

By Senator Rodriguez

37-00307A-19

20191522__

1 A bill to be entitled
2 An act relating to postsecondary educational
3 institutions; amending s. 1005.04, F.S.; revising the
4 required disclosures specified institutions must make
5 to each prospective student; creating s. 1005.11,
6 F.S.; requiring the Commission for Independent
7 Education to annually prepare an accountability report
8 by a specified date; requiring licensed institutions
9 to annually provide certain data to the commission by
10 a specified date; requiring administrative fines for
11 an institution that fails to timely submit the
12 required data; specifying the use of such funds;
13 requiring the commission to establish certain
14 benchmarks by rule; requiring licensed institutions to
15 disclose specified information to each prospective
16 student; amending s. 1005.21, F.S.; revising the
17 membership of the commission; limiting the terms of
18 commission members; amending s. 1005.22, F.S.;
19 requiring the commission to approve an annual budget;
20 providing for the review of certain complaints;
21 authorizing the commission, under certain
22 circumstances, to prohibit the enrollment of new
23 students or to limit the number of students in a
24 program at a licensed institution; amending s.
25 1005.31, F.S.; revising the commission's evaluation
26 standards for licensure of an institution; requiring
27 the commission to deny the renewal of an annual
28 license for institutions whose federal student loan
29 cohort default rates exceed a specified percentage;

37-00307A-19

20191522__

30 authorizing the commission to require certain
31 institutions to post a surety bond or similar
32 financial security for specified purposes; requiring
33 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.; revising criteria for
37 independent postsecondary educational institutions to
38 apply for a license by accreditation; requiring
39 certain institutions to file a retention and
40 completion management plan; amending s. 1005.36, F.S.;
41 revising the criminal penalty for the unlawful closure
42 of certain institutions; requiring the commission to
43 create a Closed Institution Panel by a specified date;
44 providing for membership and duties of the panel;
45 requiring the commission to notify the panel upon the
46 closing of a licensed institution; amending s.
47 1005.37, F.S.; requiring the commission to annually
48 determine fees to support the Student Protection Fund;
49 prohibiting the commission from collecting the fees
50 under certain circumstances; amending s. 1005.39,
51 F.S.; requiring the commission to determine the
52 qualifications of certain personnel of licensed
53 institutions; requiring the commission to annually
54 verify that certain personnel have completed certain
55 training by a specified date; authorizing the
56 provision of continuing education by licensed
57 institutions under certain circumstances; requiring
58 that certain evidence be included in initial or

37-00307A-19

20191522__

59 renewal application forms provided by the commission;
60 amending ss. 1011.81 and 1011.905, F.S.; requiring
61 that Florida College System institution performance
62 funding for industry certifications and State
63 University System university performance funding take
64 into consideration an institution's federal student
65 loan cohort default rate; providing an effective date.
66

67 Be It Enacted by the Legislature of the State of Florida:
68

69 Section 1. Section 1005.04, Florida Statutes, is amended to
70 read:

71 1005.04 Fair consumer practices.—

72 (1) Every institution that is under the jurisdiction of the
73 commission or ~~is~~ exempt from the jurisdiction or purview of the
74 commission pursuant to s. 1005.06(1)(c) or (f) and that either
75 directly or indirectly solicits for enrollment any student shall
76 do all of the following:

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

37-00307A-19

20191522__

88 (a)~~(b)~~ Use a reliable method to assess, before accepting a
89 student into a program, the student's ability to complete
90 successfully the course of study for which he or she has
91 applied.~~†~~

92 (b)~~(e)~~ Inform each student accurately about financial
93 assistance and obligations for repayment of loans; describe any
94 employment placement services provided and the limitations
95 thereof; and refrain from promising or implying guaranteed
96 placement, market availability, or salary amounts.~~†~~

97 (c)~~(d)~~ Provide to prospective and enrolled students
98 accurate information regarding the relationship of its programs
99 to state licensure requirements for practicing related
100 occupations and professions in Florida.~~†~~

101 (d)~~(e)~~ Ensure that all advertisements are accurate and not
102 misleading.~~†~~

103 (e)~~(f)~~ Publish and follow an equitable prorated refund
104 policy for all students, and follow both the federal refund
105 guidelines for students receiving federal financial assistance
106 and the minimum refund guidelines set by commission rule.~~†~~

107 (f)~~(g)~~ Follow the requirements of state and federal laws
108 that require annual reporting with respect to crime statistics
109 and physical plant safety and make those reports available to
110 the public.~~†~~~~and~~

111 (g)~~(h)~~ Publish and follow procedures for handling student
112 complaints, disciplinary actions, and appeals.

113 (2) ~~In addition,~~ Institutions that are required to be
114 licensed by the commission shall disclose to prospective
115 students that additional information regarding the institution
116 may be obtained by contacting the commission ~~for independent~~

37-00307A-19

20191522__

117 ~~Education, Department of Education, Tallahassee.~~

118 Section 2. Section 1005.11, Florida Statutes, is created to
119 read:

120 1005.11 Accountability for institutions licensed by the
121 Commission for Independent Education.-

122 (1) By March 15 of each year, the Commission for
123 Independent Education shall prepare an accountability report for
124 licensed institutions. The report must contain, at a minimum,
125 the graduation rates, including the number of graduates by
126 program; the retention rates; and the placement rates for all
127 licensed institutions.

128 (2) By November 30 of each year, each licensed institution
129 shall provide data on the graduation rate, retention rate, and
130 placement rate of the licensed institution to the commission in
131 a format prescribed by the commission. Placement rates must be
132 determined using the Florida Education and Training Placement
133 Information Program methodology. The commission shall establish
134 a common set of data definitions that are consistent with those
135 used by the United States Department of Education for
136 institutional reporting purposes.

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

142 (4) The commission shall establish by rule performance
143 benchmarks to identify high-performing institutions licensed by
144 the commission. Licensed institutions with graduation rates,
145 retention rates, and placement rates equal to or higher than the

37-00307A-19

20191522__

146 average rates of all Florida universities, colleges, or career
147 centers, as appropriate, may receive and use the designation of
148 "high performing."

149 (5) Each licensed institution shall provide each student
150 with an accurate, stand-alone disclosure statement, in a format
151 prescribed by the commission, as a condition of any financial
152 obligation of the student to the institution. The institution
153 must provide the disclosure statement individually to each
154 student at least 1 week before enrollment or collection of
155 tuition from the student. The disclosure statement must include,
156 at a minimum:

157 1. The purpose of the institution, its educational programs
158 and curricula, and a description of its physical facilities;

159 2. The institution's licensure status with the commission
160 and its status as an accredited institution or program, as
161 applicable, by an accrediting agency recognized by the United
162 States Department of Education, and any effect that
163 accreditation or lack of accreditation will have on the
164 student's ability to sit for a professional examination or
165 qualify for financial aid;

166 3. The institution's fee schedule; all fees required to be
167 paid by the student, including tuition, laboratory fees,
168 graduation fees, and any other nonrefundable fees; and the
169 institution's policies regarding the retention of student fees
170 if a student withdraws from the institution;

171 4. The transferability of credits to other institutions and
172 from other institutions; and

173 5. Requirements or limitations, such as physical or
174 language capabilities or lack of a criminal record, which will

37-00307A-19

20191522__

175 limit career options related to the student's course of study.

176 Section 3. Paragraphs (c) and (d) of subsection (2) and
177 subsection (3) of section 1005.21, Florida Statutes, are amended
178 to read:

179 1005.21 Commission for Independent Education.—

180 (2) The Commission for Independent Education shall consist
181 of seven members who are residents of this state. The commission
182 shall function in matters concerning independent postsecondary
183 educational institutions in consumer protection, program
184 improvement, and licensure for institutions under its purview.
185 The Governor shall appoint the members of the commission who are
186 subject to confirmation by the Senate. The membership of the
187 commission shall consist of:

188 (c) One member who employs graduates of institutions
189 licensed by the commission. The member may not have any other
190 relationship with an institution subject to licensure by the
191 commission except for his or her status as an employer of
192 graduates of the institution ~~from a public school district or~~
193 ~~Florida College System institution who is an administrator of~~
194 ~~career education.~~

195 (d) One member who is a graduate of an institution subject
196 to licensure by the commission. The member may not have any
197 other relationship with an institution subject to licensure by
198 the commission except for his or her status as an alumnus
199 ~~representative of a college that meets the criteria of s.~~
200 ~~1005.06(1)(f).~~

201 (3) The members of the commission shall be appointed to 3-
202 year terms. Members may serve no more than three consecutive
203 terms or ~~and~~ until their successors are appointed and qualified,

37-00307A-19

20191522__

204 whichever occurs first. If a vacancy on the commission occurs
205 before the expiration of a term, the Governor shall appoint a
206 successor to serve the unexpired portion of the term.

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

210 1005.22 Powers and duties of commission.—

211 (1) The commission shall:

212 (e) Administer the provisions of this chapter. To this end,
213 the commission has the following administrative powers and
214 responsibilities:

215 1. The commission shall adopt rules pursuant to ss.
216 120.536(1) and 120.54 for the operation and establishment of
217 independent postsecondary educational institutions. The
218 commission shall submit the rules to the State Board of
219 Education for approval or disapproval. If the state board does
220 not act on a rule within 60 days after receiving it, the rule
221 shall be filed immediately with the Department of State.

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

224 3. The commission shall transmit all fees, donations, and
225 other receipts of money to the Institutional Assessment Trust
226 Fund.

227 4. The commission shall expend funds as necessary to assist
228 in the application and enforcement of its powers and duties. The
229 Chief Financial Officer shall pay out all moneys and funds as
230 directed under this chapter upon vouchers approved by the
231 Department of Education for all lawful purposes necessary to
232 administering this chapter. The commission shall make annual

37-00307A-19

20191522__

233 reports to the State Board of Education showing in detail
234 amounts received and all expenditures. The commission shall
235 include in its annual report to the State Board of Education a
236 statement of its major activities during the period covered by
237 the report.

238 (k) Establish and publicize the procedures for receiving
239 and responding to complaints from students, faculty, and others
240 concerning institutions or programs under the purview of the
241 commission, and keep records of such complaints in order to
242 determine the frequency and nature of complaints with respect to
243 specific institutions of higher education. The commission shall
244 appoint a committee to review any complaint that is not closed
245 within 90 days after receipt of the complaint.

246 (2) The commission may:

247 (j) Based on the performance of an institution licensed by
248 the commission, prohibit the institution from enrolling new
249 students or limit the number of students in a program at the
250 institution.

251 Section 5. Present subsections (5) through (15) of section
252 1005.31, Florida Statutes, are redesignated as subsections (6)
253 through (16), respectively, subsection (2) and present
254 subsection (6) of that section are amended, and a new subsection
255 (5) is added to that section, to read:

256 1005.31 Licensure of institutions.—

257 (2) The commission shall develop minimum standards ~~by which~~
258 to evaluate institutions for licensure. These standards must
259 include, at a minimum, ~~at least~~ the institution's name;;
260 financial stability;; purpose;; administrative organization;;
261 admissions and recruitment;; educational programs and

37-00307A-19

20191522__

262 curricula;; retention and; completion, including a retention and
263 completion management plan; career placement; federal student
264 loan cohort default rate as calculated by the United States
265 Department of Education; faculty; learning resources; student
266 personnel services; physical plant and facilities;
267 publications; and disclosure statements about the status of the
268 institution with respect to professional certification and
269 licensure. The commission may adopt rules to ensure that
270 institutions licensed under this section meet these standards in
271 ways that are appropriate to achieve the stated intent of this
272 chapter, including provisions for nontraditional or distance
273 education programs and delivery. The commission shall deny the
274 renewal of an annual license for an institution whose federal
275 student loan cohort default rate exceeds 30 percent.

276 (5) The commission may require an institution that does not
277 provide sufficient evidence of financial stability at the time
278 of application for a provisional license or that is dependent
279 upon financial resources located outside the United States to
280 post and maintain a surety bond to assist each enrolled student
281 in completing the student's program of enrollment in the event
282 that the institution closes before receiving its first annual
283 licensure renewal. In lieu of a surety bond, the commission may
284 require an institution to establish and maintain a cash-deposit
285 escrow account, or an irrevocable letter of credit, payable to
286 the commission in an amount not to exceed 50 percent of the
287 institution's first-year projected revenue. The commission shall
288 adopt rules to administer this subsection.

289 (7)~~(6)~~ The commission shall ensure through an investigative
290 process that applicants for licensure meet the standards as

37-00307A-19

20191522__

291 defined in rule. Within 30 days after receipt of an application,
292 the commission shall examine the application, notify the
293 applicant of any apparent error or omission, and request any
294 additional necessary information from the applicant. When the
295 investigative process is not completed within the time set out
296 in s. 120.60(1) and the commission has reason to believe that
297 the applicant does not meet licensure standards, the commission
298 or the executive director of the commission may issue a 90-day
299 licensure delay, which shall be in writing and sufficient to
300 notify the applicant of the reason for the delay. The provisions
301 of this subsection shall control over any conflicting provisions
302 of s. 120.60(1).

303 Section 6. Paragraph (e) of subsection (1) and subsection
304 (3) of section 1005.32, Florida Statutes, are amended to read:

305 1005.32 Licensure by means of accreditation.—

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

309 (e) The institution's federal student loan cohort default
310 rate, as calculated by the United States Department of
311 Education, does not exceed 30 percent ~~The institution is a~~
312 ~~Florida corporation.~~

313 (3) The commission may not require an institution granted a
314 license by means of accreditation to submit reports that differ
315 from the reports required by its accrediting association, except
316 that each institution must file with the commission an annual
317 audit report and a retention and completion management plan
318 pursuant to s. 1005.31. The institution shall also follow the
319 commission's requirements for orderly closing, including

37-00307A-19

20191522__

320 provisions for trainout or refunds and arranging for the proper
321 disposition of student and institutional records.

322 Section 7. Present subsections (3) and (4) of section
323 1005.36, Florida Statutes, are redesignated as subsections (4)
324 and (5), respectively, subsection (2) of that section is
325 amended, and a new subsection (3) is added to that section, to
326 read:

327 1005.36 Institutional closings.—

328 (2) At least 30 days before ~~prior to~~ closing an
329 institution, its owners, directors, or administrators must ~~shall~~
330 notify the commission in writing of the closure of the
331 institution. The owners, directors, and administrators must
332 organize an orderly closure of the institution, which means at
333 least providing for the completion of training of its students.
334 The commission must approve any such plan. An owner, director,
335 or administrator who fails to notify the commission at least 30
336 days before ~~prior to~~ the institution's closure, or who fails to
337 organize the orderly closure of the institution and the trainout
338 of the students, commits a misdemeanor of the first ~~second~~
339 degree, punishable as provided in s. 775.082 or s. 775.083.

340 (3) By October 1, 2019, the commission shall establish a
341 Closed Institution Panel. The panel shall consist of at least
342 one commission member, one commission staff member, one
343 accrediting body staff member, and one administrator with
344 experience in managing licensed institutions. The commission
345 shall notify the panel upon the closing of a licensed
346 institution. For any closure that does not comply with the
347 requirements of subsection (2), or at the discretion of the
348 commission chair, the panel shall convene to implement measures

37-00307A-19

20191522__

349 to minimize the academic, logistical, and financial impact on
350 students of the institution. The panel may secure student
351 records and, to the extent possible, maintain the educational
352 programs at the institution for at least 30 days after the panel
353 receives notification that the institution is closing in order
354 to assist each student with completion of his or her educational
355 program. The institution that is closing shall pay for all the
356 expenses incurred by the panel to conduct activities described
357 in this subsection.

358 Section 8. Section 1005.37, Florida Statutes, is amended to
359 read:

360 1005.37 Student Protection Fund.—

361 (1) The commission shall establish and administer a
362 statewide, fee-supported financial program through which funds
363 will be available to complete the training of a student who
364 enrolls in a licensed institution ~~nonpublic school~~ that
365 terminates a program or ceases operation before the student has
366 completed his or her program of study. The financial program is
367 named the Student Protection Fund.

368 (2) The commission is authorized to assess a fee from the
369 licensed institutions ~~schools~~ within its jurisdiction for such
370 purpose. The commission shall assess a licensed institution
371 ~~school~~ an additional fee for its eligibility for the Student
372 Protection Fund. The commission shall annually determine the
373 fees to support the fund; however, if the fund balance exceeds
374 \$5 million on November 1 of any year, the commission may not
375 collect the fees in the next calendar year.

376 (3) If a licensed institution ~~school~~ terminates a program
377 before all students complete it, the commission shall also

37-00307A-19

20191522__

378 assess that institution ~~school~~ a fee adequate to pay the full
379 cost to the Student Protection Fund of completing the training
380 of students.

381 (4) The fund shall consist entirely of fees assessed to
382 licensed institutions ~~schools~~ and may ~~shall~~ not be funded under
383 any circumstances by public funds, nor shall the commission make
384 payments or be obligated to make payments in excess of the
385 assessments actually received from licensed institutions ~~schools~~
386 and deposited in the Institutional Assessment Trust Fund to the
387 credit of the Student Protection Fund.

388 (5) At each commission meeting, the commission shall
389 consider the need for and shall make required assessments, shall
390 review the collection status of unpaid assessments and take all
391 necessary steps to collect them, and shall review all moneys in
392 the fund and expenses incurred since the last reporting period.
393 This review must include administrative expenses, moneys
394 received, and payments made to students or to lending
395 institutions.

396 (6) Staff of the commission must immediately inform the
397 commission upon learning of the closing of a licensed
398 institution ~~school~~ or the termination of a program which ~~that~~
399 could expose the fund to liability.

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

405 Section 9. Subsections (1), (3), and (4) of section
406 1005.39, Florida Statutes, are amended to read:

37-00307A-19

20191522__

407 1005.39 Continuing education and training for
408 administrators and faculty.—

409 (1) The commission shall determine whether ~~is authorized to~~
410 ~~ensure that~~ the administrators of licensed institutions are
411 qualified to conduct the operations of their respective
412 positions and shall ~~to~~ require such administrators and faculty
413 to receive continuing education and training as adopted by rule
414 of the commission. The positions for which the commission must
415 ~~may~~ review qualifications and require continuing education and
416 training ~~may~~ include the positions of chief administrator or
417 officer, chief campus officer, director of education or
418 training, placement director, admissions director, and financial
419 aid director and faculty members. By July 1, 2020, and annually
420 thereafter, the commission shall verify that all administrators
421 subject to continuing education requirements have completed
422 training on state and federal laws and regulations specifically
423 pertaining to the operation of nonpublic postsecondary
424 educational institutions.

425 (3) The commission shall adopt general qualifications for
426 each of the respective positions and establish guidelines for
427 the minimum amount and type of continuing education and training
428 to be required. The continuing education and training may be
429 provided by the commission, appropriate state or federal
430 agencies, or professional organizations familiar with the
431 requirements of the particular administrative positions.
432 Licensed institutions may also provide continuing education upon
433 approval of the commission. The actual curricula should be left
434 to the discretion of those agencies, ~~and~~ organizations, and, if
435 approved, licensed institutions.

37-00307A-19

20191522__

436 (4) Evidence of administrator ~~the administrator's~~ and
437 faculty ~~member's~~ compliance with the continuing education and
438 training requirements established by the commission shall ~~may~~ be
439 included in the initial and renewal application forms provided
440 to ~~by~~ the commission. Actual records of the continuing education
441 and training received by administrators and faculty shall be
442 maintained at the institution and available for inspection at
443 all times.

444 Section 10. Subsection (2) of section 1011.81, Florida
445 Statutes, is amended to read:

446 1011.81 Florida College System Program Fund.—

447 (2) Performance funding for industry certifications for
448 Florida College System institutions must take into consideration
449 an institution's federal student loan cohort default rate and is
450 contingent upon specific appropriation in the General
451 Appropriations Act and shall be determined as follows:

452 (a) Occupational areas for which industry certifications
453 may be earned, as established in the General Appropriations Act,
454 are eligible for performance funding. Priority shall be given to
455 the occupational areas emphasized in state, national, or
456 corporate grants provided to Florida educational institutions.

457 (b) The Chancellor of the Florida College System shall
458 identify the industry certifications eligible for funding on the
459 CAPE Postsecondary Industry Certification Funding List approved
460 by the State Board of Education pursuant to s. 1008.44, based on
461 the occupational areas specified in the General Appropriations
462 Act.

463 (c) Each Florida College System institution shall be
464 provided \$1,000 for each industry certification earned by a

37-00307A-19

20191522__

465 student. The maximum amount of funding appropriated for
466 performance funding pursuant to this subsection shall be limited
467 to \$15 million annually. If funds are insufficient to fully fund
468 the calculated total award, such funds shall be prorated.

469 Section 11. Paragraph (c) of subsection (1) of section
470 1011.905, Florida Statutes, is amended to read:

471 1011.905 Performance funding for state universities.—

472 (1) State performance funds for the State University System
473 shall be based on indicators of system and institutional
474 attainment of performance expectations. For the 2012-2013
475 through at least the 2016-2017 fiscal year, the Board of
476 Governors shall review and rank each state university that
477 applies for performance funding, as provided in the General
478 Appropriations Act, based on the following formula:

479 (c) Fifty percent of a state university's score shall be
480 based on:

481 1. Factors determined by the Board of Governors which
482 relate to increasing the probability that graduates who have
483 earned degrees in the programs described in paragraph (a) will
484 be employed in high-skill, high-wage, and high-demand
485 employment; and—

486 2. The state university's federal student loan cohort
487 default rate.

488 Section 12. This act shall take effect July 1, 2019.