

1 A bill to be entitled
2 An act relating to Florida virtual education; amending
3 s. 1002.33, F.S.; conforming provisions to changes
4 made by the act; amending s. 1002.37, F.S.; providing
5 that certain employees of the Florida Virtual School
6 are entitled to sovereign immunity; revising the
7 students given priority by the Florida Virtual School;
8 revising the number of members appointed to the board
9 of trustees of the Florida Virtual School; providing
10 term limits for members of such board; providing that
11 the board are governed by a specified code of ethics;
12 prohibiting members of the board and any member of a
13 governing body for a direct-support organization or
14 supplemental organization associated with the Florida
15 Virtual School from holding specified business
16 relationships or interest in the Florida Virtual
17 School; requiring the board to appoint an executive
18 director; providing duties of the executive director;
19 requiring the board of trustees to meet at the call of
20 the executive director; authorizing, rather than
21 requiring, the board of trustees to participate in
22 specified marketing activities; authorizing the
23 Florida Virtual School to accrue supplemental revenue
24 from a specified organization; requiring the board of
25 trustees to be responsible for all internal funds of

26 | the school; requiring the executive director of the
27 | Florida Virtual School to review and approve specified
28 | expenditures; deleting a provision authorizing such
29 | executive director to override such expenditures under
30 | certain circumstances; deleting provisions authorizing
31 | the board of trustees to adopt rules and procedures;
32 | providing that all Florida Virtual School employees
33 | are subject to specified policies; revising
34 | requirements for the use of certain employment
35 | contracts; deleting a requirement that the board of
36 | trustees distribute certain procedures to high schools
37 | in the state; requiring student records held by the
38 | school to meet specified provisions; providing
39 | requirements for meetings of the board of trustees;
40 | revising the requirements for a specified plan;
41 | deleting a requirements that the Florida Virtual
42 | School board of trustees submit specified information
43 | to certain entities for the Florida Virtual School
44 | Global; requiring the board to establish an Office of
45 | Inspector General within the school; providing duties,
46 | requirements, and responsibilities of such office;
47 | amending s. 1002.45, F.S.; deleting a requirement that
48 | certain school districts provide a specified number of
49 | virtual instruction options; authorizing a virtual
50 | charter school to provide part-time instruction under

51 certain circumstances; revising requirements for
52 virtual instruction providers; authorizing the
53 Department of Education to conditionally approve a
54 virtual instruction provider for 2 years, rather than
55 1 year; revising requirements for the termination of a
56 provider contract; providing an effective date.

57
58 Be It Enacted by the Legislature of the State of Florida:

59
60 Section 1. Subsection (1) of section 1002.33, Florida
61 Statutes, is amended to read:

62 1002.33 Charter schools.—

63 (1) AUTHORIZATION.—All charter schools in Florida are
64 public schools and shall be part of the state's program of
65 public education. A charter school may be formed by creating a
66 new school or converting an existing public school to charter
67 status. A charter school may operate a virtual charter school
68 pursuant to s. 1002.45(1)(d) to provide full-time or part-time
69 online instruction to students, pursuant to s. 1002.455, in
70 kindergarten through grade 12. The school district in which the
71 student enrolls in the virtual charter school shall report the
72 student for funding pursuant to s. 1011.61(1)(c)1.b.(VI), and
73 the home school district shall not report the student for
74 funding. An existing charter school that is seeking to become a
75 virtual charter school must amend its charter or submit a new

76 application pursuant to subsection (6) to become a virtual
77 charter school. A virtual charter school is subject to the
78 requirements of this section; however, a virtual charter school
79 is exempt from subsections (18) and (19), paragraph (20)(c), and
80 s. 1003.03. A public school may not use the term charter in its
81 name unless it has been approved under this section.

82 Section 2. Paragraphs (a) and (b) of subsection (1),
83 subsections (2) and (4), and paragraph (b) of subsection (7) of
84 section 1002.37, Florida Statutes, are amended, and subsection
85 (12) is added to that section, to read:

86 1002.37 The Florida Virtual School.—

87 (1)(a) The Florida Virtual School is an agency of the
88 state established for the development and delivery of world-
89 class online and distance learning education. The Florida
90 Virtual School, its board of trustees, officers, and employees
91 are entitled to sovereign immunity pursuant to s. 768.28. The
92 Commissioner of Education shall monitor the school's performance
93 and report its performance to the State Board of Education and
94 the Legislature.

95 (b) The mission of the Florida Virtual School is to
96 provide students with technology-based educational opportunities
97 to gain the knowledge and skills necessary to succeed. The
98 school shall serve any student in the state who meets the
99 profile for success in this educational delivery context and
100 shall give priority to:

101 1. Students who need expanded access to courses in order
102 to meet their educational goals, such as home education
103 students, ~~and~~ students in inner-city and rural areas high
104 ~~schools~~ who do not have access to higher-level courses, English
105 language learners, students with exceptionalities who currently
106 do not have access to higher-level courses, including gifted
107 students.

108 2. Students seeking accelerated access in order to obtain
109 a high school diploma at least one semester early.

110 3. Students who are children of an active duty member of
111 the United States Armed Forces who is not stationed in this
112 state and whose home of record or state of legal residence is
113 Florida.

114 4. Students who are in an alternative setting or a
115 Department of Juvenile Justice program.

116
117 The board of trustees of the Florida Virtual School shall
118 identify appropriate performance measures and standards based on
119 student achievement that reflect the school's statutory mission
120 and priorities, and shall implement an accountability system for
121 the school that includes assessment of its effectiveness and
122 efficiency in providing quality services that encourage high
123 student achievement, seamless articulation, and maximum access.

124 (2) (a) The Florida Virtual School shall be governed by a
125 board of trustees comprised of five ~~seven~~ members appointed by

126 | the Governor to 4-year staggered terms. A member may not serve
127 | more than two consecutive 4-year terms on the board. The ~~board~~
128 | ~~of trustees shall be a public agency entitled to sovereign~~
129 | ~~immunity pursuant to s. 768.28,~~ and board members shall be
130 | public officers who shall bear fiduciary responsibility for the
131 | Florida Virtual School. The board of trustees shall be governed
132 | by the code of ethics for public officers and employees as set
133 | forth in part III of chapter 112. A member of the board of
134 | trustees may not have any business relationship with or
135 | pecuniary interest in the Florida Virtual School while serving
136 | on the board or for 6 years after serving on the board.

137 | **(b)** The board of trustees shall have the following powers
138 | and duties:

139 | **1.** The board of trustees shall appoint an executive
140 | director. The executive director is responsible for executing
141 | the Florida Virtual School's mission, vision, and goals; for
142 | proposing policies and policy revisions to the board of
143 | trustees; and for the day-to-day operations of the Florida
144 | Virtual School.

145 | **2.a.**~~(a)1.~~ The board of trustees shall meet at least 4
146 | times each year, upon the call of the chair or executive
147 | director, or at the request of a majority of the board
148 | membership.

149 | **b.2.** The fiscal year for the Florida Virtual School shall
150 | be the state fiscal year as provided in s. 216.011(1)(o).

151 3.~~(b)~~ The board of trustees shall be responsible for the
152 Florida Virtual School's development of a state-of-the-art
153 technology-based education delivery system that is cost-
154 effective, educationally sound, marketable, and capable of
155 sustaining a self-sufficient delivery system through the Florida
156 Education Finance Program.

157 4.~~(e)~~ The board of trustees shall aggressively seek
158 avenues to generate revenue to support its future endeavors, and
159 shall enter into agreements with distance learning providers.
160 The board of trustees may acquire, enjoy, use, and dispose of
161 patents, copyrights, and trademarks and any licenses and other
162 rights or interests thereunder or therein. Ownership of all such
163 patents, copyrights, trademarks, licenses, and rights or
164 interests thereunder or therein shall vest in the state, with
165 the board of trustees having full right of use and full right to
166 retain the revenues derived therefrom. Any funds realized from
167 patents, copyrights, trademarks, or licenses shall be considered
168 internal funds ~~as provided in s. 1011.07~~. Such funds may ~~shall~~
169 be used to support the school's marketing and research and
170 development activities in order to improve courseware and
171 services to its students.

172 5.~~(d)~~ The board of trustees shall be responsible for the
173 administration and control of all internal and local school
174 funds derived from all activities or sources and shall prescribe
175 the principles and procedures to be followed in administering

176 | these funds.

177 | 6.(e) The Florida Virtual School may accrue supplemental
178 | revenue from a direct-support organization in accordance with s.
179 | 1001.453. The Florida Virtual School may also accrue
180 | ~~supplemental~~ revenue from supplemental support organizations,
181 | which include, but are not limited to, alumni associations,
182 | ~~foundations,~~ parent-teacher associations, and booster
183 | associations. However, a member of the governing body of such an
184 | organization may not have a business relationship with or
185 | pecuniary interest in the Florida Virtual School. The governing
186 | body of each ~~supplemental support~~ organization shall recommend
187 | the expenditure of moneys collected or generated by it ~~the~~
188 | ~~organization~~ for the benefit of the school. Such expenditures
189 | shall be contingent upon the review and approval of the
190 | executive director of the Florida Virtual School. ~~The executive~~
191 | ~~director may override any proposed expenditure of the~~
192 | ~~organization that would violate Florida law or breach sound~~
193 | ~~educational management.~~

194 | 7.(f) In accordance with law and rules of the State Board
195 | of Education, the board of trustees shall administer and
196 | maintain personnel programs for all employees of the board of
197 | trustees and the Florida Virtual School. The board of trustees
198 | may adopt ~~rules, policies, and procedures~~ related to the
199 | appointment, employment, and removal of personnel.

200 | a.1. The board of trustees shall determine the

201 compensation, including salaries and fringe benefits, and other
202 conditions of employment for such personnel.

203 b.2. The board of trustees may establish and maintain a
204 personnel loan or exchange program by which persons employed by
205 the board of trustees for the Florida Virtual School as academic
206 administrative and instructional staff may be loaned to, or
207 exchanged with persons employed in like capacities by, public
208 agencies either within or without this state, or by private
209 industry. With respect to public agency employees, the program
210 authorized by this subparagraph shall be consistent with the
211 requirements of part II of chapter 112. The salary and benefits
212 of board of trustees personnel participating in the loan or
213 exchange program shall be continued during the period of time
214 they participate in a loan or exchange program, and such
215 personnel shall be deemed to have no break in creditable or
216 continuous service or employment during such time. The salary
217 and benefits of persons participating in the personnel loan or
218 exchange program who are employed by public agencies or private
219 industry shall be paid by the originating employers of those
220 participants, and such personnel shall be deemed to have no
221 break in creditable or continuous service or employment during
222 such time.

223 c.3. The employment of all Florida Virtual School ~~academic~~
224 ~~administrative and instructional~~ personnel shall be subject to
225 ~~rejection for cause by the board of trustees, and shall be~~

226 ~~subject to~~ policies of the board of trustees relative to
227 certification, ~~tenure,~~ leaves of absence, sabbaticals,
228 remuneration; subject to, ~~and~~ such other conditions of
229 employment as the board of trustees deems necessary and proper;
230 and consistent, ~~not inconsistent~~ with law, including s.
231 1001.42 (5), (6), and (7).

232 d.4. All academic administrative and instructional
233 personnel employed by ~~Each person employed by the board of~~
234 ~~trustees in an academic administrative or instructional capacity~~
235 ~~with~~ the Florida Virtual School are ~~shall be~~ entitled to an
236 annual, written a contract as provided by policies ~~rules~~ of the
237 board of trustees. Employment contracts for nonacademic
238 personnel may be determined by board of trustees policy.

239 e.5. All employees except temporary, seasonal, and student
240 employees may be state employees for the purpose of being
241 eligible to participate in the Florida Retirement System and
242 receive benefits. The classification and pay plan, including
243 terminal leave and other benefits, and any amendments thereto,
244 shall be subject to review and approval by the Department of
245 Management Services and the Executive Office of the Governor
246 prior to adoption.

247 8.(g) The board of trustees shall establish priorities for
248 admission of students in accordance with paragraph (1) (b).

249 9.(h) The board of trustees shall establish and distribute
250 to all school districts ~~and high schools~~ in the state procedures

251 for enrollment of students in courses offered by the Florida
252 Virtual School.

253 10.~~(i)~~ The board of trustees shall establish criteria
254 defining the elements of an approved franchise. The board of
255 trustees may enter into franchise agreements with Florida
256 district school boards and may establish the terms and
257 conditions governing such agreements. The board of trustees
258 shall establish the performance and accountability measures and
259 report the performance of each school district franchise to the
260 Commissioner of Education.

261 11.~~(j)~~ The board of trustees shall submit to the State
262 Board of Education both forecasted and actual enrollments and
263 credit completions for the Florida Virtual School, according to
264 procedures established by the State Board of Education. At a
265 minimum, such procedures must include the number of public,
266 private, and home education students served by program and by
267 county of residence.

268 12.~~(k)~~ The board of trustees shall provide for the content
269 and custody of student and employee personnel records. Student
270 records shall be subject to the provisions of ss. s. 1002.22,
271 1002.221, and 1002.222. Employee records shall be subject to the
272 provisions of s. 1012.31.

273 13.~~(l)~~ The financial records and accounts of the Florida
274 Virtual School shall be maintained under the direction of the
275 board of trustees and under rules adopted by the State Board of

276 Education for the uniform system of financial records and
 277 accounts for the schools of the state.

278 14. The meetings of the board of trustees shall be
 279 conducted and noticed pursuant to s. 1001.372(1), (3), and (4).

280
 281 The Governor shall designate the initial chair of the board of
 282 trustees to serve a term of 4 years. Members of the board of
 283 trustees shall serve without compensation, but may be reimbursed
 284 for per diem and travel expenses pursuant to s. 112.061. The
 285 board of trustees shall be a body corporate with all the powers
 286 of a body corporate and such authority as is needed for the
 287 proper operation and improvement of the Florida Virtual School.
 288 The board of trustees is specifically authorized to adopt ~~rules,~~
 289 ~~policies, and procedures,~~ consistent with law and rules of the
 290 State Board of Education related to governance, personnel,
 291 budget and finance, administration, programs, curriculum and
 292 instruction, travel and purchasing, technology, students,
 293 contracts and grants, and property as necessary for optimal,
 294 efficient operation of the Florida Virtual School. Tangible
 295 personal property owned by the board of trustees shall be
 296 subject to the provisions of chapter 273.

297 (4) School districts operating a virtual school that is an
 298 approved franchise of the Florida Virtual School may count full-
 299 time equivalent students, as provided in paragraph (3)(a), if
 300 such school has been certified as an approved franchise by the

301 Commissioner of Education based on criteria established by the
302 board of trustees pursuant to subparagraph (2) (c)10 ~~paragraph~~
303 ~~(2) (i)~~.

304 (7) The board of trustees shall annually submit to the
305 Governor, the Legislature, the Commissioner of Education, and
306 the State Board of Education the audit report prepared pursuant
307 to subsection (6) and a complete and detailed report setting
308 forth:

309 (b) The ~~marketing and~~ operational plan for the Florida
310 Virtual School ~~and Florida Virtual School Global~~, including
311 recommendations regarding methods for improving the delivery of
312 digital education ~~through the Internet and other distance~~
313 ~~learning technology~~.

314 (12) The board of trustees shall establish an Office of
315 the Inspector General within the school using existing resources
316 and funds. The office is responsible for promoting
317 accountability, efficiency, and effectiveness and detecting
318 fraud and abuse within the school. If there are substantiated
319 allegations made by any person relating to waste, fraud, or
320 financial mismanagement within the school, the office shall
321 conduct, coordinate, or request investigations into such
322 substantiated allegations. The office shall investigate
323 allegations or reports of possible fraud or abuse against the
324 school or its staff or students. The office shall have access to
325 all information and personnel necessary to perform its duties.

326 The inspector general shall be under the general supervision of
327 the board of trustees for administrative purposes, but shall
328 report to the Department of Education's inspector general for
329 all other duties.

330 Section 3. Paragraphs (b) and (d) of subsection (1),
331 paragraph (a) of subsection (2), and paragraph (d) of subsection
332 (8) of section 1002.45, Florida Statutes, are amended to read:

333 1002.45 Virtual instruction programs.—

334 (1) PROGRAM.—

335 (b) Each school district ~~that is eligible for the sparsity~~
336 ~~supplement pursuant to s. 1011.62(7)(a) and (b)~~ shall provide
337 all enrolled public school students within its boundaries the
338 option of participating in part-time and full-time virtual
339 instruction programs and. ~~Each school district that is not~~
340 ~~eligible for the sparsity supplement pursuant to s.~~
341 ~~1011.62(7)(a) and (b) shall provide at least three options for~~
342 ~~part-time and full-time virtual instruction. All school~~
343 ~~districts~~ must provide parents with timely written notification
344 of at least one open enrollment period for full-time students of
345 90 days or more which ends 30 days before the first day of the
346 school year. The purpose of the program is to make quality
347 virtual instruction available to students using online and
348 distance learning technology in the nontraditional classroom. A
349 school district virtual instruction program shall consist of the
350 following:

351 1. Full-time and part-time virtual instruction for
352 students enrolled in kindergarten through grade 12.

353 2. Full-time or part-time virtual instruction for students
354 enrolled in dropout prevention and academic intervention
355 programs under s. 1003.53, Department of Juvenile Justice
356 education programs under s. 1003.52, core-curricula courses to
357 meet class size requirements under s. 1003.03, or Florida
358 College System institutions under this section.

359 (d) A virtual charter school may provide full-time virtual
360 instruction for students in kindergarten through grade 12 if the
361 virtual charter school has a charter approved pursuant to s.
362 1002.33 authorizing full-time virtual instruction. A virtual
363 charter school may provide part-time virtual instruction for
364 such students if the school has provided full-time instruction
365 for at least 1 school year. A virtual charter school may:

366 1. Contract with the Florida Virtual School.

367 2. Contract with an approved provider under subsection
368 (2).

369 3. Enter into an agreement with a school district to allow
370 the participation of the virtual charter school's students in
371 the school district's virtual instruction program. The agreement
372 must indicate a process for reporting of student enrollment and
373 the transfer of funds required by paragraph (7) (e).

374 (2) PROVIDER QUALIFICATIONS.—

375 (a) The department shall annually publish online a list of

376 providers approved to offer virtual instruction programs. To be
377 approved by the department, a provider must document that it:

378 1. Is nonsectarian in its programs, admission policies,
379 employment practices, and operations;

380 2. Complies with the antidiscrimination provisions of s.
381 1000.05;

382 3. Is authorized to conduct business in the state by the
383 Department of State, agrees to resolve any dispute regarding or
384 related to virtual educational services for a student residing
385 in the state with the venue located in the state and relying
386 exclusively upon federal and state law, ~~locates an~~
387 ~~administrative office or offices in this state,~~ requires its
388 administrative staff to be state residents, requires all
389 instructional staff to be Florida-certified teachers under
390 chapter 1012, and conducts background screenings for all
391 employees or contracted personnel, as required by s. 1012.32,
392 using state and national criminal history records;

393 4. Provides to parents and students specific information
394 posted and accessible online that includes, but is not limited
395 to, the following teacher-parent and teacher-student contact
396 information for each course:

397 a. How to contact the instructor via phone, e-mail, or
398 online messaging tools.

399 b. How to contact technical support via phone, e-mail, or
400 online messaging tools.

401 c. How to contact the administration office via phone, e-
402 mail, or online messaging tools.

403 d. Any requirement for regular contact with the instructor
404 for the course and clear expectations for meeting the
405 requirement.

406 e. The requirement that the instructor in each course
407 must, at a minimum, conduct one contact via phone with the
408 parent and the student each month;

409 5. Possesses prior, successful experience offering online
410 courses to elementary, middle, or high school students as
411 demonstrated by quantified student learning gains in each
412 subject area and grade level provided for consideration as an
413 instructional program option. However, for a provider without
414 sufficient prior, successful experience offering online courses,
415 the department may conditionally approve the provider to offer
416 courses measured pursuant to subparagraph (8)(a)2. Conditional
417 approval shall be valid for 1 school year only and, based on the
418 provider's experience in offering the courses, the department
419 shall determine whether to grant approval to offer a virtual
420 instruction program. However, the department may conditionally
421 approve a provider for 2 school years at its discretion based on
422 the provider's success in other states;

423 6. Is accredited by a regional accrediting association as
424 defined by State Board of Education rule;

425 7. Ensures instructional and curricular quality through a

426 detailed curriculum and student performance accountability plan
427 that addresses every subject and grade level it intends to
428 provide through contract with the school district, including:

429 a. Courses and programs that meet the standards of the
430 International Association for K-12 Online Learning and the
431 Southern Regional Education Board.

432 b. Instructional content and services that align with, and
433 measure student attainment of, student proficiency in the Next
434 Generation Sunshine State Standards.

435 c. Mechanisms that determine and ensure that a student has
436 satisfied requirements for grade level promotion and high school
437 graduation with a standard diploma, as appropriate;

438 8. Publishes for the general public, in accordance with
439 disclosure requirements adopted in rule by the State Board of
440 Education, as part of its application as a provider and in all
441 contracts negotiated pursuant to this section:

442 a. Information and data about the curriculum of each full-
443 time and part-time program.

444 b. School policies and procedures.

445 c. Certification status and physical location of all
446 administrative and instructional personnel.

447 d. Hours and times of availability of instructional
448 personnel.

449 e. Student-teacher ratios.

450 f. Student completion and promotion rates.

451 g. Student, educator, and school performance
 452 accountability outcomes;

453 9. If the provider is a Florida College System
 454 institution, employs instructors who meet the certification
 455 requirements for instructional staff under chapter 1012; and

456 10. Performs an annual financial audit of its accounts and
 457 records conducted by an independent certified public accountant
 458 which is in accordance with rules adopted by the Auditor
 459 General, is conducted in compliance with generally accepted
 460 auditing standards, and includes a report on financial
 461 statements presented in accordance with generally accepted
 462 accounting principles.

463 (8) ASSESSMENT AND ACCOUNTABILITY.—

464 (d) An approved provider's contract is automatically ~~must~~
 465 ~~be~~ terminated if the provider earns two consecutive ~~receives a~~
 466 ~~school grades~~ grade of "~~D~~" ~~or~~ "F" under s. 1008.34 after all
 467 school grade appeals are final ~~or~~ earns two consecutive ~~a~~ school
 468 improvement ratings ~~rating~~ of "Unsatisfactory" under s. 1008.341
 469 ~~for 2 years during any consecutive 4-year period~~ or has violated
 470 any qualification requirement pursuant to subsection (2). A
 471 provider that has a contract terminated under this paragraph may
 472 not be an approved provider for a period of at least 1 year
 473 after the date upon which the contract was terminated and until
 474 the department determines that the provider is in compliance
 475 with subsection (2) and has corrected each cause of the

476 | provider's low performance.

477 | Section 4. This act shall take effect July 1, 2020.