

**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 Appropriations Subcommittee on Education

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BILL: SB 1444

INTRODUCER: Senator Diaz

SUBJECT: Education

DATE: April 8, 2019

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Olenick</u>	<u>Sikes</u>	<u>ED</u>	<b>Favorable</b>
2.	<u>Underhill</u>	<u>Elwell</u>	<u>AED</u>	<b>Pre-meeting</b>
3.	_____	_____	<u>AP</u>	_____

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**I. Summary:**

SB 1444 provides safeguards to help protect students by requiring the creation of a state disqualification list to be maintained by the Department of Education (department or DOE), which must include the following information:

- The name of any individual who has been placed on the list by the Education Practices Commission (EPC) pursuant to law, or whose educator certificate has been permanently revoked by the EPC.
- The name of any private school owners or operators who have been permanently disqualified from participation in a state scholarship program by the DOE.

In addition, the bill:

- Requires the DOE to provide authorized staff of school districts, charter schools, the Florida School for the Deaf and Blind, and private schools that accept state scholarship program students with electronic access to the DOE's disqualification list.
- Prohibits any individual on the disqualification list from earning an educator certificate or being employed in any position which requires direct contact with students in any public school, charter school, or private school that accepts state scholarship money.
- Provides the DOE and EPC with authority to place individuals on the disqualification list for certain purposes.
- Requires the DOE to immediately investigate, under certain circumstances, any legally sufficient complaint that involves the misconduct by an employee or contracted personnel in a public school, charter school or private school that receives state scholarship funds.

According to the department, the bill would increase the workload of the Office of Professional Practices Services, which currently competes with other offices for funding from the Certification Trust Fund. The fiscal impact of the bill is indeterminate at this time.

The bill takes effect July 1, 2019.

## II. Present Situation:

### **Commissioner of Education Authority and Duties**

The Commissioner of Education (commissioner) is responsible for giving full assistance to the State Board of Education (SBE) in enforcing compliance with the mission and goals of the K-20 education system, except for the State University System.<sup>1</sup> The commissioner is appointed by the SBE and serves as the Executive Director of the Department of Education (department or DOE). The DOE is required to provide:<sup>2</sup>

- Technical assistance to school districts, charter schools, the Florida School for the Deaf and the Blind (FSDB), and private schools that accept scholarship students in the development of policies, procedures and training related to employment practices and standards of ethical conduct for instructional personnel and administrators.
- Authorized staff of school districts, charter schools, FSDB, and private schools that accept scholarship students with access to electronic verification of information from the following employment screening tools:
  - The Professional Practices' Database of Disciplinary Actions Against Educators
  - The DOE's Teacher Certification Database
- Authorized staff with access to the data necessary for performing employment history checks of the instructional personnel and school administrators included in the databases.

Additionally, the commissioner may deny, suspend or revoke a private school's participation in a scholarship program if the commissioner determines that:<sup>3</sup>

- An owner or operator of the private school is operating or has operated an educational institution in this state or in another state or jurisdiction in a manner contrary to health, safety or welfare of the public, or
- The owner or operator has exhibited a previous pattern of failure to comply with the relevant law or specific requirements identified within respective scholarship program laws.

### **Charter Schools**

Charter schools are nonsectarian, public schools that operate under a performance contract with a sponsor, called a charter.<sup>4</sup> A guiding principle of charter schools is to meet high standards of student achievement while providing parents flexibility to choose among diverse educational opportunities within the state's public school system.<sup>5</sup>

### ***Employees of Charter Schools***

A charter school is required to employ certified teachers. For any employee who has direct contact with students, a charter school must conduct an employment history check of each of the individual's previous employers and conduct the required screening through the use of the

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<sup>1</sup> Section 1001.10(1), F.S.

<sup>2</sup> Section 1001.10(4) and (5), F.S.

<sup>3</sup> Section 1002.421(3), F.S.

<sup>4</sup> Section 1002.33(5)(a), (6)(h), (7) and (9)(a), F.S.

<sup>5</sup> Section 1002.33(2)(a)1, F.S.

educator screening tools.<sup>6</sup> Failure to comply with these requirements results in the termination of a charter.<sup>7</sup>

A charter school is required to employ or contract with employees who have undergone background screening. In addition, a charter school is required to disqualify any instructional personnel and school administrators from employment in any position that requires direct contact with students if the personnel are ineligible for such employment based on conviction of certain qualified offenses.<sup>8</sup>

### **Private Schools**

A private school that chooses to participate in a state scholarship program must comply with the requirements specified in law, such as applicable state and local health, safety, and welfare laws, code, and rules; employing teachers who meet specified requirements; demonstrating fiscal soundness and accountability;<sup>9</sup> and submitting a Scholarship Compliance Form.<sup>10</sup>

### ***Teacher Qualifications***

A private school that participates in a state scholarship program must employ or contract with teachers who:<sup>11</sup>

- Hold baccalaureate or higher degrees,
- Have at least three years of experience in public or private schools, or
- Have special skills, knowledge, or expertise that qualifies them to provide instruction in subjects taught.

Before employing instructional personnel or school administrators in any position that requires direct contact with students, the employing private school must conduct employment history checks of each individual's previous employers and screen the individual through the use of the screening tool.<sup>12</sup>

In addition, each employee and contracted personnel with direct student contact, upon employment or engagement to provide services, is required to undergo a state and national background screening by electronically filing a complete set of fingerprints<sup>13</sup> with the Florida Department of Law Enforcement.

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<sup>6</sup> The employment screening tools consist of the Professional Practices' Database of Disciplinary Actions Against Educators; and the Department of Education's Teacher Certification Database. Section 1001.10(5), F.S.

<sup>7</sup> *Id.* at (12)(f) and (g)1.

<sup>8</sup> Sections 1002.33 and 1012.315, F.S.

<sup>9</sup> Section 1002.421, F.S.; *see also* ss. 1002.385, 1002.39, and 1002.395, F.S.

<sup>10</sup> The Scholarship Compliance Form delineates private school reporting requirements specified pursuant to Section 1002.42, F.S., and statutory and regulatory requirements related to the areas of school location and contact information; school ownership; affiliation; financial solvency; school administration; school staffing; school program; student health, safety, and welfare; student records; school facility; and submission of the scholarship compliance form. Rule 6A-6.03315(4), F.A.C.

<sup>11</sup> Section 1002.421(2)(h), F.S.

<sup>12</sup> Section 1002.421(1)(o), F.S.

<sup>13</sup> Section 1002.421(1)(m), F.S.

Continued employment of an employee or contracted personnel after notification that he or she has failed the background screening will cause a private school to be ineligible for participation in a scholarship program.<sup>14</sup>

### **Disqualification from Employment**

A person is ineligible for an educator certification or employment in any position that requires direct contact with students in a district school system, charter school, or private school that accepts students who participate in a state scholarship program if the person has been convicted of certain qualified offenses.<sup>15</sup>

### **The Education Practices Commission**

The Education Practices Commission (EPC) is a quasi-judicial body of peers, law enforcement and lay persons who interprets and applies the standards of professional practice established by the SBE.<sup>16</sup>

The EPC may:<sup>17</sup>

- Suspend the educator certificate of any instructional personnel or school administrator, for up to five years, thereby denying that person the right to teach or otherwise be employed by a district school board or public school in any capacity requiring direct contact with students for that period of time, after which the person may return to teaching;
- Revoke the educator certificate of any person, thereby denying that person the right to teach or otherwise be employed by a district school board or public school in any capacity requiring direct contact with students for up to 10 years, with reinstatement subject to law;
- Permanently revoke the educator certificate of any person thereby denying that person the right to teach or otherwise be employed by a district school board or public school in any capacity requiring direct contact with students; or
- Suspend an educator's certificate, upon an order of the court or notice by the Department of Revenue relating to the payment of child support; or impose any other penalty provided by law.

The property, personnel, and appropriations related to the specified authority, powers, duties and responsibilities of the commission must be provided to the EPC by the DOE.<sup>18</sup> However, the EPC, in the performance of its powers and duties, is not to be subject to control, supervision, or direction by the DOE.<sup>19</sup>

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<sup>14</sup> Section 1002.42(1)(m)3, F.S.

<sup>15</sup> Section 1012.315, F.S.

<sup>16</sup> Section 1012.79, F.S.

<sup>17</sup> Section 1012.795(1), F.S.

<sup>18</sup> Section 1012.79(6)(b), F.S.

<sup>19</sup> Section 1012.79(6)(a), F.S.

### **Complaints against Teachers and Administrators**

The DOE is tasked with investigating any legally sufficient complaint filed before it or otherwise called to its attention that contains grounds for the revocation or suspension of a certificate or any other appropriate penalty as set forth in law.<sup>20</sup>

The department must immediately investigate any legally sufficient complaint that involves misconduct by any certificated personnel which affects the health, safety, or welfare of a student, giving the complaint priority over other pending complaints. The department must investigate, or continue to investigate, and take action on such a complaint filed against a person whose educator certificate has expired if the act or acts that are the basis for the complaint were allegedly committed while that person possessed an educator certificate.<sup>21</sup>

If allegations arise against an employee who possesses an educator certificate and is employed in an educator-certificated position in any public school, charter school or governing board thereof, or private school that accepts students who participate in a state scholarship program, the school must file in writing with the department a legally sufficient complaint within 30 days from the date the school had notice of the incident, regardless of whether the subject of the allegations is still an employee of the school.<sup>22</sup>

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

#### **Commissioner of Education**

The bill requires the DOE to maintain a state disqualification list which must include the following information:

- The name of any individual who has been placed on the list by the EPC pursuant to law, or whose educator certificate has been permanently revoked by the commission.
- The name of any private school owners or operators who have been permanently disqualified from participation in a state scholarship program by the DOE.

The bill provides that the Commissioner of Education (commissioner) may permanently deny or revoke the authority of an owner or operator to establish or operate a private school in this state if the commissioner decides that the owner or operator is operating or has operated an educational institution in this state or another state or jurisdiction in a manner contrary to the health, safety, or welfare of the public. The commissioner must include such individuals on the disqualification list maintained by the DOE.

In addition, the bill requires the DOE to provide authorized staff of school districts, charter schools, the FSDB, and private schools that accept scholarship students who participate in a state scholarship program with access to the DOE's disqualification list.

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<sup>20</sup> Section 1012.796(1), F.S.

<sup>21</sup> *Id.*

<sup>22</sup> Section 1012.796(1)(e), F.S.

These changes may help provide more safeguards to better protect students from teachers or administrators who have been disqualified from their profession because of criminal and unethical conduct.

## **Charter Schools**

### *Employees of Charter Schools*

The bill specifies that an individual may not be an employee or contract personnel of a charter school, or serve as a member of a charter school governing board, if the individual is on the disqualification list maintained by the DOE.

## **Private Schools**

### *Teacher Qualifications*

The bill requires any private school who participates in a state educational scholarship program to deny employment to any individual whose educator certificate is revoked, who is barred from reapplication, or who is on the disqualification list maintained by the department.

## **Disqualification from Employment**

The bill provides that a person on the disqualification list maintained by the DOE is ineligible for educator certification or employment in any position that requires direct contact with students in a district school system, charter school, or private school that accepts students who participate in a state scholarship program.

## **Educator Practices Commission**

The bill provides that the EPC may place an employee or contracted personnel of any public school, charter school, charter school governing board, or private school that accepts students who participate in a state scholarship program on the disqualification list maintained by the DOE if such conduct would otherwise result in permanent revocation of a certificate.

## **Complaints against Teachers and Administrators**

The bill requires the DOE to immediately investigate any legally sufficient complaint that involves the misconduct by an employee or contracted personnel of any public school, charter school, charter school governing board, or private school that accepts students who participate in a state scholarship program which affects the health, safety or welfare of a student and would otherwise result in the permanent revocation of a certificate. The DOE is required to give the complaint priority over other pending complaints.

In addition, the bill provides that the EPC may place an individual who is not a certificate holder on the disqualification list maintained by the DOE if the conduct would meet the standard for permanent revocation of a certificate.

The bill takes effect July 1, 2019.

**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:

According to the Department of Education, the added obligation to investigate all district staff, all charter school staff, and all staff at private schools that receive state scholarship funds, would substantially increase the workload of the Office of Professional Practices Services. However, the fiscal impact is indeterminate at this time.<sup>23</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

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<sup>23</sup> Email, *Florida Department of Education* (March 15, 2019).

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 1001.10, 1002.33, 1002.421, 1012.315, 1012.795, and 1012.796.

**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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