

<b>Tab 10</b>	<b>SB 82 by Torres;</b> (Similar to CS/H 06513) Relief of Kareem Hawari by the Osceola County School Board				
<b>Tab 11</b>	<b>SB 340 by Garcia;</b> (Similar to H 00173) Care of Students with Epilepsy or Seizure Disorders				
<b>Tab 12</b>	<b>SB 892 by Burgess;</b> (Similar to CS/H 00225) Charter School Charters				
<b>Tab 13</b>	<b>SB 1034 by Gruters;</b> (Similar to H 06067) William L. Boyd, IV, Effective Access to Student Education Grant Program				
621616	A	S	ED, Gruters	Delete L.44:	01/24 09:07 AM
<b>Tab 14</b>	<b>SB 1122 by Gainer (CO-INTRODUCERS) Broxson;</b> (Similar to H 00991) Student Fees				
<b>Tab 15</b>	<b>SB 1294 by Gruters;</b> Individual Education Plan Meetings				
470806	A	S	ED, Gruters	Delete L.24 - 31:	01/18 10:25 AM
<b>Tab 16</b>	<b>SB 1300 by Gruters;</b> District School Board Meetings				
528322	PCS	S	ED		01/21 04:52 PM
<b>Tab 17</b>	<b>SB 1348 by Diaz;</b> Educational Choice Scholarships				
902550	PCS	S	ED		01/21 04:53 PM
<b>Tab 18</b>	<b>SB 1552 by Gruters;</b> Direct-support Organization for the Florida Prepaid College Board				
<b>Tab 19</b>	<b>SB 1576 by Polsky;</b> (Similar to H 01017) Educational Support Staff				
<b>Tab 20</b>	<b>SB 1700 by Gruters;</b> (Compare to H 01199) School Readiness Program Funding				

**The Florida Senate**  
**COMMITTEE MEETING EXPANDED AGENDA**

**EDUCATION**  
**Senator Gruters, Chair**  
**Senator Jones, Vice Chair**

**MEETING DATE:** Tuesday, January 25, 2022  
**TIME:** 10:00 a.m.—12:00 noon  
**PLACE:** Pat Thomas Committee Room, 412 Knott Building

**MEMBERS:** Senator Gruters, Chair; Senator Jones, Vice Chair; Senators Berman, Bradley, Broxson, Diaz, Hutson, Passidomo, and Polsky

TAB	OFFICE and APPOINTMENT (HOME CITY)	FOR TERM ENDING	COMMITTEE ACTION
<b>Senate Confirmation Hearing:</b> A public hearing will be held for consideration of the below-named executive appointment to the office indicated.			
<b>State Board of Education</b>			
1	Gibson, Benjamin J. (Tallahassee)	12/31/2024	
<b>Board of Trustees, Florida A &amp; M University</b>			
2	Lawrence, David, Jr. (Coral Gables)	01/06/2026	
<b>Board of Trustees, Florida Atlantic University</b>			
3	Ellison, Earnie, Jr. (Palm Beach Gardens)	01/06/2026	
	Murphy, Sherry (Jupiter)	01/06/2025	
<b>Board of Trustees, Florida State University</b>			
4	Alvarez, Maximo (Doral)	01/06/2026	
	Weatherford, Drew (Tampa)	01/06/2026	
	de las Cuevas-Diaz, Vivian (Coral Gables)	01/06/2026	
<b>Board of Trustees, Florida International University</b>			
5	Sarnoff, Marc D. (Miami)	01/06/2026	
<b>Board of Trustees, Florida Polytechnic University</b>			
6	Bostick, R. Mark (Lake Wales)	06/30/2025	
	Stork, Robert W. (Vero Beach)	06/30/2023	
	Kini, Naren (Pinecrest)	11/07/2022	
<b>Board of Trustees, University of North Florida</b>			
7	Gol, John (St. Johns)	01/06/2026	
	Shelton, Allison (Jacksonville)	01/06/2025	
	Hyde, Kevin E. (Jacksonville)	01/06/2026	
<b>Board of Trustees, University of South Florida</b>			
8	Monbarren, Lauran (San Antonio)	01/06/2025	
	Piccolo, Frederick (St. Petersburg)	01/06/2026	
<b>Board of Trustees, University of West Florida</b>			
9	Bowers, William (Escambia)	01/06/2026	

**COMMITTEE MEETING EXPANDED AGENDA**

Education

Tuesday, January 25, 2022, 10:00 a.m.—12:00 noon

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
10	<b>SB 82</b> Torres (Similar CS/H 6513)	Relief of Kareem Hawari by the Osceola County School Board; Providing for the relief of Kareem Hawari by the Osceola County School Board; providing an appropriation to Mr. Hawari to compensate him for injuries and damages sustained as a result of the negligence of employees of the Osceola County School Board; providing a limitation on compensation and the payment of attorney fees, etc.  JU 01/10/2022 Favorable ED 01/25/2022 RC	
11	<b>SB 340</b> Garcia (Similar H 173)	Care of Students with Epilepsy or Seizure Disorders; Providing for the creation of an individualized seizure action plan for a student with epilepsy or seizure disorders to receive health care at school; requiring school nurses or appropriate school employees to coordinate the care of such students and ensure that specified training is provided to specified school employees and individuals; requiring school districts to provide specified information and training to school bus drivers who transport students with epilepsy or seizure disorders; providing immunity from liability under certain conditions, etc.  ED 01/18/2022 Not Considered ED 01/25/2022 AED AP	
12	<b>SB 892</b> Burgess (Similar CS/H 225)	Charter School Charters; Requiring a request for a consolidation of multiple charters to be approved or denied within a specified timeframe; requiring a charter school sponsor to provide to the charter school specified information relating to a denial of a request for a consolidation within a certain timeframe; providing for the automatic renewal of a charter under certain circumstances, etc.  ED 01/25/2022 CA RC	
13	<b>SB 1034</b> Gruters (Similar H 6067)	William L. Boyd, IV, Effective Access to Student Education Grant Program; Revising the institutions a student must attend to receive a William L. Boyd, IV, Effective Access to Student Education grant to include certain for-profit independent colleges and universities, etc.  ED 01/18/2022 Not Considered ED 01/25/2022 AED AP	

**COMMITTEE MEETING EXPANDED AGENDA**

Education

Tuesday, January 25, 2022, 10:00 a.m.—12:00 noon

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
14	<b>SB 1122</b> Gainer (Similar H 991)	Student Fees; Authorizing a district school board or Florida College System institution board of trustees, in consultation with specified entities, to implement a plan for a differential out-of-state fee; authorizing a Florida College System institution board of trustees, in consultation with specified entities, to implement a plan for a differential out-of-state fee, etc.  ED 01/18/2022 Not Considered ED 01/25/2022 AED AP	
15	<b>SB 1294</b> Gruters	Individual Education Plan Meetings; Authorizing a parent of a public school student to audio or video record any meeting with his or her child's individual education plan (IEP) team; requiring the parent to notify the school district in writing a specified time in advance of his or her intent to record the meeting; providing that parents have the right to audio or video record meetings with their child's IEP team, etc.  ED 01/18/2022 Not Considered ED 01/25/2022 GO RC	
<b>A proposed committee substitute</b> for the following bill (SB 1300) is expected to be considered:			
16	<b>SB 1300</b> Gruters	District School Board Meetings; Requiring all meetings of district school boards which are not exempt from certain public meeting requirements to be recorded by video and streamed live on a publicly accessible website; providing that parents have the right to be heard at district school board meetings, including the right to criticize individual district school board members, etc.  ED 01/25/2022 GO RC	

**A proposed committee substitute** for the following bill (SB 1348) is expected to be considered:



**COMMITTEE MEETING EXPANDED AGENDA**

Education

Tuesday, January 25, 2022, 10:00 a.m.—12:00 noon

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
17	<b>SB 1348</b> Diaz	Educational Choice Scholarships; Revising eligibility for the Family Empowerment Scholarship Program; deleting limits on the number of students receiving scholarships; deleting a requirement that the department cross-check the list of participating Florida Tax Credit Scholarship Program students with the public school enrollment lists to avoid duplication; deleting a requirement that a nonprofit scholarship-funding organization obtain verification from the private school of a student's continued attendance at the school for each period covered by a scholarship payment, etc.  ED 01/25/2022 AED AP	
18	<b>SB 1552</b> Gruters	Direct-support Organization for the Florida Prepaid College Board; Removing the scheduled repeal of the Florida Prepaid College Board's authority to establish a direct-support organization, etc.  ED 01/25/2022 RC	
19	<b>SB 1576</b> Polsky	Educational Support Staff; Providing that a staff support position that has over a specified amount of positions vacant constitutes a critical shortage area; requiring each district superintendent to compile specified information by a specified date each year; requiring districts to fund certain incentives; requiring district superintendents to file a report with the Legislature documenting certain information by a specified date each year, etc.  ED 01/25/2022 AED AP	
20	<b>SB 1700</b> Gruters (Compare H 1199)	School Readiness Program Funding; Deleting a requirement that all state, federal, and local matching funds provided to an early learning coalition for certain purposes be used for implementation of its approved school readiness plan; requiring the Division of Early Learning within the Department of Education to conduct an allocation conference; requiring conference principals to discuss and agree to all conventions and calculation methods to be used to calculate the school readiness funding formula for the early learning coalitions for the fiscal year for which the appropriations are made, etc.  ED 01/25/2022 AED AP	

**COMMITTEE MEETING EXPANDED AGENDA**

Education

Tuesday, January 25, 2022, 10:00 a.m.—12:00 noon

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TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
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Other Related Meeting Documents



**RON DeSANTIS**  
GOVERNOR

RECEIVED

2021 MAR 30 PM 4:10

RECEIVED  
TALLAHASSEE, FL

March 26, 2021

Secretary Laurel M. Lee  
Department of State  
R.A. Gray Building, Room 316  
500 South Bronough Street  
Tallahassee, Florida 32399-0250

Dear Secretary Lee:

Please be advised I have made the following appointment under the provisions of Section 1001.01, Florida Statutes:

Mr. Benjamin Gibson  
2003 Ellicott Drive  
Tallahassee, Florida 32308

as a member of the State Board of Education, subject to confirmation by the Senate. This appointment is effective March 26, 2021, for a term ending December 31, 2024.

Sincerely,

A handwritten signature in black ink, appearing to read "Ron DeSantis".

Ron DeSantis  
Governor

RD/kk

**OATH OF OFFICE**  
(Art. II, § 5(b), Fla. Const.)

**HAND DELIVERED**

STATE OF FLORIDA

County of Leon

I do solemnly swear (or affirm) that I will support, protect, and defend the Constitution and Government of the United States and of the State of Florida; that I am duly qualified to hold office under the Constitution of the State, and that I will well and faithfully perform the duties of

Member of State Board of Education  
(Title of Office)

on which I am now about to enter, so help me God.

[NOTE: If you affirm, you may omit the words "so help me God." See § 92.52, Fla. Stat.]

Bc G

Signature

Sworn to and subscribed before me by means of ☒ physical presence or  
online notarization, this 21<sup>st</sup> day of May, 2021.

Michelle Montanaro

Signature of Officer Administering Oath or of Notary Public

Michelle Montanaro

Print, Type, or Stamp Commissioned Name of Notary Public

Personally Known ☒ OR Produced Identification ☐

Type of Identification Produced \_\_\_\_\_



MICHELLE MONTANARO  
Commission # HH 117042  
Expires August 11, 2024  
Bonded thru Budget Notary Services

**ACCEPTANCE**

I accept the office listed in the above Oath of Office.

Mailing Address: ☐ Home ☒ Office

215 South Monroe Street, Suite 804

Street or Post Office Box

Tallahassee, FL 32301

City, State, Zip Code

Benjamin J Gibson

Print Name

Bc G  
Signature

RECEIVED  
2021 JUN -9 PM 12:43  
DIVISION OF ELECTIONS  
TALLAHASSEE, FL

585

**STATE OF FLORIDA  
DEPARTMENT OF STATE**

**Division of Elections**

I, Laurel M. Lee, Secretary of State,  
do hereby certify that

***Benjamin J. Gibson***

is duly appointed a member of the  
**State Board of Education**

for a term beginning on the Twenty-Sixth day of March, A.D.,  
2021, until the Thirty-First day of December, A.D., 2024 and is  
subject to be confirmed by the Senate during the next regular  
session of the Legislature.

*Given under my hand and the Great Seal of the  
State of Florida at Tallahassee, the Capital, this  
the Tenth day of June, A.D., 2021.*

*Laurel M. Lee*

Secretary of State



**RON DeSANTIS**  
GOVERNOR

**HAND DELIVERED**

**RECEIVED**

**2021 MAY 21 PM 1:48**

**DIVISION OF ELECTIONS  
TALLAHASSEE, FL**

May 19, 2021

Secretary Laurel M. Lee  
Department of State  
R.A. Gray Building, Room 316  
500 South Bronough Street  
Tallahassee, Florida 32399-0250

Dear Secretary Lee:

Please be advised I have made the following appointment under the provisions of Section 1001.71, Florida Statutes:

Mr. David Lawrence Jr.  
2800 Toledo Street # 2  
Coral Gables, Florida 33134

as a member of the Florida Agricultural and Mechanical University Board of Trustees, subject to confirmation by the Senate. This appointment is effective May 19, 2021 for a term ending January 6, 2026.

Sincerely,

A handwritten signature in black ink, appearing to be "Ron DeSantis".

Ron DeSantis  
Governor

RD/kk

# OATH OF OFFICE RECEIVED

(Art. II, § 5(b), Fla. Const.)

2021 JUN -7 AM 9:53

STATE OF FLORIDA

County of Miami-Dade

DIVISION OF ELECTIONS

I do solemnly swear (or affirm) that I will support, protect, and defend the Constitution and Government of the United States and of the State of Florida; that I am duly qualified to hold office under the Constitution of the State, and that I will well and faithfully perform the duties of

Trustee/Florida A&M University

(Title of Office)

on which I am now about to enter, so help me God.

[NOTE: If you affirm, you may omit the words "so help me God." See § 92.52, Fla. Stat.]



David Lawrence Jr.  
Signature

Sworn to and subscribed before me by means of ☒ physical presence or  
online notarization, this 30<sup>th</sup> day of May, 2021

Adela Morales  
Signature of Officer Administering Oath or of Notary Public

Print, Type, or Stamp Commissioned Name of Notary Public

Personally Known ☒ OR Produced Identification ☐

Type of Identification Produced N/A

## ACCEPTANCE

I accept the office listed in the above Oath of Office.

Mailing Address: ☒ Home ☐ Office

2800 Toledo St. #2

Street or Post Office Box

Coral Gables, FL 33134

City, State, Zip Code

David Lawrence Jr.

Print Name

David Lawrence Jr.  
Signature



3000

**STATE OF FLORIDA  
DEPARTMENT OF STATE**

**Division of Elections**

I, Laurel M. Lee, Secretary of State,  
do hereby certify that

***David Lawrence, Jr.***

is duly appointed a member of the

**Board of Trustees,  
Florida Agricultural and Mechanical  
University**

for a term beginning on the Nineteenth day of May, A.D., 2021,  
until the Sixth day of January, A.D., 2026 and is subject to be  
confirmed by the Senate during the next regular session of the  
Legislature.



*Given under my hand and the Great Seal of the  
State of Florida, at Tallahassee, the Capital, this  
the Eighth day of June, A.D., 2021.*

*Laurel M. Lee*

Secretary of State

DSDE 99 (3/03)

The original document has a reflective line mark in paper. Hold at an angle to view when checking.





RECEIVED

2021 SEP -3 AM 10:47

DIVISION OF ELECTIONS  
TALLAHASSEE, FL

Florida Board of Governors  
State University System of Florida  
325 West Gaines Street, Suite 1614  
Tallahassee, FL 32399  
Phone 850.245.0466  
Fax: 850.245.9685  
www.flbog.edu

**MEMORANDUM**

TO: Ms. Inez Williams

FROM: Beth Lowe  
University Trustees Coordinator

DATE: September 3, 2021

RE: Appointments to the University Boards of Trustees by the Board of Governors

---

This is to advise you that the Board of Governors made the following appointments to the University Boards of Trustees, on September 1, 2021.

To the Florida Atlantic University Board of Trustees:

- Mr. Earnie Ellison was appointed for a term that begins September 1, 2021 and ends January 6, 2026, to the seat previously held by Robert Stilley.
- Mr. Shaun Davis was reappointed for a term that begins September 1, 2021 and ends January 6, 2026, to the seat he currently holds.

To the Florida State University Florida Board of Trustees:

- Mr. Drew Weatherford was appointed for a term that begins September 1, 2021 and ends January 6, 2026, to the seat previously held by Ed Burr.

Attached are copies of the appointment letters sent to the new appointees from Chancellor Marshall M. Criser III.

Thank you for your assistance in processing these appointments for their Senate confirmation. Please call me if you need additional information.

Enclosures

# OATH OF OFFICE

(Art. II, § 5(b), Fla. Const.)

RECEIVED  
DEPARTMENT OF STATE

STATE OF FLORIDA

2021 NOV -1 AM 8:58

County of Palm Beach County

DIVISION OF ELECTIONS  
TALLAHASSEE, FL

I do solemnly swear (or affirm) that I will support, protect, and defend the Constitution and Government of the United States and of the State of Florida; that I am duly qualified to hold office under the Constitution of the State, and that I will well and faithfully perform the duties of

the Board of Trustees, Florida Atlantic University

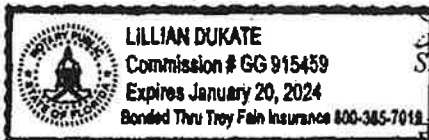
(Title of Office)

on which I am now about to enter, so help me God.

[NOTE: If you affirm, you may omit the words "so help me God." See § 92.52, Fla. Stat.]

E. Ellison, Jr.  
Signature

Sworn to and subscribed before me by means of ☒ physical presence or  
online notarization, this 25<sup>th</sup> day of October, 2021.



Lillian Dukate  
Signature of Officer Administering Oath or of Notary Public

Print, Type, or Stamp Commissioned Name of Notary Public

Personally Known ☒ OR

Produced Identification ☐

Type of Identification Produced \_\_\_\_\_

## ACCEPTANCE

I accept the office listed in the above Oath of Office.

Mailing Address: ☒ Home ☐ Office

202 Legendary Circle

Street or Post Office Box

Palm Beach Gardens, FL 33418

City, State, Zip Code

Earnie Ellison, Jr

Print Name

E. Ellison, Jr.  
Signature

5-0014  
3005

**STATE OF FLORIDA  
DEPARTMENT OF STATE  
Division of Elections**

I, Laurel M. Lee, Secretary of State,  
do hereby certify that

***Earnie Ellison, Jr.***

is duly appointed a member of the

**Board of Trustees,  
Florida Atlantic University**

for a term beginning on the First day of September, A.D., 2021,  
until the Sixth day of January, A.D., 2026 and is subject to be  
confirmed by the Senate during the next regular session of the  
Legislature.

*Given under my hand and the Great Seal of the  
State of Florida, at Tallahassee, the Capital, this  
the Fourth day of November, A.D., 2021.*



*Laurel M. Lee*

Secretary of State



Florida Board of Governors  
State University System of Florida  
325 West Gaines Street, Suite 1614  
Tallahassee, FL 32399  
Phone 850.245.0466  
Fax: 850.245.9685  
www.flbog.edu

## MEMORANDUM

TO: Ms. Inez Williams

FROM: Beth Lowe  
University Trustees Coordinator

DATE: June 24, 2021

RE: Appointments to the University Boards of Trustees by the Board of Governors

This is to advise you that the Board of Governors made the following appointments to the University Boards of Trustees, on June 23, 2021.

To the Florida Atlantic University Board of Trustees:

- ✓ Ms. Sherry Murphy was appointed for a term that begins June 23, 2021 and ends January 6, 2025, to the seat previously held by Michael Dennis, which was vacated on May 3, 2020.

To the University of North Florida Board of Trustees:

- Mr. John Gol was appointed for a term that begins June 23, 2021 and ends January 6, 2026, to the seat previously held by Sharon Wamble-King.

To the University of West Florida Board of Trustees:

- Mr. William Bowers was appointed for a term that begins June 23, 2021 and ends January 6, 2026, to the seat previously held by David Cleveland.

Attached are copies of the appointment letters sent to the new appointees from Chancellor Marshall M. Criser III.

Thank you for your assistance in processing these appointments for their Senate confirmation. Please call me if you need additional information.

Enclosures

# OATH OF OFFICE

(Art. II, § 5(b), Fla. Const.)

RECEIVED  
DEPARTMENT OF STATE

2021 SEP -3 PM 3:04

STATE OF FLORIDA

County of Palm Beach

DIVISION OF ELECTIONS  
TALLAHASSEE, FL

I do solemnly swear (or affirm) that I will support, protect, and defend the Constitution and Government of the United States and of the State of Florida; that I am duly qualified to hold office under the Constitution of the State, and that I will well and faithfully perform the duties of

the Board of Trustees, Florida Atlantic University

(Title of Office)

on which I am now about to enter, so help me God.

[NOTE: If you affirm, you may omit the words "so help me God." See § 92.52, Fla. Stat.]

Sherry Murphy  
Signature

Sworn to and subscribed before me by means of ☒ physical presence or  
online notarization, this 2 day of Sept, 2021

Robert Blauvelt  
Signature of Officer Administering Oath or of Notary Public

Robert Blauvelt  
Print, Type, or Stamp Commissioned Name of Notary Public

Personally Known ☐ OR Produced Identification ☒

Type of Identification Produced Driver License

Notary Public State of Florida  
Robert Blauvelt  
My Commission HH 03E169  
Expires 09/22/2024

## ACCEPTANCE

I accept the office listed in the above Oath of Office.

Mailing Address: ☒ Home ☐ Office

5668 Holly Lane  
Street or Post Office Box

Jupiter, FL 33458  
City, State, Zip Code

Sherry Murphy  
Print Name

Sherry Murphy  
Signature



3005

**STATE OF FLORIDA  
DEPARTMENT OF STATE  
Division of Elections**

I, Laurel M. Lee, Secretary of State,  
do hereby certify that

***Sherry Murphy***

is duly appointed a member of the

**Board of Trustees,  
Florida Atlantic University**

for a term beginning on the Twenty-Third day of June, A.D.,  
2021, until the Sixth day of January, A.D., 2025 and is subject  
to be confirmed by the Senate during the next regular session of  
the Legislature.

*Given under my hand and the Great Seal of the  
State of Florida, at Tallahassee, the Capital, this  
the Ninth day of September, A.D., 2021.*

*Laurel M. Lee*

Secretary of State





**RON DESANTIS**  
GOVERNOR

**HAND DELIVERED  
RECEIVED**

**2021 MAR 16 AM 11:54**

**STATE ELECTIONS  
TALLAHASSEE, FL**

March 12, 2021

Secretary Laurel M. Lee  
Department of State  
R.A. Gray Building, Room 316  
500 South Bronough Street  
Tallahassee, Florida 32399-0250

Dear Secretary Lee:

Please be advised I have made the following appointment under the provisions of Section 1001.71, Florida Statutes:

Mr. Maximo Alvarez  
1650 Northwest 87th Avenue  
Doral, Florida 33172

as a member of the Florida State University Board of Trustees, subject to confirmation by the Senate. This appointment is effective March 12, 2021, for a term ending January 6, 2026.

Sincerely,

Ron DeSantis  
Governor

RD/jf

# OATH OF OFFICE

(Art. II, § 5(b), Fla. Const.)

RECEIVED

STATE OF FLORIDA

2021 APR 23 AM 8:32

County of Dade

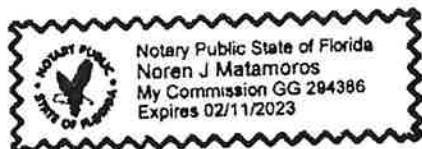
I do solemnly swear (or affirm) that I will support, protect, and defend the Constitution and Government of the United States and of the State of Florida; that I am duly qualified to hold office under the Constitution of the State, and that I will well and faithfully perform the duties of

Florida State University Board of Trustees

(Title of Office)

on which I am now about to enter, so help me God.

[NOTE: If you affirm, you may omit the words "so help me God." See § 92.52, Fla. Stat.]



Maximo Alvarez  
Signature

Sworn to and subscribed before me by means of ☒ physical presence or  
☐ online notarization, this 22 day of April, 2021.

Noren J. Matamoros  
Signature of Officer Administering Oath or of Notary Public

Noren J. Matamoros  
Print, Type, or Stamp Commissioned Name of Notary Public

Personally Known ☒ OR Produced Identification ☐

Type of Identification Produced \_\_\_\_\_

## ACCEPTANCE

I accept the office listed in the above Oath of Office.

Mailing Address: ☐ Home ☒ Office

1650 NW 87 Avenue

Street or Post Office Box

Doral, FL 33172

City, State, Zip Code

Maximo Alvarez

Print Name

Maximo Alvarez  
Signature



3015

**STATE OF FLORIDA  
DEPARTMENT OF STATE**

**Division of Elections**

I, Laurel M. Lee, Secretary of State,  
do hereby certify that

***Maximo Alvarez***

is duly appointed a member of the

**Board of Trustees,  
Florida State University**

for a term beginning on the Twelfth day of March, A.D., 2021,  
until the Sixth day of January, A.D., 2026 and is subject to be  
confirmed by the Senate during the next regular session of the  
Legislature.

*Given under my hand and the Great Seal of the  
State of Florida, at Tallahassee, the Capital, this  
the Third day of September, A.D., 2021.*

*Laurel M. Lee*

Secretary of State

If photocopied or chemically altered, the word "VOID" will appear.

"State of Florida" appears in small letters across the face of this 8 1/2 x 11" document.



RECEIVED

2021 SEP -3 AM 10:47

DIVISION OF ELECTIONS  
TALLAHASSEE, FL

Florida Board of Governors  
State University System of Florida  
325 West Gaines Street, Suite 1614  
Tallahassee, FL 32399  
Phone 850.245.0466  
Fax: 850.245.9685  
www.flbog.edu

**MEMORANDUM**

TO: Ms. Inez Williams

FROM: Beth Lowe  
University Trustees Coordinator

DATE: September 3, 2021

RE: Appointments to the University Boards of Trustees by the Board of Governors

---

This is to advise you that the Board of Governors made the following appointments to the University Boards of Trustees, on September 1, 2021.

To the Florida Atlantic University Board of Trustees:

- Mr. Earnie Ellison was appointed for a term that begins September 1, 2021 and ends January 6, 2026, to the seat previously held by Robert Stilley.
- Mr. Shaun Davis was reappointed for a term that begins September 1, 2021 and ends January 6, 2026, to the seat he currently holds.

To the Florida State University Florida Board of Trustees:

- Mr. Drew Weatherford was appointed for a term that begins September 1, 2021 and ends January 6, 2026, to the seat previously held by Ed Burr.

Attached are copies of the appointment letters sent to the new appointees from Chancellor Marshall M. Criser III.

Thank you for your assistance in processing these appointments for their Senate confirmation. Please call me if you need additional information.

Enclosures

# OATH OF OFFICE

(Art. II, § 5(b), Fla. Const.)

RECEIVED

STATE OF FLORIDA

County of Hillsborough

2021 NOV 18 PM 12:29

DIVISION OF ELECTIONS  
TALLAHASSEE, FL

I do solemnly swear (or affirm) that I will support, protect, and defend the Constitution and Government of the United States and of the State of Florida; that I am duly qualified to hold office under the Constitution of the State, and that I will well and faithfully perform the duties of

Board of Trustees, Florida State University

(Title of Office)

on which I am now about to enter, so help me God.

[NOTE: If you affirm, you may omit the words "so help me God." See § 92.52, Fla. Stat.]

[Signature]  
Signature

Sworn to and subscribed before me by means of ☒ physical presence or  
online notarization, this 16 day of November, 2021

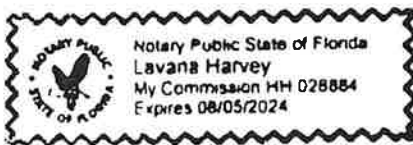
[Signature]  
Signature of Officer Administering Oath or of Notary Public

Lavana Harvey  
Print, Type, or Stamp Commissioned Name of Notary Public

Personally Known ☒ OR

Produced Identification ☐

Type of Identification Produced \_\_\_\_\_



## ACCEPTANCE

I accept the office listed in the above Oath of Office.

Mailing Address: ☒ Home ☐ Office

3323 West Sevilla Circle

Street or Post Office Box

Tampa, FL 33629

City, State, Zip Code

Drew Weatherford

Print Name

[Signature]  
Signature

3015

**STATE OF FLORIDA  
DEPARTMENT OF STATE**

**Division of Elections**

I, Laurel M. Lee, Secretary of State,  
do hereby certify that

***Drew Weatherford***

is duly appointed a member of the

**Board of Trustees,  
Florida State University**

for a term beginning on the First day of September, A.D., 2021,  
until the Sixth day of January, A.D., 2026 and is subject to be  
confirmed by the Senate during the next regular session of the  
Legislature.



*Given under my hand and the Great Seal of the  
State of Florida, at Tallahassee, the Capital, this  
the Eighteenth day of November, A.D., 2021.*

*Laurel M. Lee*

Secretary of State





**RON DeSANTIS**

GOVERNOR

RECEIVED  
DEPARTMENT OF STATE

2021 JUN 22 AM 10:36

SECRET ELECTIONS

June 10, 2021

Secretary Laurel M. Lee  
Department of State  
R.A. Gray Building, Room 316  
500 South Bronough Street  
Tallahassee, Florida 32399-0250

Dear Secretary Lee:

Please be advised I have made the following appointment under the provisions of Section 1001.71, Florida Statutes:

Ms. Vivian de las Cuevas-Diaz  
2027 Alhambra Circle  
Coral Gables, Florida 33134

as a member of the Florida State University Board of Trustees, succeeding Emily Duda, subject to confirmation by the Senate. This appointment is effective June 10, 2021, for a term ending January 6, 2026.

Sincerely,

A handwritten signature in black ink, appearing to be "Ron DeSantis".

Ron DeSantis  
Governor

RD/kk

# OATH OF OFFICE

(Art. II, § 5(b), Fla. Const.)

RECEIVED

STATE OF FLORIDA

County of Miami-Dade

2021 AUG -4 AM 10:39

DIVISION OF ELECTIONS  
TALLAHASSEE, FL

I do solemnly swear (or affirm) that I will support, protect, and defend the Constitution and Government of the United States and of the State of Florida; that I am duly qualified to hold office under the Constitution of the State, and that I will well and faithfully perform the duties of

Board of Trustee Florida State University

(Title of Office)

on which I am now about to enter, so help me God.

[NOTE: If you affirm, you may omit the words "so help me God." See § 92.52, Fla. Stat.]

[Signature]  
Signature

Sworn to and subscribed before me by means of ☒ physical presence or  
online notarization, this 3<sup>rd</sup> day of August, 2021.

[Signature]  
Signature of Officer Administering Oath or of Notary Public

Jacqueline C. Portal  
Print, Type, or Stamp Commissioned Name of Notary Public



Personally Known ☒ OR Produced Identification ☐

Type of Identification Produced —

## ACCEPTANCE

I accept the office listed in the above Oath of Office.

Mailing Address: ☐ Home ☒ Office

701 Brickell Avenue, Suite 3300

Street or Post Office Box

Miami, FL 33131

City, State, Zip Code

Vivian de las Cuevas-Diaz

Print Name

[Signature]  
Signature

**STATE OF FLORIDA  
DEPARTMENT OF STATE  
Division of Elections**

I, Laurel M. Lee, Secretary of State,  
do hereby certify that

***Vivian de las Cuevas-Diaz***

is duly appointed a member of the

**Board of Trustees,  
Florida State University**

for a term beginning on the Tenth day of June, A.D., 2021, until  
the Sixth day of January, A.D., 2026 and is subject to be  
confirmed by the Senate during the next regular session of the  
Legislature.

*Given under my hand and the Great Seal of the  
State of Florida, at Tallahassee, the Capital, this  
the Nineteenth day of August, A.D., 2021.*



Secretary of State

If photocopied or chemically altered, the word "VOID" will appear.

"State of Florida" appears in small letters across the face of this 8 1/2 x 11" document

HAND DELIVERED

RECEIVED

2021 MAY 21 PM 1:49

DIVISION OF ELECTIONS  
TALLAHASSEE, FL



**RON DESANTIS**  
GOVERNOR

May 19, 2021

Secretary Laurel M. Lee  
Department of State  
R.A. Gray Building, Room 316  
500 South Bronough Street  
Tallahassee, Florida 32399-0250

Dear Secretary Lee:

Please be advised I have made the following appointment under the provisions of Section 1001.71, Florida Statutes:

Mr. Marc Sarnoff  
3100 Virginia Street  
Miami, Florida 33131

as a member of the Florida International University Board of Trustees, subject to confirmation by the Senate. This appointment is effective May 19, 2021 for a term ending January 6, 2026.

Sincerely,

A handwritten signature in black ink, appearing to be "Ron DeSantis".

Ron DeSantis  
Governor

RD/kk



# OATH OF OFFICE

(Art. II, § 5(b), Fla. Const.)

RECEIVED

STATE OF FLORIDA

County of Miami-Dade

2021 JUN 28 PM 12:14

DIVISION OF ELECTIONS  
TALLAHASSEE, FL

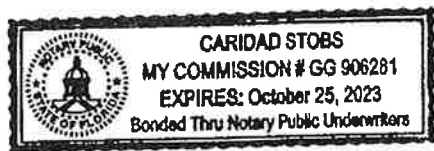
I do solemnly swear (or affirm) that I will support, protect, and defend the Constitution and Government of the United States and of the State of Florida; that I am duly qualified to hold office under the Constitution of the State, and that I will well and faithfully perform the duties of

Board of Trustees, Florida International University

(Title of Office)

on which I am now about to enter, so help me God.

[NOTE: If you affirm, you may omit the words "so help me God." See § 92.52, Fla. Stat.]



[Signature]  
Signature

Sworn to and subscribed before me by means of ☒ physical presence or  
online notarization, this 22 day of June, 2021.

[Signature]  
Signature of Officer Administering Oath or of Notary Public

Print, Type, or Stamp Commissioned Name of Notary Public

Personally Known ☐ OR Produced Identification ☒

Type of Identification Produced Drivers License

## ACCEPTANCE

I accept the office listed in the above Oath of Office.

Mailing Address: ☒ Home ☐ Office

3100 Virginia Street

Street or Post Office Box

Miami, Florida 33133

City, State, Zip Code

Marc David Sarnoff

Print Name

[Signature]  
Signature

3025

STATE OF FLORIDA  
DEPARTMENT OF STATE

Division of Elections

I, Laurel M. Lee, Secretary of State,  
do hereby certify that

*Marc David Sarnoff*

is duly appointed a member of the

**Board of Trustees,  
Florida International University**

for a term beginning on the Nineteenth day of May, A.D., 2021,  
until the Sixth day of January, A.D., 2026 and is subject to be  
confirmed by the Senate during the next regular session of the  
Legislature.

Given under my hand and the Great Seal of the  
State of Florida, at Tallahassee, the Capital, this  
the Twenty-Ninth day of June, A.D., 2021.



*Laurel M. Lee*

Secretary of State



**RON DeSANTIS**  
GOVERNOR

**RECEIVED**

**2021 AUG 26 AM 9:28**

**DIVISION OF ELECTIONS  
TALLAHASSEE, FL**

March 19, 2021

Secretary Laurel M. Lee  
Department of State  
R.A. Gray Building, Room 316  
500 South Bronough Street  
Tallahassee, Florida 32399-0250

Dear Secretary Lee:

Please be advised I have made the following appointment under the provisions of Section 1001.71, Florida Statutes:

Mr. Mark Bostick  
2300 North Scenic Highway  
27 Mountain Lake  
Lake Wales, Florida 33898

as a member of the Florida Polytechnic University Board of Trustees, subject to confirmation by the Senate. This appointment is effective March 19, 2021, for a term ending June 30, 2025.

Sincerely,

A handwritten signature in black ink, appearing to read "Ron DeSantis", written over a horizontal line.

Ron DeSantis  
Governor

RD/kk

# OATH OF OFFICE

(Art. II, § 5(b), Fla. Const.)

STATE OF FLORIDA

County of Polk

RECEIVED  
DEPARTMENT OF  
2021 JUN 21 AM 9:55

DIVISION OF ELECTIONS

I do solemnly swear (or affirm) that I will support, protect, and defend the Constitution and Government of the United States and of the State of Florida; that I am duly qualified to hold office under the Constitution of the State, and that I will well and faithfully perform the duties of

Florida Polytechnic University Board of Trustees  
(Title of Office)

on which I am now about to enter, so help me God.

[NOTE: If you affirm, you may omit the words "so help me God." See § 92.52, Fla. Stat.]

R. Mark Bostick  
Signature

Sworn to and subscribed before me by means of ☒ physical presence or  
online notarization, this 7 day of June, 2021.



Kathleen A. Rivera  
Signature of Officer Administering Oath or of Notary Public  
Kathleen A. Rivera

Print, Type, or Stamp Commissioned Name of Notary Public

Personally Known ☒ OR Produced Identification ☐

Type of Identification Produced \_\_\_\_\_

## ACCEPTANCE

I accept the office listed in the above Oath of Office.

Mailing Address: ☒ Home ☐ Office

2300 N Scenic Hwy. #27 Mountain Lake  
Street or Post Office Box

Lake Wales, FL 33898  
City, State, Zip Code

Mark Bostick  
Print Name

R. Mark Bostick  
Signature



3033

*Amended*

**STATE OF FLORIDA  
DEPARTMENT OF STATE  
Division of Elections**

I, Laurel M. Lee, Secretary of State,  
do hereby certify that

***Mark Bostick***

is duly appointed a member of the

**Board of Trustees,  
Florida Polytechnic University**

for a term beginning on the Nineteenth day of March, A.D.,  
2021, until the Thirtieth day of June, A.D., 2025 and is subject  
to be confirmed by the Senate during the next regular session of  
the Legislature.

*Given under my hand and the Great Seal of the  
State of Florida, at Tallahassee, the Capital, this  
the Twenty-Sixth day of August, A.D., 2021.*

*Laurel M. Lee*

Secretary of State



RON DESANTIS  
GOVERNOR

RECEIVED

2021 AUG 26 AM 9:28

DIVISION OF ELECTIONS  
TALLAHASSEE, FL

March 19, 2021

Secretary Laurel M. Lee  
Department of State  
R.A. Gray Building, Room 316  
500 South Bronough Street  
Tallahassee, Florida 32399-0250

Dear Secretary Lee:

Please be advised I have made the following appointment under the provisions of Section 1001.71, Florida Statutes:

Mr. Robert Stork  
2900 59<sup>th</sup> Avenue  
Vero Beach, Florida 32966

as a member of the Florida Polytechnic University Board of Trustees, subject to confirmation by the Senate. This appointment is effective March 19, 2021, for a term ending June 30, 2023.

Sincerely,

A handwritten signature in black ink, appearing to read "Ron DeSantis".

Ron DeSantis  
Governor

RD/kk

# OATH OF OFFICE

(Art. II, § 5(b), Fla. Const.)

STATE OF FLORIDA

County of Indian River

RECEIVED  
DEPARTMENT OF STATE  
2021 MAY 19 AM 9:50

THEY  
DIVISION OF ELECTIONS

I do solemnly swear (or affirm) that I will support, protect, and defend the Constitution and Government of the United States and of the State of Florida; that I am duly qualified to hold office under the Constitution of the State, and that I will well and faithfully perform the duties of

Board of Trustees, Florida Polytechnic University

(Title of Office)

on which I am now about to enter, so help me God.

[NOTE: If you affirm, you may omit the words "so help me God." See § 92.52, Fla. Stat.]

Robert Wm. Stork

Signature

Sworn to and subscribed before me by means of ☒ physical presence or  
online notarization, this 12<sup>th</sup> day of May, 2021.

Bridgette Dean

Signature of Officer Administering Oath or of Notary Public

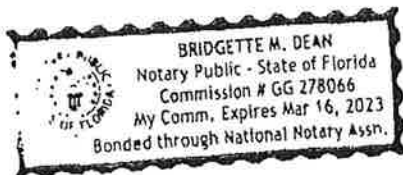
Bridgette Dean

Print, Type, or Stamp Commissioned Name of Notary Public

Personally Known ☒ OR

Produced Identification ☐

Type of Identification Produced \_\_\_\_\_



## ACCEPTANCE

I accept the office listed in the above Oath of Office.

Mailing Address: ☐ Home ☒ Office

4450 US Highway 1

Street or Post Office Box

Vero Beach, FL 32967

City, State, Zip Code

Robert Wm. Stork

Print Name

Robert Wm. Stork

Signature



3033

*Amended*

STATE OF FLORIDA  
DEPARTMENT OF STATE

Division of Elections

I, Laurel M. Lee, Secretary of State,  
do hereby certify that

***Robert William Stork***

is duly appointed a member of the

**Board of Trustees,  
Florida Polytechnic University**

for a term beginning on the Nineteenth day of March, A.D.,  
2021, until the Thirtieth day of June, A.D., 2023 and is subject  
to be confirmed by the Senate during the next regular session of  
the Legislature.

Given under my hand and the Great Seal of the  
State of Florida, at Tallahassee, the Capital, this  
the Twenty-Sixth day of August, A.D., 2021.

*Laurel M. Lee*

Secretary of State





RECEIVED  
DEPARTMENT OF  
2021 MAY 12 PM 1:53  
DIVISION OF ELECTIONS

Florida Board of Governors  
State University System of Florida  
325 West Gaines Street, Suite 1614  
Tallahassee, FL 32399  
Phone 850.245.0466  
Fax: 850.245.9685  
www.flbog.edu

## MEMORANDUM

TO: Ms. Inez Williams

FROM: Beth Lowe  
University Trustees Coordinator

DATE: May 12, 2021

RE: Reappointment to the Florida Polytechnic University Board of Trustees by  
the Board of Governors

---

This is to advise you that the Board of Governors made the following reappointment to the Florida Polytechnic University Board of Trustees, on May 11, 2021.

To the Florida Polytechnic University Board of Trustees:

- Dr. Naren Kini was reappointed for a term that begins May 11, 2021 to November 7, 2022, to the seat he currently holds.

Attached is a copy of the reappointment letter sent to Dr. Kini from Chancellor Marshall M. Criser III.

Thank you for your assistance in processing this reappointment for Dr. Kini's Senate confirmation. Please call me if you need additional information.

Enclosure

c: Kris Wharton, Liaison, Florida Polytechnic University Board of Trustees

# OATH OF OFFICE

(Art. II, § 5(b), Fla. Const.)

STATE OF FLORIDA

County of Miami - Dade

RECEIVED  
DEPARTMENT  
2021 JUN 21 AM 9:52

FLORIDA DEPARTMENT OF  
DIVISION OF ELECTIONS

I do solemnly swear (or affirm) that I will support, protect, and defend the Constitution and Government of the United States and of the State of Florida; that I am duly qualified to hold office under the Constitution of the State, and that I will well and faithfully perform the duties of

Board of Trustees Florida Polytechnic University  
(Title of Office)

on which I am now about to enter, so help me God.

[NOTE: If you affirm, you may omit the words "so help me God." See § 92.52, Fla. Stat.]

[Signature]  
Signature

Sworn to and subscribed before me by means of ☒ physical presence or  
online notarization, this 11 day of June, 2021.

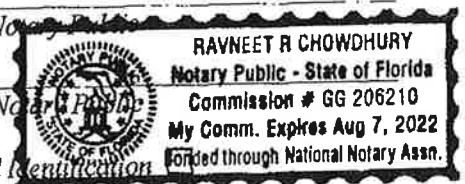
[Signature]  
Signature of Officer Administering Oath or of Notary Public

Print, Type, or Stamp Commissioned Name of Notary Public

Personally Known ☒ OR

Produced Identification

Type of Identification Produced \_\_\_\_\_



## ACCEPTANCE

I accept the office listed in the above Oath of Office.

Mailing Address: ☒ Home ☐ Office

12850 SW 60 Ave  
Street or Post Office Box  
Pinecrest FL 33156  
City, State, Zip Code

Navendra Kini  
Print Name  
[Signature]  
Signature

3033

STATE OF FLORIDA  
DEPARTMENT OF STATE

Division of Elections

I, Laurel M. Lee, Secretary of State,  
do hereby certify that

*Naren Kini*

is duly appointed a member of the

Board of Trustees,  
Florida Polytechnic University

for a term beginning on the Eleventh day of May, A.D., 2021,  
until the Seventh day of November, A.D., 2022 and is subject to  
be confirmed by the Senate during the next regular session of  
the Legislature.

*Given under my hand and the Great Seal of the  
State of Florida, at Tallahassee, the Capital, this  
the Twenty-First day of June, A.D., 2021.*

*Laurel M. Lee*

Secretary of State



Florida Board of Governors  
State University System of Florida  
325 West Gaines Street, Suite 1614  
Tallahassee, FL 32399  
Phone 850.245.0466  
Fax: 850.245.9685  
www.flbog.edu

## MEMORANDUM

TO: Ms. Inez Williams

FROM: Beth Lowe  
University Trustees Coordinator

DATE: June 24, 2021

RE: Appointments to the University Boards of Trustees by the Board of Governors

This is to advise you that the Board of Governors made the following appointments to the University Boards of Trustees, on June 23, 2021.

To the Florida Atlantic University Board of Trustees:

- Ms. Sherry Murphy was appointed for a term that begins June 23, 2021 and ends January 6, 2025, to the seat previously held by Michael Dennis, which was vacated on May 3, 2020.

To the University of North Florida Board of Trustees:

- ✓ Mr. John Gol was appointed for a term that begins June 23, 2021 and ends January 6, 2026, to the seat previously held by Sharon Wamble-King.

To the University of West Florida Board of Trustees:

- Mr. William Bowers was appointed for a term that begins June 23, 2021 and ends January 6, 2026, to the seat previously held by David Cleveland.

Attached are copies of the appointment letters sent to the new appointees from Chancellor Marshall M. Criser III.

Thank you for your assistance in processing these appointments for their Senate confirmation. Please call me if you need additional information.

Enclosures

# OATH OF OFFICE

(Art. II, § 5(b), Fla. Const.)

RECEIVED  
DEPARTMENT OF STATE

2021 NOV 12 AM 9:25

STATE OF FLORIDA

County of Duval

DIVISION OF ELECTIONS  
TALLAHASSEE, FL

I do solemnly swear (or affirm) that I will support, protect, and defend the Constitution and Government of the United States and of the State of Florida; that I am duly qualified to hold office under the Constitution of the State, and that I will well and faithfully perform the duties of

Board of Trustees, University of North Florida

(Title of Office)

on which I am now about to enter, so help me God.

[NOTE: If you affirm, you may omit the words "so help me God." See § 92.52, Fla. Stat.]



Signature

Sworn to and subscribed before me by means of ☒ physical presence or  
online notarization, this 8 day of November, 2021

Signature of Officer Administering Oath or of Notary Public

Print, Type, or Stamp Commissioned Name of Notary Public

Personally Known ☒ OR

Produced Identification ☐

Type of Identification Produced \_\_\_\_\_

## ACCEPTANCE

I accept the office listed in the above Oath of Office.

Mailing Address: ☐ Home ☒ Office

4800 Belfort Road

Street or Post Office Box

Jacksonville, FL 32256

City, State, Zip Code

John Gol

Print Name

Signature

5-only  
3040

**STATE OF FLORIDA  
DEPARTMENT OF STATE  
Division of Elections**

I, Laurel M. Lee, Secretary of State,  
do hereby certify that

***John Gol***

is duly appointed a member of the

**Board of Trustees,  
University of North Florida**

for a term beginning on the Twenty-Third day of June, A.D.,  
2021, until the Sixth day of January, A.D., 2026 and is subject  
to be confirmed by the Senate during the next regular session of  
the Legislature.

*Given under my hand and the Great Seal of the  
State of Florida, at Tallahassee, the Capital, this  
the Twelfth day of November, A.D., 2021.*



Secretary of State



**RON DESANTIS**  
GOVERNOR

RECEIVED  
DEPARTMENT OF STA.

2021 AUG 17 AM 9:25

2021 AUG 17 AM 9:25  
2021 AUG 17 AM 9:25

August 6, 2021

Secretary Laurel M. Lee  
Department of State  
R.A. Gray Building, Room 316  
500 South Bronough Street  
Tallahassee, Florida 32399-0250

Dear Secretary Lee:

Please be advised I have made the following appointment under the provisions of Section 1001.71, Florida Statutes:

Mrs. Allison Korman Shelton  
833 Waterman Road North  
Jacksonville, Florida 32207

as a member of the University of North Florida Board of Trustees, succeeding Douglas Burnett, subject to confirmation by the Senate. This appointment is effective August 6, 2021, for a term ending January 6, 2025.

Sincerely,

A handwritten signature of Ron DeSantis in black ink.

Ron DeSantis  
Governor

RD/kk



# OATH OF OFFICE RECEIVED

(Art. II, § 5(b), Fla. Const.)

STATE OF FLORIDA

County of Alachua

2021 AUG 30 AM 9:04

DIVISION OF ELECTIONS  
TALLAHASSEE, FL

I do solemnly swear (or affirm) that I will support, protect, and defend the Constitution and Government of the United States and of the State of Florida; that I am duly qualified to hold office under the Constitution of the State, and that I will well and faithfully perform the duties of

UNIVERSITY OF NORTH FLORIDA BOARD OF TRUSTEES  
(Title of Office)

on which I am now about to enter, so help me God.

[NOTE: If you affirm, you may omit the words "so help me God." See § 92.52, Fla. Stat.]

Allison Korman Shelton

Signature

Sworn to and subscribed before me by means of physical presence or  
online notarization, this 21 day of August, 2021.

[Signature]  
Signature of Officer Administering Oath or of Notary Public

Michael Harris  
Print, Type, or Stamp Commissioned Name of Notary Public

Personally Known ☐ OR Produced Identification ☒

Type of Identification Produced Driver's License



MICHAEL HARRIS  
Commission # HH 020945  
Expires July 20, 2024  
Bonded Thru Budget Notary Services

## ACCEPTANCE

I accept the office listed in the above Oath of Office.

Mailing Address: ☒ Home ☐ Office

833 Waterman Road North

Street or Post Office Box

Jacksonville, FL 32207

City, State, Zip Code

Allison Korman Shelton

Print Name

Allison Korman Shelton

Signature

**STATE OF FLORIDA  
DEPARTMENT OF STATE  
Division of Elections**

I, Laurel M. Lee, Secretary of State,  
do hereby certify that

***Allison Korman Shelton***

is duly appointed a member of the

**Board of Trustees,  
University of North Florida**

for a term beginning on the Sixth day of August, A.D., 2021,  
until the Sixth day of January, A.D., 2025 and is subject to be  
confirmed by the Senate during the next regular session of the  
Legislature.

*Given under my hand and the Great Seal of the  
State of Florida, at Tallahassee, the Capital, this  
the Thirtieth day of August, A.D., 2021.*



Secretary of State

DSDE 99 (3/03)

The original document has a reflective line mark in paper. Hold at an angle to view when checking.

If photocopied or chemically altered, the word "VOID" will appear.

"State of Florida" appears in small letters across the face of this 8 1/2 x 11" document.



**RON DESANTIS**  
GOVERNOR

**RECEIVED**

**2021 SEP 24 AM 9: 55**

**DIVISION OF ELECTIONS  
TALLAHASSEE, FL**

September 10, 2021

Secretary Laurel M. Lee  
Department of State  
R.A. Gray Building, Room 316  
500 South Bronough Street  
Tallahassee, Florida 32399-0250

Dear Secretary Lee:

Please be advised I have made the following appointment under the provisions of Section 1001.71, Florida Statutes:

Mr. Kevin Hyde  
3545 Pine Street  
Jacksonville, Florida 32205

as a member of the University of North Florida Board of Trustees, subject to confirmation by the Senate. This appointment is effective September 10, 2021, for a term ending January 6, 2026.

Sincerely,

A handwritten signature in black ink, appearing to be "Ron DeSantis", written over a horizontal line.

Ron DeSantis  
Governor

RD/kk

**OATH OF OFFICE RECEIVED**  
(Art. II, § 5(b), Fla. Const.)

STATE OF FLORIDA

2021 NOV 16 AM 10:35

County of Duval

DIVISION OF ELECTIONS  
TALLAHASSEE, FL

I do solemnly swear (or affirm) that I will support, protect, and defend the Constitution and Government of the United States and of the State of Florida; that I am duly qualified to hold office under the Constitution of the State, and that I will well and faithfully perform the duties of

Trustee for University of North Florida

(Title of Office)

on which I am now about to enter, so help me God.

[NOTE: If you affirm, you may omit the words "so help me God." See § 92.52, Fla. Stat.]

*[Signature]*

Signature

Sworn to and subscribed before me by means of physical presence or  
online notarization, this 11 day of November, 2021.

*[Signature]*

Signature of Officer Administering Oath or of Notary Public

Philip Sutherin

Print, Type, or Stamp Commissioned Name of Notary Public

Personally Known ☒ OR

Produced Identification ☐

Type of Identification Produced \_\_\_\_\_



**ACCEPTANCE**

I accept the office listed in the above Oath of Office.

Mailing Address: ☒ Home ☐ Office

3545 Pine Street

Street or Post Office Box

Jacksonville, FL 32205

City, State, Zip Code

Kevin E. Hyde

Print Name

*[Signature]*

Signature



3040

STATE OF FLORIDA  
DEPARTMENT OF STATE

Division of Elections

I, Laurel M. Lee, Secretary of State,  
do hereby certify that

***Kevin E. Hyde***

is duly appointed a member of the

**Board of Trustees,  
University of North Florida**

for a term beginning on the Tenth day of September, A.D.,  
2021, until the Sixth day of January, A.D., 2026 and is subject  
to be confirmed by the Senate during the next regular session of  
the Legislature.

Given under my hand and the Great Seal of the  
State of Florida, at Tallahassee, the Capital, this  
the Eighteenth day of November, A.D., 2021.



*Laurel M. Lee*

Secretary of State



**RON DeSANTIS**  
GOVERNOR

**RECEIVED**

**2021 JUL 30 AM 10:00**

**DIVISION OF ELECTIONS  
TALLAHASSEE, FL**

July 23, 2021

Secretary Laurel M. Lee  
Department of State  
R.A. Gray Building, Room 316  
500 South Bronough Street  
Tallahassee, Florida 32399-0250

Dear Secretary Lee:

Please be advised I have made the following appointment under the provisions of Section 1001.71, Florida Statutes:

Ms. Lauran Monbarren  
32840 3<sup>rd</sup> Avenue  
San Antonio, Florida 33576

as a member of the University of South Florida Board of Trustees, succeeding Jordan Zimmerman, subject to confirmation by the Senate. This appointment is effective July 23, 2021, for a term ending January 6, 2025.

Sincerely,

A handwritten signature in black ink, appearing to read "Ron DeSantis".

Ron DeSantis  
Governor

RD/kk

# OATH OF OFFICE

(Art. II, § 5(b), Fla. Const.)

RECEIVED

2021 DEC -9 AM 9:48

STATE OF FLORIDA

County of Pasco

DIVISION OF COLLECTIONS  
TALLAHASSEE, FL

I do solemnly swear (or affirm) that I will support, protect, and defend the Constitution and Government of the United States and of the State of Florida; that I am duly qualified to hold office under the Constitution of the State, and that I will well and faithfully perform the duties of

University of South Florida Board of Trustees  
(Title of Office)

on which I am now about to enter, so help me God.

[NOTE: If you affirm, you may omit the words "so help me God." See § 92.52, Fla. Stat.]

Lauran S. Monbarren  
Signature

Sworn to and subscribed before me by means of ☒ physical presence or  
online notarization, this 8<sup>th</sup> day of December, 2021.



Steve Page II  
Signature of Officer Administering Oath or of Notary Public

Print, Type, or Stamp Commissioned Name of Notary Public

Personally Known ☒ OR Produced Identification ☐

Type of Identification Produced \_\_\_\_\_

## ACCEPTANCE

I accept the office listed in the above Oath of Office.

Mailing Address: ☒ Home ☐ Office

P.O. Box 992  
Street or Post Office Box

San Antonio, FL 33576  
City, State, Zip Code

Lauran S. Monbarren  
Print Name

Lauran Monbarren  
Signature



3045

**STATE OF FLORIDA  
DEPARTMENT OF STATE  
Division of Elections**

I, Laurel M. Lee, Secretary of State,  
do hereby certify that

***Lauran S. Monbarren***

is duly appointed a member of the

**Board of Trustees,  
University of South Florida**

for a term beginning on the Twenty-Third day of July, A.D.,  
2021, until the Sixth day of January, A.D., 2025 and is subject  
to be confirmed by the Senate during the next regular session of  
the Legislature.

*Given under my hand and the Great Seal of the  
State of Florida, at Tallahassee, the Capital, this  
the Ninth day of December, A.D., 2021.*

*Laurel M. Lee*

Secretary of State



**RON DeSANTIS**  
GOVERNOR

RECEIVED  
DEPARTMENT OF STATE

2021 AUG 17 AM 9:25

RECEIVED  
ELECTIONS

August 6, 2021

Secretary Laurel M. Lee  
Department of State  
R.A. Gray Building, Room 316  
500 South Bronough Street  
Tallahassee, Florida 32399-0250

Dear Secretary Lee:

Please be advised I have made the following appointment under the provisions of Section 1001.71, Florida Statutes:

Mr. Fredrick Piccolo  
5931 27<sup>th</sup> Terrance North  
Pinellas, Florida 33710

as a member of the University of South Florida Board of Trustees, succeeding Charles Tokarz, subject to confirmation by the Senate. This appointment is effective August 6, 2021, for a term ending January 6, 2026.

Sincerely,

A handwritten signature in black ink, appearing to read "Ron DeSantis".

Ron DeSantis  
Governor

RD/kk

# OATH OF OFFICE

(Art. II, § 5(b), Fla. Const.)

RECEIVED

2021 SEP -3 AM 11:25

STATE OF FLORIDA

County of Sarasota

DIVISION OF ELECTIONS  
TALLAHASSEE, FL

I do solemnly swear (or affirm) that I will support, protect, and defend the Constitution and Government of the United States and of the State of Florida; that I am duly qualified to hold office under the Constitution of the State, and that I will well and faithfully perform the duties of

University of South Florida Board of Trustees

(Title of Office)

on which I am now about to enter, so help me God.

[NOTE: If you affirm, you may omit the words "so help me God." See § 92.52, Fla. Stat.]

Fredrick J. Piccolo  
Signature

Sworn to and subscribed before me by means of physical presence or  
online notarization, this 30 day of August, 2021.

Karen Garofalo  
Signature of Officer Administering Oath or of Notary Public

Print, Type, or Stamp Commissioned Name of Notary Public

Personally Known ☒ OR

Produced Identification

Type of Identification Produced



## ACCEPTANCE

I accept the office listed in the above Oath of Office.

Mailing Address: ☐ Home ☒ Office

6000 Airport Circle

Street or Post Office Box

Sarasota, FL 34243

City, State, Zip Code

Fredrick J. Piccolo

Print Name

Fredrick J. Piccolo  
Signature

**STATE OF FLORIDA  
DEPARTMENT OF STATE  
Division of Elections**

I, Laurel M. Lee, Secretary of State,  
do hereby certify that

***Fredrick J. Piccolo***

is duly appointed a member of the

**Board of Trustees,  
University of South Florida**

for a term beginning on the Sixth day of August, A.D., 2021,  
until the Sixth day of January, A.D., 2026 and is subject to be  
confirmed by the Senate during the next regular session of the  
Legislature.

*Given under my hand and the Great Seal of the  
State of Florida, at Tallahassee, the Capital, this  
the Third day of September, A.D., 2021.*



Secretary of State

If photocopied or chemically altered, the word "VOID" will appear.

"State of Florida" appears in small letters across the face of this 8 1/2 x 11" document.





**Florida Board of Governors**  
**State University System of Florida**  
325 West Gaines Street, Suite 1614  
Tallahassee, FL 32399  
Phone 850.245.0466  
Fax: 850.245.9685  
[www.flbog.edu](http://www.flbog.edu)

## MEMORANDUM

TO: Ms. Inez Williams

FROM: Beth Lowe  
University Trustees Coordinator

DATE: June 24, 2021

RE: Appointments to the University Boards of Trustees by the Board of Governors

This is to advise you that the Board of Governors made the following appointments to the University Boards of Trustees, on June 23, 2021.

To the Florida Atlantic University Board of Trustees:

- Ms. Sherry Murphy was appointed for a term that begins June 23, 2021 and ends January 6, 2025, to the seat previously held by Michael Dennis, which was vacated on May 3, 2020.

To the University of North Florida Board of Trustees:

- Mr. John Gol was appointed for a term that begins June 23, 2021 and ends January 6, 2026, to the seat previously held by Sharon Wamble-King.

To the University of West Florida Board of Trustees:

- ✓ Mr. William Bowers was appointed for a term that begins June 23, 2021 and ends January 6, 2026, to the seat previously held by David Cleveland.

Attached are copies of the appointment letters sent to the new appointees from Chancellor Marshall M. Criser III.

Thank you for your assistance in processing these appointments for their Senate confirmation. Please call me if you need additional information.

Enclosures

# OATH OF OFFICE

(Art. II, § 5(b), Fla. Const.)

STATE OF FLORIDA

County of Escambia

RECEIVED  
DEPARTMENT OF STATE  
2021 OCT 14 AM 9:10

DEPARTMENT OF STATE  
DIVISION OF ELECTIONS

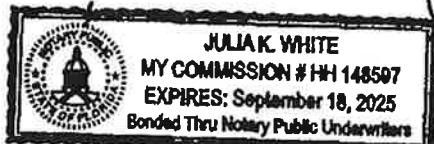
I do solemnly swear (or affirm) that I will support, protect, and defend the Constitution and Government of the United States and of the State of Florida; that I am duly qualified to hold office under the Constitution of the State, and that I will well and faithfully perform the duties of

Board of Trustees, University of West Florida

(Title of Office)

on which I am now about to enter, so help me God.

[NOTE: If you affirm, you may omit the words "so help me God." See § 92.52, Fla. Stat.]



*[Signature]*  
Signature

Sworn to and subscribed before me by means of ☒ physical presence or  
online notarization, this 4 day of October, 2021.

*[Signature]*  
Signature of Officer Administering Oath or of Notary Public

Julia K. White  
Print, Type, or Stamp Commissioned Name of Notary Public

Personally Known ☒ OR Produced Identification ☒

Type of Identification Produced FL Drivers License

## ACCEPTANCE

I accept the office listed in the above Oath of Office.

Mailing Address: ☒ Home ☐ Office

1106 Ariola Drive

Street or Post Office Box

Pensacola Beach, FL 32561

City, State, Zip Code

William Paul Bowers  
Print Name  
*[Signature]*  
Signature



5-only  
3050

**STATE OF FLORIDA  
DEPARTMENT OF STATE  
Division of Elections**

I, Laurel M. Lee, Secretary of State,  
do hereby certify that

***William Paul Bowers***

is duly appointed a member of the

**Board of Trustees,  
University of West Florida**

for a term beginning on the Twenty-Third day of June, A.D.,  
2021, until the Sixth day of January, A.D., 2026 and is subject  
to be confirmed by the Senate during the next regular session of  
the Legislature.

*Given under my hand and the Great Seal of the  
State of Florida, at Tallahassee, the Capital, this  
the Nineteenth day of October, A.D., 2021.*



Secretary of State

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Education

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BILL: SB 82

INTRODUCER: Senator Torres

SUBJECT: Relief of Kareem Hawari by the Osceola County School Board

DATE: January 24, 2022

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Bond	Cibula	JU	<b>Favorable</b>
2.	Brick	Bouck	ED	<b>Pre-meeting</b>
3.			RC	

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## **I. Summary:**

SB 82, a claim bill, alleges that 13-year-old Kareem Hawari was injured while participating in athletic competition on behalf of his school due to the negligence of employees of the Osceola County School Board. Mr. Hawari, now an adult, settled the claim with the school board for \$3.6 million, of which \$100,000 has been paid in accordance with the state's sovereign immunity waiver. The bill authorizes and directs the Osceola County School Board to pay the remaining \$3.5 million.

The bill is effective upon becoming law.

## **II. Present Situation:**

### **Doctrine of Sovereign Immunity: Overview**

Sovereign immunity is defined as: "A government's immunity from being sued in its own courts without its consent."<sup>1</sup> The doctrine had its origin with the judge-made law of England. During English feudal times, the King was the sovereign. Today, for the purposes of this discussion, the term "sovereign" refers to Florida state agencies and subdivisions including local governments.

Article X, section 13 of the State Constitution authorizes the Legislature to enact laws that allow suits against the state. The Legislature has, to some extent, allowed tort suits against the state and has limited the collectability of judgments against the state to \$200,000 per person and \$300,000 per incident (the caps applicable at the time of this incident giving rise to SB 82 were \$100,000 and \$200,000 respectively).<sup>2</sup> A person seeking to recover amounts in excess of the limits may request that the Legislature enact a claim bill.

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<sup>1</sup> BLACK'S LAW DICTIONARY (8th ed. 2004).

<sup>2</sup> Section 768.28, F.S.

In medieval England “one could not sue the king in his own courts; hence the phrase ‘the king can do no wrong.’”<sup>3</sup> The basis of the existence of the doctrine of sovereign immunity in the United States was explained as follows:

A sovereign is exempt from suit, not because of any formal conception or obsolete theory, but on the logical and practical ground that there can be no legal right as against the authority that makes the law on which the right depends.<sup>4</sup>

Although one could not sue the king, one could petition the king for relief.<sup>5</sup>

Under s. 2.01, F.S., Florida has adopted the common law of England as it existed on July 4, 1776.<sup>6</sup> This adoption of English common law included adoption of the doctrine of sovereign immunity. The doctrine of sovereign immunity was in existence centuries before the Declaration of Independence.<sup>7</sup>

The Legislature was first expressly authorized to waive the state’s sovereign immunity under Article IV, section 19 of the Constitution of 1868.<sup>8</sup> The Legislature again was expressly authorized to waive the state’s sovereign immunity under Article X, section 13 of the Constitution of 1968. This authorization to waive sovereign immunity states:

Provision may be made by general law for bringing suit against the state as to all liabilities now existing or hereafter originating.

Although the first general waiver of the state’s sovereign immunity was not adopted until 1969, “one . . . could always petition for legislative relief by means of a claims bill.”<sup>9</sup> The first claim bill was passed by the Legislative Council of the Territory of Florida in 1833.<sup>10</sup> The claim bill authorized payment to a person who supplied labor and building materials for the first permanent Capitol building.<sup>11</sup>

### **Florida’s Current Statutory Sovereign Immunity Waiver**

Section 768.28(1), F.S., allows for suits in tort against the State and its agencies and subdivisions for damages resulting from the negligence of government employees acting in the scope of employment. This liability exists only where a private person would be liable for the same conduct. Section 768.28 applies only to “injury or loss of property, personal injury, or death

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<sup>3</sup> *Cauley v. City of Jacksonville*, 403 So. 2d 379, 381 (Fla. 1981).

<sup>4</sup> *Id.* (quoting *Kawananakoa v. Polyblank*, 205 U.S. 349, 353 (1907)).

<sup>5</sup> *Id.*

<sup>6</sup> English common law that is inconsistent with state or federal law is not included.

<sup>7</sup> *North Carolina Dept. of Transp. v. Davenport*, 432 S.E.2d 303, 305 (N.C. 1993).

<sup>8</sup> Section 19, Art. VI, State Const. (1868), states, “Provision may be made by general law for bringing suit against the State as to all liabilities now existing or hereafter originating.”

<sup>9</sup> *Cauley*, 403 So. 2d at note 5.

<sup>10</sup> D. Stephen Kahn, *Legislative Claim Bills: A Practical Guide to a Potent(ial) Remedy*, THE FLORIDA BAR JOURNAL, 23 (April, 1988).

<sup>11</sup> *Id.*

caused by the negligent or wrongful act or omission of any employee of the agency or subdivision while acting within the scope of the employee's office or employment.”<sup>12</sup>

Section 768.28(5), F.S., currently caps tort recovery from a governmental entity at \$200,000 per person and \$300,000 per incident. Although an ‘excess’ judgment may be entered, “the statutory caps make it impossible, absent a special claim bill passed by the legislature, for a claimant to collect more than the caps provide.”<sup>13</sup>

Individual government employees, officers, or agents are immune from suit or liability for damages caused by any action taken in the scope of employment, unless the damages result from the employee's acting in bad faith, with malicious purpose, or in a manner exhibiting wanton and willful disregard for human rights, safety, or property.<sup>14</sup> A government entity is not liable for any damages resulting for actions by an employee outside the scope of his or her employment, and is not liable for damages resulting from actions committed by the employee in bad faith, with malicious purpose, or in a manner exhibiting wanton and willful disregard for human rights, safety, or property.<sup>15</sup>

### **Claim Bills**

A plaintiff may recover an amount in excess of the caps described in s. 768.28(5), F.S., by way of a claim bill. “A claim bill is not an action at law, but rather is a legislative measure that directs the Chief Financial Officer of Florida, or if appropriate, a unit of local government, to pay a specific sum of money to a claimant to satisfy an equitable or moral obligation.”<sup>16</sup> Such obligations typically arise from the negligence of officers or employees of the State or a local governmental agency.<sup>17</sup>

Legislative claim bills are used either after procurement of a judgment in an action at law or as a mechanism to avoid an action at law altogether.<sup>18</sup> The amount awarded is based on the Legislature's concept of fair treatment of a person who has been injured or damaged but who is without a complete judicial remedy or who is not otherwise compensable.<sup>19</sup> “Unlike civil judgments, private relief acts are not obtainable by right upon the claimant's proof of his entitlement. Private relief acts are granted strictly as a matter of legislative grace.”<sup>20</sup>

The beneficiary of a claim bill recovers by virtue of its enactment, regardless of whether the governmental tortfeasor purchased liability insurance for the purpose of paying an excess judgment.<sup>21</sup> However, where the governmental tortfeasor has liability insurance in excess of the

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<sup>12</sup> *City of Pembroke Pines v. Corrections Corp. of America, Inc.*, 274 So. 3d 1105, 1112 (Fla. 4th DCA 2019) (quoting s. 768.28(1), F.S.).

<sup>13</sup> *Breaux v. City of Miami Beach*, 899 So. 2d 1059, n. 2 (Fla. 2005).

<sup>14</sup> Section 768.28(9)(a), F.S.

<sup>15</sup> *Id.*

<sup>16</sup> *Wagner v. Orange Cty.*, 960 So. 2d 785, 788 (Fla. 5th DCA 2007).

<sup>17</sup> *Id.*

<sup>18</sup> *City of Miami v. Valdez*, 847 So. 2d 1005 (Fla. 3d DCA 2003).

<sup>19</sup> *Wagner*, 960 So. 2d at 788 (citing Kahn, *Legislative Claim Bills*, Fla. B. Journal (April 1988)).

<sup>20</sup> *United Servs. Auto. Ass'n v. Phillips*, 740 So. 2d 1205, 1209 (Fla. 2d DCA 1999).

<sup>21</sup> *Servs. Auto Ass'n v. Phillips*, 740 So. 2d 1205 (Fla. 2d DCA 1999).

statutory cap, and the claimant receives compensation in excess of that statutory cap through a claim bill, the claim bill is paid with funds of the insured, not general revenue.<sup>22</sup>

A government entity may, without a claim bill, settle claim against it for an amount in excess of the caps in s. 768.28, F.S., if that amount is within the limits of insurance coverage.<sup>23</sup>

### **Negligence Law**

Negligence is the failure to use due care. The failure may be by commission or omission. There are four elements to a negligence claim: (1) duty—where the defendant has a legal obligation to protect others against unreasonable risk; (2) breach—which occurs when the defendant has failed to conform to the required standard of conduct of that duty; (3) causation—where the defendant’s conduct is foreseeably and substantially the cause of the resulting damages; and (4) damages—actual harm.<sup>24</sup> A local government is liable in tort for the negligent act of an employee acting within the scope of his or her employment.<sup>25</sup>

### **The Injury to Kareem Hawari**

According to the bill, on March 5, 2010, claimant Kareem Hawari was a 13-year-old student attending middle school in Osceola County. Prior to his injury, he was a normal and active teenager who was a member of the school wrestling team. On March 5, 2010, he was severely injured during a wrestling meet.

The bill sets forth the facts of the case: The negligence is alleged to have occurred when the wrestling team coach, employed by the school board, directed Mr. Hawari to engage in a wrestling match against a vastly superior opponent. The allegation is that the coach knew or should have known that this match could cause injury to Mr. Hawari. The match was over quickly, as the opponent immediately grabbed Mr. Hawari, lifted him up, and forcibly slammed him into the mat. The force of the collision with the mat caused a brain stem hemorrhage that resulted in a traumatic brain injury. Mr. Hawari has incurred \$708,309.92 in medical expenses and is permanently and totally disabled because of his injuries.

The claimant timely filed suit against the school board. After extensive discovery and pretrial preparation, the parties settled in the amount of \$3.6 million.

### **III. Effect of Proposed Changes:**

The bill authorizes and directs the Osceola County School Board to pay \$3.5 million to Kareem Hawari in full compensation for his injuries sustained due to the negligence of the school board. Attorney fees may not exceed 25 percent of the award.

The bill is effective upon becoming law.

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<sup>22</sup> *Fla. Mun. Ins. Trust v. Village of Golf*, 850 So. 2d 544 (Fla. 4th DCA 2003).

<sup>23</sup> *Michigan Millers Mut. Ins. Co. v. Burke*, 607 So. 2d 418, 421-22 (Fla. 1992); Section 768.28(5), F.S.

<sup>24</sup> *Saunders v. Dickens*, 151 So. 3d 434, 441 (Fla. 2014); *Williams v. Davis*, 974 So.2d 1052, at 1056-1057 (Fla. 2007).

<sup>25</sup> *City of Boynton Beach v. Weiss*, 120 So. 3d 606, 611 (Fla. 4th DCA 2013).

**IV. Constitutional Issues:****A. Municipality/County Mandates Restrictions:**

None.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

None.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

SB 82 authorizes and directs the Osceola County School Board to pay \$3.5 million to Kareem Hawari. The bill does not appear to have a fiscal impact on the state.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

None.



**IX. Additional Information:**

**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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S00082  
CLAIM/LOCAL by Torres; (Similar CS/H 06513)  
Relief of Kareem Hawari by the Osceola County School Board. CLAIM: \$3,500,000. EFFECTIVE DATE: Upon becoming a law.  
01/11/22 S Now in Education; Introduced -SJ 8  
01/20/22 S On Committee agenda-- Education, 01/25/22, 10:00 am, 412 Knott Building

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Education

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BILL: SB 340

INTRODUCER: Senator Garcia

SUBJECT: Care of Students with Epilepsy or Seizure Disorders

DATE: January 24, 2022

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Brick	Bouck	ED	<b>Pre-meeting</b>
2.			AED	
3.			AP	

---

**I. Summary:**

SB 340 specifies responsibilities for public schools to provide for the care of students with epilepsy or seizure disorders. The bill:

- Requires a parent seeking care for a student with epilepsy or a seizure disorder to provide the school with an individualized seizure action plan and establishes a comprehensive framework for individualized seizure action plans.
- Requires the school nurse or other appropriate school employee to coordinate the provision of epilepsy and seizure disorder care at his or her school for each student with an individualized seizure action plan, including administering anti-seizure and rescue medications to the student.
- Exempts from liability school personnel for acts or omissions made in good faith related to the care of students with epilepsy or seizure disorders.

The bill also adds training requirements for school personnel to ensure that each school employee and individual working with school-sponsored programs outside of the regular school day are trained every two years in the care of students with epilepsy and seizure disorders, including how to recognize the symptoms of epilepsy and seizure disorders.

The bill does not have an impact on state revenues or expenditures.

The bill takes effect upon becoming law.

## II. Present Situation:

Epilepsy is a common disorder of the brain that causes recurring seizures. Epilepsy affects people of all ages, but children and older adults are more likely to have epilepsy. Seizures are the main sign of epilepsy, and most people can control this with treatment.<sup>1</sup>

Approximately 6 in 1000 students have epilepsy. Compared with students with other health concerns, a Centers for Disease Control and Prevention study shows that students aged 6–17 years with epilepsy were more likely to miss 11 or more days of school in the past year. Also, students with epilepsy were more likely to have difficulties in school, use special education services, and have activity limitations such as less participation in sports or clubs compared with students with other medical conditions.<sup>2</sup>

In the United States, the U.S. Food and Drug Administration has approved several medications for out-of-hospital use for the treatment of acute repetitive seizures or clusters:<sup>3</sup>

- Diastat<sup>®</sup> - a diazepam rectal gel.
- Nayzilam<sup>®</sup> - a midazolam nasal spray.
- Valtoco<sup>®</sup> - a diazepam nasal spray.

### School Health Services Program

District school boards are responsible for attending to health, safety, and other matters relating to the welfare of students,<sup>4</sup> including the responsibility to establish emergency procedures for life-threatening emergencies.<sup>5</sup>

The Department of Health has the responsibility, in cooperation with the Department of Education, to supervise the administration of the school health services program and perform periodic program reviews.<sup>6</sup> County health departments, district school boards, and local school health advisory committees<sup>7</sup> jointly develop school health services plans, which must include provisions for meeting emergency needs at each school.<sup>8</sup>

The school health services plan describes the health services to be provided by a school.<sup>9</sup> For example, the plan must address:<sup>10</sup>

- Specified physical screenings.
- Health counseling.

---

<sup>1</sup> Centers for Disease Control and Prevention, CDC Healthy Schools, *Epilepsy*, <https://www.cdc.gov/healthyschools/npao/epilepsy.htm> (last visited Jan. 12, 2022).

<sup>2</sup> *Id.*

<sup>3</sup> Epilepsy Foundation, *Seizure Rescue Therapies*, <https://www.epilepsy.com/learn/treating-seizures-and-epilepsy/seizure-rescue-therapies> (last visited Jan. 13, 2022).

<sup>4</sup> Section 1001.42(8)(a), F.S.

<sup>5</sup> Section 1006.062(6), F.S.

<sup>6</sup> Section 381.0056(3), F.S.

<sup>7</sup> Each school health advisory committee must include members who represent the eight component areas of the Coordinated School Health model as defined by the Centers for Disease Control and Prevention. Section 381.0056(2)(b), F.S.

<sup>8</sup> Sections 381.0056(4)(a)12. and 1006.062(6), F.S.

<sup>9</sup> Section 381.0056(2)(e), F.S.

<sup>10</sup> Section 381.0056(4)(a), F.S.

- Meeting emergency health needs in each school.
- Consultation with a student's parent or guardian regarding the need for health attention by the family physician, dentist, or other specialist when definitive diagnosis or treatment is indicated.
- Maintenance of records on incidents of health problems, corrective measures taken, and such other information as may be needed to plan and evaluate health programs.

In attending to student health, the district school board is required to:<sup>11</sup>

- Provide inservice health training for school personnel;
- Make available adequate physical facilities for health services;
- At the beginning of each school year, inform parents or guardians in writing that their children who are students in the district schools will receive specified health services as provided for in the district health services plan. A student will be exempt from any of these services if his or her parent or guardian requests such exemption in writing.

In the absence of negligence, no person is liable for any injury caused by an act or omission in the administration of school health services.<sup>12</sup>

### **The Provision of Medical Services by School Board Personnel**

All employees who staff school health rooms must be currently certified in first aid and cardiopulmonary resuscitation (CPR).<sup>13</sup> Additionally, each school must ensure that at least two school staff members and all school bus operators and attendants are currently certified to provide first aid and CPR.<sup>14</sup> School bus operators and attendants must also receive CPR and first aid refresher in-service training at least biennially.<sup>15</sup>

Nonmedical assistive personnel may perform health-related services upon successful completion of child-specific training by authorized licensed health care personnel.<sup>16</sup> All procedures must be monitored periodically by a nurse, advanced practice registered nurse, physician assistant, or physician, and may include administering emergency injectable medication.<sup>17</sup> Except for certain invasive procedures prohibited by law,<sup>18</sup> whether nonmedical district school board personnel may perform a specific health-related service is determined by authorized licensed health care personnel.<sup>19</sup>

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<sup>11</sup> Section 381.0056(6), F.S.

<sup>12</sup> Section 381.0056(8), F.S.

<sup>13</sup> Rule 64F-6.004(2), F.A.C.

<sup>14</sup> Rule 64F-6.004, F.A.C.; Rule 6A-3.0121(2)(b)3., F.A.C.

<sup>15</sup> Rule 6A-3.0121(2)(b)3., F.A.C.

<sup>16</sup> Section 1006.062(4), F.S. Authorized personnel include only a registered nurse or advanced practice registered nurse licensed under chapter 464, a physician licensed pursuant to chapter 458 or chapter 459, or a physician assistant licensed pursuant to chapter 458 or chapter 459. *Id.*

<sup>17</sup> Section 1006.062(4), F.S.

<sup>18</sup> Nonmedical district school board personnel may not perform sterile catheterization, nasogastric tube feeding, or cleaning and maintaining a tracheostomy or deep suctioning of a tracheostomy. Section 1006.062(3), F.S.

<sup>19</sup> Section 1006.062(5), F.S.

### **The Administration of Medication by School Board Personnel**

District school board personnel may assist students in the administration of certain medication.<sup>20</sup> School personnel designated to assist in the administration of medication must be trained by authorized licensed healthcare personnel.<sup>21</sup>

For each medication prescribed to a student, the principal must obtain from the parent a written explanation of the necessity for the medication to be provided during the school day, including any occasion when the student is away from school property on official school business, and grant permission to assist the student in the administration of such medication.<sup>22</sup> Each prescribed medication to be administered by district school board personnel must be received, counted, and stored in its original container. When the medication is not in use, it must be stored in its original container in a secure fashion under lock and key in a location designated by the school principal.<sup>23</sup>

School personnel administering medication are exempt from liability for civil damages when acting as an ordinarily reasonably prudent person would have acted under the same or similar circumstances.<sup>24</sup>

### **Individualized Healthcare Plans**

The school nurse creates individualized healthcare plans (IHPs) for students with healthcare needs that, if not addressed, may negatively affect attendance or academic performance. The IHPs foster communication among nursing staff to promote continuity of care.<sup>25</sup>

Depending on the health condition, the IHP may prompt the nurse to develop an emergency care plan (ECP).<sup>26</sup> The ECP is a clearly written step-by-step set of instructions for what to do in a particular emergency situation.<sup>27</sup> Unlike the IHP, the ECP is distributed to appropriate staff, and the school nurse trains that staff to respond to emergencies that may arise with individual students.<sup>28</sup>

Though not currently required, the establishment of an IHP and ECP for a student with epilepsy or a seizure disorder is best practice.<sup>29</sup> Whenever there is a known risk for a potential medical emergency, as there is in the management of students with epilepsy and seizure disorders, the school nurse should create, at a minimum, an ECP.<sup>30</sup>

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<sup>20</sup> Section 1006.062, F.S.

<sup>21</sup> Section 1006.062(1)(a), F.S.

<sup>22</sup> Section 1006.062(1)(b), F.S.

<sup>23</sup> Section 1006.062(1)(b)2., F.S.

<sup>24</sup> Section 1006.062(2), F.S.

<sup>25</sup> Department of Education, *Legislative Bill Analysis for SB 340* (2022). See also National Association of School Nurses, *Use of Individualized Healthcare Plans to Support School Health Services* (2020).

<sup>26</sup> *Id.*

<sup>27</sup> Department of Education, *Legislative Bill Analysis for SB 340* (2022).

<sup>28</sup> Rule 64F-6.004(4), F.A.C. See also Department of Education, *Legislative Bill Analysis for SB 340* (2022).

<sup>29</sup> Department of Education, *Legislative Bill Analysis for SB 340* (2022).

<sup>30</sup> *Id.*



A Seizure Action Plan contains the essential information school staff may need to know in order to help a student who has seizures. It includes information on first aid, parent and health care provider contacts, and medications specifically for that child. Seizure Action Plans are an important tool that help parents and schools partner to keep children safe and healthy during the school day.<sup>31</sup>

*Seizure Training for School Nurses: Caring for Students* is a 2.75 hour program available online or in person that is designed to provide the school nurse with information, strategies, and resources that will enable him or her to better manage the student with seizures by supporting positive treatment outcomes, maximizing educational and developmental opportunities, and ensuring a safe and supportive environment. The program consists of seven modules to assist the school nurse in learning to effectively manage seizures in a school environment.<sup>32</sup>

During the 2019-2020 school year, local school health programs reported at total of 17,282 students with epilepsy/seizure disorders. A total of 90,826 individualized healthcare plans were completed by 1,157 registered nurses.<sup>33</sup>

### III. Effect of Proposed Changes:

SB 340 specifies responsibilities for public schools to provide for the care of students with epilepsy or seizure disorders. The bill creates s. 1006.0626, F.S., to provide for and govern the care of students with epilepsy or seizure disorders. The bill provides definitions applicable to the care of students with epilepsy or seizure disorders. Specifically, the bill defines:

- “Individualized seizure action plan” as a document developed and signed by a medical professional who provides epilepsy or seizure disorder care to the student, in consultation with the student’s parent, who must also sign the individualized seizure action plan, and reviewed by the school nurse. The bill requires the individualized seizure action plan to outline a set of procedural guidelines that provide specific directions for the health care services needed by the student at school and the steps to take in a particular emergency situation.
- “Medical professional” as a physician licensed under chapter 458<sup>34</sup> or chapter 459,<sup>35</sup> a physician assistant licensed under chapter 458 or chapter 459, or an advanced practice registered nurse licensed under s. 464.012<sup>36</sup> who provides epilepsy or seizure disorder care to the student.
- “School” as a public school<sup>37</sup> in Florida.

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<sup>31</sup> Centers for Disease Control and Prevention, CDC Healthy Schools, *Epilepsy*, <https://www.cdc.gov/healthyschools/npao/epilepsy.htm> (last visited Jan. 12, 2022).

<sup>32</sup> Epilepsy Foundation, *Seizure Training for School Nurses* <https://www.epilepsy.com/living-epilepsy/our-training-and-education/seizure-training-school-nurses-caring-students> (last visited Jan. 12, 2022).

<sup>33</sup> Department of Education, *Legislative Bill Analysis for SB 340* (2022).

<sup>34</sup> Chapter 458, F.S., relates to medical practice.

<sup>35</sup> Chapter 459, F.S., relates to osteopathic medicine.

<sup>36</sup> Section 464.012, F.S., governs the licensure of advanced practice registered nurses, including education, training, and certification requirements.

<sup>37</sup> Charter schools are required to comply with laws pertaining to student health, safety, and welfare. Section 1002.33(16)(a)5., F.S.

- “School employee” as a person employed by the school district<sup>38</sup> at the student’s school of enrollment or who has contact with the student.
- “Student” as a student enrolled in kindergarten through grade 12 in a public school who has been diagnosed with epilepsy or a seizure disorder.

### **Parental Obligations**

The bill specifies requirements for a parent who seeks epilepsy or seizure disorder care for his or her student while at school or engaged in a school-related activity. In order to obtain care for a student, the bill provides that the parent must:

- Inform the school nurse or an appropriate school employee and provide him or her with an individualized seizure action plan.
- Provide an individualized seizure action plan that is updated by a medical professional before the beginning of each school year and as necessary if there is a change in the health status of the student.
- Annually provide written authorization to the school district for the health care services provided through such plan.

### **Individualized Seizure Action Plans**

The bill establishes a comprehensive framework for individualized seizure action plans. The bill requires each individualized seizure action plan to include:

- Written orders from the student’s medical professional outlining the student’s epilepsy or seizure disorder recommended care.
- The student’s epilepsy or seizure disorder symptoms.
- Whether the student can fully participate in physical exercise or athletic competitions, any contraindications to such exercise or competitions, or any accommodations that must be made for the student for such exercise or competitions.
- Any accommodations the student requires for school trips, after-school programs and activities, class parties, and any other school-related activities.
- When and whom to call for medical assistance.
- The student’s ability to manage, and the student’s level of understanding of, his or her epilepsy or seizure disorder.
- How to maintain communication with the student, the student’s parent, and the student’s health care team, school nurse, and educational staff.
- Any rescue medication prescribed by the student’s medical professional and how and when to administer the medication.

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<sup>38</sup> The district school board is responsible for operating, controlling, and supervising the school district. Art. IX, s. 4, Fla. Const. A charter school may select its own employees, be a private or public employer, or contract with the district school board for the services of personnel employed by the school board. Section 1002.33(12)(a) and (i), F.S.

## **Obligations of School Personnel**

### ***The Provision of Medical Services***

The bill adds responsibilities for school board personnel to attend to the care of students with epilepsy or seizure disorders. Specifically, the bill requires the school nurse or other appropriate school employee to:

- Coordinate the provision of epilepsy and seizure disorder care<sup>39</sup> at his or her school for each student with an individualized seizure action plan, including administering anti-seizure and rescue medications to the student, as outlined in the student's individualized seizure action plan.
- Ensure that each school employee and individual working with school-sponsored programs outside of the regular school day are trained every two years in the care of students with epilepsy and seizure disorders, including how to recognize the symptoms of and provide care for epilepsy and seizure disorders.

### ***Training for School Personnel***

The bill sets standards for the required training for school employees. The training must include a course of instruction provided by a nonprofit national organization that supports the welfare of individuals with epilepsy and seizure disorders. The course of instruction must be:

- Approved by the Department of Education
- Provided online or in person.
- Provided to a school district free of charge if the training is provided in an online format.

### ***The Care of Students on School Buses***

The bill also addresses the care of students on school buses. The bill provides that a school district must provide a school bus driver who transports a student that has epilepsy or a seizure disorder with:

- A notice of the student's condition.
- Information on how to provide the recommended care for the student if he or she shows symptoms of the epilepsy or seizure disorder.
- The contact information for the student's parent and emergency contacts.
- Epilepsy and seizure disorder first aid training every two years.

### ***Continuity of Care***

In order to facilitate continuity of care between schools and health care providers, the bill requires the school nurse or an appropriate school employee to obtain a release from the student's parent to authorize the sharing of medical information between himself or herself and the student's health care providers. The bill specifies that the release must also authorize the school nurse or other appropriate school employee to share medical information with other school employees as necessary.

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<sup>39</sup> The care must comply with s. 1006.062, F.S., governing the conditions under which a district school board employee may assist students in the administration of prescription medication or specified medical services authorized by licensed medical personnel.

**Exemption from Liability**

The bill exempts a school employee, officer, or agent of the school district from liability for an act or omission made in good faith related to the care of students with epilepsy or seizure disorders. The bill specifies that “good faith” does not include willful misconduct, gross negligence, or recklessness. The bill also prohibits the Board of Nursing from taking action against a school nurse for any act or omission taken by a person trained by the school nurse pursuant to requirements for the care of students with epilepsy or seizure disorders.

The bill takes effect upon becoming a law.

**IV. Constitutional Issues:****A. Municipality/County Mandates Restrictions:**

None.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

None.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill creates section 1006.0626 of the Florida Statutes.

**IX. Additional Information:****A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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S00340  
GENERAL BILL by Garcia; (Similar H 00173)  
Care of Students with Epilepsy or Seizure Disorders. EFFECTIVE DATE: Upon becoming a law.  
01/11/22 S Introduced -SJ 19  
01/13/22 S On Committee agenda-- Education, 01/18/22, 11:00 am, 412 Knott Building --Not Considered  
01/20/22 S On Committee agenda-- Education, 01/25/22, 10:00 am, 412 Knott Building



By Senator Garcia

37-00582-22

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A bill to be entitled

An act relating to care of students with epilepsy or seizure disorders; creating s. 1006.0626, F.S.; defining terms; providing for the creation of an individualized seizure action plan for a student with epilepsy or seizure disorders to receive health care at school; providing requirements for the student's parent, school nurses, and appropriate school employees; providing requirements for such plans; requiring school nurses or appropriate school employees to coordinate the care of such students and ensure that specified training is provided to specified school employees and individuals; providing requirements for such training; requiring school districts to provide specified information and training to school bus drivers who transport students with epilepsy or seizure disorders; requiring school nurses or appropriate school employees to obtain specified releases relating to the medical information and care of such students; providing immunity from liability under certain conditions; defining the term "good faith"; providing an effective date.

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

Section 1. Section 1006.0626, Florida Statutes, is created to read:

1006.0626 Care of students with epilepsy or seizure disorders.-

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**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

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(1) As used in this section, the term:

(a) "Individualized seizure action plan" means a document developed and signed by a medical professional who provides epilepsy or seizure disorder care to the student, in consultation with the student's parent, who must also sign the individualized seizure action plan, and reviewed by the school nurse. The individualized seizure action plan must outline a set of procedural guidelines that provide specific directions for the health care services needed by the student at school and what to do in a particular emergency situation.

(b) "Medical professional" means a physician licensed under chapter 458 or chapter 459, a physician assistant licensed under chapter 458 or chapter 459, or an advanced practice registered nurse licensed under s. 464.012 who provides epilepsy or seizure disorder care to the student.

(c) "School" means a public school within this state.

(d) "School employee" means a person employed by the school district at the student's school of enrollment or who has contact with the student.

(e) "Student" means a student enrolled in kindergarten through grade 12 in a public school who has been diagnosed with epilepsy or a seizure disorder.

(2) (a) A student's parent who seeks epilepsy or seizure disorder care for the student while at school or engaged in a school-related activity must inform the school nurse or an appropriate school employee and provide him or her with an individualized seizure action plan. The parent must annually provide written authorization to the school district for the health care services provided through such plan.

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**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

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(b) Individualized seizure action plans must be updated by the medical professional before the beginning of each school year and as necessary if there is a change in the health status of the student.

(c) Each individualized seizure action plan must include the following information:

1. Written orders from the student's medical professional outlining the student's epilepsy or seizure disorder recommended care.

2. The student's epilepsy or seizure disorder symptoms.

3. Whether the student can fully participate in physical exercise or athletic competitions, any contraindications to such exercise or competitions, or any accommodations that must be made for the student for such exercise or competitions.

4. Any accommodations the student requires for school trips, after-school programs and activities, class parties, and any other school-related activities.

5. When and whom to call for medical assistance.

6. The student's ability to manage, and the student's level of understanding of, his or her epilepsy or seizure disorder.

7. How to maintain communication with the student, the student's parent, and the student's health care team, school nurse, and educational staff.

8. Any rescue medication prescribed by the student's medical professional and how and when to administer the medication.

(3) The school nurse or an appropriate school employee shall:

(a) In accordance with s. 1006.062, coordinate the

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provision of epilepsy and seizure disorder care at his or her school for each student with an individualized seizure action plan, including administering anti-seizure and rescue medications to the student, as outlined in the student's individualized seizure action plan.

(b) Ensure that each school employee and individual working with school-sponsored programs outside of the regular school day are trained every 2 years in the care of students with epilepsy and seizure disorders, including how to recognize the symptoms of and provide care for epilepsy and seizure disorders. Such training must include a course of instruction provided by a nonprofit national organization that supports the welfare of individuals with epilepsy and seizure disorders. The instruction must be approved by the Department of Education and may be provided online or in person. A training program provided to a school district in an online format must be provided by the nonprofit entity free of charge.

(4) If a school bus driver transports a student with epilepsy or a seizure disorder, the school district must provide the driver with all of the following:

(a) A notice of the student's condition.

(b) Information on how to provide the recommended care for the student if he or she shows symptoms of the epilepsy or seizure disorder.

(c) The contact information for the student's parent and emergency contacts.

(d) Epilepsy and seizure disorder first aid training every 2 years.

(5) The school nurse or an appropriate school employee

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117 shall obtain a release from the student's parent to authorize  
118 the sharing of medical information between himself or herself  
119 and the student's health care providers. The release shall also  
120 authorize the school nurse or an appropriate school employee to  
121 share medical information with other school employees as  
122 necessary.

123 (6) A school employee, including a school nurse, a school  
124 bus driver, a school bus aide, or any other officer or agent of  
125 the school district, acting in good faith is not liable for an  
126 act or omission consistent with this section. The Board of  
127 Nursing may not take action against a school nurse for any act  
128 or omission taken by a person trained by the school nurse  
129 pursuant to this section. For purposes of this section, "good  
130 faith" does not include willful misconduct, gross negligence, or  
131 recklessness.

132 Section 2. This act shall take effect upon becoming a law.

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Education

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BILL: SB 892

INTRODUCER: Senator Burgess

SUBJECT: Charter School Charters

DATE: January 24, 2022

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Jahnke	Bouck	ED	<b>Pre-meeting</b>
2.			CA	
3.			RC	

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**I. Summary:**

SB 892 revises provisions related to consolidating two or more charter schools, and modifying the procedures and notification timeframe for terminating or nonrenewing a charter. Specifically the bill:

- Provides that a charter may be modified at any time rather than only during its initial or renewal term.
- Requires that a request for the consolidation of multiple charters be approved or denied within 60 days after submission of the request.
- Requires that any sponsor who denies a request for consolidation must provide the charter school's governing board with the specific reasons for the denial within 10 days.
- Specifies that a sponsor provide notice to a charter school of a decision to renew, terminate, or not renew before a vote and at least 90 days before the end of the school year.
- Provides for the automatic renewal of a charter if a vote proposed on the action does not occur at least 90 days before the end of the school year.

The bill does not appear to have a fiscal impact.

The bill takes effect July 1, 2022.

## II. Present Situation:

### Charter Schools

Charter schools are tuition-free public schools created through an agreement or “charter” that provides flexibility relative to regulations created for traditional public schools.<sup>1</sup> Forty-five states and the District of Columbia have enacted charter school laws as of January 2020.<sup>2</sup> Nationally, between the 2009-2010 and 2018-2019 school years, the percentage of all public schools that were charter schools increased from five to eight percent, and the total number of charter schools increased from 5,000 to 7,400. The percentage of public school students nationwide attending public charter schools increased from three to seven percent between fall 2009 and fall 2018.<sup>3</sup>

All charter schools in Florida are public schools and are part of the state’s public education system.<sup>4</sup> During the 2020-2021 school year, 341,926 students were enrolled in 687 charter schools in Florida.<sup>5</sup> Seventy percent of the students attending charter schools in the 2020-2021 school year were minorities. Hispanic students comprised 45 percent of Florida’s charter school enrollment, and 19 percent were African-American students.<sup>6</sup>

### Charter School Sponsors

A district school board may sponsor a charter school in the county over which the district school board has jurisdiction.<sup>7</sup> A state university may sponsor a charter developmental research school (charter lab school)<sup>8</sup> and upon the approval by the State Board of Education (SBE), may sponsor a charter school to meet regional education or workforce demands by serving students from multiple school districts.<sup>9</sup> Additionally, Florida College System (FCS) institutions, upon the approval of the SBE, may sponsor a charter school in any county within its service area to meet workforce demands and may offer postsecondary programs leading to industry certification to eligible charter school students.<sup>10</sup>

A charter school sponsor has several responsibilities, including:<sup>11</sup>

- Approving or denying charter school applications.
- Overseeing each sponsored school’s progress toward the goals established in the charter.
- Monitoring the revenues and expenditures of the school.

<sup>1</sup> Florida Department of Education, Fact Sheet Office of Independent Education & Parental Choice, *Florida’s Charter Schools* (September 2021), available at <https://www.fldoe.org/core/fileparse.php/7778/urlt/Charter-Sept-2021.pdf>.

<sup>2</sup> Education Commission of the States, *50-State Comparison: Charter School Policies* <https://www.ecs.org/charter-school-policies/> (last visited January 20, 2022).

<sup>3</sup> National Center for Education Statistics, *Public Charter School Enrollment*, <https://nces.ed.gov/programs/coe/indicator/cgb> (last visited January 20, 2022).

<sup>4</sup> Section 1002.33(1), F.S.

<sup>5</sup> Florida Department of Education, Fact Sheet Office of Independent Education & Parental Choice, *Florida’s Charter Schools* (September 2021), available at <https://www.fldoe.org/core/fileparse.php/7778/urlt/Charter-Sept-2021.pdf>.

<sup>6</sup> *Id.*

<sup>7</sup> Section 1002.33(5)(a)1., F.S.

<sup>8</sup> Section 1002.33(5)(a)2., F.S.

<sup>9</sup> Section 1002.33(5)(a)3., F.S.

<sup>10</sup> A charter school currently operated by an FCS institution is not eligible to be sponsored by an FCS institution until its existing charter with the school district expires. Section 1002.33(5)(a)3.b., F.S. and Section 1002.34(3)(b), F.S.

<sup>11</sup> Section 1002.33(5)(b), F.S.

- Ensuring that the school participates in the state's education accountability system.
- Intervening when a sponsored school demonstrates deficient student performance or financial instability.

A sponsor must provide administrative and educational services<sup>12</sup> and may withhold a fee of up to five percent of each charter school's total operating funds.<sup>13</sup>

### **Charter School Applications**

An application for a new charter school may be made by an individual, teachers, parents, a group of individuals, a municipality, or a legal entity organized under the laws of this state.<sup>14</sup> A sponsor receives and reviews all charter school applications using the evaluation instrument developed by the Department of Education and, within 90 calendar days of receipt, must by majority vote approve or deny the application. A sponsor must receive and consider charter school applications received for charter schools to be opened at a time determined by the applicant.<sup>15</sup>

If an application is denied, the sponsor must within ten calendar days provide specific written reasons, based upon good cause, for its denial to the applicant and the DOE.<sup>16</sup> The applicant has 30 calendar days to file an appeal with the SBE after the denial of or failure to act upon an application. The state board's decision is a final action subject to judicial review in the District Court of Appeal.<sup>17</sup>

### **Charter Agreement**

The terms and conditions for the operation of a charter school are set forth by the sponsor and the charter school applicant in a contractual agreement called the charter.<sup>18</sup> The initial term of the charter is for 5 years, excluding two planning years.<sup>19</sup> The charter may be renewed under a 15-year charter if the charter school has been operating for a minimum of 3 years and is demonstrating exemplary academic programming and fiscal management.<sup>20</sup> The 15-year charter must be granted to a charter school that has received a school grade of "A" or "B" in 3 of the past 4 years and is not in a state of financial emergency.<sup>21</sup>

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<sup>12</sup> Administrative and educational services include contract management services; full-time equivalent and data reporting services; exceptional student education administration services; services related to eligibility and reporting duties required to ensure that school lunch services under the National School Lunch Program; test administration services; processing of teacher certificate data services; and information services. Section 1002.33(20)(a)1., F.S.

<sup>13</sup> Section 1002.33(20)(a)2., F.S.

<sup>14</sup> Section 1002.33(3)(a), F.S.

<sup>15</sup> Section 1002.33(6)(b), F.S.

<sup>16</sup> Section 1002.33(6)(b)3.a., F.S.

<sup>17</sup> Section 1002.33(6)(c)-(d), F.S.; *see also* s. 120.68, F.S.

<sup>18</sup> Section 1002.33(7), F.S. The standard charter school contract is incorporated into SBE Rule 6A-6.0786, F.A.C.

<sup>19</sup> Section 1002.33(7)(a)12., F.S. Charter schools that are operated by a municipality or other public entity as provided by law are eligible for up to a 15-year charter, subject to approval by the sponsor. A charter lab school is eligible for a charter for a term of up to 15 years. In addition, to facilitate access to long-term financial resources for charter school construction, charter schools that are operated by a private, not-for-profit, s. 501(c)(3) status corporation are eligible for up to a 15-year charter, subject to approval by the sponsor.

<sup>20</sup> Section 1002.33(7)(c)1., F.S.

<sup>21</sup> Section 1002.33(7)(c)2., F.S.



The charter may be modified during its initial term or any renewal term upon the recommendation of the sponsor or the charter school's governing board and the approval of both parties to the agreement.<sup>22</sup> Changes to curriculum which are consistent with state standards are deemed approved unless the sponsor and the DOE determine in writing that the curriculum is inconsistent with state standards.<sup>23</sup> Modification during any term may include, but is not limited to, consolidation of multiple charters into a single charter if the charters are operated under the same governing board, regardless of the renewal cycle.<sup>24</sup> The charter may be renewed at the end of its term if a program review conducted by the sponsor demonstrates that the goals and criteria stated in the charter have been met and that no grounds for nonrenewal have occurred.<sup>25</sup>

### **Sponsor Nonrenewal or Termination of a Charter**

A charter school sponsor must make student academic achievement for all students the most important factor when determining whether to renew or terminate a charter, but may terminate or not renew a charter for any of the following reasons:<sup>26</sup>

- Failure to participate in the state's education accountability system or failure to meet the charter's requirements for student performance.
- Failure to meet generally accepted standards of fiscal management.
- Material violation of law.
- Other good cause shown.

A sponsor must provide 90-days written notice to the charter school prior to termination or nonrenewal of the charter. The notice must state in reasonable detail the grounds for the proposed action and stipulate that the school's governing board may, within 14 calendar days after receiving the notice, request an administrative hearing.

A charter may be terminated immediately if the sponsor sets forth particular facts and circumstances indicating an immediate and serious danger to the health, safety or welfare of the students.<sup>27</sup> The sponsor must notify in writing the charter school's governing board, the charter school principal, and the DOE of an immediate termination. The sponsor must clearly identify the specific issues that resulted in the immediate termination and provide evidence of prior notification of issues resulting in the immediate termination, if applicable. The decision by the sponsor to immediately terminate a charter is subject to an administrative hearing.<sup>28</sup>

### **III. Effect of Proposed Changes:**

SB 892 modifies s. 1002.33, F.S., to provide that a charter may be modified at any time rather than only during its initial or renewal term as currently provided for in law. The bill requires that a request for the consolidation of multiple charters be approved or denied within 60 days after

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<sup>22</sup> Section 1002.33(7)(d), F.S.

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

<sup>25</sup> Section 1002.33(7)(c)1., F.S.

<sup>26</sup> Section 1002.33(8)(a)1.-4., F.S.

<sup>27</sup> Section 1002.33(8)(b) and (c), F.S.

<sup>28</sup> Section 1002.33(8)(c), F.S. The sponsor must assume operation of the charter school, unless the continued operation of the charter school would materially threaten the health, safety, or welfare of the students.

submission of the request. Additionally, if a consolidation request is denied by the charter school sponsor, the bill requires the sponsor to notify the charter school's governing board of the denial within 10 days, and to provide the specific reasons for the denial.

The bill modifies the 90-day notification requirement to renew, terminate, or not renew a charter. The bill requires a sponsor to notify a charter school's governing board, in writing, of any proposed action to renew, terminate, or not renew a charter school's charter before a vote on the proposed action and at least 90 days before the end of the school year. The bill provides for the automatic renewal of a charter, under the existing terms and conditions, if a vote on the proposed action does not occur at least 90 days before the end of the school year. Specifying the 90-day notification deadline of the end of the school year may provide additional time for the charter school and sponsor to resolve issues without impacting students.

The bill takes effect July 1, 2022.

#### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

#### **V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 1002.33 of the Florida Statutes.

**IX. Additional Information:**

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

S00892

GENERAL BILL by Burgess; (Similar CS/H 00225)

Charter School Charters. EFFECTIVE DATE: 07/01/2022.

11/30/21 S Referred to Education; Community Affairs; Rules -SJ 59

01/11/22 S Introduced -SJ 59

01/20/22 S On Committee agenda-- Education, 01/25/22, 10:00 am, 412 Knott Building

By Senator Burgess

20-01034-22

2022892\_\_

A bill to be entitled

An act relating to charter school charters; amending s. 1002.33, F.S.; requiring a request for a consolidation of multiple charters to be approved or denied within a specified timeframe; requiring a charter school sponsor to provide to the charter school specified information relating to a denial of a request for a consolidation within a certain timeframe; revising the time period for notification of specified actions relating to a charter school charter; providing for the automatic renewal of a charter under certain circumstances; providing an effective date.

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

Section 1. Paragraph (d) of subsection (7) and paragraph (b) of subsection (8) of section 1002.33, Florida Statutes, are amended to read:

1002.33 Charter schools.—

(7) CHARTER.—The terms and conditions for the operation of a charter school shall be set forth by the sponsor and the applicant in a written contractual agreement, called a charter. The sponsor and the governing board of the charter school shall use the standard charter contract pursuant to subsection (21), which shall incorporate the approved application and any addenda approved with the application. Any term or condition of a proposed charter contract that differs from the standard charter contract adopted by rule of the State Board of Education shall

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

20-01034-22

2022892\_\_

be presumed a limitation on charter school flexibility. The sponsor may not impose unreasonable rules or regulations that violate the intent of giving charter schools greater flexibility to meet educational goals. The charter shall be signed by the governing board of the charter school and the sponsor, following a public hearing to ensure community input.

(d) A charter may be modified ~~during its initial term or any renewal term~~ upon the recommendation of the sponsor or the charter school's governing board and the approval of both parties to the agreement. Changes to curriculum which are consistent with state standards shall be deemed approved unless the sponsor and the Department of Education determine in writing that the curriculum is inconsistent with state standards. Modification during any term may include, but is not limited to, consolidation of multiple charters into a single charter if the charters are operated under the same governing board, regardless of the renewal cycle. A charter school that is not subject to a school improvement plan and that closes as part of a consolidation shall be reported by the sponsor as a consolidation. A request for consolidation of multiple charters must be approved or denied within 60 days after the submission of the request. If the request is denied, the sponsor shall notify the charter school's governing board of the denial and provide the specific reasons, in reasonable detail, for the denial of the request for consolidation within 10 days.

(8) CAUSES FOR NONRENEWAL OR TERMINATION OF CHARTER.—

(b) Before a vote on any proposed action to renew, terminate, or not renew the charter and at least 90 days before the end of the district school year ~~renewing, nonrenewing, or~~

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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59 ~~terminating a charter~~, the sponsor shall notify the governing  
60 board of the school in writing of the proposed action to renew,  
61 ~~terminate~~, or not renew the charter. A charter must  
62 automatically renew with the same terms and conditions if a vote  
63 on the proposed action does not occur at least 90 days before  
64 the end of the school year in writing. The notice shall state in  
65 reasonable detail the grounds for the proposed action and  
66 stipulate that the school's governing board may, within 14  
67 calendar days after receiving the notice, request a hearing. The  
68 hearing shall be conducted by an administrative law judge  
69 assigned by the Division of Administrative Hearings. The hearing  
70 shall be conducted within 90 days after receipt of the request  
71 for a hearing and in accordance with chapter 120. The  
72 administrative law judge's final order shall be submitted to the  
73 sponsor. The administrative law judge shall award the prevailing  
74 party reasonable attorney fees and costs incurred during the  
75 administrative proceeding and any appeals. The charter school's  
76 governing board may, within 30 calendar days after receiving the  
77 final order, appeal the decision pursuant to s. 120.68.

78 Section 2. This act shall take effect July 1, 2022.



## **BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Education

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BILL: SB 1034

INTRODUCER: Senator Gruters

SUBJECT: William L. Boyd, IV, Effective Access to Student Education Grant Program

DATE: January 24, 2022 REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Jahnke	Bouck	ED	<b>Pre-meeting</b>
2.	_____	_____	AED	_____
3.	_____	_____	AP	_____

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### **I. Summary:**

SB 1034 revises the institutions a student must attend to be eligible to receive a William L. Boyd, Effective Access to Student Education (EASE) tuition assistance grant to include for-profit independent colleges or universities that have a Level 5 accreditation from the Commission on Colleges of the Southern Association of College and Schools.

The bill has an indeterminate fiscal impact.

This bill is effective July 1, 2022.

### **II. Present Situation:**

#### **William L. Boyd, IV, Effective Access to Student Education (EASE) Tuition Assistance Grant Program**

The William L. Boyd, IV, Effective Access to Student Education (EASE) program<sup>1</sup> provides tuition assistance to Florida undergraduate students attending an eligible private, non-profit Florida college or university.<sup>2</sup> The program is not related to a student's financial need or other criteria upon which financial aid programs are based.<sup>3</sup> The program is administered by the Department of Education (DOE)<sup>4</sup> with the following parameters:

- Student initial eligibility requirements:<sup>5</sup>
  - Must be a resident of Florida and meet the eligibility requirements for receipt of state aid.

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<sup>1</sup> Section 471, ch. 2002-387, L.O.F.; The EASE program was formerly known as the Florida Resident Access Grant (FRAG).

<sup>2</sup> Section 1009.89(3)-(4), F.S.

<sup>3</sup> Section 1009.89(1), F.S.

<sup>4</sup> Section 1009.89(2), F.S.; *See also* Rule 6A-20.007, F.A.C.

<sup>5</sup> Section 1009.89(4)(a)-(b), F.S.

- Must be enrolled as a full-time undergraduate student at an eligible college or university in a program of study leading to a baccalaureate degree.<sup>6</sup>
- Must not be enrolled in a program of study leading to a degree in theology or divinity.
- Must be making satisfactory academic progress as defined by the State Board of Education.
- Must not have completed more than 110 percent of the degree program in which the student is enrolled.
- Institutional eligibility requirements:<sup>7</sup>
  - Must be an independent nonprofit college or university.
  - Must be located in and chartered by the state of Florida.
  - Must be accredited by the Southern Association of Colleges and Schools Commission on Colleges (SACSCOC).
  - Must grant baccalaureate degrees.
  - Must not be a state university or Florida College System (FCS) institution.
  - Must have a secular purpose, so long as the receipt of state aid by students at the institution would not have the primary effect of advancing or impeding religion or result in an excessive entanglement between the state and any religious group.

Funding for the EASE program is provided for in the General Appropriations Act (GAA).<sup>8</sup> In fiscal year (FY) 2021-2022, the Legislature appropriated \$114,861,630 million for the EASE program to support 40,430 eligible students with an average award amount per student of \$2,841 in tuition assistance.<sup>9</sup> Currently, 34 institutions participate in the EASE program.<sup>10</sup>

During the 2021 Regular Session, the Legislature required an institution which receives EASE funding to submit an accountability report to the DOE by September 1 of each year.<sup>11</sup> The report must, at a minimum, report the following performance metrics:<sup>12</sup>

- Access rate based upon percentage of Pell-eligible students.
- Affordability rate based upon average student load debt; federal, state, and institutional financial assistance; and average tuition and fees.
- Graduation rate.
- Retention rate.
- Postgraduate employment or continuing education rate.

The DOE is required to provide recommendations regarding minimum performance standards an institution must meet to remain eligible to receive EASE funding.<sup>13</sup> By October 1 of each year,

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<sup>6</sup> The student may not have previously received a baccalaureate degree. Florida Department of Education, Office of Student Financial Assistance, *EASE 2021-22 End of Year Fact Sheet*, at 1, available at <https://www.floridastudentfinancialaidsg.org/PDF/factsheets/EASE.pdf>.

<sup>7</sup> Section 1009.89(3), F.S.

<sup>8</sup> Section 1009.89(5)(a), F.S.

<sup>9</sup> Specific Appropriation 64, s. 2, ch. 2021-36, L.O.F.

<sup>10</sup> Florida Department of Education, Presentation to the Higher Education Appropriations Subcommittee, *Effective Access to Student Education (EASE) Grant Accountability Reporting* (Oct. 21, 2021), at 18, available at <https://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=3089&Session=2022&DocumentType=Meeting+Packets&FileName=hea+10-21-21.pdf>.

<sup>11</sup> Section. 4, ch. 2021-46, L.O.F., codified at s. 1009.89(5)(c), F.S.

<sup>12</sup> *Id.*

<sup>13</sup> Section 1009.89(5)(c), F.S. (flush left provision at the end of the subparagraph)

the DOE must submit a report to the chair of the House Appropriations Committee, the chair of the Senate Appropriations Committee, and the Governor's Office of Policy and Budget on the performance of eligible institutions and the institutions which have not met the minimum performance standards recommended by the DOE.<sup>14</sup>

Based on the first collection of accountability data from participating EASE institutions in 2021,<sup>15</sup> the DOE recommended the following benchmarks for 2022-2023 continued eligibility in the EASE program:<sup>16</sup>

EASE Eligibility Metric	Benchmark
Access Rate	53 Percent
Affordability Rate	\$6,343
Graduation Rate	53 Percent
Retention Rate	68 Percent
Postgraduate Employment/Continuing Education Rate	49 Percent

### **The Access to Better Learning and Education (ABLE) Tuition Assistance Grant Program**

In 2003, the Legislature established the Access to Better Learning and Education (ABLE) Tuition Assistance Grant Program within the DOE.<sup>17</sup> The grant program provided tuition assistance to Florida undergraduate students at eligible institutions until its repeal by the Legislature in 2021.<sup>18</sup> Previously under ABLE, eligible Florida undergraduate students attending an eligible private, for-profit Florida college or university or an eligible non-profit college or university were eligible for tuition assistance.<sup>19</sup> The program was not related to a student's financial need or other criteria upon which financial aid programs are based.<sup>20</sup> The grant program was administered by the DOE with the following institutional eligibility requirements:<sup>21</sup>

- For-profit college or university:
  - Must be located in and chartered by the state of Florida.
  - Must be accredited by the SACSCOC.
- Nonprofit college or university:
  - Must be chartered out of the state.
  - Must have been located in the state for 10 years or more.
  - Must be accredited by one of the following: SACSCOC, Middle States Association of Colleges and Schools, North Central Association of Colleges and Schools, or the New England Association of Colleges and Schools.
  - Must grant baccalaureate degrees.

<sup>14</sup> Section 1009.89(5)(d), F.S.

<sup>15</sup> Florida Department of Education, Presentation to the Higher Education Appropriations Subcommittee, *Effective Access to Student Education (EASE) Grant Accountability Reporting* (Oct. 21, 2021), at 17, 19, & 20, available at <https://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=3089&Session=2022&DocumentType=Meeting+Packets&FileName=hea+10-21-21.pdf>.

<sup>16</sup> *Id.* at 21. The DOE calculated the benchmarks by removing the three highest reported institution numbers and three lowest reported institution numbers from the calculation and averaged the remaining data to establish the metrics.

<sup>17</sup> Section 1, ch. 2003-65, L.O.F., codified at s. 1009.891, F.S.

<sup>18</sup> Section 5, ch. 2021-46, L.O.F.

<sup>19</sup> Section 1009.891(3), F.S. (2020) repealed s. 5, ch. 2021-46, L.O.F.

<sup>20</sup> *Id.* at (1).

<sup>21</sup> *Id.* at (3).

- Must not be a state university or FCS institution.
- Must have a secular purpose, so long as the receipt of state aid by students at the institution would not have the primary effect of advancing or impeding religion or result in an excessive entanglement between the state and any religious group.

In the FY 2020-21 GAA, the Legislature appropriated \$5,025,729 for ABLE to support 1,769 eligible students with an average award amount per student of \$2,841 in tuition assistance.<sup>22</sup>

### **Southern Association of Colleges and Schools Commission on Colleges (SACSCOC)**

The Southern Association of Colleges and Schools Commission on Colleges (SACSCOC) is the regional body for the accreditation of degree-granting higher education institutions in the Southern states.<sup>23</sup> The mission of the SACSCOC is the enhancement of education quality throughout the region and the improvement of the effectiveness of institutions by ensuring that they meet standards established by the higher education community that address the needs of society and students.<sup>24</sup>

Accreditation by SACSCOC signifies that the institution has a mission appropriate to higher education, has resources, programs, and services sufficient to accomplish and sustain that mission, and maintains clearly specified educational objectives that are consistent with its mission and appropriate to the degrees it offers, and that indicate whether it is successful in achieving its stated objectives.<sup>25</sup>

Classified according to the highest degree offered, SACSCOC member institutions are placed into one of the following six categories:<sup>26</sup>

- Level I – Associate
- Level II – Baccalaureate
- Level III – Master
- Level IV – Educational Specialist
- Level V – Doctorate (3 or fewer programs)
- Level VI – Doctorate (4 or more programs)

### **III. Effect of Proposed Changes:**

The bill amends s. 1009.89, F.S., revising the institutions a student must attend to be eligible to receive an Effective Access to Student Education (EASE) grant to include for-profit independent colleges or universities that have a Level 5 accreditation from the Commission on Colleges of the Southern Association of College and Schools (SACSCOC). Students at for-profit institutions

<sup>22</sup> Specific Appropriation 64, s. 2, ch. 2020-111, L.O.F.

<sup>23</sup> SACSCOC, *About SACSCOC*, <https://sacscoc.org/> (last visited Jan. 13, 2022). The SACSCOC accredits institutions in the following Southern states: Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Texas, Virginia, and Latin America and certain other international sites.

<sup>24</sup> *Id.*

<sup>25</sup> SACSCOC, *The Principles of Accreditation: Foundations for Quality Enhancement* (December 2017), available at <https://sacscoc.org/app/uploads/2019/08/2018PrinciplesOfAccreditation.pdf>.

<sup>26</sup> Southern Association of Colleges and Schools Commission on Colleges, *SACSCOC Accredited and Candidate List* (July 2021), available at <https://sacscoc.org/app/uploads/2019/11/Institutionswebmemlist.pdf>.

that met the eligibility for the Access to Better Learning and Education (ABLE) program prior to its repeal and have level 5 accreditation may now be eligible for an EASE grant.

Florida has five for-profit independent colleges and universities that have accreditation from SACSCOC,<sup>27</sup> with two having a Level 5 or higher classification.<sup>28</sup>

This bill is effective July 1, 2022.

#### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

#### **V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

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<sup>27</sup> Florida has five SACSCOC accredited institutions: EPCI University, Florida National University, Lincoln Memorial University, St. John Vianney College Seminary, and Troy University – Ft. Walton Beach. Staff Analysis of the Florida Senate Appropriation Subcommittee on Education, Florida Department of Education, Commission for Independent Education, *Nonpublic Postsecondary School/College Search*, <https://web02.fldoe.org/CIE/SearchSchools/SchoolSearch.aspx> (last visited Jan. 13, 2022).

<sup>28</sup> Southern Association of Colleges and Schools Commission on Colleges, *SACSCOC Accredited and Candidate List (July 2021)* available at <https://sacscoc.org/app/uploads/2019/11/Institutionswebmemlist.pdf>. SACSCOC has classified Lincoln Memorial University as a Level 6 and Troy University as a Level 5. It is unclear in the bill whether an institution must have Level 5 accreditation, or Level 5 or above.

**B. Private Sector Impact:**

The bill may provide a cost savings to eligible students by way of tuition assistance for those students who are enrolled in a postsecondary institution which may now be eligible to participate in the Effective Access to Student Education (EASE) grant program.

**C. Government Sector Impact:**

The fiscal impact of the bill is indeterminate. Removing the nonprofit requirement for institutions to participate in the EASE program could increase the number of institutions and students that may be eligible to receive EASE grants.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 1009.89 of the Florida Statutes.

**IX. Additional Information:****A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.



621616

LEGISLATIVE ACTION

Senate

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House

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The Committee on Education (Gruters) recommended the following:

**Senate Amendment**

Delete line 44  
and insert:  
A for-profit college or university must have Level 6



S01034  
GENERAL BILL by Gruters; (Similar H 06067)  
William L. Boyd, IV, Effective Access to Student Education Grant Program. EFFECTIVE DATE: 07/01/2022.  
01/11/22 S Introduced -SJ 69  
01/13/22 S On Committee agenda-- Education, 01/18/22, 11:00 am, 412 Knott Building --Not Considered  
01/20/22 S On Committee agenda-- Education, 01/25/22, 10:00 am, 412 Knott Building

By Senator Gruters

23-00874C-22

20221034\_\_

A bill to be entitled

An act relating to the William L. Boyd, IV, Effective Access to Student Education Grant Program; amending s. 1009.89, F.S.; revising the institutions a student must attend to receive a William L. Boyd, IV, Effective Access to Student Education grant to include certain for-profit independent colleges and universities; providing an effective date.

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

Section 1. Subsections (1) and (3) of section 1009.89, Florida Statutes, are amended to read:

1009.89 The William L. Boyd, IV, Effective Access to Student Education grants.—

(1) The Legislature finds and declares that independent ~~nonprofit~~ colleges and universities eligible to participate in the William L. Boyd, IV, Effective Access to Student Education Grant Program are an integral part of the higher education system in this state and that a significant number of state residents choose this form of higher education. The Legislature further finds that a strong and viable system of independent ~~nonprofit~~ colleges and universities reduces the tax burden on the citizens of the state. Because the William L. Boyd, IV, Effective Access to Student Education Grant Program is not related to a student's financial need or other criteria upon which financial aid programs are based, it is the intent of the Legislature that the William L. Boyd, IV, Effective Access to Student Education Grant Program not be considered a financial

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**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

23-00874C-22

20221034\_\_

aid program but rather a tuition assistance program for its citizens.

(3) The department shall issue through the program a William L. Boyd, IV, Effective Access to Student Education grant to any full-time degree-seeking undergraduate student registered at an independent ~~nonprofit~~ college or university which is located in and chartered by the state; which is accredited by the Commission on Colleges of the Southern Association of Colleges and Schools; which grants baccalaureate degrees; which is not a state university or Florida College System institution; and which has a secular purpose, so long as the receipt of state aid by students at the institution would not have the primary effect of advancing or impeding religion or result in an excessive entanglement between the state and any religious sect. A for-profit college or university must have Level 5 accreditation from the Commission on Colleges of the Southern Association of College and Schools in addition to the foregoing requirements.

Section 2. This act shall take effect July 1, 2022.

Page 2 of 2

**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Education

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BILL: SB 1122

INTRODUCER: Senator Gainer

SUBJECT: Student Fees

DATE: January 24, 2022

REVISED: \_\_\_\_\_

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Palazesi	Bouck	ED	<b>Pre-meeting</b>
2. _____	_____	AED	_____
3. _____	_____	AP	_____

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**I. Summary:**

SB 1122 authorizes a district school board or a Florida College System (FCS) institution board of trustees (BOT), in consultation with regional workforce and economic development organizations, to implement a plan for a differential out-of-state fee for the purpose of recruiting students into postsecondary programs of study identified as necessary to address unmet current and future workforce needs in the region.

The bill has no impact on state revenues or expenditures. However, FCS institutions and school districts that choose to implement the differential out-of-state fee for the purposes of recruiting students could experience a loss of fee revenues from students who are charged the differential out-of-state fee.

The bill takes effect July 1, 2022.

**II. Present Situation:**

**Florida College System (FCS)**

The FCS is established to, among other duties, provide access to undergraduate education to the students of this state, and to respond quickly and efficiently to meet the demand of communities by aligning certificate and degree programs with local and regional workforce needs.<sup>1</sup> The FCS is comprised of 28 institutions.<sup>2</sup> FCS institutions provide associate, baccalaureate degrees, and

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<sup>1</sup> Art. IX, s. 8(a), Fla. Const.

<sup>2</sup> Section 1000.21(3), F.S. The FCS institutions are Eastern Florida State College; Broward College; College of Central Florida; Chipola College; Daytona State College; Florida SouthWestern State College; Florida State College at Jacksonville; The College of the Florida Keys; Gulf Coast State College; Hillsborough Community College; Indian River State College; Florida Gateway College; Lake-Sumter State College; State College of Florida, Manatee-Sarasota; Miami Dade College; North Florida College; Northwest Florida State College; Palm Beach State College; Pasco-Hernando State College;

postsecondary workforce education programs at a savings to the student and to the state over the cost of providing the degree at a state university.<sup>3</sup> Each FCS institution is governed by a local board of trustees (BOT).<sup>4</sup> The FCS BOT members are appointed by the Governor to staggered four-year terms, and confirmed by the Senate.<sup>5</sup>

The mission of FCS institutions reflects a commitment to be responsive to local educational needs and challenges. In 2019-2020, the FCS had approximately 715,044 students enrolled in degree and certificate programs.<sup>6</sup> The table below provides a breakdown of student enrollment in the various educational programs offered by FCS institutions:<sup>7</sup>

<b>Programs (2019-2020)*</b>	<b>Enrollment</b>	<b>Degrees/Certificates Awarded</b>
Unduplicated Total Enrollment and Degrees/Certificates Awarded	715,044	113,212
Bachelor's Degree Program	45,943	9,477
Associate in Arts Degree (AA)	307,158	58,420
Associate in Science Degree (AS)	102,451	14,743
College Credit Certificates (CCC)	44,907	31,514
Postsecondary CTE (PSAV-ATD)	17,632	7,482
Advanced Technical Certificate (ATC)	700	420
Educator Preparation Institute (EPI)	1,147	403
Certificate of Professional Prep	132	104
Apprenticeship	3,016	126
College and Vocational Preparatory	47,657	N/A
Adult Education and Basic Secondary	22,285	N/A
Continuing Workforce Education	55,977	N/A
Life Long Learning	823	N/A
Recreation and Leisure	21,450	N/A

\*Students may enroll in more than one program.

### ***Florida College System Tuition and Fees***

Each FCS BOT is required to establish tuition and out-of-state fees, which may vary no more than 10 percent below and 15 percent above the standard tuition rate and out-of-state fees

Pensacola State College; Polk State College; St. Johns River State College; St. Petersburg College; Santa Fe College; Seminole State College of Florida; South Florida State College; Tallahassee Community College; and Valencia College.

<sup>3</sup> Section 1001.60(2)(a), F.S.

<sup>4</sup> Art. IX, s. 8, Fla. Const. *See also* sections 1001.60(3), 1001.61(1), and 1004.65(1), F.S. FCS institutions are statutorily designated as political subdivisions of the state. Section 1004.67, F.S.

<sup>5</sup> Section 1001.61(2), F.S.

<sup>6</sup> Florida Department of Education, Florida College System, *2021 Fact Book*, <https://www.fldoe.org/accountability/data-sys/CCTCMIS/reports.stml>, (last visited Jan. 11, 2021).

<sup>7</sup> *Id.*

determined by the Legislature.<sup>8</sup> An FCS BOT may also establish additional fees to support activities such as capital improvements, student activities and services, and technology.<sup>9</sup>

Since July 1, 2014, the standard tuition for advanced and professional, postsecondary vocational, developmental education, and educator preparation institute programs is \$71.98 per credit hour for residents and nonresidents, and the out-of-state fee is \$215.94 per credit hour.<sup>10</sup> Since July 1, 2014, for baccalaureate degree programs the tuition is \$91.79 per credit hour for students who are residents for tuition purposes.<sup>11</sup> For students who are nonresidents for tuition purposes, the tuition and out-of-state fee cannot be more than 85 percent of the sum of the tuition and the out-of-state fee at the state university nearest the FCS institution.<sup>12</sup>

An FCS BOT may establish differential out-of-state fees:<sup>13</sup>

- For an FCS institution that has a service area that borders another state.
- For a student who has been determined to be a nonresident for tuition purposes pursuant to s. 1009.21, F.S.,<sup>14</sup> and is enrolled in a distance learning course offered by the institution.<sup>15</sup>

### **Postsecondary Workforce Education**

FCS institutions and school district career centers may offer postsecondary workforce education programs.

#### ***School District Career Centers***

District school boards operate, control, and supervise public schools in the school district.<sup>16</sup> Any district school board, after first obtaining the approval of the Department of Education (DOE), may, as a part of the district school system, organize, establish and operate a career center.<sup>17</sup> A school district career center may offer terminal courses of a technical nature, and courses for out-of-school youth and adults, and is directed by a director responsible through the district school superintendent to the district school board.<sup>18</sup> In 2019-20, approximately 179,112 students were served by Florida's career centers.<sup>19</sup>

#### ***Postsecondary Workforce Education Programs***

Workforce education programs at district technical centers and FCS institutions include:

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<sup>8</sup> Section 1009.23(4), F.S.

<sup>9</sup> *Id.*

<sup>10</sup> Section 1009.23(3)(a), F.S.

<sup>11</sup> Section 1009.23(3)(b)(1.), F.S.

<sup>12</sup> Section 1009.23(3)(b)(2.), F.S.

<sup>13</sup> Section 1009.23(6)(a)-(b), F.S.

<sup>14</sup> Section 1009.21, F.S., delineates the requirements for resident status for tuition purposes.

<sup>15</sup> A differential out-of-state fee established must be applicable only to distance learning courses and must be established such that the sum of tuition and the differential out-of-state fee is sufficient to defray the full cost of instruction. Section 1009.23(6)(b), F.S.

<sup>16</sup> Art. IX, s. 4(b), Fla. Const.

<sup>17</sup> Section 1001.44(1), F.S.

<sup>18</sup> Section 1001.44(3)(a), F.S.

<sup>19</sup> Get There, Florida's Workforce Education Initiative, *Area Technical Centers: Supporting Postsecondary Skill and Credential Attainment in Florida*, at 2(2020) available at <https://areatechnicalcenters.org/wp-content/uploads/2021/02/ATC-StateProfile-Florida.pdf>.

- Adult general education programs.
- Career certificate programs.
- Applied technology diploma (ATD) programs.<sup>20</sup>
- Continuing workforce education courses.
- Degree career education programs (at FCS institutions only).
- Apprenticeship and preapprenticeship programs.

### ***Postsecondary Workforce Education Tuition and Fees***

For workforce education programs at an FCS institution or district career center that lead to a career certificate or an ATD, the standard tuition is \$2.33 per contact hour for residents and nonresidents and the out-of-state fee is \$6.99 per contact hour.<sup>21</sup> District school boards and FCS institutions may adopt tuition and out-of-state fees that vary no more than 5 percent below or 5 percent above the combined total of the standard tuition and out-of-state fees.<sup>22</sup> Similar to the authorization for an FCS institution, a district school board for a school district that borders another state may implement a plan for a differential out-of-state fee.<sup>23</sup>

### **Determination of resident status for tuition purposes**

To qualify as a resident, a student or, if that student is a dependent, their parent or parents, must have established legal residence in this state and must have maintained legal residence in this state for at least 12 consecutive months immediately prior to enrolling in a postsecondary institution.<sup>24</sup> Each postsecondary institution is required to determine whether an applicant meets the residency requirements.<sup>25</sup> The documentation needed for determining residency must be submitted to the postsecondary institution by the student.<sup>26</sup>

### **Comprehensive Local Needs Assessments**

In 2018, The Strengthening Career and Technical Education for the 21st Century Act reauthorized the Carl D. Perkins Career and Technical Education Act of 2006.<sup>27</sup> As part of the act, eligible recipient<sup>28</sup> (institutions) receiving Perkins V funding have to conduct a comprehensive local needs assessment related to career and technical education.<sup>29</sup> In the comprehensive local needs assessment, the eligible entity must describe how the career and technical programs offered are aligned to the in-demand industry identified by the state

<sup>20</sup> An ATD may be offered by either a career center or FCS institution, but a career center may offer an ATD only for non-degree career credit. Section 1004.02(7), F.S.

<sup>21</sup> Section 1009.22(3)(c), F.S.

<sup>22</sup> Section 1009.22(3)(d), F.S.

<sup>23</sup> Section 1009.22(4), F.S.

<sup>24</sup> Section 1009.21(2)(a)1., F.S.

<sup>25</sup> Section 1009.21(3)(c) F.S.

<sup>26</sup> *Id.* The documentation required to determine residency status are listed in Section 1009.21(3)(c)1.a-h, F.S. and 1009.21(3)(c)1.a-h, F.S 2.a-f, F.S.

<sup>27</sup> Pub. L. No. 107-110

<sup>28</sup> 20 U.S.C. s 2302(21) defines an eligible recipient as a local educational agency (including a public charter school that operates as a local educational agency), an area career and technical education school, an educational service agency, an Indian Tribe, Tribal organization, or Tribal educational agency or a consortium.

<sup>29</sup> 20 U.S.C. s 2354 (C).

workforce development board<sup>30</sup> and the programs that are designed to meet local education or economic needs not identified by the state and local workforce boards.<sup>31</sup> In conducting the local comprehensive needs assessment an institution is required to involve a diverse body of stakeholders:<sup>32</sup>

- Representatives of career and technical education programs in a local educational agency or educational service agency.
- Representatives of career and technical education programs at postsecondary educational institutions, including faculty and administrators.
- Representatives of the State board or local workforce development boards and a range of local or regional businesses or industries.
- Parents and students.
- Representatives of special populations.
- Representatives of regional or local agencies serving out-of-school youth, homeless children and youth, and at-risk youth.
- Representatives of Indian Tribes and Tribal organizations in the State, where applicable.
- Other stakeholders that the eligible agency may require the eligible recipient to consult.

### **III. Effect of Proposed Changes:**

The bill adds additional flexibility in the establishment of differential out-of-state fees by authorizing a district school board or Florida College System (FCS) board of trustees (BOT) to implement a plan for a differential out-of-state fee for the purpose of recruiting students into postsecondary programs of study identified as necessary to address unmet current and future workforce needs in the region. The bill requires that a district school board or FCS institution BOT consult with regional workforce and economic development organizations when implementing the plan.

### **IV. Constitutional Issues:**

#### **A. Municipality/County Mandates Restrictions:**

None.

#### **B. Public Records/Open Meetings Issues:**

None.

#### **C. Trust Funds Restrictions:**

None.

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<sup>30</sup> Federal law requires states to identify regional planning areas for workforce development strategies. 29 U.S.C. s. 3121. Within each area, a local workforce development board (LWBD) must be established. *Id.* Each of Florida's 24 LWDBs formulates a local budget and oversees the delivery of workforce services within its local area. Section 445.007(12), F.S.

<sup>31</sup> 20 U.S.C. s 2354 (2)(B)(I)(II).

<sup>32</sup> 20 U.S.C. s 2354 (2)(d)1-8.



**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

None.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

The bill has no impact on state revenues or expenditures. However, FCS institutions and school districts that choose to implement the differential out-of-state fee for the purposes of recruiting students could experience a loss of fee revenues from students who are charged the differential out-of-state fee.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends sections 1009.22 and 1009.23 of the Florida Statutes.

**IX. Additional Information:****A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.

S01122  
GENERAL BILL by Gainer; (CO-INTRODUCERS) Broxson; (Similar H 00991)  
Student Fees. EFFECTIVE DATE: 07/01/2022.  
01/11/22 S Introduced -SJ 75  
01/13/22 S On Committee agenda-- Education, 01/18/22, 11:00 am, 412 Knott Building --Not Considered  
01/20/22 S On Committee agenda-- Education, 01/25/22, 10:00 am, 412 Knott Building

By Senator Gainer

2-01041-22

20221122\_\_

A bill to be entitled

An act relating to student fees; amending s. 1009.22, F.S.; authorizing a district school board or Florida College System institution board of trustees, in consultation with specified entities, to implement a plan for a differential out-of-state fee; providing the purpose of the plan; amending s. 1009.23, F.S.; authorizing a Florida College System institution board of trustees, in consultation with specified entities, to implement a plan for a differential out-of-state fee; providing the purpose of the plan; providing an effective date.

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

Section 1. Subsection (4) of section 1009.22, Florida Statutes, is amended to read:

1009.22 Workforce education postsecondary student fees.—

(4) (a) A district school board or Florida College System institution board of trustees that has a service area that borders another state may implement a plan for a differential out-of-state fee.

(b) A district school board or Florida College System institution board of trustees, in consultation with regional workforce and economic development organizations, may implement a plan for a differential out-of-state fee for the purpose of recruiting students into programs of study identified as necessary to address unmet current and future workforce needs in the region.

Page 1 of 2

**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

2-01041-22

20221122\_\_

Section 2. Present paragraph (b) of subsection (6) of section 1009.23, Florida Statutes, is redesignated as paragraph (c), and a new paragraph (b) is added to that subsection, to read:

1009.23 Florida College System institution student fees.—

(6)

(b) A Florida College System institution board of trustees, in consultation with regional workforce and economic development organizations, may implement a plan for a differential out-of-state fee for the purpose of recruiting students into programs of study identified as necessary to address unmet current and future workforce needs in the region.

Section 3. This act shall take effect July 1, 2022.

Page 2 of 2

**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Education

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BILL: SB 1294

INTRODUCER: Senator Gruters

SUBJECT: Individual Education Plan Meetings

DATE: January 24, 2022

REVISED: \_\_\_\_\_

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Sagues	Bouck	ED	<b>Pre-meeting</b>
2. _____	_____	GO	_____
3. _____	_____	RC	_____

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## **I. Summary:**

SB 1294 authorizes a parent of a public school student, in accordance with specified limitations, to audio or video record any meeting with his or her child's Individual Education Plan (IEP) team, provided that the parent notifies the school district in writing of his or her intent to record the meeting at least 24 hours in advance of the meeting.

There is no fiscal impact to the state. The fiscal impact of the bill to individuals is indeterminate, but likely minimal. See Section V.

The bill takes effect on July 1, 2022.

## **II. Present Situation:**

### **Students with Disabilities**

All students who are between the ages of 3 to 21 and have a disability have the right to a free, appropriate public education (FAPE)<sup>1</sup> and related services designed to meet their unique needs. Infants and toddlers, birth through age 2, with disabilities and their families may receive early intervention services.<sup>2</sup>

It is the responsibility of each state and school district to develop procedures consistent with the requirement that all students with disabilities have access to a FAPE in the least restrictive environment.<sup>3</sup>

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<sup>1</sup> Section 1003.5716, F.S.

<sup>2</sup> U.S. Department of Education, *IDEA Purpose*, <https://sites.ed.gov/idea/about-idea> (last visited Jan. 11, 2022).

<sup>3</sup> Florida Department of Education, *Developing Quality Individual Education Plans* (2015), available at <http://www.fldoe.org/core/fileparse.php/7690/urlt/0070122-qualityieps.pdf>, at 9.

***Individuals with Disabilities Education Act (IDEA)***

The Individuals with Disabilities Education Act (IDEA) is a federal law that makes available a FAPE to eligible children with disabilities throughout the nation and ensures special education and related services are provided to those children. For the 2018-19 school year, more than 7.5 million eligible infants, toddlers, children, and youth with disabilities were provided early intervention, special education, and related services.<sup>4</sup> In Florida more than 500,000 students are considered exceptional education students and may qualify for special education and related services.<sup>5</sup>

The stated purpose of the IDEA is to:<sup>6</sup>

- Ensure that all children with disabilities have a FAPE that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living;
- Ensure that the rights of children with disabilities and parents of such children are protected;
- Assist states, localities, educational service agencies, and federal agencies to provide for the education of all children with disabilities;
- Assist states in the implementation of a statewide, comprehensive, coordinated, multidisciplinary, interagency system of early intervention services for infants and toddlers with disabilities and their families;
- Ensure that educators and parents have the necessary tools to improve educational results for children with disabilities by supporting system improvement activities; coordinated research and personnel preparation; coordinated technical assistance, dissemination, and support; and technology development and media services; and
- Assess, and ensure the effectiveness of, efforts to educate children with disabilities.

***The Individual Education Plan***

The Individual Education Plan (IEP) is the primary vehicle for communicating the school district's commitment to addressing the unique educational needs of a Florida student with a disability.<sup>7</sup> IDEA requires that:<sup>8</sup>

- Students with disabilities who meet the criteria of one or more categories of disability specified in law and who need special education services have an IEP;
- The IEP must be reviewed at least annually and revised as necessary;
- Due process rights are guaranteed;
- Student records are confidential;
- Parents are important partners in the IEP process and must be invited to all IEP meetings; and
- Student evaluation procedures are nondiscriminatory.

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<sup>4</sup> U.S. Department of Education, *IDEA Individuals with Disabilities Education Act*, <https://sites.ed.gov/idea/about-idea/#IDEA-Purpose> (last visited Jan. 11, 2022).

<sup>5</sup> Florida Department of Education, *Pk-12 Public School Data Publications and Reports, Membership in Programs for Exceptional Students, Final Survey 2, 2019-20*, <https://www.fldoe.org/accountability/data-sys/edu-info-accountability-services/pk-12-public-school-data-pubs-reports/archive.stml> (last visited Jan. 13, 2022).

<sup>6</sup> *Id.*

<sup>7</sup> Florida Department of Education, *Developing Quality Individual Education Plans* (2015), available at <http://www.fldoe.org/core/fileparse.php/7690/urlt/0070122-qualityieps.pdf>, at 9.

<sup>8</sup> *Id.*

### ***Individual Educational Plan Team***

The required participants in the IEP team have different roles. The school district must provide prior written notice that describes the purpose of the meeting and the title or position of those who will be attending. The IEP team includes the following members:<sup>9</sup>

- The student's parent(s) or guardian;
- The student, as appropriate, and in all meetings that address transition services needs and consideration of postsecondary education and career goals;
- At least one general education teacher if the student may be participating in the regular education environment;
- At least one special education teacher or service provider;
- A school district representative who is qualified to provide or supervise the provision of specially designed instruction and is knowledgeable about the general education curriculum and the availability of school district resources;
- An individual who can interpret the instructional implications of the evaluation results; and
- Other individuals who have knowledge or special expertise regarding the student, including related services personnel.

### **Parent Involvement**

Parents have a number of important roles in the IEP process. They bring firsthand knowledge about the strengths of their child and their concerns for enhancing their child's education. The parents can provide information about the day-to-day life, including their child's particular ways of accomplishing tasks in different settings, and their perspective on the needs of their child.<sup>10</sup>

Parents must be given an opportunity to participate in meetings concerning the IEP and educational placement for their child. Parents may also invite others who have special knowledge or expertise.<sup>11</sup> School district personnel may not object to the attendance of such a person or discourage parents from inviting another person to attend the meeting. The school district is prohibited from taking actions, making a statement, or using other means to coerce, harass, retaliate or threaten consequences related to bringing other adults to the meeting. The parents and school district personnel attending the meeting are provided an opportunity at the end of the meeting to sign a document that states whether any school district personnel have prohibited, discouraged or attempted to discourage the parents from inviting a person of their choice to the meeting.<sup>12</sup>

### **IEP Team Meetings**

Parents must be notified early enough to ensure that one or both of the parents have the opportunity to attend. The IEP meeting should be scheduled at a mutually agreed upon time and place.<sup>13</sup>

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<sup>9</sup> Florida Department of Education, *Developing Quality Individual Education Plans* (2015), available at <http://www.fldoe.org/core/fileparse.php/7690/urlt/0070122-qualityieps.pdf>, at 13. See also 34 CFR §300.321(a) and (b).

<sup>10</sup> *Id.* at 14.

<sup>11</sup> *Id.*

<sup>12</sup> Section 1002.20(21)(a), F.S.

<sup>13</sup> Florida Department of Education, *Developing Quality Individual Education Plans* (2015), available at <http://www.fldoe.org/core/fileparse.php/7690/urlt/0070122-qualityieps.pdf>, at 18.

The written notice must indicate the time, location and purpose of the meeting along with a list of who will be attending. The notice must also inform the parents about their right to invite individuals with special knowledge or expertise about their child to be a member of the IEP team.<sup>14</sup>

School districts must maintain a record of the attempts to setup a meeting and invite the parents. At least one attempt must be through a written notice and a second attempt must be made if there has been no response to the first notice. Documentation may include detailed records of telephone calls, copies of correspondence or detailed records of visits to the parents' home or place of employment.<sup>15</sup>

If neither parent can attend the meeting, the district must offer to use other methods of parent participation, such as a conference call, video conferencing or web conferencing. The use of any alternate form of participation requires that all members of the IEP team, including the parents, are comfortable with the alternate format. If parents are unable or unwilling to use alternate methods of participation, the district may obtain parent input by interviewing the parent or asking the parent to submit input in writing. If the parents are unable to attend the IEP team meeting and the meeting is conducted in their absence, the school district must keep a record of the attempts to involve the parents.<sup>16</sup>

The participants at the IEP team meeting may be asked to sign a form or otherwise document their attendance at the meeting. There is no requirement that a minimum number of individuals attend the meeting, only that the required roles are fulfilled and the appropriate excusal procedures are followed.<sup>17</sup>

### Recording IEP Meetings

The United States Department of Education (USDOE) has provided guidance on the use of audio or video recording devices at IEP meetings.<sup>18</sup> IDEA does not address the use of audio or video recording devices at IEP meetings, and no other federal statute either authorizes or prohibits the recording of an IEP meeting by either a parent or a school official. Therefore, a public agency has the option to require, prohibit, limit, or otherwise regulate the use of recording devices at IEP meetings.<sup>19</sup>

If a public agency has a policy that prohibits or limits the use of recording devices at IEP meetings, that policy must provide for exceptions if they are necessary to ensure the parent understands the IEP or the IEP process or to implement other parental rights under IDEA.<sup>20</sup>

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<sup>14</sup> Florida Department of Education, *Developing Quality Individual Education Plans* (2015), available at <http://www.fldoe.org/core/fileparse.php/7690/urlt/0070122-qualityieps.pdf>, at 19.

<sup>15</sup> *Id.* at 20.

<sup>16</sup> *Id.*

<sup>17</sup> *Id.* at 24. *See also* 34 CFR §300.321(a) and (b).

<sup>18</sup> United States Department of Education, *Office of Special Education and Rehabilitative Services* (2003), available at <https://sites.ed.gov/idea/files/idea/policy/speced/guid/idea/letters/2003-2/redact060403iep2q2003.pdf>.

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*



Any recording of an IEP meeting that is maintained by the public agency is an “education record” within the meaning of the Family Educational Rights and Privacy Act (FERPA), and would be subject to the confidentiality requirements and regulations under FERPA and IDEA.<sup>21</sup>

### **Family Educational Rights and Privacy Act**

With limited exceptions, school districts may not disclose personally identifiable information contained within student records to a third party without parental consent.<sup>22</sup> FERPA applies to all schools that receive funds under an applicable program of the USDOE.

FERPA gives parents certain rights with respect to their children’s education records. These rights transfer to the student when he or she reaches the age of 18 or attends a school beyond the high school level. Such rights include parents or eligible students having the right to:<sup>23</sup>

- Inspect and review the student’s education records maintained by the school.
- Request that a school correct records which they believe to be inaccurate or misleading.

Sections 1002.22 and 1002.225, F.S., incorporate the FERPA into Florida law as it applies to public K-12 students and public postsecondary educational institutions, respectively. The FERPA only applies to records created for an educational purpose and maintained by an educational agency.

### **Parental Rights**

Florida law provides that parental rights are reserved to the parent of a minor child without obstruction or interference from the state, any of its political subdivisions, any other governmental entity, or any other institution. Such rights include specified education-related rights, including the right to:<sup>24</sup>

- Direct the education and care of his or her minor child.
- Direct the upbringing and the moral or religious training of his or her minor child.
- Apply to enroll his or her minor child in a public or other school authorized by law.
- Access and review all school records relating to his or her minor child.

### **Nonconsensual Interception of Communications**

Federal law authorizes private individuals to record wire, oral, or electronic communications if one of the parties consents.<sup>25</sup> Thirty-seven states plus the District of Columbia have laws

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<sup>21</sup> United States Department of Education, *Office of Special Education and Rehabilitative Services* (2003), available at <https://sites.ed.gov/idea/files/idea/policy/speced/guid/idea/letters/2003-2/redact060403iep2q2003.pdf>.

<sup>22</sup> Section 1002.22, F.S.; 20 U.S.C. s. 1232(g).

<sup>23</sup> 20 U.S.C. s. 1232(g). U.S. Department of Education, Family Educational Rights and Privacy Act (FERPA), <https://www2.ed.gov/policy/gen/guid/fpco/ferpa/index.html#:~:text=The%20Family%20Educational%20Rights%20and%20Privacy%20Act%20%28FERPA%29,applicable%20program%20of%20the%20U.S.%20Department%20of%20Education>. (last visited Jan. 12, 2022).

<sup>24</sup> Section 1014.04(1), F.S.

<sup>25</sup> 18 U.S.C. s. 2511; Rauvin Johl, *Reassessing Wiretap and Eavesdropping Statutes: Making One-Party Consent the Default*, 12 Harv. L. & Pol’y Rev. 177, 179 (2018).

following the federal one-party consent regime.<sup>26</sup> Thirteen states, including Florida, require the consent of all recorded parties.<sup>27</sup>

Chapter 934, F.S., governs the security of various types of communications in the state, limits the ability to intercept, monitor, and record such communications, and provides criminal penalties<sup>28</sup> and civil remedies.<sup>29</sup> Section 934.03, F.S., makes it a third degree felony<sup>30</sup> to intentionally “intercept” an “oral communication.”<sup>31</sup> For example, the law prohibits an individual from using an electronic scanning device to monitor private telephone calls.<sup>32</sup>

### III. Effect of Proposed Changes:

SB 1294 modifies sections 1002.20 and 1014.04, F.S., to authorize a parent of a public school student, notwithstanding section 934.03, F.S., which regulates the interception and disclosure of wire, oral and electronic communications, and in accordance with the federal Family Educational rights and Privacy Act of 1974, to audio or video record any meeting with his or her child’s Individual Education Plan (IEP) team, provided that the parent notifies the school district in writing of his or her intent to record the meeting at least 24 hours in advance of the meeting.

Under the bill school districts would not be allowed to determine the circumstances by which a meeting may or may not be recorded, or allow only certain types of recording. Also, authorizing such a recording may enhance transparency and provide additional clarity at IEP team meetings for parents.

The bill takes effect on July 1, 2022.

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

None.

#### B. Public Records/Open Meetings Issues:

None.

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<sup>26</sup> United States Recording Law, One-Party Consent States – Updated 2022, <https://recordinglaw.com/united-states-recording-laws/one-party-consent-states/> (last visited Jan. 11, 2022).

<sup>27</sup> United States Recording Law, All Party (Two Party) Consent States, <https://recordinglaw.com/party-two-party-consent-states/> (last visited Jan. 11, 2022).

<sup>28</sup> Sections 934.04, 934.21, 934.215, 934.31, and 934.43, F.S.

<sup>29</sup> Section 934.05, F.S.

<sup>30</sup> A third degree felony is punishable by up to 5 years in state prison and a fine of up to \$5,000. Sections 775.082 and 775.083, F.S.

<sup>31</sup> Section 934.02(3), F.S., defines “intercept” as the aural or other acquisition of the contents of any wire, electronic, or oral communication through the use of any electronic, mechanical, or other device. Section 934.02(2), F.S., defines “oral communication” as any oral communication uttered by a person exhibiting an expectation that such communication is not subject to interception under circumstances justifying such expectation and does not mean any public oral communication uttered at a public meeting or any electronic communication.

<sup>32</sup> *State v. Mozo*, 655 So. 2d 1115, 1116 (Fla. 1995).

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

A parent of a public school student who chooses to audio or video record a meeting with his or her child's Individual Education Plan team may incur technology costs associated with such a recording.

C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends sections 1002.20 and 1014.04 of the Florida Statutes.

**IX. Additional Information:**

**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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470806

LEGISLATIVE ACTION

Senate

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House

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The Committee on Education (Gruters) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 24 - 31

and insert:

(c)1. IEP meetings.—Notwithstanding s. 934.03 and subject to the protections provided in the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. s. 1232g, and ss. 1002.22 and 1002.225, a parent of a public school student may audio or video record any meeting with his or her child's IEP team, provided that the parent notifies the school district in writing of his or her intent to record the meeting at least 24 hours before the



470806

meeting.

2. A parent or any other individual in possession of an audio or video recording authorized by this paragraph or s. 1014.04(1)(k) may not publicly share its contents without the consent of all recorded parties. This paragraph does not prohibit a party from using an audio or video recording as evidence during a legal proceeding, a mediation, an administrative proceeding, or other grievance process authorized by the Individuals with Disabilities Education Act.

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

And the title is amended as follows:

Delete line 8

and insert:

of his or her intent to record the meeting;  
prohibiting a parent or any other individual in  
possession of such audio or video recording from  
publicly sharing its contents without the consent of  
all recorded parties; providing an exception; amending

S01294  
GENERAL BILL by Gruters;  
Individual Education Plan Meetings. EFFECTIVE DATE: 07/01/2022.  
01/11/22 S Introduced -SJ 87  
01/13/22 S On Committee agenda-- Education, 01/18/22, 11:00 am, 412 Knott Building --Not Considered  
01/20/22 S On Committee agenda-- Education, 01/25/22, 10:00 am, 412 Knott Building



By Senator Gruters

23-00933-22

20221294\_\_

A bill to be entitled

An act relating to individual education plan meetings; amending s. 1002.20, F.S.; authorizing a parent of a public school student to audio or video record any meeting with his or her child's individual education plan (IEP) team; requiring the parent to notify the school district in writing a specified time in advance of his or her intent to record the meeting; amending s. 1014.04, F.S.; providing that parents have the right to audio or video record meetings with their child's IEP team; providing an effective date.

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

Section 1. Paragraph (c) is added to subsection (21) of section 1002.20, Florida Statutes, to read:

1002.20 K-12 student and parent rights.—Parents of public school students must receive accurate and timely information regarding their child's academic progress and must be informed of ways they can help their child to succeed in school. K-12 students and their parents are afforded numerous statutory rights including, but not limited to, the following:

(21) PARENTAL INPUT AND MEETINGS.—

(c) IEP meetings.—Notwithstanding s. 934.03 and subject to the protections provided in the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. s. 1232g, and ss. 1002.22 and 1002.225, a parent of a public school student may audio or video record any meeting with his or her child's IEP team, provided that the parent notifies the school district in writing of his

Page 1 of 2

**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

23-00933-22

20221294\_\_

or her intent to record the meeting at least 24 hours in advance of the meeting.

Section 2. Paragraph (k) is added to subsection (1) of section 1014.04, Florida Statutes, to read:

1014.04 Parental rights.—

(1) All parental rights are reserved to the parent of a minor child in this state without obstruction or interference from the state, any of its political subdivisions, any other governmental entity, or any other institution, including, but not limited to, all of the following rights of a parent of a minor child in this state:

(k) The right, pursuant to s. 1002.20(21)(c), to audio or video record meetings with his or her child's individual education plan (IEP) team.

Section 3. This act shall take effect July 1, 2022.

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**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.



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Proposed Committee Substitute by the Committee on Education

A bill to be entitled

An act relating to district school boards; amending s. 145.19, F.S.; conforming provisions to changes made by the act; amending s. 1001.395, F.S.; revising the salaries of district school board members; amending s. 1006.28, F.S.; deleting a requirement that district school boards maintain a current list of instructional materials on their websites; requiring meetings of committees convened to rank, eliminate, or select instructional materials to be noticed and open to the public; requiring such committees to include parents of district students and other members of the community; requiring certain individuals involved in selecting library materials to complete a specified training program; requiring certain materials to be selected only by employees who meet specified criteria; requiring district school boards to adopt procedures for developing library media center collections; providing requirements for such procedures; requiring elementary schools, district school boards, and the Department of Education to post in certain formats on their websites specified information relating to instructional materials and other materials; providing district school board requirements relating to public participation regarding selection, approval, adoption, or removal of certain materials; providing that school principals are responsible for overseeing compliance with



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specified procedures relating to library media center materials; amending s. 1006.29, F.S.; revising requirements for the department relating to the development of training programs for the selection of materials used in schools and library media centers; amending s. 1006.40, F.S.; revising district school board requirements for the selection and adoption of certain materials; providing an effective date.

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

Section 1. Subsection (2) of section 145.19, Florida Statutes, is amended to read:

145.19 Annual percentage increases based on increase for state career service employees; limitation.—

(2) Each fiscal year, the salaries of all officials listed in this chapter, ~~s. 1001.395~~, and s. 1001.47 shall be adjusted. The adjusted salary rate shall be the product, rounded to the nearest dollar, of the salary rate granted by the appropriate section of this chapter, ~~s. 1001.395~~, or s. 1001.47 multiplied first by the initial factor, then by the cumulative annual factor, and finally by the annual factor. The Department of Management Services shall certify the annual factor and the cumulative annual factors. Any special qualification salary received under this chapter, s. 1001.47, or the annual performance salary incentive available to elected superintendents under s. 1001.47 shall be added to such adjusted salary rate. The special qualification salary shall be \$2,000, but shall not exceed \$2,000.



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Section 2. Section 1001.395, Florida Statutes, is amended to read:

1001.395 District school board members; compensation.—

(1) Each member of the district school board shall receive a base salary equal to the annual salary of a member of the Legislature identified in s. 11.13(1)(a)2., as determined pursuant to the General Appropriations Act or legislation implementing the General Appropriations Act, the amounts indicated in this section, based on the population of the county the district school board member serves. In addition, compensation shall be made for population increments over the minimum for each population group, which shall be determined by multiplying the population in excess of the minimum for the group times the group rate. The product of such calculation shall be added to the base salary to determine the adjusted base salary. The adjusted base salaries of district school board members shall be increased annually as provided for in s. 145.19.

Pop- Group	County Pop.	Range	Base Salary	Group Rate
	Minimum	Maximum		
I	0-	9,999	\$5,000	\$0.08330
II	10,000	49,999	5,833	0.020830
III	50,000	99,999	6,666	0.016680



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IV	100,000	199,999	7,500	0.008330
V	200,000	399,999	8,333	0.004165
VI	400,000	999,999	9,166	0.001390
VII	1,000,000		10,000	0.000000

(2) Notwithstanding the provisions of this section ~~or s. 145.19~~, district school board members may reduce their salary rate on a voluntary basis.

(3) Notwithstanding the provisions of this section ~~and s. 145.19~~, the salary of each district school board member shall be the amount calculated pursuant to subsection (1) or the district's beginning salary for teachers who hold baccalaureate degrees, whichever is less.

Section 3. Paragraphs (a) and (d) of subsection (2) and subsection (4) of section 1006.28, Florida Statutes, are amended, and paragraph (e) is added to subsection (2) of that section, to read:

1006.28 Duties of district school board, district school superintendent; and school principal regarding K-12 instructional materials.—

(2) DISTRICT SCHOOL BOARD.—The district school board has the constitutional duty and responsibility to select and provide adequate instructional materials for all students in accordance with the requirements of this part. The district school board



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also has the following specific duties and responsibilities:

(a) *Courses of study; adoption.*—Adopt courses of study, including instructional materials, for use in the schools of the district.

1. Each district school board is responsible for the content of all instructional materials and any other materials used in a classroom, made available in a school library, or included on a reading list, whether adopted and purchased from the state-adopted instructional materials list, adopted and purchased through a district instructional materials program under s. 1006.283, or otherwise purchased or made available.

~~Each district school board shall maintain on its website a current list of instructional materials, by grade level, purchased by the district.~~

2. Each district school board must adopt a policy regarding an objection by a parent or a resident of the county to the use of a specific instructional material, which clearly describes a process to handle all objections and provides for resolution. The process must provide the parent or resident the opportunity to proffer evidence to the district school board that:

a. An instructional material does not meet the criteria of s. 1006.31(2) or s. 1006.40(3)(d) if it was selected for use in a course or otherwise made available to students in the school district but was not subject to the public notice, review, comment, and hearing procedures under s. 1006.283(2)(b)8., 9., and 11.

b. Any material used in a classroom, made available in a school library, or included on a reading list contains content that is pornographic or prohibited under s. 847.012, is not



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suited to student needs and their ability to comprehend the material presented, or is inappropriate for the grade level and age group for which the material is used.

If the district school board finds that an instructional material does not meet the criteria under sub-subparagraph a. or that any other material contains prohibited content under sub-subparagraph b., the school district shall discontinue use of the material for any grade level or age group for which such use is inappropriate or unsuitable.

3. Each district school board must establish a process by which the parent of a public school student or a resident of the county may contest the district school board's adoption of a specific instructional material. The parent or resident must file a petition, on a form provided by the school board, within 30 calendar days after the adoption of the instructional material by the school board. The school board must make the form available to the public and publish the form on the school district's website. The form must be signed by the parent or resident, include the required contact information, and state the objection to the instructional material based on the criteria of s. 1006.31(2) or s. 1006.40(3)(d). Within 30 days after the 30-day period has expired, the school board must, for all petitions timely received, conduct at least one open public hearing before an unbiased and qualified hearing officer. The hearing officer may not be an employee or agent of the school district. The hearing is not subject to the provisions of chapter 120; however, the hearing must provide sufficient procedural protections to allow each petitioner an adequate and



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fair opportunity to be heard and present evidence to the hearing officer.

The school board's decision after convening a hearing is final and not subject to further petition or review.

4. Meetings of committees convened for the purpose of ranking, eliminating, or selecting instructional materials for recommendation to the district school board must be noticed and open to the public in accordance with s. 286.011. Any committees convened for such purposes must include parents of school district students and other members of the community.

(d) *School library media services; establishment and maintenance.*—Establish and maintain a program of school library media services for all public schools in the district, including school library media centers, or school library media centers open to the public, and, in addition such traveling or circulating libraries as may be needed for the proper operation of the district school system. ~~Each school district shall provide training to School librarians, and media specialists, and other personnel involved in the selection of school district library materials must complete a training program developed pursuant to s. 1006.29(5) before reviewing and selecting regarding the prohibition against distributing harmful materials to minors under s. 847.012 and applicable case law, and best practices for providing students access to age-appropriate materials and library resources. Upon written request, a school district shall provide access to any material or book specified in the request that is maintained in a district school system library and is available for review.~~



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1. Each book made available to students through a school district library media center or required as part of a booklist used in a classroom must be selected by a school district employee who holds a valid educational media specialist certificate, regardless of whether the book is purchased, donated, or otherwise made available to students.

2. Each district school board shall adopt procedures for developing library media center collections and post the procedures on the website for each school within the district. The procedures must:

a. Require that book selections meet the criteria in s. 1006.40(3)(d).

b. Require consultation of reputable, professionally recognized reviewing sources and school community stakeholders for each selection.

c. Provide for library media center collections based on reader interest, support of state academic standards and aligned curriculum, and the academic needs of students and faculty.

d. Provide for the regular removal or discontinuance of books based on, at a minimum, physical condition, rate of recent circulation, alignment to state academic standards and relevancy to curriculum, out-of-date content, and required removal pursuant to subparagraph (a)2.

3. Each elementary school must publish on its website, in a searchable format prescribed by the department, a list of all materials maintained in the school library media center or required as part of a booklist used in a classroom.

(e) Public participation.—Publish on its website, in a searchable format prescribed by the department, a list of all



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222 instructional materials, including those used to provide  
223 instruction required by s. 1003.42. Each district school board  
224 must:

225 1. Provide access to all materials, excluding teacher  
226 editions, for public inspection and allow the public to copy,  
227 scan, duplicate, or photograph portions of original materials  
228 within the limits of fair use under the copyright laws of the  
229 United States pursuant to Title 17 of the United States Code,  
230 Pub. L. No. 94-653, 17 U.S.C. ss. 101 et seq. Access must be  
231 provided at least 30 days before any official action on such  
232 materials.

233 2. Select, approve, adopt, or purchase all materials as a  
234 separate line item on the agenda and must provide a reasonable  
235 opportunity for public comment. The use of materials described  
236 in this paragraph may not be selected, approved, or adopted as  
237 part of a consent agenda.

238 3. Annually, beginning June 30, 2022, submit to the  
239 Commissioner of Education a report that identifies:

240 a. Each material for which the school district received an  
241 objection pursuant to subparagraph (a)2. for the school year and  
242 the specific objections thereto.

243 b. Each material removed or discontinued as a result of an  
244 objection.

245 c. The grade level and course for which a removed or  
246 discontinued material was used, as applicable.

247  
248 The department shall publish and regularly update a list of  
249 materials removed or discontinued as a result of an objection  
250 and disseminate the list to school districts for consideration



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251 in their selection procedures.

252 (4) SCHOOL PRINCIPAL.—The school principal has the  
253 following duties for the management and care of ~~instructional~~  
254 materials at the school:

255 (a) *Proper use of instructional materials.*—The principal  
256 shall assure that instructional materials are used to provide  
257 instruction to students enrolled at the grade level or levels  
258 for which the materials are designed, pursuant to adopted  
259 district school board rule. The school principal shall  
260 communicate to parents the manner in which instructional  
261 materials are used to implement the curricular objectives of the  
262 school.

263 (b) *Money collected for lost or damaged instructional*  
264 *materials; enforcement.*—The school principal shall collect from  
265 each student or the student's parent the purchase price of any  
266 instructional material the student has lost, destroyed, or  
267 unnecessarily damaged and to report and transmit the money  
268 collected to the district school superintendent. The failure to  
269 collect such sum upon reasonable effort by the school principal  
270 may result in the suspension of the student from participation  
271 in extracurricular activities or satisfaction of the debt by the  
272 student through community service activities at the school site  
273 as determined by the school principal, pursuant to policies  
274 adopted by district school board rule.

275 (c) *Sale of instructional materials.*—The school principal,  
276 upon request of the parent of a student in the school, shall  
277 sell to the parent any instructional materials used in the  
278 school. All such sales shall be made pursuant to rule adopted by  
279 the district school board, and the principal shall annually



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provide information to parents that they may purchase instructional materials and how to purchase the materials.

(d) *Disposition of funds.*—All money collected from the sale, exchange, loss, or damage of instructional materials shall be transmitted to the district school superintendent to be deposited in the district school board fund and added to the district appropriation for instructional materials.

(e) *Accounting for instructional materials.*—Principals shall see that all instructional materials are fully and properly accounted for as prescribed by adopted rules of the district school board.

(f) *Selection of library media center materials.*—School principals are responsible for overseeing compliance with school district procedures for selecting school library media center materials.

Section 4. Subsections (2) and (5) of section 1006.29, Florida Statutes, are amended to read:

1006.29 State instructional materials reviewers.—

(2) For purposes of this part ~~state adoption~~, the term “instructional materials” means items having intellectual content that by design serve as a major tool for assisting in the instruction of a subject or course. These items may be available in bound, unbound, kit, or package form and may consist of hardbacked or softbacked textbooks, electronic content, consumables, learning laboratories, manipulatives, electronic media, and computer courseware or software. A publisher or manufacturer providing instructional materials as a single bundle shall also make the instructional materials available as separate and unbundled items, each priced



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individually. A publisher may also offer sections of state-adopted instructional materials in digital or electronic versions at reduced rates to districts, schools, and teachers.

(5) The department shall develop a training programs ~~program~~ for persons selected as state instructional materials reviewers and school district reviewers of instructional materials, including those used to provide instruction required by s. 1003.42, and any materials maintained in the district school library media centers or included on a reading list. The programs ~~program~~ shall be structured to assist reviewers in complying with the requirements of s. 1006.31(2) ~~developing the skills necessary to make valid, culturally sensitive, and objective decisions regarding the content and rigor of instructional materials.~~ All persons serving as instructional materials reviewers must complete a the training program before ~~prior to~~ beginning the review and selection process.

Section 5. Paragraph (b) of subsection (4) of section 1006.40, Florida Statutes, is amended to read:

1006.40 Use of instructional materials allocation; instructional materials, library books, and reference books; repair of books.—

(4) Each district school board is responsible for the content of all materials used in a classroom or otherwise made available to students. Each district school board shall adopt rules, and each district school superintendent shall implement procedures, that:

(b) Provide a process for public review of, public comment on, and the adoption of instructional materials, including those instructional materials used to provide instruction required by



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338 ~~s. 1003.42 teach reproductive health or any disease, including~~  
339 ~~HIV/AIDS, under ss. 1003.42(3) and 1003.46,~~ which satisfies the  
340 requirements of s. 1006.283(2)(b)8., 9., and 11.

341 Section 6. This act shall take effect July 1, 2022.



**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Education

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BILL: PCS/SB 1300 (528322)

INTRODUCER: Education Committee

SUBJECT: District School Boards

DATE: January 24, 2022

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Palazes	Bouck	ED	<b>Pre-meeting</b>
2.			GO	
3.			RC	

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**I. Summary:**

PCS/SB 1300 modifies district school board member salaries to align to the salaries of members of the Florida Legislature. The bill also provides specific requirements for school districts in selecting instructional materials and materials used in school libraries and media centers.

Specifically, the bill requires:

- Certain school district instructional material review committee meetings be noticed and open to the public.
- School district personnel who are involved in reviewing and selecting certain instructional materials and library materials to complete training developed by the Department of Education (DOE) on selecting quality, age-appropriate books, prior to making selections.
- School districts to adopt and post procedures for developing library media center collections.
- Each elementary school to post on its website a list of all materials maintained in the school library or required in a classroom booklist.
- Material in a school library or classroom booklist to be selected by a certified educational media specialist.
- School districts to provide access to all materials for public inspection and to publish in a searchable format a list of all materials available to students on the school website.
- School districts to provide a public review process for the adoption of all materials and to select, approve, adopt, or purchase materials as a separate line item on a board meeting agenda and provide reasonable opportunity for public comment;
- School districts to annually submit to the Commissioner of Education a report identifying materials for which the school district received an objection, and the DOE to publish a list of removed or discontinued materials as a result of an objection.
- School principals to oversee compliance with school library media center materials selection procedures.

The bill is effective July 1, 2022.

## II. Present Situation:

### District School Board Members' Salaries

Florida's Constitution provides that each county constitutes a school district, and must include a school board composed of five or more members chosen by vote. School board duties include operating, controlling, and supervising all public schools in a school district and determining the rate of school district taxes.<sup>1</sup>

Florida law provides for the base salary for each member of a district school board. The base salary is dependent upon the population of the county the district school board member serves. Seven population groups<sup>2</sup> are each assigned a base salary; then a group rate is established in law for each population group. The group rate is additional compensation for each additional person above the minimum population group.<sup>3</sup> The below chart establishes the salary calculation to determine school board member's salaries.<sup>4</sup>

Pop. Group	County Pop. Range		Base Salary	Group Rate
	Minimum	Maximum		
I	-0-	9,999	\$5,000	\$0.08330
II	10,000	49,999	5,833	0.020830
III	50,000	99,999	6,666	0.016680
IV	100,000	199,999	7,500	0.008330
V	200,000	399,999	8,333	0.004165
VI	400,000	999,999	9,166	0.001390
VII	1,000,000		10,000	0.000000

In the 2021-2022 fiscal year, elected school board member salaries ranged between \$26,965 (Liberty County) to \$47,189 (Broward, Hillsborough, Miami-Dade, Orange, and Palm Beach counties).<sup>5</sup>

In 2009, district school board members were authorized to voluntarily reduce their salary.<sup>6</sup> In 2018, the Legislature aligned district school board member salaries with the beginning teacher salary or the amount calculated by statute, whichever is less.<sup>7</sup>

The district is also authorized to reimburse travel expenses for district school board members from the district school fund. Travel outside the district that exceeds \$500 requires approval by

<sup>1</sup> Art. IX, s. 4(a), Fla. Const.

<sup>2</sup> Section 145.021, F.S. Population means the population according to the latest annual determination of population of local governments produced by the Executive Office of the Governor.

<sup>3</sup> Staff of the Florida Senate, *Legislative Bill Analysis for CS/CS/SB 514* (2016).

<sup>4</sup> Section 1001.395(1), F.S.

<sup>5</sup> Office of Economic and Demographic Research, *Salaries of Elected County Constitutional Officers and School District Officials for Fiscal Year 2021-22* (2021), at 12-13, available at <http://edr.state.fl.us/Content/local-government/reports/finsal21.pdf>. The school board member salaries provided in the *Salaries of Elected County Constitutional Officers and School District Officials for Fiscal Year 2021-22* are based on the statutory calculation in s.1001.395, F.S. and s. 145.19, F.S.

<sup>6</sup> Section 1, ch. 2009-3, L.O.F.

<sup>7</sup> Section 5, ch. 2018-5, L.O.F.

the school board to confirm that the travel is for official business, and all travel outside of the state must include an itemized list detailing all anticipated expenses.<sup>8</sup>

### **Florida Senate and House of Representatives Members' Salaries**

Florida law provides that the annual salary for members of the Senate and the House of Representatives are:<sup>9</sup>

- The President of the Senate and Speaker of the House of Representatives, \$25,000 each.
- All other members of the Senate and House of Representatives, \$18,000 each.

However, since July 1, 1986, the annual salaries of members of the Senate and House of Representatives are adjusted by the average percentage increase in the salaries of state career service employees for the fiscal year just concluded.<sup>10</sup> In the 2021-2022 fiscal year, the legislature authorized the salaries for members to be set at the same level that was in effect in July 1, 2010, which is \$29,697 for each member of the Florida Senate and the House of Representatives.<sup>11</sup>

### **Instructional Materials and Library Materials in Florida Public Schools**

#### ***Instructional Materials Adoption***

Each district school board has the constitutional duty and responsibility to select and provide adequate instructional materials to each student for core courses in mathematics, language arts, science, social studies, reading, and literature for kindergarten through grade 12.<sup>12</sup> “Adequate instructional materials” are defined by law as a sufficient number of student or site licenses or sets of materials that are available in bound, unbound, kit, or package form and may consist of hardbacked or softbacked textbooks, electronic content, consumables, learning laboratories, manipulatives, electronic media, and computer courseware or software that serve as the basis for instruction for students.<sup>13</sup>

#### ***State Instructional Materials Adoption***

The Florida Department of Education (DOE) facilitates the statewide instructional materials adoption process through evaluation of materials submitted by publishers and manufacturers.<sup>14</sup> Expert reviewers chosen by the DOE must objectively evaluate materials based on alignment to Florida’s state-adopted standards, accuracy, and appropriateness for age and grade level.<sup>15</sup> Based on reviewer recommendations of materials that are “suitable, usable, and desirable,” the Commissioner of Education (commissioner) then selects and adopts instructional materials for

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<sup>8</sup> Section 1001.39, F.S.

<sup>9</sup> Section 11.13,(1)(a)1.-2., F.S.

<sup>10</sup> Section 11.13(2), F.S.

<sup>11</sup> Section 59, ch. 2021-37, L.O.F.

<sup>12</sup> Section 1006.40(2), F.S.

<sup>13</sup> Section 1006.28(1), F.S. Digital and instructional materials, including software applications, must be provided by each school board, in consultation with the district school superintendent, to students with disabilities in prekindergarten through grade 12. Section 1003.4203(2), F.S.

<sup>14</sup> Section 1006.34(1), F.S.

<sup>15</sup> Section 1006.31, F.S.

each grade and subject under consideration.<sup>16</sup> The DOE must provide training to instructional materials reviewers on competencies for making valid, culturally sensitive, and objective recommendations regarding the content and rigor of instructional materials prior to the beginning of the review and selection process.<sup>17</sup>

After adoption, the DOE must make the final report of instructional materials available at all times for public inspection. The DOE Office of Instructional Materials announces the adoption by publicly posting the list on its website, as well as emailing district instructional materials contacts with the newly approved materials.<sup>18</sup>

### ***School District Instructional Materials Adoption***

A district school board or consortium of school districts may implement an instructional materials program that includes the review, recommendation, adoption, and purchase of instructional materials. The district school superintendent must certify to the DOE by March 31 of each year that all instructional materials for core courses used by the district are aligned with applicable state standards.<sup>19</sup> School districts receive an allocation of state funds each year for instructional materials, library books, and reference books.<sup>20</sup> Unless a school district has implemented its own instructional materials review process,<sup>21</sup> at least 50 percent of the allocation of funds must be used to purchase instructional materials on the state-adopted list.<sup>22</sup> The remaining 50 percent of the annual allocation may be used for the purchase of library and reference books, nonprint materials, and the repair and renovation of materials; however, such materials are not subject to the same school-district adoption procedures as instructional materials.<sup>23</sup> Each district school board is required to maintain a list of all purchased instructional materials, by grade level, on its website.<sup>24</sup>

District school boards or a consortium of school districts who choose to implement an instructional materials program must adopt rules for the instructional materials program. The school district instructional materials review program must include processes criteria, and requirements for the following:<sup>25</sup>

- Selection of reviewers, one or more of whom must be parents with children in public schools;
- Review of instructional materials;
- Selection of instructional materials, including a thorough review of curriculum content;

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<sup>16</sup> Section 1006.34(2)(a), F.S. Generally, the commissioner adopts instructional materials according to a 5-year rotating schedule. The commissioner may approve a shorter schedule if the content area requires more frequent revision. Section 1006.36(1), F.S.

<sup>17</sup> Section 1006.29(5), F.S.

<sup>18</sup> Florida Department of Education, Instructional Materials, *Archive*, <https://www.fldoe.org/academics/standards/instructional-materials/archive/> (last visited Jan. 18, 2022). The DOE website has all adopted instructional materials lists from 2005 to present.

<sup>19</sup> Section 1006.283(1), F.S.

<sup>20</sup> Specific Appropriation 7 and 90, section 2, ch. 2021-36, L.O.F.

<sup>21</sup> Section s. 1006.283, F.S.

<sup>22</sup> Section 1006.34, F.S. All adopted materials are posted on the DOE Instructional Materials webpage. Florida Department of Education, *Instructional Materials*, <https://www.fldoe.org/academics/standards/instructional-materials/> (last visited January 20, 2022).

<sup>23</sup> Section 1006.40(3)(b), F.S.

<sup>24</sup> Section 1006.28(2)(a)(1), F.S.

<sup>25</sup> Section 1006.283(2)(a)1.-6., F.S.

- Reviewer recommendations;
- District school board adoption; and
- Purchase of instructional materials.

The process by which instructional materials are adopted by the district school board must include:<sup>26</sup>

- A process to allow student editions of recommended instructional materials to be accessed and viewed online by the public at least 20 calendar days before the school board hearing and public meeting as specified in this subparagraph. This process must include reasonable safeguards against the unauthorized use, reproduction, and distribution of instructional materials considered for adoption;
- An open, noticed school board hearing to receive public comment on the recommended instructional materials;
- An open, noticed public meeting to approve an annual instructional materials plan to identify any instructional materials that will be purchased through the district school board instructional materials review process pursuant to this section. This public meeting must be held on a different date than the school board hearing; and
- Notice requirements for the school board hearing and the public meeting that must specifically state which instructional materials are being reviewed and the manner in which the instructional materials can be accessed for public review. The hearing must allow the parent of a public school student or a resident of the county to proffer evidence that a recommended instructional material.

School districts are also required to establish the processes by which the district school board must receive public comment on the recommended instructional materials and how parents can access their children's instructional materials through the district's local instructional improvement system.<sup>27</sup>

In September 2021, the Second District Court of Appeal held that when a district school board delegates decision-making authority to an instructional materials review committee, any meeting in which the committee exercises the authority to rank, eliminate, and select materials for final approval by the school board must be noticed and open in accordance with the Sunshine Law.<sup>28</sup>

### ***Selection Processes of Library Media Materials***

In addition to instructional materials, each district school board is responsible for the content of any other materials used in the classroom, made available in a school library, or included on a reading list, whether adopted and purchased from the state-adopted instructional materials list, adopted and purchased through a district instructional materials program, or otherwise purchased or made available.<sup>29</sup> The selection of instructional materials, library media, and other reading materials used in the public-school system must include consideration of the age of the students who normally could be expected to have access to the material, the educational purpose to be

<sup>26</sup> Section 1006.283(2)(b)8. a-d., F.S.

<sup>27</sup> Section 1006.283(2)(b) 9., 11., F.S

<sup>28</sup> *Florida Citizens Alliance, Inc. v. School Bd. of Collier Cnty.*, 328 So.3d 22 (Fla. 2d DCA 2021). Florida's Sunshine Law is established in s. 286.011, F.S.

<sup>29</sup> Section 1006.28(2)(a)1., F.S.

served by the material, the degree to which the material would be supplemented and explained by classroom programs, and the consideration of the diversity of the students in Florida.<sup>30</sup>

Best practices for developing a school library collection include research on potential books and basing selections on the goals and objectives of the school and the students' personal interests and learning. Materials should be appropriate for the subject area and age, emotional development, ability level, learning styles, and development of the students for whom the materials are selected.<sup>31</sup> Resources such as Association for Library Service to Children, Booklist, School Library Journal, Kirkus, and Young Adult Library Services Association are commonly recommended review sources for school librarians.<sup>32</sup>

For the 2021-2022 fiscal year, the legislature allocated \$12,733,273 to school districts for the purchase of library media materials.<sup>33</sup> The library media categorical funds are intended for a specific purpose – the purchase of library media resources to be checked out by students and teachers through the school library. Specifically, library media materials include those items normally purchased under Instructional Media Resources.<sup>34</sup>

### ***Librarians/Media Specialists***

Librarians/media specialists are defined as staff members responsible for evaluating, selecting, organizing, and managing media and technology resources, equipment, and related systems. They are also responsible for working with teachers and students to make resources available in instructional programs, media productions, and location and use of information resources.<sup>35</sup> Educators in Florida may become certified educational media specialists through the DOE certification process, but Florida schools are not required to employ a certified educational media specialist.

To become a certified educational media specialist in grades prekindergarten through 12, an individual must complete one of the following pathways:<sup>36</sup>

- A bachelor's degree or higher with an undergraduate or graduate major in educational media or library science; or
- A bachelor's degree or higher with thirty semester hours in educational media or library science to include credit in management of library media programs, collection development, library media resources, reference sources and services, organization of collections, and design and production of educational media.

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<sup>30</sup> Section 1006.34(2)(b), F.S.

<sup>31</sup> American Library Association, Selection Criteria, *School Library Selection Criteria*, <https://www.ala.org/tools/challengesupport/selectionpolicytoolkit/criteria> (last visited Jan. 17, 2022).

<sup>32</sup> *Id.*

<sup>33</sup> Specific Appropriation 7 and 90, section 2, ch. 2021-36, L.O.F.

<sup>34</sup> Florida Department of Education, Memo to School District Superintendents, *Specific Appropriations 7 and 90 – Library Media Allocation, 2021*, available at <https://info.fldoe.org/docushare/dsweb/Get/Document-9189/dps-2021-92.pdf>.

<sup>35</sup> Section 1012.01(2)(c), F.S.

<sup>36</sup> Rule 6A-4.0251, F.A.C.

Each school district must provide training to school librarians and media specialists regarding the prohibition against distributing harmful materials to minors, and best practices for providing students access to age-appropriate materials and library resources.<sup>37</sup>

### ***Objection to Materials***

Each district school board is required to establish a process by which a parent or resident of the county may contest the district school board's adoption of a specific material.<sup>38</sup> Parents must file a petition, on a form provided by the district school board, within 30 calendar days after the adoption of the material. The school board is required to conduct at least one open public hearing before an unbiased and qualified hearing officer that is not an employee or agent of the school district. Following the hearing, the school board's decision is final and not subject to further petition or review.<sup>39</sup>

### **Required Instruction**

Florida law requires certain topics to be taught in kindergarten through grade 12 public schools annually to ensure coverage of all State Board of Education adopted standards in reading and language arts, mathematics, science, social studies, foreign languages, health and physical education, and the arts.<sup>40</sup> Instructional personnel must teach these topics efficiently and faithfully, utilizing materials that meet the highest standards for professionalism and historical accuracy.<sup>41</sup>

School districts must submit a report to the commissioner annually describing how instruction was provided during the previous school year, including specific courses in which instruction was delivered, a description of materials and resources utilized to deliver instruction, and the professional qualifications of the person delivering instruction for specified topics.<sup>42</sup>

Required instruction topics are not correlated with the instructional materials adoption process at the DOE; therefore, instructional materials that are purchased by a school district to teach these topics may not go through a public adoption process as with instructional materials for core courses.<sup>43</sup> For example, the most recent state instructional materials adoption that included a call for health and physical education materials was in the 2015-2016 adoption; however, no

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<sup>37</sup> Section 1006.28(2)(d), F.S.

<sup>38</sup> Section 1006.28(2)(a)3., F.S.

<sup>39</sup> *Id.*

<sup>40</sup> Section 1003.42(1), F.S.

<sup>41</sup> Section 1003.42(2), F.S. Required instruction includes, for example, the history and content of the Declaration of Independence, the arguments in support of adopting our republican form of government, flag education, the history of the Holocaust, the history of African Americans, and kindness to animals.

<sup>42</sup> Rule 6A-1.094124, F.A.C. The DOE provides the Required Instruction Portal website for districts to annually submit information on required topics. Florida Department of Education, *Florida Required Instruction Portal*, <https://www.flrequiredinstruction.org/> (last visited Jan. 18, 2022).

<sup>43</sup> Instructional materials adoption at the state level focuses on one or more related subject areas per year, on 5-year rotating basis. Florida Department of Education, Instructional Materials, *FLORIDA INSTRUCTIONAL MATERIALS ADOPTION SCHEDULE FOR ADOPTION YEARS 2020-2021 THROUGH 2023-2024* (2020), available at <https://www.fldoe.org/core/fileparse.php/5574/urlt/AdoptionCycle.pdf>. The DOE posts the instructional materials adoption cycle for 5 years. K-12 Mathematics is the subject area in the 2021-2022 year.



materials were adopted for health and physical education for kindergarten through grade 8.<sup>44</sup> The previous year's adoption, in 2014-2015, adopted three instructional materials for health and physical education courses in high school grade levels.<sup>45</sup>

### III. Effect of Proposed Changes:

PCS/SB 1300 modifies district school board member salaries, and modifies school district requirements for instructional materials, including instructional materials in school libraries and media centers to provide increased oversight over and public access to all materials used in instruction.

#### District School Board Member Salaries

The bill aligns school board member salaries with the salaries of members of the Florida Senate and Florida House of Representatives. The specified salaries in the bill may reduce the salary of school board members in 49 school districts, ranging from a salary reduction of \$186 (Wakulla) to \$17,492 (Broward, Hillsborough, Miami-Dade, Orange, and Palm Beach counties). The bill may increase the salary of 18 school districts, ranging from a salary increase of \$366 (Bradford) to \$2,732 (Liberty).<sup>46</sup>

#### Public Participation in the Instructional Materials Review Process

The bill requires that district school boards that hold meetings of committees convened for the purpose of ranking, eliminating, or selecting instructional materials for recommendation to the district school board must be noticed and open to the public, and include parents of district students and other members of the community. Additionally, the bill requires school districts to publish on their website, in a searchable format prescribed by the Department of Education (DOE), a list of all instructional materials, include those used for specified required instruction. District school boards must also:

- Provide access to all materials, except teacher editions, for public inspection and allow the public to copy, scan, duplicate, or photograph portions of original materials within the limits

<sup>44</sup> Florida Department of Education, *Instructional Materials, 2015-2016 Florida Department of Education 6-12 Career and Technical Education, K-8 Physical and Health Education, K-12 Visual and Performing Arts, and K-12 World Languages: Chinese, German, Italian and Latin Adopted Instructional Materials* (July 12, 2016), available at <https://www.fldoe.org/core/fileparse.php/5574/urlt/2015-2016AdoptedIMUpdate.pdf>.

<sup>45</sup> Florida Department of Education, *Instructional Materials, 2014-2015 Florida Department of Education Adopted Instructional Materials* (Jan. 28, 2016), available at <https://www.fldoe.org/core/fileparse.php/5574/urlt/1415AIMDec2015.pdf>. Instructional materials used to teach reproductive health or any disease, including HIV/AIDS, its symptoms, development, and treatment, must be annually approved by a district school board in an open, noticed public meeting. Section 1003.42(1)(b), F.S.

<sup>46</sup> Senate staff analysis of Office of Economic and Demographic Research, *Salaries of Elected County Constitutional Officers and School District Officials for Fiscal Year 2021-22* (2021), at 12-13, available at <http://edr.state.fl.us/Content/local-government/reports/finsal21.pdf>. The school board member salaries provided in the *Salaries of Elected County Constitutional Officers and School District Officials for Fiscal Year 2021-22* are based on the statutory calculation in s.1001.395, F.S. and s. 145.19, F.S.



of “fair use” under Section 107 of the Copyright Act<sup>47</sup>. Access must be provided at least 30 days prior to any official action on such materials;

- Select, approve, adopt or purchase materials as a separate line item on the agenda and must provide a reasonable opportunity for public comment;
- Submit to the Commissioner of Education, beginning June 30, 2022, an annual report that identifies:
  - Each material for which the school district received an objection for the school year and the specific objections;
  - Each material that was removed or discontinued as a result of an objection; and
  - The grade level and course for which a removed or discontinued material was used, as applicable.

The bill requires the DOE to publish and update a list of materials that were removed or discontinued by district school boards as a result of an objection and disseminate the list to school districts for consideration in their instructional materials selection.

### **Materials in School District Libraries and Media Centers**

The bill requires school librarians, media specialists, and other personnel involved in the selection of school district library materials to complete the training program developed by the DOE, which must also include training on materials for required instruction and materials in school library media centers and class reading lists.

The bill also requires that each book made available to students through a school district library media center or required as part of a booklist used in a classroom must be selected by a school district employee who holds a valid educational media specialist certificate. All public elementary schools will be required to publish on its website a list of all materials maintained in the school library or required as part of a booklist used in a classroom.

District school boards are required in the bill to adopt and post on the website procedures for developing library media center collections. At a minimum, the procedures must:

- Require book selections to selections be free of pornography and prohibited materials harmful to minors, suited to student needs, and appropriate for the grade level and age group;
- Require consultation of reputable, professionally recognized sources and school community stakeholders for each selection;
- Provide for library media center collections based on reader interest, support of state academic standards and aligned curriculum, and the academic needs of students and faculty; and
- Provide for the regular removal or discontinuance of books based on, at a minimum, physical condition, rate of recent circulation, alignment to state academic standards and relevancy to curriculum, out-of-date content, and materials that were removed because of an objection by a parent or resident of the county.

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<sup>47</sup> Section 107 of the Copyright Act provides the statutory framework for determining whether something is a fair use and identifies certain types of uses—such as criticism, comment, news reporting, teaching, scholarship, and research—as examples of activities that may qualify as fair use.

The bill provides that school principals are responsible for overseeing compliance with school library media center materials selection procedures.

The bill is effective July 1, 2022.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The fiscal impact to the state is indeterminate.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 145.19, 1001.395, 1006.28, 1006.29, and 1006.40.

**IX. Additional Information:**

**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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S01300

GENERAL BILL by Gruters;

District School Board Meetings. EFFECTIVE DATE: 07/01/2022.

01/05/22 S Referred to Education; Governmental Oversight and Accountability; Rules -SJ 88

01/11/22 S Introduced -SJ 87

01/20/22 S On Committee agenda-- Education, 01/25/22, 10:00 am, 412 Knott Building

By Senator Gruters

23-00918-22

20221300\_\_

A bill to be entitled

An act relating to district school board meetings; amending s. 1001.372, F.S.; requiring all meetings of district school boards which are not exempt from certain public meeting requirements to be recorded by video and streamed live on a publicly accessible website; specifying requirements for district school board rules and policies governing the public's opportunity to be heard; providing applicability; providing construction; amending s. 1014.04, F.S.; providing that parents have the right to be heard at district school board meetings, including the right to criticize individual district school board members; providing an effective date.

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

Section 1. Present subsections (3) and (4) of section 1001.372, Florida Statutes, are redesignated as subsections (4) and (5), respectively, and a new subsection (3) and subsection (6) are added to that section, to read:

1001.372 District school board meetings.—

(3) MEETING RECORDINGS; STREAMING.—All meetings of the district school board which are not exempt from s. 286.011 must be recorded by video and streamed live on a publicly accessible website.

(6) OPPORTUNITY TO BE HEARD.—

(a) Rules or policies governing the public's opportunity to be heard which are adopted by a district school board pursuant

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**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

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to s. 286.0114 must:

1. Set aside at least 30 minutes of public comment at the beginning of each meeting. Individual members of the public or representatives of groups or factions may speak for at least 3 minutes on any topic relating to the district school board during this time.

2. Give individual members of the public or representatives of groups or factions at least 3 minutes of speaking time on each agenda item considered by the district school board. This speaking time is in addition to the speaking time under subparagraph 1.

3. Allow speakers to criticize individual district school board members, provided that the speaker maintains orderly conduct and proper decorum.

(b) This subsection applies only when the public has an opportunity to be heard and is not precluded from speaking by operation of s. 286.0114(3).

(c) This subsection may not be construed to preclude a district school board from maintaining orderly conduct or proper decorum in a meeting.

Section 2. Paragraph (k) is added to subsection (1) of section 1014.04, Florida Statutes, to read:

1014.04 Parental rights.—

(1) All parental rights are reserved to the parent of a minor child in this state without obstruction or interference from the state, any of its political subdivisions, any other governmental entity, or any other institution, including, but not limited to, all of the following rights of a parent of a minor child in this state:

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**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

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59       (k) In accordance with s. 1001.372(6), the right to be  
60       heard at district school board meetings, including the right to  
61       criticize individual district school board members.  
62       Section 3. This act shall take effect July 1, 2022.



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581-02111-22

Proposed Committee Substitute by the Committee on Education

A bill to be entitled

An act relating to educational scholarship program funding; amending s. 1002.394, F.S.; revising the Department of Education's obligation to cross-check the list of Family Empowerment Scholarship Program students with public school enrollment lists; requiring the department to adjust payments to eligible nonprofit scholarship-funding organizations and recalculate the Florida Education Finance Program (FEFP) allocation for school districts upon completion of the cross-check; deleting a requirement that the department verify that a student is not prohibited from receiving a scholarship; amending s. 1002.395, F.S.; requiring the department to recalculate the FEFP allocation for school districts upon completion of the cross-check for Florida Tax Credit Scholarship Program students; amending s. 1002.40, F.S.; requiring the department to recalculate the FEFP allocation for school districts upon completion of the cross-check for Hope Scholarship Program students; providing an effective date.

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

Section 1. Paragraph (a) of subsection (8) and subsection (12) of section 1002.394, Florida Statutes, are amended to read:  
1002.394 The Family Empowerment Scholarship Program.—  
(8) DEPARTMENT OF EDUCATION OBLIGATIONS.—



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(a) The department shall:

1. Publish and update, as necessary, information on the department website about the Family Empowerment Scholarship Program, including, but not limited to, student eligibility criteria, parental responsibilities, and relevant data.
2. Cross-check ~~before each distribution of funds~~ the list of participating scholarship students with the public school enrollment lists ~~before each scholarship payment~~ to avoid duplication.
3. Maintain and publish a list of nationally norm-referenced tests identified for purposes of satisfying the testing requirement in subparagraph (9)(c)1. The tests must meet industry standards of quality in accordance with state board rule.
4. Notify eligible nonprofit scholarship-funding organizations of the deadlines for submitting the verified list of students determined to be eligible for a scholarship.
5. Notify each school district of a parent's participation in the scholarship program for purposes of paragraph (7)(f).
6. Deny or terminate program participation upon a parent's failure to comply with subsection (10).
7. Notify the parent and the organization when a scholarship account is closed and program funds revert to the state.
8. Notify an eligible nonprofit scholarship-funding organization of any of the organization's or other organization's identified students who are receiving scholarships under this chapter.
9. Maintain on its website a list of approved providers as



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required by s. 1002.66, eligible postsecondary educational institutions, eligible private schools, and eligible organizations and may identify or provide links to lists of other approved providers.

10. Require each organization to verify eligible expenditures before the distribution of funds for any expenditures made pursuant to subparagraphs (4)(b)1. and 2. Review of expenditures made for services specified in subparagraphs (4)(b)3.-15. may be completed after the purchase is made.

11. Investigate any written complaint of a violation of this section by a parent, a student, a private school, a public school, a school district, an organization, a provider, or another appropriate party in accordance with the process established under s. 1002.421.

12. Require quarterly reports by an organization, which must include, at a minimum, the number of students participating in the program; the demographics of program participants; the disability category of program participants; the matrix level of services, if known; the program award amount per student; the total expenditures for the purposes specified in paragraph (4)(b); the types of providers of services to students; and any other information deemed necessary by the department.

13. Notify eligible nonprofit scholarship funding organizations that scholarships may not be awarded in a school district in which the award will exceed 99 percent of the school district's share of state funding through the Florida Education Finance Program as calculated by the department.

14. Adjust payments to eligible nonprofit scholarship-



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funding organizations and recalculate the Florida Education Finance Program allocation for school districts upon completion of the cross-check by the department pursuant to subparagraph 2.

(12) SCHOLARSHIP FUNDING AND PAYMENT.—

(a)1. Scholarships for students determined eligible pursuant to paragraph (3)(a) are established for up to 18,000 students annually beginning in the 2019-2020 school year. Beginning in the 2020-2021 school year, the maximum number of students participating in the scholarship program under this section shall annually increase by 1.0 percent of the state's total public school student enrollment. An eligible student who meets any of the following requirements shall be excluded from the maximum number of students if the student:

a. Received a scholarship pursuant to s. 1002.395 during the previous school year but did not receive a renewal scholarship based solely on the eligible nonprofit scholarship-funding organization's lack of available funds after the organization fully exhausted its efforts to use funds available for awards under ss. 1002.395 and 1002.40(11)(i). Eligible nonprofit scholarship-funding organizations with students who meet the criterion in this subparagraph must annually notify the department in a format and by a date established by the department. The maximum number of scholarships awarded pursuant to this subparagraph shall not exceed 15,000 per school year;

b. Is a dependent child of a member of the United States Armed Forces, a foster child, or an adopted child; or

c. Is determined eligible pursuant to subparagraph (3)(a)1. or subparagraph (3)(a)2. and either spent the prior school year in attendance at a Florida public school or, beginning in the





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2022-2023 school year, is eligible to enroll in kindergarten. For purposes of this subparagraph, the term "prior school year in attendance" means that the student was enrolled and reported by a school district for funding during either the preceding October or February Florida Education Finance Program surveys in kindergarten through grade 12, which includes time spent in a Department of Juvenile Justice commitment program if funded under the Florida Education Finance Program.

2. The scholarship amount provided to a student for any single school year shall be for tuition and fees for an eligible private school, not to exceed annual limits, which shall be determined in accordance with this subparagraph. The calculated amount for a participating student shall be based upon the grade level and school district in which the student was assigned as 100 percent of the funds per unweighted full-time equivalent in the Florida Education Finance Program for a student in the basic program established pursuant to s. 1011.62(1)(c)1., plus a per-full-time equivalent share of funds for all categorical programs, except for the Exceptional Student Education Guaranteed Allocation.

3. The amount of the scholarship shall be the calculated amount or the amount of the private school's tuition and fees, whichever is less. The amount of any assessment fee required by the participating private school and any costs to provide a digital device, including Internet access, if necessary, to the student may be paid from the total amount of the scholarship.

4. A scholarship of \$750 may be awarded to a student who is determined eligible pursuant to subparagraph (3)(a)1. or subparagraph (3)(a)2. and enrolled in a Florida public school



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that is different from the school to which the student was assigned or in a lab school as defined in s. 1002.32 if the school district does not provide the student with transportation to the school.

~~5. Upon notification from the organization on July 1, September 1, December 1, and February 1 that an application has been approved for the program, the department shall verify that the student is not prohibited from receiving a scholarship pursuant to subsection (6).~~ The organization must provide the department with the documentation necessary to verify the student's participation. Upon receiving the documentation verification, the department shall transfer, from state funds only, the amount calculated pursuant to subparagraph 2. to the organization for quarterly disbursement to parents of participating students each school year in which the scholarship is in force. For a student exiting a Department of Juvenile Justice commitment program who chooses to participate in the scholarship program, the amount of the Family Empowerment Scholarship calculated pursuant to subparagraph 2. must be transferred from the school district in which the student last attended a public school before commitment to the Department of Juvenile Justice. When a student enters the scholarship program, the organization must receive all documentation required for the student's participation, including the private school's and the student's fee schedules, at least 30 days before the first quarterly scholarship payment is made for the student.

6. The initial payment shall be made after the organization's verification of admission acceptance, and subsequent payments shall be made upon verification of continued



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enrollment and attendance at the private school. Payment must be by individual warrant made payable to the student's parent or by funds transfer or any other means of payment that the department deems to be commercially viable or cost-effective. If the payment is made by warrant, the warrant must be delivered by the organization to the private school of the parent's choice, and the parent shall restrictively endorse the warrant to the private school. An organization shall ensure that the parent to whom the warrant is made has restrictively endorsed the warrant to the private school for deposit into the account of the private school or that the parent has approved a funds transfer before any scholarship funds are deposited.

(b)1. Scholarships for students determined eligible pursuant to paragraph (3)(b) are established for up to 20,000 students annually beginning in the 2021-2022 school year. Beginning in the 2022-2023 school year, the maximum number of students participating in the scholarship program under this section shall annually increase by 1.0 percent of the state's total exceptional student education full-time equivalent student enrollment, not including gifted students. An eligible student who meets any of the following requirements shall be excluded from the maximum number of students if the student:

a. Received specialized instructional services under the Voluntary Prekindergarten Education Program pursuant to s. 1002.66 during the previous school year and the student has a current IEP developed by the local school board in accordance with rules of the State Board of Education;

b. Is a dependent child of a member of the United States Armed Forces, a foster child, or an adopted child;



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c. Spent the prior school year in attendance at a Florida public school or the Florida School for the Deaf and the Blind. For purposes of this subparagraph, the term "prior school year in attendance" means that the student was enrolled and reported by:

(I) A school district for funding during either the preceding October or February Florida Education Finance Program surveys in kindergarten through grade 12, which includes time spent in a Department of Juvenile Justice commitment program if funded under the Florida Education Finance Program;

(II) The Florida School for the Deaf and the Blind during the preceding October or February student membership surveys in kindergarten through grade 12;

(III) A school district for funding during the preceding October or February Florida Education Finance Program surveys, was at least 4 years of age when enrolled and reported, and was eligible for services under s. 1003.21(1)(e); or

(IV) Received a John M. McKay Scholarship for Students with Disabilities in the 2021-2022 school year.

2. For a student who has a Level I to Level III matrix of services or a diagnosis by a physician or psychologist, the calculated scholarship amount for a student participating in the program must be based upon the grade level and school district in which the student would have been enrolled as the total funds per unweighted full-time equivalent in the Florida Education Finance Program for a student in the basic exceptional student education program pursuant to s. 1011.62(1)(c)1. and (e)1.c., plus a per full-time equivalent share of funds for all categorical programs, as funded in the General Appropriations



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Act, except that for the exceptional student education guaranteed allocation as provided in s. 1011.62(1)(e)1.c. and 2., the funds must be allocated based on the school district's average exceptional student education guaranteed allocation funds per exceptional student education full-time equivalent student.

3. For a student with a Level IV or Level V matrix of services, the calculated scholarship amount must be based upon the school district to which the student would have been assigned as the total funds per full-time equivalent for the Level IV or Level V exceptional student education program pursuant to s. 1011.62(1)(c)2.a. or b., plus a per-full time equivalent share of funds for all categorical programs, as funded in the General Appropriations Act.

4. For a student who received a Gardiner Scholarship pursuant to s. 1002.385 in the 2020-2021 school year, the amount shall be the greater of the amount calculated pursuant to subparagraph 2. or the amount the student received for the 2020-2021 school year.

5. For a student who received a John M. McKay Scholarship pursuant to s. 1002.39 in the 2020-2021 school year, the amount shall be the greater of the amount calculated pursuant to subparagraph 2. or the amount the student received for the 2020-2021 school year.

~~6. Upon notification from an organization on July 1, September 1, December 1, and February 1 that an application has been approved for the program, the department shall verify that the student is not prohibited from receiving a scholarship pursuant to subsection (6).~~ The organization must provide the



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department with the documentation necessary to verify the student's participation.

7. Upon ~~receiving the documentation verification~~, the department shall release, from state funds only, the student's scholarship funds to the organization, to be deposited into the student's account in four equal amounts no later than September 1, November 1, February 1, and April 1 of each school year in which the scholarship is in force.

8. Accrued interest in the student's account is in addition to, and not part of, the awarded funds. Program funds include both the awarded funds and accrued interest.

9. The organization may develop a system for payment of benefits by funds transfer, including, but not limited to, debit cards, electronic payment cards, or any other means of payment which the department deems to be commercially viable or cost-effective. A student's scholarship award may not be reduced for debit card or electronic payment fees. Commodities or services related to the development of such a system must be procured by competitive solicitation unless they are purchased from a state term contract pursuant to s. 287.056.

10. Moneys received pursuant to this section do not constitute taxable income to the qualified student or the parent of the qualified student.

Section 2. Paragraph (d) of subsection (9) of section 1002.395, Florida Statutes, is amended to read:

1002.395 Florida Tax Credit Scholarship Program.—

(9) DEPARTMENT OF EDUCATION OBLIGATIONS.—The Department of Education shall:

(d) Cross-check the list of participating scholarship



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290 students with the public school enrollment lists to avoid  
291 duplication and recalculate the Florida Education Finance  
292 Program allocation for school districts upon completion of the  
293 cross-check.

294 Section 3. Paragraph (a) of subsection (8) of section  
295 1002.40, Florida Statutes, is amended to read:

296 1002.40 The Hope Scholarship Program.—

297 (8) DEPARTMENT OF EDUCATION OBLIGATIONS.—The department  
298 shall:

299 (a) Cross-check the list of participating scholarship  
300 students with the public school enrollment lists to avoid  
301 duplication and recalculate the Florida Education Finance  
302 Program allocation for school districts upon completion of the  
303 cross-check.

304 Section 4. This act shall take effect July 1, 2022.

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Education

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BILL: PCS/SB 1348 (902550)

INTRODUCER: Education Committee

SUBJECT: Educational Choice Scholarships

DATE: January 24, 2022

REVISED: \_\_\_\_\_

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Sagues	Bouck	ED	<b>Pre-meeting</b>
2. _____	_____	AED	_____
3. _____	_____	AP	_____

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**I. Summary:**

PCS/SB 1348 modifies provisions related to funding for the Family Empowerment (FES), Florida Tax Credit (FTC), and Hope scholarship programs. Specifically, the bill modifies the FES program by:

- Maintaining the requirement that the Florida Department of Education (DOE) complete the cross-check of the list of participating students against the public school enrollment list to avoid duplication, however the bill removes the requirement that the cross-check be completed before the distribution of each quarterly scholarship payment.
- Adding a requirement for the DOE to adjust scholarship payments to eligible nonprofit scholarship-funding organizations (SFOs) and recalculate the Florida Education Finance Program (FEFP) allocation for school districts upon completion of the cross-check.
- Requiring the DOE to transfer scholarship funds to the SFO for quarterly disbursement upon receiving the necessary documentation from the SFO to verify the student's participation.

The bill also modifies the FTC and Hope scholarship programs by requiring the DOE to recalculate the FEFP allocation for school districts upon completion of the required cross-check.

There is no fiscal impact to the state. The fiscal impact of the bill to individuals is indeterminate. See Section V.

The bill takes effect on July 1, 2022.

## II. Present Situation:

### Education Choice

Across the United States, an evolving school choice landscape reflects changes in the accessibility and desirability of an array of education options, including traditional and nontraditional public schools, private schools, and homeschooling.<sup>1</sup> All 50 states and the District of Columbia provide parents the ability to send their child to a school outside of their zoned school.<sup>2</sup> Twenty-seven states and the District of Columbia have enacted policies designed to broaden access to a private education.<sup>3</sup> The three primary policies states have adopted that expand private education choices include:<sup>4</sup>

- School vouchers;
- Scholarship tax credits; and
- Education savings accounts.

### Education Choice in Florida

Approximately 45 percent of Florida's prekindergarten through grade 12 students participate in education choice programs in Florida.<sup>5</sup> Students in all programs must meet school attendance requirements through:<sup>6</sup>

- Enrolling in a public school;
- Enrolling in a private school;<sup>7</sup>
- Participating in a home education program directed by his or her parent;<sup>8</sup> or
- Enrolling in a private tutoring program.<sup>9</sup>

To help students take advantage of educational choice options, Florida offers multiple student scholarship programs for students who meet the eligibility requirements:

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<sup>1</sup> National Center for Education Statistics, *School Choice in the United States 2019* (2019), available at <https://nces.ed.gov/pubs2019/2019106.pdf> at ix.

<sup>2</sup> National Conference of State Legislatures, *Interactive Guide to School Choice Laws* <https://www.ncsl.org/research/education/interactive-guide-to-school-choice.aspx> (last visited Jan. 21, 2022).

<sup>3</sup> National Conference of State Legislatures, *Private School Choice* <https://www.ncsl.org/research/education/private-school-choice635174504.aspx> (last visited Jan. 21, 2022).

<sup>4</sup> School vouchers are state-funded scholarships that pay for students to attend private school rather than public school. Scholarship tax credits allow individuals and corporations to allocate a portion of their owed state taxes to SFOs that issue public and private school scholarships to K-12 students. Education Savings Accounts are state-funded grants deposited into special savings accounts from which parents can withdraw funds for certain educational expenses. *Id.*

<sup>5</sup> ReimaginedEd, *Once Again, Charter Schools Dominate Florida's Education Choice Landscape, Florida's K-12 School Choice Options*, <https://www.reimaginedonline.org/2021/01/once-again-charter-schools-dominate-floridas-education-choice-landscape/> (last visited Jan. 21, 2022).

<sup>6</sup> Section 1003.01(13), F.S.

<sup>7</sup> A private school is defined as an individual, association, co-partnership, or corporation, or department, division, or section of such organizations, that designates itself as an educational center that includes kindergarten or a higher grade and is below college level. A private school may be a parochial, religious, denominational, for-profit, or nonprofit school. A home education program is not considered a private school. Section 1002.01(2), F.S.

<sup>8</sup> A home education program is defined as the sequentially progressive instruction of a student directed by his or her parent in order to satisfy attendance requirements. Section 1002.01(1), F.S.

<sup>9</sup> Section 1002.43, F.S.

- The Family Empowerment Scholarship Program (FES program),<sup>10</sup> a school voucher program for students of families with limited financial means and students of military families, and an education savings account (ESA) program for students with disabilities.
- The Florida Tax Credit Scholarship Program (FTC program),<sup>11</sup> a tax-credit scholarship program for families with limited financial resources.
- The Hope Scholarship Program (Hope program), a school voucher program serving students who have reported an incident of battery, harassment, hazing, bullying or other encounter as defined in law.<sup>12</sup>
- The John M. McKay Scholarship for Students with Disabilities Program (McKay program),<sup>13</sup> a school voucher program.

### ***Family Empowerment Scholarship (FES) Program***

The FES program was established in 2019<sup>14</sup> to provide educational options to eligible children of Florida families with limited financial resources through a state funded school voucher scholarship. In 2021, the FES was expanded to provide education options to eligible children of Florida families in the military as well as disabled students.<sup>15</sup> Funding for the FES program is based on the Florida Education Finance Program (FEFP) allocation formula.<sup>16</sup>

### **Student Eligibility**

To be eligible for an award under the FES program, a student must meet the criteria in one of the following scholarship options:<sup>17</sup>

- Educational Opportunity (EO option), the student is:
  - On the direct certification list pursuant to law or the student's household income level does not exceed 375 percent of the federal poverty level<sup>18</sup> with priority given to a student whose household income level does not exceed 185 percent of the federal poverty level;
  - Currently placed, or during the previous fiscal year was placed, in foster care or in out-of-home care as defined in law;
  - A sibling of a student who is participating in the FES program if the student resides in the same household as the sibling; or
  - A dependent child of a member of the United States Armed Forces.
- Unique Ability Option for disabled students (UA option), the student:
  - Is three or four years of age on or before September 1 of the year in which the student applies for the program or is eligible to enroll in kindergarten through grade 12 in a Florida public school;

<sup>10</sup> Section 1002.394, F.S., and Rule 6A-6.0952, F.A.C.

<sup>11</sup> Section 1002.395, F.S., and Rule 6A-6.0960, F.A.C.

<sup>12</sup> Section 1002.40, F.S., and Rule 6A-6.0951, F.A.C.

<sup>13</sup> Section 1002.39, F.S., and Rule 6A-6.0970, F.A.C. The McKay program will merge into the FES program beginning in the 2022-2023 school year. Section 1002.394(12), F.S.

<sup>14</sup> Section 6, ch. 2019-21, L.O.F.

<sup>15</sup> Section 4, ch. 2021-027, L.O.F.

<sup>16</sup> See Section 1002.394(12), F.S.

<sup>17</sup> Section 1002.394(3), F.S.

<sup>18</sup> Section 1002.394(3), F.S. The qualifying household income level of 375 percent under the EO option may increase by 25 percentage points in any fiscal year in which more than 5 percent of the available scholarships authorized have not been awarded.

- Has a defined disability;<sup>19</sup> and
- Is the subject of an IEP written in accordance with the State Board of Education or has received a diagnosis of a disability from a physician or psychologist.

An approved student who does not receive a scholarship must be placed on the wait list in the order in which the student is approved.<sup>20</sup>

### Program Prohibitions

A student is not eligible for a scholarship while he or she is enrolled in a public school or Department of Juvenile Justice (DJJ) program; receiving another state educational scholarship pursuant to Florida law; enrolled in a home education or private tutoring program, a virtual program that receives state funding pursuant to the student's participation, enrolled in the Florida School for the Deaf and the Blind, receiving any other educational scholarship as provided in law,<sup>21</sup> not having regular and direct contact with his or her private school teachers, or participating in a private tutoring program unless determined eligible under the UA option.<sup>22</sup>

### School District Obligations

School districts must provide information on the district's website and inform all households within the district receiving free or reduced priced meals under the National School Lunch Act<sup>23</sup> of their eligibility to apply for the scholarship. School districts must also provide IEP meeting and evaluation services, notify the student and parent about, and provide services for, statewide assessment participation. The school district must also report students for funding purposes through the FEFP.<sup>24</sup>

### Department of Education Obligations

The DOE is required to:<sup>25</sup>

- Publish information on the DOE website about the FES program, including student eligibility criteria, parental responsibilities, and relevant data.
- Before the distribution of funds and each scholarship payment, cross-check the list of participating scholarship students with the public school enrollment lists to avoid duplication.
- Maintain and publish a list of nationally norm-referenced tests identified for purposes of satisfying the FES program testing requirement.
- Establish and notify SFOs<sup>26</sup> of specified deadlines.

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<sup>19</sup> Section 1002.394(2), F.S.

<sup>20</sup> Section 1002.394(3)(c), F.S.

<sup>21</sup> Section 1002.395(6), F.S.

<sup>22</sup> *Id.*

<sup>23</sup> 42 U.S.C s. 1751, et seq. The National School Lunch Program (NSLP) is a federally assisted meal program operating in public and nonprofit private schools and residential child care institutions. It provides nutritionally balanced, low-cost or free lunches to children each school day. The program was established under the National School Lunch Act in 1946. USDA Food and Nutrition Service, *National School Lunch Program*, <https://www.fns.usda.gov/nslp> (last visited Jan. 21, 2021).

<sup>24</sup> Section 1002.394(7), F.S.

<sup>25</sup> Section 1002.394(8), F.S.

<sup>26</sup> A.A.A. Scholarship Foundation – FL, LLC and Step Up For Students are the approved SFOs to administer the FTC in 2021-2022. Florida Department of Education, *Scholarship Funding Organizations*, <https://www.fldoe.org/schools/school-choice/k-12-scholarship-programs/sfo/> (last visited Jan. 23, 2022).



- Notify each school district of a parent's participation in the scholarship program.
- Deny or terminate program participation upon a parent's failure to comply with program requirements as provided for in law.<sup>27</sup>
- Notify the parent and SFO when a scholarship account is closed and program funds revert to the state.
- Notify SFOs of other SFOs identified students who are receiving scholarship.
- Maintain a list of approved providers on its website.
- Require each SFO to verify eligible expenditures.
- Investigate written complaints of program violations.
- Require specified quarterly reports by SFOs.
- Notify eligible SFOs that a scholarship may not be awarded in a school district in which the award will exceed 99 percent of the school district's share of state funding.

#### Scholarship-funding Organization Obligations

An SFO awarding FES program scholarships to students:<sup>28</sup>

- Must receive applications, determine student eligibility, notify parents and provide the DOE with specified information.
- Must award scholarships in priority order.
- May use up to 2.5 percent of the total amount of all FES program scholarships awarded for administrative expenses. The funds used for administrative expenses must originate from eligible tax credit contributions authorized under the FTC and Hope programs.<sup>29</sup>
- Must notify the DOE of any program requirement violation.

In addition, an eligible SFO awarding scholarships to students under the EO option must verify the household income level of eligible students and submit the verified lists of students and related documentation to the DOE.<sup>30</sup>

An SFO awarding scholarships to students under the UA option must also:

- Establish and maintain separate ESAs for each eligible student.
- Verify qualifying education expenditures.
- Return any remaining program funds to the DOE.
- Notify the parent about the availability of, and the requirements associated with requesting, an initial IEP or IEP reevaluation.
- Document each scholarship student's eligibility for a fiscal year before granting a scholarship for that fiscal year.

#### Scholarship Funding and Payment

The scholarship funding amount is based on the student's grade level and school district in which the student was assigned plus a share of most categorical programs.<sup>31</sup> Upon notification from the

<sup>27</sup> See Section 1002.394(10), F.S.

<sup>28</sup> Section 1002.394(11), F.S.

<sup>29</sup> Section 1002.395(6)(j), F.S.

<sup>30</sup> Section 1002.394(11), F.S.

<sup>31</sup> In addition to the basic amount for current operations for the FEFP specified in law, the Legislature may appropriate categorical funding for specified programs, activities, or purposes. Section 1011.62(6), F.S.

SFO on specified dates that an application has been approved for the program, the DOE must verify that the student is not prohibited from receiving a scholarship pursuant to law.<sup>32</sup> The SFO must provide the DOE with the documentation necessary to verify the student's initial and continued participation. Upon verification, the DOE must transfer, from state funds only, the amount calculated. The amount of the scholarship award is equal to 100 percent of the calculated amount. The amount of the award is deposited quarterly in the student's account once the scholarship has been verified and approved.<sup>33</sup>

Beginning in the 2020-2021 school year, the number of students participating in the FES program under the EO option annually increases by one percent of the state's total public school student enrollment.<sup>34</sup> An eligible student who meets specified<sup>35</sup> requirements is excluded from the maximum number of students.<sup>36</sup>

Under the EO option, the amount of the scholarship must be the calculated amount or the amount of the private school's tuition and fees whichever is less.<sup>37</sup> A transportation scholarship of \$750 may be awarded to a student who is determined eligible and enrolled in a Florida public school that is different from the school to which the student was assigned if the school district does not provide the student with transportation to the school.<sup>38</sup>

Beginning in the 2021-2022 school year, up to 20,000 scholarships are established for students determined eligible under the UA option. Beginning in the 2022-2023 school year, the maximum number of students participating under this option annually increases by 1.0 percent of the state's total exceptional student education enrollment, not including gifted students. An eligible student who meets specified requirements<sup>39</sup> is excluded from the maximum number of students.

During the 2020-21 school year, FES program scholarships in the amount of \$218 million were awarded to a total of 34,824 students.<sup>40</sup> FES program scholarships awarded through December, 2021 for the 2021-2022 school year were awarded to 76,180 EO option scholarship recipients

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<sup>32</sup> Section 1002.394(6), F.S.

<sup>33</sup> Section 1002.394(11), F.S.

<sup>34</sup> Section 1002.394(12)(a), F.S.

<sup>35</sup> Specified requirements include the student: received an FTC or Hope scholarship during the previous school year but did not receive a renewal scholarship based solely on the SFOs lack of available funds; Is a dependent child of a member of the United States Armed Forces, a foster child, or an adopted child; or Is on the direct certification list or the student's household income level does not exceed 185 percent of the federal poverty level or the student is currently placed, or during the previous state fiscal year was placed, in foster care or in out-of-home care and spent the prior school year in attendance at a Florida public school or, beginning in the 2022-2023 school year, is eligible to enroll in kindergarten. Section 1002.394(12)(a), F.S.

<sup>36</sup> *Id.*

<sup>37</sup> *Id.*

<sup>38</sup> *Id.*

<sup>39</sup> Specified requirements include the student: receiving instructional services under the Voluntary Prekindergarten Education Program during the previous school year and has a current IEP; is a dependent child of a member of the United States Armed Forces, a foster child, or an adopted child; spent the prior school year in attendance at a Florida public school; or received a John M. McKay Scholarship for Students with Disabilities in the 2021-2022 school year. Section 1002.394(12)(b), F.S.

<sup>40</sup> PreK-12 Appropriations Subcommittee, *Overview of School/Education Choice for K-12 Students*, Presentation to the PreK-12 Appropriations Subcommittee, The Florida House of Representatives (Nov. 3, 2021), available at <https://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=3094&Session=2022&DocumentType=Meeting%20Packets&FileName=pka%2011-3-21%20REVISED.pdf>.

and 24,694 UA option scholarship recipients.<sup>41</sup> However, during the fall of 2021, funding for more than 8,000 scholarship recipients was delayed at least four-to-six weeks, with more than 1,800 students waiting seven-to-eleven weeks to receive their award.<sup>42</sup>

### ***Florida Tax Credit (FTC) Scholarship Program***

The FTC program was established in 2001<sup>43</sup> to authorize private, voluntary contributions from corporate donors to eligible nonprofit scholarship-funding organizations (SFOs)<sup>44</sup> that award tax credit scholarships to eligible children from low-income families.<sup>45</sup> State law requires the SFOs to use the contributions received to provide scholarships to eligible students for the cost of private school tuition or transportation to a public school that is different from the school to which the student was assigned.

### **Student Eligibility**

To be eligible for an award under the FTC program, a student must meet at least one of the following criteria:

- The student is on the direct certification list<sup>46</sup> or the student's household income level does not exceed 375 percent of the federal poverty level pursuant to law;<sup>47</sup> or
- The student is currently placed, or during the previous state fiscal year was placed, in foster care or in out-of-home care as defined in law.<sup>48</sup>

Priority is given to a student whose household income level does not exceed 185 percent of the federal poverty level or who is in foster care or out-of-home care.

A sibling of a student who is participating in the scholarship program is eligible for a scholarship if the student resides in the same household as the sibling.<sup>49</sup>

### **Program Prohibitions**

A student is not eligible for a scholarship while he or she is enrolled in a public school or DJJ program; receiving another state educational scholarship pursuant to Florida law; enrolled in a

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<sup>41</sup> Email, Florida Department of Education, Jessica Fowler (Jan. 24, 2022).

<sup>42</sup> Email, Step Up For Students, Brett Schultz (Jan. 21, 2022).

<sup>43</sup> Section 5, ch. 2001-225, L.O.F.

<sup>44</sup> A.A.A. Scholarship Foundation – FL, LLC and Step Up For Students are the approved SFOs to administer the FTC in 2021-2022. Florida Department of Education, *Scholarship Funding Organizations*, <https://www.fldoe.org/schools/school-choice/k-12-scholarship-programs/sfo/> (last visited Jan. 23, 2022).

<sup>45</sup> The program allows a corporation to receive a dollar-for-dollar tax credit up to 100% of its state income tax liability. The program also includes credits against the insurance premium tax for contributions to eligible SFOs, credits against severance taxes on oil and gas production, self-accrued sales tax liabilities of direct pay permit holders, and alcoholic beverage taxes on beer, wine, and spirits. The maximum amount the state may award is \$873 million in credits for the 2020-21 fiscal year. Department of Education, *Florida Tax Credit Scholarship Program June 2021 Quarterly Report* (2021), available at: <https://www.fldoe.org/core/fileparse.php/7558/urlt/FTC-Jun-2021-Q-Report.pdf>.

<sup>46</sup> Direct certification list means the certified list of children who qualify for the food assistance program, the Temporary Assistance to Needy Families Program, or the Food Distribution Program on Indian Reservations provided to the Department of Education by the Department of Children and Families. Section 1002.395(2)(c), F.S.

<sup>47</sup> Section 1002.395(3)(b), F.S.

<sup>48</sup> *Id.*

<sup>49</sup> *Id.*

home education or private tutoring program, or enrolled in the Florida School for the Deaf and the Blind. The student is also limited to participating in no more than two state-funded virtual courses per year.<sup>50</sup>

#### Scholarship Funding Tax Credits

A taxpayer may submit an application for a tax credit toward one or more contributions to an eligible SFO that administers an educational scholarship program.<sup>51</sup> The SFO must expend an amount equal to or greater than 75 percent of the net eligible contributions for annual or partial-year scholarships. No more than 25 percent of such contributions may be carried forward to the following state fiscal year. All amounts carried forward must be specifically identified for particular students and expended for annual or partial-year scholarships in the following state fiscal year.<sup>52</sup>

#### Scholarship-funding Organization Obligations

SFOs must comply with requirements relating to administration of the program, which include federal antidiscrimination laws and background checks. In addition, SFOs must:<sup>53</sup>

- Provide scholarships from eligible contributions to eligible students for the cost of tuition and fees for an eligible private school or transportation to a public school other than the school to which the student is assigned.
- Give first priority to eligible students who received an FTC program scholarship during the previous school year.
- Apply all funds available under the FTC program and the Hope program for renewal scholarship awards before awarding any initial scholarships.
- Provide a scholarship to an eligible student on a first-come, first-served basis unless the student qualifies for priority established in law.
- Refer any student eligible for an FTC program scholarship who did not receive a renewal or initial scholarship based solely on the lack of available funds through the FTC program or Hope program to another eligible SFO that may have funds available.
- Not restrict or reserve scholarships for use at a particular private school or provide scholarships to a child of an owner or operator.
- Allow a student in foster care or out-of-home care or a dependent child of a parent who is a member of the United States Armed forces to apply for a scholarship at any time.
- Allow a student to attend any eligible private school and transfer to another eligible school during the school year.
- Maintain separate accounts for scholarship funds and operating funds.
- Provide the annual financial audit report to the Auditor General and the Florida Department of Education (DOE).
- Submit quarterly reports to the DOE.
- Maintain a surety bond.

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<sup>50</sup> Section 1002.395(4), F.S.

<sup>51</sup> Section 1002.395(5), F.S.

<sup>52</sup> *Id.*

<sup>53</sup> Section 1002.395(6), F.S.

### Department of Education Obligations

The DOE has multiple obligations, including all of the following:<sup>54</sup>

- Verifying the eligibility of each SFO.
- Verifying the eligibility of expenditures.
- Cross-checking the list of participating students against the public school enrollment to avoid duplication.
- Maintaining a list of nationally norm-referenced tests.
- Issuing a project grant award every two years to a state university to which private schools must report the scores from nationally norm-referenced tests.
- Notifying the SFO of their eligible students and eligible students associated with other SFOs.
- Requiring specified quarterly reports by SFOs.
- Providing a process to match the direct-certification list with the scholarship application data.

### School District Obligations

School districts are required to notify households that receive a free or reduced-price meal of the scholarship and implement the administration of statewide assessments at participating private schools.<sup>55</sup>

### Scholarship Funding and Payment

The scholarship amount provided to any student for any single year must be for total costs authorized and not exceed annual limits as provided in law.<sup>56</sup> The SFO must obtain verification from the private school of a student's continued attendance at the school for each period covered by a scholarship payment. Payment of the scholarship must be made by the SFO on at least a quarterly basis.<sup>57</sup>

During the 2020-21 school year, FTC program scholarships in the amount of \$662 million were awarded to a total of 106,112 students enrolled in 1,945 participating Florida private schools.<sup>58</sup> The maximum scholarship amount per student in the 2020-2021 school year was \$7,408.<sup>59</sup> This reflects a 4 percent increase in private school participation while the total student enrollment saw a decrease of 4.5 percent from the 2019-2020 school year.<sup>60</sup>

### ***Hope Scholarship Program***

The Hope program was established in 2018<sup>61</sup> as a tax credit scholarship program to provide the parent of a public school student in kindergarten through grade 12 an opportunity to transfer the student to another public school or to request a scholarship for the student to enroll in and attend

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<sup>54</sup> Section 1002.395(9), F.S.

<sup>55</sup> Section 1002.395(10), F.S.

<sup>56</sup> Statute 1002.395(11), F.S.

<sup>57</sup> *Id.*

<sup>58</sup> Florida Department of Education, *Florida Tax Credit Scholarship Program June 2021 Quarterly Report* (2021), available at <https://www.fldoe.org/core/fileparse.php/7558/urlt/FTC-Jun-2021-Q-Report.pdf>.

<sup>59</sup> Florida Department of Education, *Fact Sheet, Florida Tax Credit Scholarship Program* (2021), available at <https://www.fldoe.org/core/fileparse.php/5606/urlt/FTC-Oct-2021-line.pdf>.

<sup>60</sup> *Id.*

<sup>61</sup> Section 16, ch. 2018-6, L.O.F.

an eligible private school if that student has been subjected to an incident of battery; harassment;<sup>62</sup> hazing; bullying; kidnapping; physical attack; robbery; sexual offenses; threat or intimidation; or fighting at school.<sup>63</sup>

#### Program Prohibitions

A student is not eligible for a Hope program scholarship while he or she is enrolled in a public school or DJJ program; receiving another state educational scholarship pursuant to Florida law; enrolled in a home education or private tutoring program; or enrolled in the Florida School for the Deaf and the Blind. The student is also limited to participating in no more than two state-funded virtual courses per year.<sup>64</sup>

#### School District Obligations and Parental Options

Upon receipt of a report of an incident, the school principal must provide a copy of the report to the parent and investigate the incident. The school district must also offer the parent an opportunity to enroll his or her student in a different public school or attend an eligible private school through the Hope program.<sup>65</sup> In addition, the school district in which the student resides must notify the student and his or her parent about the locations and times to take all statewide assessments for each student participating in the statewide assessment program.<sup>66</sup>

#### Florida Department of Education Obligations

The DOE is required to:<sup>67</sup>

- Cross-check the list of participating scholarship students with the public school enrollment lists to avoid duplication;
- Maintain a list of nationally norm-referenced tests to satisfy testing requirements;
- Require quarterly reports by SFOs<sup>68</sup> regarding the number of students and private schools enrolled; and
- Contract with an independent entity to annually evaluate the program.

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<sup>62</sup> Harassment includes “COVID-19 harassment” defined as any threatening, discriminatory, insulting, or dehumanizing verbal, written or physical conduct an individual student suffers in relation to, or as a result of, school district protocols for COVID-19, including masking requirements, the separation or isolation of students, or COVID-19 testing requirements, that have the effect of substantially interfering with a student’s educational performance, opportunities or benefits. Eligibility under COVID-19 harassment extends through the 2021-2022 school year. Department of Education, *Emergency Rule 6AER21-02 COVID-19 Hope Scholarship Transfer Procedures* (2021), available at <https://www.fldoe.org/core/fileparse.php/19994/urlt/hope.pdf>. Rule 6A-6.0951, F.A.C.

<sup>63</sup> Section 1002.40(1) and (6), F.S. The student subjected to a specified incident is eligible for a Hope program scholarship whether or not the incident is substantiated. Rule 6A-6.0951, F.A.C.

<sup>64</sup> Section 1002.40(4), F.S.

<sup>65</sup> Section 1002.40(6), F.S.

<sup>66</sup> *Id.*

<sup>67</sup> Section 1002.40(8), F.S.

<sup>68</sup> A.A.A. Scholarship Foundation – FL, LLC and Step Up For Students are the approved SFOs to administer the FTC in 2021-2022. Florida Department of Education, *Scholarship Funding Organizations*, <https://www.fldoe.org/schools/school-choice/k-12-scholarship-programs/sfo/> (last visited Jan. 23, 2022).

### Nonprofit Scholarship-funding Organization (SFO) Obligations

The scholarship is directly administered by state-approved SFOs, which have multiple obligations, including:<sup>69</sup>

- Reviewing applications to determine student eligibility.
- Notifying parents of their receipt of a scholarship.
- Establishing deadlines for parents to confirm participation.
- Awarding scholarships and giving priority to renewing students.
- Preparing quarterly reports to the DOE.
- Notifying the DOE of any violation of Hope program requirements.

### Scholarship Funding Tax Credit

Funding for the program comes from taxpayers who elect to donate up to \$105 of the sales tax they pay when purchasing a motor vehicle in Florida. Dealers collect the contributions and remit the funds to participating SFOs.<sup>70</sup> Eligible contributions used to fund the Hope program may be used to fund FTC program scholarships, with conditions.<sup>71</sup> An SFO may carry forward to the next state fiscal year no more than five percent of net eligible contributions to the Hope program.<sup>72</sup>

### Scholarship Funding and Payment

The calculated amount for a student to attend an eligible private school must be calculated in accordance with the FES program.<sup>73</sup> The maximum amount awarded to a student enrolled in a public school located outside of the district in which the student resides is \$750.<sup>74</sup>

The SFO must obtain verification from the private school of a student's continued attendance at the school for each period covered by a scholarship payment. Payment of the scholarship must be made by the SFO on at least a quarterly basis.<sup>75</sup>

During the 2020-2021 school year, \$78.2 million in contributions were available to fund scholarships for eligible students and scholarships in the amount of \$2.9 million were awarded to a total of 488 students.<sup>76</sup> As of November 2021, 217 scholarships were awarded to students for the 2021-2022 school year with a total scholarship funding of \$380,560.<sup>77</sup>

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<sup>69</sup> Section 1002.40(10), F.S.

<sup>70</sup> Section 1002.40(13), F.S.

<sup>71</sup> Section 1002.40(11)(i), F.S.

<sup>72</sup> *Id.*

<sup>73</sup> Section 1002.40(11), F.S.

<sup>74</sup> *Id.*

<sup>75</sup> *Id.*

<sup>76</sup> PreK-12 Appropriations Subcommittee, *Overview of School/Education Choice for K-12 Students*, Presentation to the PreK-12 Appropriations Subcommittee, The Florida House of Representatives (Nov. 3, 2021), available at <https://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=3094&Session=2022&DocumentType=Meeting%20Packets&FileName=pka%2011-3-21%20REVISED.pdf> at 19-20.

<sup>77</sup> PreK-12 Appropriations Subcommittee, *Update and Discussion on Fiscal Year 2021-2022 School Choice Enrollments and Funding*, Presentation to the PreK-12 Appropriations Subcommittee, The Florida House of Representatives (Nov. 3, 2021), available at <https://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=3094&Session=2022&DocumentType=Meeting%20Packets&FileName=pka%2011-3-21%20REVISED.pdf> at 10.

### **III. Effect of Proposed Changes:**

PCS/ SB 1348 modifies provisions related to funding in the Family Empowerment (FES), Florida Tax Credit (FTC), and Hope scholarship programs. Specifically, the bill modifies the FES program by:

- Maintaining the requirement that the Florida Department of Education (DOE) complete the cross-check of the list of participating students against the public school enrollment list to avoid duplication, however the bill removes that the cross-check must be completed before the distribution of each quarterly scholarship payment.
- Adding a provision requiring the DOE to adjust scholarship payments to eligible nonprofit scholarship-funding organizations (SFOs) and recalculate the Florida Education Finance Program (FEFP) allocation for school districts upon completion of the cross-check.
- Removing the specified dates by which the SFO must notify the DOE that an application has been approved for the program, and the requirement that the DOE verify that the student is not prohibited from receiving a scholarship upon such notification.
- Requiring the DOE to transfer scholarship funds to the SFO for quarterly disbursement upon receiving the documentation from the SFO that is necessary for the DOE to verify the student's participation.

The bill also modifies the FTC and Hope scholarship programs by requiring the DOE to recalculate the FEFP allocation for school districts upon completion of the required cross-check.

Such modifications may streamline the scholarship funding process so that funds are deposited into student accounts in a timely fashion while maintaining verification provisions so that there is no duplication in funding.

The bill takes effect on July 1, 2022.

### **IV. Constitutional Issues:**

#### **A. Municipality/County Mandates Restrictions:**

None.

#### **B. Public Records/Open Meetings Issues:**

None.

#### **C. Trust Funds Restrictions:**

None.

#### **D. State Tax or Fee Increases:**

None.



E. Other Constitutional Issues:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

A parent of a student awarded a Family Empowerment Scholarship may receive the scholarship payment in the student's scholarship account in a more timely fashion, thereby saving the family out-of-pocket expenses.

C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 1002.394, 1002.395, and 1002.40.

**IX. Additional Information:**

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

S01348  
GENERAL BILL by Diaz;  
Educational Choice Scholarships. EFFECTIVE DATE: 07/01/2022.  
01/12/22 S Referred to Education; Appropriations Subcommittee on Education; Appropriations -SJ 121  
01/18/22 S Introduced -SJ 120  
01/20/22 S On Committee agenda-- Education, 01/25/22, 10:00 am, 412 Knott Building

By Senator Diaz

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1 A bill to be entitled  
 2 An act relating to educational choice scholarships;  
 3 amending s. 1002.394, F.S.; revising eligibility for  
 4 the Family Empowerment Scholarship Program; deleting a  
 5 requirement that the Department of Education cross-  
 6 check before each distribution of funds the list of  
 7 participating scholarship students with the public  
 8 school enrollment lists; conforming a cross-reference;  
 9 deleting limits on the number of students receiving  
 10 scholarships; deleting a requirement that the  
 11 department verify that a student is not prohibited  
 12 from receiving a scholarship; deleting a requirement  
 13 that a nonprofit scholarship-funding organization  
 14 verify certain information before payments are made;  
 15 conforming provisions to changes made by the act;  
 16 amending s. 1002.395, F.S.; conforming cross-  
 17 references; deleting a requirement that the department  
 18 cross-check the list of participating Florida Tax  
 19 Credit Scholarship Program students with the public  
 20 school enrollment lists to avoid duplication; deleting  
 21 a requirement that a nonprofit scholarship-funding  
 22 organization obtain verification from the private  
 23 school of a student's continued attendance at the  
 24 school for each period covered by a scholarship  
 25 payment; amending s. 1002.40, F.S.; deleting a  
 26 requirement that the department cross-check the list  
 27 of participating Hope Scholarship Program students  
 28 with the public school enrollment lists to avoid  
 29 duplication; deleting a requirement that a nonprofit

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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30 scholarship-funding organization obtain verification  
 31 from the private school of a student's continued  
 32 attendance at the school for each period covered by a  
 33 scholarship payment; providing an effective date.  
 34  
 35 Be It Enacted by the Legislature of the State of Florida:  
 36  
 37 Section 1. Paragraph (a) of subsection (3), paragraph (a)  
 38 of subsection (8), paragraph (c) of subsection (9), paragraph  
 39 (a) of subsection (10), and subsection (12) of section 1002.394,  
 40 Florida Statutes, are amended to read:  
 41 1002.394 The Family Empowerment Scholarship Program.—  
 42 (3) SCHOLARSHIP ELIGIBILITY.—  
 43 (a) A parent of a student may request and receive from the  
 44 state a scholarship for the purposes specified in paragraph  
 45 (4) (a) if:  
 46 1. The student is on the direct certification list pursuant  
 47 to s. 1002.395(2) (c) or the student's household income level  
 48 does not exceed 185 percent of the federal poverty level;  
 49 2. The student is currently placed, or during the previous  
 50 state fiscal year was placed, in foster care or in out-of-home  
 51 care as defined in s. 39.01;  
 52 3. The student's household income level does not exceed 375  
 53 percent of the federal poverty level or an adjusted maximum  
 54 percent of the federal poverty level which ~~that~~ is increased by  
 55 25 percentage points each fiscal year in the fiscal year  
 56 following any fiscal year in which more than 5 percent of the  
 57 available scholarships authorized under paragraph (12) (a) have  
 58 not been funded;

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4. The student is a sibling of a student who is participating in the scholarship program under this subsection and such siblings reside in the same household; or

5. The student is a dependent child of a member of the United States Armed Forces.

Priority must be given to a student whose household income level does not exceed 185 percent of the federal poverty level or who is in foster care or out-of-home care.

(8) DEPARTMENT OF EDUCATION OBLIGATIONS.—

(a) The department shall:

1. Publish and update, as necessary, information on the department website about the Family Empowerment Scholarship Program, including, but not limited to, student eligibility criteria, parental responsibilities, and relevant data.

2. ~~Cross check before each distribution of funds the list of participating scholarship students with the public school enrollment lists before each scholarship payment to avoid duplication.~~

~~3.~~ Maintain and publish a list of nationally norm-referenced tests identified for purposes of satisfying the testing requirement in subparagraph (9)(c)1. The tests must meet industry standards of quality in accordance with state board rule.

3.4. Notify eligible nonprofit scholarship-funding organizations of the deadlines for submitting the verified list of students determined to be eligible for a scholarship.

4.5. Notify each school district of a parent's participation in the scholarship program for purposes of

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paragraph (7)(f).

5.6. Deny or terminate program participation upon a parent's failure to comply with subsection (10).

6.7. Notify the parent and the organization when a scholarship account is closed and program funds revert to the state.

7.8. Notify an eligible nonprofit scholarship-funding organization of any of the organization's or other organization's identified students who are receiving scholarships under this chapter.

8.9. Maintain on its website a list of approved providers as required by s. 1002.66, eligible postsecondary educational institutions, eligible private schools, and eligible organizations and may identify or provide links to lists of other approved providers.

9.10. Require each organization to verify eligible expenditures before the distribution of funds for any expenditures made pursuant to subparagraphs (4)(b)1. and 2. Review of expenditures made for services specified in subparagraphs (4)(b)3.-15. may be completed after the purchase is made.

10.11. Investigate any written complaint of a violation of this section by a parent, a student, a private school, a public school, a school district, an organization, a provider, or another appropriate party in accordance with the process established under s. 1002.421.

11.12. Require quarterly reports by an organization, which must include, at a minimum, the number of students participating in the program; the demographics of program participants; the

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 117 disability category of program participants; the matrix level of  
 118 services, if known; the program award amount per student; the  
 119 total expenditures for the purposes specified in paragraph  
 120 (4) (b); the types of providers of services to students; and any  
 121 other information deemed necessary by the department.

122 ~~12.13-~~ Notify eligible nonprofit scholarship funding  
 123 organizations that scholarships may not be awarded in a school  
 124 district in which the award will exceed 99 percent of the school  
 125 district's share of state funding through the Florida Education  
 126 Finance Program as calculated by the department.

127 (9) PRIVATE SCHOOL ELIGIBILITY AND OBLIGATIONS.—To be  
 128 eligible to participate in the Family Empowerment Scholarship  
 129 Program, a private school may be sectarian or nonsectarian and  
 130 must:

131 (c)1. Annually administer or make provision for students  
 132 participating in the program in grades 3 through 10 to take one  
 133 of the nationally norm-referenced tests that are identified by  
 134 the department pursuant to paragraph (8) (a) or to take the  
 135 statewide assessments pursuant to s. 1008.22. Students with  
 136 disabilities for whom the physician or psychologist who issued  
 137 the diagnosis or the IEP team determines that standardized  
 138 testing is not appropriate are exempt from this requirement. A  
 139 participating private school shall report a student's scores to  
 140 his or her parent. By August 15 of each year, a participating  
 141 private school must report the scores of all participating  
 142 students to a state university as described in s. 1002.395(9) (e)  
 143 ~~s. 1002.395(9) (f)~~.

144 2. Administer the statewide assessments pursuant to s.  
 145 1008.22 if the private school chooses to offer the statewide

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 146 assessments. A participating private school may choose to offer  
 147 and administer the statewide assessments to all students who  
 148 attend the private school in grades 3 through 10 and must submit  
 149 a request in writing to the department by March 1 of each year  
 150 in order to administer the statewide assessments in the  
 151 subsequent school year.

152  
 153 If a private school fails to meet the requirements of this  
 154 subsection or s. 1002.421, the commissioner may determine that  
 155 the private school is ineligible to participate in the  
 156 scholarship program.

157 (10) PARENT AND STUDENT RESPONSIBILITIES FOR PROGRAM  
 158 PARTICIPATION.—

159 (a) A parent who applies for program participation under  
 160 paragraph (3) (a) is exercising his or her parental option to  
 161 place his or her child in a private school and must:

162 1. Select the private school and apply for the admission of  
 163 his or her student.

164 2. Request the scholarship by a date established by the  
 165 organization, in a manner that creates a written or electronic  
 166 record of the request and the date of receipt of the request.

167 3. Inform the applicable school district when the parent  
 168 withdraws his or her student from a public school to attend an  
 169 eligible private school.

170 4. Require his or her student participating in the program  
 171 to remain in attendance throughout the school year unless  
 172 excused by the school for illness or other good cause.

173 5. Meet with the private school's principal or the  
 174 principal's designee to review the school's academic programs

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and policies, customized educational programs, code of student conduct, and attendance policies prior to enrollment.

6. Require that the student participating in the scholarship program takes the norm-referenced assessment offered by the private school. The parent may also choose to have the student participate in the statewide assessments pursuant to paragraph (7) (d). If the parent requests that the student participating in the program take all statewide assessments required pursuant to s. 1008.22, the parent is responsible for transporting the student to the assessment site designated by the school district.

7. Restrictively endorse the warrant, issued in the name of the parent pursuant to subparagraph (12) (a) 5. ~~(12) (a) 6~~, to the private school for deposit into the private school's account. The parent may not designate any entity or individual associated with the participating private school as the parent's attorney in fact to endorse a scholarship warrant.

(12) SCHOLARSHIP FUNDING AND PAYMENT.—

(a) 1. The scholarship amount ~~Scholarships~~ for students determined eligible pursuant to paragraph (3) (a) ~~are established for up to 18,000 students annually beginning in the 2019-2020 school year. Beginning in the 2020-2021 school year, the maximum number of students participating in the scholarship program under this section shall annually increase by 1.0 percent of the state's total public school student enrollment. An eligible student who meets any of the following requirements shall be excluded from the maximum number of students if the student:~~

a. Received a scholarship pursuant to s. 1002.395 during the previous school year but did not receive a renewal

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~~scholarship based solely on the eligible nonprofit scholarship funding organization's lack of available funds after the organization fully exhausted its efforts to use funds available for awards under ss. 1002.395 and 1002.40(11)(i). Eligible nonprofit scholarship funding organizations with students who meet the criterion in this subparagraph must annually notify the department in a format and by a date established by the department. The maximum number of scholarships awarded pursuant to this subparagraph shall not exceed 15,000 per school year;~~

~~b. Is a dependent child of a member of the United States Armed Forces, a foster child, or an adopted child; or~~

~~c. Is determined eligible pursuant to subparagraph (3) (a) 1. or subparagraph (3) (a) 2. and either spent the prior school year in attendance at a Florida public school or, beginning in the 2022-2023 school year, is eligible to enroll in kindergarten. For purposes of this subparagraph, the term "prior school year in attendance" means that the student was enrolled and reported by a school district for funding during either the preceding October or February Florida Education Finance Program surveys in kindergarten through grade 12, which includes time spent in a Department of Juvenile Justice commitment program if funded under the Florida Education Finance Program.~~

~~2. The scholarship amount provided to a student for any single school year shall be for tuition and fees for an eligible private school, not to exceed annual limits, which shall be determined in accordance with this subparagraph. The calculated amount for a participating student shall be based upon the grade level and school district in which the student was assigned as 100 percent of the funds per unweighted full-time equivalent in~~

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 the Florida Education Finance Program for a student in the basic  
 program established pursuant to s. 1011.62(1)(c)1., plus a per-  
 full-time equivalent share of funds for all categorical  
 programs, except for the Exceptional Student Education  
 Guaranteed Allocation.

2.3- The amount of the scholarship shall be the calculated  
 amount or the amount of the private school's tuition and fees,  
 whichever is less. The amount of any assessment fee required by  
 the participating private school and any costs to provide a  
 digital device, including Internet access, if necessary, to the  
 student may be paid from the total amount of the scholarship.

3.4- A scholarship of \$750 may be awarded to a student who  
 is determined eligible pursuant to subparagraph (3)(a)1. or  
 subparagraph (3)(a)2. and enrolled in a Florida public school  
 that is different from the school to which the student was  
 assigned or in a lab school as defined in s. 1002.32 if the  
 school district does not provide the student with transportation  
 to the school.

4.5- ~~Upon notification from the organization on July 1,  
 September 1, December 1, and February 1 that an application has  
 been approved for the program, the department shall verify that  
 the student is not prohibited from receiving a scholarship  
 pursuant to subsection (6).~~ The organization must provide the  
 department with the documentation necessary to verify the  
 student's participation. Upon receiving the documentation  
~~verification~~, the department shall transfer, from state funds  
 only, the amount calculated pursuant to subparagraph 1. 2- to  
 the organization for quarterly disbursement to parents of  
 participating students each school year in which the scholarship

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 is in force. For a student exiting a Department of Juvenile  
 Justice commitment program who chooses to participate in the  
 scholarship program, the amount of the Family Empowerment  
 Scholarship calculated pursuant to subparagraph 1. 2- must be  
 transferred from the school district in which the student last  
 attended a public school before commitment to the Department of  
 Juvenile Justice. When a student enters the scholarship program,  
 the organization must receive all documentation required for the  
 student's participation, including the private school's and the  
 student's fee schedules, at least 30 days before the first  
 quarterly scholarship payment is made for the student.

5.6- ~~The initial payment shall be made after the  
 organization's verification of admission acceptance, and  
 subsequent payments shall be made upon verification of continued  
 enrollment and attendance at the private school.~~ Payment must be  
 by individual warrant made payable to the student's parent or by  
 funds transfer or any other means of payment that the department  
 deems to be commercially viable or cost-effective. If the  
 payment is made by warrant, the warrant must be delivered by the  
 organization to the private school of the parent's choice, and  
 the parent shall restrictively endorse the warrant to the  
 private school. An organization shall ensure that the parent to  
 whom the warrant is made has restrictively endorsed the warrant  
 to the private school for deposit into the account of the  
 private school or that the parent has approved a funds transfer  
 before any scholarship funds are deposited.

(b)1. The scholarship amount ~~Scholarships~~ for students  
 determined eligible pursuant to paragraph (3)(b) is as follows:  
~~are established for up to 20,000 students annually beginning in~~

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291 ~~the 2021-2022 school year. Beginning in the 2022-2023 school~~  
 292 ~~year, the maximum number of students participating in the~~  
 293 ~~scholarship program under this section shall annually increase~~  
 294 ~~by 1.0 percent of the state's total exceptional student~~  
 295 ~~education full-time equivalent student enrollment, not including~~  
 296 ~~gifted students. An eligible student who meets any of the~~  
 297 ~~following requirements shall be excluded from the maximum number~~  
 298 ~~of students if the student:~~

299 a. ~~Received specialized instructional services under the~~  
 300 ~~Voluntary Prekindergarten Education Program pursuant to s.~~  
 301 ~~1002.66 during the previous school year and the student has a~~  
 302 ~~current IEP developed by the local school board in accordance~~  
 303 ~~with rules of the State Board of Education;~~

304 b. ~~Is a dependent child of a member of the United States~~  
 305 ~~Armed Forces, a foster child, or an adopted child;~~

306 c. ~~Spent the prior school year in attendance at a Florida~~  
 307 ~~public school or the Florida School for the Deaf and the Blind.~~  
 308 ~~For purposes of this subparagraph, the term "prior school year~~  
 309 ~~in attendance" means that the student was enrolled and reported~~  
 310 ~~by:~~

311 ~~(I) A school district for funding during either the~~  
 312 ~~preceding October or February Florida Education Finance Program~~  
 313 ~~surveys in kindergarten through grade 12, which includes time~~  
 314 ~~spent in a Department of Juvenile Justice commitment program if~~  
 315 ~~funded under the Florida Education Finance Program;~~

316 ~~(II) The Florida School for the Deaf and the Blind during~~  
 317 ~~the preceding October or February student membership surveys in~~  
 318 ~~kindergarten through grade 12;~~

319 ~~(III) A school district for funding during the preceding~~

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320 ~~October or February Florida Education Finance Program surveys,~~  
 321 ~~was at least 4 years of age when enrolled and reported, and was~~  
 322 ~~eligible for services under s. 1003.21(1)(c); or~~

323 ~~(IV) Received a John M. McKay Scholarship for Students with~~  
 324 ~~Disabilities in the 2021-2022 school year.~~

325 2. For a student who has a Level I to Level III matrix of  
 326 services or a diagnosis by a physician or psychologist, the  
 327 calculated scholarship amount for a student participating in the  
 328 program must be based upon the grade level and school district  
 329 in which the student would have been enrolled as the total funds  
 330 per unweighted full-time equivalent in the Florida Education  
 331 Finance Program for a student in the basic exceptional student  
 332 education program pursuant to s. 1011.62(1)(c)1. and (e)1.c.,  
 333 plus a per full-time equivalent share of funds for all  
 334 categorical programs, as funded in the General Appropriations  
 335 Act, except that for the exceptional student education  
 336 guaranteed allocation as provided in s. 1011.62(1)(e)1.c. and  
 337 2., the funds must be allocated based on the school district's  
 338 average exceptional student education guaranteed allocation  
 339 funds per exceptional student education full-time equivalent  
 340 student.

341 b.3. For a student with a Level IV or Level V matrix of  
 342 services, the calculated scholarship amount must be based upon  
 343 the school district to which the student would have been  
 344 assigned as the total funds per full-time equivalent for the  
 345 Level IV or Level V exceptional student education program  
 346 pursuant to s. 1011.62(1)(c)2.a. or b., plus a per-full time  
 347 equivalent share of funds for all categorical programs, as  
 348 funded in the General Appropriations Act.



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~~c.4.~~ For a student who received a Gardiner Scholarship pursuant to s. 1002.385 in the 2020-2021 school year, the amount shall be the greater of the amount calculated pursuant to sub-subparagraph a. ~~subparagraph 2.~~ or the amount the student received for the 2020-2021 school year.

~~d.5.~~ For a student who received a John M. McKay Scholarship pursuant to s. 1002.39 in the 2020-2021 school year, the amount shall be the greater of the amount calculated pursuant to sub-subparagraph a. ~~subparagraph 2.~~ or the amount the student received for the 2020-2021 school year.

~~2.6. Upon notification from an organization on July 1, September 1, December 1, and February 1 that an application has been approved for the program, the department shall verify that the student is not prohibited from receiving a scholarship pursuant to subsection (6).~~ The organization must provide the department with the documentation necessary to verify the student's participation.

~~3.7.~~ Upon receiving the documentation ~~verification~~, the department shall release, from state funds only, the student's scholarship funds to the organization, to be deposited into the student's account in four equal amounts no later than September 1, November 1, February 1, and April 1 of each school year in which the scholarship is in force.

~~4.8.~~ Accrued interest in the student's account is in addition to, and not part of, the awarded funds. Program funds include both the awarded funds and accrued interest.

~~5.9.~~ The organization may develop a system for payment of benefits by funds transfer, including, but not limited to, debit cards, electronic payment cards, or any other means of payment

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which the department deems to be commercially viable or cost-effective. A student's scholarship award may not be reduced for debit card or electronic payment fees. Commodities or services related to the development of such a system must be procured by competitive solicitation unless they are purchased from a state term contract pursuant to s. 287.056.

~~6.10.~~ Moneys received pursuant to this section do not constitute taxable income to the qualified student or the parent of the qualified student.

Section 2. Paragraphs (e), (f), and (n) of subsection (6), paragraph (b) of subsection (8), paragraph (d) of subsection (9), and paragraph (c) of subsection (11) of section 1002.395, Florida Statutes, are amended to read:

1002.395 Florida Tax Credit Scholarship Program.—

(6) OBLIGATIONS OF ELIGIBLE NONPROFIT SCHOLARSHIP-FUNDING ORGANIZATIONS.—An eligible nonprofit scholarship-funding organization:

(e) Must give first priority to eligible renewal students who received a scholarship from an eligible nonprofit scholarship-funding organization or from the State of Florida during the previous school year. The eligible nonprofit scholarship-funding organization must fully apply and exhaust all funds available under this section and s. 1002.40(11)(h) ~~e. 1002.40(11)(i)~~ for renewal scholarship awards before awarding any initial scholarships.

(f) Must provide a renewal or initial scholarship to an eligible student on a first-come, first-served basis unless the student qualifies for priority pursuant to paragraph (e). Each eligible nonprofit scholarship-funding organization must refer

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any student eligible for a scholarship pursuant to this section who did not receive a renewal or initial scholarship based solely on the lack of available funds under this section and s. 1002.40(11)(h) ~~s. 1002.40(11)(i)~~ to another eligible nonprofit scholarship-funding organization that may have funds available.

(n) Must prepare and submit quarterly reports to the Department of Education pursuant to paragraph (9)(h) ~~(9)(i)~~. In addition, an eligible nonprofit scholarship-funding organization must submit in a timely manner any information requested by the Department of Education relating to the scholarship program.

Information and documentation provided to the Department of Education and the Auditor General relating to the identity of a taxpayer that provides an eligible contribution under this section shall remain confidential at all times in accordance with s. 213.053.

(8) PRIVATE SCHOOL ELIGIBILITY AND OBLIGATIONS.—An eligible private school may be sectarian or nonsectarian and must:

(b)1. Annually administer or make provision for students participating in the scholarship program in grades 3 through 10 to take one of the nationally norm-referenced tests identified by the Department of Education or the statewide assessments pursuant to s. 1008.22. Students with disabilities for whom standardized testing is not appropriate are exempt from this requirement. A participating private school must report a student's scores to the parent. A participating private school must annually report by August 15 the scores of all participating students to a state university described in paragraph (9)(e) ~~(9)(f)~~.

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2. Administer the statewide assessments pursuant to s. 1008.22 if a private school chooses to offer the statewide assessments. A participating private school may choose to offer and administer the statewide assessments to all students who attend the private school in grades 3 through 10 and must submit a request in writing to the Department of Education by March 1 of each year in order to administer the statewide assessments in the subsequent school year.

If a private school fails to meet the requirements of this subsection or s. 1002.421, the commissioner may determine that the private school is ineligible to participate in the scholarship program.

(9) DEPARTMENT OF EDUCATION OBLIGATIONS.—The Department of Education shall:

~~(d) Cross check the list of participating scholarship students with the public school enrollment lists to avoid duplication.~~

(11) SCHOLARSHIP AMOUNT AND PAYMENT.—

~~(e) An eligible nonprofit scholarship funding organization shall obtain verification from the private school of a student's continued attendance at the school for each period covered by a scholarship payment.~~

Section 3. Paragraph (a) of subsection (8), paragraph (e) of subsection (10), and paragraph (e) of subsection (11) of section 1002.40, Florida Statutes, are amended to read:

1002.40 The Hope Scholarship Program.—

(8) DEPARTMENT OF EDUCATION OBLIGATIONS.—The department shall:

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~~(a) Cross-check the list of participating scholarship students with the public school enrollment lists to avoid duplication.~~

(10) OBLIGATIONS OF ELIGIBLE NONPROFIT SCHOLARSHIP-FUNDING ORGANIZATIONS.—An eligible nonprofit scholarship-funding organization may establish scholarships for eligible students by:

(e) Preparing and submitting quarterly reports to the department pursuant to paragraph (8) (b) ~~(8) (c)~~. In addition, an eligible nonprofit scholarship-funding organization must submit in a timely manner any information requested by the department relating to the program.

(11) FUNDING AND PAYMENT.—

~~(c) An eligible nonprofit scholarship funding organization shall obtain verification from the private school of a student's continued attendance at the school for each period covered by a scholarship payment.~~

Section 4. This act shall take effect July 1, 2022.

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Education

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BILL: SB 1552

INTRODUCER: Senator Gruters

SUBJECT: Direct-support Organization for the Florida Prepaid College Board

DATE: January 24, 2022

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Brick	Bouck	ED	<b>Pre-meeting</b>
2.			RC	

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## **I. Summary:**

SB 1552 saves from repeal the Stanley G. Tate Florida Prepaid College Foundation, Inc., which is a direct-support organization for the Florida Prepaid College Board created to administer the Florida Prepaid Tuition Scholarship Program and other scholarship programs approved by the Florida Prepaid College Board.

The bill takes effect July 1, 2022.

## **II. Present Situation:**

### **Citizen Support Organizations and Direct-Support Organizations**

Citizen support organizations (CSOs) and direct-support organizations (DSOs) are statutorily created private entities that are generally required to be non-profit corporations, and are authorized to carry out specific tasks in support of public entities or public causes. The functions and purpose of a CSO or DSO are prescribed by its enacting statute and, for most, by a written contract with the agency the CSO or DSO was created to support.

### ***CSO and DSO Transparency and Reporting Requirements***

In 2014, the Legislature created s. 20.058, F.S., establishing a comprehensive set of transparency and reporting requirements for CSOs and DSOs that are created or authorized pursuant to law or executive order and created, approved, or administered by a state agency.<sup>1</sup> Specifically, the law requires each CSO and DSO to annually submit, by August 1, the following information related to its organization, mission, and finances to the agency it supports:<sup>2</sup>

- The name, mailing address, telephone number, and website address of the organization;
- The statutory authority or executive order that created the organization;

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<sup>1</sup> Chapter 2014-96, L.O.F.

<sup>2</sup> Section 20.058(1), F.S.

- A brief description of the mission of, and results obtained by, the organization;
- A brief description of the organization's plans for the next three fiscal years;
- A copy of the organization's code of ethics; and
- A copy of the organization's most recent federal Internal Revenue Service (IRS) Return of Organization Exempt from Income Tax form (Form 990).<sup>3</sup>

Each agency receiving the above information must make the information available to the public through the agency's website. If the CSO or DSO maintains a website, the agency's website must provide a link to the website of the CSO or DSO.<sup>4</sup> Additionally, any contract between an agency and a CSO or DSO must be contingent upon the CSO or DSO submitting and posting the information.<sup>5</sup> If a CSO or DSO fails to submit the required information for two consecutive years, the agency must terminate the contract with the CSO or DSO.<sup>6</sup> The contract must also include a provision for ending operations and returning state-issued funds to the state if the authorizing statute is repealed, the contract is terminated, or the organization is dissolved.<sup>7</sup>

By August 15 of each year, the agency must report to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Office of Program Policy Analysis and Government Accountability (OPPAGA) the information provided by the CSO or DSO. The report must also include a recommendation by the agency, with supporting rationale, to continue, terminate, or modify the agency's association with each CSO or DSO.<sup>8</sup>

Lastly, a law creating or authorizing the creation of a CSO or DSO must state that the creation or authorization for the CSO or DSO is repealed on October 1 of the fifth year after enactment, unless reviewed and saved from repeal by the Legislature.

### ***CSO and DSO Audit Requirements***

Section 215.981, F.S., requires each CSO and DSO created or authorized pursuant to law with annual expenditures in excess of \$100,000 to provide for an annual financial audit of its accounts and records.<sup>9</sup> The audit must be conducted by an independent certified public accountant in accordance with rules adopted by the Auditor General and the state agency that created, approved, or administers the CSO or DSO. The audit report must be submitted within nine months after the end of the fiscal year to the Auditor General and to the state agency the CSO or DSO supports.

Additionally, the Auditor General may conduct audits or other engagements of the accounts and records of the CSO or DSO, pursuant to his or her own authority, or at the direction of the

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<sup>3</sup> The IRS Form 990 is an annual information return required to be filed with the IRS by most organizations exempt from federal income tax under 26 U.S.C. 501.

<sup>4</sup> Section 20.058(2), F.S.

<sup>5</sup> Section 20.058(4), F.S.

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> Section 20.058(3), F.S.

<sup>9</sup> The independent audit requirement does not apply to a CSO or DSO for a university, district board of trustees of a community college, or district school board. Additionally, the expenditure threshold for an independent audit is \$300,000 for a CSO or DSO for the Department of Environmental Protection and the Department of Agriculture and Consumer Services.

Legislative Auditing Committee.<sup>10</sup> The Auditor General is authorized to require and receive any records from the CSO or DSO, or its independent auditor.<sup>11</sup>

### ***CSO and DSO Ethics Code Requirement***

Section 112.3251, F.S., requires a CSO or DSO created or authorized pursuant to law to adopt its own ethics code. The ethics code must contain the specified standards of conduct and disclosures provided in ss. 112.313 and 112.3143(2), F.S. A CSO or DSO may adopt additional or more stringent standards of conduct and disclosure requirements and must conspicuously post its code of ethics on its website.<sup>12</sup>

### **Florida Prepaid College Board**

The Florida Prepaid College Board (Board) administers the Stanley G. Tate Florida Prepaid College Program (prepaid program) and the Florida College Savings Program (savings program), and performs other specified essential governmental functions.<sup>13</sup>

### ***Stanley G. Tate Florida Prepaid College Foundation***

In 1989, the Legislature authorized the Board to establish a DSO.<sup>14</sup> The Board established the Florida Prepaid College Foundation, Inc.,<sup>15</sup> (Foundation) in 1990 as a public/private partnership to provide scholarships to students who may not have otherwise had the opportunity to go to college.<sup>16</sup>

The Foundation administers the Florida Prepaid Tuition Scholarship Program (Scholarship Tuition for At-Risk Students, or STARS Program).<sup>17</sup> This program provides economically disadvantaged youth with prepaid postsecondary tuition scholarships.<sup>18</sup> The Foundation has

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<sup>10</sup> Section 11.45(3)(d), F.S.

<sup>11</sup> *Id.*

<sup>12</sup> Section 112.3251, F.S.

<sup>13</sup> Section 1009.971(1), F.S. *See also* ss. 1009.97-1009.988, F.S. The Board is assigned to and administratively housed within the State Board of Administration, but it independently exercises specified powers and duties. The Board consists of seven members, composed of the Attorney General, the Chief Financial Officer, the Chancellor of the State University System, the Chancellor of the Division of Florida Colleges, and three members appointed by the Governor and subject to confirmation by the Senate. Section 1009.971(1) and (2), F.S.

<sup>14</sup> Section 1, ch. 89-316, L.O.F.

<sup>15</sup> The Foundation was renamed the Stanley G. Tate Florida Prepaid College Foundation, Inc., in 2012. *See* Florida Prepaid College Foundation, *Amendment and Name Change* (2012), available at <http://search.sunbiz.org/Inquiry/CorporationSearch/ByName> (search for “Florida Prepaid College Foundation”, then follow “Florida Prepaid College Foundation, Inc.” hyperlink).

<sup>16</sup> Stanley G. Tate Florida Prepaid College Foundation, *2020 Annual Report*, available at <https://www.floridaprepaidcollegefoundation.com/wp-content/uploads/2021/06/2020-Florida-Prepaid-College-Foundation-Annual-Report-Digital.pdf>, at 6.

<sup>17</sup> Sections 1009.983(8), 1009.984, F.S.; Stanley G. Tate Florida Prepaid College Foundation, *2020 Annual Report*, available at <https://www.floridaprepaidcollegefoundation.com/wp-content/uploads/2021/06/2020-Florida-Prepaid-College-Foundation-Annual-Report-Digital.pdf>, at 10.

<sup>18</sup> Section 1009.984, F.S.

established additional scholarship programs, which include the Black History Month Scholarship and the Hispanic Heritage Month Scholarship.<sup>19</sup>

The Board is required to certify that the Foundation operates in a manner consistent with the goals of the Board and in the best interest of the state.<sup>20</sup> The Foundation is required to be:<sup>21</sup>

- A Florida not-for-profit corporation registered, incorporated, organized, and operated in compliance with chapter 617.
- Organized exclusively to receive, hold, invest, and administer property and to make expenditures on behalf of the board.

The Foundation has awarded more than 51,000 Florida Prepaid College Plan scholarships, and more than 32,600 Foundation scholarship recipients have gone to college using their benefits.<sup>22</sup> The STARS Program remains the Foundation's largest initiative, representing 80 percent of the scholarships purchased by the Foundation.<sup>23</sup>

### **Legislative Review: Findings and Recommendations**

Senate professional staff reviewed documents related to the Foundation for compliance with accountability and authorizing statutes. The Foundation appears to be in compliance with such statutes. Findings and recommendations are summarized below.

#### ***The Foundation's Compliance with Accountability Requirements***

**Requirement:** The Foundation is required to incorporate as a Not-for-Profit Corporation.<sup>24</sup>

**Finding:** The Foundation appears to have met this requirement. The Foundation is listed as an active Florida Not-for-Profit Corporation with the Florida Division of Corporations. All annual reports have been filed going back to April 5, 1995. A copy of each annual report is available online.<sup>25</sup>

**Requirement:** The Foundation is required to be organized and operated exclusively to receive, hold, invest, and administer property and to make expenditures to or for the benefit of the Board.<sup>26</sup>

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<sup>19</sup> Stanley G. Tate Florida Prepaid College Foundation, *2020 Annual Report*, available at <https://www.floridaprepaidcollegefoundation.com/wp-content/uploads/2021/06/2020-Florida-Prepaid-College-Foundation-Annual-Report-Digital.pdf>, at 17.

<sup>20</sup> Section 1009.983(1)(c), F.S.

<sup>21</sup> Section 1009.983(1), F.S.

<sup>22</sup> Stanley G. Tate Florida Prepaid College Foundation, *2020 Annual Report*, available at <https://www.floridaprepaidcollegefoundation.com/wp-content/uploads/2021/06/2020-Florida-Prepaid-College-Foundation-Annual-Report-Digital.pdf>, at 4.

<sup>23</sup> *Id.*

<sup>24</sup> Section 1009.983(1)(a), F.S.

<sup>25</sup> Florida Division of Corporations, *Search Records, Detail by Entity Name*, <http://search.sunbiz.org/Inquiry/CorporationSearch/SearchResultDetail?inquirytype=EntityName&directionType=Initial&searchNameOrder=FLORIDAPREPAIDCOLLEGEFOUNDATION%20N353070&aggregateId=domnp-n35307-f4bbb7a4-2964-48c1-91c1-0462741579f9&searchTerm=Florida%20Prepaid%20College%20Foundation&listNameOrder=FLORIDAPREPAIDCOLLEGEFOUNDATION%20N353070> (last visited Jan. 21, 2022).

<sup>26</sup> Section 1009.983(1)(b), F.S.

**Finding:** The Foundation appears to have met this requirement. The by-laws of the Foundation confirm the Foundation is organized and operated exclusively for the benefit of the Board.<sup>27</sup>

**Requirement:** The chair of the Board is required to serve as a director of the Foundation. The chair of the Board and the executive director of the Board are required to jointly name, at a minimum, four other individuals to serve as directors of the organization.<sup>28</sup>

**Findings:** The Foundation meets this requirement. The chair of the Board is also the chair of the Foundation.<sup>29</sup> The Foundation has confirmed that the Foundation complies with the requirement for the appointment of the Foundation's directors.<sup>30</sup>

**Requirement:** By August 1 of each year, the Foundation must submit the following information to the Board.<sup>31</sup>

- The name, mailing address, telephone number, and website address of the Foundation.
- The statutory authority or executive order pursuant to which the Foundation was created.
- A brief description of the mission of, and results obtained by, the Foundation.
- A brief description of the plans of the Foundation for the next 3 fiscal years.
- A copy of the Foundation's code of ethics.
- A copy of the Foundation's most recent federal Internal Revenue Service Return of Organization Exempt from Income Tax form (Form 990).

**Finding:** The Foundation's annual disclosure contains all required information.<sup>32</sup> However, the Internal Revenue Service has determined that the Foundation is exempt from the requirement of filing Form 990.<sup>33</sup>

**Requirement:** The Board must make the information that is required in the annual disclosure report available to the public through the Board's website. If the organization maintains a website, the agency's website must provide a link to the organization's website.<sup>34</sup>

**Finding:** The Board's website includes a link to the Foundation's website and includes the Foundation's required annual disclosure report.<sup>35</sup>

**Requirement:** The Foundation's ethics code must be conspicuously posted on the Foundation's website and address the following standards of conduct:<sup>36</sup>

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<sup>27</sup> Stanley G. Tate Florida Prepaid College Foundation, *By-Laws of the Florida Prepaid College Foundation, Inc.* (2020), at 2.

<sup>28</sup> Section 1009.983(5), F.S.

<sup>29</sup> See Florida Prepaid College Foundation, *Board Members*, <https://www.floridaprepaidcollegefoundation.com/about-us/board-members-staff/> (last visited Jan. 21, 2022), and Florida Prepaid College Board, *Florida Prepaid College Board Members*, <https://www.myfloridaprepaid.com/about-us/board-members/> (last visited Jan. 21, 2022).

<sup>30</sup> Email, Florida Prepaid College Board (Sept. 14, 2021).

<sup>31</sup> Section 20.058(1), F.S.

<sup>32</sup> Stanley G. Tate Florida Prepaid College Foundation, *Required Disclosure to s. 20.058, F.S.* (July 21, 2021), available at <https://www.floridaprepaidcollegefoundation.com/wp-content/uploads/2021/07/2021-Foundation-Disclosure-Required-pursuant-to-Section-20.058-Florida-Statutes.058-Florida-Statutes-1.pdf>.

<sup>33</sup> *Id.*, at 11.

<sup>34</sup> Section 20.058(2), F.S.

<sup>35</sup> Florida Prepaid College Foundation, *Board Reports & Plans*, <https://www.myfloridaprepaid.com/about-us/board-reports/> (last visited Jan. 21, 2022).

<sup>36</sup> Sections 112.313 and 112.3251, F.S.



- Solicitation or acceptance of gifts.
- Unauthorized compensation.
- Voting on salary and expenses.
- Misuse of public position for private gain.
- Disclosure or use of certain information for personal gain.
- Postemployment restrictions.
- Employees holding office.
- Professional and occupational licensing of Foundation board of directors members.

The Foundation's ethics code must address the requirements that a state public officer may not vote on any matter that the officer knows would inure to his or her special private gain or loss.<sup>37</sup>

**Finding:** The ethics code adopted by the Foundation is included within the Foundation's annual required disclosure, which is published on the Foundation's website.<sup>38</sup> The published Code of Ethics is the policy of the State Board of Administration but does not appear to address postemployment restrictions of personnel. As authorized by s. 1009.983(6), F.S., however, the Foundation operates solely through services provided by employees of the Board,<sup>39</sup> who are subject as public officers or employees of agencies to the standards of conduct set forth in chapter 112, F.S. In the event the Foundation decides to employ its own personnel, the Foundation must ensure its ethics code satisfies the requirements as set forth in s. 112.3251, F.S.

**Requirement:** The Foundation must provide for an annual financial audit.<sup>40</sup>

**Finding:** The Foundation has met this requirement. Each year the Foundation is audited by an independent auditor. Annual audits from 2010 – 2020 are posted on the Foundation's website.<sup>41</sup> The Foundation has submitted the audits to the Auditor General<sup>42</sup> and the Board.<sup>43</sup>

**Requirement:** By August 15 of each year, the Board must report to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the OPPAGA the information provided by the Foundation. The report must also include a recommendation by the Board, with supporting rationale, to continue, terminate, or modify the Board's association with the Foundation.<sup>44</sup>

<sup>37</sup> Sections 112.3251 and 112.3143(2), F.S.

<sup>38</sup> Stanley G. Tate Florida Prepaid College Foundation, *Required Disclosure to s. 20.058, F.S.* (July 21, 2021), available at <https://www.floridaprepaidcollegefoundation.com/wp-content/uploads/2021/07/2021-Foundation-Disclosure-Required-pursuant-to-Section-20.058-Florida-Statutes.058-Florida-Statutes-1.pdf>, at 3.

<sup>39</sup> Email, Florida Prepaid College Board (Sept. 15, 2021).

<sup>40</sup> Section 215.981, F.S.

<sup>41</sup> Stanley G. Tate Florida Prepaid College Foundation, *Financial Statements*, <https://www.floridaprepaidcollegefoundation.com/resources/news-publications-and-events/> (last visited Jan. 21, 2022).

<sup>42</sup> Florida Auditor General, *Stanley G. Tate Florida Prepaid College Foundation*, [https://flauditor.gov/pages/nonprofit\\_forprofit%20pages/stanley%20g%20tate%20florida%20prepaid%20college%20foundation.htm](https://flauditor.gov/pages/nonprofit_forprofit%20pages/stanley%20g%20tate%20florida%20prepaid%20college%20foundation.htm) (last visited Jan. 21, 2022).

<sup>43</sup> Florida Prepaid College Board, *Board Reports & Plans: Financial Statements* (2020), available at <https://www.myfloridaprepaid.com/wp-content/uploads/2020-Florida-Prepaid-College-Board-Financial-Statements.pdf> at 17.

<sup>44</sup> Section 20.058(3), F.S.

**Finding:** The Board provided the Foundation's required annual disclosure prior to the August 15 deadline.<sup>45</sup> In the required annual disclosure report the Board recommended continued association with the Foundation.<sup>46</sup>

**Requirement:** The contract between the Board and the Foundation must be contingent upon the Foundation's submission and posting of information required to be submitted to the Board. The contract must also include a provision for the orderly cessation of operations and reversion to the state of state funds held in trust by the Foundation within 30 days after its authorizing statute is repealed, the contract is terminated, or the Foundation is dissolved. If the Foundation fails to submit the required information for two consecutive years, the Board chair must terminate any contract between the Board and the Foundation.<sup>47</sup> In addition, the contract must provide for:<sup>48</sup>

- Approval of the articles of incorporation and bylaws of the Foundation by the Board.
- Submission of an annual budget for the approval of the Board. The budget must comply with rules adopted by the Board.
- Certification by the Board that the Foundation is complying with the terms of the contract and in a manner consistent with the goals and purposes of the Board and in the best interest of the state. Such certification must be made annually and reported in the official minutes of a meeting of the Board.
- The fiscal year of the Foundation, which must begin July 1 of each year and end June 30 of the following year.
- The disclosure of material provisions of the contract and of the distinction between the Board and the Foundation to donors of gifts, contributions, or bequests, and such disclosure on all promotional and fundraising publications.

**Finding:** The contract between the Board and Foundation, effective December 9, 2021, through December 8, 2026 contains the required language.<sup>49</sup>

**Requirement:** The Foundation must administer the Florida Prepaid Tuition Scholarship Program and additional scholarship programs supported from escheated funds retained by the Board, provided that any matching funds for such scholarships are obtained solely from the private sector.<sup>50</sup>

**Finding:** The Foundation administers additional scholarship programs with matching funds obtained solely from the private sector.<sup>51</sup>

**Requirement:** The Foundation's annual report must include a list of any additional scholarship programs approved by the Board to be administered by the Foundation, including a description of the programs and the amount of escheated funds utilized to fund the programs.<sup>52</sup>

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<sup>45</sup> Email, Florida Prepaid College Board (Sept. 15, 2021).

<sup>46</sup> Florida Prepaid College Foundation, *Required Disclosure to s. 20.058, F.S.* (July 21, 2021), available at <https://www.floridaprepaidcollegefoundation.com/wp-content/uploads/2021/07/2021-Foundation-Disclosure-Required-pursuant-to-Section-20.058-Florida-Statutes.058-Florida-Statutes-1.pdf>, at 2.

<sup>47</sup> Section 20.058(4), F.S.

<sup>48</sup> Section 1009.983(2), F.S.

<sup>49</sup> Florida Prepaid College Board, *Agreement with Florida Prepaid College Foundation, Inc.* (Dec. 8, 2021).

<sup>50</sup> Section 1009.983(8), F.S.

<sup>51</sup> Email, Florida Prepaid College Board (September 14, 2021).

<sup>52</sup> Section 1009.983(8)(b), F.S.

**Finding:** The Foundation's *2020 Annual Report* describes additional scholarship programs approved by the Board and indicates the amount of escheated funds utilized to fund each program.<sup>53</sup>

**Requirement:** The Foundation is required to keep confidential the identity of donors who desire to remain anonymous.<sup>54</sup>

**Finding:** The Foundation confirms it maintains the anonymity of donors who desire to remain anonymous and is thus compliant with this requirement.<sup>55</sup>

### III. Effect of Proposed Changes:

SB 1552 saves from repeal the Stanley G. Tate Florida Prepaid College Foundation, Inc., which is a direct-support organization for the Florida Prepaid College Board created to administer the Florida Prepaid Tuition Scholarship Program and other scholarship programs approved by the Florida Prepaid College Board.

The bill takes effect July 1, 2022.

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

None.

#### B. Public Records/Open Meetings Issues:

None.

#### C. Trust Funds Restrictions:

None.

#### D. State Tax or Fee Increases:

None.

#### E. Other Constitutional Issues:

None.

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<sup>53</sup> Stanley G. Tate Florida Prepaid College Foundation, *2020 Annual Report*, available at <https://www.floridaprepaidcollegefoundation.com/wp-content/uploads/2021/06/2020-Florida-Prepaid-College-Foundation-Annual-Report-Digital.pdf>, at 17.

<sup>54</sup> Section 1009.983(4), F.S.

<sup>55</sup> Email, Florida Prepaid College Board (Sept. 14, 2021).

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

The Florida Prepaid College Foundation, Inc. (Foundation) has awarded more than 51,000 Florida Prepaid College Plan scholarships, and more than 32,600 Foundation scholarship recipients have gone to college using their benefits.<sup>56</sup> The continued operation of the Foundation may ensure that students continue to be awarded such scholarships.

**C. Government Sector Impact:**

The Legislature appropriated \$7,000,000 in the 2021 General Appropriation Act to support Foundation scholarships.<sup>57</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 1009.983 of the Florida Statutes.

**IX. Additional Information:****A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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<sup>56</sup> Stanley G. Tate Florida Prepaid College Foundation, *2020 Annual Report*, available at <https://www.floridaprepaidcollegefoundation.com/wp-content/uploads/2021/06/2020-Florida-Prepaid-College-Foundation-Annual-Report-Digital.pdf>, at 8.

<sup>57</sup> Specific appropriation 67, s. 2, ch. 2021-36, L.O.F.

S01552

GENERAL BILL by Gruters;

Direct-support Organization for the Florida Prepaid College Board. EFFECTIVE DATE: 07/01/2022.

01/12/22 S Referred to Education; Rules -SJ 135

01/18/22 S Introduced -SJ 135

01/20/22 S On Committee agenda-- Education, 01/25/22, 10:00 am, 412 Knott Building

By Senator Gruters

23-00722-22

20221552\_\_

1                           A bill to be entitled  
2       An act relating to the direct-support organization for  
3       the Florida Prepaid College Board; amending s.  
4       1009.983, F.S.; removing the scheduled repeal of the  
5       Florida Prepaid College Board's authority to establish  
6       a direct-support organization; providing an effective  
7       date.  
8  
9   Be It Enacted by the Legislature of the State of Florida:  
10  
11       Section 1. Subsection (9) of section 1009.983, Florida  
12       Statutes, is amended to read:  
13       1009.983 Direct-support organization; authority.-  
14       ~~(9) This section is repealed October 1, 2022, unless~~  
15       ~~reviewed and saved from repeal by the Legislature.~~  
16       Section 2. This act shall take effect July 1, 2022.

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Education

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BILL: SB 1576

INTRODUCER: Senator Polsky

SUBJECT: Educational Support Staff

DATE: January 24, 2022

REVISED: \_\_\_\_\_

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Jahnke	Bouck	ED	<b>Pre-meeting</b>
2. _____	_____	AED	_____
3. _____	_____	AP	_____

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## **I. Summary:**

SB 1576 establishes that a support staff position that has over 20 percent of its available staffing positions vacant constitutes a critical shortage area. Specifically, the bill requires:

- District superintendents to annually compile a list of critical employment shortages for education support employees and paraprofessionals.
- Each district to fund incentives that will help retain and recruit personnel for critical shortages or hard to staff positions or worksites in support staff positions as appropriated by the General Appropriations Act.
- District superintendents to annually file a report to the President of the Senate and the Speaker of the House of Representatives with documentation of the shortage and how the funds were used.

The bill does not have a fiscal impact to the state.

The bill takes effect July 1, 2022.

## **II. Present Situation:**

### **Instructional Personnel**

Instructional personnel means any K-12 staff member whose function includes the provision of direct instructional services to students.<sup>1</sup> Instructional personnel also includes K-12 personnel whose functions provide direct support in the learning process of students. Included in the classification of instructional personnel are the following K-12 personnel:<sup>2</sup>

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<sup>1</sup> Section 1012.01(2), F.S.

<sup>2</sup> Section 1012.01(2)(a)-(e), F.S.

- Classroom teachers – Staff members assigned the professional activity of instructing students in courses in classroom situations, including basic instruction, exceptional student education, career education, and adult education, including substitute teachers.
- Student personnel services – Staff members responsible for advising students, such as, certified school counselors, social workers, career specialists, and school psychologists.
- Librarians/media specialists – Staff members responsible for providing school library media services.
- Other instructional staff – Other instructional staff are primary specialists, learning resource specialists, instructional trainers, adjunct educators,<sup>3</sup> and similar positions.
- Education paraprofessionals – Individuals who are under the direct supervision of an instructional staff member, aiding the instructional process.

Based on data from the Florida Department of Education (DOE), there were 2,484 fewer full-time instructional staff in 2020-2021 school year<sup>4</sup> compared to the 2019-2020 school year.<sup>5</sup>

<b>Full-Time Instructional Staff in Florida's Public Schools</b>	<b>2019-2020 School Year</b>	<b>2020-2021 School Year</b>
Instructional Teachers	179,004	176,182
Guidance	6,322	6,397
Visiting Teachers/Guidance Workers	1,518	1,567
School Psychologist	1,494	1,471
Librarian/Audio Visual Workers	1,992	1,923
Other Professional Staff/Instructional	14,659	14,965
<b>Statewide Total</b>	<b>204,989</b>	<b>202,505</b>

The State Board of Education is required to annually identify critical teacher shortage areas based on the recommendation of the Commissioner of Education.<sup>6</sup> The list of shortage areas identify high-need content areas and high-priority location areas.<sup>7</sup> Most of the recommended critical teacher shortage areas for 2021-2022 are among those with the highest projected vacancies and the highest number of current vacancies for the 2020-2021 school year.<sup>8</sup> This information is collected from each school district and is typically used to plan recruitment efforts, including “The Great Florida Teach-In” held annually.<sup>9</sup>

<sup>3</sup> Section 1012.57, F.S.

<sup>4</sup> Florida Department of Education, *Staff in Florida's Public Schools, District Reports 2020-21, Instructional Staff*, <https://www.fldoe.org/accountability/data-sys/edu-info-accountability-services/pk-12-public-school-data-pubs-reports/staff.shtml> (last visited January 21, 2022).

<sup>5</sup> Florida Department of Education, Archive, Data Publications and Reports, *Staff in Florida's Public Schools, District Reports 2019-20, Instructional Staff*, <https://www.fldoe.org/accountability/data-sys/edu-info-accountability-services/pk-12-public-school-data-pubs-reports/archive.shtml> (last visited January 21, 2022).

<sup>6</sup> Section 1012.07, F.S.

<sup>7</sup> Rule 6A-20.0131, F.A.C.

<sup>8</sup> Florida Department of Education, *Identification of Critical Teacher Shortage Areas for 2021-22*, available at <https://www.fldoe.org/core/fileparse.php/7766/urlt/CTSA2122.pdf>.

<sup>9</sup> *Id.*



## Educational Support Employees

An educational support employee is any person employed by a district school system who is employed as a:<sup>10</sup>

- Teacher assistant.
- Education paraprofessional.
- Member of the transportation, operations maintenance or food service departments.
- Secretary or clerical employee.
- Other person not required to be certified<sup>11</sup> by the DOE or district school board.

Education paraprofessionals<sup>12</sup> are K-12 instructional personnel who are under the direct supervision of an instructional staff member, aiding the instructional process. Included in this classification are:

- Classroom paraprofessionals in regular instruction.
- Exceptional education paraprofessionals.
- Career education paraprofessionals.
- Adult education paraprofessionals.
- Library paraprofessionals.
- Physical education and playground paraprofessionals.
- Other school-level paraprofessionals.

Based on data from the Florida Department of Education (DOE), there were 2,457 fewer education support staff in 2020-2021 school year<sup>13</sup> compared to the 2019-2020 school year.<sup>14</sup>

<b>Education Support Staff in Florida's Public Schools</b>	<b>2019-2020 School Year</b>	<b>2020-2021 School Year</b>
OPS Noninstructional	13,010	13,409
Paraprofessionals	33,641	32,819
Technicians	3,410	3,346
Administrative Support Workers	22,950	22,439
Service Workers	46,584	45,258
Skilled Crafts Workers	4,539	4,426
Unskilled Laborers	1,418	1,398
<b>Statewide Total</b>	<b>125,552</b>	<b>123,095</b>

<sup>10</sup> Section 1012.40, F.S. This section does not apply to persons employed in confidential or management positions. However, this does apply to all employees who are not temporary or casual and whose duties require 20 or more hours in each normal working week.

<sup>11</sup> Section 1012.39, F.S.

<sup>12</sup> Section 1012.01(2)(e), F.S.

<sup>13</sup> Florida Department of Education, *Staff in Florida's Public Schools, District Reports 2020-21, Support Staff*, <https://www.fldoe.org/accountability/data-sys/edu-info-accountability-services/pk-12-public-school-data-pubs-reports/staff.html> (last visited January 21, 2022).

<sup>14</sup> Florida Department of Education, Archive, Data Publications and Reports, *Staff in Florida's Public Schools, District Reports 2019-20, Support Staff*, <https://www.fldoe.org/accountability/data-sys/edu-info-accountability-services/pk-12-public-school-data-pubs-reports/archive.html> (last visited January 21, 2022).

**III. Effect of Proposed Changes:**

SB 1576 creates s. 1012.08, F.S., to establish that a support staff position that has over 20 percent of its available staffing positions vacant constitutes a critical shortage area. The bill requires district superintendents to compile a list, not later than April 1 of each year, of critical employment shortages for education support staff and paraprofessionals based on evidence of a shortage for each position.

Additionally, the bill requires each district to fund incentives that will help retain and recruit personnel for critical shortages or hard to staff positions or worksites in support staff positions as appropriated by the General Appropriations Act.

The bill requires district superintendents to file a report, by December 1 of each year, to the President of the Senate and the Speaker of the House of Representatives with documentation of the shortage and how the funds were used.

The bill takes effect July 1, 2022.

**IV. Constitutional Issues:****A. Municipality/County Mandates Restrictions:**

None.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

None.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

None.

C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill creates section 1012.08 of the Florida Statutes.

**IX. Additional Information:**

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

S01576

GENERAL BILL by Polsky; (Similar H 01017)

Educational Support Staff. EFFECTIVE DATE: 07/01/2022.

01/12/22 S Referred to Education; Appropriations Subcommittee on Education; Appropriations -SJ 137

01/18/22 S Introduced -SJ 137

01/20/22 S On Committee agenda-- Education, 01/25/22, 10:00 am, 412 Knott Building

By Senator Polsky

29-00381C-22

20221576\_\_

A bill to be entitled

An act relating to educational support staff; creating s. 1012.08, F.S.; providing that a staff support position that has over a specified amount of positions vacant constitutes a critical shortage area; requiring each district superintendent to compile specified information by a specified date each year; requiring districts to fund certain incentives; requiring district superintendents to file a report with the Legislature documenting certain information by a specified date each year; providing an effective date.

WHEREAS, this state has a vested interest in addressing the critical shortage of education support employees and paraprofessionals who are valued and vital members of the education workforce, who ensure that students achieve success at their highest levels, and who engage students and keep them connected to the larger school community. Education staff professionals keep students emotionally and physically healthy and safe, and

WHEREAS, education staff professionals are critical members of the education workforce and ensure student success from preschool through college, and

WHEREAS, it is a state priority to provide funding so that districts can maintain adequate staffing of staff support professionals in all of the schools in this state, NOW, THEREFORE,

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

Page 1 of 2

**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

29-00381C-22

20221576\_\_

Section 1. Section 1012.08, Florida Statutes, is created to read:

1012.08 Support staff critical shortage areas.—

(1) A staff support position that has over 20 percent of its available staffing positions vacant constitutes a critical shortage area.

(2) Not later than April 1 of each year, each district superintendent shall compile a listing of critical employment shortages for education support employees as defined in s. 1012.40(1)(a) and paraprofessionals as defined in s. 1012.01(2)(e) based on evidence of a shortage for each position.

(3) Each district shall fund incentives that will help retain and recruit personnel for critical shortages or hard to staff positions or worksites in support staff positions as appropriated in the General Appropriations Act.

(4) By December 1 of each year, the district superintendents shall file a report to the President of the Senate and Speaker of the House of Representatives with documentation of the shortage and how the funds were used.

Section 2. This act shall take effect July 1, 2022.

Page 2 of 2

**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Education

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BILL: SB 1700

INTRODUCER: Senator Gruters

SUBJECT: School Readiness Program Funding

DATE: January 24, 2022

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Brick	Bouck	ED	<b>Pre-meeting</b>
2.			AED	
3.			AP	

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## **I. Summary:**

SB 1700 removes the limitations in state law on all state, federal, and local matching funds provided to an early learning coalition to fund its school readiness program.

The bill requires, before the distribution of any funds appropriated in the General Appropriations Act for the school readiness program, the Division of Early Learning within the Department of Education to conduct an allocation conference. The bill requires the conference principals to include representatives of the Division of Early Learning, the Executive Office of the Governor, and the appropriations committees of the Senate and the House of Representatives.

The bill does not require the additional expenditure of state funds.

The bill takes effect July 1, 2022.

## **II. Present Situation:**

The school readiness program provides subsidies for child care services and early childhood education for children of low-income families, children in protective services who are at risk of abuse, neglect, or abandonment, and children with disabilities.<sup>1</sup> About 11 percent of Florida's approximately 1.3 million children younger than age 6 are in the school readiness program.<sup>2</sup>

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<sup>1</sup> Section 1002.87, F.S.

<sup>2</sup> Office of Early Learning, School Readiness, <http://www.floridaearlylearning.com/school-readiness#:~:text=There%20are%20approximately%201.1%20million,readiness%20services%20from%207%2C676%20providers>. (last visited Jan. 21, 2022).

During the 2020 fiscal year, the school readiness program averaged a waiting list of 12,609 children.<sup>3</sup>

### **Regulatory Structure**

The school readiness program is administered as a state-federal partnership between Florida's Department of Education (DOE) and the Office of Child Care of the United States Department of Health and Human Services.<sup>4</sup> The DOE administers the program at the state level, including the statewide coordination of early learning coalitions, who administer the program at the county or regional level.<sup>5</sup>

Florida's school readiness program funding is derived from four sources—the Child Care and Development Fund (CCDF)<sup>6</sup>, the Temporary Assistance for Needy Families (TANF) Block Grant,<sup>7</sup> the Social Services Block Grant (SSBG),<sup>8</sup> and state general revenue.<sup>9</sup>

### **Child Care and Development Fund**

CCDF funds are governed by applicable federal requirements.<sup>10</sup> Every three years, Florida submits a CCDF Plan which serves as the state's application for these funds. The plan provides a description of, and assurances about, the state's child care program and all services available to eligible families.<sup>11</sup>

CCDF funds are generally distributed to states four times per year and include specific allotments for discretionary, mandatory and matching funding. States must also meet minimum maintenance of effort requirements.<sup>12</sup>

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<sup>3</sup> Division of Early Learning, *Division of Early Learning Annual Report* (2021), available at [http://www.floridaeearlylearning.com/Content/Uploads/floridaeearlylearning.com/files/DEL\\_Annual\\_Report\\_2020-21\\_FINAL\\_ADA.pdf](http://www.floridaeearlylearning.com/Content/Uploads/floridaeearlylearning.com/files/DEL_Annual_Report_2020-21_FINAL_ADA.pdf).

<sup>4</sup> Section 1002.82, F.S.

<sup>5</sup> Sections 1002.82-1002.83, F.S.

<sup>6</sup> A major purpose of the CCDF is to allow states to develop child care programs and policies that best suit the needs of children and parents. 45 C.F.R. s. 98.1.

<sup>7</sup> Part A of Title IV of the Social Security Act, as codified in 42 U.S.C. ss. 601, et seq. The Temporary Assistance for Needy Families (TANF) program provides states and territories with flexibility in operating programs designed to help low-income families with children achieve economic self-sufficiency. USHHS, *Temporary Assistance for Needy Families (TANF)*, <https://www.acf.hhs.gov/ofa/programs/temporary-assistance-needy-families-tanf> (last visited Jan. 21, 2022).

<sup>8</sup> Through the SSBG States provide essential social services that help achieve a myriad of goals to reduce dependency and promote self-sufficiency; protect children and adults from neglect, abuse and exploitation; and help individuals who are unable to take care of themselves to stay in their homes or to find the best institutional arrangements. USHHS, *Social Services Block Grant Program*, <https://www.acf.hhs.gov/ocs/programs/ssbg> (last visited Jan. 21, 2022).

<sup>9</sup> The Florida Department of Education and Office of Early Learning, *School Readiness Funding Allocation Methodology: Report and Recommendations* (Oct. 1, 2019), available at <https://www.fldoe.org/core/fileparse.php/7749/urlt/OELFundingMethodology.pdf>.

<sup>10</sup> 45 C.F.R. parts 98 and 99.

<sup>11</sup> Florida Child Care and Development Fund Plan, FFY 2019-2021, available at [http://www.floridaeearlylearning.com/Content/Uploads/floridaeearlylearning.com/files/CCDBG\\_FY2019-2021CCDFPlanFINAL\\_FINAL\\_4.9.19.pdf](http://www.floridaeearlylearning.com/Content/Uploads/floridaeearlylearning.com/files/CCDBG_FY2019-2021CCDFPlanFINAL_FINAL_4.9.19.pdf).

<sup>12</sup> The Florida Department of Education and Office of Early Learning, *School Readiness Funding Allocation Methodology: Report and Recommendations* (Oct. 1, 2019), available at <https://www.fldoe.org/core/fileparse.php/7749/urlt/OELFundingMethodology.pdf>.

Discretionary funds are based on a formula that considers the number of children under age five, the ratio of children receiving free or reduced-price lunches, and per capita income. Mandatory funds are based on the state's federal share of expenditures, and matching funds are the remaining amounts appropriated after the mandatory funds are allotted.<sup>13</sup>

A State's allocation of the matching fund is based on the number of children under age 13 in the state compared with the national total of children under age 13. Matching funds must be matched by a state at its applicable Federal Medical Assistance Percentage (FMAP) rate.<sup>14</sup> At least 70 percent of matching funds must be used to meet the child care needs of families who are:<sup>15</sup>

- Receiving assistance under a state program under the Block Grants to States for TANF;
- Attempting through work activities to transition off such assistance program; and
- At risk of becoming dependent on such assistance program.

In addition to the state's share of the matching fund, in order to receive federal matching funds, the state must spend a minimum amount of non-federal funds on allowable child care activities as described in the state's approved CCDF Plan.<sup>16</sup>

### **School Readiness Program Funding**

The DOE is the lead agency in Florida for administering the CCDF.<sup>17</sup> Across the state, 30 regional early learning coalitions and the Redlands Christian Migrant Association (RCMA) are responsible for delivering local services, including the school readiness program.<sup>18</sup>

Funding for the school readiness program is allocated among the early learning coalitions in accordance with state law and the General Appropriations Act.<sup>19</sup> The DOE provides instructions for early learning coalitions to administer school readiness program funding in accordance with the policies of the Legislature.<sup>20</sup>

Each early learning coalition is required to establish a sliding fee scale that provides for a parent copayment that is not a barrier to families receiving school readiness program services.<sup>21</sup> All cost

<sup>13</sup> The Florida Department of Education and Office of Early Learning, *School Readiness Funding Allocation Methodology: Report and Recommendations* (Oct. 1, 2019), available at <https://www.fldoe.org/core/fileparse.php/7749/urlt/OELFundingMethodology.pdf>.

<sup>14</sup> The Federal Medical Assistance Percentages (FMAPs) are used in determining the amount of Federal matching funds for State expenditures for assistance payments for certain social services, and State medical and medical insurance expenditures. The Social Security Act requires the Secretary of Health and Human Services to calculate and publish the FMAPs each year. The Florida Department of Education and Office of Early Learning, *School Readiness Funding Allocation Methodology: Report and Recommendations* (Oct. 1, 2019), available at <https://www.fldoe.org/core/fileparse.php/7749/urlt/OELFundingMethodology.pdf>.

<sup>15</sup> 45 C.F.R. s. 98.50(e).

<sup>16</sup> The Florida Department of Education and Office of Early Learning, *School Readiness Funding Allocation Methodology: Report and Recommendations* (Oct. 1, 2019), available at <https://www.fldoe.org/core/fileparse.php/7749/urlt/OELFundingMethodology.pdf>.

<sup>17</sup> Section 1002.82(1), F.S.

<sup>18</sup> The Office of Early Learning, *Coalitions*, <http://www.floridaearlylearning.com/coalitions.aspx> (last visited Jan. 21, 2022). See also 1002.83(1), F.S.

<sup>19</sup> Section 1002.89(1), F.S.

<sup>20</sup> Section 1002.89(2), F.S.

<sup>21</sup> Section 1002.84(9), F.S.



savings and all revenues received through a mandatory sliding fee scale must be used to increase the number of children served.<sup>22</sup>

State, federal, and local matching funds provided to an early learning coalition for purposes of the school readiness program must be used for implementation of its approved school readiness program plan, including the hiring of staff to effectively operate the school readiness program.<sup>23</sup> Costs are required to be kept to the minimum necessary for the efficient and effective administration of the school readiness program with the highest priority of expenditure being direct services for eligible children.<sup>24</sup>

No more than 5 percent of the funds to implement the school readiness program may be used for administrative costs, and no more than 22 percent may be used in any fiscal year for any combination of administrative costs, quality activities, and nondirect services.

Nondirect services are those services not defined as administrative, direct, or quality services that are required to administer the school readiness program. Such services include, but are not limited to:<sup>25</sup>

- Assisting families to complete the required application and eligibility documentation.
- Determining child and family eligibility.
- Recruiting eligible child care providers.
- Processing and tracking attendance records.
- Developing and maintaining a statewide child care information system.

Expenditures for administrative costs, quality activities, and nondirect services comprised 21.05% of the total expenditures in the 2020-2021 fiscal year.<sup>26</sup>

### ***Market Rate***

States administering funds from the CCDF are required to conduct a statistically valid and reliable survey of the market rates for child care services or an alternative methodology, such as a cost estimation model, that has been pre-approved by the U.S. Administration for Children and Families (ACF) and approved by the lead state agency.<sup>27</sup>

Many child care providers report that they are unable to set published prices that reflect the full cost of providing quality services because parents would be unable to pay these prices. As a result, the published prices reflected in market rate surveys are not always adequate to cover providers' full costs, particularly for high-quality care. A cost estimation model is an alternative methodology that accounts for key factors in determining the payment schedule. Key factors

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<sup>22</sup> Section 1002.89(3), F.S.

<sup>23</sup> Section 1002.89(4), F.S.

<sup>24</sup> Section 1002.89(5), F.S.

<sup>25</sup> Section 1002.89(5)(c), F.S.

<sup>26</sup> Division of Early Learning, *Division of Early Learning Annual Report* (2021), available at [http://www.floridaeearlylearning.com/Content/Uploads/floridaeearlylearning.com/files/DEL\\_Annual\\_Report\\_2020-21\\_FINAL\\_ADA.pdf](http://www.floridaeearlylearning.com/Content/Uploads/floridaeearlylearning.com/files/DEL_Annual_Report_2020-21_FINAL_ADA.pdf), at 5.

<sup>27</sup> 45 C.F.R. s. 98.45.

account for costs that vary across submarkets, such as age and sparsity, and include, for example:<sup>28</sup>

- Staff salaries and benefits.
- Training and professional development
- Curricula and supplies
- Group size of children and staff-child ratios
- Enrollment levels.
- Program size.
- Facility costs.

The DOE is required to establish procedures for the adoption of a market rate schedule for the school readiness program until an alternative model that has been approved by the ACF is available for adoption.<sup>29</sup> The schedule must include, at a minimum, county-by-county rates, differentiated by type of child care provider and the type of child care services provided. Rates must be differentiated for the types of providers by:<sup>30</sup>

- The minimum and the maximum rates for child care providers that hold a Gold Seal Quality Care (GSQC) designation.<sup>31</sup>
- Child care providers that do not hold a GSQC designation.
- Licensed child care facilities.
- Public or nonpublic schools exempt from licensure.
- Faith-based child care facilities exempt from licensure.
- Licensed large family child care homes.
- Licensed or registered family day care homes.

The market rate schedule must also differentiate rate by the type of child care services provided, including services provided for:<sup>32</sup>

- Children with special needs or risk categories.
- Infants, toddlers, preschool-age children, and school-age children.
- Full-time and part-time child care.

Early learning coalitions are required to consider the market rate schedule in the adoption of a payment schedule. The payment schedule must consider the prevailing market rate,<sup>33</sup> include the projected number of children to be served by each county, and be submitted for approval by the DOE.<sup>34</sup>

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<sup>28</sup> U.S. Office of Child Care, Early Childhood Training and Technical Assistance System, *Market Rates and Costs*, available at [https://childcareta.acf.hhs.gov/ccdf-fundamentals/occ-approved-alternative-methodology#\\_ednref2](https://childcareta.acf.hhs.gov/ccdf-fundamentals/occ-approved-alternative-methodology#_ednref2) (last visited Jan. 21, 2022).

<sup>29</sup> Section 1002.895(1), F.S.

<sup>30</sup> Section 1002.895, F.S.

<sup>31</sup> A provider seeking a Gold Seal Quality Care designation must satisfy standards enumerated in s. 1002.945, F.S., and apply to an accrediting association approved by the DOE. Section 1002.945, F.S.

<sup>32</sup> Section 1002.895, F.S.

<sup>33</sup> The prevailing market rate is the biennially determined 75th percentile of a reasonable frequency distribution of the market rate by program care level and provider type in a predetermined geographic market at which child care providers charge a person for child care services. Section 1002.81(12), F.S.

<sup>34</sup> Section 1002.895(4), F.S.

Reimbursement rates for school readiness providers are paid based on a child's care level and unit of care<sup>35</sup> as defined by the early learning coalition's approved provider rate schedule for the county in which the provider's facility is located.<sup>36</sup>

The 2019 market rate report includes a state summary that reflects market rates by provider type and service type. For example, the average daily market rate in the state for GSQC designated private child care centers was \$42.01 for services provided to infants.<sup>37</sup> The 75<sup>th</sup> percentile rate for the same services was \$48.26.<sup>38</sup> The reimbursement rate for GSQC designated private centers was \$36.00. For private centers without a GSQC designation, the average market rate was \$36.71 for services provided to infants, and the 75<sup>th</sup> percentile rate was \$40.00, and the reimbursement rate was \$30.00.<sup>39</sup>

### ***Differential Payments***

The DOE has established rules providing for higher reimbursement rates for certain school readiness providers. Specifically, a provider may be reimbursed:<sup>40</sup>

- Up to 20 percent above the base reimbursement rate for serving a school readiness child that has a documented physical, mental, emotional, or behavioral condition that requires a higher level of care in the child care setting.
- Up to 20 percent above the base reimbursement rate for achieving a GSQC designation.
- Up to 5 percent above the base reimbursement rate for completing child assessments with a DOE-approved assessment tool. The assessments must be conducted by teachers determined reliable, as defined by the child assessment tool, at least three times per year.<sup>41</sup> Eligible providers must submit valid and reliable data to the statewide information system.
- Up to 10 percent above the base reimbursement rate depending on the provider's level of performance on a program assessment adopted by the DOE that measures the quality of teacher-child interactions, including emotional and behavioral support, engaged support for learning, classroom organization, and instructional support for children.<sup>42</sup> A provider receives a 4 percent differential for achieving a score of 4.00 on the program assessment;

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<sup>35</sup> A child's care level corresponds with the age or special needs of the child. The school readiness care levels are infant, toddler, two year-old, preschool three, preschool four, preschool five, in school, and special needs. The unit of care is distinguished by the extent of service provided to the child, grouped by full-time, part-time, and before or after school care. See Form OEL-SR 20, available at <https://www.flrules.org/Gateway/reference.asp?No=Ref-11273>, at 36.

<sup>36</sup> Rule 6M-4.500, F.A.C.

<sup>37</sup> Office of Early Learning, *2019 Market Rate Report: State Summary*, available at <http://www.floridaeearlylearning.com/Content/Uploads/floridaeearlylearning.com/files/Market%20Rate%20FY1920%20Report%20Full%20Time%20Statewide%20Summary-ADA-Final.pdf>.

<sup>38</sup> Office of Early Learning, *2019 Market Rate Report: State Summary*, available at <http://www.floridaeearlylearning.com/Content/Uploads/floridaeearlylearning.com/files/Market%20Rate%20FY1920%20Report%20Full%20Time%20Statewide%20Summary-ADA-Final.pdf>.

<sup>39</sup> Office of Early Learning, *2019 Market Rate Report: State Summary*, available at <http://www.floridaeearlylearning.com/Content/Uploads/floridaeearlylearning.com/files/Market%20Rate%20FY1920%20Report%20Full%20Time%20Statewide%20Summary-ADA-Final.pdf>.

<sup>40</sup> Rule 6M-4.500, F.A.C.

<sup>41</sup> Section 1002.82(2)(k), F.S.

<sup>42</sup> Section 1002.82(2)(n), F.S., requires the DOE to adopt a program assessment for school readiness providers serving children from birth to 5 years. Rule 6M-4.740, F.A.C., outlines requirements for the program assessment and provider participation and incorporates Form OEL-SR-740, which is available at <https://www.flrules.org/Gateway/reference.asp?No=Ref-12828>.

however, beginning in the 2022-2023 school readiness contract year, a provider will not be able to deliver the school readiness program with less than a score of 4.00.<sup>43</sup>

- At a higher rate for participating in a state or local quality improvement plan, as documented by the early learning coalition and approved by the DOE.

### ***School Readiness Expenditures***

For the 2021 fiscal year, the Legislature appropriated \$932,877,228 for school readiness services. The CCDF accounted for \$450,759,466 to early learning coalitions for the provision of the school readiness program and.<sup>44</sup>

- The sum of \$23,277,090 in recurring funds and \$16,722,910 in nonrecurring funds to implement differential payments to school readiness providers who achieve quality performance as measured by the program assessment.
- The sum of \$30,000,000 to expand the provision of services to low income families at or below 200 percent of the federal poverty level as long as the income does not exceed 85 percent of the state median income. To be eligible for funding, an early learning coalition must match its portion of the state funds with a dollar-for-dollar match of local funds.
- The sum of \$72,000,000 in nonrecurring funds to expand school readiness services to families currently on a school readiness wait list.
- The sum of \$100,000,000 to the DOE to provide eligible early learning coalitions with school readiness provider rate increases to reduce variance and inequities in provider payment rates across the state.

In addition, the Legislature appropriated to the DOE \$2.47 billion in nonrecurring funds from the CCDF under the American Rescue Plan Act of 2021<sup>45</sup> for the 2020-2022 fiscal years.<sup>46</sup>

### ***School Readiness Estimating Conference***

The early learning programs estimating conference is required to develop estimates and forecasts of the unduplicated count of children eligible for the school readiness program as the conference determines are needed to support the state planning, budgeting, and appropriations processes.<sup>47</sup> The conference last met to estimate and forecast school readiness needs in November of 2004.<sup>48</sup>

### ***Alternative School Readiness Funding Models***

In 2019, the Office of Early Learning,<sup>49</sup> in partnership with the DOE, was required to develop a funding allocation methodology for the equitable distribution, by county, of school readiness program funds.<sup>50</sup> The Office of Early Learning and the DOE submitted their recommended funding allocation methodology for the distribution of the school readiness program funds to the

<sup>43</sup> Rule 6M-4.741, F.A.C.

<sup>44</sup> Specific Appropriation 83, s. 2, ch. 2021-36, L.O.F.

<sup>45</sup> Pub. L. 117-2, 135 Stat. 31 (Mar. 11, 2021).

<sup>46</sup> Sections 43-44, ch. 2021-36, L.O.F.

<sup>47</sup> Section 213.136(8), F.S.

<sup>48</sup> Office of Economic and Demographic Research, *Consensus Estimating Conferences: Early Learning Programs Estimating Conference*, <http://edr.state.fl.us/content/conferences/> (last visited Jan. 21, 2022).

<sup>49</sup> The Office of Early Learning was restructured and renamed as the Division of Early Learning in HB 419 (2021). Chapter 2021-10, L.O.F.

<sup>50</sup> Specific Appropriations 80-84, s. 2, ch. 2019-115, L.O.F.

President of the Senate, the Speaker of the House of Representatives, and the Executive Office of the Governor on October 1, 2019.

The report included three funding methodologies for consideration:<sup>51</sup>

- The 2014 SR Funding Model Work Group. This model:
  - Used the average funding rate per full time equivalent (FTE) child for the past three years, with the most recent year weighted 50 percent, the second year weighted 30-percent, and the third weighted 20 percent.
  - Reflected variations in local economic conditions through the use of the District Cost Differential (DCD).<sup>52</sup>
  - Limited any decreases in funding to 5 percent per year.
- The Zone Model Methodology, which assumes a compression rate of no more than \$7 million new dollars per coalition and assigns counties into one of four zones based on the following factors:
  - Market Rate Survey.
  - Florida Price Level Index (FPLI).<sup>53</sup>
  - Population Data.
  - Child Care Level.
- The Conceptual Framework for SR Funding Methodology, which is a model similar to the Voluntary Prekindergarten Education Program funding model. The model considers the following factors in order to equitably distribute funding across the 30 coalitions and RCMA:
  - Statewide reimbursement rates by care level and provider type.
  - FTE by county
  - FPLI or DCD.
  - Local Quality Initiatives.
  - Non-direct services.
  - Administrative costs.
  - Quality Performance Incentives (Payment Differentials).

### III. Effect of Proposed Changes:

SB 1700 removes the limitations in state law on all state, federal, and local matching funds provided to an early learning coalition to fund its school readiness program. Removing these limitations may provide flexibility to increase spending on administrative, quality activities, and nondirect services to up to thirty percent of state, federal, and local matching funds.

The bill creates s. 1002.891, F.S., to require, before the distribution of any funds appropriated in the General Appropriations Act for the school readiness program, the Division of Early Learning

<sup>51</sup> The Florida Department of Education and Office of Early Learning, *School Readiness Funding Allocation Methodology: Report and Recommendations* (Oct. 1, 2019), available at <https://www.fldoe.org/core/fileparse.php/7749/urlt/OELFundingMethodology.pdf>.

<sup>52</sup> The District Cost Differential is calculated by averaging each school district's Florida Price Level Index for the most recent three years. The average is then multiplied by 0.008, and 0.200 is added to the product to obtain the final district cost differential. Section 1011.62(2), F.S.

<sup>53</sup> The FPLI represents the cost of hiring comparable personnel across school districts and is the result of a collaboration between Florida Polytechnic University and the University of Florida's Bureau of Economic and Business Research. Jim Dewey, Director of Economic Analysis, Florida Polytechnic University, *2020 Florida Price Level Index*, available at <https://www.fldoe.org/core/fileparse.php/7507/urlt/2020fpli.pdf>.

(DEL) within the Department of Education to conduct an allocation conference. The bill requires the conference principals to include representatives of the DEL, the Executive Office of the Governor, and the appropriations committees of the Senate and the House of Representatives.

The bill requires the conference principals to discuss and agree to all conventions and calculation methods, including the actual cost of child care, eligible population data, rounding conventions, and methods of computation, to be used to calculate the school readiness funding formula for the early learning coalitions for the fiscal year for which the appropriations are made. These conventions and calculation methods must remain in effect until further agreements are reached in subsequent allocation conferences called by the DEL for that purpose.

The bill requires the DEL, before each recalculation of the school readiness funding formula and allocations to the early learning coalitions, to also provide conference principals with all data necessary to replicate those allocations precisely. The data must include a matrix, arranged by early learning coalition, of all full-time equivalent changes made by the DEL as part of its administration of the school readiness program.

These provisions may update the equitable distribution of school readiness program funding throughout the state.

The bill takes effect July 1, 2022.

#### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

#### **V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 1002.81, 1002.82, 1002.89.

This bill creates section 1002.891 of the Florida Statutes.

**IX. Additional Information:****A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.

S01700  
GENERAL BILL by Gruters; (Compare H 01199)  
School Readiness Program Funding. EFFECTIVE DATE: 07/01/2022.  
01/12/22 S Referred to Education; Appropriations Subcommittee on Education; Appropriations -SJ 146  
01/18/22 S Introduced -SJ 146  
01/20/22 S On Committee agenda-- Education, 01/25/22, 10:00 am, 412 Knott Building



By Senator Gruters

23-01624-22

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A bill to be entitled

An act relating to school readiness program funding; amending s. 1002.89, F.S.; deleting a requirement that all state, federal, and local matching funds provided to an early learning coalition for certain purposes be used for implementation of its approved school readiness plan; conforming provisions to changes made by the act; creating s. 1002.891, F.S.; requiring the Division of Early Learning within the Department of Education to conduct an allocation conference; specifying conference principals; requiring conference principals to discuss and agree to all conventions and calculation methods to be used to calculate the school readiness funding formula for the early learning coalitions for the fiscal year for which the appropriations are made; requiring conventions and calculation methods to remain in effect until further agreements are reached in subsequent allocation conferences; requiring the division to provide conference principals with specified data before each recalculation of the school readiness funding formula; amending ss. 1002.81 and 1002.82, F.S.; conforming cross-references; providing an effective date.

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

Section 1. Subsections (4) and (5) of section 1002.89, Florida Statutes, are amended to read:  
1002.89 School readiness program; funding.—

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**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

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(4) ~~All state, federal, and local matching funds provided to an early learning coalition for purposes of this section shall be used for implementation of its approved school readiness program plan, including the hiring of staff to effectively operate the school readiness program.~~

~~(5) Costs shall be kept to the minimum necessary for the efficient and effective administration of the school readiness program with the highest priority of expenditure being direct services for eligible children. However, no more than 5 percent of the funds described in subsection (4) may be used for administrative costs and no more than 22 percent of the funds described in subsection (4) may be used in any fiscal year for any combination of administrative costs, quality activities, and nondirect services as follows:~~

~~(a) Administrative costs as described in 45 C.F.R. s. 98.54, which shall include monitoring providers using the standard methodology adopted under s. 1002.82 to improve compliance with state and federal regulations and law pursuant to the requirements of the statewide provider contract adopted under s. 1002.82(2)(m).~~

~~(b) Activities to improve the quality of child care as described in 45 C.F.R. s. 98.53, which shall be limited to the following:~~

~~1. Developing, establishing, expanding, operating, and coordinating resource and referral programs specifically related to the provision of comprehensive consumer education to parents and the public to promote informed child care choices specified in 45 C.F.R. s. 98.33.~~

~~2. Awarding grants and providing financial support to~~

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~~school readiness program providers and their staff to assist them in meeting applicable state requirements for the program assessment required under s. 1002.82(2)(n), child care performance standards, implementing developmentally appropriate curricula and related classroom resources that support curricula, providing literacy supports, and providing continued professional development and training. Any grants awarded pursuant to this subparagraph shall comply with ss. 215.971 and 287.058.~~

~~3. Providing training, technical assistance, and financial support to school readiness program providers, staff, and parents on standards, child screenings, child assessments, child development research and best practices, developmentally appropriate curricula, character development, teacher child interactions, age-appropriate discipline practices, health and safety, nutrition, first aid, cardiopulmonary resuscitation, the recognition of communicable diseases, and child abuse detection, prevention, and reporting.~~

~~4. Providing, from among the funds provided for the activities described in subparagraphs 1. 3., adequate funding for infants and toddlers as necessary to meet federal requirements related to expenditures for quality activities for infant and toddler care.~~

~~5. Improving the monitoring of compliance with, and enforcement of, applicable state and local requirements as described in and limited by 45 C.F.R. s. 98.40.~~

~~6. Responding to Warm Line requests by providers and parents, including providing developmental and health screenings to school readiness program children.~~

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~~(e) Nondirect services as described in applicable Office of Management and Budget instructions are those services not defined as administrative, direct, or quality services that are required to administer the school readiness program. Such services include, but are not limited to:~~

- ~~1. Assisting families to complete the required application and eligibility documentation.~~
- ~~2. Determining child and family eligibility.~~
- ~~3. Recruiting eligible child care providers.~~
- ~~4. Processing and tracking attendance records.~~
- ~~5. Developing and maintaining a statewide child care information system.~~

~~As used in this paragraph, the term "nondirect services" does not include payments to school readiness program providers for direct services provided to children who are eligible under s. 1002.87, administrative costs as described in paragraph (a), or quality activities as described in paragraph (b).~~

Section 2. Section 1002.891, Florida Statutes, is created to read:

1002.891 School Readiness Funding Formula Allocation Conference.—

(1) Before the distribution of any funds appropriated in the General Appropriations Act for the school readiness program, the Division of Early Learning within the Department of Education shall conduct an allocation conference. Conference principals must include representatives of the Division of Early Learning, the Executive Office of the Governor, and the appropriations committees of the Senate and the House of

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Representatives.

(2) Conference principals shall discuss and agree to all conventions and calculation methods, including the actual cost of child care, eligible population data, rounding conventions, and methods of computation, to be used to calculate the school readiness funding formula for the early learning coalitions for the fiscal year for which the appropriations are made. These conventions and calculation methods shall remain in effect until further agreements are reached in subsequent allocation conferences called by the division for that purpose.

(3) The division shall, before each recalculation of the school readiness funding formula and allocations to the early learning coalitions, also provide conference principals with all data necessary to replicate those allocations precisely. This data shall include a matrix by early learning coalition of all full-time equivalent changes made by the division as part of its administration of the school readiness program.

Section 3. Subsection (4) of section 1002.81, Florida Statutes, is amended to read:

1002.81 Definitions.—Consistent with the requirements of 45 C.F.R. parts 98 and 99 and as used in this part, the term:

(4) "Direct enhancement services" means services for families and children that are in addition to payments for the placement of children in the school readiness program. Direct enhancement services for families and children may include supports for providers, parent training and involvement activities, and strategies to meet the needs of unique populations and local eligibility priorities. Direct enhancement services offered by an early learning coalition must ~~shall~~ be

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consistent with the activities described in 45 C.F.R. s. 98.53 ~~prescribed in s. 1002.89(5)(b).~~

Section 4. Paragraph (a) of subsection (7) of section 1002.82, Florida Statutes, is amended to read:

1002.82 Department of Education; powers and duties.—

(7) By January 1 of each year, the department shall annually publish on its website a report of its activities conducted under this section. The report must include a summary of the coalitions' annual reports, a statewide summary, and the following:

(a) An analysis of early learning activities throughout the state, including the school readiness program and the Voluntary Prekindergarten Education Program.

1. The total and average number of children served in the school readiness program, enumerated by age, eligibility priority category, and coalition, and the total number of children served in the Voluntary Prekindergarten Education Program.

2. A summary of expenditures by coalition, by fund source, including a breakdown by coalition of the percentage of expenditures for administrative activities, quality activities, nondirect services, and direct services for children.

3. A description of the department's and each coalition's expenditures by fund source for ~~the~~ quality and enhancement activities described in 45 C.F.R. s. 98.53 ~~s. 1002.89(5)(b).~~

4. A summary of annual findings and collections related to provider fraud and parent fraud.

5. Data regarding the coalitions' delivery of early learning programs.

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175       6. The total number of children disenrolled statewide and  
176 the reason for disenrollment.  
177       7. The total number of providers by provider type.  
178       8. The number of school readiness program providers who  
179 have completed the program assessment required under paragraph  
180 (2)(n); the number of providers who have not met the minimum  
181 program assessment composite score for contracting established  
182 under paragraph (2)(n); and the number of providers that have an  
183 active improvement plan based on the results of the program  
184 assessment under paragraph (2)(n).  
185       9. The total number of provider contracts revoked and the  
186 reasons for revocation.  
187       Section 5. This act shall take effect July 1, 2022.