

CHAPTER 2021-138

Committee Substitute for Committee Substitute for House Bill No. 131

An act relating to educator conduct; amending s. 1001.10, F.S.; requiring the Department of Education to maintain a disqualification list of certain persons; providing for the removal of a person from the list under certain circumstances; requiring the State Board of Education to adopt rules; requiring the department to provide access to specified information to certain staff for specified purposes; amending s. 1001.42, F.S.; providing that certain provisions relating to conduct and prohibition from employment apply to educational support employees; prohibiting certain employees and personnel from employment under certain circumstances; requiring district school boards to report specified persons to the department for inclusion on the list; providing that a school board official forfeits his or her salary for 1 year under additional circumstances; amending s. 1001.51, F.S.; providing that a district school superintendent forfeits his or her salary for 1 year under additional circumstances; amending s. 1002.33, F.S.; prohibiting certain individuals from employment at a charter school; providing requirements for charter schools relating to employing certain individuals; requiring the governing board of a charter school to establish the duty of instructional personnel and school administrators to report specified alleged misconduct by certain individuals; prohibiting an individual on the list from employment in specified positions; requiring a charter school to report specified individuals to the department for inclusion on a certain list; amending s. 1002.421, F.S.; requiring certain private schools to include educational support employees in specified policies; requiring certain private schools to deny employment to certain persons; prohibiting the employment of certain employees and personnel under circumstances; requiring private schools to report specified persons to the department for inclusion on a certain list; authorizing the Commissioner of Education to permanently revoke an owner's or operator's authority to establish or operate a private school in the state under certain circumstances; amending s. 1006.061, F.S.; revising the contents of a sign certain educational entities are required to post to include information relating to reporting of certain criminal acts; amending s. 1012.27, F.S.; revising the requirements for certain employment history checks to include a specified affidavit; amending s. 1012.31, requiring certain persons to execute and maintain an affidavit of separation form for specified purposes; providing requirements for such affidavit; amending s. 1012.315, F.S.; providing that certain persons are ineligible for an educator certification or specified employment; amending s. 1012.795, F.S.; revising acts that warrant a disciplinary action by the commission; amending s. 1012.796, F.S.; prohibiting the department from issuing a certificate to certain persons; requiring the commissioner to make a determination of probable cause within a specified timeframe for complaints relating to sexual misconduct with a student; providing for

such timeframe to be held in abeyance under certain circumstances; providing construction; requiring certain individuals to be placed on a disqualification list; requiring the commissioner to remove certain suspended personnel or administrators from certain positions under specified circumstances; requiring a district school superintendent to immediately suspend certain individuals and take specified action as a results of alleged misconduct; prohibiting certain individuals from serving or applying to serve in specified positions at public schools and specified private schools; providing a timeframe for specified investigations; providing timeframe for administrative suspension; providing criminal penalties; amending s. 1012.797, F.S.; revising provisions relating to notification by law enforcement of certain charges against employees; expanding the entities who receive such notifications; requiring a school principal or designee to notify certain parents of such notifications within a specified timeframe; providing minimum requirements for parental notifications; providing an effective date.

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

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

1001.10 Commissioner of Education; general powers and duties.—

(4) The Department of Education shall:

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

(b) Maintain a disqualification list that includes all of the following:

1. The identity of each person who has been permanently denied an educator certificate or whose educator certificate has been permanently revoked and has been placed on the list as directed by the Education Practices Commission pursuant to s. 1012.795(1) or s. 1012.796(7).

2. The identity of each person who has been permanently disqualified by the commissioner from owning or operating a private school that participates in state scholarship programs under s. 1002.421.

3. The identity of each person who has been terminated, or has resigned in lieu of termination, from employment as a result of sexual misconduct with a student.

4. The identity of each person who is ineligible for educator certification or employment pursuant to s. 1012.315.

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

1. A completed law enforcement investigation resulted in an exoneration or no conviction or finding of guilt and a completed investigation and proceeding, as applicable, by the responsible education agency resulted in a finding that the person did not commit disqualifying conduct;

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

3. The employer that submitted the person for inclusion on the disqualification list requests that the person be removed and submits documentation to support the request.

(d) The State Board of Education shall adopt rules to implement this subsection.

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

(a) The Professional Practices’ Database of Disciplinary Actions Against Educators;~~;~~ and

(b) The department’s ~~Department of Education’s~~ Teacher Certification Database.

(c) The department’s disqualification list under paragraph (4)(b).

This subsection does not require the department to provide these staff with unlimited access to the databases. However, the department shall provide the staff with access to the data necessary for performing employment history checks of the persons ~~instructional personnel and school administrators~~ included in the databases.

Section 2. Subsections (6) and (7) of section 1001.42, Florida Statutes, are amended to read:

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

~~(6) STANDARDS OF ETHICAL CONDUCT FOR INSTRUCTIONAL PERSONNEL, ADMINISTRATIVE PERSONNEL, AND SCHOOL OFFICERS.—~~Adopt policies establishing standards of ethical conduct for educational support employees, instructional personnel, administrative personnel, and school officers. The policies must require all educational support

employees, instructional personnel, administrative personnel, and school officers, as defined in s. 1012.01, to complete training on the standards; establish the duty of educational support employees, instructional personnel, administrative personnel, and school officers to report, and procedures for reporting, alleged misconduct by other educational support employees, instructional or administrative personnel, and school officers which affects the health, safety, or welfare of a student, including misconduct that involves engaging in or soliciting sexual, romantic, or lewd conduct with a student; require the district school superintendent to report to law enforcement misconduct by educational support employees, instructional personnel, or school administrators that would result in disqualification from educator certification or employment as provided in s. 1012.315; and include an explanation of the liability protections provided under ss. 39.203 and 768.095. A district school board, or any of its employees or personnel, may not enter into a confidentiality agreement regarding terminated or dismissed educational support employees, instructional or administrative personnel, or school officers who resign in lieu of termination, based in whole or in part on misconduct that affects the health, safety, or welfare of a student, and may not provide educational support employees, instructional personnel, administrative personnel, or school officers with employment references or discuss the employees', personnel's, or officers' performance with prospective employers in another educational setting, without disclosing the employees', personnel's, or officers' misconduct. Any part of an agreement or contract that has the purpose or effect of concealing misconduct by educational support employees, instructional personnel, administrative personnel, or school officers which affects the health, safety, or welfare of a student is void, is contrary to public policy, and may not be enforced.

(7) PROHIBITION DISQUALIFICATION FROM EMPLOYMENT.— Prohibit educational support employees, Disqualify instructional personnel, and administrative personnel, as defined in s. 1012.01, from employment in any position that requires direct contact with students if the employees or personnel are ineligible for such employment under s. 1012.315 or have been terminated or resigned in lieu of termination for sexual misconduct with a student. If the prohibited conduct occurs while employed, the district school board must report the employees or personnel and the disqualifying circumstances to the department for inclusion on the disqualification list maintained by the department pursuant s. 1001.10(4)(b). An elected or appointed school board official forfeits his or her salary for 1 year if:

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

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

1. Educational support employees, instructional personnel, and administrative personnel to report alleged misconduct by other educational support employees, instructional personnel, and administrative personnel;
2. The district school superintendent to report misconduct by educational support employees, instructional personnel, or school administrators that would result in disqualification from educator certification or employment as provided in s. 1012.315 to the law enforcement agencies with jurisdiction over the conduct; or
3. The investigation of all reports of alleged misconduct by educational support employees, instructional personnel, and administrative personnel, if the misconduct affects the health, safety, or welfare of a student, regardless of whether the person resigned or was terminated before the conclusion of the investigation. The policies must require the district school superintendent to notify the department of the result of the investigation and whether the misconduct warranted termination, regardless of whether the person resigned or was terminated before the conclusion of the investigation.

Section 3. Subsection (12) of section 1001.51, Florida Statutes, is amended to read:

1001.51 Duties and responsibilities of district school superintendent.—The district school superintendent shall exercise all powers and perform all duties listed below and elsewhere in the law, provided that, in so doing, he or she shall advise and counsel with the district school board. The district school superintendent shall perform all tasks necessary to make sound recommendations, nominations, proposals, and reports required by law to be acted upon by the district school board. All such recommendations, nominations, proposals, and reports by the district school superintendent shall be either recorded in the minutes or shall be made in writing, noted in the minutes, and filed in the public records of the district school board. It shall be presumed that, in the absence of the record required in this section, the recommendations, nominations, and proposals required of the district school superintendent were not contrary to the action taken by the district school board in such matters.

(12) RECORDS AND REPORTS.—Recommend such records as should be kept in addition to those prescribed by rules of the State Board of Education; prepare forms for keeping such records as are approved by the district school board; ensure that such records are properly kept; and make all reports that are needed or required, as follows:

(a) Forms, blanks, and reports.—Require that all employees accurately keep all records and promptly make in proper form all reports required by the education code or by rules of the State Board of Education; recommend the keeping of such additional records and the making of such additional reports as may be deemed necessary to provide data essential for the

operation of the school system; and prepare such forms and blanks as may be required and ensure that these records and reports are properly prepared.

(b) Reports to the department.—Prepare, for the approval of the district school board, all reports required by law or rules of the State Board of Education to be made to the department and transmit promptly all such reports, when approved, to the department, as required by law. If any reports are not transmitted at the time and in the manner prescribed by law or by State Board of Education rules, the salary of the district school superintendent must be withheld until the report has been properly submitted. Unless otherwise provided by rules of the State Board of Education, the annual report on attendance and personnel is due on or before July 1, and the annual school budget and the report on finance are due on the date prescribed by the commissioner.

Any district school superintendent who knowingly signs and transmits to any state official a report that the superintendent knows to be false or incorrect; who knowingly fails to complete the investigation of investigate any allegation of misconduct that by instructional personnel or school administrators, as defined in s. 1012.01, which affects the health, safety, or welfare of a student, that would be a violation of s. 800.101, or that would be a disqualifying offense under s. 1012.315, or any allegation of sexual misconduct with a student; who knowingly fails to report the alleged misconduct to the department as required in s. 1012.796; or who knowingly fails to report misconduct to the law enforcement agencies with jurisdiction over the conduct pursuant to district school board policy under s. 1001.42(6), forfeits his or her salary for 1 year following the date of such act or failure to act.

Section 4. Paragraph (g) of subsection (12) of section 1002.33, Florida Statutes, is amended to read:

1002.33 Charter schools.—

(12) EMPLOYEES OF CHARTER SCHOOLS.—

(g)1. A charter school shall employ or contract with employees who have undergone background screening as provided in s. 1012.32. Members of the governing board of the charter school shall also undergo background screening in a manner similar to that provided in s. 1012.32. An individual may not be employed as an employee or contract personnel of a charter school or serve as a member of a charter school governing board if the individual is on the disqualification list maintained by the department pursuant to s. 1001.10(4)(b).

2. A charter school shall prohibit educational support employees, ~~disqualify~~ instructional personnel, and school administrators, as defined in s. 1012.01, from employment in any position that requires direct contact with students if the employees, personnel, or administrators are ineligible for such employment under s. 1012.315 or have been terminated or resigned

in lieu of termination for sexual misconduct with a student. If the prohibited conduct occurs while employed, a charter school must report the individual and the disqualifying circumstances to the department for inclusion on the disqualification list maintained pursuant to s. 1001.10(4)(b).

3. The governing board of a charter school shall adopt policies establishing standards of ethical conduct for educational support employees, instructional personnel, and school administrators. The policies must require all educational support employees, instructional personnel, and school administrators, as defined in s. 1012.01, to complete training on the standards; establish the duty of educational support employees, instructional personnel, and school administrators to report, and procedures for reporting, alleged misconduct ~~that by other instructional personnel and school administrators which~~ affects the health, safety, or welfare of a student; and include an explanation of the liability protections provided under ss. 39.203 and 768.095. A charter school, or any of its employees, may not enter into a confidentiality agreement regarding terminated or dismissed educational support employees, instructional personnel, or school administrators, or employees, personnel, or administrators who resign in lieu of termination, based in whole or in part on misconduct that affects the health, safety, or welfare of a student, and may not provide employees, instructional personnel, or school administrators with employment references or discuss the employees', personnel's, or administrators' performance with prospective employers in another educational setting, without disclosing the employees', personnel's, or administrators' misconduct. Any part of an agreement or contract that has the purpose or effect of concealing misconduct by educational support employees, instructional personnel, or school administrators which affects the health, safety, or welfare of a student is void, is contrary to public policy, and may not be enforced.

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

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

Section 5. Paragraphs (n) and (o) of subsection (1) and subsection (3) of section 1002.421, Florida Statutes, are amended, and paragraph (r) is added to subsection (1) of that section, to read:

1002.421 State school choice scholarship program accountability and oversight.—

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

(n) Adopt policies establishing standards of ethical conduct for educational support employees, instructional personnel, and school administrators. The policies must require all educational support employees, instructional personnel, and school administrators, as defined in s. 1012.01, to complete training on the standards; establish the duty of educational support employees, instructional personnel, and school administrators to report, and procedures for reporting, alleged misconduct by other educational support employees, instructional personnel, and school administrators which affects the health, safety, or welfare of a student; and include an explanation of the liability protections provided under ss. 39.203 and 768.095. A private school, or any of its employees, may not enter into a confidentiality agreement regarding terminated or dismissed educational support employees, instructional personnel, or school administrators, or employees, personnel, or administrators who resign in lieu of termination, based in whole or in part on misconduct that affects the health, safety, or welfare of a student, and may not provide the employees, instructional personnel, or school administrators with employment references or discuss the employees', personnel's, or administrators' performance with prospective employers in another educational setting, without disclosing the employees', personnel's, or administrators' misconduct. Any part of an agreement or contract that has the purpose or effect of concealing misconduct by educational support employees, instructional personnel, or school administrators which affects the health, safety, or welfare of a student is void, is contrary to public policy, and may not be enforced.

(o) Before employing a person instructional personnel or school administrators in any position that requires direct contact with students, conduct employment history checks of each of the personnel's or administrators' previous employers, screen the person personnel or administrators through use of the educator screening tools described in s. 1001.10(5), and document the findings. If unable to contact a previous employer, the private school must document efforts to contact the employer. The private school may not employ a person whose educator certificate is revoked, who is barred from reapplying for an educator certificate, or who is on the disqualification list maintained by the department pursuant to s. 1001.10(4)(b).

(r) Prohibit education support employees, instructional personnel, and school administrators from employment in any position that requires direct contact with students if the personnel or administrators are ineligible for such employment pursuant to this section or s. 1012.315, or have been terminated or resigned in lieu of termination for sexual misconduct with a student. If the prohibited conduct occurs subsequent to employment, the

private school must report the person and the disqualifying circumstances to the department for inclusion on the disqualification list maintained pursuant to s. 1001.10(4)(b).

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

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

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

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

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

~~(d)1.(e)1.~~ In making such a determination, may consider factors that include, but are not limited to, acts or omissions by an owner or operator which led to a previous denial, suspension, or revocation of participation in a state or federal education scholarship program; an owner's or operator's failure to reimburse the department or scholarship-funding organization for scholarship funds improperly received or retained by a school; the imposition of a prior criminal sanction related to an owner's or operator's management

or operation of an educational institution; the imposition of a civil fine or administrative fine, license revocation or suspension, or program eligibility suspension, termination, or revocation related to an owner's or operator's management or operation of an educational institution; or other types of criminal proceedings in which an owner or operator was found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, any offense involving fraud, deceit, dishonesty, or moral turpitude.

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

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

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

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

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

1. An imminent threat to the health, safety, or welfare of the students;
2. A previous pattern of failure to comply with this section; or
3. Fraudulent activity on the part of the private school. Notwithstanding s. 1002.22, in incidents of alleged fraudulent activity pursuant to this section, the department's Office of Inspector General is authorized to release personally identifiable records or reports of students to the following persons or organizations:

a. A court of competent jurisdiction in compliance with an order of that court or the attorney of record in accordance with a lawfully issued

subpoena, consistent with the Family Educational Rights and Privacy Act, 20 U.S.C. s. 1232g.

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

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

The commissioner’s order suspending payment pursuant to this paragraph may be appealed pursuant to the same procedures and timelines as the notice of proposed action set forth in subparagraph (d)2 (e)2.

Section 6. Subsection (2) and paragraph (a) of subsection (4) of section 1006.061, Florida Statutes, are amended to read:

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

(2) Post in a prominent place at each school site and on each school’s ~~Internet~~ website, if available, the policies and procedures for reporting alleged misconduct by educational support employees, instructional personnel, or school administrators which affects the health, safety, or welfare of a student; the contact person to whom the report is made; and the penalties imposed on educational support employees, instructional personnel, or school administrators who fail to report suspected or actual child abuse or alleged misconduct by other educational support employees, instructional personnel, or school administrators.

(4)(a) Post in a prominent place in a clearly visible location and public area of the school which is readily accessible to and widely used by students a sign in English and Spanish that contains:

1. The statewide toll-free telephone number of the central abuse hotline as provided in chapter 39.;
2. Instructions to call 911 for emergencies.;
3. Directions for accessing the Department of Children and Families Internet website for more information on reporting abuse, neglect, and exploitation.

4. Directions for accessing the Department of Education’s website for more information on reporting acts that violate s. 800.101.

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

Section 7. Subsection (6) of section 1012.27, Florida Statutes, is amended to read:

1012.27 Public school personnel; powers and duties of district school superintendent.—The district school superintendent is responsible for directing the work of the personnel, subject to the requirements of this chapter, and in addition the district school superintendent shall perform the following:

(6) EMPLOYMENT HISTORY CHECKS.—Before employing a person in any position that requires direct contact with students, conduct employment history checks of each of the person’s previous employers, review each affidavit of separation from previous employers pursuant to s. 1012.31, screen instructional personnel and school administrators, as defined in s. 1012.01, through use of the educator screening tools described in s. 1001.10(5), and document the findings. If unable to contact a previous employer, the district school superintendent shall document efforts to contact the employer.

Section 8. Paragraph (a) of subsection (2) of section 1012.31, Florida Statutes, is amended to read:

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

(2)(a) Materials relating to work performance, discipline, suspension, or dismissal must be reduced to writing and signed by a person competent to know the facts or make the judgment. In cases of separation due to termination or resignation in lieu of termination, the person shall execute and maintain an affidavit of separation, on the form adopted by the Department of Education, setting forth in detail the facts and reasons for such separation. The affidavit must expressly disclose when separation is due to a report of sexual misconduct with a student. The affidavit of separation must be executed under oath and constitutes an official statement within the purview of s. 837.06. The affidavit of separation must include conspicuous language that intentional false execution of the affidavit constitutes a misdemeanor of the second degree ~~The resignation or termination of an employee before an investigation of alleged misconduct by the employee affecting the health, safety, or welfare of a student is concluded must be clearly indicated in the employee’s personnel file.~~

Section 9. Section 1012.315, Florida Statutes, is amended to read:

1012.315 Screening standards ~~Disqualification from employment.~~—A person is ineligible for educator certification or employment in any position that requires direct contact with students in a district school system, charter school, or a private school that participates ~~accepts~~ scholarship students who participate in a state scholarship program under chapter 1002 if the person is on the disqualification list maintained by the department pursuant to s. 1001.10(4)(b), is registered as a sex offender as described in 42 U.S.C. s. 9858f(c)(1)(C), or has been convicted or found guilty of, has had adjudication withheld for, or has pled guilty or nolo contendere to ~~of~~:

- (1) Any felony offense prohibited under any of the following statutes:
 - (a) Section 393.135, relating to sexual misconduct with certain developmentally disabled clients and reporting of such sexual misconduct.
 - (b) Section 394.4593, relating to sexual misconduct with certain mental health patients and reporting of such sexual misconduct.
 - (c) Section 415.111, relating to adult abuse, neglect, or exploitation of aged persons or disabled adults.
 - (d) Section 782.04, relating to murder.
 - (e) Section 782.07, relating to manslaughter, aggravated manslaughter of an elderly person or disabled adult, aggravated manslaughter of a child, or aggravated manslaughter of an officer, a firefighter, an emergency medical technician, or a paramedic.
 - (f) Section 784.021, relating to aggravated assault.
 - (g) Section 784.045, relating to aggravated battery.
 - (h) Section 784.075, relating to battery on a detention or commitment facility staff member or a juvenile probation officer.
 - (i) Section 787.01, relating to kidnapping.
 - (j) Section 787.02, relating to false imprisonment.
 - (k) Section 787.025, relating to luring or enticing a child.
 - (l) Section 787.04(2), relating to leading, taking, enticing, or removing a minor beyond the state limits, or concealing the location of a minor, with criminal intent pending custody proceedings.
 - (m) Section 787.04(3), relating to leading, taking, enticing, or removing a minor beyond the state limits, or concealing the location of a minor, with criminal intent pending dependency proceedings or proceedings concerning alleged abuse or neglect of a minor.
 - (n) Section 790.115(1), relating to exhibiting firearms or weapons at a school-sponsored event, on school property, or within 1,000 feet of a school.

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

(p) Section 794.011, relating to sexual battery.

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

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

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

(t) Chapter 796, relating to prostitution.

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

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

(w) Section 806.01, relating to arson.

(x) Section 810.14, relating to voyeurism.

(y) Section 810.145, relating to video voyeurism.

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

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

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

(cc) Section 812.13, relating to robbery.

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

(ee) Section 812.133, relating to carjacking.

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

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

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

(ii) Section 825.103, relating to exploitation of an elderly person or disabled adult.

(jj) Section 825.1025, relating to lewd or lascivious offenses committed upon or in the presence of an elderly person or disabled person.

(kk) Section 826.04, relating to incest.

(ll) Section 827.03, relating to child abuse, aggravated child abuse, or neglect of a child.

(mm) Section 827.04, relating to contributing to the delinquency or dependency of a child.

(nn) Section 827.071, relating to sexual performance by a child.

(oo) Section 843.01, relating to resisting arrest with violence.

(pp) Chapter 847, relating to obscenity.

(qq) Section 874.05, relating to causing, encouraging, soliciting, or recruiting another to join a criminal street gang.

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

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

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

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

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

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

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

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

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

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

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

1012.795 Education Practices Commission; authority to discipline.—

(1) The Education Practices Commission may suspend the educator certificate of any instructional personnel or school administrator, as defined in s. 1012.01(2) or (3), for up to 5 years, thereby denying that person the right to teach or otherwise be employed by a district school board or public school in any capacity requiring direct contact with students for that period of time, after which the person may return to teaching as provided in subsection (4); may revoke the educator certificate of any person, thereby denying that person the right to teach or otherwise be employed by a district school board or public school in any capacity requiring direct contact with students for up to 10 years, with reinstatement subject to subsection (4); may permanently revoke the educator certificate of any person thereby denying that person the right to teach or otherwise be employed by a district school board or public school in any capacity requiring direct contact with students; may suspend a person's educator certificate, upon an order of the court or notice by the Department of Revenue relating to the payment of child support; may direct the department to place a certificateholder employed by a public school, charter school, charter school governing board, or private school that participates in a state scholarship program under chapter 1002 on the disqualification list maintained by the department pursuant to s. 1001.10(4)(b) for misconduct that would render the person ineligible pursuant to s. 1012.315 or sexual misconduct with a student; or may impose any other penalty provided by law, if the person:

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

(b) Knowingly failed to report actual or suspected child abuse as required in s. 1006.061 or report alleged misconduct by instructional personnel or school administrators which affects the health, safety, or welfare of a student as required in s. 1012.796.

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

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

(e) Has had an educator certificate or other professional license sanctioned by this or any other state or has had the authority to practice the regulated profession revoked, suspended, or otherwise acted against, including a denial of certification or licensure, by the licensing or certifying authority of any jurisdiction, including its agencies and subdivisions. The licensing or certifying authority's acceptance of a relinquishment, stipulation, consent order, or other settlement offered in response to or in anticipation of the filing of charges against the licensee or certificateholder

shall be construed as action against the license or certificate. For purposes of this section, a sanction or action against a professional license, a certificate, or an authority to practice a regulated profession must relate to being an educator or the fitness of or ability to be an educator.

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

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

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

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

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

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

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

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

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

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

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

Section 11. Paragraphs (a), (b), (d), and (e) of subsection (1) and subsection (5) of section 1012.796, Florida Statutes, are amended, paragraph (i) is added to subsection (7), and subsection (10) is added to that section, to read:

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

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

(b) The department shall immediately investigate any legally sufficient complaint that involves misconduct by any certificated personnel which affects the health, safety, or welfare of a student, giving the complaint priority over other pending complaints. The department must investigate or continue to investigate and take action on such a complaint filed against a person whose educator certificate has expired if the act or acts that are the basis for the complaint were allegedly committed while that person possessed an educator certificate. The Commissioner of Education shall make a determination of probable cause within 90 days after receipt of any complaint involving sexual misconduct with a student. Upon the written request of a state attorney, this deadline may be held in abeyance during criminal proceedings related to the sexual misconduct with a student.

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

2. A school district shall immediately notify the department if the subject of a legally sufficient complaint of misconduct affecting the health, safety, or welfare of a student resigns or is terminated before the conclusion of the school district's investigation. Upon receipt of the notification, the department shall place an alert on the person's certification file indicating that he or she resigned or was terminated before an investigation involving allegations of misconduct affecting the health, safety, or welfare of a student was concluded. In such circumstances, the database may not include specific information relating to the alleged misconduct until permitted by subsection (4). This subparagraph does not limit or restrict the duty of the district

school board to investigate the complaint and report the findings and conclusion to the department.

3. Each district school board shall develop and adopt policies and procedures to comply with this reporting requirement. School board policies and procedures must include standards for screening, hiring, and terminating instructional personnel and school administrators, as defined in s. 1012.01; standards of ethical conduct for instructional personnel and school administrators; the duties of instructional personnel and school administrators for upholding the standards; detailed procedures for reporting alleged misconduct by instructional personnel and school administrators which affects the health, safety, or welfare of a student; requirements for the reassignment of instructional personnel and ~~or~~ school administrators pending the outcome of a misconduct investigation; and penalties for failing to comply with s. 1001.51 or s. 1012.795. The district school board policies and procedures must ~~shall~~ include appropriate penalties for all personnel of the district school board for nonreporting and procedures for promptly informing the district school superintendent of each legally sufficient complaint. The district school superintendent is charged with knowledge of these policies and procedures and is accountable for the training of all instructional personnel and school administrators of the school district on the standards of ethical conduct, policies, and procedures.

4. If the district school superintendent has knowledge of a legally sufficient complaint and does not report the complaint, or fails to enforce the policies and procedures of the district school board, and fails to comply with the requirements of this subsection, in addition to other actions against certificateholders authorized by law, the district school superintendent is subject to penalties as specified in s. 1001.51(12).

5. If the superintendent determines that misconduct by instructional personnel or school administrators who hold an educator certificate affects the health, safety, or welfare of a student and the misconduct warrants termination, the instructional personnel or school administrators may resign or be terminated, and the superintendent must report the misconduct to the department in the format prescribed by the department. The department shall maintain each report of misconduct as a public record in the instructional personnel's or school administrators' certification files. This paragraph does not limit or restrict the power and duty of the department to investigate complaints regarding certificateholders, regardless of the school district's untimely filing, or failure to file, complaints and followup reports. This subparagraph does not create a duty for the department to investigate complaints regarding noncertificateholders.

(e) If allegations arise against an employee who is certified under s. 1012.56 and employed in an educator-certificated position in any public school, charter school or governing board thereof, or private school that accepts scholarship students who participate in a state scholarship program under chapter 1002, the school shall file in writing with the department a legally sufficient complaint within 30 days after the date on which the

subject matter of the complaint came to the attention of the school, regardless of whether the subject of the allegations is still an employee of the school. A complaint is legally sufficient if it contains ultimate facts that show a violation has occurred as provided in s. 1012.795 and defined by rule of the State Board of Education. The school shall include all known information relating to the complaint with the filing of the complaint. This paragraph does not limit or restrict the power and duty of the department to investigate complaints, regardless of the school's untimely filing, or failure to file, complaints and followup reports. A school described in this paragraph shall immediately notify the department if the subject of a legally sufficient complaint of misconduct affecting the health, safety, or welfare of a student resigns or is terminated before the conclusion of the school's investigation. Upon receipt of the notification, the department shall place an alert on the person's certification file indicating that he or she resigned or was terminated before an investigation involving allegations of misconduct affecting the health, safety, or welfare of a student was concluded and place the person on the disqualification list maintained by the department pursuant to s. 1001.10(4)(b). In such circumstances, the database may not include specific information relating to the alleged misconduct until permitted by subsection (4).

(5) When an allegation of misconduct by instructional personnel or school administrators, as defined in s. 1012.01, is received, if the alleged misconduct affects the health, safety, or welfare of a student, the district school superintendent in consultation with the school principal, or upon the request of the Commissioner of Education, must, at a minimum, immediately suspend the instructional personnel or school administrators from regularly assigned duties, with pay, and remove ~~reassign~~ the suspended personnel or administrators from ~~to~~ positions that may ~~do not~~ require direct contact with students in the district school system. Such suspension shall continue until submission of a legally sufficient complaint. The proceedings and determination of sanctions shall be completed by a school district within 1 year after submission of the legally sufficient complaint ~~the completion of the proceedings and the determination of sanctions, if any, pursuant to this section and s. 1012.795.~~

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

(i) Direct the department to place instructional personnel or school administrators on the disqualification list maintained by the department pursuant to s. 1001.10(4)(b) for conduct that would render the person ineligible pursuant to s. 1012.315 or sexual misconduct with a student.

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

(10) A person on the disqualification list maintained by the department pursuant to s. 1001.10(4)(b) shall be notified that he or she may not serve or

apply to serve as an employee or contracted personnel at a public school or private school that participates in a state scholarship program under chapter 1002. A person who knowingly violates this provision commits a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083.

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

~~1012.797 Notification of district school superintendent of certain charges against or convictions of employees.—~~

~~(1) Notwithstanding the provisions of s. 985.04(7) or any other provision of law to the contrary, a law enforcement agency shall, within 48 hours, notify the appropriate district school superintendent, charter school governing board, private school owner or administrator, president of the Florida School for the Deaf and the Blind, or university lab schools director or principal, as applicable, when its of the name and address of any employee of the school district who is arrested for charged with a felony or with a misdemeanor involving the abuse of a minor child or the sale or possession of a controlled substance. The notification shall include the specific charge for which the employee of the school district was arrested. Notwithstanding ss. 1012.31(3)(a)1. and 1012.796(4), within 24 hours after such notification, the school principal or designee shall notify parents of enrolled students who had direct contact with the employee and include, at a minimum, the name and specific charges against the employee. Such ~~notification shall include other education providers such as the Florida School for the Deaf and the Blind, university lab schools, and private elementary and secondary schools.~~~~

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

Section 13. This act shall take effect July 1, 2021.

Approved by the Governor June 21, 2021.

Filed in Office Secretary of State June 21, 2021.