

By Senator Diaz

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1 A bill to be entitled
2 An act relating to education; amending s. 1001.10,
3 F.S.; requiring the Department of Education to
4 maintain a disqualification list; providing
5 requirements for the disqualification list; requiring
6 the department to provide certain staff with access to
7 information from such disqualification list; amending
8 s. 1002.33, F.S.; prohibiting individuals who are on
9 the disqualification list from being employed or
10 contracted by a charter school or serving as a member
11 of a charter school governing board; amending s.
12 1002.421, F.S.; revising requirements for private
13 schools relating to employment; authorizing the
14 Commissioner of Education to deny or revoke the
15 authority of an owner or operator of a private school
16 to establish or operate a private school under
17 specified conditions; requiring the commissioner to
18 include such individuals on the disqualification list;
19 amending s. 1012.315, F.S.; expanding ineligibility
20 for educator certification or employment to persons
21 who are on the disqualification list; amending s.
22 1012.795, F.S.; expanding the authority of the
23 Education Practices Commission to discipline
24 instructional personnel and school administrators;
25 amending s. 1012.796, F.S.; requiring the department
26 to investigate certain complaints involving misconduct
27 by employees or contracted personnel of specified
28 entities; expanding penalties that may be imposed by
29 the commission; prohibiting individuals on the

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30 disqualification list from serving or applying to
31 serve as an employee or contract personnel at any
32 public school or private school; providing criminal
33 penalties; providing an effective date.
34

35 Be It Enacted by the Legislature of the State of Florida:
36

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

39 1001.10 Commissioner of Education; general powers and
40 duties.—

41 (4) The Department of Education shall:

42 (a) Provide technical assistance to school districts,
43 charter schools, the Florida School for the Deaf and the Blind,
44 and private schools that accept scholarship students who
45 participate in a state scholarship program under chapter 1002 in
46 the development of policies, procedures, and training related to
47 employment practices and standards of ethical conduct for
48 instructional personnel and school administrators, as defined in
49 s. 1012.01.

50 (b) Maintain a state disqualification list, which must
51 include the following information:

52 1. The name of any individual who has been placed on the
53 list by the Education Practices Commission pursuant to s.
54 1012.796(7), or whose educator certificate has been permanently
55 revoked by the commission pursuant to s. 1012.796; and

56 2. The names of individuals who have been permanently
57 disqualified from participation in a scholarship program by the
58 department pursuant to s. 1002.421.

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59 (5) The Department of Education shall provide authorized
60 staff of school districts, charter schools, the Florida School
61 for the Deaf and the Blind, and private schools that accept
62 scholarship students who participate in a state scholarship
63 program under chapter 1002 with access to electronic
64 verification of information from the following employment
65 screening tools:

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

68 (b) The Department of Education's Teacher Certification
69 Database; and

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

72
73 This subsection does not require the department to provide these
74 staff with unlimited access to the databases. However, the
75 department shall provide the staff with access to the data
76 necessary for performing employment history checks of the
77 instructional personnel and school administrators included in
78 the databases.

79 Section 2. Paragraph (g) of subsection (12) of section
80 1002.33, Florida Statutes, is amended to read:

81 1002.33 Charter schools.—

82 (12) EMPLOYEES OF CHARTER SCHOOLS.—

83 (g)1. A charter school shall employ or contract with
84 employees who have undergone background screening as provided in
85 s. 1012.32. Members of the governing board of the charter school
86 shall also undergo background screening in a manner similar to
87 that provided in s. 1012.32. An individual may not be employed

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88 as an employee or contract personnel of a charter school, or
89 serve as a member of a charter school governing board, if the
90 individual is on the disqualification list maintained by the
91 department pursuant to s. 1001.10(4)(b).

92 2. A charter school shall disqualify instructional
93 personnel and school administrators, as defined in s. 1012.01,
94 from employment in any position that requires direct contact
95 with students if the personnel or administrators are ineligible
96 for such employment under s. 1012.315.

97 3. The governing board of a charter school shall adopt
98 policies establishing standards of ethical conduct for
99 instructional personnel and school administrators. The policies
100 must require all instructional personnel and school
101 administrators, as defined in s. 1012.01, to complete training
102 on the standards; establish the duty of instructional personnel
103 and school administrators to report, and procedures for
104 reporting, alleged misconduct by other instructional personnel
105 and school administrators which affects the health, safety, or
106 welfare of a student; and include an explanation of the
107 liability protections provided under ss. 39.203 and 768.095. A
108 charter school, or any of its employees, may not enter into a
109 confidentiality agreement regarding terminated or dismissed
110 instructional personnel or school administrators, or personnel
111 or administrators who resign in lieu of termination, based in
112 whole or in part on misconduct that affects the health, safety,
113 or welfare of a student, and may not provide instructional
114 personnel or school administrators with employment references or
115 discuss the personnel's or administrators' performance with
116 prospective employers in another educational setting, without

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117 disclosing the personnel's or administrators' misconduct. Any
118 part of an agreement or contract that has the purpose or effect
119 of concealing misconduct by instructional personnel or school
120 administrators which affects the health, safety, or welfare of a
121 student is void, is contrary to public policy, and may not be
122 enforced.

123 4. Before employing instructional personnel or school
124 administrators in any position that requires direct contact with
125 students, a charter school shall conduct employment history
126 checks of each of the personnel's or administrators' previous
127 employers, screen the instructional personnel or school
128 administrators through use of the educator screening tools
129 described in s. 1001.10(5), and document the findings. If unable
130 to contact a previous employer, the charter school must document
131 efforts to contact the employer.

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

135 Section 3. Paragraph (o) of subsection (1) and subsection
136 (3) of section 1002.421, Florida Statutes, are amended to read:

137 1002.421 State school choice scholarship program
138 accountability and oversight.—

139 (1) PRIVATE SCHOOL ELIGIBILITY AND OBLIGATIONS.—A private
140 school participating in an educational scholarship program
141 established pursuant to this chapter must be a private school as
142 defined in s. 1002.01(2) in this state, be registered, and be in
143 compliance with all requirements of this section in addition to
144 private school requirements outlined in s. 1002.42, specific
145 requirements identified within respective scholarship program

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146 laws, and other provisions of Florida law that apply to private
147 schools, and must:

148 (o) Before employing an individual ~~instructional personnel~~
149 ~~or school administrators~~ in any position that requires direct
150 contact with students, conduct employment history checks of ~~each~~
151 ~~of the personnel's or administrators'~~ previous employers, screen
152 the individual personnel or administrators through use of the
153 ~~educator~~ screening tools described in s. 1001.10(5), and
154 document the findings. If unable to contact a previous employer,
155 the private school must document efforts to contact the
156 employer. The school must deny employment to any individual
157 whose educator certificate is revoked, who is barred from
158 reapplication, or who is on the disqualification list maintained
159 by the department pursuant to s. 1001.10(4)(b).

160
161 The department shall suspend the payment of funds to a private
162 school that knowingly fails to comply with this subsection, and
163 shall prohibit the school from enrolling new scholarship
164 students, for 1 fiscal year and until the school complies. If a
165 private school fails to meet the requirements of this subsection
166 or has consecutive years of material exceptions listed in the
167 report required under paragraph (q), the commissioner may
168 determine that the private school is ineligible to participate
169 in a scholarship program.

170 (3) COMMISSIONER OF EDUCATION AUTHORITY AND OBLIGATIONS.—
171 The Commissioner of Education:

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

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175 exhibits a previous pattern of failure to comply. However, if
176 the noncompliance is correctable within a reasonable amount of
177 time, not to exceed 45 days, and if the health, safety, or
178 welfare of the students is not threatened, the commissioner may
179 issue a notice of noncompliance which provides the private
180 school with a timeframe within which to provide evidence of
181 compliance before taking action to suspend or revoke the private
182 school's participation in the scholarship program.

183 (b) May deny, suspend, or revoke a private school's
184 participation in a scholarship program if the commissioner
185 determines that an owner or operator of the private school is
186 operating or has operated an educational institution in this
187 state or in another state or jurisdiction in a manner contrary
188 to the health, safety, or welfare of the public or if the owner
189 or operator has exhibited a previous pattern of failure to
190 comply with this section or specific requirements identified
191 within respective scholarship program laws. For purposes of this
192 subsection, the term "owner or operator" has the same meaning as
193 provided in paragraph (1) (p).

194 (c) May permanently deny or revoke the authority of an
195 owner or operator to establish or operate a private school in
196 this state if the commissioner decides that the owner or
197 operator is operating or has operated an educational institution
198 in this state or another state or jurisdiction in a manner
199 contrary to the health, safety, or welfare of the public, and
200 shall include such individuals on the disqualification list
201 maintained by the department pursuant to s. 1001.10(4)(b).

202 (d)~~(e)~~1. In making such a determination, may consider
203 factors that include, but are not limited to, acts or omissions

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204 by an owner or operator which led to a previous denial,
205 suspension, or revocation of participation in a state or federal
206 education scholarship program; an owner's or operator's failure
207 to reimburse the department or scholarship-funding organization
208 for scholarship funds improperly received or retained by a
209 school; the imposition of a prior criminal sanction related to
210 an owner's or operator's management or operation of an
211 educational institution; the imposition of a civil fine or
212 administrative fine, license revocation or suspension, or
213 program eligibility suspension, termination, or revocation
214 related to an owner's or operator's management or operation of
215 an educational institution; or other types of criminal
216 proceedings in which an owner or operator was found guilty of,
217 regardless of adjudication, or entered a plea of nolo contendere
218 or guilty to, any offense involving fraud, deceit, dishonesty,
219 or moral turpitude.

220 2. The commissioner's determination is subject to the
221 following:

222 a. If the commissioner intends to deny, suspend, or revoke
223 a private school's participation in the scholarship program, the
224 department shall notify the private school of such proposed
225 action in writing by certified mail and regular mail to the
226 private school's address of record with the department. The
227 notification shall include the reasons for the proposed action
228 and notice of the timelines and procedures set forth in this
229 paragraph.

230 b. The private school that is adversely affected by the
231 proposed action shall have 15 days after receipt of the notice
232 of proposed action to file with the department's agency clerk a

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233 request for a proceeding pursuant to ss. 120.569 and 120.57. If
234 the private school is entitled to a hearing under s. 120.57(1),
235 the department shall forward the request to the Division of
236 Administrative Hearings.

237 c. Upon receipt of a request referred pursuant to this
238 subparagraph, the director of the Division of Administrative
239 Hearings shall expedite the hearing and assign an administrative
240 law judge who shall commence a hearing within 30 days after the
241 receipt of the formal written request by the division and enter
242 a recommended order within 30 days after the hearing or within
243 30 days after receipt of the hearing transcript, whichever is
244 later. Each party shall be allowed 10 days in which to submit
245 written exceptions to the recommended order. A final order shall
246 be entered by the agency within 30 days after the entry of a
247 recommended order. The provisions of this sub-subparagraph may
248 be waived upon stipulation by all parties.

249 (e)~~(d)~~ May immediately suspend payment of scholarship funds
250 if it is determined that there is probable cause to believe that
251 there is:

252 1. An imminent threat to the health, safety, or welfare of
253 the students;

254 2. A previous pattern of failure to comply with this
255 section; or

256 3. Fraudulent activity on the part of the private school.
257 Notwithstanding s. 1002.22, in incidents of alleged fraudulent
258 activity pursuant to this section, the department's Office of
259 Inspector General is authorized to release personally
260 identifiable records or reports of students to the following
261 persons or organizations:

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

266 b. A person or entity authorized by a court of competent
267 jurisdiction in compliance with an order of that court or the
268 attorney of record pursuant to a lawfully issued subpoena,
269 consistent with the Family Educational Rights and Privacy Act,
270 20 U.S.C. s. 1232g.

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

277
278 The commissioner's order suspending payment pursuant to this
279 paragraph may be appealed pursuant to the same procedures and
280 timelines as the notice of proposed action set forth in
281 subparagraph (d)2. ~~subparagraph (c)2.~~

282 Section 4. Section 1012.315, Florida Statutes, is amended
283 to read:

284 1012.315 Disqualification from employment.—A person is
285 ineligible for educator certification or employment in any
286 position that requires direct contact with students in a
287 district school system, charter school, or private school that
288 accepts scholarship students who participate in a state
289 scholarship program under chapter 1002 if the person is on the
290 disqualification list maintained by the department pursuant to

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291 s. 1001.10(4)(b) or has been convicted of:

292 (1) Any felony offense prohibited under any of the
293 following statutes:

294 (a) Section 393.135, relating to sexual misconduct with
295 certain developmentally disabled clients and reporting of such
296 sexual misconduct.

297 (b) Section 394.4593, relating to sexual misconduct with
298 certain mental health patients and reporting of such sexual
299 misconduct.

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

302 (d) Section 782.04, relating to murder.

303 (e) Section 782.07, relating to manslaughter, aggravated
304 manslaughter of an elderly person or disabled adult, aggravated
305 manslaughter of a child, or aggravated manslaughter of an
306 officer, a firefighter, an emergency medical technician, or a
307 paramedic.

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

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

310 (h) Section 784.075, relating to battery on a detention or
311 commitment facility staff member or a juvenile probation
312 officer.

313 (i) Section 787.01, relating to kidnapping.

314 (j) Section 787.02, relating to false imprisonment.

315 (k) Section 787.025, relating to luring or enticing a
316 child.

317 (l) Section 787.04(2), relating to leading, taking,
318 enticing, or removing a minor beyond the state limits, or
319 concealing the location of a minor, with criminal intent pending

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320 custody proceedings.

321 (m) Section 787.04(3), relating to leading, taking,
322 enticing, or removing a minor beyond the state limits, or
323 concealing the location of a minor, with criminal intent pending
324 dependency proceedings or proceedings concerning alleged abuse
325 or neglect of a minor.

326 (n) Section 790.115(1), relating to exhibiting firearms or
327 weapons at a school-sponsored event, on school property, or
328 within 1,000 feet of a school.

329 (o) Section 790.115(2)(b), relating to possessing an
330 electric weapon or device, destructive device, or other weapon
331 at a school-sponsored event or on school property.

332 (p) Section 794.011, relating to sexual battery.

333 (q) Former s. 794.041, relating to sexual activity with or
334 solicitation of a child by a person in familial or custodial
335 authority.

336 (r) Section 794.05, relating to unlawful sexual activity
337 with certain minors.

338 (s) Section 794.08, relating to female genital mutilation.

339 (t) Chapter 796, relating to prostitution.

340 (u) Chapter 800, relating to lewdness and indecent
341 exposure.

342 (v) Section 800.101, relating to offenses against students
343 by authority figures.

344 (w) Section 806.01, relating to arson.

345 (x) Section 810.14, relating to voyeurism.

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

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

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- 349 (aa) Section 812.0145, relating to theft from persons 65
350 years of age or older.
- 351 (bb) Section 812.019, relating to dealing in stolen
352 property.
- 353 (cc) Section 812.13, relating to robbery.
- 354 (dd) Section 812.131, relating to robbery by sudden
355 snatching.
- 356 (ee) Section 812.133, relating to carjacking.
- 357 (ff) Section 812.135, relating to home-invasion robbery.
- 358 (gg) Section 817.563, relating to fraudulent sale of
359 controlled substances.
- 360 (hh) Section 825.102, relating to abuse, aggravated abuse,
361 or neglect of an elderly person or disabled adult.
- 362 (ii) Section 825.103, relating to exploitation of an
363 elderly person or disabled adult.
- 364 (jj) Section 825.1025, relating to lewd or lascivious
365 offenses committed upon or in the presence of an elderly person
366 or disabled person.
- 367 (kk) Section 826.04, relating to incest.
- 368 (ll) Section 827.03, relating to child abuse, aggravated
369 child abuse, or neglect of a child.
- 370 (mm) Section 827.04, relating to contributing to the
371 delinquency or dependency of a child.
- 372 (nn) Section 827.071, relating to sexual performance by a
373 child.
- 374 (oo) Section 843.01, relating to resisting arrest with
375 violence.
- 376 (pp) Chapter 847, relating to obscenity.
- 377 (qq) Section 874.05, relating to causing, encouraging,

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378 soliciting, or recruiting another to join a criminal street
379 gang.

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

383 (ss) Section 916.1075, relating to sexual misconduct with
384 certain forensic clients and reporting of such sexual
385 misconduct.

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

388 (uu) Section 985.701, relating to sexual misconduct in
389 juvenile justice programs.

390 (vv) Section 985.711, relating to introduction, removal, or
391 possession of contraband at a juvenile detention facility or
392 commitment program.

393 (2) Any misdemeanor offense prohibited under any of the
394 following statutes:

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

397 (b) Section 787.025, relating to luring or enticing a
398 child.

399 (3) Any criminal act committed in another state or under
400 federal law which, if committed in this state, constitutes an
401 offense prohibited under any statute listed in subsection (1) or
402 subsection (2).

403 (4) Any delinquent act committed in this state or any
404 delinquent or criminal act committed in another state or under
405 federal law which, if committed in this state, qualifies an
406 individual for inclusion on the Registered Juvenile Sex Offender

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407 List under s. 943.0435(1)(h)1.d.

408 Section 5. Subsection (1) of section 1012.795, Florida
409 Statutes, is amended to read:

410 1012.795 Education Practices Commission; authority to
411 discipline.—

412 (1) The Education Practices Commission may suspend the
413 educator certificate of any instructional personnel or school
414 administrator, as defined in s. 1012.01(2) or (3), for up to 5
415 years, thereby denying that person the right to teach or
416 otherwise be employed by a district school board or public
417 school in any capacity requiring direct contact with students
418 for that period of time, after which the person may return to
419 teaching as provided in subsection (4); may revoke the educator
420 certificate of any person, thereby denying that person the right
421 to teach or otherwise be employed by a district school board or
422 public school in any capacity requiring direct contact with
423 students for up to 10 years, with reinstatement subject to
424 subsection (4); may permanently revoke the educator certificate
425 of any person thereby denying that person the right to teach or
426 otherwise be employed by a district school board or public
427 school in any capacity requiring direct contact with students;
428 may suspend a person's educator certificate, upon an order of
429 the court or notice by the Department of Revenue relating to the
430 payment of child support; may place an employee or contracted
431 personnel of any public school, charter school, charter school
432 governing board, or private school that accepts scholarship
433 students who participate in a state scholarship program under
434 chapter 1002 on the disqualification list maintained by the
435 department pursuant to s. 1001.10(4)(b) if such conduct would

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436 otherwise result in the permanent revocation of a certificate;
437 or may impose any other penalty provided by law, if the person:
438 (a) Obtained or attempted to obtain an educator certificate
439 by fraudulent means.
440 (b) Knowingly failed to report actual or suspected child
441 abuse as required in s. 1006.061 or report alleged misconduct by
442 instructional personnel or school administrators which affects
443 the health, safety, or welfare of a student as required in s.
444 1012.796.
445 (c) Has proved to be incompetent to teach or to perform
446 duties as an employee of the public school system or to teach in
447 or to operate a private school.
448 (d) Has been guilty of gross immorality or an act involving
449 moral turpitude as defined by rule of the State Board of
450 Education, including engaging in or soliciting sexual, romantic,
451 or lewd conduct with a student or minor.
452 (e) Has had an educator certificate or other professional
453 license sanctioned by this or any other state or has had the
454 authority to practice the regulated profession revoked,
455 suspended, or otherwise acted against, including a denial of
456 certification or licensure, by the licensing or certifying
457 authority of any jurisdiction, including its agencies and
458 subdivisions. The licensing or certifying authority's acceptance
459 of a relinquishment, stipulation, consent order, or other
460 settlement offered in response to or in anticipation of the
461 filing of charges against the licensee or certificateholder
462 shall be construed as action against the license or certificate.
463 For purposes of this section, a sanction or action against a
464 professional license, a certificate, or an authority to practice

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465 a regulated profession must relate to being an educator or the
466 fitness of or ability to be an educator.

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

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

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

476 (i) Has been the subject of a court order or notice by the
477 Department of Revenue pursuant to s. 409.2598 directing the
478 Education Practices Commission to suspend the certificate as a
479 result of noncompliance with a child support order, a subpoena,
480 an order to show cause, or a written agreement with the
481 Department of Revenue.

482 (j) Has violated the Principles of Professional Conduct for
483 the Education Profession prescribed by State Board of Education
484 rules.

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

487 (l) Has violated any order of the Education Practices
488 Commission.

489 (m) Has been the subject of a court order or plea agreement
490 in any jurisdiction which requires the certificateholder to
491 surrender or otherwise relinquish his or her educator's
492 certificate. A surrender or relinquishment shall be for
493 permanent revocation of the certificate. A person may not

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494 surrender or otherwise relinquish his or her certificate prior
495 to a finding of probable cause by the commissioner as provided
496 in s. 1012.796.

497 (n) Has been disqualified from educator certification under
498 s. 1012.315.

499 (o) Has committed a third recruiting offense as determined
500 by the Florida High School Athletic Association (FHSAA) pursuant
501 to s. 1006.20(2)(b).

502 (p) Has violated test security as provided in s. 1008.24.

503 Section 6. Paragraph (g) of subsection (1), paragraph (i)
504 of subsection (7), and paragraph (10) are added to section
505 1012.796, Florida Statutes, to read:

506 1012.796 Complaints against teachers and administrators;
507 procedure; penalties.—

508 (1)

509 (g) The department shall immediately investigate any
510 legally sufficient complaint that involves misconduct by an
511 employee or contracted personnel of any public school, charter
512 school, charter school governing board, or private school that
513 accepts scholarship students who participate in a state
514 scholarship program under chapter 1002 which affects the health,
515 safety, or welfare of a student and would otherwise result in
516 the permanent revocation of a certificate, giving the complaint
517 priority over other pending complaints.

518 (7) A panel of the commission shall enter a final order
519 either dismissing the complaint or imposing one or more of the
520 following penalties:

521 (i) Place an individual who is not a certificateholder on
522 the disqualification list maintained by the department pursuant

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523 to s. 1001.10(4)(b) if the conduct would meet the standard for
524 permanent revocation of a certificate.

525
526 The penalties imposed under this subsection are in addition to,
527 and not in lieu of, the penalties required for a third
528 recruiting offense pursuant to s. 1006.20(2)(b).

529 (10) An individual on the disqualification list maintained
530 by the department pursuant to s. 1001.10(4)(b) may not serve or
531 apply to serve as an employee or contracted personnel at any
532 public school or private school in this state. An individual who
533 violates this provision commits a felony of the third degree,
534 punishable as provided in s. 775.082 or s. 775.083.

535 Section 7. This act shall take effect July 1, 2019.