



711168

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/15/2016	.	
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Appropriations Subcommittee on Education (Stargel) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause and insert:

Section 1. Subsection (1) of section 1005.04, Florida Statutes, is amended to read:

1005.04 Fair consumer practices.—

(1) Every institution that is under the jurisdiction of the commission or is exempt from the jurisdiction or purview of the commission pursuant to s. 1005.06(1)(c) or (f) and that either



711168

11 directly or indirectly solicits for enrollment any student  
12 shall:

13 (a) Disclose to each prospective student a statement of the  
14 purpose of such institution, its educational programs and  
15 curricula, a description of its physical facilities, its status  
16 regarding licensure, its fee schedule, including all fees and  
17 costs that will be incurred by a student for completion of a  
18 program at the institution, and policies regarding retaining  
19 student fees if a student withdraws, and a statement regarding  
20 the transferability of credits to and from other institutions.  
21 The institution shall make the required disclosures in writing  
22 at least 1 week prior to enrollment or collection of any tuition  
23 from the prospective student. The required disclosures may be  
24 made in the institution's current catalog;

25 (b) Use a reliable method to assess, before accepting a  
26 student into a program, the student's ability to complete  
27 successfully the course of study for which he or she has  
28 applied;

29 (c) Inform each student accurately about financial  
30 assistance and obligations for repayment of loans; describe any  
31 employment placement services provided and the limitations  
32 thereof; and refrain from promising or implying guaranteed  
33 placement, market availability, or salary amounts;

34 (d) Provide to prospective and enrolled students accurate  
35 information regarding the relationship of its programs to state  
36 licensure requirements for practicing related occupations and  
37 professions in Florida;

38 (e) Ensure that all advertisements are accurate and not  
39 misleading;



711168

40 (f) Publish and follow an equitable prorated refund policy  
41 for all students, and follow both the federal refund guidelines  
42 for students receiving federal financial assistance and the  
43 minimum refund guidelines set by commission rule;

44 (g) Follow the requirements of state and federal laws that  
45 require annual reporting with respect to crime statistics and  
46 physical plant safety and make those reports available to the  
47 public; and

48 (h) Publish and follow procedures for handling student  
49 complaints, disciplinary actions, and appeals.

50 Section 2. Section 1005.11, Florida Statutes, is created to  
51 read:

52 1005.11 Accountability for institutions licensed by the  
53 Commission for Independent Education.-

54 (1) By March 15 of each year, the commission shall prepare  
55 an annual accountability report for licensed institutions. The  
56 report must contain, at a minimum, the graduation rates,  
57 including the number of graduates by program, retention rates,  
58 and placement rates for all licensed institutions.

59 (2) By November 30 of each year, each licensed institution  
60 shall provide data to the commission in a format prescribed by  
61 the commission. Placement rates shall be determined using  
62 Florida Education and Training Placement Information Program  
63 methodology. The commission shall establish a common set of data  
64 definitions that are consistent with those used by the United  
65 States Department of Education for institutional reporting  
66 purposes.

67 (3) The commission shall impose an administrative fine of  
68 not more than \$1,000 when a licensed institution fails to timely



711168

69 submit the required data to the commission pursuant to this  
70 section. Administrative fines collected under this subsection  
71 shall be deposited into the Student Protection Fund.

72 (4) The commission shall establish by rule performance  
73 benchmarks to identify high-performing institutions licensed by  
74 the commission. Licensed institutions with graduation rates,  
75 retention rates, and placement rates equal to or higher than the  
76 average rates of all Florida universities, colleges, or career  
77 centers, as appropriate, may receive and use the designation of  
78 "high performing."

79 Section 3. Paragraphs (c) and (d) of subsection (2) and  
80 subsection (3) of section 1005.21, Florida Statutes, are amended  
81 to read:

82 1005.21 Commission for Independent Education.—

83 (2) The Commission for Independent Education shall consist  
84 of seven members who are residents of this state. The commission  
85 shall function in matters concerning independent postsecondary  
86 educational institutions in consumer protection, program  
87 improvement, and licensure for institutions under its purview.  
88 The Governor shall appoint the members of the commission who are  
89 subject to confirmation by the Senate. The membership of the  
90 commission shall consist of:

91 (c) One member who is an employer of graduates of  
92 institutions licensed by the commission. The member may not have  
93 any other relationship with an institution subject to licensure  
94 by the commission except for his or her status as an employer of  
95 graduates of the institution ~~from a public school district or~~  
96 ~~Florida College System institution who is an administrator of~~  
97 ~~career education.~~



711168

98           (d) One member who is a graduate of an institution subject  
99 to licensure by the commission. The member may not have any  
100 other relationship with an institution subject to licensure by  
101 the commission except for his or her status as an alumnus  
102 ~~representative of a college that meets the criteria of s.~~  
103 ~~1005.06(1)(f).~~

104           (3) The members of the commission shall be appointed to 3-  
105 year terms. Members may serve no more than three consecutive  
106 terms or and until their successors are appointed and qualified,  
107 whichever occurs first. If a vacancy on the commission occurs  
108 before the expiration of a term, the Governor shall appoint a  
109 successor to serve the unexpired portion of the term.

110           Section 4. Paragraphs (e) and (k) of subsection (1) of  
111 section 1005.22, Florida Statutes, are amended, and paragraph  
112 (j) is added to subsection (2) of that section, to read:

113           1005.22 Powers and duties of commission.—

114           (1) The commission shall:

115           (e) Administer the provisions of this chapter. To this end,  
116 the commission has the following administrative powers and  
117 responsibilities:

118           1. The commission shall adopt rules pursuant to ss.  
119 120.536(1) and 120.54 for the operation and establishment of  
120 independent postsecondary educational institutions. The  
121 commission shall submit the rules to the State Board of  
122 Education for approval or disapproval. If the state board does  
123 not act on a rule within 60 days after receiving it, the rule  
124 shall be filed immediately with the Department of State.

125           2. The commission shall approve and submit an annual budget  
126 to the State Board of Education.



711168

127           3. The commission shall transmit all fees, donations, and  
128 other receipts of money to the Institutional Assessment Trust  
129 Fund.

130           4. The commission shall expend funds as necessary to assist  
131 in the application and enforcement of its powers and duties. The  
132 Chief Financial Officer shall pay out all moneys and funds as  
133 directed under this chapter upon vouchers approved by the  
134 Department of Education for all lawful purposes necessary to  
135 administering this chapter. The commission shall make annual  
136 reports to the State Board of Education showing in detail  
137 amounts received and all expenditures. The commission shall  
138 include in its annual report to the State Board of Education a  
139 statement of its major activities during the period covered by  
140 the report.

141           (k) Establish and publicize the procedures for receiving  
142 and responding to complaints from students, faculty, and others  
143 concerning institutions or programs under the purview of the  
144 commission, and keep records of such complaints in order to  
145 determine the frequency and nature of complaints with respect to  
146 specific institutions of higher education. Complaints not closed  
147 within 90 days shall be reviewed by a committee appointed by the  
148 commission.

149           (2) The commission may:

150           (j) Prohibit a licensed institution from enrolling new  
151 students, or limit the number of students in a program at a  
152 licensed institution, based on the institution's performance.

153           Section 5. Subsections (5) through (16) of section 1005.31,  
154 Florida Statutes, are renumbered as subsections (6) through  
155 (17), respectively, subsection (2) and present subsection (6)



156 are amended, and a new subsection (5) is added to that section,  
157 to read:

158 1005.31 Licensure of institutions.—

159 (2) The commission shall develop minimum standards by which  
160 to evaluate institutions for licensure. These standards must  
161 include, at a minimum, at least the institution's: name,  
162 financial stability, purpose, administrative organization,  
163 admissions and recruitment, educational programs and curricula,  
164 retention and, completion, including a retention and completion  
165 management plan, career placement, faculty, learning resources,  
166 student personnel services, physical plant and facilities,  
167 publications, and disclosure statements about the status of the  
168 institution with respect to professional certification and  
169 licensure. The commission may adopt rules to ensure that  
170 institutions licensed under this section meet these standards in  
171 ways that are appropriate to achieve the stated intent of this  
172 chapter, including provisions for nontraditional or distance  
173 education programs and delivery.

174 (5) The commission may require institutions that do not  
175 provide sufficient evidence of financial stability at the time  
176 of application for a provisional license or that are dependent  
177 upon financial resources located outside of the United States to  
178 post and maintain a surety bond to assist each enrolled student  
179 in completing his or her program of enrollment in the event that  
180 the institution closes before receiving its first annual  
181 licensure renewal. In lieu of a surety bond, the commission may  
182 require an institution to establish and maintain a cash deposit  
183 escrow account or an irrevocable letter of credit payable to the  
184 commission in an amount not to exceed 50 percent of the



711168

185 institution's projected revenue for its first year. The  
186 commission shall adopt rules to implement this subsection.

187 (7)(6) The commission shall ensure through an investigative  
188 process that applicants for licensure meet the standards as  
189 defined in rule. Within 30 days after receipt of an application,  
190 the commission shall examine the application, notify the  
191 applicant of any apparent errors or omissions, and request any  
192 necessary additional information from the applicant. When the  
193 investigative process is not completed within the time set out  
194 in s. 120.60(1) and the commission has reason to believe that  
195 the applicant does not meet licensure standards, the commission  
196 or the executive director of the commission may issue a 90-day  
197 licensure delay, which shall be in writing and sufficient to  
198 notify the applicant of the reason for the delay. The provisions  
199 of this subsection shall control over any conflicting provisions  
200 of s. 120.60(1).

201 Section 6. Paragraph (e) of subsection (1) and subsection  
202 (3) of section 1005.32, Florida Statutes, are amended to read:  
203 1005.32 Licensure by means of accreditation.—

204 (1) An independent postsecondary educational institution  
205 that meets the following criteria may apply for a license by  
206 means of accreditation from the commission:

207 ~~(e) The institution is a Florida corporation.~~

208 (3) The commission may not require an institution granted a  
209 license by means of accreditation to submit reports that differ  
210 from the reports required by its accrediting association, except  
211 that each institution must file with the commission an annual  
212 audit report and a retention and completion management plan  
213 pursuant to s. 1005.31. The institution must also follow the





711168

214 commission's requirements for orderly closing, including  
215 provisions for trainout or refunds and arranging for the proper  
216 disposition of student and institutional records.

217 Section 7. Subsections (3) and (4) of section 1005.36,  
218 Florida Statutes, are renumbered as subsections (4) and (5),  
219 respectively, subsection (2) is amended, and a new subsection  
220 (3) is added to that section, to read:

221 1005.36 Institutional closings.—

222 (2) At least 30 days before ~~prior to~~ closing an  
223 institution, its owners, directors, or administrators shall  
224 notify the commission in writing of the closure of the  
225 institution. The owners, directors, and administrators must  
226 organize an orderly closure of the institution, which means at  
227 least providing for the completion of training of its students.  
228 The commission must approve any such plan. An owner, director,  
229 or administrator who fails to notify the commission at least 30  
230 days before ~~prior to~~ the institution's closure, or who fails to  
231 organize the orderly closure of the institution and the trainout  
232 of the students, commits a misdemeanor of the first ~~second~~  
233 degree, punishable as provided in s. 775.082 or s. 775.083.

234 (3) By October 1, 2016, the commission shall establish a  
235 Closed Institution Panel. The panel shall consist of at least  
236 one commission member, one commission staff member, one  
237 accrediting body staff member, and one administrator with  
238 experience managing licensed institutions. The commission shall  
239 notify the panel upon the closing of a licensed institution. For  
240 any closure that does not comply with the requirements of  
241 subsection (2), or at the discretion of the commission chair,  
242 the panel shall convene to implement measures to minimize the



711168

243 academic, logistical, and financial impact on students of the  
244 institution. The panel is authorized to secure student records  
245 and, to the extent possible, maintain the educational programs  
246 at the institution for at least 30 days after it receives  
247 notification that the institution is closing to assist each  
248 student with completion of his or her educational program. The  
249 panel's activities shall be conducted at the expense of the  
250 institution that is closing.

251 Section 8. Section 1005.37, Florida Statutes, is amended to  
252 read:

253 1005.37 Student Protection Fund.—

254 (1) The commission shall establish and administer a  
255 statewide, fee-supported financial program through which funds  
256 will be available to complete the training of a student who  
257 enrolls in a licensed institution ~~nonpublic school~~ that  
258 terminates a program or ceases operation before the student has  
259 completed his or her program of study. The financial program is  
260 named the Student Protection Fund.

261 (2) The commission is authorized to assess a fee from the  
262 licensed institutions ~~schools~~ within its jurisdiction for such  
263 purpose. The commission shall assess a licensed institution  
264 ~~school~~ an additional fee for its eligibility for the Student  
265 Protection Fund. Fees to support the fund shall be determined  
266 annually by the commission; however, if the fund balance exceeds  
267 \$5 million on November 1 of any year, the fees may not be  
268 collected in the next calendar year.

269 (3) If a licensed institution ~~school~~ terminates a program  
270 before all students complete it, the commission shall also  
271 assess that institution ~~school~~ a fee adequate to pay the full



711168

272 cost to the Student Protection Fund of completing the training  
273 of students.

274 (4) The fund shall consist entirely of fees assessed to  
275 licensed institutions ~~schools~~ and shall not be funded under any  
276 circumstances by public funds, nor shall the commission make  
277 payments or be obligated to make payments in excess of the  
278 assessments actually received from licensed institutions ~~schools~~  
279 and deposited in the Institutional Assessment Trust Fund to the  
280 credit of the Student Protection Fund.

281 (5) At each commission meeting, the commission shall  
282 consider the need for and shall make required assessments, shall  
283 review the collection status of unpaid assessments and take all  
284 necessary steps to collect them, and shall review all moneys in  
285 the fund and expenses incurred since the last reporting period.  
286 This review must include administrative expenses, moneys  
287 received, and payments made to students or to lending  
288 institutions.

289 (6) Staff of the commission must immediately inform the  
290 commission upon learning of the closing of a licensed  
291 institution ~~school~~ or the termination of a program that could  
292 expose the fund to liability.

293 (7) The Student Protection Fund must be actuarially sound,  
294 periodically audited by the Auditor General in connection with  
295 his or her audit of the Department of Education, and reviewed to  
296 determine if additional fees must be charged to licensed  
297 institutions ~~schools~~ eligible to participate in the fund.

298 Section 9. Subsections (1), (3), and (4) of section  
299 1005.39, Florida Statutes, are amended to read:

300 1005.39 Continuing education and training for



711168

301 administrators and faculty.-

302       (1) The commission shall determine whether ~~is authorized to~~  
303 ~~ensure that~~ the administrators of licensed institutions are  
304 qualified to conduct the operations of their respective  
305 positions and ~~to~~ require such administrators and faculty to  
306 receive continuing education and training as adopted by rule of  
307 the commission. The positions for which the commission must ~~may~~  
308 review qualifications and require continuing education and  
309 training may include the positions of chief administrator or  
310 officer, chief campus officer, director of education or  
311 training, placement director, admissions director, and financial  
312 aid director and faculty members. By July 1, 2017, and annually  
313 thereafter, the commission must verify that all administrators  
314 subject to continuing education requirements have completed  
315 training on state and federal laws and regulations specifically  
316 pertaining to the operation of nonpublic postsecondary  
317 institutions.

318       (3) The commission shall adopt general qualifications for  
319 each of the respective positions and establish guidelines for  
320 the minimum amount and type of continuing education and training  
321 to be required. The continuing education and training may be  
322 provided by the commission, appropriate state or federal  
323 agencies, or professional organizations familiar with the  
324 requirements of the particular administrative positions.  
325 Continuing education may also be provided by licensed  
326 institutions upon approval of the commission. The actual  
327 curricula should be left to the discretion of those agencies,  
328 ~~and~~ organizations, and, if approved, licensed institutions.

329       (4) Evidence of administrator ~~the administrator's~~ and



330 faculty ~~member's~~ compliance with the continuing education and  
331 training requirements established by the commission must ~~may~~ be  
332 included in the initial and renewal application forms provided  
333 to ~~by~~ the commission. Actual records of the continuing education  
334 and training received by administrators and faculty shall be  
335 maintained at the institution and available for inspection at  
336 all times.

337 Section 10. This act shall take effect July 1, 2016.

338  
339 ===== T I T L E A M E N D M E N T =====

340 And the title is amended as follows:

341 Delete everything before the enacting clause  
342 and insert:

343 A bill to be entitled  
344 An act relating to independent postsecondary  
345 educational institutions; amending s. 1005.04, F.S.;  
346 requiring that certain institutions include specified  
347 information relating to student fees and costs in a  
348 disclosure to prospective students; creating s.  
349 1005.11, F.S.; requiring the Commission for  
350 Independent Education to annually prepare an  
351 accountability report by a specified date; requiring  
352 licensed institutions to annually provide certain data  
353 to the commission by a specified date and authorizing  
354 administrative fines for an institution that fails to  
355 timely submit the data; requiring placement rates to  
356 be determined using a specified methodology; requiring  
357 the commission to establish a common set of data  
358 definitions; requiring the commission to establish



711168

359 certain benchmarks by rule; providing for the  
360 designation of certain licensed institutions as "high  
361 performing"; amending s. 1005.21, F.S.; revising the  
362 commission's membership; limiting the terms of  
363 commission members; amending s. 1005.22, F.S.;  
364 requiring the commission to approve an annual budget;  
365 providing for the review of certain complaints  
366 concerning institutions or programs which are not  
367 closed within a specified time; authorizing the  
368 commission to prohibit the enrollment of new students,  
369 or limit the number of students in a program at, a  
370 licensed institution under certain circumstances;  
371 amending s. 1005.31, F.S.; revising the commission's  
372 evaluation standards for licensure of an institution;  
373 requiring certain institutions to post a surety bond  
374 or similar financial security for specified purposes;  
375 requiring the commission to adopt rules; requiring the  
376 commission to examine an application for licensure and  
377 take certain actions within a specified period;  
378 amending s. 1005.32, F.S.; deleting a provision  
379 authorizing an institution that is a Florida  
380 corporation to apply for licensure by means of  
381 accreditation; requiring institutions granted  
382 licensure through accreditation to file a retention  
383 and completion management plan; amending s. 1005.36,  
384 F.S.; revising the criminal penalty for the unlawful  
385 closure of certain institutions; requiring the  
386 commission to create a Closed Institution Panel;  
387 providing membership and duties of the panel;



711168

388 providing that the panel's activities be conducted at  
389 the expense of certain institutions; amending s.  
390 1005.37, F.S.; requiring the commission to annually  
391 determine fees to support the Student Protection Fund;  
392 providing that fees may not be collected under certain  
393 circumstances; amending s. 1005.39, F.S.; requiring  
394 the commission to determine whether certain personnel  
395 of licensed institutions are qualified and require  
396 certain personnel to complete continuing education and  
397 training; requiring the commission to annually verify  
398 that certain personnel have completed certain training  
399 by a specified date; authorizing continuing education  
400 to be provided by licensed institutions under certain  
401 circumstances; requiring certain evidence be included  
402 in initial or renewal application forms provided by  
403 the commission; providing an effective date.