

By Senator Diaz

36-00698A-20

2020534__

1 A bill to be entitled
2 An act relating to education; amending s. 1001.10,
3 F.S.; requiring the Department of Education to
4 maintain a disqualification list that includes the
5 identities of certain persons; providing requirements
6 for the disqualification list; authorizing the
7 department to remove a person from the
8 disqualification list if certain conditions are met;
9 requiring the department to adopt rules; requiring the
10 department to provide certain staff with access to
11 information from such disqualification list; amending
12 s. 1001.42, F.S.; requiring district school boards to
13 investigate certain complaints and report certain
14 results of such investigations to the department;
15 requiring the department to place a person who is
16 terminated, or resigns in lieu of termination, for a
17 certain reason on the disqualification list; requiring
18 district school boards to adopt policies establishing
19 standards of ethical conduct for educational support
20 employees; requiring district school boards to
21 disqualify educational support employees from
22 employment in certain circumstances; requiring
23 district school boards to report a disqualified person
24 to the department for inclusion on the
25 disqualification list; revising the circumstances for
26 which a school board official shall forfeit his or her
27 salary for 1 year; amending s. 1002.33, F.S.;

28 prohibiting an individual who is on the
29 disqualification list from being employed by a charter

36-00698A-20

2020534__

30 school or serving as a member of a charter school
31 governing board; requiring a charter school to
32 disqualify certain persons and make a report to the
33 department for inclusion of the person on the
34 disqualification list; requiring charter school
35 governing boards to adopt policies establishing
36 standards of ethical conduct for certain employees;
37 requiring charter schools to perform a certain
38 screening before employing a person in any position
39 that requires direct contact with students; requiring
40 charter schools to comply with a specified provision;
41 assigning duties to certain charter school
42 administrative personnel and a charter school
43 governing board; amending s. 1002.421, F.S.; requiring
44 certain private schools to adopt policies establishing
45 standards of ethical conduct for certain employees;
46 revising requirements for certain private schools
47 relating to employment; requiring certain private
48 schools to disqualify certain persons and make a
49 report to the department for the inclusion of the
50 person on the disqualification list; authorizing the
51 Commissioner of Education to deny or revoke the
52 authority of an owner or operator of a certain private
53 school to establish or operate a private school under
54 certain conditions; requiring the commissioner to
55 include such person on the disqualification list;
56 amending s. 1002.45, F.S.; revising virtual
57 instruction program provider qualifications for
58 department approval; expanding the screening

36-00698A-20

2020534__

59 requirements for employees and personnel of an
60 approved virtual instruction program provider;
61 requiring an approved virtual instruction program
62 provider to disqualify certain persons and make a
63 report to the department for inclusion of the person
64 on the disqualification list; requiring an approved
65 virtual instruction program provider to comply with a
66 specified provision; requiring an approved virtual
67 instruction program provider to inform the district
68 school board of a certain complaint; amending s.
69 1006.061, F.S.; requiring certain schools to include
70 information related to certain employees in a required
71 posting; amending s. 1012.31, F.S.; clarifying a
72 school district reporting requirement; amending s.
73 1012.315, F.S.; expanding ineligibility for educator
74 certification or employment to persons who are on the
75 disqualification list; amending s. 1012.32, F.S.;
76 expanding requirements for screening of certain
77 personnel of a virtual instruction program;
78 prohibiting district school boards from requiring
79 additional background screening of certain employees
80 and personnel; amending s. 1012.795, F.S.; expanding
81 the authority of the Education Practices Commission to
82 discipline certain employees and personnel; amending
83 s. 1012.796, F.S.; requiring the department to
84 complete an investigation before issuing a new
85 educator certificate to certain persons; clarifying
86 the duty of a district school board to perform certain
87 investigations; requiring certain entities to report

36-00698A-20

2020534__

88 certain arrests and allegations of misconduct of
89 certain employees, personnel, and administrators to
90 the department; requiring district school boards to
91 adopt certain policies and procedures regarding
92 educational support employees; requiring school
93 superintendents to report certain misconduct of
94 educational support employees to the department;
95 requiring the department to include certain employees,
96 personnel, and administrators on the disqualification
97 list; requiring the department to maintain certain
98 reports of misconduct; clarifying the department's
99 duty to investigate certificated personnel; requiring
100 a district school superintendent to suspend and
101 reassign educational support employees for a certain
102 allegation of misconduct; expanding penalties that may
103 be imposed by the commission; authorizing the
104 commission to direct the department to include a
105 certain person on the disqualification list for
106 certain conduct; prohibiting persons on the
107 disqualification list from serving or applying to
108 serve as employees or contract personnel at certain
109 institutions; providing criminal penalties; amending
110 s. 1012.797, F.S.; expanding the list of entities that
111 law enforcement agencies must notify of certain
112 charges; requiring law enforcement agencies to notify
113 certain institutions of certain charges against
114 employees or contractors; providing an effective date.

115
116 Be It Enacted by the Legislature of the State of Florida:

36-00698A-20

2020534__

117
118
119
120
121
122
123
124
125
126
127
128
129
130
131
132
133
134
135
136
137
138
139
140
141
142
143
144
145

Section 1. Subsections (4) and (5) of section 1001.10, Florida Statutes, are amended to read:

1001.10 Commissioner of Education; general powers and duties.—

(4) (a) The Department of Education shall provide technical assistance to 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 in the development of policies, procedures, and training related to employment practices and standards of ethical conduct for instructional personnel and school administrators, as defined in s. 1012.01.

(b) The department shall maintain a disqualification list, which must include the following information:

1. The identity of any person who has been permanently denied a certificate or whose educator certificate has been permanently revoked and has been placed on the list as directed by the Education Practices Commission pursuant to s. 1012.795(1) or s. 1012.796(7);

2. The identity of any person who has been permanently disqualified by the commissioner as an owner or operator of a private school participating in state scholarship programs pursuant to s. 1002.421 for a reason that reflects a risk of harm to the health, safety, or welfare of a student;

3. The identity of any person who has been terminated, or has resigned in lieu of termination, from employment with a district school board as a result of misconduct that affects the health, safety, or welfare of a student; and

36-00698A-20

2020534__

146 4. The identity of any person who has been disqualified
147 from employment pursuant to s. 1012.315.

148 (c) The department may remove a person from the
149 disqualification list if the person demonstrates that:

150 1. A completed law enforcement investigation resulted in an
151 exoneration or no conviction or finding of guilt, and a
152 completed investigation and proceeding, as applicable, by the
153 responsible education agency resulted in no finding that the
154 person committed disqualifying conduct; or

155 2. The person was not the subject of the report of
156 disqualifying conduct and was included on the disqualification
157 list in error or as a result of mistaken identity.

158 (d) The department shall adopt rules to implement the
159 disqualification list.

160 (5) The Department of Education shall provide authorized
161 staff of school districts, charter schools, the Florida School
162 for the Deaf and the Blind, and private schools that accept
163 scholarship students who participate in a state scholarship
164 program under chapter 1002 with access to electronic
165 verification of information from the following employment
166 screening tools:

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

169 (b) The Department of Education's Teacher Certification
170 Database; and

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

173
174 This subsection does not require the department to provide these

36-00698A-20

2020534__

175 staff with unlimited access to the databases. However, the
176 department shall provide the staff with access to the data
177 necessary for performing employment history checks of the
178 educational support employees, instructional personnel, and
179 school administrators included in the databases.

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

183 1001.42 Powers and duties of district school board.—The
184 district school board, acting as a board, shall exercise all
185 powers and perform all duties listed below:

186 (5) PERSONNEL.—

187 (c) Immediately investigate any legally sufficient
188 complaint that involves misconduct by an educational support
189 employee, instructional personnel, or administrative personnel
190 which affects the health, safety, or welfare of a student and
191 would result in termination. An investigation that results in
192 termination, or the accused person's resignation in lieu of
193 termination, must be reported to the department, and the
194 department shall place the person on the disqualification list
195 maintained pursuant to s. 1001.10(4)(b).

196 (6) STANDARDS OF ETHICAL CONDUCT FOR EDUCATIONAL SUPPORT
197 EMPLOYEES, INSTRUCTIONAL PERSONNEL, ADMINISTRATIVE PERSONNEL,
198 AND SCHOOL OFFICERS.—Adopt policies establishing standards of
199 ethical conduct for educational support employees, instructional
200 personnel, administrative personnel, and school officers. The
201 policies must require all educational support employees,
202 instructional personnel, administrative personnel, and school
203 officers, as defined in s. 1012.01, to complete training on the

36-00698A-20

2020534__

204 standards; establish the duty of educational support employees,
205 instructional personnel, administrative personnel, and school
206 officers to report, and procedures for reporting, alleged
207 misconduct by other educational support employees, instructional
208 or administrative personnel, and school officers which affects
209 the health, safety, or welfare of a student, including
210 misconduct that involves engaging in or soliciting sexual,
211 romantic, or lewd conduct with a student; require the district
212 school superintendent to report to law enforcement misconduct by
213 educational support employees, instructional personnel, or
214 school administrators that would result in disqualification from
215 educator certification or employment as provided in s. 1012.315;
216 and include an explanation of the liability protections provided
217 under ss. 39.203 and 768.095. A district school board, or any of
218 its employees or personnel, may not enter into a confidentiality
219 agreement regarding terminated or dismissed educational support
220 employees, instructional or administrative personnel, or school
221 officers who resign in lieu of termination, based in whole or in
222 part on misconduct that affects the health, safety, or welfare
223 of a student, and may not provide educational support employees,
224 instructional personnel, administrative personnel, or school
225 officers with employment references or discuss the employees',
226 personnel's, or officers' performance with prospective employers
227 in another educational setting, without disclosing the
228 employees', personnel's, or officers' misconduct. Any part of an
229 agreement or contract that has the purpose or effect of
230 concealing misconduct by educational support employees,
231 instructional personnel, administrative personnel, or school
232 officers which affects the health, safety, or welfare of a

36-00698A-20

2020534__

233 student is void, is contrary to public policy, and may not be
234 enforced.

235 (7) DISQUALIFICATION FROM EMPLOYMENT.—Disqualify
236 educational support employees, instructional personnel, and
237 administrative personnel, as defined in s. 1012.01, from
238 employment in any position that requires direct contact with
239 students if the employees or personnel are ineligible for such
240 employment under s. 1012.315, and report the disqualified
241 employees or personnel and the disqualifying circumstances to
242 the department for inclusion on the disqualification list
243 maintained by the department pursuant to 1001.10(4)(b). An
244 elected or appointed school board official forfeits his or her
245 salary for 1 year if:

246 (a) The school board official knowingly signs and transmits
247 to any state official a report of alleged misconduct by
248 educational support employees, instructional personnel, or
249 administrative personnel which ~~affects the health, safety, or~~
250 ~~welfare of a student and~~ the school board official knows ~~the~~
251 ~~report~~ to be false or incorrect; or

252 (b) The school board official knowingly fails to adopt
253 policies that require:

254 1. Educational support employees, instructional personnel,
255 and administrative personnel to report alleged misconduct by
256 other educational support employees, instructional personnel,
257 and administrative personnel;

258 2. The district school superintendent to report misconduct
259 by educational support employees, instructional personnel, or
260 school administrators that would result in disqualification from
261 educator certification or employment as provided in s. 1012.315

36-00698A-20

2020534__

262 to the law enforcement agencies with jurisdiction over the
263 conduct and the department as required by s. 1012.796; or

264 3. The complete investigation of all reports of alleged
265 misconduct by educational support employees, instructional
266 personnel, and administrative personnel, if the misconduct
267 affects the health, safety, or welfare of a student, regardless
268 of whether the educational support employees, instructional
269 personnel, or administrative personnel resign or are terminated
270 before the conclusion of the investigation. The policy must
271 require the superintendent to notify the department of the
272 result of the investigation and whether the misconduct warranted
273 termination, regardless of whether the person resigned or was
274 terminated prior to the conclusion of the investigation.

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

278 1002.33 Charter schools.—

279 (12) EMPLOYEES OF CHARTER SCHOOLS.—

280 (g)1. A charter school shall employ or contract with
281 employees who have undergone background screening as provided in
282 s. 1012.32. Members of the governing board of the charter school
283 shall also undergo background screening in a manner similar to
284 that provided in s. 1012.32. A person may not be employed by a
285 charter school or serve as a member of a charter school
286 governing board if the person is ineligible pursuant to s.
287 1012.315 or is included on the disqualification list maintained
288 by the department pursuant to s. 1001.10(4)(b).

289 2. A charter school shall disqualify educational support
290 employees, instructional personnel, and school administrators,

36-00698A-20

2020534__

291 as defined in s. 1012.01, from employment in any position that
292 requires direct contact with students if the employees,
293 personnel, or administrators are ineligible for such employment
294 under s. 1012.315, and report the person and the disqualifying
295 circumstances to the department for inclusion on the
296 disqualification list maintained pursuant to s. 1001.10(4)(b).

297 3. The governing board of a charter school shall adopt
298 policies establishing standards of ethical conduct for
299 educational support employees, instructional personnel, and
300 school administrators. The policies must require all educational
301 support employees, instructional personnel, and school
302 administrators, as defined in s. 1012.01, to complete training
303 on the standards; establish the duty of educational support
304 employees, instructional personnel, and school administrators to
305 report, and procedures for reporting, alleged misconduct by
306 other educational support employees, instructional personnel,
307 and school administrators which affects the health, safety, or
308 welfare of a student; and include an explanation of the
309 liability protections provided under ss. 39.203 and 768.095. A
310 charter school, or any of its employees, may not enter into a
311 confidentiality agreement regarding terminated or dismissed
312 educational support employees, instructional personnel, or
313 school administrators, or personnel or administrators who resign
314 in lieu of termination, based in whole or in part on misconduct
315 that affects the health, safety, or welfare of a student, and
316 may not provide educational support employees, instructional
317 personnel, or school administrators with employment references
318 or discuss the employees', personnel's, or administrators'
319 performance with prospective employers in another educational

36-00698A-20

2020534__

320 setting, without disclosing the employees', personnel's or
321 administrators' misconduct. Any part of an agreement or contract
322 that has the purpose or effect of concealing misconduct by
323 educational support employees, instructional personnel, or
324 school administrators which affects the health, safety, or
325 welfare of a student is void, is contrary to public policy, and
326 may not be enforced.

327 4. Before employing a person ~~instructional personnel or~~
328 ~~school administrators~~ in any position that requires direct
329 contact with students, a charter school shall conduct employment
330 history checks of each of the person's ~~personnel's or~~
331 ~~administrators'~~ previous employers, screen the person
332 ~~instructional personnel or school administrators~~ through use of
333 the ~~educator~~ screening tools described in s. 1001.10(5), and
334 document the findings. If unable to contact a previous employer,
335 the charter school must document efforts to contact the
336 employer.

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

340 (16) EXEMPTION FROM STATUTES.—

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

343 1. Section 286.011, relating to public meetings and
344 records, public inspection, and criminal and civil penalties.

345 2. Chapter 119, relating to public records.

346 3. Section 1003.03, relating to the maximum class size,
347 except that the calculation for compliance pursuant to s.
348 1003.03 shall be the average at the school level.

36-00698A-20

2020534__

- 349 4. Section 1012.22(1)(c), relating to compensation and
- 350 salary schedules.
- 351 5. Section 1012.33(5), relating to workforce reductions.
- 352 6. Section 1012.335, relating to contracts with
- 353 instructional personnel hired on or after July 1, 2011.
- 354 7. Section 1012.34, relating to the substantive
- 355 requirements for performance evaluations for instructional
- 356 personnel and school administrators.
- 357 8. Section 1006.12, relating to safe-school officers.
- 358 9. Section 1006.07(7), relating to threat assessment teams.
- 359 10. Section 1006.07(9), relating to School Environmental
- 360 Safety Incident Reporting.
- 361 11. Section 1006.1493, relating to the Florida Safe Schools
- 362 Assessment Tool.
- 363 12. Section 1006.07(6)(c), relating to adopting an active
- 364 assailant response plan.
- 365 13. Section 943.082(4)(b), relating to the mobile
- 366 suspicious activity reporting tool.
- 367 14. Section 1012.584, relating to youth mental health
- 368 awareness and assistance training.
- 369 15. Section 1012.796, relating to complaints against
- 370 educational support employees, teachers, and administrators.
- 371 (c) For purposes of subparagraphs (b)4.-7. and 15.:
- 372 1. The duties assigned to a district school superintendent
- 373 apply to charter school administrative personnel, as defined in
- 374 s. 1012.01(3)(a) and (b), and the charter school governing board
- 375 shall designate at least one administrative person to be
- 376 responsible for such duties.
- 377 2. The duties assigned to a district school board apply to

36-00698A-20

2020534__

378 a charter school governing board.

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

381 4. Notwithstanding any provision to the contrary,
382 instructional personnel and other employees on contract may be
383 suspended or dismissed any time during the term of the contract
384 without cause.

385 Section 4. Paragraphs (n) and (o) of subsection (1) and
386 subsection (3) of section 1002.421, Florida Statutes, are
387 amended, and paragraph (r) of subsection (1) is added to that
388 section, to read:

389 1002.421 State school choice scholarship program
390 accountability and oversight.—

391 (1) PRIVATE SCHOOL ELIGIBILITY AND OBLIGATIONS.—A private
392 school participating in an educational scholarship program
393 established pursuant to this chapter must be a private school as
394 defined in s. 1002.01(2) in this state, be registered, and be in
395 compliance with all requirements of this section in addition to
396 private school requirements outlined in s. 1002.42, specific
397 requirements identified within respective scholarship program
398 laws, and other provisions of Florida law that apply to private
399 schools, and must:

400 (n) Adopt policies establishing standards of ethical
401 conduct for educational support employees, instructional
402 personnel, and school administrators. The policies must require
403 all educational support employees, instructional personnel, and
404 school administrators, as defined in s. 1012.01, to complete
405 training on the standards; establish the duty of educational
406 support employees, instructional personnel, and school

36-00698A-20

2020534__

407 administrators to report, and procedures for reporting, alleged
408 misconduct by other educational support employees, instructional
409 personnel, and school administrators which affects the health,
410 safety, or welfare of a student; and include an explanation of
411 the liability protections provided under ss. 39.203 and 768.095.
412 A private school, or any of its employees, may not enter into a
413 confidentiality agreement regarding terminated or dismissed
414 educational support employees, instructional personnel, or
415 school administrators, or personnel or administrators who resign
416 in lieu of termination, based in whole or in part on misconduct
417 that affects the health, safety, or welfare of a student, and
418 may not provide the employees, ~~instructional~~ personnel, or
419 school administrators with employment references or discuss the
420 employees', personnel's, or administrators' performance with
421 prospective employers in another educational setting, without
422 disclosing the employees', personnel's, or administrators'
423 misconduct. Any part of an agreement or contract that has the
424 purpose or effect of concealing misconduct by educational
425 support employees, instructional personnel, or school
426 administrators which affects the health, safety, or welfare of a
427 student is void, is contrary to public policy, and may not be
428 enforced.

429 (o) Before employing an individual ~~instructional personnel~~
430 ~~or school administrators~~ in any position that requires direct
431 contact with students, conduct employment history checks of each
432 ~~of the personnel's or administrators'~~ previous employers, screen
433 the individual using the ~~personnel or administrators through use~~
434 ~~of the educator~~ screening tools described in s. 1001.10(5), and
435 document the findings. If unable to contact a previous employer,

36-00698A-20

2020534__

436 the private school must document efforts to contact the
437 employer. The private school must deny employment to any
438 individual whose educator certificate is revoked, who is barred
439 from reapplication for an educator certificate, or who is
440 identified on the disqualification list maintained by the
441 department pursuant to s. 1001.10(4)(b).

442 (r) Disqualify educational support employees, instructional
443 personnel, and school administrators from employment in any
444 position that requires direct contact with students if the
445 personnel or administrators are ineligible for such employment
446 pursuant to this section or s. 1012.315, and report the person
447 and the disqualifying circumstances to the department for
448 inclusion on the disqualification list maintained pursuant to s.
449 1001.10(4)(b).

450

451 The department shall suspend the payment of funds to a private
452 school that knowingly fails to comply with this subsection, and
453 shall prohibit the school from enrolling new scholarship
454 students, for 1 fiscal year and until the school complies. If a
455 private school fails to meet the requirements of this subsection
456 or has consecutive years of material exceptions listed in the
457 report required under paragraph (q), the commissioner may
458 determine that the private school is ineligible to participate
459 in a scholarship program.

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

461 The Commissioner of Education:

462 (a) Shall deny, suspend, or revoke a private school's
463 participation in a scholarship program if it is determined that
464 the private school has failed to comply with this section or

36-00698A-20

2020534__

465 exhibits a previous pattern of failure to comply. However, if
466 the noncompliance is correctable within a reasonable amount of
467 time, not to exceed 45 days, and if the health, safety, or
468 welfare of the students is not threatened, the commissioner may
469 issue a notice of noncompliance which provides the private
470 school with a timeframe within which to provide evidence of
471 compliance before taking action to suspend or revoke the private
472 school's participation in the scholarship program.

473 (b) May deny, suspend, or revoke a private school's
474 participation in a scholarship program if the commissioner
475 determines that an owner or operator of the private school is
476 operating or has operated an educational institution in this
477 state or in another state or jurisdiction in a manner contrary
478 to the health, safety, or welfare of the public or if the owner
479 or operator has exhibited a previous pattern of failure to
480 comply with this section or specific requirements identified
481 within respective scholarship program laws. For purposes of this
482 subsection, the term "owner or operator" has the same meaning as
483 provided in paragraph (1) (p).

484 (c) May permanently deny or revoke the authority of an
485 owner or operator to establish or operate a private school
486 participating in an educational scholarship program pursuant to
487 this chapter if the commissioner decides that the owner or
488 operator is operating or has operated an educational institution
489 in this state or another state or jurisdiction in a manner
490 contrary to the health, safety, or welfare of the public, and
491 shall include such person on the disqualification list
492 maintained by the department pursuant to s. 1001.10(4) (b).

493 (d) ~~(e)~~1. In making such a determination, may consider

36-00698A-20

2020534__

494 factors that include, but are not limited to, acts or omissions
495 by an owner or operator which led to a previous denial,
496 suspension, or revocation of participation in a state or federal
497 education scholarship program; an owner's or operator's failure
498 to reimburse the department or scholarship-funding organization
499 for scholarship funds improperly received or retained by a
500 school; the imposition of a prior criminal sanction related to
501 an owner's or operator's management or operation of an
502 educational institution; the imposition of a civil fine or
503 administrative fine, license revocation or suspension, or
504 program eligibility suspension, termination, or revocation
505 related to an owner's or operator's management or operation of
506 an educational institution; or other types of criminal
507 proceedings in which an owner or operator was found guilty of,
508 regardless of adjudication, or entered a plea of nolo contendere
509 or guilty to, any offense involving fraud, deceit, dishonesty,
510 or moral turpitude.

511 2. The commissioner's determination is subject to the
512 following:

513 a. If the commissioner intends to deny, suspend, or revoke
514 a private school's participation in the scholarship program, the
515 department shall notify the private school of such proposed
516 action in writing by certified mail and regular mail to the
517 private school's address of record with the department. The
518 notification shall include the reasons for the proposed action
519 and notice of the timelines and procedures set forth in this
520 paragraph.

521 b. The private school that is adversely affected by the
522 proposed action shall have 15 days after receipt of the notice

36-00698A-20

2020534__

523 of proposed action to file with the department's agency clerk a
524 request for a proceeding pursuant to ss. 120.569 and 120.57. If
525 the private school is entitled to a hearing under s. 120.57(1),
526 the department shall forward the request to the Division of
527 Administrative Hearings.

528 c. Upon receipt of a request referred pursuant to this
529 subparagraph, the director of the Division of Administrative
530 Hearings shall expedite the hearing and assign an administrative
531 law judge who shall commence a hearing within 30 days after the
532 receipt of the formal written request by the division and enter
533 a recommended order within 30 days after the hearing or within
534 30 days after receipt of the hearing transcript, whichever is
535 later. Each party shall be allowed 10 days in which to submit
536 written exceptions to the recommended order. A final order shall
537 be entered by the agency within 30 days after the entry of a
538 recommended order. The provisions of this sub-subparagraph may
539 be waived upon stipulation by all parties.

540 (e)~~(d)~~ May immediately suspend payment of scholarship funds
541 if it is determined that there is probable cause to believe that
542 there is:

543 1. An imminent threat to the health, safety, or welfare of
544 the students;

545 2. A previous pattern of failure to comply with this
546 section; or

547 3. Fraudulent activity on the part of the private school.
548 Notwithstanding s. 1002.22, in incidents of alleged fraudulent
549 activity pursuant to this section, the department's Office of
550 Inspector General is authorized to release personally
551 identifiable records or reports of students to the following

36-00698A-20

2020534__

552 persons or organizations:

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

557 b. A person or entity authorized by a court of competent
558 jurisdiction in compliance with an order of that court or the
559 attorney of record pursuant to a lawfully issued subpoena,
560 consistent with the Family Educational Rights and Privacy Act,
561 20 U.S.C. s. 1232g.

562 c. Any person, entity, or authority issuing a subpoena for
563 law enforcement purposes when the court or other issuing agency
564 has ordered that the existence or the contents of the subpoena
565 or the information furnished in response to the subpoena not be
566 disclosed, consistent with the Family Educational Rights and
567 Privacy Act, 20 U.S.C. s. 1232g, and 34 C.F.R. s. 99.31.

568

569 The commissioner's order suspending payment pursuant to this
570 paragraph may be appealed pursuant to the same procedures and
571 timelines as the notice of proposed action set forth in
572 subparagraph (d)2. ~~subparagraph (e)2.~~

573 Section 5. Paragraph (a) of subsection (2) of section
574 1002.45, Florida Statutes, is amended to read:

575 1002.45 Virtual instruction programs.—

576 (2) PROVIDER QUALIFICATIONS.—

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

580 1. Is nonsectarian in its programs, admission policies,

36-00698A-20

2020534__

581 employment practices, and operations;

582 2. Complies with the antidiscrimination provisions of s.
583 1000.05;

584 3. Locates an administrative office or offices in this
585 state, requires its administrative staff to be state residents,
586 requires all instructional staff to be Florida-certified
587 teachers under chapter 1012, and conducts background screenings
588 and receives arrest reports for all employees or contracted
589 personnel, as required by s. 1012.32, using state and national
590 criminal history records;

591 4. Disqualifies educational support employees,
592 instructional personnel, and administrative personnel, as
593 defined in s. 1012.01, from employment in any position that
594 requires direct contact with students, if the employees or
595 personnel are ineligible for such employment under s. 1012.315,
596 and reports the disqualified employees or personnel and the
597 disqualifying circumstances to the department for inclusion on
598 the disqualification list pursuant to s. 1001.10(4)(b).

599 ~~5.4.~~ Provides to parents and students specific information
600 posted and accessible online that includes, but is not limited
601 to, the following teacher-parent and teacher-student contact
602 information for each course:

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

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

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

609 d. Any requirement for regular contact with the instructor

36-00698A-20

2020534__

610 for the course and clear expectations for meeting the
611 requirement.

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

615 ~~6.5.~~ Possesses prior, successful experience offering online
616 courses to elementary, middle, or high school students as
617 demonstrated by quantified student learning gains in each
618 subject area and grade level provided for consideration as an
619 instructional program option. However, for a provider without
620 sufficient prior, successful experience offering online courses,
621 the department may conditionally approve the provider to offer
622 courses measured pursuant to subparagraph (8)(a)2. Conditional
623 approval shall be valid for 1 school year only and, based on the
624 provider's experience in offering the courses, the department
625 shall determine whether to grant approval to offer a virtual
626 instruction program;

627 ~~7.6.~~ Is accredited by a regional accrediting association as
628 defined by State Board of Education rule;

629 ~~8.7.~~ Ensures instructional and curricular quality through a
630 detailed curriculum and student performance accountability plan
631 that addresses every subject and grade level it intends to
632 provide through contract with the school district, including:

633 a. Courses and programs that meet the standards of the
634 International Association for K-12 Online Learning and the
635 Southern Regional Education Board.

636 b. Instructional content and services that align with, and
637 measure student attainment of, student proficiency in the Next
638 Generation Sunshine State Standards.

36-00698A-20

2020534__

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

642 ~~9.8.~~ Publishes for the general public, in accordance with
643 disclosure requirements adopted in rule by the State Board of
644 Education, as part of its application as a provider and in all
645 contracts negotiated pursuant to this section:

646 a. Information and data about the curriculum of each full-
647 time and part-time program.

648 b. School policies and procedures.

649 c. Certification status and physical location of all
650 administrative and instructional personnel.

651 d. Hours and times of availability of instructional
652 personnel.

653 e. Student-teacher ratios.

654 f. Student completion and promotion rates.

655 g. Student, educator, and school performance accountability
656 outcomes;

657 ~~10.9.~~ If the provider is a Florida College System
658 institution, employs instructors who meet the certification
659 requirements for instructional staff under chapter 1012; and

660 ~~11.10.~~ Performs an annual financial audit of its accounts
661 and records conducted by an independent certified public
662 accountant which is in accordance with rules adopted by the
663 Auditor General, is conducted in compliance with generally
664 accepted auditing standards, and includes a report on financial
665 statements presented in accordance with generally accepted
666 accounting principles.

667 12. Complies with s. 1012.796, relating to complaints

36-00698A-20

2020534__

668 against educational support employees, teachers, and
669 administrators and designates at least one administrator to be
670 responsible for the duties and requirements assigned to a
671 district school board and superintendent pursuant to that
672 section. A virtual instruction provider must inform the district
673 school board of a complaint regarding misconduct or an arrest of
674 instructional or noninstructional personnel.

675 Section 6. Subsection (2) of section 1006.061, Florida
676 Statutes, is amended to read:

677 1006.061 Child abuse, abandonment, and neglect policy.—Each
678 district school board, charter school, and private school that
679 accepts scholarship students who participate in a state
680 scholarship program under chapter 1002 shall:

681 (2) Post in a prominent place at each school site and on
682 each school's Internet website, if available, the policies and
683 procedures for reporting alleged misconduct by educational
684 support employees, instructional personnel, or school
685 administrators which affects the health, safety, or welfare of a
686 student; the contact person to whom the report is made; and the
687 penalties imposed on educational support employees,
688 instructional personnel, or school administrators who fail to
689 report suspected or actual child abuse or alleged misconduct by
690 other educational support employees, instructional personnel, or
691 school administrators.

692
693 The Department of Education shall develop, and publish on the
694 department's Internet website, sample notices suitable for
695 posting in accordance with subsections (1), (2), and (4).

696 Section 7. Paragraph (a) of subsection (3) of section

36-00698A-20

2020534__

697 1012.31, Florida Statutes, is amended to read:

698 1012.31 Personnel files.—Public school system employee
699 personnel files shall be maintained according to the following
700 provisions:

701 (3) (a) Public school system employee personnel files are
702 subject to the provisions of s. 119.07(1), except as follows:

703 1. Any complaint and any material relating to the
704 investigation of a complaint against an employee shall be
705 confidential and exempt from the provisions of s. 119.07(1)
706 until the conclusion of the preliminary investigation or until
707 such time as the preliminary investigation ceases to be active.
708 If the preliminary investigation is concluded with the finding
709 that there is no probable cause to proceed further and with no
710 disciplinary action taken or charges filed, a statement to that
711 effect signed by the responsible investigating official shall be
712 attached to the complaint, and the complaint and all such
713 materials shall be open thereafter to inspection pursuant to s.
714 119.07(1). If the preliminary investigation is concluded with
715 the finding that there is probable cause to proceed further or
716 with disciplinary action taken or charges filed, the complaint
717 and all such materials shall be open thereafter to inspection
718 pursuant to s. 119.07(1). If the preliminary investigation
719 ceases to be active, the complaint and all such materials shall
720 be open thereafter to inspection pursuant to s. 119.07(1). For
721 the purpose of this subsection, a preliminary investigation
722 shall be considered active as long as it is continuing with a
723 reasonable, good faith anticipation that an administrative
724 finding will be made in the foreseeable future. An investigation
725 shall be presumed to be inactive if no finding relating to

36-00698A-20

2020534__

726 probable cause is made within 60 days after the complaint is
727 made. This subparagraph does not absolve the school district of
728 any legally required notifications, including the ~~its~~ duty to
729 provide any legally sufficient complaint to the department in
730 accordance with ~~within 30 days after the date on which the~~
731 subject matter of the complaint comes to the attention of the
732 school district pursuant to s. 1012.796(1) (d)1. and 3.,
733 regardless of the status of the complaint.

734 2. An employee evaluation prepared pursuant to s. 1012.33,
735 s. 1012.34, or s. 1012.56 or rules adopted by the State Board of
736 Education or district school board under the authority of those
737 sections shall be confidential and exempt from the provisions of
738 s. 119.07(1) until the end of the school year immediately
739 following the school year in which the evaluation was made. No
740 evaluation prepared before July 1, 1983, shall be made public
741 pursuant to this section.

742 3. No material derogatory to an employee shall be open to
743 inspection until 10 days after the employee has been notified
744 pursuant to paragraph (2) (c).

745 4. The payroll deduction records of an employee shall be
746 confidential and exempt from the provisions of s. 119.07(1).

747 5. Employee medical records, including psychiatric and
748 psychological records, shall be confidential and exempt from the
749 provisions of s. 119.07(1); however, at any hearing relative to
750 the competency or performance of an employee, the administrative
751 law judge, hearing officer, or panel shall have access to such
752 records.

753 Section 8. Section 1012.315, Florida Statutes, is amended
754 to read:

36-00698A-20

2020534__

755 1012.315 Disqualification from employment.—A person is
756 ineligible for educator certification or employment in any
757 position that requires direct contact with students in a
758 district school system, charter school, or private school that
759 accepts scholarship students who participate in a state
760 scholarship program under chapter 1002 if the person is included
761 in the disqualification list maintained by the department
762 pursuant to s. 1001.10(4)(b) or has been convicted of:

763 (1) Any felony offense prohibited under any of the
764 following statutes:

765 (a) Section 393.135, relating to sexual misconduct with
766 certain developmentally disabled clients and reporting of such
767 sexual misconduct.

768 (b) Section 394.4593, relating to sexual misconduct with
769 certain mental health patients and reporting of such sexual
770 misconduct.

771 (c) Section 415.111, relating to adult abuse, neglect, or
772 exploitation of aged persons or disabled adults.

773 (d) Section 782.04, relating to murder.

774 (e) Section 782.07, relating to manslaughter, aggravated
775 manslaughter of an elderly person or disabled adult, aggravated
776 manslaughter of a child, or aggravated manslaughter of an
777 officer, a firefighter, an emergency medical technician, or a
778 paramedic.

779 (f) Section 784.021, relating to aggravated assault.

780 (g) Section 784.045, relating to aggravated battery.

781 (h) Section 784.075, relating to battery on a detention or
782 commitment facility staff member or a juvenile probation
783 officer.

36-00698A-20

2020534__

- 784 (i) Section 787.01, relating to kidnapping.
- 785 (j) Section 787.02, relating to false imprisonment.
- 786 (k) Section 787.025, relating to luring or enticing a
787 child.
- 788 (l) Section 787.04(2), relating to leading, taking,
789 enticing, or removing a minor beyond the state limits, or
790 concealing the location of a minor, with criminal intent pending
791 custody proceedings.
- 792 (m) Section 787.04(3), relating to leading, taking,
793 enticing, or removing a minor beyond the state limits, or
794 concealing the location of a minor, with criminal intent pending
795 dependency proceedings or proceedings concerning alleged abuse
796 or neglect of a minor.
- 797 (n) Section 790.115(1), relating to exhibiting firearms or
798 weapons at a school-sponsored event, on school property, or
799 within 1,000 feet of a school.
- 800 (o) Section 790.115(2)(b), relating to possessing an
801 electric weapon or device, destructive device, or other weapon
802 at a school-sponsored event or on school property.
- 803 (p) Section 794.011, relating to sexual battery.
- 804 (q) Former s. 794.041, relating to sexual activity with or
805 solicitation of a child by a person in familial or custodial
806 authority.
- 807 (r) Section 794.05, relating to unlawful sexual activity
808 with certain minors.
- 809 (s) Section 794.08, relating to female genital mutilation.
- 810 (t) Chapter 796, relating to prostitution.
- 811 (u) Chapter 800, relating to lewdness and indecent
812 exposure.

36-00698A-20

2020534__

813 (v) Section 800.101, relating to offenses against students
 814 by authority figures.

815 (w) Section 806.01, relating to arson.

816 (x) Section 810.14, relating to voyeurism.

817 (y) Section 810.145, relating to video voyeurism.

818 (z) Section 812.014(6), relating to coordinating the
 819 commission of theft in excess of \$3,000.

820 (aa) Section 812.0145, relating to theft from persons 65
 821 years of age or older.

822 (bb) Section 812.019, relating to dealing in stolen
 823 property.

824 (cc) Section 812.13, relating to robbery.

825 (dd) Section 812.131, relating to robbery by sudden
 826 snatching.

827 (ee) Section 812.133, relating to carjacking.

828 (ff) Section 812.135, relating to home-invasion robbery.

829 (gg) Section 817.563, relating to fraudulent sale of
 830 controlled substances.

831 (hh) Section 825.102, relating to abuse, aggravated abuse,
 832 or neglect of an elderly person or disabled adult.

833 (ii) Section 825.103, relating to exploitation of an
 834 elderly person or disabled adult.

835 (jj) Section 825.1025, relating to lewd or lascivious
 836 offenses committed upon or in the presence of an elderly person
 837 or disabled person.

838 (kk) Section 826.04, relating to incest.

839 (ll) Section 827.03, relating to child abuse, aggravated
 840 child abuse, or neglect of a child.

841 (mm) Section 827.04, relating to contributing to the

36-00698A-20

2020534__

842 delinquency or dependency of a child.

843 (nn) Section 827.071, relating to sexual performance by a
844 child.

845 (oo) Section 843.01, relating to resisting arrest with
846 violence.

847 (pp) Chapter 847, relating to obscenity.

848 (qq) Section 874.05, relating to causing, encouraging,
849 soliciting, or recruiting another to join a criminal street
850 gang.

851 (rr) Chapter 893, relating to drug abuse prevention and
852 control, if the offense was a felony of the second degree or
853 greater severity.

854 (ss) Section 916.1075, relating to sexual misconduct with
855 certain forensic clients and reporting of such sexual
856 misconduct.

857 (tt) Section 944.47, relating to introduction, removal, or
858 possession of contraband at a correctional facility.

859 (uu) Section 985.701, relating to sexual misconduct in
860 juvenile justice programs.

861 (vv) Section 985.711, relating to introduction, removal, or
862 possession of contraband at a juvenile detention facility or
863 commitment program.

864 (2) Any misdemeanor offense prohibited under any of the
865 following statutes:

866 (a) Section 784.03, relating to battery, if the victim of
867 the offense was a minor.

868 (b) Section 787.025, relating to luring or enticing a
869 child.

870 (3) Any criminal act committed in another state or under

36-00698A-20

2020534__

871 federal law which, if committed in this state, constitutes an
872 offense prohibited under any statute listed in subsection (1) or
873 subsection (2).

874 (4) Any delinquent act committed in this state or any
875 delinquent or criminal act committed in another state or under
876 federal law which, if committed in this state, qualifies an
877 individual for inclusion on the Registered Juvenile Sex Offender
878 List under s. 943.0435(1)(h)1.d.

879 Section 9. Paragraph (a) of subsection (2) and paragraph
880 (b) of subsection (3) of section 1012.32, Florida Statutes, are
881 amended to read:

882 1012.32 Qualifications of personnel.—

883 (2)(a) Instructional and noninstructional personnel who are
884 hired or contracted to fill positions that require direct
885 contact with students in any district school system, virtual
886 instruction program, or university lab school must, upon
887 employment or engagement to provide services, undergo background
888 screening as required under s. 1012.465 or s. 1012.56, whichever
889 is applicable. A district school board may not require employees
890 or contractual personnel of a virtual instruction provider
891 approved pursuant to s. 1002.45(2) to undergo additional
892 background screening.

893
894 Fingerprints shall be submitted to the Department of Law
895 Enforcement for statewide criminal and juvenile records checks
896 and to the Federal Bureau of Investigation for federal criminal
897 records checks. A person subject to this subsection who is found
898 ineligible for employment under s. 1012.315, or otherwise found
899 through background screening to have been convicted of any crime

36-00698A-20

2020534__

900 involving moral turpitude as defined by rule of the State Board
901 of Education, shall not be employed, engaged to provide
902 services, or serve in any position that requires direct contact
903 with students. Probationary persons subject to this subsection
904 terminated because of their criminal record have the right to
905 appeal such decisions. The cost of the background screening may
906 be borne by the district school board, the charter school, the
907 employee, the contractor, or a person subject to this
908 subsection. A district school board shall reimburse a charter
909 school the cost of background screening if it does not notify
910 the charter school of the eligibility of a governing board
911 member or instructional or noninstructional personnel within the
912 earlier of 14 days after receipt of the background screening
913 results from the Florida Department of Law Enforcement or 30
914 days of submission of fingerprints by the governing board member
915 or instructional or noninstructional personnel.

916 (3)

917 (b) The Department of Law Enforcement shall search all
918 arrest fingerprints received under s. 943.051 against the
919 fingerprints retained in the statewide automated biometric
920 identification system under paragraph (a). Any arrest record
921 that is identified with the retained fingerprints of a person
922 subject to the background screening under this section shall be
923 reported to the employing or contracting school district,
924 virtual instruction provider approved pursuant to s. 1002.45(2),
925 or the school district with which the person is affiliated. All
926 school districts and approved virtual instruction providers are
927 ~~Each school district is~~ required to participate in this search
928 process by payment of an annual fee to the Department of Law

36-00698A-20

2020534__

929 Enforcement and by informing the Department of Law Enforcement
930 of any change in the affiliation, employment, or contractual
931 status or place of affiliation, employment, or contracting of
932 its instructional and noninstructional personnel whose
933 fingerprints are retained under paragraph (a). The Department of
934 Law Enforcement shall adopt a rule setting the amount of the
935 annual fee to be imposed upon each school district and approved
936 virtual instruction provider for performing these searches and
937 establishing the procedures for the retention of instructional
938 and noninstructional personnel fingerprints and the
939 dissemination of search results. The fee may be borne by the
940 district school board, the approved virtual instruction
941 provider, the contractor, or the person fingerprinted.

942 Section 10. Subsection (1) of section 1012.795, Florida
943 Statutes, is amended to read:

944 1012.795 Education Practices Commission; authority to
945 discipline.-

946 (1) The Education Practices Commission may suspend the
947 educator certificate of any instructional personnel or school
948 administrator, as defined in s. 1012.01(2) or (3), for up to 5
949 years, thereby denying that person the right to teach or
950 otherwise be employed by a district school board or public
951 school in any capacity requiring direct contact with students
952 for that period of time, after which the person may return to
953 teaching as provided in subsection (4); may revoke the educator
954 certificate of any person, thereby denying that person the right
955 to teach or otherwise be employed by a district school board or
956 public school in any capacity requiring direct contact with
957 students for up to 10 years, with reinstatement subject to

36-00698A-20

2020534__

958 subsection (4); may permanently revoke the educator certificate
959 of any person thereby denying that person the right to teach or
960 otherwise be employed by a district school board or public
961 school in any capacity requiring direct contact with students;
962 may suspend a person's educator certificate, upon an order of
963 the court or notice by the Department of Revenue relating to the
964 payment of child support; may direct the department to place
965 employees or contractual personnel of any public school, charter
966 school, charter school governing board, or private school that
967 participates in a state scholarship program under chapter 1002
968 on the disqualification list maintained by the department
969 pursuant to s. 1001.10(4)(b) for misconduct that would render
970 the person ineligible pursuant to s. 1012.315; or may impose any
971 other penalty provided by law, if the person:

972 (a) Obtained or attempted to obtain an educator certificate
973 by fraudulent means.

974 (b) Knowingly failed to report actual or suspected child
975 abuse as required in s. 1006.061 or report alleged misconduct by
976 instructional personnel or school administrators which affects
977 the health, safety, or welfare of a student as required in s.
978 1012.796.

979 (c) Has proved to be incompetent to teach or to perform
980 duties as an employee of the public school system or to teach in
981 or to operate a private school.

982 (d) Has been guilty of gross immorality or an act involving
983 moral turpitude as defined by rule of the State Board of
984 Education, including engaging in or soliciting sexual, romantic,
985 or lewd conduct with a student or minor.

986 (e) Has had an educator certificate or other professional

36-00698A-20

2020534__

987 license sanctioned by this or any other state or has had the
988 authority to practice the regulated profession revoked,
989 suspended, or otherwise acted against, including a denial of
990 certification or licensure, by the licensing or certifying
991 authority of any jurisdiction, including its agencies and
992 subdivisions. The licensing or certifying authority's acceptance
993 of a relinquishment, stipulation, consent order, or other
994 settlement offered in response to or in anticipation of the
995 filing of charges against the licensee or certificateholder
996 shall be construed as action against the license or certificate.
997 For purposes of this section, a sanction or action against a
998 professional license, a certificate, or an authority to practice
999 a regulated profession must relate to being an educator or the
1000 fitness of or ability to be an educator.

1001 (f) Has been convicted or found guilty of, has had
1002 adjudication withheld for, or has pled guilty or nolo contendere
1003 to a misdemeanor, felony, or any other criminal charge, other
1004 than a minor traffic violation.

1005 (g) Upon investigation, has been found guilty of personal
1006 conduct that seriously reduces that person's effectiveness as an
1007 employee of the district school board.

1008 (h) Has breached a contract, as provided in s. 1012.33(2)
1009 or s. 1012.335.

1010 (i) Has been the subject of a court order or notice by the
1011 Department of Revenue pursuant to s. 409.2598 directing the
1012 Education Practices Commission to suspend the certificate as a
1013 result of noncompliance with a child support order, a subpoena,
1014 an order to show cause, or a written agreement with the
1015 Department of Revenue.

36-00698A-20

2020534__

1016 (j) Has violated the Principles of Professional Conduct for
1017 the Education Profession prescribed by State Board of Education
1018 rules.

1019 (k) Has otherwise violated the provisions of law, the
1020 penalty for which is the revocation of the educator certificate.

1021 (l) Has violated any order of the Education Practices
1022 Commission.

1023 (m) Has been the subject of a court order or plea agreement
1024 in any jurisdiction which requires the certificateholder to
1025 surrender or otherwise relinquish his or her educator's
1026 certificate. A surrender or relinquishment shall be for
1027 permanent revocation of the certificate. A person may not
1028 surrender or otherwise relinquish his or her certificate prior
1029 to a finding of probable cause by the commissioner as provided
1030 in s. 1012.796.

1031 (n) Has been disqualified from educator certification under
1032 s. 1012.315.

1033 (o) Has committed a third recruiting offense as determined
1034 by the Florida High School Athletic Association (FHSA) pursuant
1035 to s. 1006.20(2)(b).

1036 (p) Has violated test security as provided in s. 1008.24.
1037 Section 11. Section 1012.796, Florida Statutes, is amended
1038 to read:

1039 1012.796 Complaints against educational support employees,
1040 teachers, and administrators; procedure; penalties.—

1041 (1)(a) The Department of Education shall cause to be
1042 investigated expeditiously any complaint filed before it or
1043 otherwise called to its attention which, if legally sufficient,
1044 contains grounds for the revocation or suspension of a

36-00698A-20

2020534__

1045 certificate or any other appropriate penalty as set forth in
1046 subsection (7). The complaint is legally sufficient if it
1047 contains the ultimate facts that ~~which~~ show a violation has
1048 occurred as provided in s. 1012.795 and defined by rule of the
1049 State Board of Education. The department shall investigate or
1050 continue to investigate and take appropriate action on a
1051 complaint even though the original complainant withdraws the
1052 complaint or otherwise indicates a desire not to cause it to be
1053 investigated or prosecuted to completion. The department may
1054 investigate or continue to investigate and take action on a
1055 complaint filed against a person whose educator certificate has
1056 expired if the act or acts that are the basis for the complaint
1057 were allegedly committed while that person possessed an educator
1058 certificate and may not issue a new certificate to such person
1059 unless an investigation has been completed.

1060 (b) The department shall immediately investigate any
1061 legally sufficient complaint that involves misconduct by any
1062 certificated personnel which affects the health, safety, or
1063 welfare of a student, giving the complaint priority over other
1064 pending complaints. The department must investigate or continue
1065 to investigate and take action on such a complaint filed against
1066 a person whose educator certificate has expired if the act or
1067 acts that are the basis for the complaint were allegedly
1068 committed while that person possessed an educator certificate.

1069 (c) When an investigation is undertaken, the department
1070 shall notify the certificateholder or applicant for
1071 certification and the district school superintendent or the
1072 university laboratory school, charter school, or private school
1073 in which the certificateholder or applicant for certification is

36-00698A-20

2020534__

1074 employed or was employed at the time the alleged offense
1075 occurred. In addition, the department shall inform the
1076 certificateholder or applicant for certification of the
1077 substance of any complaint that ~~which~~ has been filed against
1078 that certificateholder or applicant, unless the department
1079 determines that such notification would be detrimental to the
1080 investigation, in which case the department may withhold
1081 notification.

1082 (d)1. Each school district shall file in writing with the
1083 department all legally sufficient complaints within 30 days
1084 after the date on which subject matter of the complaint comes to
1085 the attention of the school district, regardless of whether the
1086 subject of the complaint is still an employee of the school
1087 district. A complaint is legally sufficient if it contains
1088 ultimate facts that show a violation has occurred as provided in
1089 s. 1012.795 and defined by rule of the State Board of Education.
1090 The school district shall include all information relating to
1091 the complaint which is known to the school district at the time
1092 of filing.

1093 2. A school district shall immediately notify the
1094 department if the subject of a legally sufficient complaint of
1095 misconduct affecting the health, safety, or welfare of a student
1096 resigns or is terminated before the conclusion of the school
1097 district's investigation. Upon receipt of the notification, the
1098 department shall place an alert on the person's certification
1099 file indicating that he or she resigned or was terminated before
1100 an investigation involving allegations of misconduct affecting
1101 the health, safety, or welfare of a student was concluded. In
1102 such circumstances, the database may not include specific

36-00698A-20

2020534__

1103 information relating to the alleged misconduct until permitted
1104 by subsection (4). This subparagraph does not limit or restrict
1105 the duty of the district school board to investigate the
1106 complaint and misconduct and report the findings and conclusion
1107 to the department.

1108 3. Each district school board or superintendent, charter
1109 school governing board, approved virtual instruction provider,
1110 and private school that participates in a state scholarship
1111 program under chapter 1002 shall immediately report to the
1112 Department of Education an arrest or conviction of educational
1113 support employees, administrative or instructional personnel, or
1114 school officials for an offense that reflects a risk of harm to
1115 the health, safety, or welfare of a student or would render the
1116 person ineligible pursuant to s. 1012.315, as determined by
1117 state board rule adopted pursuant to this section. The same
1118 reporting requirements apply to a substantiated allegation of
1119 such misconduct by educational support employees, administrative
1120 or instructional personnel, or school officials, regardless of
1121 whether the accused person has been arrested or convicted in
1122 relation to the misconduct.

1123 4.3. Each district school board shall develop and adopt
1124 policies and procedures to comply with this reporting
1125 requirement. School board policies and procedures must include
1126 standards for screening, hiring, and terminating educational
1127 support employees, instructional personnel, and school
1128 administrators, as defined in s. 1012.01; standards of ethical
1129 conduct for educational support employees, instructional
1130 personnel, and school administrators; the duties of educational
1131 support employees, instructional personnel, and school

36-00698A-20

2020534__

1132 administrators for upholding the standards; detailed procedures
1133 for reporting alleged misconduct by educational support
1134 employees, instructional personnel, and school administrators
1135 which affects the health, safety, or welfare of a student;
1136 requirements for the reassignment of educational support
1137 employees, instructional personnel, and ~~or~~ school administrators
1138 pending the outcome of a misconduct investigation; and penalties
1139 for failing to comply with s. 1001.51 or s. 1012.795. The
1140 district school board policies and procedures must ~~shall~~ include
1141 appropriate penalties for all personnel of the district school
1142 board for nonreporting and procedures for promptly informing the
1143 district school superintendent of each legally sufficient
1144 complaint. The district school superintendent is charged with
1145 knowledge of these policies and procedures and is accountable
1146 for the training of all educational support employees,
1147 instructional personnel, and school administrators of the school
1148 district on the standards of ethical conduct, policies, and
1149 procedures.

1150 ~~5.4.~~ If the district school superintendent has knowledge of
1151 a legally sufficient complaint and does not report the
1152 complaint, or fails to enforce the policies and procedures of
1153 the district school board, and fails to comply with the
1154 requirements of this subsection, in addition to other actions
1155 against certificateholders authorized by law, the district
1156 school superintendent is subject to penalties as specified in s.
1157 1001.51(12).

1158 ~~6.5.~~ If the superintendent determines that misconduct by
1159 educational support employees, instructional personnel, or
1160 school administrators who hold an educator certificate affects

36-00698A-20

2020534__

1161 the health, safety, or welfare of a student and the misconduct
1162 warrants termination, the educational support employees,
1163 instructional personnel, or school administrators may resign or
1164 be terminated, and the superintendent must report the misconduct
1165 to the department in the format prescribed by the department.
1166 The department shall place such educational support employees,
1167 instructional personnel, or school administrators on the
1168 disqualification list maintained by the department pursuant to
1169 s. 1001.10(4)(b). The department shall maintain each report of
1170 misconduct as a public record in the educational support
1171 employees', instructional personnel's, or school administrators'
1172 certification files. This paragraph does not limit or restrict
1173 the power and duty of the department to investigate complaints
1174 regarding certificated personnel, regardless of the school
1175 district's untimely filing, or failure to file, complaints and
1176 followup reports. This subparagraph does not create a duty for
1177 the department to investigate complaints regarding
1178 noncertificated personnel.

1179 (e) If allegations arise against an employee who is
1180 certified under s. 1012.56 and employed in an educator-
1181 certificated position in any public school, charter school or
1182 governing board thereof, or private school that accepts
1183 scholarship students who participate in a state scholarship
1184 program under chapter 1002, the school shall file in writing
1185 with the department a legally sufficient complaint within 30
1186 days after the date on which the subject matter of the complaint
1187 came to the attention of the school, regardless of whether the
1188 subject of the allegations is still an employee of the school. A
1189 complaint is legally sufficient if it contains ultimate facts

36-00698A-20

2020534__

1190 that show a violation has occurred as provided in s. 1012.795
1191 and defined by rule of the State Board of Education. The school
1192 shall include all known information relating to the complaint
1193 with the filing of the complaint. This paragraph does not limit
1194 or restrict the power and duty of the department to investigate
1195 complaints, regardless of the school's untimely filing, or
1196 failure to file, complaints and followup reports. A school
1197 described in this paragraph shall immediately notify the
1198 department if the subject of a legally sufficient complaint of
1199 misconduct affecting the health, safety, or welfare of a student
1200 resigns or is terminated before the conclusion of the school's
1201 investigation. Upon receipt of the notification, the department
1202 shall place an alert on the person's certification file
1203 indicating that he or she resigned or was terminated before an
1204 investigation involving allegations of misconduct affecting the
1205 health, safety, or welfare of a student was concluded. In such
1206 circumstances, the database may not include specific information
1207 relating to the alleged misconduct until permitted by subsection
1208 (4).

1209 (f) Notwithstanding any other law, all law enforcement
1210 agencies, state attorneys, social service agencies, district
1211 school boards, and the Division of Administrative Hearings shall
1212 fully cooperate with and, upon request, shall provide unredacted
1213 documents to the Department of Education to further
1214 investigations and prosecutions conducted pursuant to this
1215 section. Any document received may not be redisclosed except as
1216 authorized by law.

1217 (2) The Commissioner of Education shall develop job
1218 specifications for investigative personnel employed by the

36-00698A-20

2020534__

1219 department. Such specifications shall be substantially
1220 equivalent to or greater than those job specifications of
1221 investigative personnel employed by the Department of Business
1222 and Professional Regulation. The department may contract with
1223 the Department of Business and Professional Regulation for
1224 investigations. No person who is responsible for conducting an
1225 investigation of a teacher or administrator may prosecute the
1226 same case. The department general counsel or members of that
1227 staff may conduct prosecutions under this section.

1228 (3) The department staff shall advise the commissioner
1229 concerning the findings of the investigation and of all
1230 referrals by the Florida High School Athletic Association
1231 (FHSAA) pursuant to ss. 1006.20(2)(b) and 1012.795. The
1232 department general counsel or members of that staff shall review
1233 the investigation or the referral and advise the commissioner
1234 concerning probable cause or lack thereof. The determination of
1235 probable cause shall be made by the commissioner. The
1236 commissioner shall provide an opportunity for a conference, if
1237 requested, prior to determining probable cause. The commissioner
1238 may enter into deferred prosecution agreements in lieu of
1239 finding probable cause if, in his or her judgment, such
1240 agreements are in the best interests of the department, the
1241 certificateholder, and the public. Such deferred prosecution
1242 agreements shall become effective when filed with the clerk of
1243 the Education Practices Commission. However, a deferred
1244 prosecution agreement may not be entered into if there is
1245 probable cause to believe that a felony or an act of moral
1246 turpitude, as defined by rule of the State Board of Education,
1247 has occurred, or for referrals by the FHSAA. Upon finding no

36-00698A-20

2020534__

1248 probable cause, the commissioner shall dismiss the complaint and
1249 may issue a letter of guidance to the certificateholder.

1250 (4) The complaint and all information obtained pursuant to
1251 the investigation by the department shall be confidential and
1252 exempt from the provisions of s. 119.07(1) until the conclusion
1253 of the preliminary investigation of the complaint, until such
1254 time as the preliminary investigation ceases to be active, or
1255 until such time as otherwise provided by s. 1012.798(6).

1256 However, the complaint and all material assembled during the
1257 investigation may be inspected and copied by the
1258 certificateholder under investigation, or the
1259 certificateholder's designee, after the investigation is
1260 concluded, but prior to the determination of probable cause by
1261 the commissioner. If the preliminary investigation is concluded
1262 with the finding that there is no probable cause to proceed, the
1263 complaint and information shall be open thereafter to inspection
1264 pursuant to s. 119.07(1). If the preliminary investigation is
1265 concluded with the finding that there is probable cause to
1266 proceed and a complaint is filed pursuant to subsection (6), the
1267 complaint and information shall be open thereafter to inspection
1268 pursuant to s. 119.07(1). If the preliminary investigation
1269 ceases to be active, the complaint and all such material shall
1270 be open thereafter to inspection pursuant to s. 119.07(1),
1271 except as otherwise provided pursuant to s. 1012.798(6). For the
1272 purpose of this subsection, a preliminary investigation shall be
1273 considered active as long as it is continuing with a reasonable,
1274 good faith anticipation that an administrative finding will be
1275 made in the foreseeable future.

1276 (5) When an allegation of misconduct by educational support

36-00698A-20

2020534__

1277 employees, instructional personnel, or school administrators, as
1278 defined in s. 1012.01, is received, if the alleged misconduct
1279 affects the health, safety, or welfare of a student, the
1280 district school superintendent in consultation with the school
1281 principal, or upon the request of the Commissioner of Education,
1282 must immediately suspend the educational support employees,
1283 instructional personnel, or school administrators from regularly
1284 assigned duties, with pay, and reassign the suspended employees,
1285 personnel, or administrators to positions that do not require
1286 direct contact with students in the district school system. Such
1287 suspension shall continue until the completion of the
1288 proceedings and the determination of sanctions, if any, pursuant
1289 to this section and s. 1012.795.

1290 (6) Upon the finding of probable cause, the commissioner
1291 shall file a formal complaint and prosecute the complaint
1292 pursuant to the provisions of chapter 120. An administrative law
1293 judge shall be assigned by the Division of Administrative
1294 Hearings of the Department of Management Services to hear the
1295 complaint if there are disputed issues of material fact. The
1296 administrative law judge shall make recommendations in
1297 accordance with the provisions of subsection (7) to the
1298 appropriate Education Practices Commission panel which shall
1299 conduct a formal review of such recommendations and other
1300 pertinent information and issue a final order. The commission
1301 shall consult with its legal counsel prior to issuance of a
1302 final order.

1303 (7) A panel of the commission shall enter a final order
1304 either dismissing the complaint or imposing one or more of the
1305 following penalties:

36-00698A-20

2020534__

1306 (a) Denial of an application for a certificate or for an
1307 administrative or supervisory endorsement on a teaching
1308 certificate. The denial may provide that the applicant may not
1309 reapply for certification, and that the department may refuse to
1310 consider that applicant's application, for a specified period of
1311 time or permanently.

1312 (b) Revocation or suspension of a certificate.

1313 (c) Imposition of an administrative fine not to exceed
1314 \$2,000 for each count or separate offense.

1315 (d) Placement of the teacher, administrator, or supervisor
1316 on probation for a period of time and subject to such conditions
1317 as the commission may specify, including requiring the certified
1318 teacher, administrator, or supervisor to complete additional
1319 appropriate college courses or work with another certified
1320 educator, with the administrative costs of monitoring the
1321 probation assessed to the educator placed on probation. An
1322 educator who has been placed on probation shall, at a minimum:

1323 1. Immediately notify the investigative office in the
1324 Department of Education upon employment or separation from
1325 employment in any public or private position requiring a Florida
1326 educator's certificate.

1327 2. Have his or her immediate supervisor submit annual
1328 performance reports to the investigative office in the
1329 Department of Education.

1330 3. Pay to the commission within the first 6 months of each
1331 probation year the administrative costs of monitoring probation
1332 assessed to the educator.

1333 4. Violate no law and fully comply with all district school
1334 board policies, school rules, and State Board of Education

36-00698A-20

2020534__

1335 rules.

1336 5. Satisfactorily perform his or her assigned duties in a
1337 competent, professional manner.

1338 6. Bear all costs of complying with the terms of a final
1339 order entered by the commission.

1340 (e) Restriction of the authorized scope of practice of the
1341 teacher, administrator, or supervisor.

1342 (f) Reprimand of the teacher, administrator, or supervisor
1343 in writing, with a copy to be placed in the certification file
1344 of such person.

1345 (g) Imposition of an administrative sanction, upon a person
1346 whose teaching certificate has expired, for an act or acts
1347 committed while that person possessed a teaching certificate or
1348 an expired certificate subject to late renewal, which sanction
1349 bars that person from applying for a new certificate for a
1350 period of 10 years or less, or permanently.

1351 (h) Refer the teacher, administrator, or supervisor to the
1352 recovery network program provided in s. 1012.798 under such
1353 terms and conditions as the commission may specify.

1354 (i) Direct the department to place educational support
1355 employees, instructional personnel, or school administrators on
1356 the disqualification list maintained by the department pursuant
1357 to s. 1001.10(4)(b) for conduct that would render the person
1358 ineligible pursuant to s. 1012.315.

1359
1360 The penalties imposed under this subsection are in addition to,
1361 and not in lieu of, the penalties required for a third
1362 recruiting offense pursuant to s. 1006.20(2)(b).

1363 (8) Violations of the provisions of a final order shall

36-00698A-20

2020534__

1364 result in an order to show cause issued by the clerk of the
1365 Education Practices Commission if requested by the Department of
1366 Education. Upon failure of the educator, at the time and place
1367 stated in the order, to show cause satisfactorily to the
1368 Education Practices Commission why a penalty for violating the
1369 provisions of a final order should not be imposed, the Education
1370 Practices Commission shall impose whatever penalty is
1371 appropriate as established in s. 1012.795(6). The Department of
1372 Education shall prosecute the individual ordered to show cause
1373 before the Education Practices Commission. The Department of
1374 Education and the individual may enter into a settlement
1375 agreement, which shall be presented to the Education Practices
1376 Commission for consideration. Any probation period will be
1377 tolled when an order to show cause has been issued until the
1378 issue is resolved by the Education Practices Commission;
1379 however, the other terms and conditions of the final order shall
1380 be in full force and effect until changed by the Education
1381 Practices Commission.

1382 (9) All moneys collected by, or awarded to, the commission
1383 as fees, fines, penalties, or costs shall be deposited into the
1384 Educational Certification and Service Trust Fund pursuant to s.
1385 1012.59.

1386 (10) Persons included on the disqualification list
1387 maintained by the department pursuant to s. 1001.10(4)(b) may
1388 not serve or apply to serve as employees or contractual
1389 personnel at any public school or private school participating
1390 in a state scholarship program under chapter 1002. A person who
1391 knowingly violates this subsection, or an employer who knowingly
1392 hires a person in violation of this subsection, commits a felony

36-00698A-20

2020534__

1393 of the third degree, punishable as provided in s. 775.082 or s.
1394 775.083.

1395 Section 12. Section 1012.797, Florida Statutes, is amended
1396 to read:

1397 1012.797 Notification by law enforcement ~~of district school~~
1398 ~~superintendent~~ of certain charges against or convictions of
1399 employees.-

1400 (1) Notwithstanding ~~the provisions of~~ s. 985.04(7) or any
1401 other ~~provision of~~ law to the contrary, a law enforcement agency
1402 shall, within 48 hours, notify the appropriate district school
1403 superintendent, charter school governing board, or private
1404 school owner or administrator, as applicable, of the name and
1405 address of any employee or contractor of the school district,
1406 charter school, or private school, as applicable, who is charged
1407 with a felony or with a misdemeanor involving the abuse of a
1408 minor child or the sale or possession of a controlled substance.
1409 The notification shall include the specific charge for which the
1410 employee or contractor ~~of the school district~~ was arrested. Such
1411 notification shall include other education providers such as the
1412 Florida School for the Deaf and the Blind, university lab
1413 schools, and private elementary and secondary schools.

1414 (2) Except to the extent necessary to protect the health,
1415 safety, and welfare of other students, the information obtained
1416 by the district school superintendent pursuant to this section
1417 may be released only to appropriate school personnel or as
1418 otherwise provided by law.

1419 Section 13. This act shall take effect July 1, 2020.