

CHAPTER 2012-192

Committee Substitute for Committee Substitute for House Bill No. 7063

An act relating to digital learning; amending s. 1002.20, F.S.; providing student and parent rights relating to the eligibility of Florida Virtual School full-time students to participate in interscholastic extracurricular activities at certain public schools; amending s. 1002.321, F.S.; revising provisions relating to virtual instruction through blended learning courses; prohibiting any person from taking an online course or examination on behalf of another person for compensation; providing a penalty; amending s. 1002.37, F.S.; providing that the Florida Virtual School may provide part-time instruction for students in kindergarten through grade 12; providing student eligibility requirements for part-time instruction in kindergarten through grade 5; deleting a requirement that an elementary school principal provide certain notification to parents; revising the location where statewide assessments must be taken; amending s. 1002.45, F.S.; revising provisions relating to school district options for providing full-time and part-time virtual instruction programs and the open enrollment period for participation; providing that a part-time virtual instruction program offers instruction for students enrolled in kindergarten through grade 12 courses; requiring an additional qualification for a virtual instruction program provider to obtain Department of Education approval; conforming funding provisions to changes made by the act; amending s. 1002.455, F.S.; revising provisions relating to eligibility requirements for virtual instruction and virtual instruction options; amending s. 1003.428, F.S.; placing restrictions on the online course requirement for high school graduation; amending s. 1003.498, F.S.; providing requirements for blended learning courses; amending s. 1003.57, F.S.; providing responsibilities and requirements for the enrollment of exceptional students in a full-time virtual instruction program; amending s. 1006.15, F.S.; providing conditions for eligibility for a Florida Virtual School full-time student and certain students who transfer to or from the Florida Virtual School to participate in interscholastic extracurricular activities; amending s. 1011.61, F.S.; revising and conforming provisions relating to the definition of a full-time equivalent student in full-time and part-time virtual instruction programs; amending s. 1011.62, F.S.; correcting and conforming cross-references; providing that full-time virtual instruction programs are eligible to report student membership in the ESOL program for funding purposes; providing an effective date.

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

Section 1. Paragraph (d) of subsection (18) of section 1002.20, Florida Statutes, is redesignated as paragraph (e), and a new paragraph (d) is added to that subsection 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:

(18) **EXTRACURRICULAR ACTIVITIES.**—In accordance with the provisions of s. 1006.15:

(d) Florida Virtual School full-time students.—Florida Virtual School full-time students who meet specified academic and conduct requirements are eligible to participate in extracurricular activities at the public school to which the student would be assigned or could choose to attend according to district school board policies.

Section 2. Paragraph (e) of subsection (4) of section 1002.321, Florida Statutes, is amended, and subsection (5) is added to that section, to read:

1002.321 Digital learning.—

(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:

(e) Courses delivered in the traditional school setting by personnel providing direct instruction through a virtual instruction environment or through though a blended learning courses consisting of both traditional classroom and online instructional techniques virtual and physical environment pursuant to s. 1003.498.

(5) **INTEGRITY OF ONLINE COURSES.**—It is unlawful for any person to knowingly and willfully take an online course or examination on behalf of another person for compensation. Any person who violates this subsection commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Section 3. Subsections (8), (9), (10), and (11) of section 1002.37, Florida Statutes, are amended to read:

1002.37 The Florida Virtual School.—

(8)(a) The Florida Virtual School may provide full-time and part-time instruction for students in kindergarten through grade 12 ~~and part-time instruction for students in grades 4 through 12.~~ To receive part-time instruction in kindergarten through grade 5 ~~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 kindergarten through grade 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.~~

~~(9)(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 at the school to which the student would be assigned according to district school board attendance areas within the school district in which the student resides. A school district must provide the student with access to the school's ~~district's~~ testing facilities.

~~(10)(11)~~ The Florida Virtual School shall receive a school grade pursuant to s. 1008.34 for students receiving full-time instruction.

Section 4. Paragraph (b) of subsection (1), paragraph (a) of subsection (2), and paragraphs (c) and (f) of subsection (7) of section 1002.45, Florida Statutes, are amended to read:

1002.45 Virtual instruction programs.—

(1) PROGRAM.—

(b) Each school district that is eligible for the sparsity supplement pursuant to s. 1011.62(7)(a) and (b) ~~1011.62(7)~~ shall provide all enrolled public school students within its boundaries the option of participating in part-time and full-time virtual instruction programs. Each school district that is not eligible for the sparsity supplement pursuant to s. 1011.62(7)(a) and (b) 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 at least one ~~an~~ open enrollment period for full-time students of at least 90 days or more which that ends no later than 30 days before ~~prior to~~ the first day of the school year. 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 program shall consist of ~~provide~~ the following:

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

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

3. Full-time or part-time virtual instruction for students 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 Florida College System institutions under this section.

(2) PROVIDER QUALIFICATIONS.—

(a) The department shall annually publish online 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;

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. If the provider is a Florida College System institution, employs instructors who meet the certification requirements for instructional staff under chapter 1012; and

9. Performs an annual financial audit of its accounts and records conducted by an independent certified public accountant which is in accordance with rules adopted by the Auditor General, is conducted in compliance with generally accepted auditing standards, and includes a report on financial statements presented in accordance with generally accepted accounting principles.

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

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

(f) The school district providing virtual instruction ~~in which the student resides~~ shall report full-time equivalent students for a 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.~~

Section 5. Subsections (2) and (3) of section 1002.455, Florida Statutes, are amended to read:

1002.455 Student eligibility for K-12 virtual instruction.—

(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; or

(f) The student is eligible to enter grades 2 through 5 and is enrolled full-time in a school district virtual instruction program, virtual charter school, or the Florida Virtual School.

(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)(c).~~

~~(c)(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) of subsection (2) of section 1003.428, Florida Statutes, is amended 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. A school district may not require a student to take the online course outside the school day or in addition to a student’s courses for a given semester. 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. This requirement does not apply to a student who has an individual educational plan under s. 1003.57 which indicates that an online course would be inappropriate or a student who is enrolled in a Florida high school and has less than 1 academic year remaining in high school.

Section 7. Subsection (1) of section 1003.498, Florida Statutes, is amended 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 instruction environment or through ~~though~~ a blended learning courses consisting of both traditional classroom and online instructional techniques virtual and physical environment. Students in a blended learning course must be full-time students of the school and receive the online instruction in a classroom setting at the school. The funding, performance, and accountability requirements for blended learning courses are the same as those for traditional courses.

Section 8. Subsection (5) is added to section 1003.57, Florida Statutes, to read:

1003.57 Exceptional students instruction.—

(5) Each full-time virtual instruction program under s. 1002.37 or s. 1002.45 must fulfill the obligations of a school district under this section for

public school exceptional students who are enrolled in a full-time virtual instruction program. A student whose individual educational plan indicates that full-time virtual instruction is appropriate may be enrolled in a full-time virtual instruction program.

Section 9. Paragraphs (e), (f), and (g) are added to subsection (3) of section 1006.15, Florida Statutes, to read:

1006.15 Student standards for participation in interscholastic and intrascholastic extracurricular student activities; regulation.—

(3)

(e) A student of the Florida Virtual School full-time program may participate in any interscholastic extracurricular activity at the public school to which the student would be assigned according to district school board attendance area policies or which the student could choose to attend, pursuant to district or interdistrict controlled open enrollment policies, if the student:

1. During the period of participation in the interscholastic extracurricular activity, meets the requirements in paragraph (a).

2. Meets any additional requirements as determined by the board of trustees of the Florida Virtual School.

3. Meets the same residency requirements as other students in the school at which he or she participates.

4. Meets the same standards of acceptance, behavior, and performance that are required of other students in extracurricular activities.

5. Registers his or her intent to participate in interscholastic extracurricular activities with the school before the beginning date of the season for the activity in which he or she wishes to participate. A Florida Virtual School student must be able to participate in curricular activities if that is a requirement for an extracurricular activity.

(f) A student who transfers from the Florida Virtual School full-time program to a traditional public school before or during the first grading period of the school year is academically eligible to participate in interscholastic extracurricular activities during the first grading period if the student has a successful evaluation from the previous school year pursuant to paragraph (a).

(g) A public school or private school student who has been unable to maintain academic eligibility for participation in interscholastic extracurricular activities is ineligible to participate in such activities as a Florida Virtual School student until the student successfully completes one grading period in the Florida Virtual School pursuant to paragraph (a).

Section 10. 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 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 with a disability shall meet the requirements specified for kindergarten students.

(III) A full-time equivalent student for students in kindergarten through grade 12 ~~5~~ in a full-time virtual instruction program under s. 1002.45 or a virtual charter school under s. 1002.33 shall consist of six full credit completions or the prescribed level of content that counts toward promotion to the next grade in programs listed in s. 1011.62(1)(c) 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. Credit completions may be a combination of full-credit courses or half-credit courses. 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.

(IV) A full-time equivalent student for students in kindergarten grades 6 through grade 12 in a part-time virtual instruction program under s. 1002.45 ~~1002.45(1)(b)1., 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. and 3. 1011.62(1)(c)1.b. or e. and 3. Credit completions may be a combination of full-credit courses or half-credit courses. 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. and 3. ~~1011.62(1)(c)1.a. and b.~~ for students participating in kindergarten through grade 12 part-time virtual instruction ~~8~~ and the programs listed in s. 1011.62(1)(c) 1011.62(1)(c)1.e. for students participating in kindergarten through grade 12 full-time virtual instruction ~~grades 9 through 12~~. Credit completions may be a combination of full-credit courses or half-credit courses. 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 $\frac{1}{6}$ FTE.

(VII) 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 $\frac{1}{6}$ 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 11. Paragraphs (e) and (g) of subsection (1) and subsection (11) of section 1011.62, Florida Statutes, are amended to read:

1011.62 Funds for operation of schools.—If the annual allocation from the Florida Education Finance Program to each district for operation of schools is not determined in the annual appropriations act or the substantive bill implementing the annual appropriations act, it shall be determined as follows:

(1) COMPUTATION OF THE BASIC AMOUNT TO BE INCLUDED FOR OPERATION.—The following procedure shall be followed in determining the annual allocation to each district for operation:

(e) Funding model for exceptional student education programs.—

1.a. The funding model uses basic, at-risk, support levels IV and V for exceptional students and career Florida Education Finance Program cost factors, and a guaranteed allocation for exceptional student education programs. Exceptional education cost factors are determined by using a matrix of services to document the services that each exceptional student will receive. The nature and intensity of the services indicated on the matrix shall be consistent with the services described in each exceptional student's individual educational plan. The Department of Education shall review and revise the descriptions of the services and supports included in the matrix of services for exceptional students and shall implement those revisions before the beginning of the 2012-2013 school year.

b. In order to generate funds using one of the two weighted cost factors, a matrix of services must be completed at the time of the student's initial placement into an exceptional student education program and at least once every 3 years by personnel who have received approved training. Nothing listed in the matrix shall be construed as limiting the services a school district must provide in order to ensure that exceptional students are provided a free, appropriate public education.

c. Students identified as exceptional, in accordance with chapter 6A-6, Florida Administrative Code, who do not have a matrix of services as specified in sub-subparagraph b. shall generate funds on the basis of full-time-equivalent student membership in the Florida Education Finance Program at the same funding level per student as provided for basic students. Additional funds for these exceptional students will be provided through the guaranteed allocation designated in subparagraph 2.

2. For students identified as exceptional who do not have a matrix of services and students who are gifted in grades K through 8, there is created a guaranteed allocation to provide these students with a free appropriate public education, in accordance with s. 1001.42(4)(l) ~~1001.42(4)(m)~~ and rules of the State Board of Education, which shall be allocated annually to each school district in the amount provided in the General Appropriations Act. These funds shall be in addition to the funds appropriated on the basis of FTE student membership in the Florida Education Finance Program, and the amount allocated for each school district shall not be recalculated during the year. These funds shall be used to provide special education and related services for exceptional students and students who are gifted in grades K through 8. Beginning with the 2007-2008 fiscal year, a district's expenditure of funds from the guaranteed allocation for students in grades 9 through 12 who are gifted may not be greater than the amount expended during the 2006-2007 fiscal year for gifted students in grades 9 through 12.

(g) Education for speakers of other languages.—A school district or a full-time virtual instruction program is shall be eligible to report full-time equivalent student membership in the ESOL program in the Florida Education Finance Program provided the following conditions are met:

1. The school district or the full-time virtual instruction program has a plan approved by the Department of Education.

2. The eligible student is identified and assessed as limited English proficient based on assessment criteria.

3.a. An eligible student may be reported for funding in the ESOL program for a base period of 3 years. However, a student whose English competency does not meet the criteria for proficiency after 3 years in the ESOL program may be reported for a fourth, fifth, and sixth year of funding, provided his or her limited English proficiency is assessed and properly documented prior to his or her enrollment in each additional year beyond the 3-year base period.

b. If a student exits the program and is later reclassified as limited English proficient, the student may be reported in the ESOL program for funding for an additional year, or extended annually for a period not to exceed a total of 6 years pursuant to this paragraph, based on an annual evaluation of the student's status.

4. An eligible student may be reported for funding in the ESOL program for membership in ESOL instruction in English and ESOL instruction or home language instruction in the basic subject areas of mathematics, science, social studies, and computer literacy.

(11) VIRTUAL EDUCATION CONTRIBUTION.—The Legislature may annually provide in the Florida Education Finance Program a virtual education contribution. The amount of the virtual education contribution shall be the difference between the amount per FTE established in the General Appropriations Act for virtual education and the amount per FTE for each district and the Florida Virtual School, which may be calculated by taking the sum of the base FEFP allocation, the discretionary local effort, the state-funded discretionary contribution, the discretionary millage compression supplement, the research-based reading instruction allocation, and the instructional materials allocation, and then dividing by the total unweighted FTE. This difference shall be multiplied by the virtual education unweighted FTE for programs and options identified in s. ~~1002.455(3)~~ 1002.455(3)(a), (b), and (d) and the Florida Virtual School and its franchises to equal the virtual education contribution and shall be included as a separate allocation in the funding formula.

Section 12. This act shall take effect July 1, 2012.

Approved by the Governor April 27, 2012.

Filed in Office Secretary of State April 27, 2012.