

## CHAPTER 2023-105

### Committee Substitute for Committee Substitute for House Bill No. 1069

An act relating to education; amending s. 1000.21, F.S.; defining the term “sex” for the Florida Early Learning-20 Education Code; creating s. 1000.071, F.S.; requiring specified policies relating to a person’s sex at certain educational institutions; providing applicability; prohibiting employees, contractors, and students of such educational institutions from being required to use, from providing, and from being asked to provide certain titles and pronouns; prohibiting students from being penalized or subjected to certain treatment for not providing certain titles and pronouns; authorizing the State Board of Education to adopt rules; amending s. 1001.42, F.S.; prohibiting classroom instruction on sexual orientation or gender identity from occurring in prekindergarten through grade 8, rather than kindergarten through grade 3; providing an exception; providing requirements if such instruction is provided in grades 9 through 12; providing that such prohibition applies to charter schools; requiring school districts to post specified policies on their websites; amending s. 1003.42, F.S.; requiring all materials used for specified instruction relating to reproductive health to be approved by the Department of Education; amending s. 1003.46, F.S.; providing additional requirements for certain instruction regarding human sexuality; requiring the department to approve specified instructional materials; amending s. 1006.28, F.S.; providing that district school boards are responsible for materials used in classroom libraries; requiring that a specified objection form and district school board process meet certain requirements; providing requirements for materials used in a classroom library; revising the criteria a parent or resident must meet to object to certain materials used in the classroom; requiring certain classroom materials to be removed within a specified time period and be unavailable to certain students until the resolution of certain objections; providing that parents have the right to read passages from specified materials; requiring the discontinuation of specified materials under certain circumstances; providing requirements for certain meetings of school district committees relating to instructional materials; requiring the Commissioner of Education to appoint a special magistrate under certain circumstances; providing requirements for and duties of the special magistrate; requiring the State Board of Education to approve or reject the special magistrate’s recommendation within a specified timeframe; requiring school districts to bear the costs of the special magistrate; requiring the State Board of Education to adopt rules; revising certain district school board procedures relating to library media center collections; revising elementary school requirements relating to materials in specified libraries; requiring district school boards to adopt and publish a specified process relating to student access to certain materials; revising district school board reporting requirements relating to materials which received certain objections;

requiring school principals to communicate to and notify parents of certain procedures and processes relating to instructional materials; reenacting ss. 1000.05(2), (3), (4)(a), (5), and (6)(d), 1001.453(2)(c), 1002.42(3)(a), 1003.27(2)(b) and (c), 1003.42(3)(a), (c), (e), and (f), 1004.43(2), 1006.205(2)(b) and (3), 1009.23(7), 1009.24(10)(b), 1009.983(6), 1009.986(3)(e), and 1014.05(1)(c), (d), and (f), F.S., to incorporate the amendment made to s. 1000.21, F.S., in references thereto; providing severability; providing an effective date.

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

Section 1. Subsection (9) is added to section 1000.21, Florida Statutes, to read:

1000.21 Systemwide definitions.—As used in the Florida Early Learning-20 Education Code:

(9) “Sex” means the classification of a person as either female or male based on the organization of the body of such person for a specific reproductive role, as indicated by the person’s sex chromosomes, naturally occurring sex hormones, and internal and external genitalia present at birth.

Section 2. Section 1000.071, Florida Statutes, is created to read:

1000.071 Personal titles and pronouns.—

(1) It shall be the policy of every public K-12 educational institution that is provided or authorized by the Constitution and laws of Florida that a person’s sex is an immutable biological trait and that it is false to ascribe to a person a pronoun that does not correspond to such person’s sex. This section does not apply to individuals born with a genetically or biochemically verifiable disorder of sex development, including, but not limited to, 46, XX disorder of sex development; 46, XY disorder of sex development; sex chromosome disorder of sex development; XX or XY sex reversal; and ovotesticular disorder.

(2) An employee, contractor, or student of a public K-12 educational institution may not be required, as a condition of employment or enrollment or participation in any program, to refer to another person using that person’s preferred personal title or pronouns if such personal title or pronouns do not correspond to that person’s sex.

(3) An employee or contractor of a public K-12 educational institution may not provide to a student his or her preferred personal title or pronouns if such preferred personal title or pronouns do not correspond to his or her sex.

(4) A student may not be asked by an employee or contractor of a public K-12 educational institution to provide his or her preferred personal title or

pronouns or be penalized or subjected to adverse or discriminatory treatment for not providing his or her preferred personal title or pronouns.

(5) The State Board of Education may adopt rules to administer this section.

Section 3. Paragraph (c) of subsection (8) of section 1001.42, Florida Statutes, is 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:

(8) STUDENT WELFARE.—

(c)1. In accordance with the rights of parents enumerated in ss. 1002.20 and 1014.04, adopt procedures for notifying a student's parent if there is a change in the student's services or monitoring related to the student's mental, emotional, or physical health or well-being and the school's ability to provide a safe and supportive learning environment for the student. The procedures must reinforce the fundamental right of parents to make decisions regarding the upbringing and control of their children by requiring school district personnel to encourage a student to discuss issues relating to his or her well-being with his or her parent or to facilitate discussion of the issue with the parent. The procedures may not prohibit parents from accessing any of their student's education and health records created, maintained, or used by the school district, as required by s. 1002.22(2).

2. A school district may not adopt procedures or student support forms that prohibit school district personnel from notifying a parent about his or her student's mental, emotional, or physical health or well-being, or a change in related services or monitoring, or that encourage or have the effect of encouraging a student to withhold from a parent such information. School district personnel may not discourage or prohibit parental notification of and involvement in critical decisions affecting a student's mental, emotional, or physical health or well-being. This subparagraph does not prohibit a school district from adopting procedures that permit school personnel to withhold such information from a parent if a reasonably prudent person would believe that disclosure would result in abuse, abandonment, or neglect, as those terms are defined in s. 39.01.

3. Classroom instruction by school personnel or third parties on sexual orientation or gender identity may not occur in prekindergarten kindergarten through grade 8, except when required by ss. 1003.42(2)(n)3. and 1003.46. If such instruction is provided in grades 9 through 12, the instruction must be 3 or in a manner that is not age-appropriate or developmentally appropriate for students in accordance with state standards. This subparagraph applies to charter schools.

4. Student support services training developed or provided by a school district to school district personnel must adhere to student services guidelines, standards, and frameworks established by the Department of Education.

5. At the beginning of the school year, each school district shall notify parents of each health care service offered at their student's school and the option to withhold consent or decline any specific service in accordance with s. 1014.06. Parental consent to a health care service does not waive the parent's right to access his or her student's educational or health records or to be notified about a change in his or her student's services or monitoring as provided by this paragraph.

6. Before administering a student well-being questionnaire or health screening form to a student in kindergarten through grade 3, the school district must provide the questionnaire or health screening form to the parent and obtain the permission of the parent.

7. Each school district shall adopt procedures for a parent to notify the principal, or his or her designee, regarding concerns under this paragraph at his or her student's school and the process for resolving those concerns within 7 calendar days after notification by the parent.

a. At a minimum, the procedures must require that within 30 days after notification by the parent that the concern remains unresolved, the school district must either resolve the concern or provide a statement of the reasons for not resolving the concern.

b. If a concern is not resolved by the school district, a parent may:

(I) Request the Commissioner of Education to appoint a special magistrate who is a member of The Florida Bar in good standing and who has at least 5 years' experience in administrative law. The special magistrate shall determine facts relating to the dispute over the school district procedure or practice, consider information provided by the school district, and render a recommended decision for resolution to the State Board of Education within 30 days after receipt of the request by the parent. The State Board of Education must approve or reject the recommended decision at its next regularly scheduled meeting that is more than 7 calendar days and no more than 30 days after the date the recommended decision is transmitted. The costs of the special magistrate shall be borne by the school district. The State Board of Education shall adopt rules, including forms, necessary to implement this subparagraph.

(II) Bring an action against the school district to obtain a declaratory judgment that the school district procedure or practice violates this paragraph and seek injunctive relief. A court may award damages and shall award reasonable attorney fees and court costs to a parent who receives declaratory or injunctive relief.

c. Each school district shall adopt and post on its website policies to notify parents of the procedures required under this subparagraph.

d. Nothing contained in this subparagraph shall be construed to abridge or alter rights of action or remedies in equity already existing under the common law or general law.

Section 4. Paragraph (b) of subsection (1) of section 1003.42, Florida Statutes, is amended to read:

1003.42 Required instruction.—

(1)

(b) All ~~instructional materials, as defined in s. 1006.29(2),~~ used to teach reproductive health or any disease, including HIV/AIDS, its symptoms, development, and treatment, as part of the courses referenced in subsection (5), must be ~~annually approved by the department~~ annually approved by the department or a district school board in an open, noticed public meeting.

Section 5. Subsection (2) of section 1003.46, Florida Statutes, is amended to read:

1003.46 Health education; instruction in acquired immune deficiency syndrome.—

(2) Throughout instruction in acquired immune deficiency syndrome, sexually transmitted diseases, or health education, when such instruction and course material contains instruction in human sexuality, a school shall:

(a) Classify males and females as provided in s. 1000.21(9) and teach that biological males impregnate biological females by fertilizing the female egg with male sperm; that the female then gestates the offspring; and that these reproductive roles are binary, stable, and unchangeable.

~~(b)~~(a) Teach abstinence from sexual activity outside of marriage as the expected standard for all school-age students while teaching the benefits of monogamous heterosexual marriage.

~~(c)~~(b) Emphasize that abstinence from sexual activity is a certain way to avoid out-of-wedlock pregnancy, sexually transmitted diseases, including acquired immune deficiency syndrome, and other associated health problems.

~~(d)~~(e) Teach that each student has the power to control personal behavior and encourage students to base actions on reasoning, self-esteem, and respect for others.

~~(e)~~(d) Provide instruction and material that is appropriate for the grade and age of the student.

The Department of Education must approve any materials used for instruction under this subsection.

Section 6. Paragraphs (a), (d), and (e) of subsection (2) and paragraphs (a) and (f) of subsection (4) of section 1006.28, Florida Statutes, are amended to read:

1006.28 Duties of district school board, district school superintendent; and school principal regarding K-12 instructional materials.—

(2) DISTRICT SCHOOL BOARD.—The district school board has the constitutional duty and responsibility to select and provide adequate instructional materials for all students in accordance with the requirements of this part. The district school board also has the following specific duties and responsibilities:

(a) Courses of study; adoption.—Adopt courses of study, including instructional materials, for use in the schools of the district.

1. Each district school board is responsible for the content of all instructional materials and any other materials used in a classroom, made available in a school or classroom library, or included on a reading list, whether adopted and purchased from the state-adopted instructional materials list, adopted and purchased through a district instructional materials program under s. 1006.283, or otherwise purchased or made available.

2. Each district school board must adopt a policy regarding an objection by a parent or a resident of the county to the use of a specific material, which clearly describes a process to handle all objections and provides for resolution. The objection form, as prescribed by State Board of Education rule, and the district school board's process must be easy to read and understand and be easily accessible on the homepage of the school district's website. The objection form must also identify the school district point of contact and contact information for the submission of an objection. The process must provide the parent or resident the opportunity to proffer evidence to the district school board that:

a. An instructional material does not meet the criteria of s. 1006.31(2) or s. 1006.40(3)(d) if it was selected for use in a course or otherwise made available to students in the school district but was not subject to the public notice, review, comment, and hearing procedures under s. 1006.283(2)(b)8., 9., and 11.

b. Any material used in a classroom, made available in a school or classroom library, or included on a reading list contains content which: ~~that~~

(I) Is pornographic or prohibited under s. 847.012;—

(II) Depicts or describes sexual conduct as defined in s. 847.001(19), unless such material is for a course required by s. 1003.46, s. 1003.42(2)(n) 1.g., or s. 1003.42(2)(n)3., or identified by State Board of Education rule;

(III) Is not suited to student needs and their ability to comprehend the material presented; or

(IV) Is inappropriate for the grade level and age group for which the material is used.

Any material that is subject to an objection on the basis of sub-sub-subparagraph b.(I) or sub-sub-subparagraph b.(II) must be removed within 5 school days of receipt of the objection and remain unavailable to students of that school until the objection is resolved. Parents shall have the right to read passages from any material that is subject to an objection. If the school board denies a parent the right to read passages due to content that meets the requirements under sub-sub-subparagraph b.(I), the school district shall discontinue the use of the material. If the district school board finds that any an instructional material meets ~~does not meet~~ the requirements criteria under sub-subparagraph a. or that any other material contains prohibited content under sub-sub-subparagraph b.(I) ~~sub-subparagraph b.~~, the school district shall discontinue use of the material. If the district school board finds that any other material contains prohibited content under sub-sub-subparagraph b. (II)-(IV), the school district shall discontinue use of the material for any grade level or age group for which such use is inappropriate or unsuitable.

3. Each district school board must establish a process by which the parent of a public school student or a resident of the county may contest the district school board's adoption of a specific instructional material. The parent or resident must file a petition, on a form provided by the school board, within 30 calendar days after the adoption of the instructional material by the school board. The school board must make the form available to the public and publish the form on the school district's website. The form must be signed by the parent or resident, include the required contact information, and state the objection to the instructional material based on the criteria of s. 1006.31(2) or s. 1006.40(3)(d). Within 30 days after the 30-day period has expired, the school board must, for all petitions timely received, conduct at least one open public hearing before an unbiased and qualified hearing officer. The hearing officer may not be an employee or agent of the school district. The hearing is not subject to the provisions of chapter 120; however, the hearing must provide sufficient procedural protections to allow each petitioner an adequate and fair opportunity to be heard and present evidence to the hearing officer. The school board's decision after convening a hearing is final and not subject to further petition or review.

4. Meetings of committees convened for the purpose of ranking, eliminating, or selecting instructional materials for recommendation to the district school board must be noticed and open to the public in accordance

with s. 286.011. Any committees convened for such purposes must include parents of district students who will have access to such materials.

5. Meetings of committees convened for the purpose of resolving an objection by a parent or resident to specific materials must be noticed and open to the public in accordance with s. 286.011. Any committees convened for such purposes must include parents of students who will have access to such materials.

6. If a parent disagrees with the determination made by the district school board on the objection to the use of a specific material, a parent may request the Commissioner of Education to appoint a special magistrate who is a member of The Florida Bar in good standing and who has at least 5 years' experience in administrative law. The special magistrate shall determine facts relating to the school district's determination, consider information provided by the parent and the school district, and render a recommended decision for resolution to the State Board of Education within 30 days after receipt of the request by the parent. The State Board of Education must approve or reject the recommended decision at its next regularly scheduled meeting that is more than 7 calendar days and no more than 30 days after the date the recommended decision is transmitted. The costs of the special magistrate shall be borne by the school district. The State Board of Education shall adopt rules, including forms, necessary to implement this subparagraph.

(d) School library media services; establishment and maintenance.— Establish and maintain a program of school library media services for all public schools in the district, including school library media centers, or school library media centers open to the public, and, in addition such traveling or circulating libraries as may be needed for the proper operation of the district school system. Beginning January 1, 2023, school librarians, media specialists, and other personnel involved in the selection of school district library materials must complete the training program developed pursuant to s. 1006.29(6) before reviewing and selecting age-appropriate materials and library resources. Upon written request, a school district shall provide access to any material or book specified in the request that is maintained in a district school system library and is available for review.

1. Each book made available to students through a school district library media center or included in a recommended or assigned school or grade-level reading list must be selected by a school district employee who holds a valid educational media specialist certificate, regardless of whether the book is purchased, donated, or otherwise made available to students.

2. Each district school board shall adopt procedures for developing library media center collections and post the procedures on the website for each school within the district. The procedures must:

- a. Require that book selections meet the criteria in s. 1006.40(3)(d).



b. Require consultation of reputable, professionally recognized reviewing periodicals and school community stakeholders.

c. Provide for library media center collections, including classroom libraries, based on reader interest, support of state academic standards and aligned curriculum, and the academic needs of students and faculty.

d. Provide for the regular removal or discontinuance of books based on, at a minimum, physical condition, rate of recent circulation, alignment to state academic standards and relevancy to curriculum, out-of-date content, and required removal pursuant to subparagraph (a)2.

3. Each elementary school must publish on its website, in a searchable format prescribed by the department, a list of all materials maintained and accessible in the school library media center or a classroom library or required as part of a school or grade-level reading list.

4. Each district school board shall adopt and publish on its website the process for a parent to limit his or her student’s access to materials in the school or classroom library.

(e) Public participation.—Publish on its website, in a searchable format prescribed by the department, a list of all instructional materials, including those used to provide instruction required by s. 1003.42. Each district school board must:

1. Provide access to all materials, excluding teacher editions, in accordance with s. 1006.283(2)(b)8.a. before the district school board takes any official action on such materials. This process must include reasonable safeguards against the unauthorized use, reproduction, and distribution of instructional materials considered for adoption.

2. Select, approve, adopt, or purchase all materials as a separate line item on the agenda and provide a reasonable opportunity for public comment. The use of materials described in this paragraph may not be selected, approved, or adopted as part of a consent agenda.

3. Annually, beginning June 30, 2023, submit to the Commissioner of Education a report that identifies:

a. Each material for which the school district received an objection pursuant to subparagraph (a)2., including the grade level and course the material was used in, for the school year and the specific objections thereto.

b. Each material that was removed or discontinued ~~as a result of an objection.~~

c. Each material that was not removed or discontinued and the rationale for not removing or discontinuing the material ~~The grade level and course for which a removed or discontinued material was used, as applicable.~~

The department shall publish and regularly update a list of materials that were removed or discontinued as a result of an objection and disseminate the list to school districts for consideration in their selection procedures.

(4) SCHOOL PRINCIPAL.—The school principal has the following duties for the management and care of materials at the school:

(a) Proper use of instructional materials.—The principal shall assure that instructional materials are used to provide instruction to students enrolled at the grade level or levels for which the materials are designed, pursuant to adopted district school board rule. The school principal shall communicate to parents the manner in which instructional materials are used to implement the curricular objectives of the school and the procedures for contesting the adoption and use of instructional materials.

(f) Selection of library media center materials.—School principals are responsible for overseeing compliance with school district procedures for selecting school library media center materials at the school to which they are assigned and notifying parents of the process for objecting to the use of specific materials.

Section 7. Sections 1000.05(2), (3), (4)(a), (5), and (6)(d), 1001.453(2)(c), 1002.42(3)(a), 1003.27(2)(b) and (c), 1003.42(3)(a), (c), (e), and (f), 1004.43(2), 1006.205(2)(b) and (3), 1009.23(7), 1009.24(10)(b), 1009.983(6), 1009.986(3)(e), and 1014.05(1)(c), (d), and (f), Florida Statutes, are reenacted for the purpose of incorporating the amendment made by this act to s. 1000.21, Florida Statutes, in references thereto.

Section 8. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

Section 9. This act shall take effect July 1, 2023.

Approved by the Governor May 17, 2023.

Filed in Office Secretary of State May 17, 2023.