

## CHAPTER 2011-137

### Committee Substitute for Committee Substitute for House Bill No. 7197

An act relating to digital learning; creating s. 1002.321, F.S.; creating the Digital Learning Now Act; providing legislative findings related to the elements to be included in high-quality digital learning; providing digital preparation requirements; providing for customized and accelerated learning; amending s. 1002.33, F.S.; authorizing the establishment of virtual charter schools; providing application requirements for establishment of a virtual charter school; authorizing a charter school to implement blended learning courses; requiring each charter school governing board to appoint a representative and specifying duties; requiring each governing board to hold two public meetings per school year; providing funding for a virtual charter school; establishing administrative fees for a virtual charter school; amending s. 1002.37, F.S.; redefining the term “full-time equivalent student” as it applies to the Florida Virtual School; providing instruction, eligibility, funding, assessment, and accountability requirements; amending s. 1002.45, F.S.; revising the definition of the term “virtual instruction program”; revising school district requirements for providing virtual instruction programs; requiring full-time and part-time virtual instruction program options; authorizing a school district to enter into an agreement with a virtual charter school to provide virtual instruction to district students; authorizing virtual charter school contracts; providing additional provider qualifications relating to curriculum, student performance accountability, and disclosure; revising student eligibility requirements; providing funding and accountability requirements; creating s. 1002.455, F.S.; establishing student eligibility requirements for K-12 virtual instruction; amending s. 1003.428, F.S.; requiring at least one course required for high school graduation to be completed through online learning; creating s. 1003.498, F.S.; authorizing school districts to offer virtual courses and blended learning courses; amending s. 1008.22, F.S.; requiring all statewide end-of-course assessments to be administrated online beginning with the 2014-2015 school year; amending s. 1011.61, F.S.; redefining the term “full-time equivalent student” for purposes of virtual instruction; amending s. 1012.57, F.S.; authorizing school districts to issue adjunct teaching certificates to qualified applicants to provide online instruction; revising requirements for adjunct teaching certificateholders; providing for annual contracts; amending ss. 1000.04, 1002.20, and 1003.03, F.S.; conforming provisions to changes made by the act; requiring the Department of Education to submit a report to the Governor and the Legislature relating to school district offering of, and student access to, digital learning; providing an effective date.

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

Section 1. Section 1002.321, Florida Statutes, is created to read:

1002.321 Digital learning.—

(1) DIGITAL LEARNING NOW ACT.—There is created the Digital Learning Now Act.

(2) ELEMENTS OF HIGH-QUALITY DIGITAL LEARNING.—The Legislature finds that each student should have access to a high-quality digital learning environment that provides:

(a) Access to digital learning.

(b) Access to high-quality digital content and online courses.

(c) Education that is customized to the needs of the student using digital content.

(d) A means for the student to demonstrate competency in completed coursework.

(e) High-quality digital content, instructional materials, and online and blended learning courses.

(f) High-quality digital instruction and teachers.

(g) Content and instruction that are evaluated on the metric of student learning.

(h) The use of funding as an incentive for performance, options, and innovation.

(i) Infrastructure that supports digital learning.

(j) Online administration of state assessments.

(3) DIGITAL PREPARATION.—Each student must graduate from high school having taken at least one online course, as provided in s. 1003.428.

(4) CUSTOMIZED AND ACCELERATED LEARNING.—A school district must establish multiple opportunities for student participation in part-time and full-time kindergarten through grade 12 virtual instruction. Options include, but are not limited to:

(a) School district operated part-time or full-time virtual instruction programs under s. 1002.45(1)(b) for kindergarten through grade 12 students enrolled in the school district. A full-time program shall operate under its own Master School Identification Number.

(b) Florida Virtual School instructional services authorized under s. 1002.37.

(c) Blended learning instruction provided by charter schools authorized under s. 1002.33.

(d) Full-time virtual charter school instruction authorized under s. 1002.33.

(e) Courses delivered in the traditional school setting by personnel providing direct instruction through a virtual environment or through a blended virtual and physical environment pursuant to s. 1003.498.

(f) Virtual courses offered in the course code directory to students within the school district or to students in other school districts throughout the state pursuant to s. 1003.498.

Section 2. Subsection (1), paragraph (a) of subsection (6), subsection (7), and paragraph (a) of subsection (20) of section 1002.33, Florida Statutes, are amended, and paragraph (f) is added to subsection (17) of that section, to read:

1002.33 Charter schools.—

(1) AUTHORIZATION.—Charter schools shall be part of the state's program of public education. All charter schools in Florida are public schools. A charter school may be formed by creating a new school or converting an existing public school to charter status. A charter school may operate a virtual charter school pursuant to s. 1002.45(1)(d) to provide full-time online instruction to eligible students, pursuant to s. 1002.455, in kindergarten through grade 12. A charter school must amend its charter or submit a new application pursuant to subsection (6) to become a virtual charter school. A virtual charter school is subject to the requirements of this section; however, a virtual charter school is exempt from subsections (18) and (19), subparagraphs (20)(a)2.-5., paragraph (20)(c), and s. 1003.03. A public school may not use the term charter in its name unless it has been approved under this section.

(6) APPLICATION PROCESS AND REVIEW.—Charter school applications are subject to the following requirements:

(a) A person or entity wishing to open a charter school shall prepare and submit an application on a model application form prepared by the Department of Education which:

1. Demonstrates how the school will use the guiding principles and meet the statutorily defined purpose of a charter school.

2. Provides a detailed curriculum plan that illustrates how students will be provided services to attain the Sunshine State Standards.

3. Contains goals and objectives for improving student learning and measuring that improvement. These goals and objectives must indicate how much academic improvement students are expected to show each year, how success will be evaluated, and the specific results to be attained through instruction.

4. Describes the reading curriculum and differentiated strategies that will be used for students reading at grade level or higher and a separate curriculum and strategies for students who are reading below grade level. A sponsor shall deny a charter if the school does not propose a reading curriculum that is consistent with effective teaching strategies that are grounded in scientifically based reading research.

5. Contains an annual financial plan for each year requested by the charter for operation of the school for up to 5 years. This plan must contain anticipated fund balances based on revenue projections, a spending plan based on projected revenues and expenses, and a description of controls that will safeguard finances and projected enrollment trends.

6. Documents that the applicant has participated in the training required in subparagraph (f)2. A sponsor may require an applicant to provide additional information as an addendum to the charter school application described in this paragraph.

7. For the establishment of a virtual charter school, documents that the applicant has contracted with a provider of virtual instruction services pursuant to s. 1002.45(1)(d).

(7) CHARTER.—The major issues involving the operation of a charter school shall be considered in advance and written into the charter. The charter shall be signed by the governing board body of the charter school and the sponsor, following a public hearing to ensure community input.

(a) The charter shall address and criteria for approval of the charter shall be based on:

1. The school's mission, the students to be served, and the ages and grades to be included.

2. The focus of the curriculum, the instructional methods to be used, any distinctive instructional techniques to be employed, and identification and acquisition of appropriate technologies needed to improve educational and administrative performance which include a means for promoting safe, ethical, and appropriate uses of technology which comply with legal and professional standards.

a. The charter shall ensure that reading is a primary focus of the curriculum and that resources are provided to identify and provide specialized instruction for students who are reading below grade level. The curriculum and instructional strategies for reading must be consistent with the Sunshine State Standards and grounded in scientifically based reading research.

b. In order to provide students with access to diverse instructional delivery models, to facilitate the integration of technology within traditional classroom instruction, and to provide students with the skills they need to compete in the 21st century economy, the Legislature encourages

instructional methods for blended learning courses consisting of both traditional classroom and online instructional techniques. Charter schools may implement blended learning courses which combine traditional classroom instruction and virtual instruction. Students in a blended learning course must be full-time students of the charter school and receive the online instruction in a classroom setting at the charter school. Instructional personnel certified pursuant to s. 1012.55 who provide virtual instruction for blended learning courses may be employees of the charter school or may be under contract to provide instructional services to charter school students. At a minimum, such instructional personnel must hold an active state or school district adjunct certification under s. 1012.57 for the subject area of the blended learning course. The funding and performance accountability requirements for blended learning courses are the same as those for traditional courses.

3. The current incoming baseline standard of student academic achievement, the outcomes to be achieved, and the method of measurement that will be used. The criteria listed in this subparagraph shall include a detailed description of:

a. How the baseline student academic achievement levels and prior rates of academic progress will be established.

b. How these baseline rates will be compared to rates of academic progress achieved by these same students while attending the charter school.

c. To the extent possible, how these rates of progress will be evaluated and compared with rates of progress of other closely comparable student populations.

The district school board is required to provide academic student performance data to charter schools for each of their students coming from the district school system, as well as rates of academic progress of comparable student populations in the district school system.

4. The methods used to identify the educational strengths and needs of students and how well educational goals and performance standards are met by students attending the charter school. The methods shall provide a means for the charter school to ensure accountability to its constituents by analyzing student performance data and by evaluating the effectiveness and efficiency of its major educational programs. Students in charter schools shall, at a minimum, participate in the statewide assessment program created under s. 1008.22.

5. In secondary charter schools, a method for determining that a student has satisfied the requirements for graduation in s. 1003.43.

6. A method for resolving conflicts between the governing board ~~body~~ of the charter school and the sponsor.

7. The admissions procedures and dismissal procedures, including the school's code of student conduct.

8. The ways by which the school will achieve a racial/ethnic balance reflective of the community it serves or within the racial/ethnic range of other public schools in the same school district.

9. The financial and administrative management of the school, including a reasonable demonstration of the professional experience or competence of those individuals or organizations applying to operate the charter school or those hired or retained to perform such professional services and the description of clearly delineated responsibilities and the policies and practices needed to effectively manage the charter school. A description of internal audit procedures and establishment of controls to ensure that financial resources are properly managed must be included. Both public sector and private sector professional experience shall be equally valid in such a consideration.

10. The asset and liability projections required in the application which are incorporated into the charter and shall be compared with information provided in the annual report of the charter school.

11. A description of procedures that identify various risks and provide for a comprehensive approach to reduce the impact of losses; plans to ensure the safety and security of students and staff; plans to identify, minimize, and protect others from violent or disruptive student behavior; and the manner in which the school will be insured, including whether or not the school will be required to have liability insurance, and, if so, the terms and conditions thereof and the amounts of coverage.

12. The term of the charter which shall provide for cancellation of the charter if insufficient progress has been made in attaining the student achievement objectives of the charter and if it is not likely that such objectives can be achieved before expiration of the charter. The initial term of a charter shall be for 4 or 5 years. In order to facilitate access to long-term financial resources for charter school construction, charter schools that are operated by a municipality or other public entity as provided by law are eligible for up to a 15-year charter, subject to approval by the district school board. A charter lab school is eligible for a charter for a term of up to 15 years. In addition, to facilitate access to long-term financial resources for charter school construction, charter schools that are operated by a private, not-for-profit, s. 501(c)(3) status corporation are eligible for up to a 15-year charter, subject to approval by the district school board. Such long-term charters remain subject to annual review and may be terminated during the term of the charter, but only according to the provisions set forth in subsection (8).

13. The facilities to be used and their location.

14. The qualifications to be required of the teachers and the potential strategies used to recruit, hire, train, and retain qualified staff to achieve best value.

15. The governance structure of the school, including the status of the charter school as a public or private employer as required in paragraph (12)(i).

16. A timetable for implementing the charter which addresses the implementation of each element thereof and the date by which the charter shall be awarded in order to meet this timetable.

17. In the case of an existing public school that is being converted to charter status, alternative arrangements for current students who choose not to attend the charter school and for current teachers who choose not to teach in the charter school after conversion in accordance with the existing collective bargaining agreement or district school board rule in the absence of a collective bargaining agreement. However, alternative arrangements shall not be required for current teachers who choose not to teach in a charter lab school, except as authorized by the employment policies of the state university which grants the charter to the lab school.

18. Full disclosure of the identity of all relatives employed by the charter school who are related to the charter school owner, president, chairperson of the governing board of directors, superintendent, governing board member, principal, assistant principal, or any other person employed by the charter school who has equivalent decisionmaking authority. For the purpose of this subparagraph, the term “relative” means father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister.

(b)1. A charter may be renewed provided that a program review demonstrates that the criteria in paragraph (a) have been successfully accomplished and that none of the grounds for nonrenewal established by paragraph (8)(a) has been documented. In order to facilitate long-term financing for charter school construction, charter schools operating for a minimum of 3 years and demonstrating exemplary academic programming and fiscal management are eligible for a 15-year charter renewal. Such long-term charter is subject to annual review and may be terminated during the term of the charter.

2. The 15-year charter renewal that may be granted pursuant to subparagraph 1. shall be granted to a charter school that has received a school grade of “A” or “B” pursuant to s. 1008.34 in 3 of the past 4 years and is not in a state of financial emergency or deficit position as defined by this section. Such long-term charter is subject to annual review and may be terminated during the term of the charter pursuant to subsection (8).

(c) A charter may be modified during its initial term or any renewal term upon the recommendation of the sponsor or the charter school's school governing board and the approval of both parties to the agreement.

(d)1. Each charter school's governing board must appoint a representative to facilitate parental involvement, provide access to information, assist parents and others with questions and concerns, and resolve disputes. The representative must reside in the school district in which the charter school is located and may be a governing board member, charter school employee, or individual contracted to represent the governing board. If the governing board oversees multiple charter schools in the same school district, a single representative may be appointed to serve all such schools. The representative's contact information must be provided annually in writing to parents and posted prominently on the charter school's website if a website is maintained by the school. The sponsor may not require that governing board members of the charter school reside in the school district in which the charter school is located if the charter school complies with this paragraph.

2. Each charter school's governing board must hold at least two public meetings per school year in the school district. The meetings must be noticed, open, and accessible to the public, and attendees must be provided an opportunity to receive information and provide input regarding the charter school's operations. The appointed representative and charter school principal or director, or his or her equivalent, must be physically present at each meeting.

(17) FUNDING.—Students enrolled in a charter school, regardless of the sponsorship, shall be funded as if they are in a basic program or a special program, the same as students enrolled in other public schools in the school district. Funding for a charter lab school shall be as provided in s. 1002.32.

(f) Funding for a virtual charter school shall be as provided in s. 1002.45(7).

(20) SERVICES.—

(a)1. A sponsor shall provide certain administrative and educational services to charter schools. These services shall include contract management services; full-time equivalent and data reporting services; exceptional student education administration services; services related to eligibility and reporting duties required to ensure that school lunch services under the federal lunch program, consistent with the needs of the charter school, are provided by the school district at the request of the charter school, that any funds due to the charter school under the federal lunch program be paid to the charter school as soon as the charter school begins serving food under the federal lunch program, and that the charter school is paid at the same time and in the same manner under the federal lunch program as other public schools serviced by the sponsor or the school district; test administration services, including payment of the costs of state-required or district-required student assessments; processing of teacher certificate data services; and



information services, including equal access to student information systems that are used by public schools in the district in which the charter school is located. Student performance data for each student in a charter school, including, but not limited to, FCAT scores, standardized test scores, previous public school student report cards, and student performance measures, shall be provided by the sponsor to a charter school in the same manner provided to other public schools in the district.

2. A total administrative fee for the provision of such services shall be calculated based upon up to 5 percent of the available funds defined in paragraph (17)(b) for all students. However, a sponsor may only withhold up to a 5-percent administrative fee for enrollment for up to and including 250 students. For charter schools with a population of 251 or more students, the difference between the total administrative fee calculation and the amount of the administrative fee withheld may only be used for capital outlay purposes specified in s. 1013.62(2).

3. In addition, a sponsor may withhold only up to a 5-percent administrative fee for enrollment for up to and including 500 students within a system of charter schools which meets all of the following:

a. Includes both conversion charter schools and nonconversion charter schools;

b. Has all schools located in the same county;

c. Has a total enrollment exceeding the total enrollment of at least one school district in the state;

d. Has the same governing board; and

e. Does not contract with a for-profit service provider for management of school operations.

4. The difference between the total administrative fee calculation and the amount of the administrative fee withheld pursuant to subparagraph 3. may be used for instructional and administrative purposes as well as for capital outlay purposes specified in s. 1013.62(2).

5. Each charter school shall receive 100 percent of the funds awarded to that school pursuant to s. 1012.225. Sponsors shall not charge charter schools any additional fees or surcharges for administrative and educational services in addition to the maximum 5-percent administrative fee withheld pursuant to this paragraph.

6. The sponsor of a virtual charter school may withhold a fee of up to 5 percent. The funds shall be used to cover the cost of services provided under subparagraph 1. and for the school district's local instructional improvement system pursuant to s. 1006.281 or other technological tools that are required to access electronic and digital instructional materials.

Section 3. Paragraph (a) of subsection (3) of section 1002.37, Florida Statutes, is amended, and subsections (8), (9), (10), and (11) are added to that section, to read:

1002.37 The Florida Virtual School.—

(3) Funding for the Florida Virtual School shall be provided as follows:

(a)1. For a student in grades 9 through 12, a “full-time equivalent student” for the Florida Virtual School is one student who has successfully completed six full-credit courses credits that shall count toward the minimum number of credits required for high school graduation. A student who completes fewer less than six full-credit courses is credits shall be a fraction of a full-time equivalent student. Half-credit course completions shall be included in determining a full-time equivalent student. Credit completed by a student in excess of the minimum required for that student for high school graduation is not eligible for funding.

2. For a student in kindergarten through grade 8, a “full-time equivalent student” is one student who has successfully completed six courses or the prescribed level of content that counts toward promotion to the next grade. A student who completes fewer than six courses or the prescribed level of content shall be a fraction of a full-time equivalent student.

3. Beginning in the 2014-2015 fiscal year, when s. 1008.22(3)(g) is implemented, the reported full-time equivalent students and associated funding of students enrolled in courses requiring passage of an end-of-course assessment shall be adjusted after the student completes the end-of-course assessment. However, no adjustment shall be made for home education program students who choose not to take an end-of-course assessment.

For purposes of this paragraph, the calculation of “full-time equivalent student” shall be as prescribed in s. 1011.61(1)(c)1.b.(V).

(8)(a) The Florida Virtual School may provide full-time instruction for students in kindergarten through grade 12 and part-time instruction for students in grades 4 through 12. To receive full-time instruction in grades 2 through 5, a student must meet at least one of the eligibility criteria in s. 1002.455(2). Part-time instruction for grades 4 and 5 may be provided only to public school students taking grade 6 through grade 8 courses.

(b) For students receiving part-time instruction in grades 4 and 5 and students receiving full-time instruction in kindergarten through grade 12 from the Florida Virtual School, the combined total of all FTE reported by both the school district and the Florida Virtual School may not exceed 1.0 FTE.

(9) Each elementary school principal must notify the parent of each student who scores at Level 4 or Level 5 on FCAT Reading or FCAT Mathematics of the option for the student to take accelerated courses through the Florida Virtual School.

(10)(a) Public school students receiving full-time instruction in kindergarten through grade 12 by the Florida Virtual School must take all statewide assessments required pursuant to s. 1008.22.

(b) Public school students receiving part-time instruction by the Florida Virtual School in courses requiring statewide end-of-course assessments must take all statewide end-of-course assessments required pursuant to s. 1008.22(3)(c)2.

(c) All statewide assessments must be taken within the school district in which the student resides. A school district must provide the student with access to the district’s testing facilities.

(11) The Florida Virtual School shall receive a school grade pursuant to s. 1008.34 for students receiving full-time instruction.

Section 4. Section 1002.45, Florida Statutes, is amended to read:

1002.45 ~~School district~~ Virtual instruction programs.—

(1) PROGRAM.—

(a) For purposes of this section, the term:

1. “Approved provider” means a provider that is approved by the Department of Education under subsection (2), the Florida Virtual School, a franchise of the Florida Virtual School, or a community college.

2. “Virtual instruction program” means a program of instruction provided in an interactive learning environment created through technology in which students are separated from their teachers by time or space, or both; ~~and in which a Florida-certified teacher under chapter 1012 is responsible for~~ at least:

~~a. Fifty percent of the direct instruction to students in kindergarten through grade 5; or~~

~~b. Eighty percent of the direct instruction to students in grades 6 through 12.~~

(b) Beginning with the 2009-2010 school year, Each school district that is eligible for the sparsity supplement pursuant to s. 1011.62(7) shall provide all enrolled public school eligible students within its boundaries the option of participating in part-time and full-time a virtual instruction programs. Each school district that is not eligible for the sparsity supplement shall provide at least three options for part-time and full-time virtual instruction. All school districts must provide parents with timely written notification of an open enrollment period for full-time students of at least 90 days that ends no later than 30 days prior to the first day of the school year program. The purpose of the program is to make quality virtual instruction available to students using

online and distance learning technology in the nontraditional classroom. A school district virtual instruction The program shall provide the following be:

1. Full-time virtual instruction for students enrolled in kindergarten through grade 12.

2. ~~Full-time or~~ Part-time virtual instruction for students enrolled in grades 9 through 12 courses that are measured pursuant to subparagraph (8)(a)2.

3. ~~Full-time or part-time virtual instruction for students who are~~ enrolled in dropout prevention and academic intervention programs under s. 1003.53, Department of Juvenile Justice education programs under s. 1003.52, core-curricula courses to meet class size requirements under s. 1003.03, or community colleges under this section.

(c) To provide students with the option of participating in virtual instruction programs as required by paragraph (b), a school district may:

1. Contract with the Florida Virtual School or establish a franchise of the Florida Virtual School for the provision of a program under paragraph (b). Using this option is subject to the requirements of this section and s. 1011.61(1)(c)1.b.(III) and (IV).

2. Contract with an approved provider under subsection (2) for the provision of a full-time program under subparagraph (b)1. or subparagraph (b)3. ~~or a full-time or~~ part-time program under subparagraph (b)2. or subparagraph (b)3.

3. Enter into an agreement with ~~other another~~ school ~~districts district~~ to allow the participation of its students in an approved virtual instruction program provided by the other school district. The agreement must indicate a process for the transfer of funds required by paragraph (7)(f)(b).

4. Establish school district operated part-time or full-time kindergarten through grade 12 virtual instruction programs under paragraph (b) for students enrolled in the school district. A full-time program shall operate under its own Master School Identification Number.

5. Enter into an agreement with a virtual charter school authorized by the school district under s. 1002.33.

Contracts under subparagraph 1. or subparagraph 2. may include multi-district contractual arrangements that may be executed by a regional consortium for its member districts. A multidistrict contractual arrangement or an agreement under subparagraph 3. is not subject to s. 1001.42(4)(d) and does not require the participating school districts to be contiguous. These arrangements may be used to fulfill the requirements of paragraph (b).

(d) A virtual charter school may provide full-time virtual instruction for students in kindergarten through grade 12 if the virtual charter school has a

charter approved pursuant to s. 1002.33 authorizing full-time virtual instruction. A virtual charter school may:

- 1. Contract with the Florida Virtual School.
- 2. Contract with an approved provider under subsection (2).
- 3. Enter into an a-joint agreement with a the school district to allow the participation of in which it is located for the virtual charter school’s students to participate in the school district’s virtual instruction program. The agreement must indicate a process for reporting of student enrollment and the transfer of funds required by paragraph (7)(f).

(e) Each school district shall:

1. Provide to the department by October 1, 2011, and by each October 1 thereafter, a copy of each contract and the amounts paid per unweighted full-time equivalent student for services procured pursuant to subparagraphs (c) 1. and 2.

2. Expend the difference in funds provided for a student participating in the school district virtual instruction program pursuant to subsection (7) and the price paid for contracted services procured pursuant to subparagraphs (c) 1. and 2. for the district’s local instructional improvement system pursuant to s. 1006.281 or other technological tools that are required to access electronic and digital instructional materials.

3. At the end of each fiscal year, but no later than September 1, report to the department an itemized list of the technological tools purchased with these funds.

**(2) PROVIDER QUALIFICATIONS.—**

(a) The department shall annually publish online ~~provide~~ school districts with a list of providers approved to offer virtual instruction programs. To be approved by the department, a provider must document that it:

- 1. Is nonsectarian in its programs, admission policies, employment practices, and operations;
- 2. Complies with the antidiscrimination provisions of s. 1000.05;
- 3. Locates an administrative office or offices in this state, requires its administrative staff to be state residents, requires all instructional staff to be Florida-certified teachers under chapter 1012, and conducts background screenings for all employees or contracted personnel, as required by s. 1012.32, using state and national criminal history records;
- 4. Possesses prior, successful experience offering online courses to elementary, middle, or high school students as demonstrated by quantified

student learning gains in each subject area and grade level provided for consideration as an instructional program option;

5. Is accredited by a regional accrediting association as defined by State Board of Education rule; the Southern Association of Colleges and Schools Council on Accreditation and School Improvement, the North Central Association Commission on Accreditation and School Improvement, the Middle States Association of Colleges and Schools Commission on Elementary Schools and Commission on Secondary Schools, the New England Association of Schools and Colleges, the Northwest Association of Accredited Schools, the Western Association of Schools and Colleges, or the Commission on International and Trans-Regional Accreditation; and

6. Ensures instructional and curricular quality through a detailed curriculum and student performance accountability plan that addresses every subject and grade level it intends to provide through contract with the school district, including:

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

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

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

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

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

b. School policies and procedures.

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

d. Hours and times of availability of instructional personnel.

e. Student-teacher ratios.

f. Student completion and promotion rates.

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

8.6. If the provider is a community college, employs instructors who meet the certification requirements for instructional staff under chapter 1012.

(b) An approved provider shall retain its approved status during the for a period of 3 school years after the date of the department’s approval under paragraph (a) as long as the provider continues to comply with all requirements of this section. However, each provider approved by the department for the 2011-2012 school year must reapply for approval to provide a part-time program for students in grades 9 through 12.

(3) ~~SCHOOL DISTRICT~~ VIRTUAL INSTRUCTION PROGRAM REQUIREMENTS.—Each ~~school district~~ virtual instruction program under this section must:

(a) Align virtual course curriculum and course content to the Sunshine State Standards under s. 1003.41.

(b) Offer instruction that is designed to enable a student to gain proficiency in each virtually delivered course of study.

(c) Provide each student enrolled in the program with all the necessary instructional materials.

(d) ~~Provide, when appropriate, each full-time student enrolled in the program who qualifies for free or reduced-price school lunches under the National School Lunch Act, or who is on the direct certification list, and who does not have a computer or Internet access in his or her home with:~~

1. All equipment necessary for participants in the ~~school district~~ virtual instruction program, including, but not limited to, a computer, computer monitor, and printer, if a printer is necessary to participate in the program; and

2. Access to or reimbursement for all Internet services necessary for online delivery of instruction.

(e) Not require tuition or student registration fees.

(4) CONTRACT REQUIREMENTS.—Each contract with an approved provider must at minimum:

(a) Set forth a detailed curriculum plan that illustrates how students will be provided services and be measured for attainment of to attain proficiency in the Next Generation Sunshine State Standards for each grade level and subject.

(b) Provide a method for determining that a student has satisfied the requirements for graduation in s. 1003.428, s. 1003.429, or s. 1003.43 if the contract is for the provision of a full-time virtual instruction program to students in grades 9 through 12.

- (c) Specify a method for resolving conflicts among the parties.
- (d) Specify authorized reasons for termination of the contract.
- (e) Require the approved provider to be responsible for all debts of the ~~school district~~ virtual instruction program if the contract is not renewed or is terminated.
- (f) Require the approved provider to comply with all requirements of this section.

(5) STUDENT ELIGIBILITY.—A student may enroll in a virtual instruction program provided by the school district or by a virtual charter school operated in the district in which he or she resides if the student meets eligibility requirements for virtual instruction pursuant to s. 1002.455, at least one of the following conditions:

~~(a) The student has spent the prior school year in attendance at a public school in this state and was enrolled and reported by a public school district for funding during the preceding October and February for purposes of the Florida Education Finance Program surveys.~~

~~(b) The student is a dependent child of a member of the United States Armed Forces who was transferred within the last 12 months to this state from another state or from a foreign country pursuant to the parent's permanent change of station orders.~~

~~(c) The student was enrolled during the prior school year in a school district virtual instruction program under this section or a K-8 Virtual School Program under s. 1002.415.~~

~~(d) The student has a sibling who is currently enrolled in a school district virtual instruction program and that sibling was enrolled in such program at the end of the prior school year.~~

(6) STUDENT PARTICIPATION REQUIREMENTS.—Each student enrolled in a ~~school district~~ virtual instruction program or virtual charter school must:

(a) Comply with the compulsory attendance requirements of s. 1003.21. Student attendance must be verified by the school district.

(b) Take state assessment tests within the school district in which such student resides, which must provide the student with access to the district's testing facilities.

(7) VIRTUAL INSTRUCTION PROGRAM AND VIRTUAL CHARTER SCHOOL FUNDING.—

(a) Students enrolled in a virtual instruction program or a virtual charter school shall be funded through the Florida Education Finance Program as



provided in the General Appropriations Act. However, such funds may not be provided for the purpose of fulfilling the class size requirements in ss. 1003.03 and 1011.685.

(b) For purposes of a school-district virtual instruction program or a virtual charter school, “full-time equivalent student” has the same meaning as provided in s. 1011.61(1)(c)1.b.(III) or (IV).

(c) For a student enrolled part-time in a grades 6 through 12 program, a “full-time equivalent student” has the same meaning as provided in s. 1011.61(1)(c)1.b.(IV).

(d) A student may not be reported as more than 1.0 full-time equivalent student in any given school year.

(e) Beginning in the 2014-2015 fiscal year, when s. 1008.22(3)(g) is implemented, the reported full-time equivalent students and associated funding of students enrolled in courses requiring passage of an end-of-course assessment shall be adjusted after the student completes the end-of-course assessment.

(f)(b) The school district in which the student resides shall report full-time equivalent students for a the school-district virtual instruction program or a virtual charter school to the department in a manner prescribed by the department, and funding shall be provided through the Florida Education Finance Program. Funds received by the school district of residence for a student in a virtual instruction program provided by another school district under this section shall be transferred to the school district providing the virtual instruction program.

(g)(e) A community college provider may not report students who are served in a school-district virtual instruction program for funding under the Community College Program Fund.

**(8) ASSESSMENT AND ACCOUNTABILITY.—**

**(a) Each approved provider contracted under this section must:**

**1. Participate in the statewide assessment program under s. 1008.22 and in the state’s education performance accountability system under s. 1008.31.**

**2. Receive a school grade under s. 1008.34 or a school improvement rating under s. 1008.341, as applicable. The school grade or school improvement rating received by each approved provider shall be based upon the aggregated assessment scores of all students served by the provider statewide. The department shall publish the school grade or school improvement rating received by each approved provider on its Internet website. The department shall develop an evaluation method for providers of part-time programs which includes the percentage of students making learning gains, the percentage of students successfully passing any required end-of-course assessment, the percentage of students taking Advanced Placement**

examinations, and the percentage of students scoring 3 or higher on an Advanced Placement examination.

(b) The performance of part-time students in grades 9 through 12 shall not be included for purposes of school grades or school improvement ratings under subparagraph (a)2.; however, their performance shall be included for school grading or school improvement rating purposes by the nonvirtual school providing the student's primary instruction.

(c) An approved provider that receives a school grade of "D" or "F" under s. 1008.34 or a school improvement rating of "Declining" under s. 1008.341 must file a school improvement plan with the department for consultation to determine the causes for low performance and to develop a plan for correction and improvement.

(d) An approved provider's contract must be terminated if the provider receives a school grade of "D" or "F" under s. 1008.34 or a school improvement rating of "Declining" under s. 1008.341 for 2 years during any consecutive 4-year period or has violated any qualification requirement pursuant to subsection (2). A provider that has a contract terminated under this paragraph may not be an approved provider for a period of at least 1 year after the date upon which the contract was terminated and until the department determines that the provider is in compliance with subsection (2) and has corrected each cause of the provider's low performance.

(9) EXCEPTIONS.—A provider of digital or online content or curriculum that is used to supplement the instruction of students who are not enrolled in a ~~school district~~ virtual instruction program under this section is not required to meet the requirements of this section.

(10) MARKETING.—Each school district shall provide information to parents and students about the parent's and student's right to participate in a ~~school district~~ virtual instruction program under this section and in courses offered by the Florida Virtual School under s. 1002.37.

(11) RULES.—The State Board of Education shall adopt rules necessary to administer this section, including rules that prescribe disclosure requirements under subsection (2) and school district reporting requirements under subsection (7).

Section 5. Section 1002.455, Florida Statutes, is created to read:

1002.455 Student eligibility for K-12 virtual instruction.—

(1) A student may participate in virtual instruction in the school district in which he or she resides if the student meets the eligibility criteria in subsection (2).

(2) A student is eligible to participate in virtual instruction if:

(a) The student spent the prior school year in attendance at a public school in the state and was enrolled and reported by the school district for funding during October and February for purposes of the Florida Education Finance Program surveys;

(b) The student is a dependent child of a member of the United States Armed Forces who was transferred within the last 12 months to this state from another state or from a foreign country pursuant to a permanent change of station order;

(c) The student was enrolled during the prior school year in a virtual instruction program under s. 1002.45, the K-8 Virtual School Program under s. 1002.415, or a full-time Florida Virtual School program under s. 1002.37(8)(a);

(d) The student has a sibling who is currently enrolled in a virtual instruction program and the sibling was enrolled in that program at the end of the prior school year; or

(e) The student is eligible to enter kindergarten or first grade.

(3) The virtual instruction options for which this eligibility section applies include:

(a) School district operated part-time or full-time kindergarten through grade 12 virtual instruction programs under s. 1002.45(1)(b) for students enrolled in the school district.

(b) Full-time virtual charter school instruction authorized under s. 1002.33.

(c) Courses delivered in the traditional school setting by personnel providing direct instruction through a virtual environment or through a blended virtual and physical environment pursuant to s. 1003.498 and as authorized pursuant to s. 1002.321(4)(e).

(d) Virtual courses offered in the course code directory to students within the school district or to students in other school districts throughout the state pursuant to s. 1003.498.

Section 6. Paragraph (c) is added to subsection (2) of section 1003.428, Florida Statutes, to read:

1003.428 General requirements for high school graduation; revised.—

(2) The 24 credits may be earned through applied, integrated, and combined courses approved by the Department of Education. The 24 credits shall be distributed as follows:

(c) Beginning with students entering grade 9 in the 2011-2012 school year, at least one course within the 24 credits required in this subsection

must be completed through online learning. However, an online course taken during grades 6 through 8 fulfills this requirement. This requirement shall be met through an online course offered by the Florida Virtual School, an online course offered by the high school, or an online dual enrollment course offered pursuant to a district interinstitutional articulation agreement pursuant to s. 1007.235. A student who is enrolled in a full-time or part-time virtual instruction program under s. 1002.45 meets this requirement.

Section 7. Section 1003.498, Florida Statutes, is created to read:

1003.498 School district virtual course offerings.—

(1) School districts may deliver courses in the traditional school setting by personnel certified pursuant to s. 1012.55 who provide direct instruction through a virtual environment or through a blended virtual and physical environment.

(2) School districts may offer virtual courses for students enrolled in the school district. These courses must be identified in the course code directory. Students who meet the eligibility requirements of s. 1002.455 may participate in these virtual course offerings.

(a) Any eligible student who is enrolled in a school district may register and enroll in an online course offered by his or her school district.

(b) Any eligible student who is enrolled in a school district may register and enroll in an online course offered by any other school district in the state, except as limited by the following:

1. A student may not enroll in a course offered through a virtual instruction program provided pursuant to s. 1002.45.

2. A student may not enroll in a virtual course offered by another school district if:

a. The course is offered online by the school district in which the student resides; or

b. The course is offered in the school in which the student is enrolled. However, a student may enroll in an online course offered by another school district if the school in which the student is enrolled offers the course but the student is unable to schedule the course in his or her school.

3. The school district in which the student completes the course shall report the student's completion of that course for funding pursuant to s. 1011.61(1)(c)b.(VI) and the home school district shall not report the student for funding for that course.

For purposes of this paragraph, the combined total of all school district reported FTE may not be reported as more than 1.0 full-time equivalent student in any given school year. The Department of Education shall

establish procedures to enable interdistrict coordination for the delivery and funding of this online option.

Section 8. Paragraph (g) of subsection (3) of section 1008.22, Florida Statutes, is amended to read:

1008.22 Student assessment program for public schools.—

(3) STATEWIDE ASSESSMENT PROGRAM.—The commissioner shall design and implement a statewide program of educational assessment that provides information for the improvement of the operation and management of the public schools, including schools operating for the purpose of providing educational services to youth in Department of Juvenile Justice programs. The commissioner may enter into contracts for the continued administration of the assessment, testing, and evaluation programs authorized and funded by the Legislature. Contracts may be initiated in 1 fiscal year and continue into the next and may be paid from the appropriations of either or both fiscal years. The commissioner is authorized to negotiate for the sale or lease of tests, scoring protocols, test scoring services, and related materials developed pursuant to law. Pursuant to the statewide assessment program, the commissioner shall:

~~(g) Beginning with the 2014-2015 school year, all statewide end-of-course assessments shall be administered online. Study the cost and student achievement impact of secondary end-of-course assessments, including web-based and performance formats, and report to the Legislature prior to implementation.~~

Section 9. Paragraph (c) of subsection (1) of section 1011.61, Florida Statutes, is amended to read:

1011.61 Definitions.—Notwithstanding the provisions of s. 1000.21, the following terms are defined as follows for the purposes of the Florida Education Finance Program:

(1) A “full-time equivalent student” in each program of the district is defined in terms of full-time students and part-time students as follows:

(c)1. A “full-time equivalent student” is:

a. A full-time student in any one of the programs listed in s. 1011.62(1)(c);  
or

b. A combination of full-time or part-time students in any one of the programs listed in s. 1011.62(1)(c) which is the equivalent of one full-time student based on the following calculations:

(I) A full-time student, except a postsecondary or adult student or a senior high school student enrolled in adult education when such courses are required for high school graduation, in a combination of programs listed in s. 1011.62(1)(c) shall be a fraction of a full-time equivalent membership in each

special program equal to the number of net hours per school year for which he or she is a member, divided by the appropriate number of hours set forth in subparagraph (a)1. or subparagraph (a)2. The difference between that fraction or sum of fractions and the maximum value as set forth in subsection (4) for each full-time student is presumed to be the balance of the student's time not spent in such special education programs and shall be recorded as time in the appropriate basic program.

(II) A prekindergarten handicapped student shall meet the requirements specified for kindergarten students.

(III) A full-time equivalent student for students in kindergarten through grade 5 in a ~~school district~~ virtual instruction program under s. 1002.45 or a virtual charter school under s. 1002.33 shall consist of a student who has successfully completed a basic program listed in s. 1011.62(1)(c)1.a. or b., and who is promoted to a higher grade level.

(IV) A full-time equivalent student for students in grades 6 through 12 in a ~~school district~~ virtual instruction program under s. 1002.45(1)(b)1., ~~and 2., or 3. or a virtual charter school under s. 1002.33~~ shall consist of six full credit completions in programs listed in s. 1011.62(1)(c)1.b. or c. and 3. Credit completions ~~may~~ can be a combination of full-credit courses or half-credit courses either full credits or half credits. Beginning in the 2014-2015 fiscal year, when s. 1008.22(3)(g) is implemented, the reported full-time equivalent students and associated funding of students enrolled in courses requiring passage of an end-of-course assessment shall be adjusted after the student completes the end-of-course assessment.

(V) A Florida Virtual School full-time equivalent student shall consist of six full credit completions or the prescribed level of content that counts toward promotion to the next grade in the programs listed in s. 1011.62(1)(c) 1.a. and b. for kindergarten grades 6 through grade 8 and the programs listed in s. 1011.62(1)(c)1.c. for grades 9 through 12. Credit completions may ~~can~~ be a combination of full-credit courses or half-credit courses either full credits or half credits. Beginning in the 2014-2015 fiscal year, when s. 1008.22(3)(g) is implemented, the reported full-time equivalent students and associated funding of students enrolled in courses requiring passage of an end-of-course assessment shall be adjusted after the student completes the end-of-course assessment.

(VI) Each successfully completed full-credit course earned through an online course delivered by a district other than the one in which the student resides shall be calculated as 1/6 FTE.

~~(VII)~~(VI) Each successfully completed credit earned under the alternative high school course credit requirements authorized in s. 1002.375, which is not reported as a portion of the 900 net hours of instruction pursuant to subparagraph (1)(a)1., shall be calculated as 1/6 FTE.

2. A student in membership in a program scheduled for more or less than 180 school days or the equivalent on an hourly basis as specified by rules of the State Board of Education is a fraction of a full-time equivalent membership equal to the number of instructional hours in membership divided by the appropriate number of hours set forth in subparagraph (a)1.; however, for the purposes of this subparagraph, membership in programs scheduled for more than 180 days is limited to students enrolled in juvenile justice education programs and the Florida Virtual School.

The department shall determine and implement an equitable method of equivalent funding for experimental schools and for schools operating under emergency conditions, which schools have been approved by the department to operate for less than the minimum school day.

Section 10. Section 1012.57, Florida Statutes, is amended to read:

1012.57 Certification of adjunct educators.—

(1) Notwithstanding the provisions of ss. 1012.32, 1012.55, and 1012.56, or any other provision of law or rule to the contrary, district school boards shall adopt rules to allow for the issuance of an adjunct teaching certificate to any applicant who fulfills the requirements of s. 1012.56(2)(a)-(f) and (10) and who has expertise in the subject area to be taught. An applicant shall be considered to have expertise in the subject area to be taught if the applicant demonstrates sufficient subject area mastery through passage of a subject area test. The adjunct teaching certificate shall be used for part-time teaching positions.

(2) ~~The Legislature intends that this section intent of this provision is to~~ allow school districts to tap the wealth of talent and expertise represented in Florida's citizens who may wish to teach part-time in a Florida public school by permitting school districts to issue adjunct certificates to qualified applicants.

(3) ~~Adjunct certificateholders should be used as a strategy to enhance the diversity of course offerings offered to all students. School districts may use the expertise of individuals in the state who wish to provide online instruction to students by issuing adjunct certificates to qualified applicants reduce the teacher shortage; thus, adjunct certificateholders should supplement a school's instructional staff, not supplant it. Each school principal shall assign an experienced peer mentor to assist the adjunct teaching certificateholder during the certificateholder's first year of teaching, and an adjunct certificateholder may participate in a district's new teacher training program. District school boards shall provide the adjunct teaching certificateholder an orientation in classroom management prior to assigning the certificateholder to a school.~~

(4) Each adjunct teaching certificate is valid through the term of the annual contract between the educator and the school district. ~~An additional annual certification and an additional annual contract may be awarded by~~

the district at the district's discretion but only for 5 school years and is renewable if the applicant is rated effective or highly effective under s. 1012.34 has received satisfactory performance evaluations during each year of teaching under adjunct teaching certification.

(5)(2) Individuals who are certified and employed under this section shall have the same rights and protection of laws as teachers certified under s. 1012.56.

Section 11. Subsection (1) of section 1000.04, Florida Statutes, is amended to read:

1000.04 Components for the delivery of public education within the Florida K-20 education system.—Florida's K-20 education system provides for the delivery of public education through publicly supported and controlled K-12 schools, community colleges, state universities and other postsecondary educational institutions, other educational institutions, and other educational services as provided or authorized by the Constitution and laws of the state.

(1) PUBLIC K-12 SCHOOLS.—The public K-12 schools include charter schools and consist of kindergarten classes; elementary, middle, and high school grades and special classes; ~~school-district~~ virtual instruction programs; workforce education; career centers; adult, part-time, and evening schools, courses, or classes, as authorized by law to be operated under the control of district school boards; and lab schools operated under the control of state universities.

Section 12. Paragraph (a) of subsection (6) of section 1002.20, Florida Statutes, is amended to read:

1002.20 K-12 student and parent rights.—Parents of public school students must receive accurate and timely information regarding their child's academic progress and must be informed of ways they can help their child to succeed in school. K-12 students and their parents are afforded numerous statutory rights including, but not limited to, the following:

(6) EDUCATIONAL CHOICE.—

(a) Public school choices.—Parents of public school students may seek whatever public school choice options that are applicable to their students and are available to students in their school districts. These options may include controlled open enrollment, single-gender programs, lab schools, ~~school-district~~ virtual instruction programs, charter schools, charter technical career centers, magnet schools, alternative schools, special programs, advanced placement, dual enrollment, International Baccalaureate, International General Certificate of Secondary Education (pre-AICE), Advanced International Certificate of Education, early admissions, credit by examination or demonstration of competency, the New World School of the Arts, the Florida School for the Deaf and the Blind, and the Florida Virtual School.



These options may also include the public school choice options of the Opportunity Scholarship Program and the McKay Scholarships for Students with Disabilities Program.

Section 13. Paragraph (b) of subsection (3) of section 1003.03, Florida Statutes, is amended to read:

1003.03 Maximum class size.—

(3) IMPLEMENTATION OPTIONS.—District school boards must consider, but are not limited to, implementing the following items in order to meet the constitutional class size maximums described in subsection (1):

(b) Adopt policies to encourage students to take courses from the Florida Virtual School and other school-district virtual instruction options under s. 1002.45 ~~programs~~.

Section 14. By December 1, 2011, the Department of Education shall submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives which identifies and explains the best methods and strategies by which the department can assist district school boards in acquiring digital learning at the most reasonable prices possible and provides a plan under which district school boards may voluntarily pool their bids for such purchases. The report shall identify criteria that will enable district school boards to differentiate between the level of service and pricing based upon factors such as the level of student support, the frequency of teacher-student communications, instructional accountability standards, and academic integrity. The report shall also include ways to increase student access to digital learning, including identification and analysis of the best methods and strategies for implementing part-time virtual education in kindergarten through grade 5.

Section 15. This act shall take effect July 1, 2011.

Approved by the Governor June 2, 2011.

Filed in Office Secretary of State June 2, 2011.