

CHAPTER 2022-70

Senate Bill No. 7044

An act relating to postsecondary education; amending s. 1001.706, F.S.; authorizing the Board of Governors to adopt a regulation regarding post-tenure reviews for state university faculty; specifying requirements for the regulation; amending s. 1004.085, F.S.; providing requirements for lists of required and recommended textbooks and instructional materials for Florida College System institution and state university courses; amending s. 1007.24, F.S.; revising the maintenance requirements of, and information that must be included in, the statewide course numbering system; requiring certain postsecondary educational institutions' registration processes to include specified information; requiring certain postsecondary educational institutions to accept and apply general education courses and credit in a specified manner; requiring the State Board of Education to adopt rules; providing requirements for such rules; creating s. 1008.47, F.S.; defining the term "postsecondary education institution"; requiring the Board of Governors and State Board of Education to identify and determine accrediting agencies or associations best suited for public postsecondary institutions by a specified date; providing requirements for such accrediting agencies or associations; prohibiting public postsecondary institutions from being accredited by the same agency or association for consecutive accreditation cycles; requiring public postsecondary institutions to obtain accreditation from accrediting agencies or associations identified by the Board of Governors or State Board of Education, respectively; providing that specified academic programs are exempt from such requirements; requiring institutions to provide specified reports to the Board of Governors or the State Board of Education; requiring institutions to seek specified accreditation; authorizing institutions to remain with current accreditors under certain circumstances; creating a cause of action for postsecondary education institutions; authorizing the award of specified damages, court costs, and attorney fees; providing for the future expiration of specified provisions; amending ss. 1009.23 and 1009.24, F.S.; requiring Florida College System institutions and state universities, respectively, to post specified information relating to tuition and fee rates and proposed changes to such rates on their websites; revising the information that must be included in a required notice to students; requiring a specific press release to be e-mailed to enrolled students; providing requirements for a Florida College System institution or a state university, respectively, to raise, impose, or authorize certain fees; providing a directive to the Division of Law Revision; providing effective dates.

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

Section 1. Present paragraphs (b), (c), and (d) of subsection (6) of section 1001.706, Florida Statutes, are redesignated as paragraphs (c), (d), and (e), respectively, and a new paragraph (b) is added to that subsection, to read:

1001.706 Powers and duties of the Board of Governors.—

(6) POWERS AND DUTIES RELATING TO PERSONNEL.—

(b) The Board of Governors may adopt a regulation requiring each tenured state university faculty member to undergo a comprehensive post-tenure review every 5 years. The board may include other considerations in the regulation, but the regulation must address:

1. Accomplishments and productivity;
2. Assigned duties in research, teaching, and service;
3. Performance metrics, evaluations, and ratings; and
4. Recognition and compensation considerations, as well as improvement plans and consequences for underperformance.

Section 2. Section 1004.085, Florida Statutes, is amended to read:

1004.085 Textbook and instructional materials affordability and transparency.—

(1) As used in this section, the term “instructional materials” means educational materials for use within a course which may be available in printed or digital format.

(2) An employee of a Florida College System institution or state university may not demand or receive any payment, loan, subscription, advance, deposit of money, service, or anything of value, present or promised, in exchange for requiring students to purchase a specific textbook or instructional material for coursework or instruction.

(3) An employee may receive:

(a) Sample copies, instructor copies, or instructional materials. These materials may not be sold for any type of compensation if they are specifically marked as free samples not for resale.

(b) Royalties or other compensation from sales of textbooks or instructional materials that include the instructor’s own writing or work.

(c) Honoraria for academic peer review of course materials.

(d) Fees associated with activities such as reviewing, critiquing, or preparing support materials for textbooks or instructional materials pursuant to guidelines adopted by the State Board of Education or the Board of Governors.

(e) Training in the use of course materials and learning technologies.

(4) Each Florida College System institution and state university board of trustees is authorized to adopt policies in consultation with providers, including bookstores, which allow for the use of innovative pricing techniques and payment options for textbooks and instructional materials. Such policies may include bulk pricing arrangements that enable students to purchase course materials or texts that are delivered digitally; delivered through other technologies that are, or the licenses of which are, required for use within a course; or delivered in a print format. Innovative pricing techniques and payment options must include an opt-in or opt-out provision for students and may be approved only if there is documented evidence that the options reduce the cost of textbooks and instructional materials for students taking a course.

(5)(a) Each Florida College System institution and state university shall post prominently in the course registration system and on its website, ~~as early as is feasible, but at least 45 days before the first day of class for each term,~~ a hyperlink to lists of required and recommended textbooks and instructional materials for at least 95 percent of all courses and course sections offered at the institution during the upcoming term. The lists must include the International Standard Book Number (ISBN) for each required and recommended textbook and instructional material or other identifying information, which must include, at a minimum, all of the following: the title, all authors listed, publishers, edition number, copyright date, published date, and other relevant information necessary to identify the specific textbooks or instructional materials required and recommended for each course. The State Board of Education and the Board of Governors shall include in the policies, procedures, and guidelines adopted under subsection (6) certain limited exceptions to this notification requirement for classes added after the notification deadline.

(b) The lists of required and recommended textbooks and instructional materials required in paragraph (a) must:

1. Be posted as early as is feasible but at least 45 days before the first day of class for each term.

2. Remain posted for at least 5 academic years.

3. Be searchable by the course subject, the course number, the course title, the name of the instructor of the course, the title of each assigned textbook or instructional material, and each author of an assigned textbook or instructional material.

4. Be easily downloadable by current and prospective students.

(c) If a course subject to paragraphs (a) and (b) is a general education core course option identified pursuant to s. 1007.25, course syllabi

information containing sufficient detail to inform students of all of the following must be included:

1. The course curriculum.
2. The goals, objectives, and student expectations of the course.
3. How student performance will be measured.

(6) After receiving input from students, faculty, bookstores, and publishers, the State Board of Education and the Board of Governors each shall adopt textbook and instructional materials affordability policies, procedures, and guidelines for implementation by Florida College System institutions and state universities, respectively, that further efforts to minimize the cost of textbooks and instructional materials for students attending such institutions while maintaining the quality of education and academic freedom. The policies, procedures, and guidelines shall address:

(a) The establishment of deadlines for an instructor or department to notify the bookstore of required and recommended textbooks and instructional materials so that the bookstore may verify availability, source lower cost options when practicable, explore alternatives with faculty when academically appropriate, and maximize the availability of used textbooks and instructional materials.

(b) Confirmation by the course instructor or academic department offering the course, before the textbook or instructional materials adoption is finalized, of the intent to use all items ordered, particularly each individual item sold as part of a bundled package.

(c) Determination by a course instructor or the academic department offering the course, before a textbook or instructional material is adopted, of the extent to which a new edition differs significantly and substantively from earlier versions and the value to the student of changing to a new edition or the extent to which an open-access textbook or instructional material is available.

(d) The availability of required and recommended textbooks and instructional materials to students otherwise unable to afford the cost, including consideration of the extent to which an open-access textbook or instructional material may be used.

(e) Participation by course instructors and academic departments in the development, adaptation, and review of open-access textbooks and instructional materials and, in particular, open-access textbooks and instructional materials for high-demand general education courses.

(f) Consultation with school districts to identify practices that impact the cost of dual enrollment textbooks and instructional materials to school districts, including, but not limited to, the length of time that textbooks and instructional materials remain in use.

(g) Selection of textbooks and instructional materials through cost-benefit analyses that enable students to obtain the highest-quality product at the lowest available price, by considering:

1. Purchasing digital textbooks in bulk.
2. Expanding the use of open-access textbooks and instructional materials.
3. Providing rental options for textbooks and instructional materials.
4. Increasing the availability and use of affordable digital textbooks and learning objects.
5. Developing mechanisms to assist in buying, renting, selling, and sharing textbooks and instructional materials.
6. The length of time that textbooks and instructional materials remain in use.
7. An evaluation of cost savings for textbooks and instructional materials which a student may realize if individual students are able to exercise opt-in provisions for the purchase of the materials.

(7) The board of trustees of each Florida College System institution and state university shall report, by September 30 of each year, to the Chancellor of the Florida College System or the Chancellor of the State University System, as applicable, the textbook and instructional materials selection process for high-enrollment courses; specific initiatives of the institution designed to reduce the costs of textbooks and instructional materials; policies implemented in accordance with subsection (5); the number of courses and course sections that were not able to meet the textbook and instructional materials posting deadline for the previous academic year; and any additional information determined by the chancellors. By November 1 of each year, each chancellor shall provide a summary of the information provided by institutions to the State Board of Education and the Board of Governors, as applicable.

Section 3. Present subsection (8) of section 1007.24, Florida Statutes, is redesignated as subsection (9) and amended, a new subsection (8) is added to that section, and subsections (4) and (5) of that section are amended, to read:

1007.24 Statewide course numbering system.—

(4) The statewide course numbering system ~~must be~~ shall maintained electronically and regularly updated by the department and include the courses at the recommended levels, course numbers, course titles, credits awarded, and other identifiable information by institution and academic year, as required by state board rule.

(5) The registration process at each state university and Florida College System institution must ~~shall~~ include the courses at their designated levels, and statewide course numbers, course titles, credits awarded, and other identifiable information, as required by state board rule.

(8) Participating postsecondary institutions receiving transfer course credit must accept and apply general education courses and credit in accordance with this section, s. 1007.25, and other provisions of law, including credit earned through dual enrollment, course equivalencies, and other acceleration mechanisms, as first satisfying general education core course credit requirements and other general education subject area course credit requirements before applying the course credit as elective credit.

(9)(8) The State Board of Education shall adopt rules that provide for the collection of course information from participating institutions, identifiable information required for each course, and the conduct of regularly scheduled faculty committee reviews and recommendations. At a minimum, rules must address all of the following:

(a) Required institutional reporting formats, timelines, and procedures for the timely and uniform collection and publication of course data information.

(b) Regularly scheduled faculty committee reviews and recommendations to the commissioner for the alignment or realignment of courses, course numbers, course titles, designated levels, credits awarded, and other identifiable information for the purpose of facilitating credit transfer and acceptance for substantially similar courses at receiving institutions.

(c) Regularly scheduled faculty committee reviews and recommendations to the commissioner for the classification or reclassification of courses as satisfying general education, general education core, prerequisite, substitution, equivalency, civic literacy, or other course types, pursuant to s. 1007.25, consistent with subject area, course content, programmatic, and other requirements outlined in rule.

(d) Purges of courses that are listed in the statewide course numbering system but have not been taught at an institution for the preceding 5 years. These rules must include waiver provisions that allow course continuation if an institution has reasonable cause for having not offered a course within the 5-year limit and an expectation that the course will be offered again within the following 5 years.

Section 4. Effective upon this act becoming a law, section 1008.47, Florida Statutes, is created to read:

1008.47 Postsecondary education institution accreditation.—

(1) DEFINITION.—As used in this section, the term “postsecondary education institution” means a Florida College System institution, state

university, or nonpublic postsecondary education institution that receives state funds.

(2) ACCREDITATION.—

(a) By September 1, 2022, the Board of Governors or the State Board of Education, as applicable, shall identify and determine the accrediting agencies or associations best suited to serve as an accreditor for public postsecondary institutions. Such accrediting agencies or associations must be recognized by the database created and maintained by the United States Department of Education. A public postsecondary institution may not be accredited by the same accrediting agency or association for consecutive accreditation cycles. In the year following reaffirmation or fifth-year review by its accrediting agencies or associations, each public postsecondary institution must seek and obtain accreditation from an accrediting agency or association identified by the Board of Governors or State Board of Education, respectively, before its next reaffirmation or fifth-year review date. The requirements of this subsection are not applicable to those professional, graduate, departmental, or certificate programs at public postsecondary institutions that have specific accreditation requirements or best practices, including, but not limited to, law, pharmacy, engineering, or other similarly situated educational programs.

(b) Once a public postsecondary institution is required to seek and obtain accreditation from an agency or association identified pursuant to paragraph (a), the institution shall seek accreditation from a regional accrediting agency or association and provide quarterly reports of its progress to the Board of Governors or State Board of Education, as applicable. If each regional accreditation agency or association identified pursuant to paragraph (a) has refused to grant candidacy status to an institution, the institution shall seek and obtain accreditation from any accrediting agency or association that is different than its current accrediting agency or association and is recognized by the database created and maintained by the United States Department of Education. If a public postsecondary institution is not granted candidacy status before its next reaffirmation or fifth-year review date, the institution may remain with its current accrediting agency or association.

(3) CAUSE OF ACTION.—A postsecondary education institution negatively impacted by retaliatory action taken against the postsecondary education institution by an accrediting agency or association may bring an action against the accrediting agency or association in a court of competent jurisdiction and may obtain liquidated damages up to the amount of federal financial aid received by the postsecondary education institution, court costs, and reasonable attorney fees.

(4) EXPIRATION.—This section expires December 31, 2032.

Section 5. Subsection (20) of section 1009.23, Florida Statutes, is amended, and subsection (21) is added to that section, to read:

1009.23 Florida College System institution student fees.—

(20) All tuition and fees described in this section, and any proposed changes to such tuition and fees, must be prominently posted on the institution's website in an area that is transparent and easily accessible. Each Florida College System institution shall publicly notice and notify all enrolled students of any proposal to increase tuition or fees at least 28 days before its consideration for a vote taken at a board of trustees meeting. The notice must:

(a) Include the date and time of the meeting at which the proposal will be considered.

(b) Specifically outline the details of existing tuition and fees, including how such tuition and fees are expended, the rationale and necessity for the proposed increase, and how the funds from the proposed increase will be used.

(c) Be posted on the institution's website and issued in a press release, which must also be enclosed in an e-mail sent to all enrolled students.

(21) Any proposal or action of a Florida College System institution to raise, impose, or authorize any fee, as authorized by law, except for tuition, must be approved by a supermajority vote of the members of the board of trustees of the institution, if approval by the board of trustees is required by general law, and at least a supermajority vote of the members of the State Board of Education, if approval by the State Board of Education is required by general law, in order to take effect.

Section 6. Subsection (20) of section 1009.24, Florida Statutes, is amended, and subsection (21) is added to that section, to read:

1009.24 State university student fees.—

(20) All tuition and fees described in this section, and any proposed changes to such tuition and fees, must be prominently posted on the state university's website in an area that is transparent and easily accessible. Each state university shall publicly notice and notify all enrolled students of any proposal to change tuition or fees at least 28 days before its consideration for a vote taken at a board of trustees meeting. The notice must:

(a) Include the date and time of the meeting at which the proposal will be considered.

(b) Specifically outline the details of existing tuition and fees, including how such tuition and fees are expended, the rationale and necessity for the proposed change, and how the funds from the proposed change will be used.

(c) Be posted on the university's website and issued in a press release, which must also be enclosed in an e-mail sent to all enrolled students.

(21) Pursuant to s. 7(e), Art. IX of the State Constitution, any proposal or action of a constituent university to raise, impose, or authorize any fee, as authorized by law, except for tuition, must be approved by at least 9 affirmative votes of the members of the board of trustees of the constituent university, if approval by the board of trustees is required by general law, and at least 12 affirmative votes of the members of the Board of Governors, if approval by the Board of Governors is required by general law, in order to take effect.

Section 7. The Division of Law Revision shall prepare a reviser's bill to replace references to the phrases "the Southern Association of Colleges and Schools," "the Commission on Colleges of the Southern Association of Colleges and Schools," and "the Southern Association of Colleges and Schools Commission on Colleges" wherever they occur in the Florida Statutes with the phrase "an accrediting agency or association recognized by the database created and maintained by the United States Department of Education."

Section 8. Except as otherwise expressly provided in this act and except for this section, which shall take effect upon this act becoming a law, this act shall take effect July 1, 2022.

Approved by the Governor April 19, 2022.

Filed in Office Secretary of State April 19, 2022.