

By the Committees on Appropriations; and Higher Education; and
Senator Brandes

576-03787-16

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1 A bill to be entitled
2 An act relating to independent postsecondary
3 educational institutions; amending s. 1005.04, F.S.;
4 requiring that certain institutions include specified
5 information relating to student fees and costs in a
6 disclosure to prospective students; creating s.
7 1005.11, F.S.; requiring the Commission for
8 Independent Education to annually prepare an
9 accountability report by a specified date; requiring
10 licensed institutions to annually provide certain data
11 to the commission by a specified date and authorizing
12 administrative fines for an institution that fails to
13 timely submit the data; requiring placement rates to
14 be determined using a specified methodology; requiring
15 the commission to establish a common set of data
16 definitions; requiring the commission to establish
17 certain benchmarks by rule; providing for the
18 designation of certain licensed institutions as "high
19 performing"; amending s. 1005.21, F.S.; revising the
20 commission's membership; limiting the terms of
21 commission members; amending s. 1005.22, F.S.;
22 requiring the commission to approve an annual budget;
23 providing for the review of certain complaints
24 concerning institutions or programs which are not
25 closed within a specified time; authorizing the
26 commission to prohibit the enrollment of new students,
27 or limit the number of students in a program at, a
28 licensed institution under certain circumstances;
29 amending s. 1005.31, F.S.; revising the commission's
30 evaluation standards for licensure of an institution;
31 requiring certain institutions to post a surety bond

576-03787-16

2016800c2

32 or similar financial security for specified purposes;
33 requiring the commission to adopt rules; requiring the
34 commission to examine an application for licensure and
35 take certain actions within a specified period;
36 amending s. 1005.32, F.S.; deleting a provision
37 authorizing an institution that is a Florida
38 corporation to apply for licensure by means of
39 accreditation; requiring institutions granted
40 licensure through accreditation to file a retention
41 and completion management plan; amending s. 1005.36,
42 F.S.; revising the criminal penalty for the unlawful
43 closure of certain institutions; requiring the
44 commission to create a Closed Institution Panel;
45 providing membership and duties of the panel;
46 providing that the panel's activities be conducted at
47 the expense of certain institutions; amending s.
48 1005.37, F.S.; requiring the commission to annually
49 determine fees to support the Student Protection Fund;
50 providing that fees may not be collected under certain
51 circumstances; amending s. 1005.39, F.S.; requiring
52 the commission to determine whether certain personnel
53 of licensed institutions are qualified and require
54 certain personnel to complete continuing education and
55 training; requiring the commission to annually verify
56 that certain personnel have completed certain training
57 by a specified date; authorizing continuing education
58 to be provided by licensed institutions under certain
59 circumstances; requiring certain evidence be included
60 in initial or renewal application forms provided by

576-03787-16

2016800c2

61 the commission; providing an effective date.

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

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

67 1005.04 Fair consumer practices.—

68 (1) Every institution that is under the jurisdiction of the
69 commission or is exempt from the jurisdiction or purview of the
70 commission pursuant to s. 1005.06(1)(c) or (f) and that either
71 directly or indirectly solicits for enrollment any student
72 shall:

73 (a) Disclose to each prospective student a statement of the
74 purpose of such institution, its educational programs and
75 curricula, a description of its physical facilities, its status
76 regarding licensure, its fee schedule, including all fees and
77 costs that will be incurred by a student for completion of a
78 program at the institution, and policies regarding retaining
79 student fees if a student withdraws, and a statement regarding
80 the transferability of credits to and from other institutions.
81 The institution shall make the required disclosures in writing
82 at least 1 week prior to enrollment or collection of any tuition
83 from the prospective student. The required disclosures may be
84 made in the institution's current catalog;

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

89 (c) Inform each student accurately about financial

576-03787-16

2016800c2

90 assistance and obligations for repayment of loans; describe any
91 employment placement services provided and the limitations
92 thereof; and refrain from promising or implying guaranteed
93 placement, market availability, or salary amounts;

94 (d) Provide to prospective and enrolled students accurate
95 information regarding the relationship of its programs to state
96 licensure requirements for practicing related occupations and
97 professions in Florida;

98 (e) Ensure that all advertisements are accurate and not
99 misleading;

100 (f) Publish and follow an equitable prorated refund policy
101 for all students, and follow both the federal refund guidelines
102 for students receiving federal financial assistance and the
103 minimum refund guidelines set by commission rule;

104 (g) Follow the requirements of state and federal laws that
105 require annual reporting with respect to crime statistics and
106 physical plant safety and make those reports available to the
107 public; and

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

110 Section 2. Section 1005.11, Florida Statutes, is created to
111 read:

112 1005.11 Accountability for institutions licensed by the
113 Commission for Independent Education.-

114 (1) By March 15 of each year, the commission shall prepare
115 an annual accountability report for licensed institutions. The
116 report must contain, at a minimum, the graduation rates,
117 including the number of graduates by program, retention rates,
118 and placement rates for all licensed institutions.

576-03787-16

2016800c2

119 (2) By November 30 of each year, each licensed institution
120 shall provide data to the commission in a format prescribed by
121 the commission. Placement rates shall be determined using
122 Florida Education and Training Placement Information Program
123 methodology. The commission shall establish a common set of data
124 definitions that are consistent with those used by the United
125 States Department of Education for institutional reporting
126 purposes.

127 (3) The commission shall impose an administrative fine of
128 not more than \$1,000 when a licensed institution fails to timely
129 submit the required data to the commission pursuant to this
130 section. Administrative fines collected under this subsection
131 shall be deposited into the Student Protection Fund.

132 (4) The commission shall establish by rule performance
133 benchmarks to identify high-performing institutions licensed by
134 the commission. Licensed institutions with graduation rates,
135 retention rates, and placement rates equal to or higher than the
136 average rates of all Florida universities, colleges, or career
137 centers, as appropriate, may receive and use the designation of
138 "high performing."

139 Section 3. Paragraphs (c) and (d) of subsection (2) and
140 subsection (3) of section 1005.21, Florida Statutes, are amended
141 to read:

142 1005.21 Commission for Independent Education.—

143 (2) The Commission for Independent Education shall consist
144 of seven members who are residents of this state. The commission
145 shall function in matters concerning independent postsecondary
146 educational institutions in consumer protection, program
147 improvement, and licensure for institutions under its purview.

576-03787-16

2016800c2

148 The Governor shall appoint the members of the commission who are
149 subject to confirmation by the Senate. The membership of the
150 commission shall consist of:

151 (c) One member who is an employer of graduates of
152 institutions licensed by the commission. The member may not have
153 any other relationship with an institution subject to licensure
154 by the commission except for his or her status as an employer of
155 graduates of the institution ~~from a public school district or~~
156 ~~Florida College System institution who is an administrator of~~
157 ~~career education.~~

158 (d) One member who is a graduate of an institution subject
159 to licensure by the commission. The member may not have any
160 other relationship with an institution subject to licensure by
161 the commission except for his or her status as an alumnus
162 ~~representative of a college that meets the criteria of s.~~
163 ~~1005.06(1)(f).~~

164 (3) The members of the commission shall be appointed to 3-
165 year terms. Members may serve no more than three consecutive
166 terms or and until their successors are appointed and qualified,
167 whichever occurs first. If a vacancy on the commission occurs
168 before the expiration of a term, the Governor shall appoint a
169 successor to serve the unexpired portion of the term.

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

173 1005.22 Powers and duties of commission.—

174 (1) The commission shall:

175 (e) Administer the provisions of this chapter. To this end,
176 the commission has the following administrative powers and

576-03787-16

2016800c2

177 responsibilities:

178 1. The commission shall adopt rules pursuant to ss.
179 120.536(1) and 120.54 for the operation and establishment of
180 independent postsecondary educational institutions. The
181 commission shall submit the rules to the State Board of
182 Education for approval or disapproval. If the state board does
183 not act on a rule within 60 days after receiving it, the rule
184 shall be filed immediately with the Department of State.

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

187 3. The commission shall transmit all fees, donations, and
188 other receipts of money to the Institutional Assessment Trust
189 Fund.

190 4. The commission shall expend funds as necessary to assist
191 in the application and enforcement of its powers and duties. The
192 Chief Financial Officer shall pay out all moneys and funds as
193 directed under this chapter upon vouchers approved by the
194 Department of Education for all lawful purposes necessary to
195 administering this chapter. The commission shall make annual
196 reports to the State Board of Education showing in detail
197 amounts received and all expenditures. The commission shall
198 include in its annual report to the State Board of Education a
199 statement of its major activities during the period covered by
200 the report.

201 (k) Establish and publicize the procedures for receiving
202 and responding to complaints from students, faculty, and others
203 concerning institutions or programs under the purview of the
204 commission, and keep records of such complaints in order to
205 determine the frequency and nature of complaints with respect to

576-03787-16

2016800c2

206 specific institutions of higher education. Complaints not closed
207 within 90 days shall be reviewed by a committee appointed by the
208 commission.

209 (2) The commission may:

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

213 Section 5. Subsections (5) through (16) of section 1005.31,
214 Florida Statutes, are renumbered as subsections (6) through
215 (17), respectively, subsection (2) and present subsection (6)
216 are amended, and a new subsection (5) is added to that section,
217 to read:

218 1005.31 Licensure of institutions.—

219 (2) The commission shall develop minimum standards by which
220 to evaluate institutions for licensure. These standards must
221 include, at a minimum, ~~at least~~ the institution's: name,
222 financial stability, purpose, administrative organization,
223 admissions and recruitment, educational programs and curricula,
224 retention ~~and,~~ completion, including a retention and completion
225 management plan, career placement, faculty, learning resources,
226 student personnel services, physical plant and facilities,
227 publications, and disclosure statements about the status of the
228 institution with respect to professional certification and
229 licensure. The commission may adopt rules to ensure that
230 institutions licensed under this section meet these standards in
231 ways that are appropriate to achieve the stated intent of this
232 chapter, including provisions for nontraditional or distance
233 education programs and delivery.

234 (5) The commission may require institutions that do not

576-03787-16

2016800c2

235 provide sufficient evidence of financial stability at the time
236 of application for a provisional license or that are dependent
237 upon financial resources located outside of the United States to
238 post and maintain a surety bond to assist each enrolled student
239 in completing his or her program of enrollment in the event that
240 the institution closes before receiving its first annual
241 licensure renewal. In lieu of a surety bond, the commission may
242 require an institution to establish and maintain a cash deposit
243 escrow account or an irrevocable letter of credit payable to the
244 commission in an amount not to exceed 50 percent of the
245 institution's projected revenue for its first year. The
246 commission shall adopt rules to implement this subsection.

247 (7)~~(6)~~ The commission shall ensure through an investigative
248 process that applicants for licensure meet the standards as
249 defined in rule. Within 60 days after receipt of an application,
250 the commission shall examine the application, notify the
251 applicant of any apparent errors or omissions, and request any
252 necessary additional information from the applicant. When the
253 investigative process is not completed within the time set out
254 in s. 120.60(1) and the commission has reason to believe that
255 the applicant does not meet licensure standards, the commission
256 or the executive director of the commission may issue a 90-day
257 licensure delay, which shall be in writing and sufficient to
258 notify the applicant of the reason for the delay. The provisions
259 of this subsection shall control over any conflicting provisions
260 of s. 120.60(1).

261 Section 6. Paragraph (e) of subsection (1) and subsection
262 (3) of section 1005.32, Florida Statutes, are amended to read:
263 1005.32 Licensure by means of accreditation.—

576-03787-16

2016800c2

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

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

268 (3) The commission may not require an institution granted a
269 license by means of accreditation to submit reports that differ
270 from the reports required by its accrediting association, except
271 that each institution must file with the commission an annual
272 audit report and a retention and completion management plan
273 pursuant to s. 1005.31. The institution must also follow the
274 commission's requirements for orderly closing, including
275 provisions for trainout or refunds and arranging for the proper
276 disposition of student and institutional records.

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

281 1005.36 Institutional closings.—

282 (2) At least 30 days before ~~prior to~~ closing an
283 institution, its owners, directors, or administrators shall
284 notify the commission in writing of the closure of the
285 institution. The owners, directors, and administrators must
286 organize an orderly closure of the institution, which means at
287 least providing for the completion of training of its students.
288 The commission must approve any such plan. An owner, director,
289 or administrator who fails to notify the commission at least 30
290 days before ~~prior to~~ the institution's closure, or who fails to
291 organize the orderly closure of the institution and the trainout
292 of the students, commits a misdemeanor of the first ~~second~~

576-03787-16

2016800c2

293 degree, punishable as provided in s. 775.082 or s. 775.083.

294 (3) By October 1, 2016, the commission shall establish a
295 Closed Institution Panel. The panel shall consist of at least
296 one commission member, one commission staff member, one
297 accrediting body staff member, and one administrator with
298 experience managing licensed institutions. The commission shall
299 notify the panel upon the closing of a licensed institution. For
300 any closure that does not comply with the requirements of
301 subsection (2), or at the discretion of the commission chair,
302 the panel shall convene to implement measures to minimize the
303 academic, logistical, and financial impact on students of the
304 institution. The panel is authorized to secure student records
305 and, to the extent possible, maintain the educational programs
306 at the institution for at least 30 days after it receives
307 notification that the institution is closing to assist each
308 student with completion of his or her educational program. The
309 panel's activities shall be conducted at the expense of the
310 institution that is closing.

311 Section 8. Section 1005.37, Florida Statutes, is amended to
312 read:

313 1005.37 Student Protection Fund.—

314 (1) The commission shall establish and administer a
315 statewide, fee-supported financial program through which funds
316 will be available to complete the training of a student who
317 enrolls in a licensed institution ~~nonpublic school~~ that
318 terminates a program or ceases operation before the student has
319 completed his or her program of study. The financial program is
320 named the Student Protection Fund.

321 (2) The commission is authorized to assess a fee from the

576-03787-16

2016800c2

322 licensed institutions ~~schools~~ within its jurisdiction for such
323 purpose. The commission shall assess a licensed institution
324 ~~school~~ an additional fee for its eligibility for the Student
325 Protection Fund. Fees to support the fund shall be determined
326 annually by the commission; however, if the fund balance exceeds
327 \$5 million on November 1 of any year, the fees may not be
328 collected in the next calendar year.

329 (3) If a licensed institution ~~school~~ terminates a program
330 before all students complete it, the commission shall also
331 assess that institution ~~school~~ a fee adequate to pay the full
332 cost to the Student Protection Fund of completing the training
333 of students.

334 (4) The fund shall consist entirely of fees assessed to
335 licensed institutions ~~schools~~ and shall not be funded under any
336 circumstances by public funds, nor shall the commission make
337 payments or be obligated to make payments in excess of the
338 assessments actually received from licensed institutions ~~schools~~
339 and deposited in the Institutional Assessment Trust Fund to the
340 credit of the Student Protection Fund.

341 (5) At each commission meeting, the commission shall
342 consider the need for and shall make required assessments, shall
343 review the collection status of unpaid assessments and take all
344 necessary steps to collect them, and shall review all moneys in
345 the fund and expenses incurred since the last reporting period.
346 This review must include administrative expenses, moneys
347 received, and payments made to students or to lending
348 institutions.

349 (6) Staff of the commission must immediately inform the
350 commission upon learning of the closing of a licensed

576-03787-16

2016800c2

351 institution ~~school~~ or the termination of a program that could
352 expose the fund to liability.

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

358 Section 9. Subsections (1), (3), and (4) of section
359 1005.39, Florida Statutes, are amended to read:

360 1005.39 Continuing education and training for
361 administrators and faculty.-

362 (1) The commission shall determine whether ~~is authorized to~~
363 ~~ensure that~~ the administrators of licensed institutions are
364 qualified to conduct the operations of their respective
365 positions and ~~to~~ require such administrators and faculty to
366 receive continuing education and training as adopted by rule of
367 the commission. The positions for which the commission must ~~may~~
368 review qualifications and require continuing education and
369 training may include the positions of chief administrator or
370 officer, chief campus officer, director of education or
371 training, placement director, admissions director, and financial
372 aid director and faculty members. By July 1, 2017, and annually
373 thereafter, the commission must verify that all administrators
374 subject to continuing education requirements have completed
375 training on state and federal laws and regulations specifically
376 pertaining to the operation of nonpublic postsecondary
377 institutions.

378 (3) The commission shall adopt general qualifications for
379 each of the respective positions and establish guidelines for

576-03787-16

2016800c2

380 the minimum amount and type of continuing education and training
381 to be required. The continuing education and training may be
382 provided by the commission, appropriate state or federal
383 agencies, or professional organizations familiar with the
384 requirements of the particular administrative positions.
385 Continuing education may also be provided by licensed
386 institutions upon approval of the commission. The actual
387 curricula should be left to the discretion of those agencies,
388 and organizations, and, if approved, licensed institutions.

389 (4) Evidence of administrator ~~the administrator's~~ and
390 faculty ~~member's~~ compliance with the continuing education and
391 training requirements established by the commission must ~~may~~ be
392 included in the initial and renewal application forms provided
393 to ~~by~~ the commission. Actual records of the continuing education
394 and training received by administrators and faculty shall be
395 maintained at the institution and available for inspection at
396 all times.

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