points set forth in the Sunshine
181 State Standards;

182 2. Student attendance and completion data;

183 3. Parent satisfaction survey results;

184 4. School district satisfaction survey results received
185 directly from the school district; and

186 5. Satisfaction survey results received directly from the
187 school district which were completed by principals in whose
188 schools onsite supplemental educational services were provided.

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190 The department shall post a uniform survey on its Internet
191 website to be completed online by principals and school
192 districts.

193 (b) The department shall evaluate each state-approved
194 provider using the information received pursuant to paragraph
195 (a) and assign a service designation of excellent, satisfactory,
196 or unsatisfactory for the prior school year. However, if the
197 student population served by the provider does not meet the
198 minimum sample size necessary, based on accepted professional
199 practice for statistical reliability and the prevention of the
200 unlawful release of personally identifiable student information,
201 the provider will not receive a service designation. The State
202 Board of Education shall specify, by rule, the threshold
203 requirements for assigning the service designations; however,

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204 the service designations must be based primarily on student
205 learning gains, progress reports, and students' report cards. By
206 July 1 of each year, the department shall ~~must~~ report the
207 service designation to the supplemental educational services
208 providers, the school districts, parents, and the public.

209 (c) The department shall create an external complaint
210 procedure through which parents or a public school may file with
211 the school district a complaint against a state-approved
212 supplemental educational services provider.

213 1. The school district shall forward to the department each
214 complaint.

215 2. The department shall investigate each complaint,
216 including, but not limited to, complaints that involve
217 fraudulent billing, misrepresentation, illegal marketing, and
218 low-quality tutoring.

219 3. If the department finds that the state-approved
220 supplemental educational services provider is guilty of
221 fraudulent billing, misrepresentation, illegal marketing, or
222 low-quality tutoring, the department shall:

223 a. Remove the provider from the state-approved list for the
224 school district in which the provider offered supplemental
225 educational services and permanently prohibit the provider from
226 placement on any school district's state-approved list.

227 b. Forward the complaint to the local law enforcement
228 agency in the school district in which the provider offered the
229 supplemental educational services.

230 (d) ~~(e)~~ For the 2012-2013 school year, school districts
231 shall use an amount equivalent to 15 percent of the Title I,
232 Part A funds allocated to Title I schools to meet the

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233 requirements for supplemental educational services. Supplemental
234 educational services shall be provided in Title I schools to
235 students who are performing at Level 1 or Level 2 on the FCAT.
236 Each school district shall contract with supplemental
237 educational service providers that have been approved by the
238 department.

239 (e)~~(d)~~ The State Board of Education shall adopt rules
240 pursuant to ss. 120.536(1) and 120.54 to administer the
241 provisions of this subsection.

242 (f)~~(e)~~ The board's rules shall establish an internal
243 complaint procedure to resolve disputes regarding the state
244 approval process, the termination of state approval, and the
245 assignment of a service designation. The internal complaint
246 procedure must provide for an informal review by a hearing
247 officer who is employed by the department and, if requested, a
248 formal review by a hearing officer who is employed by the
249 department, and shall recommend a resolution of the dispute to
250 the Commissioner of Education. The internal complaint procedure
251 is exempt from the provisions of chapter 120. The decision by
252 the commissioner constitutes ~~shall constitute~~ final action.

253 (g)~~(f)~~ By September 1, 2011, the department shall approve
254 and a district may select acceptable premethods and postmethods
255 for measuring student learning gains, including standardized
256 assessments, diagnostic assessments, criterion-referenced and
257 skills-based assessments, or other applicable methods
258 appropriate for each grade level, for use by supplemental
259 educational services providers and local school districts in
260 determining student learning gains. Each method must be able to
261 measure student progress toward mastering the benchmarks or

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262 access points set forth in the Sunshine State Standards and the
263 student's supplemental educational services plan. The use of a
264 diagnostic and assessment instrument, which is aligned to a
265 provider's curriculum, is an acceptable premethod and postmethod
266 if the provider can demonstrate that the assessment meets the
267 requirements in this paragraph and is not deemed unreliable or
268 invalid by the department.

269 (h)~~(g)~~ As a condition for state approval, a provider shall
270 ~~must~~ use a method for measuring student learning gains which
271 results in reliable and valid results as approved by the
272 department.

273 (i)~~(h)~~ The provider shall report data on individual student
274 learning gains to the department, unless a prior agreement has
275 been made with the local school district to report such student
276 achievement data. The report must include individual student
277 learning gains as demonstrated by mastery of applicable
278 benchmarks or access points set forth in the Sunshine State
279 Standards.

280 (8) AUDITS.—The department's management of the funding of
281 the supplemental educational services program and its state-
282 approved providers must annually undergo an external audit by an
283 independent certified public accountant who does not have a
284 personal interest, direct or indirect, in the fiscal affairs of
285 the department's supplemental educational services program.

286 (9)~~(6)~~ RULES.—The State Board of Education may adopt rules
287 pursuant to ss. 120.536(1) and 120.54 to implement the
288 provisions of this section and may enforce the provisions of
289 this section pursuant to s. 1008.32.

290 Section 3. Paragraph (f) of subsection (1) of section

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291 1011.62, Florida Statutes, is amended to read:

292 1011.62 Funds for operation of schools.—If the annual
293 allocation from the Florida Education Finance Program to each
294 district for operation of schools is not determined in the
295 annual appropriations act or the substantive bill implementing
296 the annual appropriations act, it shall be determined as
297 follows:

298 (1) COMPUTATION OF THE BASIC AMOUNT TO BE INCLUDED FOR
299 OPERATION.—The following procedure shall be followed in
300 determining the annual allocation to each district for
301 operation:

302 (f) *Supplemental academic instruction; categorical fund.*—

303 1. There is created a categorical fund to provide
304 supplemental academic instruction to students in kindergarten
305 through grade 12. This paragraph may be cited as the
306 “Supplemental Academic Instruction Categorical Fund.”

307 2. Categorical funds for supplemental academic instruction
308 shall be allocated annually to each school district in the
309 amount provided in the General Appropriations Act. These funds
310 shall be in addition to the funds appropriated on the basis of
311 FTE student membership in the Florida Education Finance Program
312 and shall be included in the total potential funds of each
313 district. These funds shall be used to provide supplemental
314 academic instruction to students enrolled in the K-12 program.

315 a. For the 2012-2013 and 2013-2014 fiscal years, each
316 school district that has one or more of the 100 lowest-
317 performing elementary schools based on the state reading
318 assessment shall use these categorical funds, together with the
319 funds provided in the district’s research-based reading

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320 instruction allocation and other available funds, to provide an
321 additional hour of instruction beyond the normal school day for
322 each day of the entire school year for intensive reading
323 instruction for the students in each of these schools. This
324 additional hour of instruction must be provided only by teachers
325 or reading specialists who are effective in teaching reading.
326 Students enrolled in these schools who have level 5 assessment
327 scores may participate in the additional hour of instruction on
328 an optional basis. Exceptional student education centers shall
329 not be included in the 100 schools.

330 b. Beginning in the 2014-2015 fiscal year and thereafter,
331 each school district shall use these categorical funds, together
332 with other available funds, to provide summer school programs
333 for K-12 students who:

334 (I) Are at risk of academic failure;
335 (II) Desire to enroll in elective courses; or
336 (III) Are from families whose income is below 200 percent
337 of the federal poverty guidelines.

338 c. After the requirements in sub-subparagraphs a. and b.
339 are this requirement has been met, supplemental instruction
340 strategies may include, but are not limited to: modified
341 curriculum, reading instruction, after-school instruction,
342 tutoring, mentoring, class size reduction, extended school year,
343 intensive skills development in summer school, and other methods
344 for improving student achievement. Supplemental instruction may
345 be provided to a student in any manner and at any time during or
346 beyond the regular 180-day term identified by the school as
347 being the most effective and efficient way to best help that
348 student progress from grade to grade and to graduate.

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349 3. Effective with the 1999-2000 fiscal year, funding on the
350 basis of FTE membership beyond the 180-day regular term shall be
351 provided in the FEFP only for students enrolled in juvenile
352 justice education programs or in education programs for
353 juveniles placed in secure facilities or programs under s.
354 985.19. Funding for instruction beyond the regular 180-day
355 school year for all other K-12 students shall be provided
356 through the supplemental academic instruction categorical fund
357 and other state, federal, and local fund sources with ample
358 flexibility for schools to provide supplemental instruction to
359 assist students in progressing from grade to grade and
360 graduating.

361 4. The Florida State University School, as a lab school, is
362 authorized to expend from its FEFP or Lottery Enhancement Trust
363 Fund allocation the cost to the student of remediation in
364 reading, writing, or mathematics for any graduate who requires
365 remediation at a postsecondary educational institution.

366 5. Beginning in the 1999-2000 school year, dropout
367 prevention programs as defined in ss. 1003.52, 1003.53(1)(a),
368 (b), and (c), and 1003.54 shall be included in group 1 programs
369 under subparagraph (d)3.

370 Section 4. This act shall take effect July 1, 2013.