

1 A bill to be entitled
2 An act relating to higher education; creating s.
3 768.39, F.S.; providing legislative findings; defining
4 the term "educational institution"; prohibiting an
5 educational institution that has taken certain
6 reasonably necessary actions to diminish the impact or
7 spread of COVID-19 from being civilly liable for such
8 actions; specifying that the provision of certain
9 services by educational institutions was impossible
10 during certain periods of time; providing that certain
11 reasonably necessary actions are deemed justified;
12 providing exceptions; providing severability;
13 providing for retroactive applicability; providing an
14 exception for certain civil actions; amending s.
15 1009.26, F.S.; requiring a state university to waive
16 the tuition and fees for certain courses in which
17 certain resident students are enrolled; requiring a
18 state university to waive the out-of-state fee for a
19 nonresident student who meets certain requirements;
20 providing applicability; providing specified criteria
21 for such waivers; requiring the reporting of tuition
22 and fees waived for state funding purposes; requiring
23 disbursement to the student upon his or her enrollment
24 in a program of strategic emphasis; requiring each
25 state university to report certain information

26 regarding such waivers to the Board of Governors,
27 annually; authorizing a state university in compliance
28 with the waiver provisions to earn incentive funding,
29 subject to appropriation; requiring the board to adopt
30 regulations; requiring a state university, within the
31 nonresident student enrollment systemwide, to
32 prioritize the enrollment of a student granted such
33 fee waiver over a certain out-of-state student;
34 amending s. 1009.89, F.S.; revising eligibility
35 criteria for the William L. Boyd, IV, Effective Access
36 to Student Education grant program; requiring
37 recipient institutions to submit a specified report to
38 the Department of Education; requiring institutions to
39 meet certain performance benchmarks to remain eligible
40 under the grant program; requiring each recipient
41 institution to report certain data to the department;
42 providing effective dates.

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

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46 Section 1. Effective upon becoming a law, section 768.39,
47 Florida Statutes, is created to read:

48 768.39 Immunity for educational institutions for actions
49 related to the COVID-19 pandemic.-

50 (1) The Legislature finds that during the COVID-19

51 pandemic, educational institutions had little choice but to
52 close or restrict access to their campuses in an effort to
53 protect the health of their students, educators, staff, and
54 communities. Despite these efforts, more than 120,000 cases of
55 COVID-19 have been linked to colleges and universities
56 nationwide, and the deaths of more than 100 college students
57 have been attributed to the disease. The Legislature further
58 finds that lawsuits against educational institutions based on
59 their efforts to provide educational services while keeping
60 students, faculty, staff, and communities safe during the COVID-
61 19 public health emergency are without legal precedent. One
62 court has even acknowledged that the "legal system is now
63 feeling COVID-19's havoc with the current wave of class action
64 lawsuits that seek tuition reimbursement related to forced
65 online tutelage." Under these circumstances, the Legislature
66 finds that there is an overpowering public necessity for, and no
67 reasonable alternative to, providing educational institutions
68 with liability protections against lawsuits seeking tuition or
69 fee reimbursements or related damages resulting from the
70 institutions changing the delivery of educational services,
71 limiting access to facilities, or closing campuses during the
72 COVID-19 public health emergency.

73 (2) For the purposes of this section, the term
74 "educational institution" means any postsecondary institution,
75 whether public or nonpublic.

76 (3) (a) An educational institution that has taken
77 reasonably necessary actions in compliance with federal, state,
78 or local guidance to diminish the impact or the spread of COVID-
79 19 may not be held liable for, and shall be immune from, any
80 civil damages, equitable relief, or other remedies relating to
81 such actions. Reasonably necessary actions taken while a state
82 of emergency was declared for this state for the COVID-19
83 pandemic include, but are not limited to, any of the following:

84 1. Shifting in-person instruction to online or remote
85 instruction for any period of time.

86 2. Pausing or modifying ancillary student activities and
87 services available through the educational institution.

88 (b) The provision of in-person or on-campus education and
89 related services is deemed to have been impossible for
90 educational institutions during any period of time in which such
91 institutions took reasonably necessary actions described in
92 paragraph (a) to protect students, staff, and educators in
93 response to the COVID-19 public health emergency.

94 (c) As a result of the various governmental orders and the
95 need for educational institutions to protect their communities,
96 the reasonably necessary actions described in paragraph (a) are
97 deemed justified.

98 (4) This section does not apply to:

99 (a) Losses or damages that resulted solely from a breach
100 of an express contractual provision allocating liability.

101 (b) Losses or damages caused by an act or omission of an
 102 educational institution which was in bad faith or malicious.

103 (5) If any aspect of the immunity under subsection (3) is
 104 limited by a court or by operation of law from applying to
 105 certain types of claims or causes of action, the immunity under
 106 this section must still be provided to the fullest extent
 107 authorized by law to any other types of claims or causes of
 108 action.

109 (6) This section shall apply retroactively to causes of
 110 actions accruing on or after March 1, 2020, the date of the
 111 declaration of the COVID-19 public health emergency by the State
 112 Surgeon General, and shall apply prospectively to causes of
 113 action that accrue before the end of the academic term during
 114 which the emergency declaration expires or is terminated.
 115 However, this section does not apply in a civil action against a
 116 particular named defendant which is commenced before the
 117 effective date of this section.

118 Section 2. Subsections (18) and (19) are added to section
 119 1009.26, Florida Statutes, to read:

120 1009.26 Fee waivers.—

121 (18) (a) Beginning with the 2021-2022 academic year, for
 122 every course in a program of strategic emphasis in which a
 123 student pays the full tuition and fees, a state university shall
 124 waive 100 percent of the tuition and fees for another course in
 125 a program of strategic emphasis for a student who:

126 1. Is a resident for tuition purposes under s. 1009.21.

127 2. Initially enrolls full-time at a state university for
128 the fall academic term immediately following high school
129 graduation.

130 3. Earns at least 60 semester credit hours towards a
131 baccalaureate degree within 2 academic years after initial
132 enrollment.

133 4. Enrolls in a program of strategic emphasis in one of
134 the following categories as adopted by the Board of Governors:

135 a. Science, technology, engineering, or math.

136 b. Critical workforce education.

137 c. Critical workforce healthcare.

138 d. Critical workforce and undersupplied.

139 (b) A waiver granted under this subsection is applicable
140 only for upper-level courses and up to 110 percent of the number
141 of required credit hours of the baccalaureate degree program for
142 which the student is enrolled.

143 (c) Upon enrollment in a program of strategic emphasis,
144 the tuition and fees waived under this subsection must be
145 reported for state funding purposes under ss. 1009.534 and
146 1009.535 and must be disbursed to the student. The amount
147 disbursed to the student shall be equal to the award amount the
148 student has received under s. 1009.534(2) or s. 1009.535(2).

149 (d) Each state university shall report to the Board of
150 Governors the number and value of all waivers granted annually

151 under this subsection. A state university in compliance with
152 this subsection may earn incentive funding, subject to
153 appropriation, in addition to the funding provided under s.
154 1001.92.

155 (e) The Board of Governors shall adopt regulations to
156 administer this subsection.

157 (19) (a) A state university shall waive the out-of-state
158 fee for a student who:

159 1. Has a grandparent who is a legal resident as defined in
160 s. 1009.21(1).

161 2. Earns a high school diploma comparable to a standard
162 Florida high school diploma, or its equivalency, or completes a
163 home education program.

164 3.a. Achieves an SAT combined score no lower than the 89th
165 national percentile on the SAT;

166 b. Achieves an ACT score concordant to the required SAT
167 score in sub-subparagraph a., using the latest published
168 national concordance table developed jointly by the College
169 Board and ACT, Inc.; or

170 c. If a state university accepts the Classic Learning Test
171 (CLT) for admission purposes, achieves a CLT score concordant to
172 the required SAT score in sub-subparagraph a., using the latest
173 published scoring comparison developed by Classic Learning
174 Initiatives.

175 4. Enrolls as a full-time undergraduate student at a state

176 university in the fall academic term immediately following high
177 school graduation.

178 (b) The waiver under this subsection is applicable for up
179 to 110 percent of the number of required credit hours of the
180 degree program for which the student is enrolled.

181 (c) Prior to waiving the out-of-state fee, the state
182 university shall require the student or the student's parent, if
183 the student is a dependent child, to provide a written
184 declaration pursuant to s. 92.525(2) verifying the student's
185 familial relationship to a grandparent who is a legal resident.

186 (d) Each state university shall report to the Board of
187 Governors the number and value of all fee waivers granted
188 annually under this subsection.

189 (e) Beginning with students who initially enroll during
190 the 2021-2022 academic year or thereafter, a state university
191 shall, within the nonresident student enrollment systemwide,
192 prioritize the enrollment of a student who is granted a fee
193 waiver under this subsection over an out-of-state student who is
194 not eligible for an out-of-state fee waiver.

195 (f) The Board of Governors shall adopt regulations to
196 administer this subsection.

197 Section 3. Subsections (3) and (4) of section 1009.89,
198 Florida Statutes, are amended, and paragraph (c) is added to
199 subsection (5), to read:

200 1009.89 The William L. Boyd, IV, Effective Access to

201 Student Education grants.—

202 (3) The department shall issue through the program a
 203 William L. Boyd, IV, Effective Access to Student Education grant
 204 to any full-time degree-seeking undergraduate student registered
 205 at an independent nonprofit college or university which is
 206 located in and chartered by the state; which is accredited by
 207 the Commission on Colleges of the Southern Association of
 208 Colleges and Schools; which grants baccalaureate degrees; which
 209 is not a state university or Florida College System institution;
 210 and which has a secular purpose, so long as the receipt of state
 211 aid by students at the institution would not have the primary
 212 effect of advancing or impeding religion or result in an
 213 excessive entanglement between the state and any religious sect.
 214 ~~Any independent college or university that was eligible to~~
 215 ~~receive tuition vouchers on January 1, 1989, and which continues~~
 216 ~~to meet the criteria under which its eligibility was~~
 217 ~~established, shall remain eligible to receive William L. Boyd,~~
 218 ~~IV, Effective Access to Student Education grant payments.~~

219 (a) By September 1 of each year, recipient institutions
 220 must submit an Effective Access to Student Education Grant
 221 Program Accountability report to the Department of Education, in
 222 a format prescribed by the department, detailing the following
 223 metrics for Florida resident students reflecting the prior
 224 academic year statistics:

225 1. Entrance requirements for the year, and if required by

226 the institution, the minimum test score and grade point average
227 requirements for freshmen.

228 2. Percentage of students receiving federal Pell Grant
229 funds, Florida Bright Futures Scholarship awards, and other
230 academic aid.

231 3. Graduation rates; retention rates; job placement rates;
232 and job placement rates 1 year after graduation.

233

234 The report must also include information for each institution on
235 the total federal loan amounts disbursed and the total number of
236 students who received federal loans.

237 (b) To remain eligible, institutions must meet three or
238 more of the following performance benchmarks as provided in the
239 annual Effective Access to Student Education Grant Program
240 Accountability report:

241 1. A postgraduate employment or continuing education rate
242 of:

243 a. At least 77 percent as submitted in the report dated
244 September 2020.

245 b. At least 78 and 79 percent as submitted in each
246 subsequent annual report, respectively.

247 2. A graduation rate of:

248 a. At least 48 percent as submitted in the report dated
249 September 2020.

250 b. At least 49 and 50 percent as submitted in each

251 subsequent annual report, respectively.

252 3. An academic retention rate of:

253 a. At least 71 percent as submitted in the report dated

254 September 2020.

255 b. At least 72 and 73 percent as submitted in each

256 subsequent annual report, respectively.

257 4. A student access rate of:

258 a. At least 45 percent as submitted in the report dated

259 September 2020.

260 b. At least 46 and 47 percent as submitted in each

261 subsequent annual report, respectively.

262 5. Average disbursement of federal loans per undergraduate

263 recipient of:

264 a. No more than \$7,320 as submitted in the report dated

265 September 2020.

266 b. No more than \$7,289 and \$7,258 as submitted in each

267 subsequent annual report, respectively.

268 (4) A person is eligible to receive such William L. Boyd,

269 IV, Effective Access to Student Education grant if:

270 (a) He or she meets the general requirements, including

271 residency, for student eligibility as provided in s. 1009.40,

272 except as otherwise provided in this section.~~;~~ ~~and~~

273 (b)1. He or she is enrolled as a full-time undergraduate

274 student at an eligible college or university in a program of

275 study leading to a baccalaureate degree.~~;~~

276 2. He or she is not enrolled in a program of study leading
 277 to a degree in theology or divinity.~~;~~ ~~and~~

278 3. He or she is making satisfactory academic progress as
 279 defined by the State Board of Education ~~college or university in~~
 280 ~~which he or she is enrolled.~~

281 4. He or she has not completed more than 110 percent of
 282 the degree program in which he or she is enrolled.

283 (5)

284 (c) Each recipient institution shall report to the
 285 department by September 1 of each year the students eligible for
 286 the program for each academic term. Each institution shall also
 287 report to the department the necessary demographic and
 288 eligibility data for such students.

289 Section 4. Except as otherwise expressly provided in this
 290 act and except for this section, which shall take effect upon
 291 this act becoming a law, this act shall take effect July 1,
 292 2021.