

By the Committee on Education; and Senators Diaz and Baxley

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

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

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

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

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

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

120 1001.10 Commissioner of Education; general powers and
121 duties.—

122 (4) (a) The Department of Education shall provide technical
123 assistance to school districts, charter schools, the Florida
124 School for the Deaf and the Blind, and private schools that
125 accept scholarship students who participate in a state
126 scholarship program under chapter 1002 in the development of
127 policies, procedures, and training related to employment
128 practices and standards of ethical conduct for instructional
129 personnel and school administrators, as defined in s. 1012.01.

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

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

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

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

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

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

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

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

158 (d) The State Board of Education shall adopt rules to
159 implement the disqualification list.

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

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

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

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

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174 This subsection does not require the department to provide

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

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

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

186 (5) PERSONNEL.—

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

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

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

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

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

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

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

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

259 2. The district school superintendent to report misconduct
260 by educational support employees, instructional personnel, or
261 school administrators that would result in disqualification from

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262 educator certification or employment as provided in s. 1012.315
263 to the law enforcement agencies with jurisdiction over the
264 conduct and the department as required by s. 1012.796; or

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

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

279 1002.33 Charter schools.—

280 (12) EMPLOYEES OF CHARTER SCHOOLS.—

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

290 2. A charter school shall disqualify educational support

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291 employees, instructional personnel, and school administrators,
292 as defined in s. 1012.01, from employment in any position that
293 requires direct contact with students if the employees,
294 personnel, or administrators are ineligible for such employment
295 under s. 1012.315, and, if the disqualifying conduct occurs
296 subsequent to employment, report the person and the
297 disqualifying circumstances to the department for inclusion on
298 the disqualification list maintained pursuant to s.
299 1001.10(4)(b).

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

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

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

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

343 (16) EXEMPTION FROM STATUTES.—

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

346 1. Section 286.011, relating to public meetings and
347 records, public inspection, and criminal and civil penalties.

348 2. Chapter 119, relating to public records.

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- 349 3. Section 1003.03, relating to the maximum class size,
350 except that the calculation for compliance pursuant to s.
351 1003.03 shall be the average at the school level.
- 352 4. Section 1012.22(1)(c), relating to compensation and
353 salary schedules.
- 354 5. Section 1012.33(5), relating to workforce reductions.
- 355 6. Section 1012.335, relating to contracts with
356 instructional personnel hired on or after July 1, 2011.
- 357 7. Section 1012.34, relating to the substantive
358 requirements for performance evaluations for instructional
359 personnel and school administrators.
- 360 8. Section 1006.12, relating to safe-school officers.
- 361 9. Section 1006.07(7), relating to threat assessment teams.
- 362 10. Section 1006.07(9), relating to School Environmental
363 Safety Incident Reporting.
- 364 11. Section 1006.1493, relating to the Florida Safe Schools
365 Assessment Tool.
- 366 12. Section 1006.07(6)(c), relating to adopting an active
367 assailant response plan.
- 368 13. Section 943.082(4)(b), relating to the mobile
369 suspicious activity reporting tool.
- 370 14. Section 1012.584, relating to youth mental health
371 awareness and assistance training.
- 372 15. Section 1012.796, relating to complaints against
373 educational support employees, teachers, and administrators.
- 374 (c) For purposes of subparagraphs (b)4.-7. and 15.:
375 1. The duties assigned to a district school superintendent
376 apply to charter school administrative personnel, as defined in
377 s. 1012.01(3)(a) and (b), and the charter school governing board

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378 shall designate at least one administrative person to be
379 responsible for such duties.

380 2. The duties assigned to a district school board apply to
381 a charter school governing board.

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

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

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

392 1002.421 State school choice scholarship program
393 accountability and oversight.—

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

403 (n) Adopt policies establishing standards of ethical
404 conduct for educational support employees, instructional
405 personnel, and school administrators. The policies must require
406 all educational support employees, instructional personnel, and

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407 school administrators, as defined in s. 1012.01, to complete
408 training on the standards; establish the duty of educational
409 support employees, instructional personnel, and school
410 administrators to report, and procedures for reporting, alleged
411 misconduct by other educational support employees, instructional
412 personnel, and school administrators which affects the health,
413 safety, or welfare of a student; and include an explanation of
414 the liability protections provided under ss. 39.203 and 768.095.
415 A private school, or any of its employees, may not enter into a
416 confidentiality agreement regarding terminated or dismissed
417 educational support employees, instructional personnel, or
418 school administrators, or personnel or administrators who resign
419 in lieu of termination, based in whole or in part on misconduct
420 that affects the health, safety, or welfare of a student, and
421 may not provide the employees, ~~instructional personnel~~, or
422 school administrators with employment references or discuss the
423 employees', personnel's, or administrators' performance with
424 prospective employers in another educational setting, without
425 disclosing the employees', personnel's, or administrators'
426 misconduct. Any part of an agreement or contract that has the
427 purpose or effect of concealing misconduct by educational
428 support employees, instructional personnel, or school
429 administrators which affects the health, safety, or welfare of a
430 student is void, is contrary to public policy, and may not be
431 enforced.

432 (o) Before employing an individual ~~instructional personnel~~
433 ~~or school administrators~~ in any position that requires direct
434 contact with students, conduct employment history checks of ~~each~~
435 ~~of the personnel's or administrators'~~ previous employers, screen

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436 the individual using the ~~personnel or administrators through use~~
437 ~~of the educator~~ screening tools described in s. 1001.10(5), and
438 document the findings. If unable to contact a previous employer,
439 the private school must document efforts to contact the
440 employer. The private school must deny employment to any
441 individual whose educator certificate is revoked, who is barred
442 from reapplication for an educator certificate, or who is
443 identified on the disqualification list maintained by the
444 department pursuant to s. 1001.10(4)(b).

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

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

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

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465 The Commissioner of Education:

466 (a) Shall deny, suspend, or revoke a private school's
467 participation in a scholarship program if it is determined that
468 the private school has failed to comply with this section or
469 exhibits a previous pattern of failure to comply. However, if
470 the noncompliance is correctable within a reasonable amount of
471 time, not to exceed 45 days, and if the health, safety, or
472 welfare of the students is not threatened, the commissioner may
473 issue a notice of noncompliance which provides the private
474 school with a timeframe within which to provide evidence of
475 compliance before taking action to suspend or revoke the private
476 school's participation in the scholarship program.

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

488 (c) May permanently deny or revoke the authority of an
489 owner or operator to establish or operate a private school
490 participating in an educational scholarship program pursuant to
491 this chapter if the commissioner decides that the owner or
492 operator is operating or has operated an educational institution
493 in this state or another state or jurisdiction in a manner

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494 contrary to the health, safety, or welfare of the public, and
495 shall include such person on the disqualification list
496 maintained by the department pursuant to s. 1001.10(4)(b).

497 (d)~~(e)~~1. In making such a determination, may consider
498 factors that include, but are not limited to, acts or omissions
499 by an owner or operator which led to a previous denial,
500 suspension, or revocation of participation in a state or federal
501 education scholarship program; an owner's or operator's failure
502 to reimburse the department or scholarship-funding organization
503 for scholarship funds improperly received or retained by a
504 school; the imposition of a prior criminal sanction related to
505 an owner's or operator's management or operation of an
506 educational institution; the imposition of a civil fine or
507 administrative fine, license revocation or suspension, or
508 program eligibility suspension, termination, or revocation
509 related to an owner's or operator's management or operation of
510 an educational institution; or other types of criminal
511 proceedings in which an owner or operator was found guilty of,
512 regardless of adjudication, or entered a plea of nolo contendere
513 or guilty to, any offense involving fraud, deceit, dishonesty,
514 or moral turpitude.

515 2. The commissioner's determination is subject to the
516 following:

517 a. If the commissioner intends to deny, suspend, or revoke
518 a private school's participation in the scholarship program, the
519 department shall notify the private school of such proposed
520 action in writing by certified mail and regular mail to the
521 private school's address of record with the department. The
522 notification shall include the reasons for the proposed action

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523 and notice of the timelines and procedures set forth in this
524 paragraph.

525 b. The private school that is adversely affected by the
526 proposed action shall have 15 days after receipt of the notice
527 of proposed action to file with the department's agency clerk a
528 request for a proceeding pursuant to ss. 120.569 and 120.57. If
529 the private school is entitled to a hearing under s. 120.57(1),
530 the department shall forward the request to the Division of
531 Administrative Hearings.

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

544 (e)~~(d)~~ May immediately suspend payment of scholarship funds
545 if it is determined that there is probable cause to believe that
546 there is:

547 1. An imminent threat to the health, safety, or welfare of
548 the students;

549 2. A previous pattern of failure to comply with this
550 section; or

551 3. Fraudulent activity on the part of the private school.

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552 Notwithstanding s. 1002.22, in incidents of alleged fraudulent
553 activity pursuant to this section, the department's Office of
554 Inspector General is authorized to release personally
555 identifiable records or reports of students to the following
556 persons or organizations:

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

561 b. A person or entity authorized by a court of competent
562 jurisdiction in compliance with an order of that court or the
563 attorney of record pursuant to a lawfully issued subpoena,
564 consistent with the Family Educational Rights and Privacy Act,
565 20 U.S.C. s. 1232g.

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

572
573 The commissioner's order suspending payment pursuant to this
574 paragraph may be appealed pursuant to the same procedures and
575 timelines as the notice of proposed action set forth in
576 subparagraph (d)2. ~~subparagraph (c)2.~~

577 Section 5. Paragraph (a) of subsection (2) of section
578 1002.45, Florida Statutes, is amended to read:

579 1002.45 Virtual instruction programs.—

580 (2) PROVIDER QUALIFICATIONS.—

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

584 1. Is nonsectarian in its programs, admission policies,
585 employment practices, and operations;

586 2. Complies with the antidiscrimination provisions of s.
587 1000.05;

588 3. Locates an administrative office or offices in this
589 state, requires its administrative staff to be state residents,
590 requires all instructional staff to be Florida-certified
591 teachers under chapter 1012, and conducts background screenings
592 and receives arrest reports for all employees or contracted
593 personnel, as required by s. 1012.32, using state and national
594 criminal history records, and designates at least one
595 administrator to be responsible for the duties and requirements
596 related to background screening assigned to a district school
597 board and superintendent under ss. 1012.465 and 1012.56(10);

598 4. Disqualifies educational support employees,
599 instructional personnel, and administrative personnel, as
600 defined in s. 1012.01, from employment in any position that
601 requires direct contact with students, if the employees or
602 personnel are ineligible for such employment under s. 1012.315,
603 and, if the disqualifying conduct occurs subsequent to
604 employment, reports the disqualified employees or personnel and
605 the disqualifying circumstances to the department for inclusion
606 on the disqualification list maintained by the department
607 pursuant to s. 1001.10(4)(b).

608 ~~5.4.~~ Provides to parents and students specific information
609 posted and accessible online that includes, but is not limited

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610 to, the following teacher-parent and teacher-student contact
611 information for each course:

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

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

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

618 d. Any requirement for regular contact with the instructor
619 for the course and clear expectations for meeting the
620 requirement.

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

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

636 ~~7.6.~~ Is accredited by a regional accrediting association as
637 defined by State Board of Education rule;

638 ~~8.7.~~ Ensures instructional and curricular quality through a

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639 detailed curriculum and student performance accountability plan
640 that addresses every subject and grade level it intends to
641 provide through contract with the school district, including:

642 a. Courses and programs that meet the standards of the
643 International Association for K-12 Online Learning and the
644 Southern Regional Education Board.

645 b. Instructional content and services that align with, and
646 measure student attainment of, student proficiency in the Next
647 Generation Sunshine State Standards.

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

651 9.8. Publishes for the general public, in accordance with
652 disclosure requirements adopted in rule by the State Board of
653 Education, as part of its application as a provider and in all
654 contracts negotiated pursuant to this section:

655 a. Information and data about the curriculum of each full-
656 time and part-time program.

657 b. School policies and procedures.

658 c. Certification status and physical location of all
659 administrative and instructional personnel.

660 d. Hours and times of availability of instructional
661 personnel.

662 e. Student-teacher ratios.

663 f. Student completion and promotion rates.

664 g. Student, educator, and school performance accountability
665 outcomes;

666 10.9. If the provider is a Florida College System
667 institution, employs instructors who meet the certification

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668 requirements for instructional staff under chapter 1012; and
669 ~~11.10.~~ Performs an annual financial audit of its accounts
670 and records conducted by an independent certified public
671 accountant which is in accordance with rules adopted by the
672 Auditor General, is conducted in compliance with generally
673 accepted auditing standards, and includes a report on financial
674 statements presented in accordance with generally accepted
675 accounting principles.

676 12. Complies with s. 1012.796, relating to complaints
677 against educational support employees, teachers, and
678 administrators and designates at least one administrator to be
679 responsible for the duties and requirements assigned to a
680 district school board and superintendent pursuant to that
681 section. A virtual instruction provider must inform the district
682 school board of a complaint regarding misconduct or an arrest of
683 instructional or noninstructional personnel.

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

686 1006.061 Child abuse, abandonment, and neglect policy.—Each
687 district school board, charter school, and private school that
688 accepts scholarship students who participate in a state
689 scholarship program under chapter 1002 shall:

690 (2) Post in a prominent place at each school site and on
691 each school's Internet website, if available, the policies and
692 procedures for reporting alleged misconduct by educational
693 support employees, instructional personnel, or school
694 administrators which affects the health, safety, or welfare of a
695 student; the contact person to whom the report is made; and the
696 penalties imposed on educational support employees,

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697 instructional personnel, or school administrators who fail to
698 report suspected or actual child abuse or alleged misconduct by
699 other educational support employees, instructional personnel, or
700 school administrators.

701

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

705 Section 7. Paragraph (a) of subsection (3) of section
706 1012.31, Florida Statutes, is amended to read:

707 1012.31 Personnel files.—Public school system employee
708 personnel files shall be maintained according to the following
709 provisions:

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

712 1. Any complaint and any material relating to the
713 investigation of a complaint against an employee shall be
714 confidential and exempt from the provisions of s. 119.07(1)
715 until the conclusion of the preliminary investigation or until
716 such time as the preliminary investigation ceases to be active.
717 If the preliminary investigation is concluded with the finding
718 that there is no probable cause to proceed further and with no
719 disciplinary action taken or charges filed, a statement to that
720 effect signed by the responsible investigating official shall be
721 attached to the complaint, and the complaint and all such
722 materials shall be open thereafter to inspection pursuant to s.
723 119.07(1). If the preliminary investigation is concluded with
724 the finding that there is probable cause to proceed further or
725 with disciplinary action taken or charges filed, the complaint

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726 and all such materials shall be open thereafter to inspection
727 pursuant to s. 119.07(1). If the preliminary investigation
728 ceases to be active, the complaint and all such materials shall
729 be open thereafter to inspection pursuant to s. 119.07(1). For
730 the purpose of this subsection, a preliminary investigation
731 shall be considered active as long as it is continuing with a
732 reasonable, good faith anticipation that an administrative
733 finding will be made in the foreseeable future. An investigation
734 shall be presumed to be inactive if no finding relating to
735 probable cause is made within 60 days after the complaint is
736 made. This subparagraph does not absolve the school district of
737 any legally required notifications, including the ~~its~~ duty to
738 provide any legally sufficient complaint to the department in
739 accordance with within 30 days after the date on which the
740 subject matter of the complaint comes to the attention of the
741 school district pursuant to s. 1012.796(1)(d)1. and 3.,
742 regardless of the status of the complaint.

743 2. An employee evaluation prepared pursuant to s. 1012.33,
744 s. 1012.34, or s. 1012.56 or rules adopted by the State Board of
745 Education or district school board under the authority of those
746 sections shall be confidential and exempt from the provisions of
747 s. 119.07(1) until the end of the school year immediately
748 following the school year in which the evaluation was made. No
749 evaluation prepared before July 1, 1983, shall be made public
750 pursuant to this section.

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

754 4. The payroll deduction records of an employee shall be

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755 confidential and exempt from the provisions of s. 119.07(1).

756 5. Employee medical records, including psychiatric and
757 psychological records, shall be confidential and exempt from the
758 provisions of s. 119.07(1); however, at any hearing relative to
759 the competency or performance of an employee, the administrative
760 law judge, hearing officer, or panel shall have access to such
761 records.

762 Section 8. Section 1012.315, Florida Statutes, is amended
763 to read:

764 1012.315 Disqualification from employment.—A person is
765 ineligible for educator certification or employment in any
766 position that requires direct contact with students in a
767 district school system, charter school, or private school that
768 accepts scholarship students who participate in a state
769 scholarship program under chapter 1002 if the person is included
770 in the disqualification list maintained by the department
771 pursuant to s. 1001.10(4)(b) or has been convicted of:

772 (1) Any felony offense prohibited under any of the
773 following statutes:

774 (a) Section 393.135, relating to sexual misconduct with
775 certain developmentally disabled clients and reporting of such
776 sexual misconduct.

777 (b) Section 394.4593, relating to sexual misconduct with
778 certain mental health patients and reporting of such sexual
779 misconduct.

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

782 (d) Section 782.04, relating to murder.

783 (e) Section 782.07, relating to manslaughter, aggravated

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784 manslaughter of an elderly person or disabled adult, aggravated
785 manslaughter of a child, or aggravated manslaughter of an
786 officer, a firefighter, an emergency medical technician, or a
787 paramedic.

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

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

790 (h) Section 784.075, relating to battery on a detention or
791 commitment facility staff member or a juvenile probation
792 officer.

793 (i) Section 787.01, relating to kidnapping.

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

795 (k) Section 787.025, relating to luring or enticing a
796 child.

797 (l) Section 787.04(2), relating to leading, taking,
798 enticing, or removing a minor beyond the state limits, or
799 concealing the location of a minor, with criminal intent pending
800 custody proceedings.

801 (m) Section 787.04(3), relating to leading, taking,
802 enticing, or removing a minor beyond the state limits, or
803 concealing the location of a minor, with criminal intent pending
804 dependency proceedings or proceedings concerning alleged abuse
805 or neglect of a minor.

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

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

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

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

816 (r) Section 794.05, relating to unlawful sexual activity
817 with certain minors.

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

819 (t) Chapter 796, relating to prostitution.

820 (u) Chapter 800, relating to lewdness and indecent
821 exposure.

822 (v) Section 800.101, relating to offenses against students
823 by authority figures.

824 (w) Section 806.01, relating to arson.

825 (x) Section 810.14, relating to voyeurism.

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

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

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

831 (bb) Section 812.019, relating to dealing in stolen
832 property.

833 (cc) Section 812.13, relating to robbery.

834 (dd) Section 812.131, relating to robbery by sudden
835 snatching.

836 (ee) Section 812.133, relating to carjacking.

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

838 (gg) Section 817.563, relating to fraudulent sale of
839 controlled substances.

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

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- 842 (ii) Section 825.103, relating to exploitation of an
843 elderly person or disabled adult.
- 844 (jj) Section 825.1025, relating to lewd or lascivious
845 offenses committed upon or in the presence of an elderly person
846 or disabled person.
- 847 (kk) Section 826.04, relating to incest.
- 848 (ll) Section 827.03, relating to child abuse, aggravated
849 child abuse, or neglect of a child.
- 850 (mm) Section 827.04, relating to contributing to the
851 delinquency or dependency of a child.
- 852 (nn) Section 827.071, relating to sexual performance by a
853 child.
- 854 (oo) Section 843.01, relating to resisting arrest with
855 violence.
- 856 (pp) Chapter 847, relating to obscenity.
- 857 (qq) Section 874.05, relating to causing, encouraging,
858 soliciting, or recruiting another to join a criminal street
859 gang.
- 860 (rr) Chapter 893, relating to drug abuse prevention and
861 control, if the offense was a felony of the second degree or
862 greater severity.
- 863 (ss) Section 916.1075, relating to sexual misconduct with
864 certain forensic clients and reporting of such sexual
865 misconduct.
- 866 (tt) Section 944.47, relating to introduction, removal, or
867 possession of contraband at a correctional facility.
- 868 (uu) Section 985.701, relating to sexual misconduct in
869 juvenile justice programs.
- 870 (vv) Section 985.711, relating to introduction, removal, or

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871 possession of contraband at a juvenile detention facility or
872 commitment program.

873 (2) Any misdemeanor offense prohibited under any of the
874 following statutes:

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

877 (b) Section 787.025, relating to luring or enticing a
878 child.

879 (3) Any criminal act committed in another state or under
880 federal law which, if committed in this state, constitutes an
881 offense prohibited under any statute listed in subsection (1) or
882 subsection (2).

883 (4) Any delinquent act committed in this state or any
884 delinquent or criminal act committed in another state or under
885 federal law which, if committed in this state, qualifies an
886 individual for inclusion on the Registered Juvenile Sex Offender
887 List under s. 943.0435(1)(h)1.d.

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

891 1012.32 Qualifications of personnel.—

892 (2)(a) Instructional and noninstructional personnel who are
893 hired or contracted to fill positions that require direct
894 contact with students in any district school system, virtual
895 instruction program, or university lab school must, upon
896 employment or engagement to provide services, undergo background
897 screening as required under s. 1012.465 or s. 1012.56, whichever
898 is applicable. A district school board may not require employees
899 or contractual personnel of a virtual instruction provider

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900 approved pursuant to s. 1002.45(2) to undergo additional
901 background screening.

902
903 Fingerprints shall be submitted to the Department of Law
904 Enforcement for statewide criminal and juvenile records checks
905 and to the Federal Bureau of Investigation for federal criminal
906 records checks. A person subject to this subsection who is found
907 ineligible for employment under s. 1012.315, or otherwise found
908 through background screening to have been convicted of any crime
909 involving moral turpitude as defined by rule of the State Board
910 of Education, shall not be employed, engaged to provide
911 services, or serve in any position that requires direct contact
912 with students. Probationary persons subject to this subsection
913 terminated because of their criminal record have the right to
914 appeal such decisions. The cost of the background screening may
915 be borne by the district school board, the charter school, the
916 employee, the contractor, or a person subject to this
917 subsection. A district school board shall reimburse a charter
918 school the cost of background screening if it does not notify
919 the charter school of the eligibility of a governing board
920 member or instructional or noninstructional personnel within the
921 earlier of 14 days after receipt of the background screening
922 results from the Florida Department of Law Enforcement or 30
923 days of submission of fingerprints by the governing board member
924 or instructional or noninstructional personnel.

925 (3)

926 (b) The Department of Law Enforcement shall search all
927 arrest fingerprints received under s. 943.051 against the
928 fingerprints retained in the statewide automated biometric

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929 identification system under paragraph (a). Any arrest record
930 that is identified with the retained fingerprints of a person
931 subject to the background screening under this section shall be
932 reported to the employing or contracting school district,
933 virtual instruction provider approved pursuant to s. 1002.45(2),
934 or the school district with which the person is affiliated. All
935 school districts and approved virtual instruction providers are
936 ~~Each school district is~~ required to participate in this search
937 process by payment of an annual fee to the Department of Law
938 Enforcement and by informing the Department of Law Enforcement
939 of any change in the affiliation, employment, or contractual
940 status or place of affiliation, employment, or contracting of
941 its instructional and noninstructional personnel whose
942 fingerprints are retained under paragraph (a). The Department of
943 Law Enforcement shall adopt a rule setting the amount of the
944 annual fee to be imposed upon each school district and approved
945 virtual instruction provider for performing these searches and
946 establishing the procedures for the retention of instructional
947 and noninstructional personnel fingerprints and the
948 dissemination of search results. The fee may be borne by the
949 district school board, the approved virtual instruction
950 provider, the contractor, or the person fingerprinted.

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

953 1012.795 Education Practices Commission; authority to
954 discipline.—

955 (1) The Education Practices Commission may suspend the
956 educator certificate of any instructional personnel or school
957 administrator, as defined in s. 1012.01(2) or (3), for up to 5

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958 years, thereby denying that person the right to teach or
959 otherwise be employed by a district school board or public
960 school in any capacity requiring direct contact with students
961 for that period of time, after which the person may return to
962 teaching as provided in subsection (4); may revoke the educator
963 certificate of any person, thereby denying that person the right
964 to teach or otherwise be employed by a district school board or
965 public school in any capacity requiring direct contact with
966 students for up to 10 years, with reinstatement subject to
967 subsection (4); may permanently revoke the educator certificate
968 of any person thereby denying that person the right to teach or
969 otherwise be employed by a district school board or public
970 school in any capacity requiring direct contact with students;
971 may suspend a person's educator certificate, upon an order of
972 the court or notice by the Department of Revenue relating to the
973 payment of child support; may direct the department to place
974 employees or contractual personnel of any public school, charter
975 school, charter school governing board, or private school that
976 participates in a state scholarship program under chapter 1002
977 on the disqualification list maintained by the department
978 pursuant to s. 1001.10(4)(b) for misconduct that would render
979 the person ineligible pursuant to s. 1012.315; or may impose any
980 other penalty provided by law, if the person:

981 (a) Obtained or attempted to obtain an educator certificate
982 by fraudulent means.

983 (b) Knowingly failed to report actual or suspected child
984 abuse as required in s. 1006.061 or report alleged misconduct by
985 instructional personnel or school administrators which affects
986 the health, safety, or welfare of a student as required in s.

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987 1012.796.

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

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

995 (e) Has had an educator certificate or other professional
996 license sanctioned by this or any other state or has had the
997 authority to practice the regulated profession revoked,
998 suspended, or otherwise acted against, including a denial of
999 certification or licensure, by the licensing or certifying
1000 authority of any jurisdiction, including its agencies and
1001 subdivisions. The licensing or certifying authority's acceptance
1002 of a relinquishment, stipulation, consent order, or other
1003 settlement offered in response to or in anticipation of the
1004 filing of charges against the licensee or certificateholder
1005 shall be construed as action against the license or certificate.
1006 For purposes of this section, a sanction or action against a
1007 professional license, a certificate, or an authority to practice
1008 a regulated profession must relate to being an educator or the
1009 fitness of or ability to be an educator.

1010 (f) Has been convicted or found guilty of, has had
1011 adjudication withheld for, or has pled guilty or nolo contendere
1012 to a misdemeanor, felony, or any other criminal charge, other
1013 than a minor traffic violation.

1014 (g) Upon investigation, has been found guilty of personal
1015 conduct that seriously reduces that person's effectiveness as an

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1016 employee of the district school board.

1017 (h) Has breached a contract, as provided in s. 1012.33(2)
1018 or s. 1012.335.

1019 (i) Has been the subject of a court order or notice by the
1020 Department of Revenue pursuant to s. 409.2598 directing the
1021 Education Practices Commission to suspend the certificate as a
1022 result of noncompliance with a child support order, a subpoena,
1023 an order to show cause, or a written agreement with the
1024 Department of Revenue.

1025 (j) Has violated the Principles of Professional Conduct for
1026 the Education Profession prescribed by State Board of Education
1027 rules.

1028 (k) Has otherwise violated the provisions of law, the
1029 penalty for which is the revocation of the educator certificate.

1030 (l) Has violated any order of the Education Practices
1031 Commission.

1032 (m) Has been the subject of a court order or plea agreement
1033 in any jurisdiction which requires the certificateholder to
1034 surrender or otherwise relinquish his or her educator's
1035 certificate. A surrender or relinquishment shall be for
1036 permanent revocation of the certificate. A person may not
1037 surrender or otherwise relinquish his or her certificate prior
1038 to a finding of probable cause by the commissioner as provided
1039 in s. 1012.796.

1040 (n) Has been disqualified from educator certification under
1041 s. 1012.315.

1042 (o) Has committed a third recruiting offense as determined
1043 by the Florida High School Athletic Association (FHSAA) pursuant
1044 to s. 1006.20(2)(b).

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1045 (p) Has violated test security as provided in s. 1008.24.
1046 Section 11. Section 1012.796, Florida Statutes, is amended
1047 to read:

1048 1012.796 Complaints against educational support employees,
1049 teachers, and administrators; procedure; penalties.—

1050 (1) (a) The Department of Education shall cause to be
1051 investigated expeditiously any complaint filed before it or
1052 otherwise called to its attention which, if legally sufficient,
1053 contains grounds for the revocation or suspension of a
1054 certificate or any other appropriate penalty as set forth in
1055 subsection (7). The complaint is legally sufficient if it
1056 contains the ultimate facts that ~~which~~ show a violation has
1057 occurred as provided in s. 1012.795 and defined by rule of the
1058 State Board of Education. The department shall investigate or
1059 continue to investigate and take appropriate action on a
1060 complaint even though the original complainant withdraws the
1061 complaint or otherwise indicates a desire not to cause it to be
1062 investigated or prosecuted to completion. The department may
1063 investigate or continue to investigate and take action on a
1064 complaint filed against a person whose educator certificate has
1065 expired if the act or acts that are the basis for the complaint
1066 were allegedly committed while that person possessed an educator
1067 certificate and may not issue a new certificate to such person
1068 unless an investigation has been completed.

1069 (b) The department shall immediately investigate any
1070 legally sufficient complaint that involves misconduct by any
1071 certificated personnel which affects the health, safety, or
1072 welfare of a student, giving the complaint priority over other
1073 pending complaints. The department must investigate or continue

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1074 to investigate and take action on such a complaint filed against
1075 a person whose educator certificate has expired if the act or
1076 acts that are the basis for the complaint were allegedly
1077 committed while that person possessed an educator certificate.

1078 (c) When an investigation is undertaken, the department
1079 shall notify the certificateholder or applicant for
1080 certification and the district school superintendent or the
1081 university laboratory school, charter school, or private school
1082 in which the certificateholder or applicant for certification is
1083 employed or was employed at the time the alleged offense
1084 occurred. In addition, the department shall inform the
1085 certificateholder or applicant for certification of the
1086 substance of any complaint that ~~which~~ has been filed against
1087 that certificateholder or applicant, unless the department
1088 determines that such notification would be detrimental to the
1089 investigation, in which case the department may withhold
1090 notification.

1091 (d)1. Each school district shall file in writing with the
1092 department all legally sufficient complaints within 30 days
1093 after the date on which subject matter of the complaint comes to
1094 the attention of the school district, regardless of whether the
1095 subject of the complaint is still an employee of the school
1096 district. A complaint is legally sufficient if it contains
1097 ultimate facts that show a violation has occurred as provided in
1098 s. 1012.795 and defined by rule of the State Board of Education.
1099 The school district shall include all information relating to
1100 the complaint which is known to the school district at the time
1101 of filing.

1102 2. A school district shall immediately notify the

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1103 department if the subject of a legally sufficient complaint of
1104 misconduct affecting the health, safety, or welfare of a student
1105 resigns or is terminated before the conclusion of the school
1106 district's investigation. Upon receipt of the notification, the
1107 department shall place an alert on the person's certification
1108 file indicating that he or she resigned or was terminated before
1109 an investigation involving allegations of misconduct affecting
1110 the health, safety, or welfare of a student was concluded. In
1111 such circumstances, the database may not include specific
1112 information relating to the alleged misconduct until permitted
1113 by subsection (4). This subparagraph does not limit or restrict
1114 the duty of the district school board to investigate the
1115 complaint and misconduct and report the findings and conclusion
1116 to the department.

1117 3. Each district school board or superintendent, charter
1118 school governing board, approved virtual instruction provider,
1119 and private school that participates in a state scholarship
1120 program under chapter 1002 shall immediately report to the
1121 Department of Education an arrest or conviction of educational
1122 support employees, administrative or instructional personnel, or
1123 school officials for an offense that reflects a risk of harm to
1124 the health, safety, or welfare of a student or would render the
1125 person ineligible pursuant to s. 1012.315, as determined by
1126 state board rule adopted pursuant to this section. The same
1127 reporting requirements apply to a substantiated allegation of
1128 such misconduct by educational support employees, administrative
1129 or instructional personnel, or school officials, regardless of
1130 whether the accused person has been arrested or convicted in
1131 relation to the misconduct.

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1132 ~~4.3.~~ Each district school board shall develop and adopt
1133 policies and procedures to comply with this reporting
1134 requirement. School board policies and procedures must include
1135 standards for screening, hiring, and terminating educational
1136 support employees, instructional personnel, and school
1137 administrators, as defined in s. 1012.01; standards of ethical
1138 conduct for educational support employees, instructional
1139 personnel, and school administrators; the duties of educational
1140 support employees, instructional personnel, and school
1141 administrators for upholding the standards; detailed procedures
1142 for reporting alleged misconduct by educational support
1143 employees, instructional personnel, and school administrators
1144 which affects the health, safety, or welfare of a student;
1145 requirements for the reassignment of educational support
1146 employees, instructional personnel, and ~~or~~ school administrators
1147 pending the outcome of a misconduct investigation; and penalties
1148 for failing to comply with s. 1001.51 or s. 1012.795. The
1149 district school board policies and procedures must ~~shall~~ include
1150 appropriate penalties for all personnel of the district school
1151 board for nonreporting and procedures for promptly informing the
1152 district school superintendent of each legally sufficient
1153 complaint. The district school superintendent is charged with
1154 knowledge of these policies and procedures and is accountable
1155 for the training of all educational support employees,
1156 instructional personnel, and school administrators of the school
1157 district on the standards of ethical conduct, policies, and
1158 procedures.

1159 ~~5.4.~~ If the district school superintendent has knowledge of
1160 a legally sufficient complaint and does not report the

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1161 complaint, or fails to enforce the policies and procedures of
1162 the district school board, and fails to comply with the
1163 requirements of this subsection, in addition to other actions
1164 against certificateholders authorized by law, the district
1165 school superintendent is subject to penalties as specified in s.
1166 1001.51(12).

1167 ~~6.5.~~ If the superintendent determines that misconduct by
1168 educational support employees, instructional personnel, or
1169 school administrators who hold an educator certificate affects
1170 the health, safety, or welfare of a student and the misconduct
1171 warrants termination, the educational support employees,
1172 instructional personnel, or school administrators may resign or
1173 be terminated, and the superintendent must report the misconduct
1174 to the department in the format prescribed by the department.
1175 The department shall place such educational support employees,
1176 instructional personnel, or school administrators on the
1177 disqualification list maintained by the department pursuant to
1178 s. 1001.10(4)(b). The department shall maintain each report of
1179 misconduct as a public record in the educational support
1180 employees', instructional personnel's, or school administrators'
1181 certification files. This paragraph does not limit or restrict
1182 the power and duty of the department to investigate complaints
1183 regarding certificated personnel, regardless of the school
1184 district's untimely filing, or failure to file, complaints and
1185 followup reports. This subparagraph does not create a duty for
1186 the department to investigate complaints regarding
1187 noncertificated personnel.

1188 (e) If allegations arise against an employee who is
1189 certified under s. 1012.56 and employed in an educator-

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1190 certificated position in any public school, charter school or
1191 governing board thereof, or private school that accepts
1192 scholarship students who participate in a state scholarship
1193 program under chapter 1002, the school shall file in writing
1194 with the department a legally sufficient complaint within 30
1195 days after the date on which the subject matter of the complaint
1196 came to the attention of the school, regardless of whether the
1197 subject of the allegations is still an employee of the school. A
1198 complaint is legally sufficient if it contains ultimate facts
1199 that show a violation has occurred as provided in s. 1012.795
1200 and defined by rule of the State Board of Education. The school
1201 shall include all known information relating to the complaint
1202 with the filing of the complaint. This paragraph does not limit
1203 or restrict the power and duty of the department to investigate
1204 complaints, regardless of the school's untimely filing, or
1205 failure to file, complaints and followup reports. A school
1206 described in this paragraph shall immediately notify the
1207 department if the subject of a legally sufficient complaint of
1208 misconduct affecting the health, safety, or welfare of a student
1209 resigns or is terminated before the conclusion of the school's
1210 investigation. Upon receipt of the notification, the department
1211 shall place an alert on the person's certification file
1212 indicating that he or she resigned or was terminated before an
1213 investigation involving allegations of misconduct affecting the
1214 health, safety, or welfare of a student was concluded. In such
1215 circumstances, the database may not include specific information
1216 relating to the alleged misconduct until permitted by subsection
1217 (4).

1218 (f) Notwithstanding any other law, all law enforcement

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1219 agencies, state attorneys, social service agencies, district
1220 school boards, and the Division of Administrative Hearings shall
1221 fully cooperate with and, upon request, shall provide unredacted
1222 documents to the Department of Education to further
1223 investigations and prosecutions conducted pursuant to this
1224 section. Any document received may not be redisclosed except as
1225 authorized by law.

1226 (2) The Commissioner of Education shall develop job
1227 specifications for investigative personnel employed by the
1228 department. Such specifications shall be substantially
1229 equivalent to or greater than those job specifications of
1230 investigative personnel employed by the Department of Business
1231 and Professional Regulation. The department may contract with
1232 the Department of Business and Professional Regulation for
1233 investigations. No person who is responsible for conducting an
1234 investigation of a teacher or administrator may prosecute the
1235 same case. The department general counsel or members of that
1236 staff may conduct prosecutions under this section.

1237 (3) The department staff shall advise the commissioner
1238 concerning the findings of the investigation and of all
1239 referrals by the Florida High School Athletic Association
1240 (FHSAA) pursuant to ss. 1006.20(2)(b) and 1012.795. The
1241 department general counsel or members of that staff shall review
1242 the investigation or the referral and advise the commissioner
1243 concerning probable cause or lack thereof. The determination of
1244 probable cause shall be made by the commissioner. The
1245 commissioner shall provide an opportunity for a conference, if
1246 requested, prior to determining probable cause. The commissioner
1247 may enter into deferred prosecution agreements in lieu of

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1248 finding probable cause if, in his or her judgment, such
1249 agreements are in the best interests of the department, the
1250 certificateholder, and the public. Such deferred prosecution
1251 agreements shall become effective when filed with the clerk of
1252 the Education Practices Commission. However, a deferred
1253 prosecution agreement may not be entered into if there is
1254 probable cause to believe that a felony or an act of moral
1255 turpitude, as defined by rule of the State Board of Education,
1256 has occurred, or for referrals by the FHSAA. Upon finding no
1257 probable cause, the commissioner shall dismiss the complaint and
1258 may issue a letter of guidance to the certificateholder.

1259 (4) The complaint and all information obtained pursuant to
1260 the investigation by the department shall be confidential and
1261 exempt from the provisions of s. 119.07(1) until the conclusion
1262 of the preliminary investigation of the complaint, until such
1263 time as the preliminary investigation ceases to be active, or
1264 until such time as otherwise provided by s. 1012.798(6).
1265 However, the complaint and all material assembled during the
1266 investigation may be inspected and copied by the
1267 certificateholder under investigation, or the
1268 certificateholder's designee, after the investigation is
1269 concluded, but prior to the determination of probable cause by
1270 the commissioner. If the preliminary investigation is concluded
1271 with the finding that there is no probable cause to proceed, the
1272 complaint and information shall be open thereafter to inspection
1273 pursuant to s. 119.07(1). If the preliminary investigation is
1274 concluded with the finding that there is probable cause to
1275 proceed and a complaint is filed pursuant to subsection (6), the
1276 complaint and information shall be open thereafter to inspection

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1277 pursuant to s. 119.07(1). If the preliminary investigation
1278 ceases to be active, the complaint and all such material shall
1279 be open thereafter to inspection pursuant to s. 119.07(1),
1280 except as otherwise provided pursuant to s. 1012.798(6). For the
1281 purpose of this subsection, a preliminary investigation shall be
1282 considered active as long as it is continuing with a reasonable,
1283 good faith anticipation that an administrative finding will be
1284 made in the foreseeable future.

1285 (5) When an allegation of misconduct by educational support
1286 employees, instructional personnel, or school administrators, as
1287 defined in s. 1012.01, is received, if the alleged misconduct
1288 affects the health, safety, or welfare of a student, the
1289 district school superintendent in consultation with the school
1290 principal, or upon the request of the Commissioner of Education,
1291 must immediately suspend the educational support employees,
1292 instructional personnel, or school administrators from regularly
1293 assigned duties, with pay, and reassign the suspended employees,
1294 personnel, or administrators to positions that do not require
1295 direct contact with students in the district school system. Such
1296 suspension shall continue until the completion of the
1297 proceedings and the determination of sanctions, if any, pursuant
1298 to this section and s. 1012.795.

1299 (6) Upon the finding of probable cause, the commissioner
1300 shall file a formal complaint and prosecute the complaint
1301 pursuant to the provisions of chapter 120. An administrative law
1302 judge shall be assigned by the Division of Administrative
1303 Hearings of the Department of Management Services to hear the
1304 complaint if there are disputed issues of material fact. The
1305 administrative law judge shall make recommendations in

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1306 accordance with the provisions of subsection (7) to the
1307 appropriate Education Practices Commission panel which shall
1308 conduct a formal review of such recommendations and other
1309 pertinent information and issue a final order. The commission
1310 shall consult with its legal counsel prior to issuance of a
1311 final order.

1312 (7) A panel of the commission shall enter a final order
1313 either dismissing the complaint or imposing one or more of the
1314 following penalties:

1315 (a) Denial of an application for a certificate or for an
1316 administrative or supervisory endorsement on a teaching
1317 certificate. The denial may provide that the applicant may not
1318 reapply for certification, and that the department may refuse to
1319 consider that applicant's application, for a specified period of
1320 time or permanently.

1321 (b) Revocation or suspension of a certificate.

1322 (c) Imposition of an administrative fine not to exceed
1323 \$2,000 for each count or separate offense.

1324 (d) Placement of the teacher, administrator, or supervisor
1325 on probation for a period of time and subject to such conditions
1326 as the commission may specify, including requiring the certified
1327 teacher, administrator, or supervisor to complete additional
1328 appropriate college courses or work with another certified
1329 educator, with the administrative costs of monitoring the
1330 probation assessed to the educator placed on probation. An
1331 educator who has been placed on probation shall, at a minimum:

1332 1. Immediately notify the investigative office in the
1333 Department of Education upon employment or separation from
1334 employment in any public or private position requiring a Florida

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1335 educator's certificate.

1336 2. Have his or her immediate supervisor submit annual
1337 performance reports to the investigative office in the
1338 Department of Education.

1339 3. Pay to the commission within the first 6 months of each
1340 probation year the administrative costs of monitoring probation
1341 assessed to the educator.

1342 4. Violate no law and fully comply with all district school
1343 board policies, school rules, and State Board of Education
1344 rules.

1345 5. Satisfactorily perform his or her assigned duties in a
1346 competent, professional manner.

1347 6. Bear all costs of complying with the terms of a final
1348 order entered by the commission.

1349 (e) Restriction of the authorized scope of practice of the
1350 teacher, administrator, or supervisor.

1351 (f) Reprimand of the teacher, administrator, or supervisor
1352 in writing, with a copy to be placed in the certification file
1353 of such person.

1354 (g) Imposition of an administrative sanction, upon a person
1355 whose teaching certificate has expired, for an act or acts
1356 committed while that person possessed a teaching certificate or
1357 an expired certificate subject to late renewal, which sanction
1358 bars that person from applying for a new certificate for a
1359 period of 10 years or less, or permanently.

1360 (h) Refer the teacher, administrator, or supervisor to the
1361 recovery network program provided in s. 1012.798 under such
1362 terms and conditions as the commission may specify.

1363 (i) Direct the department to place educational support

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1364 employees, instructional personnel, or school administrators on
1365 the disqualification list maintained by the department pursuant
1366 to s. 1001.10(4)(b) for conduct that would render the person
1367 ineligible pursuant to s. 1012.315.

1368

1369 The penalties imposed under this subsection are in addition to,
1370 and not in lieu of, the penalties required for a third
1371 recruiting offense pursuant to s. 1006.20(2)(b).

1372 (8) Violations of the provisions of a final order shall
1373 result in an order to show cause issued by the clerk of the
1374 Education Practices Commission if requested by the Department of
1375 Education. Upon failure of the educator, at the time and place
1376 stated in the order, to show cause satisfactorily to the
1377 Education Practices Commission why a penalty for violating the
1378 provisions of a final order should not be imposed, the Education
1379 Practices Commission shall impose whatever penalty is
1380 appropriate as established in s. 1012.795(6). The Department of
1381 Education shall prosecute the individual ordered to show cause
1382 before the Education Practices Commission. The Department of
1383 Education and the individual may enter into a settlement
1384 agreement, which shall be presented to the Education Practices
1385 Commission for consideration. Any probation period will be
1386 tolled when an order to show cause has been issued until the
1387 issue is resolved by the Education Practices Commission;
1388 however, the other terms and conditions of the final order shall
1389 be in full force and effect until changed by the Education
1390 Practices Commission.

1391 (9) All moneys collected by, or awarded to, the commission
1392 as fees, fines, penalties, or costs shall be deposited into the

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1393 Educational Certification and Service Trust Fund pursuant to s.
1394 1012.59.

1395 (10) Persons included on the disqualification list
1396 maintained by the department pursuant to s. 1001.10(4)(b) may
1397 not serve or apply to serve as employees or contractual
1398 personnel at any public school or private school participating
1399 in a state scholarship program under chapter 1002. A person who
1400 knowingly violates this subsection, or an employer who knowingly
1401 hires a person in violation of this subsection, commits a felony
1402 of the third degree, punishable as provided in s. 775.082 or s.
1403 775.083.

1404 Section 12. Section 1012.797, Florida Statutes, is amended
1405 to read:

1406 1012.797 Notification by law enforcement ~~of district school~~
1407 ~~superintendent~~ of certain charges against or convictions of
1408 employees.—

1409 (1) Notwithstanding ~~the provisions of~~ s. 985.04(7) or any
1410 other ~~provision of~~ law to the contrary, a law enforcement agency
1411 shall, within 48 hours, notify the appropriate district school
1412 superintendent, charter school governing board, or private
1413 school owner or administrator, as applicable, of the name and
1414 address of any employee or contractor of the school district,
1415 charter school, or private school, as applicable, who is charged
1416 with a felony or with a misdemeanor involving the abuse of a
1417 minor child or the sale or possession of a controlled substance.
1418 The notification shall include the specific charge for which the
1419 employee or contractor ~~of the school district~~ was arrested. Such
1420 notification shall include other education providers such as the
1421 Florida School for the Deaf and the Blind, university lab

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1422 schools, and private elementary and secondary schools.

1423 (2) Except to the extent necessary to protect the health,
1424 safety, and welfare of other students, the information obtained
1425 by the district school superintendent pursuant to this section
1426 may be released only to appropriate school personnel or as
1427 otherwise provided by law.

1428 Section 13. This act shall take effect July 1, 2020.

1429