

CHAPTER 2016-58

Committee Substitute for Committee Substitute for House Bill No. 719

An act relating to education personnel; amending s. 39.201, F.S.; authorizing certain information to be used for educator certification discipline and review; amending s. 39.202, F.S.; authorizing certain employees or agents of the Department of Education to have access to certain reports and records; amending s. 1012.05, F.S.; authorizing rather than requiring the Department of Education to sponsor a job fair meeting certain criteria; requiring the department to coordinate a best practice community; amending s. 1012.2315, F.S.; eliminating State Board of Education rulemaking authority for certain teacher assignments; amending s. 1012.39, F.S.; providing requirements regarding liability insurance for students performing clinical field experience; creating s. 1012.562, F.S.; requiring the department to approve school leader preparation programs; providing for approval; providing program requirements; providing for rulemaking; amending s. 1012.75, F.S.; requiring annual notification of liability insurance to specified personnel; abrogating the scheduled expiration of the educator liability insurance program; amending s. 1012.79, F.S.; revising membership of the Education Practices Commission; authorizing the Commissioner of Education to appoint emeritus members to the commission; amending s. 1012.796, F.S.; authorizing the commissioner to issue a letter of guidance in response to a complaint against a certified teacher or administrator; providing an effective date.

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

Section 1. Subsection (6) of section 39.201, Florida Statutes, is amended to read:

39.201 Mandatory reports of child abuse, abandonment, or neglect; mandatory reports of death; central abuse hotline.—

(6) Information in the central abuse hotline may not be used for employment screening, except as provided in s. 39.202(2)(a) and (h). Information in the central abuse hotline and the department's automated abuse information system may be used by the department, its authorized agents or contract providers, the Department of Health, or county agencies as part of the licensure or registration process pursuant to ss. 402.301-402.319 and ss. 409.175-409.176. Pursuant to s. 39.202(2)(q), the information in the central abuse hotline may also be used by the Department of Education for purposes of educator certification discipline and review.

Section 2. Paragraphs (q), (r), and (s) of subsection (2) of section 39.202, Florida Statutes, are redesignated as paragraphs (r), (s), and (t), respectively, and a new paragraph (q) is added to that subsection, to read:

39.202 Confidentiality of reports and records in cases of child abuse or neglect.—

(2) Except as provided in subsection (4), access to such records, excluding the name of the reporter which shall be released only as provided in subsection (5), shall be granted only to the following persons, officials, and agencies:

(q) An employee or agent of the Department of Education who is responsible for the investigation or prosecution of misconduct by a certified educator.

Section 3. Subsection (4) of section 1012.05, Florida Statutes, is amended to read:

1012.05 Teacher recruitment and retention.—

(4) The Department of Education, in cooperation with district personnel offices, may ~~shall~~ sponsor a job fair in a central part of the state to match in-state educators and potential educators and out-of-state educators and potential educators with teaching opportunities in this state. The Department of Education is authorized to collect a job fair registration fee not to exceed \$20 per person and a booth fee not to exceed \$250 per school district or other interested participating organization. The revenue from the fees shall be used to promote and operate the job fair. Funds may be used to purchase promotional items such as mementos, awards, and plaques. The Department of Education shall also coordinate a best practice community to ensure that school district personnel responsible for teacher recruitment and other human resources functions are operating with the most up-to-date knowledge.

Section 4. Paragraph (b) of subsection (2) of section 1012.2315, Florida Statutes, is amended to read:

1012.2315 Assignment of teachers.—

(2) ASSIGNMENT TO SCHOOLS GRADED “D” or “F”.—

(b)1. Beginning July 1, 2014, a school district may assign an individual newly hired as instructional personnel to a school that has earned a grade of “F” in the previous year or any combination of three consecutive grades of “D” or “F” in the previous 3 years pursuant to s. 1008.34 if the individual:

a. Has received an effective rating or highly effective rating in the immediate prior year’s performance evaluation pursuant s. 1012.34;

b. Has successfully completed or is enrolled in a teacher preparation program pursuant to s. 1004.04, s. 1004.85, or s. 1012.56, or a teacher preparation program specified in State Board of Education rule, is provided with high quality mentoring during the first 2 years of employment, holds a

certificate issued pursuant to s. 1012.56, and holds a probationary contract pursuant to s. 1012.335(2)(a); or

c. Holds a probationary contract pursuant to s. 1012.335(2)(a), holds a certificate issued pursuant to s. 1012.56, and has successful teaching experience, and if, in the judgment of the school principal, students would benefit from the placement of that individual.

2. As used in this paragraph, the term “mentoring” includes the use of student achievement data combined with at least monthly observations to improve the educator’s effectiveness in improving student outcomes. Mentoring may be provided by a school district, a teacher preparation program approved pursuant to s. 1004.04, s. 1004.85, or s. 1012.56, or a teacher preparation program specified in State Board of Education rule.

~~3. The State Board of Education shall adopt rules under ss. 120.536(1) and 120.54 to implement this paragraph.~~

Each school district shall annually certify to the Commissioner of Education that the requirements in this subsection have been met. If the commissioner determines that a school district is not in compliance with this subsection, the State Board of Education shall be notified and shall take action pursuant to s. 1008.32 in the next regularly scheduled meeting to require compliance.

Section 5. Subsection (3) of section 1012.39, Florida Statutes, is amended to read:

1012.39 Employment of substitute teachers, teachers of adult education, nondegree teachers of career education, and career specialists; students performing clinical field experience.—

(3) A student who is enrolled in a state-approved teacher preparation program in a postsecondary educational institution that is approved by rules of the State Board of Education and who is jointly assigned by the postsecondary educational institution and a district school board to perform a clinical field experience under the direction of a regularly employed and certified educator shall, while serving such supervised clinical field experience, be accorded the same protection of law as that accorded to the certified educator except for the right to bargain collectively as an employee of the district school board. The district school board providing the clinical field experience shall notify the student electronically or in writing of the availability of educator liability insurance under s. 1012.75. A postsecondary educational institution or district school board may not require a student enrolled in a state-approved teacher preparation program to purchase liability insurance as a condition of participation in any clinical field experience or related activity on the premises of an elementary or secondary school.

Section 6. Section 1012.562, Florida Statutes, is created to read:

1012.562 Public accountability and state approval of school leader preparation programs.—The Department of Education shall establish a process for the approval of Level I and Level II school leader preparation programs that will enable aspiring school leaders to obtain their certificate in educational leadership under s. 1012.56. School leader preparation programs must be competency-based, aligned to the principal leadership standards adopted by the state board, and open to individuals employed by public schools, including charter schools and virtual schools. Level I programs may be offered by school districts or postsecondary institutions and lead to initial certification in educational leadership for the purpose of preparing individuals to serve as school administrators. Level II programs may be offered by school districts, build upon Level I training, and lead to renewal certification as a school principal.

(1) PURPOSE.—The purpose of school leader preparation programs are to:

(a) Increase the supply of effective school leaders in the public schools of this state.

(b) Produce school leaders who are prepared to lead the state’s diverse student population in meeting high standards for academic achievement.

(c) Enable school leaders to facilitate the development and retention of effective and highly effective classroom teachers.

(d) Produce leaders with the competencies and skills necessary to achieve the state’s education goals.

(e) Sustain the state system of school improvement and education accountability.

(2) LEVEL I PROGRAMS.—

(a) Initial approval of a Level I program shall be for a period of 5 years. A postsecondary institution or school district may submit to the department in a format prescribed by the department an application to establish a Level I school leader preparation program. To be approved, a Level I program must:

1. Provide competency-based training aligned to the principal leadership standards adopted by the State Board of Education.

2. If the program is provided by a postsecondary institution, partner with at least one school district.

3. Describe the qualifications that will be used to determine program admission standards, including a candidate’s instructional expertise and leadership potential.

4. Describe how the training provided through the program will be aligned to the personnel evaluation criteria under s. 1012.34.

(b) Renewal of a Level I program's approval shall be for a period of 5 years and shall be based upon evidence of the program's continued ability to meet the requirements of paragraph (a). A postsecondary institution or school district must submit an institutional program evaluation plan in a format prescribed by the department for a Level I program to be considered for renewal. The plan must include:

1. The percentage of personnel who complete the program and are placed in school leadership positions in public schools within the state.

2. Results from the personnel evaluations required under s. 1012.34 for personnel who complete the program.

3. The passage rate of personnel who complete the program on the Florida Education Leadership Examination.

4. The impact personnel who complete the program have on student learning as measured by the formulas developed by the commissioner pursuant to s. 1012.34(7).

5. Strategies for continuous improvement of the program.

6. Strategies for involving personnel who complete the program, other school personnel, community agencies, business representatives, and other stakeholders in the program evaluation process.

7. Additional data included at the discretion of the postsecondary institution or school district.

(c) A Level I program must guarantee the high quality of personnel who complete the program for the first 2 years after program completion or the person's initial certification as a school leader, whichever occurs first. If a person who completed the program is evaluated at less than highly effective or effective under s. 1012.34 and the person's employer requests additional training, the Level I program must provide additional training at no cost to the person or his or her employer. The training must include the creation of an individualized plan agreed to by the employer that includes specific learning outcomes. The Level I program is not responsible for the person's employment contract with his or her employer.

(3) LEVEL II PROGRAMS.—Initial approval and subsequent renewal of a Level II program shall be for a period of 5 years. A school district may submit to the department in a format prescribed by the department an application to establish a Level II school leader preparation program or for program renewal. To be approved or renewed, a Level II program must:

(a) Demonstrate that personnel accepted into the Level II program have:

1. Obtained their certificate in educational leadership under s. 1012.56.

2. Earned a highly effective or effective designation under s. 1012.34.

3. Satisfactorily performed instructional leadership responsibilities as measured by the evaluation system in s. 1012.34.

(b) Demonstrate that the Level II program:

1. Provides competency-based training aligned to the principal leadership standards adopted by the State Board of Education.

2. Provides training aligned to the personnel evaluation criteria under s. 1012.34 and professional development program in s. 1012.986.

3. Provides individualized instruction using a customized learning plan for each person enrolled in the program that is based on data from self-assessment, selection, and appraisal instruments.

4. Conducts program evaluations and implements program improvements using input from personnel who completed the program and employers and data gathered pursuant to paragraph (2)(b).

(c) Gather and monitor the data specified in paragraph (2)(b).

(4) RULES.—The State Board of Education shall adopt rules to administer this section.

Section 7. Subsection (3) of section 1012.75, Florida Statutes, is amended to read:

1012.75 Liability of teacher or principal; excessive force.—

(3) The Department of Education shall administer an educator liability insurance program, as provided in the General Appropriations Act, to protect full-time instructional personnel from liability for monetary damages and the costs of defending actions resulting from claims made against the instructional personnel arising out of occurrences in the course of activities within the instructional personnel's professional capacity. For purposes of this subsection, the terms "full-time," "part-time," and "administrative personnel" shall be defined by the individual district school board. For purposes of this subsection, the term "instructional personnel" has the same meaning as provided in s. 1012.01(2).

(a) Liability coverage of at least \$2 million shall be provided to all full-time instructional personnel. Liability coverage may be provided to the following individuals who choose to participate in the program, at cost: part-time instructional personnel, administrative personnel, and students enrolled in a state-approved teacher preparation program pursuant to s. 1012.39(3).

(b) By August 1 of each year, the department shall notify the personnel specified in paragraph (a) of the pending procurement for liability coverage. By September 1 of each year, each district school board shall notify the personnel specified in paragraph (a) of the liability coverage provided

pursuant to this subsection. The department shall develop the form of the notice which shall be used by each district school board. The notice must be on an 8 ½-inch by 5 ½-inch postcard and include the amount of coverage, a general description of the nature of the coverage, and the contact information for coverage and claims questions. The notification shall be provided separately from any other correspondence. Each district school board shall certify to the department, by September 15 of each year, that the notification required by this paragraph has been provided.

(c) The department shall consult with the Department of Financial Services to select the most economically prudent and cost-effective means of implementing the program through self-insurance, a risk management program, or competitive procurement.

~~(d) This subsection expires July 1, 2016.~~

Section 8. Subsection (1) of section 1012.79, Florida Statutes, is amended to read:

1012.79 Education Practices Commission; organization.—

(1) The Education Practices Commission is composed ~~consists of the following~~ 25 members: 10, including 8 teachers; 5 administrators, at least one of whom represents shall represent a private or virtual school; 4 7 lay citizens who are, 5 of whom shall be parents of public school students and who are unrelated to public school employees; and 2 of whom shall be former charter school governing board or district school board members or former superintendents, assistant superintendents, or deputy superintendents; and 4 5 sworn law enforcement officials, appointed by the State Board of Education from nominations by the Commissioner of Education and subject to Senate confirmation. Before ~~Prior to~~ making nominations, the commissioner shall consult with teaching associations, parent organizations, law enforcement agencies, and other involved associations in the state. In making nominations, the commissioner shall attempt to achieve equal geographical representation, as closely as possible.

(a) A teacher member, in order to be qualified for appointment:

1. Must be certified to teach in the state.

~~2. Must be a resident of the state.~~

~~2.3.~~ Must have practiced the profession in this state for at least 5 years immediately preceding the appointment.

(b) A school administrator member, in order to be qualified for appointment:

1. Must have an endorsement on the educator certificate in the area of school administration or supervision.

~~2.— Must be a resident of the state.~~

~~2.3.~~ Must have practiced the profession as an administrator for at least 5 years immediately preceding the appointment.

~~(e) The lay members must be residents of the state.~~

~~(c)(d)~~ The law enforcement official members must have served in the profession for at least 5 years immediately preceding appointment and have background expertise in child safety.

(d) The Commissioner of Education, upon request or recommendation from the commission, may also appoint up to 5 emeritus members from the commission's prior membership to serve 1-year terms. Notwithstanding any prior service on the commission, an emeritus member may serve up to five 1-year terms. An emeritus member serves as a voting member at a discipline hearing and as a consulting but nonvoting member during a business meeting.

(e) All members must be residents of the state.

Section 9. Subsection (3) of section 1012.796, Florida Statutes, is amended to read:

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

(3) The department staff shall advise the commissioner concerning the findings of the investigation. The department general counsel or members of that staff shall review the investigation and advise the commissioner concerning probable cause or lack thereof. The determination of probable cause shall be made by the commissioner. The commissioner shall provide an opportunity for a conference, if requested, prior to determining probable cause. The commissioner may enter into deferred prosecution agreements in lieu of finding probable cause if, in his or her judgment, such agreements are in the best interests of the department, the certificateholder, and the public. Such deferred prosecution agreements shall become effective when filed with the clerk of the Education Practices Commission. However, a deferred prosecution agreement may ~~shall~~ not be entered into if there is probable cause to believe that a felony or an act of moral turpitude, as defined by rule of the State Board of Education, has occurred. Upon finding no probable cause, the commissioner shall dismiss the complaint and may issue a letter of guidance to the certificateholder.

Section 10. This act shall take effect July 1, 2016.

Approved by the Governor March 10, 2016.

Filed in Office Secretary of State March 10, 2016.