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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
12/09/2019	.	
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	.	

The Committee on Education (Diaz) recommended the following:

Senate Amendment (with title amendment)

Delete lines 158 - 598
and insert:

(d) The State Board of Education shall adopt rules to
implement the disqualification list.

(5) The Department of Education shall provide authorized
staff of school districts, charter schools, the Florida School
for the Deaf and the Blind, and private schools that accept
scholarship students who participate in a state scholarship
program under chapter 1002 with access to electronic



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12 verification of information from the following employment
13 screening tools:

14 (a) The Professional Practices' Database of Disciplinary
15 Actions Against Educators; ~~and~~

16 (b) The Department of Education's Teacher Certification
17 Database; and

18 (c) The Department of Education's disqualification list
19 maintained pursuant to paragraph (4) (b).

20
21 This subsection does not require the department to provide
22 these staff with unlimited access to the databases. However, the
23 department shall provide the staff with access to the data
24 necessary for performing employment history checks of the
25 educational support employees, instructional personnel, and
26 school administrators included in the databases.

27 Section 2. Subsections (6) and (7) of section 1001.42,
28 Florida Statutes, are amended, and paragraph (c) is added to
29 subsection (5) of that section, to read:

30 1001.42 Powers and duties of district school board.—The
31 district school board, acting as a board, shall exercise all
32 powers and perform all duties listed below:

33 (5) PERSONNEL.—

34 (c) Immediately investigate any legally sufficient
35 complaint that involves misconduct by an educational support
36 employee, instructional personnel, or administrative personnel
37 which affects the health, safety, or welfare of a student and
38 would result in termination. An investigation that results in
39 termination, or the accused person's resignation in lieu of
40 termination, must be reported to the department, and the



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41 department shall place the person on the disqualification list
42 maintained pursuant to s. 1001.10(4)(b).

43 (6) STANDARDS OF ETHICAL CONDUCT FOR EDUCATIONAL SUPPORT
44 EMPLOYEES, INSTRUCTIONAL PERSONNEL, ADMINISTRATIVE PERSONNEL,
45 AND SCHOOL OFFICERS.—Adopt policies establishing standards of
46 ethical conduct for educational support employees, instructional
47 personnel, administrative personnel, and school officers. The
48 policies must require all educational support employees,
49 instructional personnel, administrative personnel, and school
50 officers, as defined in s. 1012.01, to complete training on the
51 standards; establish the duty of educational support employees,
52 instructional personnel, administrative personnel, and school
53 officers to report, and procedures for reporting, alleged
54 misconduct by other educational support employees, instructional
55 or administrative personnel, and school officers which affects
56 the health, safety, or welfare of a student, including
57 misconduct that involves engaging in or soliciting sexual,
58 romantic, or lewd conduct with a student; require the district
59 school superintendent to report to law enforcement misconduct by
60 educational support employees, instructional personnel, or
61 school administrators that would result in disqualification from
62 educator certification or employment as provided in s. 1012.315;
63 and include an explanation of the liability protections provided
64 under ss. 39.203 and 768.095. A district school board, or any of
65 its employees or personnel, may not enter into a confidentiality
66 agreement regarding terminated or dismissed educational support
67 employees, instructional or administrative personnel, or school
68 officers who resign in lieu of termination, based in whole or in
69 part on misconduct that affects the health, safety, or welfare



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70 of a student, and may not provide educational support employees,
71 instructional personnel, administrative personnel, or school
72 officers with employment references or discuss the employees',
73 personnel's, or officers' performance with prospective employers
74 in another educational setting, without disclosing the
75 employees', personnel's, or officers' misconduct. Any part of an
76 agreement or contract that has the purpose or effect of
77 concealing misconduct by educational support employees,
78 instructional personnel, administrative personnel, or school
79 officers which affects the health, safety, or welfare of a
80 student is void, is contrary to public policy, and may not be
81 enforced.

82 (7) DISQUALIFICATION FROM EMPLOYMENT.—Disqualify
83 educational support employees, instructional personnel, and
84 administrative personnel, as defined in s. 1012.01, from
85 employment in any position that requires direct contact with
86 students if the employees or personnel are ineligible for such
87 employment under s. 1012.315, and, if the disqualifying conduct
88 occurs subsequent to employment, report the disqualified
89 employees or personnel and the disqualifying circumstances to
90 the department for inclusion on the disqualification list
91 maintained by the department pursuant to 1001.10(4)(b). An
92 elected or appointed school board official forfeits his or her
93 salary for 1 year if:

94 (a) The school board official knowingly signs and transmits
95 to any state official a report of alleged misconduct by
96 educational support employees, instructional personnel, or
97 administrative personnel which ~~affects the health, safety, or~~
98 ~~welfare of a student and~~ the school board official knows the



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99 ~~report~~ to be false or incorrect; or

100 (b) The school board official knowingly fails to adopt
101 policies that require:

102 1. Educational support employees, instructional personnel,
103 and administrative personnel to report alleged misconduct by
104 other educational support employees, instructional personnel,
105 and administrative personnel;

106 2. The district school superintendent to report misconduct
107 by educational support employees, instructional personnel, or
108 school administrators that would result in disqualification from
109 educator certification or employment as provided in s. 1012.315
110 to the law enforcement agencies with jurisdiction over the
111 conduct and the department as required by s. 1012.796; or

112 3. The complete investigation of all reports of alleged
113 misconduct by educational support employees, instructional
114 personnel, and administrative personnel, if the misconduct
115 affects the health, safety, or welfare of a student, regardless
116 of whether the educational support employees, instructional
117 personnel, or administrative personnel resign or are terminated
118 before the conclusion of the investigation. The policy must
119 require the superintendent to notify the department of the
120 result of the investigation and whether the misconduct warranted
121 termination, regardless of whether the person resigned or was
122 terminated prior to the conclusion of the investigation.

123 Section 3. Paragraph (g) of subsection (12) and paragraphs
124 (b) and (c) of subsection (16) of section 1002.33, Florida
125 Statutes, are amended to read:

126 1002.33 Charter schools.—

127 (12) EMPLOYEES OF CHARTER SCHOOLS.—



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128 (g)1. A charter school shall employ or contract with
129 employees who have undergone background screening as provided in
130 s. 1012.32. Members of the governing board of the charter school
131 shall also undergo background screening in a manner similar to
132 that provided in s. 1012.32. A person may not be employed by a
133 charter school or serve as a member of a charter school
134 governing board if the person is ineligible pursuant to s.
135 1012.315 or is included on the disqualification list maintained
136 by the department pursuant to s. 1001.10(4)(b).

137 2. A charter school shall disqualify educational support
138 employees, instructional personnel, and school administrators,
139 as defined in s. 1012.01, from employment in any position that
140 requires direct contact with students if the employees,
141 personnel, or administrators are ineligible for such employment
142 under s. 1012.315, and, if the disqualifying conduct occurs
143 subsequent to employment, report the person and the
144 disqualifying circumstances to the department for inclusion on
145 the disqualification list maintained pursuant to s.
146 1001.10(4)(b).

147 3. The governing board of a charter school shall adopt
148 policies establishing standards of ethical conduct for
149 educational support employees, instructional personnel, and
150 school administrators. The policies must require all educational
151 support employees, instructional personnel, and school
152 administrators, as defined in s. 1012.01, to complete training
153 on the standards; establish the duty of educational support
154 employees, instructional personnel, and school administrators to
155 report, and procedures for reporting, alleged misconduct by
156 other educational support employees, instructional personnel,



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157 and school administrators which affects the health, safety, or
158 welfare of a student; and include an explanation of the
159 liability protections provided under ss. 39.203 and 768.095. A
160 charter school, or any of its employees, may not enter into a
161 confidentiality agreement regarding terminated or dismissed
162 educational support employees, instructional personnel, or
163 school administrators, or personnel or administrators who resign
164 in lieu of termination, based in whole or in part on misconduct
165 that affects the health, safety, or welfare of a student, and
166 may not provide educational support employees, instructional
167 personnel, or school administrators with employment references
168 or discuss the employees', personnel's, or administrators'
169 performance with prospective employers in another educational
170 setting, without disclosing the employees', personnel's or
171 administrators' misconduct. Any part of an agreement or contract
172 that has the purpose or effect of concealing misconduct by
173 educational support employees, instructional personnel, or
174 school administrators which affects the health, safety, or
175 welfare of a student is void, is contrary to public policy, and
176 may not be enforced.

177 4. Before employing a person ~~instructional personnel or~~
178 ~~school administrators~~ in any position that requires direct
179 contact with students, a charter school shall conduct employment
180 history checks of each of the person's ~~personnel's or~~
181 ~~administrators'~~ previous employers, screen the person
182 ~~instructional personnel or school administrators~~ through use of
183 the ~~educator~~ screening tools described in s. 1001.10(5), and
184 document the findings. If unable to contact a previous employer,
185 the charter school must document efforts to contact the



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186 employer.

187 5. The sponsor of a charter school that knowingly fails to
188 comply with this paragraph shall terminate the charter under
189 subsection (8).

190 (16) EXEMPTION FROM STATUTES.—

191 (b) ~~Additionally,~~ A charter school also shall be in
192 compliance with the following statutes:

193 1. Section 286.011, relating to public meetings and
194 records, public inspection, and criminal and civil penalties.

195 2. Chapter 119, relating to public records.

196 3. Section 1003.03, relating to the maximum class size,
197 except that the calculation for compliance pursuant to s.
198 1003.03 shall be the average at the school level.

199 4. Section 1012.22(1)(c), relating to compensation and
200 salary schedules.

201 5. Section 1012.33(5), relating to workforce reductions.

202 6. Section 1012.335, relating to contracts with
203 instructional personnel hired on or after July 1, 2011.

204 7. Section 1012.34, relating to the substantive
205 requirements for performance evaluations for instructional
206 personnel and school administrators.

207 8. Section 1006.12, relating to safe-school officers.

208 9. Section 1006.07(7), relating to threat assessment teams.

209 10. Section 1006.07(9), relating to School Environmental
210 Safety Incident Reporting.

211 11. Section 1006.1493, relating to the Florida Safe Schools
212 Assessment Tool.

213 12. Section 1006.07(6)(c), relating to adopting an active
214 assailant response plan.



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215 13. Section 943.082(4) (b), relating to the mobile
216 suspicious activity reporting tool.

217 14. Section 1012.584, relating to youth mental health
218 awareness and assistance training.

219 15. Section 1012.796, relating to complaints against
220 educational support employees, teachers, and administrators.

221 (c) For purposes of subparagraphs (b)4.-7. and 15.:

222 1. The duties assigned to a district school superintendent
223 apply to charter school administrative personnel, as defined in
224 s. 1012.01(3) (a) and (b), and the charter school governing board
225 shall designate at least one administrative person to be
226 responsible for such duties.

227 2. The duties assigned to a district school board apply to
228 a charter school governing board.

229 3. A charter school may hire instructional personnel and
230 other employees on an at-will basis.

231 4. Notwithstanding any provision to the contrary,
232 instructional personnel and other employees on contract may be
233 suspended or dismissed any time during the term of the contract
234 without cause.

235 Section 4. Paragraphs (n) and (o) of subsection (1) and
236 subsection (3) of section 1002.421, Florida Statutes, are
237 amended, and paragraph (r) of subsection (1) is added to that
238 section, to read:

239 1002.421 State school choice scholarship program
240 accountability and oversight.—

241 (1) PRIVATE SCHOOL ELIGIBILITY AND OBLIGATIONS.—A private
242 school participating in an educational scholarship program
243 established pursuant to this chapter must be a private school as



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244 defined in s. 1002.01(2) in this state, be registered, and be in
245 compliance with all requirements of this section in addition to
246 private school requirements outlined in s. 1002.42, specific
247 requirements identified within respective scholarship program
248 laws, and other provisions of Florida law that apply to private
249 schools, and must:

250 (n) Adopt policies establishing standards of ethical
251 conduct for educational support employees, instructional
252 personnel, and school administrators. The policies must require
253 all educational support employees, instructional personnel, and
254 school administrators, as defined in s. 1012.01, to complete
255 training on the standards; establish the duty of educational
256 support employees, instructional personnel, and school
257 administrators to report, and procedures for reporting, alleged
258 misconduct by other educational support employees, instructional
259 personnel, and school administrators which affects the health,
260 safety, or welfare of a student; and include an explanation of
261 the liability protections provided under ss. 39.203 and 768.095.
262 A private school, or any of its employees, may not enter into a
263 confidentiality agreement regarding terminated or dismissed
264 educational support employees, instructional personnel, or
265 school administrators, or personnel or administrators who resign
266 in lieu of termination, based in whole or in part on misconduct
267 that affects the health, safety, or welfare of a student, and
268 may not provide the employees, ~~instructional~~ personnel, or
269 school administrators with employment references or discuss the
270 employees', personnel's, or administrators' performance with
271 prospective employers in another educational setting, without
272 disclosing the employees', personnel's, or administrators'



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273 misconduct. Any part of an agreement or contract that has the
274 purpose or effect of concealing misconduct by educational
275 support employees, instructional personnel, or school
276 administrators which affects the health, safety, or welfare of a
277 student is void, is contrary to public policy, and may not be
278 enforced.

279 (o) Before employing an individual ~~instructional personnel~~
280 ~~or school administrators~~ in any position that requires direct
281 contact with students, conduct employment history checks of ~~each~~
282 ~~of the personnel's or administrators'~~ previous employers, screen
283 the individual using the ~~personnel or administrators through use~~
284 ~~of the educator~~ screening tools described in s. 1001.10(5), and
285 document the findings. If unable to contact a previous employer,
286 the private school must document efforts to contact the
287 employer. The private school must deny employment to any
288 individual whose educator certificate is revoked, who is barred
289 from reapplication for an educator certificate, or who is
290 identified on the disqualification list maintained by the
291 department pursuant to s. 1001.10(4)(b).

292 (r) Disqualify educational support employees, instructional
293 personnel, and school administrators from employment in any
294 position that requires direct contact with students if the
295 personnel or administrators are ineligible for such employment
296 pursuant to this section or s. 1012.315, and, if the
297 disqualifying conduct occurs subsequent to employment, report
298 the person and the disqualifying circumstances to the department
299 for inclusion on the disqualification list maintained pursuant
300 to s. 1001.10(4)(b).

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302 The department shall suspend the payment of funds to a private
303 school that knowingly fails to comply with this subsection, and
304 shall prohibit the school from enrolling new scholarship
305 students, for 1 fiscal year and until the school complies. If a
306 private school fails to meet the requirements of this subsection
307 or has consecutive years of material exceptions listed in the
308 report required under paragraph (q), the commissioner may
309 determine that the private school is ineligible to participate
310 in a scholarship program.

311 (3) COMMISSIONER OF EDUCATION AUTHORITY AND OBLIGATIONS.—

312 The Commissioner of Education:

313 (a) Shall deny, suspend, or revoke a private school's
314 participation in a scholarship program if it is determined that
315 the private school has failed to comply with this section or
316 exhibits a previous pattern of failure to comply. However, if
317 the noncompliance is correctable within a reasonable amount of
318 time, not to exceed 45 days, and if the health, safety, or
319 welfare of the students is not threatened, the commissioner may
320 issue a notice of noncompliance which provides the private
321 school with a timeframe within which to provide evidence of
322 compliance before taking action to suspend or revoke the private
323 school's participation in the scholarship program.

324 (b) May deny, suspend, or revoke a private school's
325 participation in a scholarship program if the commissioner
326 determines that an owner or operator of the private school is
327 operating or has operated an educational institution in this
328 state or in another state or jurisdiction in a manner contrary
329 to the health, safety, or welfare of the public or if the owner
330 or operator has exhibited a previous pattern of failure to



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331 comply with this section or specific requirements identified
332 within respective scholarship program laws. For purposes of this
333 subsection, the term "owner or operator" has the same meaning as
334 provided in paragraph (1) (p).

335 (c) May permanently deny or revoke the authority of an
336 owner or operator to establish or operate a private school
337 participating in an educational scholarship program pursuant to
338 this chapter if the commissioner decides that the owner or
339 operator is operating or has operated an educational institution
340 in this state or another state or jurisdiction in a manner
341 contrary to the health, safety, or welfare of the public, and
342 shall include such person on the disqualification list
343 maintained by the department pursuant to s. 1001.10(4) (b).

344 (d)-(e)1. In making such a determination, may consider
345 factors that include, but are not limited to, acts or omissions
346 by an owner or operator which led to a previous denial,
347 suspension, or revocation of participation in a state or federal
348 education scholarship program; an owner's or operator's failure
349 to reimburse the department or scholarship-funding organization
350 for scholarship funds improperly received or retained by a
351 school; the imposition of a prior criminal sanction related to
352 an owner's or operator's management or operation of an
353 educational institution; the imposition of a civil fine or
354 administrative fine, license revocation or suspension, or
355 program eligibility suspension, termination, or revocation
356 related to an owner's or operator's management or operation of
357 an educational institution; or other types of criminal
358 proceedings in which an owner or operator was found guilty of,
359 regardless of adjudication, or entered a plea of nolo contendere



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360 or guilty to, any offense involving fraud, deceit, dishonesty,
361 or moral turpitude.

362 2. The commissioner's determination is subject to the
363 following:

364 a. If the commissioner intends to deny, suspend, or revoke
365 a private school's participation in the scholarship program, the
366 department shall notify the private school of such proposed
367 action in writing by certified mail and regular mail to the
368 private school's address of record with the department. The
369 notification shall include the reasons for the proposed action
370 and notice of the timelines and procedures set forth in this
371 paragraph.

372 b. The private school that is adversely affected by the
373 proposed action shall have 15 days after receipt of the notice
374 of proposed action to file with the department's agency clerk a
375 request for a proceeding pursuant to ss. 120.569 and 120.57. If
376 the private school is entitled to a hearing under s. 120.57(1),
377 the department shall forward the request to the Division of
378 Administrative Hearings.

379 c. Upon receipt of a request referred pursuant to this
380 subparagraph, the director of the Division of Administrative
381 Hearings shall expedite the hearing and assign an administrative
382 law judge who shall commence a hearing within 30 days after the
383 receipt of the formal written request by the division and enter
384 a recommended order within 30 days after the hearing or within
385 30 days after receipt of the hearing transcript, whichever is
386 later. Each party shall be allowed 10 days in which to submit
387 written exceptions to the recommended order. A final order shall
388 be entered by the agency within 30 days after the entry of a



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389 recommended order. The provisions of this sub-subparagraph may
390 be waived upon stipulation by all parties.

391 (e)~~(d)~~ May immediately suspend payment of scholarship funds
392 if it is determined that there is probable cause to believe that
393 there is:

394 1. An imminent threat to the health, safety, or welfare of
395 the students;

396 2. A previous pattern of failure to comply with this
397 section; or

398 3. Fraudulent activity on the part of the private school.
399 Notwithstanding s. 1002.22, in incidents of alleged fraudulent
400 activity pursuant to this section, the department's Office of
401 Inspector General is authorized to release personally
402 identifiable records or reports of students to the following
403 persons or organizations:

404 a. A court of competent jurisdiction in compliance with an
405 order of that court or the attorney of record in accordance with
406 a lawfully issued subpoena, consistent with the Family
407 Educational Rights and Privacy Act, 20 U.S.C. s. 1232g.

408 b. A person or entity authorized by a court of competent
409 jurisdiction in compliance with an order of that court or the
410 attorney of record pursuant to a lawfully issued subpoena,
411 consistent with the Family Educational Rights and Privacy Act,
412 20 U.S.C. s. 1232g.

413 c. Any person, entity, or authority issuing a subpoena for
414 law enforcement purposes when the court or other issuing agency
415 has ordered that the existence or the contents of the subpoena
416 or the information furnished in response to the subpoena not be
417 disclosed, consistent with the Family Educational Rights and



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418 Privacy Act, 20 U.S.C. s. 1232g, and 34 C.F.R. s. 99.31.

419

420 The commissioner's order suspending payment pursuant to this
421 paragraph may be appealed pursuant to the same procedures and
422 timelines as the notice of proposed action set forth in
423 subparagraph (d)2. ~~subparagraph (c)2.~~

424 Section 5. Paragraph (a) of subsection (2) of section
425 1002.45, Florida Statutes, is amended to read:

426 1002.45 Virtual instruction programs.—

427 (2) PROVIDER QUALIFICATIONS.—

428 (a) The department shall annually publish online a list of
429 providers approved to offer virtual instruction programs. To be
430 approved by the department, a provider must document that it:

431 1. Is nonsectarian in its programs, admission policies,
432 employment practices, and operations;

433 2. Complies with the antidiscrimination provisions of s.
434 1000.05;

435 3. Locates an administrative office or offices in this
436 state, requires its administrative staff to be state residents,
437 requires all instructional staff to be Florida-certified
438 teachers under chapter 1012, and conducts background screenings
439 and receives arrest reports for all employees or contracted
440 personnel, as required by s. 1012.32, using state and national
441 criminal history records, and designates at least one
442 administrator to be responsible for the duties and requirements
443 related to background screening assigned to a district school
444 board and superintendent under ss. 1012.465 and 1012.56(10);

445 4. Disqualifies educational support employees,
446 instructional personnel, and administrative personnel, as



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447 defined in s. 1012.01, from employment in any position that
448 requires direct contact with students, if the employees or
449 personnel are ineligible for such employment under s. 1012.315,
450 and, if the disqualifying conduct occurs subsequent to
451 employment, reports the disqualified employees or personnel and
452 the disqualifying circumstances to the department for inclusion
453 on the disqualification list maintained by the department
454 pursuant to s. 1001.10(4)(b).

455
456 ===== T I T L E A M E N D M E N T =====

457 And the title is amended as follows:

458 Delete line 9

459 and insert:

460 requiring the State Board of Education to adopt rules;
461 requiring the