

Select Year: 

The 2005 Florida Statutes

CHAPTER 1002

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PART I

GENERAL PROVISIONS

1002.01 Definitions.

1002.01 Definitions.--

(1) A "home education program" means the sequentially progressive instruction of a student directed by his or her parent in order to satisfy the attendance requirements of ss. 1002.41, 1003.01(4), and 1003.21(1).

(2) A "private school" is a nonpublic school defined as an individual, association, copartnership, or corporation, or department, division, or section of such organizations, that designates itself as an educational center that includes kindergarten or a higher grade or as an elementary, secondary, business, technical, or trade school below college level or any organization that provides instructional services that meet the intent of s. 1003.01(13) or that gives preemployment or supplementary training in technology or in fields of trade or industry or that offers academic, literary, or career training below college level, or any combination of the above, including an institution that performs the functions of the above schools through correspondence or extension, except those licensed under the provisions of

chapter 1005. A private school may be a parochial, religious, denominational, for-profit, or nonprofit school. This definition does not include home education programs conducted in accordance with s. 1002.41.

History.--s. 90, ch. 2002-387; s. 32, ch. 2004-41; s. 76, ch. 2004-357.

PART II

STUDENT AND PARENTAL RIGHTS

1002.20 K-12 student and parent rights.

1002.205 Guidelines on religious expression; distribution.

1002.21 Postsecondary student and parent rights.

1002.22 Student records and reports; rights of parents and students; notification; penalty.

1002.23 Family and School Partnership for Student Achievement Act.

1002.20 K-12 student and parent rights.--Parents of public school students must receive accurate and timely information regarding their child's academic progress and must be informed of ways they can help their child to succeed in school. K-12 students and their parents are afforded numerous statutory rights including, but not limited to, the following:

(1) **SYSTEM OF EDUCATION.**--In accordance with s. 1, Art. IX of the State Constitution, all K-12 public school students are entitled to a uniform, safe, secure, efficient, and high quality system of education, one that allows students the opportunity to obtain a high quality education. Parents are responsible to ready their children for school; however, the State of Florida cannot be the guarantor of each individual student's success.

(2) **ATTENDANCE.**--

(a) *Compulsory school attendance.*--The compulsory school attendance laws apply to all children between the ages of 6 and 16 years, as provided in s. 1003.21(1) and (2)(a), and, in accordance with the provisions of s. 1003.21(1) and (2)(a):

1. A student who attains the age of 16 years during the school year has the right to file a formal declaration of intent to terminate school enrollment if the declaration is signed by the parent. The parent has the right to be notified by the school district of the district's receipt of the student's declaration of intent to terminate school enrollment.
2. Students who become or have become married or who are pregnant and parenting have the right to attend school and receive the same or equivalent educational instruction as other students.

(b) *Regular school attendance.*--Parents of students who have attained the age of 6 years by February 1 of any school year but who have not attained the age of 16 years must comply with the compulsory school attendance laws. Parents have the option to comply with the school attendance laws by attendance of the student in a public school; a parochial, religious, or denominational school; a private school; a home education program; or a private tutoring program, in accordance with the provisions of s. 1003.01(13).

(c) *Absence for religious purposes.*--A parent of a public school student may request and be granted permission for absence of the student from school for religious instruction or religious holidays, in accordance with the provisions of s. 1003.21(2)(b).

(d) *Dropout prevention and academic intervention programs.*--The parent of a public school student has the right to receive written notice by certified mail prior to placement of the student in a dropout prevention and academic intervention program and shall be notified in writing and entitled to an administrative review of any action by school personnel relating to the student's placement, in accordance with the provisions of s. 1003.53(5).

(3) HEALTH ISSUES.--

(a) *School-entry health examinations.*--The parent of any child attending a public or private school shall be exempt from the requirement of a health examination upon written request stating objections on religious grounds in accordance with the provisions of s. 1003.22(1) and (2).

(b) *Immunizations.*--The parent of any child attending a public or private school shall be exempt from the school immunization requirements upon meeting any of the exemptions in accordance with the provisions of s. 1003.22(5).

(c) *Biological experiments.*--Parents may request that their child be excused from performing surgery or dissection in biological science classes in accordance with the provisions of s. 1003.47.

(d) *Reproductive health and disease education.*--A public school student whose parent makes written request to the school principal shall be exempted from the teaching of reproductive health or any disease, including HIV/AIDS, in accordance with the provisions of s. 1003.42(3).

(e) *Contraceptive services to public school students.*--In accordance with the provisions of s. 1006.062(7), students may not be referred to or offered contraceptive services at school facilities without the parent's consent.

(f) *Career education courses involving hazardous substances.*--High school students must be given plano safety glasses or devices in career education courses involving the use of hazardous substances likely to cause eye injury, in accordance with the provisions of s. 1006.65.

(g) *Substance abuse reports.*--The parent of a public school student must be timely notified of any verified report of a substance abuse violation by the student, in accordance with the provisions of s. 1006.09(8).

(h) *Inhaler use.*--Asthmatic students whose parent and physician provide their approval to the school principal may carry a metered dose inhaler on their person while in school. The school principal shall be provided a copy of the parent's and physician's approval.

(i) *Epinephrine use.*--A student who has experienced or is at risk for life-threatening allergic reactions may carry an epinephrine auto-injector and self-administer epinephrine by auto-injector while in school, participating in school-sponsored activities, or in transit to or from school or school-sponsored activities if the school has been provided with parental and physician authorization. The State Board of Education, in cooperation with the Department of Health, shall adopt rules for such use of epinephrine auto-injectors that shall include provisions to protect the safety of all students from the misuse or abuse of auto-injectors. A school district, county health department, public-private partner, and their employees and volunteers shall be indemnified by the parent of a student authorized to carry an epinephrine auto-injector for any and all liability with respect to the student's use of an epinephrine auto-injector pursuant to this paragraph.

(4) DISCIPLINE.--

(a) *Suspension of public school student.*--In accordance with the provisions of s. 1006.09(1)-(4):

1. A student may be suspended only as provided by rule of the district school board. A good faith effort must be made

to immediately inform the parent by telephone of the student's suspension and the reason. Each suspension and the reason must be reported in writing within 24 hours to the parent by United States mail. A good faith effort must be made to use parental assistance before suspension unless the situation requires immediate suspension.

2. A student with a disability may only be recommended for suspension or expulsion in accordance with State Board of Education rules.

(b) *Expulsion*.--Public school students and their parents have the right to written notice of a recommendation of expulsion, including the charges against the student and a statement of the right of the student to due process, in accordance with the provisions of s. 1001.51(8).

(c) *Corporal punishment*.--In accordance with the provisions of s. 1003.32, corporal punishment of a public school student may only be administered by a teacher or school principal within guidelines of the school principal and according to district school board policy. Another adult must be present and must be informed in the student's presence of the reason for the punishment. Upon request, the teacher or school principal must provide the parent with a written explanation of the reason for the punishment and the name of the other adult who was present.

(5) SAFETY.--In accordance with the provisions of s. 1006.13(5), students who have been victims of certain felony offenses by other students, as well as the siblings of the student victims, have the right to be kept separated from the student offender both at school and during school transportation.

(6) EDUCATIONAL CHOICE.--

(a) *Public school choices*.--Parents of public school students may seek whatever public school choice options that are applicable to their students and are available to students in their school districts. These options may include controlled open enrollment, lab schools, charter schools, charter technical career centers, magnet schools, alternative schools, special programs, advanced placement, dual enrollment, International Baccalaureate, International General Certificate of Secondary Education (pre-AICE), Advanced International Certificate of Education, early admissions, credit by examination or demonstration of competency, the New World School of the Arts, the Florida School for the Deaf and the Blind, and the Florida Virtual School. These options may also include the public school choice options of the Opportunity Scholarship Program and the McKay Scholarships for Students with Disabilities Program.

(b) *Private school choices*.--Parents of public school students may seek private school choice options under certain programs.

1. Under the Opportunity Scholarship Program, the parent of a student in a failing public school may request and receive an opportunity scholarship for the student to attend a private school in accordance with the provisions of s. 1002.38.

2. Under the McKay Scholarships for Students with Disabilities Program, the parent of a public school student with a disability who is dissatisfied with the student's progress may request and receive a McKay Scholarship for the student to attend a private school in accordance with the provisions of s. 1002.39.

3. Under the corporate income tax credit scholarship program, the parent of a student who qualifies for free or reduced-price school lunch may seek a scholarship from an eligible nonprofit scholarship-funding organization in accordance with the provisions of s. 220.187.

(c) *Home education*.--The parent of a student may choose to place the student in a home education program in accordance with the provisions of s. 1002.41.

(d) *Private tutoring*.--The parent of a student may choose to place the student in a private tutoring program in

accordance with the provisions of s. 1002.43(1).

(7) **NONDISCRIMINATION.**--All education programs, activities, and opportunities offered by public educational institutions must be made available without discrimination on the basis of race, ethnicity, national origin, gender, disability, or marital status, in accordance with the provisions of s. 1000.05.

(8) **STUDENTS WITH DISABILITIES.**--Parents of public school students with disabilities and parents of public school students in residential care facilities are entitled to notice and due process in accordance with the provisions of ss. 1003.57 and 1003.58. Public school students with disabilities must be provided the opportunity to meet the graduation requirements for a standard high school diploma in accordance with the provisions of s. 1003.43(4). Certain public school students with disabilities may be awarded a special diploma upon high school graduation.

(9) **BLIND STUDENTS.**--Blind students have the right to an individualized written education program and appropriate instructional materials to attain literacy, in accordance with provisions of s. 1003.55.

(10) **LIMITED ENGLISH PROFICIENT STUDENTS.**--In accordance with the provisions of s. 1003.56, limited English proficient students have the right to receive ESOL (English for Speakers of Other Languages) instruction designed to develop the student's mastery of listening, speaking, reading, and writing in English as rapidly as possible, and the students' parents have the right of parental involvement in the ESOL program.

(11) **STUDENTS WITH READING DEFICIENCIES.**--Each elementary school shall regularly assess the reading ability of each K-3 student. The parent of any K-3 student who exhibits a reading deficiency shall be immediately notified of the student's deficiency with a description and explanation, in terms understandable to the parent, of the exact nature of the student's difficulty in learning and lack of achievement in reading; shall be consulted in the development of a detailed academic improvement plan, as described in s. 1008.25(4)(b); and shall be informed that the student will be given intensive reading instruction until the deficiency is corrected. This subsection operates in addition to the remediation and notification provisions contained in s. 1008.25 and in no way reduces the rights of a parent or the responsibilities of a school district under that section.

(12) **PLEDGE OF ALLEGIANCE.**--A public school student must be excused from reciting the pledge of allegiance upon written request by the student's parent, in accordance with the provisions of s. 1003.44.

(13) **STUDENT RECORDS.**--

(a) *Parent rights.*--Parents have rights regarding the student records of their children, including right of access, right of waiver of access, right to challenge and hearing, and right of privacy, in accordance with the provisions of s. 1002.22.

(b) *Student rights.*--In accordance with the provisions of s. 1008.386, a student is not required to provide his or her social security number as a condition for enrollment or graduation.

(14) **STUDENT REPORT CARDS.**--Students and their parents have the right to receive student report cards on a regular basis that clearly depict and grade the student's academic performance in each class or course, the student's conduct, and the student's attendance, in accordance with the provisions of s. 1003.33.

(15) **STUDENT PROGRESS REPORTS.**--Parents of public school students shall be apprised at regular intervals of the academic progress and other needed information regarding their child, in accordance with the provisions of s. 1003.02(1)(h)2.

(16) **SCHOOL ACCOUNTABILITY AND SCHOOL IMPROVEMENT RATING REPORTS.**--Parents of public school students are entitled to an easy-to-read report card about the grade designation, school accountability including the school financial

report, and school improvement rating of their child's school in accordance with the provisions of ss. 1008.22, 1003.02(3), and 1010.215(5).

(17) ATHLETICS; PUBLIC HIGH SCHOOL.--

(a) *Eligibility.*--Eligibility requirements for all students participating in high school athletic competition must allow a student to be eligible in the school in which he or she first enrolls each school year, or makes himself or herself a candidate for an athletic team by engaging in practice before enrolling, in accordance with the provisions of s. 1006.20(2)(a).

(b) *Medical evaluation.*--Students must satisfactorily pass a medical evaluation each year before participating in athletics, unless the parent objects in writing based on religious tenets or practices, in accordance with the provisions of s. 1006.20(2)(d).

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

(a) *Eligibility.*--Students who meet specified academic and conduct requirements are eligible to participate in extracurricular activities.

(b) *Home education students.*--Home education students who meet specified academic and conduct requirements are eligible to participate in extracurricular activities at the public school to which the student would be assigned or could choose to attend according to district school board policies, or may develop an agreement to participate at a private school.

(c) *Charter school students.*--Charter school students who meet specified academic and conduct requirements are eligible to participate in extracurricular activities at the public school to which the student would be assigned or could choose to attend according to district school board policies, unless such activity is provided by the student's charter school.

(d) *Discrimination prohibited.*--Organizations that regulate or govern extracurricular activities of public schools shall not discriminate against any eligible student based on an educational choice of public, private, or home education.

(19) INSTRUCTIONAL MATERIALS.--

(a) *Core courses.*--Each public school student is entitled to sufficient instructional materials in the core courses of mathematics, language arts, social studies, science, reading, and literature, in accordance with the provisions of ss. 1003.02(1)(d) and 1006.40(2).

(b) *Curricular objectives.*--The parent of each public school student has the right to receive effective communication from the school principal as to the manner in which instructional materials are used to implement the school's curricular objectives, in accordance with the provisions of s. 1006.28(3)(a).

(c) *Sale of instructional materials.*--Upon request of the parent of a public school student, the school principal must sell to the parent any instructional materials used in the school, in accordance with the provisions of s. 1006.28(3)(c).

(d) *Dual enrollment students.*--Instructional materials purchased by a district school board or community college board of trustees on behalf of public school dual enrollment students shall be made available to the dual enrollment students free of charge, in accordance with the provisions of s. 1007.271(14) and (15).

(20) JUVENILE JUSTICE PROGRAMS.--Students who are in juvenile justice programs have the right to receive educational programs and services in accordance with the provisions of s. 1003.52.

(21) PARENTAL INPUT AND MEETINGS.--

(a) *Meetings with school district personnel.*--Parents of public school students may be accompanied by another adult of their choice at any meeting with school district personnel.

(b) *School district best financial management practice reviews.*--Public school students and their parents may provide input regarding their concerns about the operations and management of the school district both during and after the conduct of a school district best financial management practices review, in accordance with the provisions of s. 1008.35.

(c) *District school board educational facilities programs.*--Parents of public school students and other members of the public have the right to receive proper public notice and opportunity for public comment regarding the district school board's educational facilities work program, in accordance with the provisions of s. 1013.35.

(22) TRANSPORTATION.--

(a) *Transportation to school.*--Public school students shall be provided transportation to school, in accordance with the provisions of s. 1006.21(3)(a).

(b) *Hazardous walking conditions.*--K-6 public school students shall be provided transportation if they are subjected to hazardous walking conditions, in accordance with the provisions of ss. 1006.21(3)(b) and 1006.23.

(c) *Parental consent.*--Each parent of a public school student must be notified in writing and give written consent before the student may be transported in a privately owned motor vehicle to a school function, in accordance with the provisions of s. 1006.22(2)(b).

(23) ORDERLY, DISCIPLINED CLASSROOMS.--Public school students shall be in orderly, disciplined classrooms conducive to learning without the distraction caused by disobedient, disrespectful, violent, abusive, uncontrollable, or disruptive students, in accordance with s. 1003.32.

History.--s. 92, ch. 2002-387; s. 6, ch. 2003-118; s. 32, ch. 2003-391; s. 33, ch. 2004-41; s. 5, ch. 2004-42; s. 77, ch. 2004-357; s. 2, ch. 2005-75; s. 1, ch. 2005-196.

1002.205 Guidelines on religious expression; distribution.--The Department of Education shall each year distribute for informational purposes to all district school board members, district school superintendents, school principals, and teachers the entire guidelines on "Religious Expression in Public Schools" published by the United States Department of Education, as updated from time to time.

History.--s. 1063, ch. 2002-387.

1002.21 Postsecondary student and parent rights.--

(1) STUDENT RECORDS.--Parents have rights regarding the student records of their children, and students 18 years of age and older have rights regarding their student records, including right of access, right of waiver of access, right to challenge and hearing, and right of privacy, in accordance with the provisions of ss. 1002.22, 1005.36, and 1006.52.

(2) LEARNING DISABLED STUDENTS.--Impaired and learning disabled students may be eligible for reasonable substitution for admission, graduation, and upper-level division requirements of public postsecondary educational institutions, in accordance with the provisions of ss. 1007.264 and 1007.265.

(3) EXPULSION, SUSPENSION, DISCIPLINE.--Public postsecondary education students may be expelled, suspended, or

otherwise disciplined by the president of a public postsecondary educational institution after notice to the student of the charges and a hearing on the charges, in accordance with the provisions of s. 1006.62.

(4) RELIGIOUS BELIEFS.--Public postsecondary educational institutions must provide reasonable accommodations for the religious practices and beliefs of individual students in regard to admissions, class attendance, and the scheduling of examinations and work assignments, in accordance with the provisions of s. 1006.53, and must provide and describe in the student handbook a grievance procedure for students to seek redress when they feel they have been unreasonably denied an educational benefit due to their religious beliefs or practices.

(5) STUDENT HANDBOOKS.--Each state university and community college shall provide its students with an up-to-date student handbook that includes student rights and responsibilities, appeals processes available to students, contact persons available to help students, student conduct code, and information regarding HIV and AIDS, in accordance with the provisions of s. 1006.50.

(6) STUDENT OMBUDSMAN OFFICE.--Each state university and community college shall maintain a student ombudsman office and established procedures for students to appeal to the office regarding decisions about the student's access to courses and credit granted toward the student's degree, in accordance with the provisions of s. 1006.51.

History.--s. 93, ch. 2002-387; s. 8, ch. 2003-8.

1002.22 Student records and reports; rights of parents and students; notification; penalty.--

(1) PURPOSE.--The purpose of this section is to protect the rights of students and their parents with respect to student records and reports as created, maintained, and used by public educational institutions in the state. The intent of the Legislature is that students and their parents shall have rights of access, rights of challenge, and rights of privacy with respect to such records and reports, and that rules shall be available for the exercise of these rights.

(2) DEFINITIONS.--As used in this section:

(a) "Chief executive officer" means that person, whether elected or appointed, who is responsible for the management and administration of any public educational body or unit, or the chief executive officer's designee for student records; that is, the district school superintendent, the director of a career center, the president of a public postsecondary educational institution, or their designees.

(b) "Directory information" includes the student's name, address, telephone number if it is a listed number, date and place of birth, major field of study, participation in officially recognized activities and sports, weight and height of members of athletic teams, dates of attendance, degrees and awards received, and the most recent previous educational agency or institution attended by the student.

(c) "Records" and "reports" mean official records, files, and data directly related to students that are created, maintained, and used by public educational institutions, including all material that is incorporated into each student's cumulative record folder and intended for school use or to be available to parties outside the school or school system for legitimate educational or research purposes. Materials that shall be considered as part of a student's record include, but are not necessarily limited to: identifying data, including a student's social security number; academic work completed; level of achievement records, including grades and standardized achievement test scores; attendance data; scores on standardized intelligence, aptitude, and psychological tests; interest inventory results; health data; family background information; teacher or counselor ratings and observations; verified reports of serious or recurrent behavior patterns; and any other evidence, knowledge, or information recorded in any medium, including, but not limited to, handwriting, typewriting, print, magnetic tapes, film, microfilm, and microfiche, and maintained and used by an educational agency or institution or by a person acting for such agency or institution. However, the terms

"records" and "reports" do not include:

1. Records of instructional, supervisory, and administrative personnel, and educational personnel ancillary to those persons, that are kept in the sole possession of the maker of the record and are not accessible or revealed to any other person except a substitute for any of such persons. An example of records of this type is instructor's grade books.
2. Records of law enforcement units of the institution that are maintained solely for law enforcement purposes and that are not available to persons other than officials of the institution or law enforcement officials of the same jurisdiction in the exercise of that jurisdiction.
3. Records made and maintained by the institution in the normal course of business that relate exclusively to a student in his or her capacity as an employee and that are not available for use for any other purpose.
4. Records created or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in his or her professional or paraprofessional capacity, or assisting in that capacity, that are created, maintained, or used only in connection with the provision of treatment to the student and that are not available to anyone other than persons providing such treatment. However, such records shall be open to a physician or other appropriate professional of the student's choice.
5. Directory information as defined in this section.
6. Other information, files, or data that do not permit the personal identification of a student.
7. Letters or statements of recommendation or evaluation that were confidential under Florida law and that were received and made a part of the student's educational records prior to July 1, 1977.
8. Copies of the student's fingerprints. No public educational institution shall maintain any report or record relative to a student that includes a copy of the student's fingerprints.

(d) "Student" means any child or adult who is enrolled or who has been enrolled in any instructional program or activity conducted under the authority and direction of an institution comprising a part of the state system of public education and with respect to whom an educational institution maintains educational records and reports or personally identifiable information, but does not include a person who has not been in attendance as an enrollee at such institution.

(3) RIGHTS OF PARENT OR STUDENT.--The parent of any student who attends or has attended any public school, career center, or public postsecondary educational institution shall have the following rights with respect to any records or reports created, maintained, and used by any public educational institution in the state. However, whenever a student has attained 18 years of age, or is attending a postsecondary educational institution, the permission or consent required of, and the rights accorded to, the parents of the student shall thereafter be required of and accorded to the student only, unless the student is a dependent student of such parents as defined in 26 U.S.C. s. 152 (s. 152 of the Internal Revenue Code of 1954). The State Board of Education shall adopt rules whereby parents or students may exercise these rights:

(a) *Right of access.*--

1. Such parent or student shall have the right, upon request directed to the appropriate school official, to be provided with a list of the types of records and reports, directly related to students, as maintained by the institution that the student attends or has attended.

2. Such parent or student shall have the right, upon request, to be shown any record or report relating to such student maintained by any public educational institution. When the record or report includes information on more than one student, the parent or student shall be entitled to receive, or be informed of, only that part of the record or report that pertains to the student who is the subject of the request. Upon a reasonable request therefor, the institution shall furnish such parent or student with an explanation or interpretation of any such record or report.

3. Copies of any list, record, or report requested under the provisions of this paragraph shall be furnished to the parent or student upon request.

4. The State Board of Education shall adopt rules to be followed by all public educational institutions in granting requests for lists, or for access to reports and records or for copies or explanations thereof under this paragraph. However, access to any report or record requested under the provisions of subparagraph 2. shall be granted within 30 days after receipt of such request by the institution. Fees may be charged for furnishing any copies of reports or records requested under subparagraph 3., but such fees shall not exceed the actual cost to the institution of producing such copies.

(b) *Right of waiver of access to confidential letters or statements.*--A parent or student shall have the right to waive the right of access to letters or statements of recommendation or evaluation, except that such waiver shall apply to recommendations or evaluations only if:

1. The parent or student is, upon request, notified of the names of all persons submitting confidential letters or statements.

2. Such recommendations or evaluations are used solely for the purpose for which they were specifically intended.

Such waivers may not be required as a condition for admission to, receipt of financial aid from, or receipt of any other services or benefits from, any public agency or public educational institution in this state.

(c) *Right to challenge and hearing.*--A parent or student shall have the right to challenge the content of any record or report to which such person is granted access under paragraph (a), in order to ensure that the record or report is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the student and to provide an opportunity for the correction, deletion, or expunction of any inaccurate, misleading, or otherwise inappropriate data or material contained therein. Any challenge arising under the provisions of this paragraph may be settled through informal meetings or discussions between the parent or student and appropriate officials of the educational institution. If the parties at such a meeting agree to make corrections, to make deletions, to expunge material, or to add a statement of explanation or rebuttal to the file, such agreement shall be reduced to writing and signed by the parties; and the appropriate school officials shall take the necessary actions to implement the agreement. If the parties cannot reach an agreement, upon the request of either party, a hearing shall be held on such challenge under rules adopted by the State Board of Education. Upon the request of the parent or student, the hearing shall be exempt from the requirements of s. 286.011. Such rules shall include at least the following provisions:

1. The hearing shall be conducted within a reasonable period of time following the request for the hearing.

2. The hearing shall be conducted, and the decision rendered, by an official of the educational institution or other party who does not have a direct interest in the outcome of the hearing.

3. The parent or student shall be afforded a full and fair opportunity to present evidence relevant to the issues raised under this paragraph.

4. The decision shall be rendered in writing within a reasonable period of time after the conclusion of the hearing.
5. The appropriate school officials shall take the necessary actions to implement the decision.

(d) *Right of privacy.* --Every student has a right of privacy with respect to the educational records kept on him or her. Personally identifiable records or reports of a student, and any personal information contained therein, are confidential and exempt from s. 119.07(1). A state or local educational agency, board, public school, career center, or public postsecondary educational institution may not permit the release of such records, reports, or information without the written consent of the student's parent, or of the student himself or herself if he or she is qualified as provided in this subsection, to any individual, agency, or organization. However, personally identifiable records or reports of a student may be released to the following persons or organizations without the consent of the student or the student's parent:

1. Officials of schools, school systems, career centers, or public postsecondary educational institutions in which the student seeks or intends to enroll; and a copy of such records or reports shall be furnished to the parent or student upon request.
2. Other school officials, including teachers within the educational institution or agency, who have legitimate educational interests in the information contained in the records.
3. The United States Secretary of Education, the Director of the National Institute of Education, the Assistant Secretary for Education, the Comptroller General of the United States, or state or local educational authorities who are authorized to receive such information subject to the conditions set forth in applicable federal statutes and regulations of the United States Department of Education, or in applicable state statutes and rules of the State Board of Education.
4. Other school officials, in connection with a student's application for or receipt of financial aid.
5. Individuals or organizations conducting studies for or on behalf of an institution or a board of education for the purpose of developing, validating, or administering predictive tests, administering student aid programs, or improving instruction, if the studies are conducted in a manner that does not permit the personal identification of students and their parents by persons other than representatives of such organizations and if the information will be destroyed when no longer needed for the purpose of conducting such studies.
6. Accrediting organizations, in order to carry out their accrediting functions.
7. Early learning coalitions and the Agency for Workforce Innovation in order to carry out their assigned duties.
8. For use as evidence in student expulsion hearings conducted by a district school board under chapter 120.
9. Appropriate parties in connection with an emergency, if knowledge of the information in the student's educational records is necessary to protect the health or safety of the student or other individuals.
10. The Auditor General and the Office of Program Policy Analysis and Government Accountability in connection with their official functions; however, except when the collection of personally identifiable information is specifically authorized by law, any data collected by the Auditor General and the Office of Program Policy Analysis and Government Accountability is confidential and exempt from s. 119.07(1) and shall be protected in a way that does not permit the personal identification of students and their parents by other than the Auditor General, the Office of Program Policy Analysis and Government Accountability, and their staff, and the personally identifiable data shall be destroyed when no longer needed for the Auditor General's and the Office of Program Policy Analysis and Government Accountability's official use.

11.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, upon the condition that the student and the student's parent are notified of the order or subpoena in advance of compliance therewith by the educational institution or agency.

b. A person or entity in accordance with a court of competent jurisdiction in compliance with an order of that court or the attorney of record pursuant to a lawfully issued subpoena, upon the condition that the student, or his or her parent if the student is either a minor and not attending a postsecondary educational institution or a dependent of such parent as defined in 26 U.S.C. s. 152 (s. 152 of the Internal Revenue Code of 1954), is notified of the order or subpoena in advance of compliance therewith by the educational institution or agency.

12. Credit bureaus, in connection with an agreement for financial aid that the student has executed, if the information is disclosed only to the extent necessary to enforce the terms or conditions of the financial aid agreement. Credit bureaus shall not release any information obtained under this paragraph to any person.

13. Parties to an interagency agreement among the Department of Juvenile Justice, school and law enforcement authorities, and other signatory agencies for the purpose of reducing juvenile crime and especially motor vehicle theft by promoting cooperation and collaboration, and the sharing of appropriate information in a joint effort to improve school safety, to reduce truancy and in-school and out-of-school suspensions, and to support alternatives to in-school and out-of-school suspensions and expulsions that provide structured and well-supervised educational programs supplemented by a coordinated overlay of other appropriate services designed to correct behaviors that lead to truancy, suspensions, and expulsions, and that support students in successfully completing their education. Information provided in furtherance of the interagency agreements is intended solely for use in determining the appropriate programs and services for each juvenile or the juvenile's family, or for coordinating the delivery of the programs and services, and as such is inadmissible in any court proceedings before a dispositional hearing unless written consent is provided by a parent or other responsible adult on behalf of the juvenile.

14. Consistent with the Family Educational Rights and Privacy Act, the Department of Children and Family Services or a community-based care lead agency acting on behalf of the Department of Children and Family Services, as appropriate.

This paragraph does not prohibit any educational institution from publishing and releasing to the general public directory information relating to a student if the institution elects to do so. However, no educational institution shall release, to any individual, agency, or organization that is not listed in subparagraphs 1.-14., directory information relating to the student body in general or a portion thereof unless it is normally published for the purpose of release to the public in general. Any educational institution making directory information public shall give public notice of the categories of information that it has designated as directory information for all students attending the institution and shall allow a reasonable period of time after the notice has been given for a parent or student to inform the institution in writing that any or all of the information designated should not be released.

(4) NOTIFICATION.--Every parent and student entitled to rights relating to student records and reports under the provisions of subsection (3) shall be notified annually, in writing, of such rights and that the institution has a policy of supporting the law; the types of information and data generally entered in the student records as maintained by the institution; and the procedures to be followed in order to exercise such rights. The notification shall be general in form and in a manner to be determined by the State Board of Education and may be incorporated with other printed materials distributed to students, such as being printed on the back of school assignment forms or report cards for students attending kindergarten or grades 1 through 12 in the public school system and being printed in college catalogs or in other program announcement bulletins for students attending postsecondary educational institutions.

(5) PENALTY.--In the event that any public school official or employee, district school board official or employee, career center official or employee, or public postsecondary educational institution official or employee refuses to comply with any of the provisions of this section, the aggrieved parent or student shall have an immediate right to bring an action in the circuit court to enforce the violated right by injunction. Any aggrieved parent or student who brings such an action and whose rights are vindicated may be awarded attorney's fees and court costs.

(6) APPLICABILITY TO RECORDS OF DEFUNCT INSTITUTIONS.--The provisions of this section also apply to student records that any nonpublic educational institution that is no longer operating has deposited with the district school superintendent in the county where the nonpublic educational institution was located.

History.--s. 94, ch. 2002-387; s. 4, ch. 2004-356; s. 78, ch. 2004-357; s. 13, ch. 2004-484.

1002.23 Family and School Partnership for Student Achievement Act.--

(1) The purpose of the Family and School Partnership for Student Achievement Act is to:

- (a) Provide parents with specific information about their child's educational progress;
- (b) Provide parents with comprehensive information about their choices and opportunities for involvement in their child's education; and
- (c) Provide a framework for building and strengthening partnerships among parents, teachers, principals, district school superintendents, and other personnel.

Each district school board, school district superintendent, and teacher shall fully support and cooperate in implementing a well-planned, inclusive, and comprehensive program to assist parents and families in effectively participating in their child's education.

(2) To facilitate meaningful parent and family involvement, the Department of Education shall develop guidelines for a parent guide to successful student achievement which describes what parents need to know about their child's educational progress and how they can help their child to succeed in school. The guidelines shall include, but need not be limited to:

(a) Parental information regarding:

1. Requirements for their child to be promoted to the next grade, as provided for in s. 1008.25;
2. Progress of their child toward achieving state and district expectations for academic proficiency;
3. Assessment results, including report cards and progress reports; and
4. Qualifications of their child's teachers;

(b) Services available for parents and their children, such as family literacy services; mentoring, tutorial, and other academic reinforcement programs; college planning, academic advisement, and student counseling services; and after-school programs;

(c) Opportunities for parental participation, such as parenting classes, adult education, school advisory councils, and school volunteer programs;

(d) Opportunities for parents to learn about rigorous academic programs that may be available for their child, such as

honors programs, dual enrollment, advanced placement, International Baccalaureate, International General Certificate of Secondary Education (pre-AICE), Advanced International Certificate of Education, Florida Virtual High School courses, and accelerated access to postsecondary education;

(e) Educational choices, as provided for in s. 1002.20(6), and corporate income tax credit scholarships, as provided for in s. 220.187;

(f) Classroom and test accommodations available for students with disabilities; and

(g) School board rules, policies, and procedures for student promotion and retention, academic standards, student assessment, courses of study, instructional materials, and contact information for school and district offices.

(3) The Department of Education shall develop and disseminate a checklist for school districts to provide to parents to assist with the parent's involvement in their child's educational progress. The checklist shall address parental actions that:

(a) Strengthen the child's academic progress, especially in the area of reading;

(b) Strengthen the child's citizenship, especially social skills and respect for others;

(c) Strengthen the child's realization of high expectations and setting lifelong learning goals; and

(d) Place a strong emphasis on the communication between the school and the home.

(4) The Department of Education shall establish a parent-response center to provide assistance to parents and families in answering questions and resolving issues related to the child's education.

(5) Each district school board shall adopt rules that strengthen family involvement and family empowerment. The rules shall be developed in collaboration with parents, school administrators, teachers, and community partners, and shall address:

(a) Parental choices and responsibilities;

(b) Links with community services;

(c) Opportunities for parental involvement in the development, implementation, and evaluation of family involvement programs; and

(d) Opportunities for parents to participate on school advisory councils and in school volunteer programs and other activities.

(6) Beginning with the 2003-2004 school year, each school district shall submit a copy of the rules developed under subsection (5) to the Department of Education by October 1.

(7) Each school district shall develop and disseminate a parent guide to successful student achievement, consistent with the guidelines of the Department of Education, which addresses what parents need to know about their child's educational progress and how parents can help their child to succeed in school. The guide must:

(a) Be understandable to students and parents;

(b) Be distributed to all parents, students, and school personnel at the beginning of each school year;

(c) Be discussed at the beginning of each school year in meetings of students, parents, and teachers; and

(d) Include information concerning services, opportunities, choices, academic standards, and student assessment.

The parent guide may be included as a part of the code of student conduct that is required in s. 1006.07(2).

(8) Each school district shall develop and disseminate a checklist of parental actions that can strengthen parental involvement in their child's educational progress, consistent with the requirements in subsection (3). The checklist shall be provided each school year to all parents of students in kindergarten through grade 12 and shall focus on academics, especially reading, high expectations for students, citizenship, and communication.

(9) The State Board of Education shall annually review each school district's compliance with this section and the district's success in achieving improved services for families. The State Board of Education shall use all appropriate enforcement actions, as provided for in s. 1008.32, until the school district fully complies with the requirements of this section.

History. --s. 2, ch. 2003-118; s. 2, ch. 2005-196.

PART III

EDUCATIONAL CHOICE

1002.31 Public school parental choice.

1002.32 Developmental research (laboratory) schools.

1002.33 Charter schools.

1002.34 Charter technical career centers.

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1002.361 Florida School for the Deaf and the Blind; direct-support organization; authority.

1002.37 The Florida Virtual School.

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1002.39 The John M. McKay Scholarships for Students with Disabilities Program.

1002.31 Public school parental choice. --

(1) As used in this section, "controlled open enrollment" means a public education delivery system that allows school districts to make student school assignments using parents' indicated preferential school choice as a significant factor.

(2) Each district school board may offer controlled open enrollment within the public schools. The controlled open enrollment program shall be offered in addition to the existing choice programs such as magnet schools, alternative schools, special programs, advanced placement, and dual enrollment.

(3) Each district school board shall develop a controlled open enrollment plan which describes the implementation of subsection (2).

(4) School districts shall adhere to federal desegregation requirements. No controlled open enrollment plan that

conflicts with federal desegregation orders shall be implemented.

- (5) Each school district shall develop a system of priorities for its plan that includes consideration of the following:
- (a) An application process required to participate in the controlled open enrollment program.
 - (b) A process that allows parents to declare school preferences.
 - (c) A process that encourages placement of siblings within the same school.
 - (d) A lottery procedure used by the school district to determine student assignment.
 - (e) An appeals process for hardship cases.
 - (f) The procedures to maintain socioeconomic, demographic, and racial balance.
 - (g) The availability of transportation.
 - (h) A process that promotes strong parental involvement, including the designation of a parent liaison.
 - (i) A strategy that establishes a clearinghouse of information designed to assist parents in making informed choices.
- (6) Plans shall be submitted to the Commissioner of Education. The Commissioner of Education shall develop an annual report on the status of school choice and deliver the report to the Governor, the President of the Senate, and the Speaker of the House of Representatives at least 90 days prior to the convening of the regular session of the Legislature.
- (7) Notwithstanding any provision of this section, a school district with schools operating on both multiple session schedules and single session schedules shall afford parents of students in multiple session schools preferred access to the controlled open enrollment program of the school district.
- (8) Each district school board shall annually report the number of students applying for and attending the various types of public schools of choice in the district, including schools such as magnet schools and public charter schools, according to rules adopted by the State Board of Education.

History. --s. 96, ch. 2002-387.

1002.32 Developmental research (laboratory) schools.--

- (1) **SHORT TITLE.**--This section may be cited as the "Sidney Martin Developmental Research School Act."
- (2) **ESTABLISHMENT.**--There is established a category of public schools to be known as developmental research (laboratory) schools (lab schools). Each lab school shall provide sequential instruction and shall be affiliated with the college of education within the state university of closest geographic proximity. A lab school to which a charter has been issued under s. 1002.33(5)(a) 2. must be affiliated with the college of education within the state university that issued the charter, but is not subject to the requirement that the state university be of closest geographic proximity. For the purpose of state funding, Florida Agricultural and Mechanical University, Florida Atlantic University, Florida State University, the University of Florida, and other universities approved by the State Board of Education and the Legislature are authorized to sponsor a lab school. The limitation of one lab school per university shall not apply to the following charter lab schools authorized prior to June 1, 2003: Florida State University Charter Lab K-12 School in Broward County, Florida Atlantic University Charter Lab 9-12 High School in Palm Beach County, and Florida Atlantic University Charter Lab K-12 School in St. Lucie County.

(3) MISSION.--The mission of a lab school shall be the provision of a vehicle for the conduct of research, demonstration, and evaluation regarding management, teaching, and learning. Programs to achieve the mission of a lab school shall embody the goals and standards established pursuant to ss. 1000.03(5) and 1001.23(2) and shall ensure an appropriate education for its students.

(a) Each lab school shall emphasize mathematics, science, computer science, and foreign languages. The primary goal of a lab school is to enhance instruction and research in such specialized subjects by using the resources available on a state university campus, while also providing an education in nonspecialized subjects. Each lab school shall provide sequential elementary and secondary instruction where appropriate. A lab school may not provide instruction at grade levels higher than grade 12 without authorization from the State Board of Education. Each lab school shall develop and implement a school improvement plan pursuant to s. 1003.02(3).

(b) Research, demonstration, and evaluation conducted at a lab school may be generated by the college of education and other colleges within the university with which the school is affiliated.

(c) Research, demonstration, and evaluation conducted at a lab school may be generated by the State Board of Education. Such research shall respond to the needs of the education community at large, rather than the specific needs of the affiliated college.

(d) Research, demonstration, and evaluation conducted at a lab school may consist of pilot projects to be generated by the affiliated college, the State Board of Education, or the Legislature.

(e) The exceptional education programs offered at a lab school shall be determined by the research and evaluation goals and the availability of students for efficiently sized programs. The fact that a lab school offers an exceptional education program in no way lessens the general responsibility of the local school district to provide exceptional education programs.

(4) STUDENT ADMISSIONS.--Each lab school may establish a primary research objective related to fundamental issues and problems that occur in the public elementary and secondary schools of the state. A student population reflective of the student population of the public school environment in which the issues and problems are most prevalent shall be promoted and encouraged through the establishment and implementation of an admission process that is designed to result in a representative sample of public school enrollment based on gender, race, socioeconomic status, and academic ability, notwithstanding the provisions of s. 1000.05.

(5) STUDENT FEES.--Each lab school may charge a student activity and service fee. Any school that elects to charge such a fee shall provide information regarding the use of the fee as well as an annual report that documents the manner in which the moneys provided by such fee were expended. The annual report prescribed in this subsection shall be distributed to the parents of each student. No additional fees shall be charged.

(6) SUPPLEMENTAL-SUPPORT ORGANIZATIONS.--Each lab school may accrue supplemental revenue from supplemental-support organizations, which include, but are not limited to, alumni associations, foundations, parent-teacher associations, and booster associations. The governing body of each supplemental-support organization shall recommend the expenditure of moneys collected by the organization for the benefit of the school. Such expenditures shall be contingent upon the recommendations of the school advisory council and review of the director. The director may override any proposed expenditure of the organization that would violate Florida Statutes or breach sound educational management.

(7) PERSONNEL.--

(a) Each lab school may employ either a director or a principal, or both, at the discretion of the university. The duties of such personnel shall be as follows:

1. Each director shall be the chief executive officer and shall oversee the education, research, and evaluation goals of the school. The director shall be responsible for recommending policy to the advisory board. The director shall be accountable for the financial resources of the school.

2. Each principal shall be the chief educational officer and shall oversee the educational program of the school. The principal shall be accountable for the daily operation and administration of the school.

(b) Faculty may serve simultaneously as instructional personnel for the lab school and the university with which the school is affiliated. Nothing in this section is intended to affect the collective bargaining rights of lab school employees, except as specifically provided in this section.

(c) Lab school faculty members shall meet the certification requirements of ss. 1012.32 and 1012.42.

(8) ADVISORY BOARDS.--Each public school in the state shall establish a school advisory council that is reflective of the population served by the school, pursuant to s. 1001.452, and is responsible for the development and implementation of the school improvement plan pursuant to s. 1003.02(3). Lab schools shall comply with the provisions of s. 1001.452 in one of two ways:

(a) Each lab school may establish two advisory bodies as follows:

1. An advisory body pursuant to the provisions and requirements of s. 1001.452 to be responsible for the development and implementation of the school improvement plan, pursuant to s. 1003.02(3).

2. An advisory board to provide general oversight and guidance. The dean of the affiliated college of education shall be a standing member of the board, and the president of the university shall appoint four faculty members from the related university, at least two of whom are from the college of education, one layperson who resides in the county in which the school is located, two parents of students who attend the lab school, and one lab school student appointed by the principal to serve on the advisory board. The term of each member shall be for 2 years, and any vacancy shall be filled with a person of the same classification as his or her predecessor for the balance of the unexpired term. The president shall stagger the terms of the initial appointees in a manner that results in the expiration of terms of no more than two members in any year. The president shall call the organizational meeting of the board. The board shall annually elect a chair and a vice chair. There shall be no limitation on successive appointments to the board or successive terms that may be served by a chair or vice chair. The board shall adopt internal organizational procedures or bylaws necessary for efficient operation as provided in chapter 120. Board members shall not receive per diem or travel expenses for the performance of their duties. The board shall:

a. Meet at least quarterly.

b. Monitor the operations of the school and the distribution of moneys allocated for such operations.

c. Establish necessary policy, program, and administration modifications.

d. Evaluate biennially the performance of the director and principal and recommend corresponding action to the dean of the college of education.

e. Annually review evaluations of the school's operation and research findings.

(b) Each lab school may establish one advisory body responsible for the development and implementation of the school

improvement plan, pursuant to s. 1003.02(3), in addition to general oversight and guidance responsibilities. The advisory body shall reflect the membership composition requirements established in s. 1001.452, but may also include membership by the dean of the college of education and additional members appointed by the president of the university that represent faculty members from the college of education, the university, or other bodies deemed appropriate for the mission of the school.

(9) FUNDING.--Funding for a lab school, including a charter lab school, shall be provided as follows:

(a) Each lab school shall be allocated its proportional share of operating funds from the Florida Education Finance Program as provided in s. 1011.62 based on the county in which the lab school is located and the General Appropriations Act. The nonvoted ad valorem millage that would otherwise be required for lab schools shall be allocated from state funds. The required local effort funds calculated pursuant to s. 1011.62 shall be allocated from state funds to the schools as a part of the allocation of operating funds pursuant to s. 1011.62. Each eligible lab school in operation as of September 1, 2002, shall also receive a proportionate share of the sparsity supplement as calculated pursuant to s. 1011.62. In addition, each lab school shall receive its proportional share of all categorical funds, with the exception of s. 1011.68, and new categorical funds enacted after July 1, 1994, for the purpose of elementary or secondary academic program enhancement. The sum of funds available as provided in this paragraph shall be included annually in the Florida Education Finance Program and appropriate categorical programs funded in the General Appropriations Act.

(b) There is created a Lab School Educational Facility Trust Fund to be administered by the Commissioner of Education. Allocations from such fund shall be expended solely for the purpose of facility construction, repair, renovation, remodeling, site improvement, or maintenance. The commissioner shall administer the fund in accordance with ss. 1013.60, 1013.64, 1013.65, and 1013.66.

(c) All operating funds provided under this section shall be deposited in a Lab School Trust Fund and shall be expended for the purposes of this section. The university assigned a lab school shall be the fiscal agent for these funds, and all rules of the university governing the budgeting and expenditure of state funds shall apply to these funds unless otherwise provided by law or rule of the State Board of Education. The university board of trustees shall be the public employer of lab school personnel for collective bargaining purposes for lab schools in operation prior to the 2002-2003 fiscal year. Employees of charter lab schools authorized prior to June 1, 2003, but not in operation prior to the 2002-2003 fiscal year shall be employees of the entity holding the charter and must comply with the provisions of s. 1002.33(12). Lab schools are not subject to the payment of overhead or indirect costs as described in s. 216.346.

(d) Each lab school shall receive funds for operating purposes in an amount determined as follows: multiply the maximum allowable nonvoted discretionary millage for operations pursuant to s. 1011.71(1) by the value of 95 percent of the current year's taxable value for school purposes for the district in which each lab school is located; divide the result by the total full-time equivalent membership of the district; and multiply the result by the full-time equivalent membership of the lab school. The amount thus obtained shall be discretionary operating funds and shall be appropriated from state funds in the General Appropriations Act to the Lab School Trust Fund.

(e) Each lab school shall receive funds for capital improvement purposes in an amount determined as follows: multiply the maximum allowable nonvoted discretionary millage for capital improvements pursuant to s. 1011.71(2) by the value of 95 percent of the current year's taxable value for school purposes for the district in which each lab school is located; divide the result by the total full-time equivalent membership of the district; and multiply the result by the full-time equivalent membership of the lab school. The amount thus obtained shall be discretionary capital improvement funds and shall be appropriated from state funds in the General Appropriations Act to the Lab School Educational Facility Trust Fund.

(f) In addition to the funds appropriated for capital outlay budget needs, lab schools may receive specific funding as specified in the General Appropriations Act for upgrading, renovating, and remodeling science laboratories.

(g) Each lab school is designated a teacher education center and may provide inservice training to school district personnel. The Department of Education shall provide funds to the Lab School Trust Fund for this purpose from appropriations for inservice teacher education.

(h) A lab school to which a charter has been issued under s. 1002.33(5)(a)2. is eligible to receive funding for charter school capital outlay if it meets the eligibility requirements of s. 1013.62. If the lab school receives funds from charter school capital outlay, the school shall receive capital outlay funds otherwise provided in this subsection only to the extent that funds allocated pursuant to s. 1013.62 are insufficient to provide capital outlay funds to the lab school at one-fifteenth of the cost per student station.

(10) IMPLEMENTATION.--The State Board of Education shall adopt rules necessary to facilitate the implementation of this section.

(11) EXCEPTIONS TO LAW.--To encourage innovative practices and facilitate the mission of the lab schools, in addition to the exceptions to law specified in s. 1001.23(2), the following exceptions shall be permitted for lab schools:

(a) The methods and requirements of the following statutes shall be held in abeyance: ss. 316.75; 1001.30; 1001.31; 1001.32; 1001.33; 1001.34; 1001.35; 1001.36; 1001.361; 1001.362; 1001.363; 1001.37; 1001.371; 1001.372; 1001.38; 1001.39; 1001.395; 1001.40; 1001.41; 1001.44; 1001.453; 1001.46; 1001.461; 1001.462; 1001.463; 1001.464; 1001.47; 1001.48; 1001.49; 1001.50; 1001.51; 1006.12(1); 1006.21(3), (4); 1006.23; 1010.07(2); 1010.40; 1010.41; 1010.42; 1010.43; 1010.44; 1010.45; 1010.46; 1010.47; 1010.48; 1010.49; 1010.50; 1010.51; 1010.52; 1010.53; 1010.54; 1010.55; 1011.02(1)-(3), (5); 1011.04; 1011.20; 1011.21; 1011.22; 1011.23; 1011.71; 1011.72; 1011.73; and 1011.74.

(b) With the exception of s. 1001.42(16), s. 1001.42 shall be held in abeyance. Reference to district school boards in s. 1001.42(16) shall mean the president of the university or the president's designee.

History.--s. 97, ch. 2002-387; s. 2, ch. 2003-393; s. 34, ch. 2004-41; s. 4, ch. 2004-271; s. 3, ch. 2004-354.

1002.33 Charter schools.--

(1) AUTHORIZATION.--Charter schools shall be part of the state's program of public education. All charter schools in Florida are public schools. A charter school may be formed by creating a new school or converting an existing public school to charter status. A public school may not use the term charter in its name unless it has been approved under this section.

(2) GUIDING PRINCIPLES; PURPOSE.--

(a) Charter schools in Florida shall be guided by the following principles:

1. Meet high standards of student achievement while providing parents flexibility to choose among diverse educational opportunities within the state's public school system.

2. Promote enhanced academic success and financial efficiency by aligning responsibility with accountability.

3. Provide parents with sufficient information on whether their child is reading at grade level and whether the child gains at least a year's worth of learning for every year spent in the charter school.

(b) Charter schools shall fulfill the following purposes:

1. Improve student learning and academic achievement.
2. Increase learning opportunities for all students, with special emphasis on low-performing students and reading.
3. Create new professional opportunities for teachers, including ownership of the learning program at the school site.
4. Encourage the use of innovative learning methods.
5. Require the measurement of learning outcomes.

(c) Charter schools may fulfill the following purposes:

1. Create innovative measurement tools.
2. Provide rigorous competition within the public school district to stimulate continual improvement in all public schools.
3. Expand the capacity of the public school system.
4. Mitigate the educational impact created by the development of new residential dwelling units.

(3) APPLICATION FOR CHARTER STATUS.--

(a) An application for a new charter school may be made by an individual, teachers, parents, a group of individuals, a municipality, or a legal entity organized under the laws of this state.

(b) An application for a conversion charter school shall be made by the district school board, the principal, teachers, parents, and/or the school advisory council at an existing public school that has been in operation for at least 2 years prior to the application to convert, including a public school-within-a-school that is designated as a school by the district school board. An application submitted proposing to convert an existing public school to a charter school shall demonstrate the support of at least 50 percent of the teachers employed at the school and 50 percent of the parents voting whose children are enrolled at the school, provided that a majority of the parents eligible to vote participate in the ballot process, according to rules adopted by the State Board of Education. A district school board denying an application for a conversion charter school shall provide notice of denial to the applicants in writing within 30 days after the meeting at which the district school board denied the application. The notice must specify the exact reasons for denial and must provide documentation supporting those reasons. A private school, parochial school, or home education program shall not be eligible for charter school status.

(4) UNLAWFUL REPRISAL.--

(a) No district school board, or district school board employee who has control over personnel actions, shall take unlawful reprisal against another district school board employee because that employee is either directly or indirectly involved with an application to establish a charter school. As used in this subsection, the term "unlawful reprisal" means an action taken by a district school board or a school system employee against an employee who is directly or indirectly involved in a lawful application to establish a charter school, which occurs as a direct result of that involvement, and which results in one or more of the following: disciplinary or corrective action; adverse transfer or reassignment, whether temporary or permanent; suspension, demotion, or dismissal; an unfavorable performance evaluation; a reduction in pay, benefits, or rewards; elimination of the employee's position absent of a reduction in workforce as a result of lack of moneys or work; or other adverse significant changes in duties or responsibilities that

are inconsistent with the employee's salary or employment classification. The following procedures shall apply to an alleged unlawful reprisal that occurs as a consequence of an employee's direct or indirect involvement with an application to establish a charter school:

1. Within 60 days after the date upon which a reprisal prohibited by this subsection is alleged to have occurred, an employee may file a complaint with the Department of Education.
2. Within 3 working days after receiving a complaint under this section, the Department of Education shall acknowledge receipt of the complaint and provide copies of the complaint and any other relevant preliminary information available to each of the other parties named in the complaint, which parties shall each acknowledge receipt of such copies to the complainant.
3. If the Department of Education determines that the complaint demonstrates reasonable cause to suspect that an unlawful reprisal has occurred, the Department of Education shall conduct an investigation to produce a fact-finding report.
4. Within 90 days after receiving the complaint, the Department of Education shall provide the district school superintendent of the complainant's district and the complainant with a fact-finding report that may include recommendations to the parties or a proposed resolution of the complaint. The fact-finding report shall be presumed admissible in any subsequent or related administrative or judicial review.
5. If the Department of Education determines that reasonable grounds exist to believe that an unlawful reprisal has occurred, is occurring, or is to be taken, and is unable to conciliate a complaint within 60 days after receipt of the fact-finding report, the Department of Education shall terminate the investigation. Upon termination of any investigation, the Department of Education shall notify the complainant and the district school superintendent of the termination of the investigation, providing a summary of relevant facts found during the investigation and the reasons for terminating the investigation. A written statement under this paragraph is presumed admissible as evidence in any judicial or administrative proceeding.
6. The Department of Education shall either contract with the Division of Administrative Hearings under s. 120.65, or otherwise provide for a complaint for which the Department of Education determines reasonable grounds exist to believe that an unlawful reprisal has occurred, is occurring, or is to be taken, and is unable to conciliate, to be heard by a panel of impartial persons. Upon hearing the complaint, the panel shall make findings of fact and conclusions of law for a final decision by the Department of Education.

It shall be an affirmative defense to any action brought pursuant to this section that the adverse action was predicated upon grounds other than, and would have been taken absent, the employee's exercise of rights protected by this section.

(b) In any action brought under this section for which it is determined reasonable grounds exist to believe that an unlawful reprisal has occurred, is occurring, or is to be taken, the relief shall include the following:

1. Reinstatement of the employee to the same position held before the unlawful reprisal was commenced, or to an equivalent position, or payment of reasonable front pay as alternative relief.
2. Reinstatement of the employee's full fringe benefits and seniority rights, as appropriate.
3. Compensation, if appropriate, for lost wages, benefits, or other lost remuneration caused by the unlawful reprisal.
4. Payment of reasonable costs, including attorney's fees, to a substantially prevailing employee, or to the prevailing

employer if the employee filed a frivolous action in bad faith.

5. Issuance of an injunction, if appropriate, by a court of competent jurisdiction.
6. Temporary reinstatement to the employee's former position or to an equivalent position, pending the final outcome of the complaint, if it is determined that the action was not made in bad faith or for a wrongful purpose, and did not occur after a district school board's initiation of a personnel action against the employee that includes documentation of the employee's violation of a disciplinary standard or performance deficiency.

(5) SPONSOR; DUTIES.--

(a) *Sponsoring entities*--

1. A district school board may sponsor a charter school in the county over which the district school board has jurisdiction.
2. A state university may grant a charter to a lab school created under s. 1002.32 and shall be considered to be the school's sponsor. Such school shall be considered a charter lab school.

(b) *Sponsor duties*--

1. The sponsor shall monitor and review the charter school in its progress toward the goals established in the charter.
2. The sponsor shall monitor the revenues and expenditures of the charter school.
3. The sponsor may approve a charter for a charter school before the applicant has secured space, equipment, or personnel, if the applicant indicates approval is necessary for it to raise working capital.
4. The sponsor's policies shall not apply to a charter school.
5. The sponsor shall ensure that the charter is innovative and consistent with the state education goals established by s. 1000.03(5).
6. The sponsor shall ensure that the charter school participates in the state's education accountability system. If a charter school falls short of performance measures included in the approved charter, the sponsor shall report such shortcomings to the Department of Education.

A community college may work with the school district or school districts in its designated service area to develop charter schools that offer secondary education. These charter schools must include an option for students to receive an associate degree upon high school graduation. District school boards shall cooperate with and assist the community college on the charter application. Community college applications for charter schools are not subject to the time deadlines outlined in subsection (6) and may be approved by the district school board at any time during the year. Community colleges shall not report FTE for any students who receive FTE funding through the Florida Education Finance Program.

(6) APPLICATION PROCESS AND REVIEW.--Beginning September 1, 2003, applications are subject to the following requirements:

(a) A person or entity wishing to open a charter school shall prepare an application that:

1. Demonstrates how the school will use the guiding principles and meet the statutorily defined purpose of a charter school.

2. Provides a detailed curriculum plan that illustrates how students will be provided services to attain the Sunshine State Standards.
3. Contains goals and objectives for improving student learning and measuring that improvement. These goals and objectives must indicate how much academic improvement students are expected to show each year, how success will be evaluated, and the specific results to be attained through instruction.
4. Describes the reading curriculum and differentiated strategies that will be used for students reading at grade level or higher and a separate curriculum and strategies for students who are reading below grade level. A sponsor shall deny a charter if the school does not propose a reading curriculum that is consistent with effective teaching strategies that are grounded in scientifically based reading research.
5. Contains an annual financial plan for each year requested by the charter for operation of the school for up to 5 years. This plan must contain anticipated fund balances based on revenue projections, a spending plan based on projected revenues and expenses, and a description of controls that will safeguard finances and projected enrollment trends.

(b) A district school board shall receive and review all applications for a charter school. A district school board shall receive and consider charter school applications received on or before September 1 of each calendar year for charter schools to be opened at the beginning of the school district's next school year, or to be opened at a time agreed to by the applicant and the district school board. A district school board may receive applications later than this date if it chooses. A sponsor may not charge an applicant for a charter any fee for the processing or consideration of an application, and a sponsor may not base its consideration or approval of an application upon the promise of future payment of any kind.

1. In order to facilitate an accurate budget projection process, a district school board shall be held harmless for FTE students who are not included in the FTE projection due to approval of charter school applications after the FTE projection deadline. In a further effort to facilitate an accurate budget projection, within 15 calendar days after receipt of a charter school application, a district school board or other sponsor shall report to the Department of Education the name of the applicant entity, the proposed charter school location, and its projected FTE.
2. In order to ensure fiscal responsibility, an application for a charter school shall include a full accounting of expected assets, a projection of expected sources and amounts of income, including income derived from projected student enrollments and from community support, and an expense projection that includes full accounting of the costs of operation, including start-up costs.
3. A district school board shall by a majority vote approve or deny an application no later than 60 calendar days after the application is received, unless the district school board and the applicant mutually agree to temporarily postpone the vote to a specific date, at which time the district school board shall by a majority vote approve or deny the application. If the district school board fails to act on the application, an applicant may appeal to the State Board of Education as provided in paragraph (c). If an application is denied, the district school board shall, within 10 calendar days, articulate in writing the specific reasons based upon good cause supporting its denial of the charter application.
4. For budget projection purposes, the district school board or other sponsor shall report to the Department of Education the approval or denial of a charter application within 10 calendar days after such approval or denial. In the event of approval, the report to the Department of Education shall include the final projected FTE for the approved charter school.
5. Upon approval of a charter application, the initial startup shall commence with the beginning of the public school

calendar for the district in which the charter is granted unless the district school board allows a waiver of this provision for good cause.

(c) An applicant may appeal any denial of that applicant's application or failure to act on an application to the State Board of Education no later than 30 calendar days after receipt of the district school board's decision or failure to act and shall notify the district school board of its appeal. Any response of the district school board shall be submitted to the State Board of Education within 30 calendar days after notification of the appeal. Upon receipt of notification from the State Board of Education that a charter school applicant is filing an appeal, the Commissioner of Education shall convene a meeting of the Charter School Appeal Commission to study and make recommendations to the State Board of Education regarding its pending decision about the appeal. The commission shall forward its recommendation to the state board no later than 7 calendar days prior to the date on which the appeal is to be heard. The State Board of Education shall by majority vote accept or reject the decision of the district school board no later than 90 calendar days after an appeal is filed in accordance with State Board of Education rule. The Charter School Appeal Commission may reject an appeal submission for failure to comply with procedural rules governing the appeals process. The rejection shall describe the submission errors. The appellant may have up to 15 calendar days from notice of rejection to resubmit an appeal that meets requirements of State Board of Education rule. An application for appeal submitted subsequent to such rejection shall be considered timely if the original appeal was filed within 30 calendar days after receipt of notice of the specific reasons for the district school board's denial of the charter application. The State Board of Education shall remand the application to the district school board with its written decision that the district school board approve or deny the application. The district school board shall implement the decision of the State Board of Education. The decision of the State Board of Education is not subject to the provisions of the Administrative Procedure Act, chapter 120.

(d) The district school board shall act upon the decision of the State Board of Education within 30 calendar days after it is received. The State Board of Education's decision is a final action subject to judicial review.

(e)1. A Charter School Appeal Commission is established to assist the commissioner and the State Board of Education with a fair and impartial review of appeals by applicants whose charter applications have been denied, whose charter contracts have not been renewed or have been terminated by their sponsors, or whose disputes over contract negotiations have not been resolved through mediation.

2. The Charter School Appeal Commission may receive copies of the appeal documents forwarded to the State Board of Education, review the documents, gather other applicable information regarding the appeal, and make a written recommendation to the commissioner. The recommendation must state whether the appeal should be upheld or denied and include the reasons for the recommendation being offered. The commissioner shall forward the recommendation to the State Board of Education no later than 7 calendar days prior to the date on which the appeal is to be heard. The state board must consider the commission's recommendation in making its decision, but is not bound by the recommendation. The decision of the Charter School Appeal Commission is not subject to the provisions of the Administrative Procedure Act, chapter 120.

3. The commissioner shall appoint the members of the Charter School Appeal Commission. Members shall serve without compensation but may be reimbursed for travel and per diem expenses in conjunction with their service. One-half of the members must represent currently operating charter schools, and one-half of the members must represent school districts. The commissioner or a named designee shall chair the Charter School Appeal Commission.

4. The chair shall convene meetings of the commission and shall ensure that the written recommendations are completed and forwarded in a timely manner. In cases where the commission cannot reach a decision, the chair shall make the written recommendation with justification, noting that the decision was rendered by the chair.

5. Commission members shall thoroughly review the materials presented to them from the appellant and the sponsor. The commission may request information to clarify the documentation presented to it. In the course of its review, the commission may facilitate the postponement of an appeal in those cases where additional time and communication may negate the need for a formal appeal and both parties agree, in writing, to postpone the appeal to the State Board of Education. A new date certain for the appeal shall then be set based upon the rules and procedures of the State Board of Education. Commission members shall provide a written recommendation to the state board as to whether the appeal should be upheld or denied. A fact-based justification for the recommendation must be included. The chair must ensure that the written recommendation is submitted to the State Board of Education members no later than 7 calendar days prior to the date on which the appeal is to be heard. Both parties in the case shall also be provided a copy of the recommendation.

(f) The Department of Education may provide technical assistance to an applicant upon written request.

(g) In considering charter applications for a lab school, a state university shall consult with the district school board of the county in which the lab school is located. The decision of a state university may be appealed pursuant to the procedure established in this subsection.

(h) The terms and conditions for the operation of a charter school shall be set forth by the sponsor and the applicant in a written contractual agreement, called a charter. The sponsor shall not impose unreasonable rules or regulations that violate the intent of giving charter schools greater flexibility to meet educational goals. The applicant and sponsor shall have 6 months in which to mutually agree to the provisions of the charter. The Department of Education shall provide mediation services for any dispute regarding this section subsequent to the approval of a charter application and for any dispute relating to the approved charter, except disputes regarding charter school application denials. If the Commissioner of Education determines that the dispute cannot be settled through mediation, the dispute may be appealed to an administrative law judge appointed by the Division of Administrative Hearings. The administrative law judge may rule on issues of equitable treatment of the charter school as a public school, whether proposed provisions of the charter violate the intended flexibility granted charter schools by statute, or on any other matter regarding this section except a charter school application denial, and shall award the prevailing party reasonable attorney's fees and costs incurred to be paid by the losing party. The costs of the administrative hearing shall be paid by the party whom the administrative law judge rules against.

(7) CHARTER.--The major issues involving the operation of a charter school shall be considered in advance and written into the charter. The charter shall be signed by the governing body of the charter school and the sponsor, following a public hearing to ensure community input.

(a) The charter shall address, and criteria for approval of the charter shall be based on:

1. The school's mission, the students to be served, and the ages and grades to be included.
2. The focus of the curriculum, the instructional methods to be used, any distinctive instructional techniques to be employed, and identification and acquisition of appropriate technologies needed to improve educational and administrative performance which include a means for promoting safe, ethical, and appropriate uses of technology which comply with legal and professional standards. The charter shall ensure that reading is a primary focus of the curriculum and that resources are provided to identify and provide specialized instruction for students who are reading below grade level. The curriculum and instructional strategies for reading must be consistent with the Sunshine State Standards and grounded in scientifically based reading research.
3. The current incoming baseline standard of student academic achievement, the outcomes to be achieved, and the method of measurement that will be used. The criteria listed in this subparagraph shall include a detailed description

for each of the following:

- a. How the baseline student academic achievement levels and prior rates of academic progress will be established.
- b. How these baseline rates will be compared to rates of academic progress achieved by these same students while attending the charter school.
- c. To the extent possible, how these rates of progress will be evaluated and compared with rates of progress of other closely comparable student populations.

The district school board is required to provide academic student performance data to charter schools for each of their students coming from the district school system, as well as rates of academic progress of comparable student populations in the district school system.

4. The methods used to identify the educational strengths and needs of students and how well educational goals and performance standards are met by students attending the charter school. Included in the methods is a means for the charter school to ensure accountability to its constituents by analyzing student performance data and by evaluating the effectiveness and efficiency of its major educational programs. Students in charter schools shall, at a minimum, participate in the statewide assessment program created under s. 1008.22.
5. In secondary charter schools, a method for determining that a student has satisfied the requirements for graduation in s. 1003.43.
6. A method for resolving conflicts between the governing body of the charter school and the sponsor.
7. The admissions procedures and dismissal procedures, including the school's code of student conduct.
8. The ways by which the school will achieve a racial/ethnic balance reflective of the community it serves or within the racial/ethnic range of other public schools in the same school district.
9. The financial and administrative management of the school, including a reasonable demonstration of the professional experience or competence of those individuals or organizations applying to operate the charter school or those hired or retained to perform such professional services and the description of clearly delineated responsibilities and the policies and practices needed to effectively manage the charter school. A description of internal audit procedures and establishment of controls to ensure that financial resources are properly managed must be included. Both public sector and private sector professional experience shall be equally valid in such a consideration.
10. The asset and liability projections required in the application which are incorporated into the charter and which shall be compared with information provided in the annual report of the charter school. The charter shall ensure that, if a charter school internal audit reveals a deficit financial position, the auditors are required to notify the charter school governing board, the sponsor, and the Department of Education. The internal auditor shall report such findings in the form of an exit interview to the principal or the principal administrator of the charter school and the chair of the governing board within 7 working days after finding the deficit position. A final report shall be provided to the entire governing board, the sponsor, and the Department of Education within 14 working days after the exit interview.
11. A description of procedures that identify various risks and provide for a comprehensive approach to reduce the impact of losses; plans to ensure the safety and security of students and staff; plans to identify, minimize, and protect others from violent or disruptive student behavior; and the manner in which the school will be insured, including whether or not the school will be required to have liability insurance, and, if so, the terms and conditions thereof and the amounts of coverage.

12. The term of the charter which shall provide for cancellation of the charter if insufficient progress has been made in attaining the student achievement objectives of the charter and if it is not likely that such objectives can be achieved before expiration of the charter. The initial term of a charter shall be for 3, 4, or 5 years. In order to facilitate access to long-term financial resources for charter school construction, charter schools that are operated by a municipality or other public entity as provided by law are eligible for up to a 15-year charter, subject to approval by the district school board. A charter lab school is eligible for a charter for a term of up to 15 years. In addition, to facilitate access to long-term financial resources for charter school construction, charter schools that are operated by a private, not-for-profit, s. 501(c)(3) status corporation are eligible for up to a 10-year charter, subject to approval by the district school board. Such long-term charters remain subject to annual review and may be terminated during the term of the charter, but only for specific good cause according to the provisions set forth in subsection (8).

13. The facilities to be used and their location.

14. The qualifications to be required of the teachers and the potential strategies used to recruit, hire, train, and retain qualified staff to achieve best value.

15. The governance structure of the school, including the status of the charter school as a public or private employer as required in paragraph (12)(i).

16. A timetable for implementing the charter which addresses the implementation of each element thereof and the date by which the charter shall be awarded in order to meet this timetable.

17. In the case of an existing public school being converted to charter status, alternative arrangements for current students who choose not to attend the charter school and for current teachers who choose not to teach in the charter school after conversion in accordance with the existing collective bargaining agreement or district school board rule in the absence of a collective bargaining agreement. However, alternative arrangements shall not be required for current teachers who choose not to teach in a charter lab school, except as authorized by the employment policies of the state university which grants the charter to the lab school.

(b) A charter may be renewed every 5 school years, provided that a program review demonstrates that the criteria in paragraph (a) have been successfully accomplished and that none of the grounds for nonrenewal established by paragraph (8)(a) has been documented. In order to facilitate long-term financing for charter school construction, charter schools operating for a minimum of 2 years and demonstrating exemplary academic programming and fiscal management are eligible for a 15-year charter renewal. Such long-term charter is subject to annual review and may be terminated during the term of the charter.

(c) A charter may be modified during its initial term or any renewal term upon the recommendation of the sponsor or the charter school governing board and the approval of both parties to the agreement.

(8) CAUSES FOR NONRENEWAL OR TERMINATION OF CHARTER.--

(a) At the end of the term of a charter, the sponsor may choose not to renew the charter for any of the following grounds:

1. Failure to participate in the state's education accountability system created in s. 1008.31, as required in this section, or failure to meet the requirements for student performance stated in the charter.
2. Failure to meet generally accepted standards of fiscal management.
3. Violation of law.

4. Other good cause shown.

(b) During the term of a charter, the sponsor may terminate the charter for any of the grounds listed in paragraph (a).

(c) At least 90 days prior to renewing or terminating a charter, the sponsor shall notify the governing body of the school of the proposed action in writing. The notice shall state in reasonable detail the grounds for the proposed action and stipulate that the school's governing body may, within 14 calendar days after receiving the notice, request an informal hearing before the sponsor. The sponsor shall conduct the informal hearing within 30 calendar days after receiving a written request. The charter school's governing body may, within 14 calendar days after receiving the sponsor's decision to terminate or refuse to renew the charter, appeal the decision pursuant to the procedure established in subsection (6).

(d) A charter may be terminated immediately if the sponsor determines that good cause has been shown or if the health, safety, or welfare of the students is threatened. The school district in which the charter school is located shall assume operation of the school under these circumstances. The charter school's governing board may, within 14 days after receiving the sponsor's decision to terminate the charter, appeal the decision pursuant to the procedure established in subsection (6).

(e) When a charter is not renewed or is terminated, the school shall be dissolved under the provisions of law under which the school was organized, and any unencumbered public funds, except for capital outlay funds, from the charter school shall revert to the district school board. Capital outlay funds provided pursuant to s. 1013.62 that are unencumbered shall revert to the department to be redistributed among eligible charter schools. In the event a charter school is dissolved or is otherwise terminated, all district school board property and improvements, furnishings, and equipment purchased with public funds shall automatically revert to full ownership by the district school board, subject to complete satisfaction of any lawful liens or encumbrances. Any unencumbered public funds from the charter school, district school board property and improvements, furnishings, and equipment purchased with public funds, or financial or other records pertaining to the charter school, in the possession of any person, entity, or holding company, other than the charter school, shall be held in trust upon the district school board's request, until any appeal status is resolved.

(f) If a charter is not renewed or is terminated, the charter school is responsible for all debts of the charter school. The district may not assume the debt from any contract for services made between the governing body of the school and a third party, except for a debt that is previously detailed and agreed upon in writing by both the district and the governing body of the school and that may not reasonably be assumed to have been satisfied by the district.

(g) If a charter is not renewed or is terminated, a student who attended the school may apply to, and shall be enrolled in, another public school. Normal application deadlines shall be disregarded under such circumstances.

(9) CHARTER SCHOOL REQUIREMENTS.--

(a) A charter school shall be nonsectarian in its programs, admission policies, employment practices, and operations.

(b) A charter school shall admit students as provided in subsection (10).

(c) A charter school shall be accountable to its sponsor for performance as provided in subsection (7).

(d) A charter school shall not charge tuition or registration fees, except those fees normally charged by other public schools. However, a charter lab school may charge a student activity and service fee as authorized by s. 1002.32(5).

(e) A charter school shall meet all applicable state and local health, safety, and civil rights requirements.

- (f) A charter school shall not violate the antidiscrimination provisions of s. 1000.05.
- (g) A charter school shall provide for an annual financial audit in accordance with s. 218.39.
- (h) No organization shall hold more than 15 charters statewide.
- (i) In order to provide financial information that is comparable to that reported for other public schools, charter schools are to maintain all financial records which constitute their accounting system:
 1. In accordance with the accounts and codes prescribed in the most recent issuance of the publication titled "Financial and Program Cost Accounting and Reporting for Florida Schools"; or
 2. At the discretion of the charter school governing board, a charter school may elect to follow generally accepted accounting standards for not-for-profit organizations, but must reformat this information for reporting according to this paragraph.

Charter schools are to provide annual financial report and program cost report information in the state-required formats for inclusion in district reporting in compliance with s. 1011.60(1). Charter schools that are operated by a municipality or are a component unit of a parent nonprofit organization may use the accounting system of the municipality or the parent but must reformat this information for reporting according to this paragraph.

- (j) The governing board of the charter school shall annually adopt and maintain an operating budget.
- (k) The governing body of the charter school shall exercise continuing oversight over charter school operations.
- (l) The governing body of the charter school shall report its progress annually to its sponsor, which shall forward the report to the Commissioner of Education at the same time as other annual school accountability reports. The Department of Education shall include in its compilation a notation if a school failed to file its report by the deadline established by the department. The report shall include at least the following components:
 1. Student achievement performance data, including the information required for the annual school report and the education accountability system governed by ss. 1008.31 and 1008.345. Charter schools are subject to the same accountability requirements as other public schools, including reports of student achievement information that links baseline student data to the school's performance projections identified in the charter. The charter school shall identify reasons for any difference between projected and actual student performance.
 2. Financial status of the charter school which must include revenues and expenditures at a level of detail that allows for analysis of the ability to meet financial obligations and timely repayment of debt.
 3. Documentation of the facilities in current use and any planned facilities for use by the charter school for instruction of students, administrative functions, or investment purposes.
 4. Descriptive information about the charter school's personnel, including salary and benefit levels of charter school employees, the proportion of instructional personnel who hold professional or temporary certificates, and the proportion of instructional personnel teaching in-field or out-of-field.

- (m) A charter school shall not levy taxes or issue bonds secured by tax revenues.
- (n) A charter school shall provide instruction for at least the number of days required by law for other public schools, and may provide instruction for additional days.

(10) ELIGIBLE STUDENTS.--

(a) A charter school shall be open to any student covered in an interdistrict agreement or residing in the school district in which the charter school is located; however, in the case of a charter lab school, the charter lab school shall be open to any student eligible to attend the lab school as provided in s. 1002.32 or who resides in the school district in which the charter lab school is located. Any eligible student shall be allowed interdistrict transfer to attend a charter school when based on good cause.

(b) The charter school shall enroll an eligible student who submits a timely application, unless the number of applications exceeds the capacity of a program, class, grade level, or building. In such case, all applicants shall have an equal chance of being admitted through a random selection process.

(c) When a public school converts to charter status, enrollment preference shall be given to students who would have otherwise attended that public school.

(d) A charter school may give enrollment preference to the following student populations:

1. Students who are siblings of a student enrolled in the charter school.
2. Students who are the children of a member of the governing board of the charter school.
3. Students who are the children of an employee of the charter school.

(e) A charter school may limit the enrollment process only to target the following student populations:

1. Students within specific age groups or grade levels.
2. Students considered at risk of dropping out of school or academic failure. Such students shall include exceptional education students.
3. Students enrolling in a charter school-in-the-workplace or charter school-in-a-municipality established pursuant to subsection (15).
4. Students residing within a reasonable distance of the charter school, as described in paragraph (20)(c). Such students shall be subject to a random lottery and to the racial/ethnic balance provisions described in subparagraph (7)(a)8. or any federal provisions that require a school to achieve a racial/ethnic balance reflective of the community it serves or within the racial/ethnic range of other public schools in the same school district.
5. Students who meet reasonable academic, artistic, or other eligibility standards established by the charter school and included in the charter school application and charter or, in the case of existing charter schools, standards that are consistent with the school's mission and purpose. Such standards shall be in accordance with current state law and practice in public schools and may not discriminate against otherwise qualified individuals.
6. Students articulating from one charter school to another pursuant to an articulation agreement between the charter schools that has been approved by the sponsor.

(f) Students with handicapping conditions and students served in English for Speakers of Other Languages programs shall have an equal opportunity of being selected for enrollment in a charter school.

(g) A student may withdraw from a charter school at any time and enroll in another public school as determined by district school board rule.

(h) The capacity of the charter school shall be determined annually by the governing board, in conjunction with the sponsor, of the charter school in consideration of the factors identified in this subsection.

(11) PARTICIPATION IN INTERSCHOLASTIC EXTRACURRICULAR ACTIVITIES.--A charter school student is eligible to participate in an interscholastic extracurricular activity at the public school to which the student would be otherwise assigned to attend pursuant to s. 1006.15(3)(d).

(12) EMPLOYEES OF CHARTER SCHOOLS.--

(a) A charter school shall select its own employees. A charter school may contract with its sponsor for the services of personnel employed by the sponsor.

(b) Charter school employees shall have the option to bargain collectively. Employees may collectively bargain as a separate unit or as part of the existing district collective bargaining unit as determined by the structure of the charter school.

(c) The employees of a conversion charter school shall remain public employees for all purposes, unless such employees choose not to do so.

(d) The teachers at a charter school may choose to be part of a professional group that subcontracts with the charter school to operate the instructional program under the auspices of a partnership or cooperative that they collectively own. Under this arrangement, the teachers would not be public employees.

(e) Employees of a school district may take leave to accept employment in a charter school upon the approval of the district school board. While employed by the charter school and on leave that is approved by the district school board, the employee may retain seniority accrued in that school district and may continue to be covered by the benefit programs of that school district, if the charter school and the district school board agree to this arrangement and its financing. School districts shall not require resignations of teachers desiring to teach in a charter school. This paragraph shall not prohibit a district school board from approving alternative leave arrangements consistent with chapter 1012.

(f) Teachers employed by or under contract to a charter school shall be certified as required by chapter 1012. A charter school governing board may employ or contract with skilled selected noncertified personnel to provide instructional services or to assist instructional staff members as education paraprofessionals in the same manner as defined in chapter 1012, and as provided by State Board of Education rule for charter school governing boards. A charter school may not knowingly employ an individual to provide instructional services or to serve as an education paraprofessional if the individual's certification or licensure as an educator is suspended or revoked by this or any other state. A charter school may not knowingly employ an individual who has resigned from a school district in lieu of disciplinary action with respect to child welfare or safety, or who has been dismissed for just cause by any school district with respect to child welfare or safety. The qualifications of teachers shall be disclosed to parents.

(g) 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.

(h) For the purposes of tort liability, the governing body and employees of a charter school shall be governed by s. 768.28.

(i) A charter school shall organize as, or be operated by, a nonprofit organization. A charter school may be operated by a municipality or other public entity as provided for by law. As such, the charter school may be either a private or a

public employer. As a public employer, a charter school may participate in the Florida Retirement System upon application and approval as a "covered group" under s. 121.021(34). If a charter school participates in the Florida Retirement System, the charter school employees shall be compulsory members of the Florida Retirement System. As either a private or a public employer, a charter school may contract for services with an individual or group of individuals who are organized as a partnership or a cooperative. Individuals or groups of individuals who contract their services to the charter school are not public employees.

(13) CHARTER SCHOOL COOPERATIVES.--Charter schools may enter into cooperative agreements to form charter school cooperative organizations that may provide the following services: charter school planning and development, direct instructional services, and contracts with charter school governing boards to provide personnel administrative services, payroll services, human resource management, evaluation and assessment services, teacher preparation, and professional development.

(14) CHARTER SCHOOL FINANCIAL ARRANGEMENTS; INDEMNIFICATION OF THE STATE AND SCHOOL DISTRICT; CREDIT OR TAXING POWER NOT TO BE PLEDGED.--Any arrangement entered into to borrow or otherwise secure funds for a charter school authorized in this section from a source other than the state or a school district shall indemnify the state and the school district from any and all liability, including, but not limited to, financial responsibility for the payment of the principal or interest. Any loans, bonds, or other financial agreements are not obligations of the state or the school district but are obligations of the charter school authority and are payable solely from the sources of funds pledged by such agreement. The credit or taxing power of the state or the school district shall not be pledged and no debts shall be payable out of any moneys except those of the legal entity in possession of a valid charter approved by a district school board pursuant to this section.

(15) CHARTER SCHOOLS-IN-THE-WORKPLACE; CHARTER SCHOOLS-IN-A-MUNICIPALITY.--

(a) In order to increase business partnerships in education, to reduce school and classroom overcrowding throughout the state, and to offset the high costs for educational facilities construction, the Legislature intends to encourage the formation of business partnership schools or satellite learning centers and municipal-operated schools through charter school status.

(b) A charter school-in-the-workplace may be established when a business partner provides the school facility to be used; enrolls students based upon a random lottery that involves all of the children of employees of that business or corporation who are seeking enrollment, as provided for in subsection (10); and enrolls students according to the racial/ethnic balance provisions described in subparagraph (7)(a)8. Any portion of a facility used for a public charter school shall be exempt from ad valorem taxes, as provided for in s. 1013.54, for the duration of its use as a public school.

(c) A charter school-in-a-municipality designation may be granted to a municipality that possesses a charter; enrolls students based upon a random lottery that involves all of the children of the residents of that municipality who are seeking enrollment, as provided for in subsection (10); and enrolls students according to the racial/ethnic balance provisions described in subparagraph (7)(a)8. When a municipality has submitted charter applications for the establishment of a charter school feeder pattern, consisting of elementary, middle, and senior high schools, and each individual charter application is approved by the district school board, such schools shall then be designated as one charter school for all purposes listed pursuant to this section. Any portion of the land and facility used for a public charter school shall be exempt from ad valorem taxes, as provided for in s. 1013.54, for the duration of its use as a public school.

(d) As used in this subsection, the terms "business partner" or "municipality" may include more than one business or municipality to form a charter school-in-the-workplace or charter school-in-a-municipality.

(16) EXEMPTION FROM STATUTES.--

(a) A charter school shall operate in accordance with its charter and shall be exempt from all statutes in chapters 1000-1013. However, a charter school shall be in compliance with the following statutes in chapters 1000-1013:

1. Those statutes specifically applying to charter schools, including this section.
2. Those statutes pertaining to the student assessment program and school grading system.
3. Those statutes pertaining to the provision of services to students with disabilities.
4. Those statutes pertaining to civil rights, including s. 1000.05, relating to discrimination.
5. Those statutes pertaining to student health, safety, and welfare.

(b) Additionally, a charter school shall be in compliance with the following statutes:

1. Section 286.011, relating to public meetings and records, public inspection, and criminal and civil penalties.
2. Chapter 119, relating to public records.

(17) FUNDING.--Students enrolled in a charter school, regardless of the sponsorship, shall be funded as if they are in a basic program or a special program, the same as students enrolled in other public schools in the school district. Funding for a charter lab school shall be as provided in s. 1002.32.

(a) Each charter school shall report its student enrollment to the district school board as required in s. 1011.62, and in accordance with the definitions in s. 1011.61. The district school board shall include each charter school's enrollment in the district's report of student enrollment. All charter schools submitting student record information required by the Department of Education shall comply with the Department of Education's guidelines for electronic data formats for such data, and all districts shall accept electronic data that complies with the Department of Education's electronic format.

(b) The basis for the agreement for funding students enrolled in a charter school shall be the sum of the school district's operating funds from the Florida Education Finance Program as provided in s. 1011.62 and the General Appropriations Act, including gross state and local funds, discretionary lottery funds, and funds from the school district's current operating discretionary millage levy; divided by total funded weighted full-time equivalent students in the school district; multiplied by the weighted full-time equivalent students for the charter school. Charter schools whose students or programs meet the eligibility criteria in law shall be entitled to their proportionate share of categorical program funds included in the total funds available in the Florida Education Finance Program by the Legislature, including transportation. Total funding for each charter school shall be recalculated during the year to reflect the revised calculations under the Florida Education Finance Program by the state and the actual weighted full-time equivalent students reported by the charter school during the full-time equivalent student survey periods designated by the Commissioner of Education.

(c) If the district school board is providing programs or services to students funded by federal funds, any eligible students enrolled in charter schools in the school district shall be provided federal funds for the same level of service provided students in the schools operated by the district school board. Pursuant to provisions of 20 U.S.C. 8061 s. 10306, all charter schools shall receive all federal funding for which the school is otherwise eligible, including Title I funding, not later than 5 months after the charter school first opens and within 5 months after any subsequent expansion of enrollment.

(d) District school boards shall make every effort to ensure that charter schools receive timely and efficient reimbursement, including processing paperwork required to access special state and federal funding for which they may be eligible. The district school board may distribute funds to a charter school for up to 3 months based on the projected full-time equivalent student membership of the charter school. Thereafter, the results of full-time equivalent student membership surveys shall be used in adjusting the amount of funds distributed monthly to the charter school for the remainder of the fiscal year. The payment shall be issued no later than 10 working days after the district school board receives a distribution of state or federal funds. If a warrant for payment is not issued within 30 working days after receipt of funding by the district school board, the school district shall pay to the charter school, in addition to the amount of the scheduled disbursement, interest at a rate of 1 percent per month calculated on a daily basis on the unpaid balance from the expiration of the 30-day period until such time as the warrant is issued.

(18) FACILITIES.--

(a) A charter school shall utilize facilities which comply with the Florida Building Code pursuant to chapter 553 except for the State Requirements for Educational Facilities. Charter schools are not required to comply, but may choose to comply, with the State Requirements for Educational Facilities of the Florida Building Code adopted pursuant to s. 1013.37. The local governing authority shall not adopt or impose local building requirements or restrictions that are more stringent than those found in the Florida Building Code. The agency having jurisdiction for inspection of a facility and issuance of a certificate of occupancy shall be the local municipality or, if in an unincorporated area, the county governing authority.

(b) A charter school shall utilize facilities that comply with the Florida Fire Prevention Code, pursuant to s. 633.025, as adopted by the authority in whose jurisdiction the facility is located as provided in paragraph (a).

(c) Any facility, or portion thereof, used to house a charter school whose charter has been approved by the sponsor and the governing board, pursuant to subsection (7), shall be exempt from ad valorem taxes pursuant to s. 196.1983.

(d) Charter school facilities are exempt from assessments of fees for building permits, except as provided in s. 553.80, and for building licenses and from assessments of impact fees or service availability fees.

(e) If a district school board facility or property is available because it is surplus, marked for disposal, or otherwise unused, it shall be provided for a charter school's use on the same basis as it is made available to other public schools in the district. A charter school receiving property from the school district may not sell or dispose of such property without written permission of the school district. Similarly, for an existing public school converting to charter status, no rental or leasing fee for the existing facility or for the property normally inventoried to the conversion school may be charged by the district school board to the parents and teachers organizing the charter school. The charter organizers shall agree to reasonable maintenance provisions in order to maintain the facility in a manner similar to district school board standards. The Public Education Capital Outlay maintenance funds or any other maintenance funds generated by the facility operated as a conversion school shall remain with the conversion school.

(f) To the extent that charter school facilities are specifically created to mitigate the educational impact created by the development of new residential dwelling units, pursuant to subparagraph (2)(c)4., some of or all of the educational impact fees required to be paid in connection with the new residential dwelling units may be designated instead for the construction of the charter school facilities that will mitigate the student station impact. Such facilities shall be built to the State Requirements for Educational Facilities and shall be owned by a public or nonprofit entity. The local school district retains the right to monitor and inspect such facilities to ensure compliance with the State Requirements for Educational Facilities. If a facility ceases to be used for public educational purposes, either the facility shall revert to the school district subject to any debt owed on the facility, or the owner of the facility shall have the option to refund

all educational impact fees utilized for the facility to the school district. The district and the owner of the facility may contractually agree to another arrangement for the facilities if the facilities cease to be used for educational purposes. The owner of property planned or approved for new residential dwelling units and the entity levying educational impact fees shall enter into an agreement that designates the educational impact fees that will be allocated for the charter school student stations and that ensures the timely construction of the charter school student stations concurrent with the expected occupancy of the residential units. The application for use of educational impact fees shall include an approved charter school application. To assist the school district in forecasting student station needs, the entity levying the impact fees shall notify the affected district of any agreements it has approved for the purpose of mitigating student station impact from the new residential dwelling units.

(19) CAPITAL OUTLAY FUNDING.--Charter schools are eligible for capital outlay funds pursuant to s. 1013.62.

(20) SERVICES.--

(a) A sponsor shall provide certain administrative and educational services to charter schools. These services shall include contract management services; full-time equivalent and data reporting services; exceptional student education administration services; test administration services, including payment of the costs of state-required or district-required student assessments; processing of teacher certificate data services; and information services, including equal access to student information systems that are used by public schools in the district in which the charter school is located. A total administrative fee for the provision of such services shall be calculated based upon 5 percent of the available funds defined in paragraph (17)(b) for all students. However, a sponsor may only withhold a 5-percent administrative fee for enrollment for up to and including 500 students. For charter schools with a population of 501 or more students, the difference between the total administrative fee calculation and the amount of the administrative fee withheld may only be used for capital outlay purposes specified in s. 1013.62(2). Sponsors shall not charge charter schools any additional fees or surcharges for administrative and educational services in addition to the 5-percent administrative fee withheld pursuant to this paragraph.

(b) If goods and services are made available to the charter school through the contract with the school district, they shall be provided to the charter school at a rate no greater than the district's actual cost unless mutually agreed upon by the charter school and the sponsor in a contract negotiated separately from the charter. When mediation has failed to resolve disputes over contracted services or contractual matters not included in the charter, an appeal may be made for a dispute resolution hearing before the Charter School Appeal Commission. To maximize the use of state funds, school districts shall allow charter schools to participate in the sponsor's bulk purchasing program if applicable.

(c) Transportation of charter school students shall be provided by the charter school consistent with the requirements of subpart I.E. of chapter 1006 and s. 1012.45. The governing body of the charter school may provide transportation through an agreement or contract with the district school board, a private provider, or parents. The charter school and the sponsor shall cooperate in making arrangements that ensure that transportation is not a barrier to equal access for all students residing within a reasonable distance of the charter school as determined in its charter.

(21) PUBLIC INFORMATION ON CHARTER SCHOOLS.--The Department of Education shall provide information to the public, directly and through sponsors, both on how to form and operate a charter school and on how to enroll in charter schools once they are created. This information shall include a standard application format which shall include the information specified in subsection (7). This application format may be used by chartering entities.

(22) CHARTER SCHOOL REVIEW PANEL AND LEGISLATIVE REVIEW.--

(a) The Department of Education shall regularly convene a Charter School Review Panel in order to review issues, practices, and policies regarding charter schools. The composition of the review panel shall include individuals with

experience in finance, administration, law, education, and school governance, and individuals familiar with charter school construction and operation. The panel shall include two appointees each from the Commissioner of Education, the President of the Senate, and the Speaker of the House of Representatives. The Governor shall appoint three members of the panel and shall designate the chair. Each member of the panel shall serve a 1-year term, unless renewed by the office making the appointment. The panel shall make recommendations to the Legislature, to the Department of Education, to charter schools, and to school districts for improving charter school operations and oversight and for ensuring best business practices at and fair business relationships with charter schools.

(b) The Legislature shall review the operation of charter schools during the 2005 Regular Session of the Legislature.

(23) ANALYSIS OF CHARTER SCHOOL PERFORMANCE.--Upon receipt of the annual report required by paragraph (9)(I), the Department of Education shall provide to the State Board of Education, the Commissioner of Education, the Governor, the President of the Senate, and the Speaker of the House of Representatives an analysis and comparison of the overall performance of charter school students, to include all students whose scores are counted as part of the statewide assessment program, versus comparable public school students in the district as determined by the statewide assessment program currently administered in the school district, and other assessments administered pursuant to s. 1008.22(3).

(24) RULEMAKING.--The Department of Education, after consultation with school districts and charter school directors, shall recommend that the State Board of Education adopt rules to implement specific subsections of this section. Such rules shall require minimum paperwork and shall not limit charter school flexibility authorized by statute.

History.--s. 98, ch. 2002-387; s. 23, ch. 2003-391; s. 1, ch. 2003-393; ss. 35, 78, ch. 2004-41; s. 3, ch. 2004-295; s. 1, ch. 2004-354.

1002.34 Charter technical career centers.--

(1) AUTHORIZATION.--The Legislature finds that the establishment of charter technical career centers can assist in promoting advances and innovations in workforce preparation and economic development. A charter technical career center may provide a learning environment that better serves the needs of a specific population group or a group of occupations, thus promoting diversity and choices within the public education and public postsecondary technical education community in this state. Therefore, the creation of such centers is authorized as part of the state's program of public education. A charter technical career center may be formed by creating a new school or converting an existing school district or community college program to charter technical status.

(2) PURPOSE.--The purpose of a charter technical career center is to:

(a) Develop a competitive workforce to support local business and industry and economic development.

(b) Create a training and education model that is reflective of marketplace realities.

(c) Offer a continuum of career educational opportunities using a school-to-work, tech-prep, technical, academy, and magnet school model.

(d) Provide career pathways for lifelong learning and career mobility.

(e) Enhance career and technical training.

(3) DEFINITIONS.--As used in this section, the term:

(a) "Charter technical career center" or "center" means a public school or a public technical center operated under a charter granted by a district school board or community college board of trustees or a consortium, including one or

more district school boards and community college boards of trustees, that includes the district in which the facility is located, that is nonsectarian in its programs, admission policies, employment practices, and operations, and is managed by a board of directors.

(b) "Sponsor" means a district school board, a community college board of trustees, or a consortium of one or more of each.

(4) CHARTER.--A sponsor may designate centers as provided in this section. An application to establish a center may be submitted by a sponsor or another organization that is determined, by rule of the State Board of Education, to be appropriate. However, an independent school is not eligible for status as a center. The charter must be signed by the governing body of the center and the sponsor, and must be approved by the district school board and community college board of trustees in whose geographic region the facility is located. If a charter technical career center is established by the conversion to charter status of a public technical center formerly governed by a district school board, the charter status of that center takes precedence in any question of governance. The governance of the center or of any program within the center remains with its board of directors unless the board agrees to a change in governance or its charter is revoked as provided in subsection (15). Such a conversion charter technical career center is not affected by a change in the governance of public technical centers or of programs within other centers that are or have been governed by district school boards. A charter technical career center, or any program within such a center, that was governed by a district school board and transferred to a community college prior to the effective date of this act is not affected by this provision. An applicant who wishes to establish a center must submit to the district school board or community college board of trustees, or a consortium of one or more of each, an application that includes:

(a) The name of the proposed center.

(b) The proposed structure of the center, including a list of proposed members of the board of directors or a description of the qualifications for and method of their appointment or election.

(c) The workforce development goals of the center, the curriculum to be offered, and the outcomes and the methods of assessing the extent to which the outcomes are met.

(d) The admissions policy and criteria for evaluating the admission of students.

(e) A description of the staff responsibilities and the proposed qualifications of the teaching staff.

(f) A description of the procedures to be implemented to ensure significant involvement of representatives of business and industry in the operation of the center.

(g) A method for determining whether a student has satisfied the requirements for graduation specified in s. 1003.43 and for completion of a postsecondary certificate or degree.

(h) A method for granting secondary and postsecondary diplomas, certificates, and degrees.

(i) A description of and address for the physical facility in which the center will be located.

(j) A method of resolving conflicts between the governing body of the center and the sponsor and between consortium members, if applicable.

(k) A method for reporting student data as required by law and rule.

(l) Other information required by the district school board or community college board of trustees.

Students at a center must meet the same testing and academic performance standards as those established by law and rule for students at public schools and public technical centers. The students must also meet any additional assessment indicators that are included within the charter approved by the district school board or community college board of trustees.

(5) APPLICATION.--An application to establish a center must be submitted by February 1 of the year preceding the school year in which the center will begin operation. The sponsor must review the application and make a final decision on whether to approve the application and grant the charter by March 1, and may condition the granting of a charter on the center's taking certain actions or maintaining certain conditions. Such actions and conditions must be provided to the applicant in writing. The district school board or community college board of trustees is not required to issue a charter to any person.

(6) SPONSOR.--A district school board or community college board of trustees or a consortium of one or more of each may sponsor a center in the county in which the board has jurisdiction.

(a) A sponsor must review all applications for centers received through at least February 1 of each calendar year for centers to be opened at the beginning of the sponsor's next school year. A sponsor may receive applications later than this date if it so chooses. To facilitate an accurate budget projection process, a sponsor shall be held harmless for FTE students who are not included in the FTE projection due to approval of applications after the FTE projection deadline. A sponsor must, by a majority vote, approve or deny an application no later than 60 days after the application is received. If an application is denied, the sponsor must, within 10 days, notify the applicant in writing of the specific reasons for denial, which must be based upon good cause. Upon approval of a charter application, the initial startup must be consistent with the beginning of the public school or community college calendar for the district in which the charter is granted, unless the sponsor allows a waiver of this provision for good cause.

(b) An applicant may appeal any denial of its application to the State Board of Education within 30 days after the sponsor's denial and shall notify the sponsor of its appeal. Any response of the sponsor must be submitted to the state board within 30 days after notification of the appeal. The State Board of Education must, by majority vote, accept or reject the decision of the sponsor no later than 60 days after an appeal is filed, pursuant to State Board of Education rule. The State Board of Education may reject an appeal for failure to comply with procedural rules governing the appeals process, and the rejection must describe the submission errors. The appellant may have up to 15 days after notice of rejection to resubmit an appeal. An application for appeal submitted after a rejection is timely if the original appeal was filed within 30 days after the sponsor's denial. The State Board of Education shall remand the application to the sponsor with a written recommendation that the sponsor approve or deny the application, consistent with the state board's decision. The decision of the State Board of Education is not subject to the provisions of chapter 120.

(c) The sponsor must act upon the recommendation of the State Board of Education within 30 days after it is received, unless the sponsor determines by competent substantial evidence that approving the state board's recommendation would be contrary to law or the best interests of the students or the community. The sponsor must notify the applicant in writing concerning the specific reasons for its failure to follow the state board's recommendation. The sponsor's action on the state board's recommendation is a final action, subject to judicial review.

(d) The Department of Education may provide technical assistance to an applicant upon written request.

(e) The terms and conditions for the operation of a center must be agreed to by the sponsor and the applicant in a written contract. The sponsor may not impose unreasonable requirements that violate the intent of giving centers greater flexibility to meet educational goals. The applicant and sponsor must reach an agreement on the provisions of

the contract or the application is deemed denied.

(f) The sponsor shall monitor and review the center's progress toward charter goals and shall monitor the center's revenues and expenditures.

(7) LEGAL ENTITY.--A center must organize as a nonprofit organization and adopt a name and corporate seal. A center is a body corporate and politic, with all powers to implement its charter program. The center may:

(a) Be a private or a public employer.

(b) Sue and be sued, but only to the same extent and upon the same conditions that a public entity can be sued.

(c) Acquire real property by purchase, lease, lease with an option to purchase, or gift, to use as a center facility.

(d) Receive and disburse funds.

(e) Enter into contracts or leases for services, equipment, or supplies.

(f) Incur temporary debts in anticipation of the receipt of funds.

(g) Solicit and accept gifts or grants for career center purposes.

(h) Take any other action that is not inconsistent with this section and rules adopted under this section.

(8) ELIGIBLE STUDENTS.--A center must be open to all students as space is available and may not discriminate in admissions policies or practices on the basis of an individual's physical disability or proficiency in English or on any other basis that would be unlawful if practiced by a public school or a community college. A center may establish reasonable criteria by which to evaluate prospective students, which criteria must be outlined in the charter.

(9) FACILITIES.--A center may be located in any suitable location, including part of an existing public school or community college building, space provided on a public worksite, or a public building. A center's facilities must comply with the State Uniform Building Code for Public Educational Facilities Construction adopted pursuant to s. 1013.37, or with applicable state minimum building codes pursuant to chapter 553, and state minimum fire protection codes pursuant to s. 633.025, adopted by the authority in whose jurisdiction the facility is located. If K-12 public school funds are used for construction, the facility must remain on the local school district's Florida Inventory of School Houses (FISH) school building inventory of the district school board and must revert to the district school board if the consortium dissolves and the program is discontinued. If community college public school funds are used for construction, the facility must remain on the local community college's facilities inventory and must revert to the local community college board of trustees if the consortium dissolves and the program is discontinued. The additional student capacity created by the addition of the center to the local school district's FISH may not be calculated in the permanent student capacity for the purpose of determining need or eligibility for state capital outlay funds while the facility is used as a center. If the construction of the center is funded jointly by K-12 public school funds and community college funds, the sponsoring entities must agree, before granting the charter, on the appropriate owner and terms of transfer of the facility if the charter is dissolved.

(10) EXEMPTION FROM STATUTES.--

(a) A center must operate pursuant to its charter and is exempt from all statutes of the Florida School Code except provisions pertaining to civil rights and to student health, safety, and welfare, or as otherwise required by law.

(b) A center must comply with the Florida K-20 Education Code with respect to providing services to students with disabilities.

(c) A center must comply with the antidiscrimination provisions of s. 1000.05.

(11) FUNDING.--

(a) Notwithstanding any other provision of law, a charter technical career center's student membership enrollment must be calculated pursuant to this section.

(b) Each district school board and community college that sponsors a charter technical career center shall pay directly to the center an amount stated in the charter. State funding shall be generated for the center for its student enrollment and program outcomes as provided in law. A center is eligible for funding from workforce education funds, the Florida Education Finance Program, and the Community College Program Fund, depending upon the programs conducted by the center.

(c) A center may receive other state and federal aid, grants, and revenue through the district school board or community college board of trustees.

(d) A center may receive gifts and grants from private sources.

(e) A center may not levy taxes or issue bonds, but it may charge a student tuition fee consistent with authority granted in its charter and permitted by law.

(f) A center shall provide for an annual financial audit in accordance with s. 218.39.

(g) A center must define in the charter agreement the delivery system in which the instructional offering of educational services will be placed. The rules governing this delivery system must be applied to all of the center's students and must authorize all other sponsoring educational systems to report required enrollment and student data based solely on the rules of the offering institution. Each sponsor shall earn full-time equivalent membership for each student for funding and reporting purposes.

(12) EMPLOYEES OF A CENTER.--

(a) A center may select its own employees.

(b) A center may contract for services with an individual, partnership, or a cooperative. Such persons contracted with are not public employees.

(c) If a center contracts with a public educational agency for services, the terms of employment must follow existing state law and rule and local policies and procedures.

(d) The employees of a center may bargain collectively, as a separate unit or as part of the existing district collective bargaining unit, as determined by the structure of the center.

(e) As a public employer, a center may participate in:

1. The Florida Retirement System upon application and approval as a "covered group" under s. 121.021(34). If a center participates in the Florida Retirement System, its employees are compulsory members of the Florida Retirement System.

2. The State Community College System Optional Retirement Program pursuant to s. 1012.875(2), if the charter is granted by a community college that participates in the optional retirement program and meets the eligibility criteria of s. 121.051(2)(c).

- (f) Teachers who are considered qualified by the career center are exempt from state certification requirements.
- (g) A public school or community college teacher or administrator may take a leave of absence to accept employment in a charter technical career center upon the approval of the school district or community college.
- (h) An employee who is on a leave of absence under this section may retain seniority accrued in that school district or community college and may continue to be covered by the benefit programs of that district or community college if the center and the district school board or community college board of trustees agree to this arrangement and its financing.
- (13) BOARD OF DIRECTORS AUTHORITY.--The board of directors of a center may decide matters relating to the operation of the school, including budgeting, curriculum, and operating procedures, subject to the center's charter.
- (14) ACCOUNTABILITY.--Each center must submit a report to the participating district school board or community college board of trustees by August 1 of each year. The report must be in such form as the sponsor prescribes and must include:
- (a) A discussion of progress made toward the achievement of the goals outlined in the center's charter.
- (b) A financial statement setting forth by appropriate categories the revenue and expenditures for the previous school year.
- (15) TERMS OF THE CHARTER.--The term of an initial charter may not exceed 5 years. Thereafter, the sponsor may renew a charter for a period up to 5 years. The sponsor may refuse to renew a charter or may revoke a charter if the center has not fulfilled a condition imposed under the charter or if the center has violated any provision of the charter. The sponsor may place the center on probationary status to allow the implementation of a remedial plan, after which, if the plan is unsuccessful, the charter may be summarily revoked. The sponsor shall develop procedures and guidelines for the revocation and renewal of a center's charter. The sponsor must give written notice of its intent not to renew the charter at least 12 months before the charter expires. If the sponsor revokes a charter before the scheduled expiration date, the sponsor must provide written notice to the governing board of the center at least 60 days before the date of termination, stating the grounds for the proposed revocation. The governing board of the center may request in writing an informal hearing before the sponsor within 14 days after receiving the notice of revocation. A revocation takes effect at the conclusion of a school year, unless the sponsor determines that earlier revocation is necessary to protect the health, safety, and welfare of students. The sponsor shall monitor and review the center in its progress toward the goals established in the charter and shall monitor the revenues and expenditures of the center.
- (16) TRANSPORTATION.--The center may provide transportation, pursuant to chapter 1006, through a contract with the district school board or the community college board of trustees, a private provider, or parents of students. The center must ensure that transportation is not a barrier to equal access for all students in grades K-12 residing within a reasonable distance of the facility.
- (17) IMMUNITY.--For the purposes of tort liability, the governing body and employees of a center are governed by s. 768.28.
- (18) RULES.--The State Board of Education shall adopt rules, pursuant to chapter 120, relating to the implementation of charter technical career centers.
- (19) EVALUATION; REPORT.--The Commissioner of Education shall provide for an annual comparative evaluation of charter technical career centers and public technical centers. The evaluation may be conducted in cooperation with the sponsor, through private contracts, or by department staff. At a minimum, the comparative evaluation must address

the demographic and socioeconomic characteristics of the students served, the types and costs of services provided, and the outcomes achieved. By December 30 of each year, the Commissioner of Education shall submit to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Senate and House committees that have responsibility for secondary and postsecondary career and technical education a report of the comparative evaluation completed for the previous school year.

History.--s. 99, ch. 2002-387; s. 1, ch. 2004-357.

1002.35 New World School of the Arts.--

(1) The New World School of the Arts is created as a center of excellence for the performing and visual arts, to serve all of the State of Florida. The school shall offer a program of academic and artistic studies in the visual and performing arts which shall be available to talented high school and college students.

(2)(a) For purposes of governance, the New World School of the Arts is assigned to Miami-Dade Community College, the Dade County School District, and one or more universities designated by the State Board of Education. The State Board of Education shall assign to the New World School of the Arts a university partner or partners. In this selection, the State Board of Education shall consider the accreditation status of the core programs. Florida International University, in its capacity as the provider of university services to Dade County, shall be a partner to serve the New World School of the Arts, upon meeting the accreditation criteria. The respective boards shall appoint members to an executive board for administration of the school. The executive board may include community members and shall reflect proportionately the participating institutions. Miami-Dade Community College shall serve as fiscal agent for the school.

(b) The New World School of the Arts Foundation is created for the purpose of providing auxiliary financial support for the school's programs, including, but not limited to, the promotion and sponsorship of special events and scholarships. Foundation membership shall be determined by the executive board.

(c) The school may affiliate with other public or private educational or arts institutions. The school shall serve as a professional school for all qualified students within appropriations and limitations established by the Legislature and the respective educational institutions.

(3) The school shall submit annually a formula-driven budget request to the commissioner and the Legislature. This formula shall be developed in consultation with the Department of Education and staff of the Legislature. However, the actual funding for the school shall be determined by the Legislature in the General Appropriations Act.

(4) The State Board of Education shall utilize resources, programs, and faculty from the various state universities in planning and providing the curriculum and courses at the New World School of the Arts, drawing on program strengths at each state university.

History.--s. 100, ch. 2002-387.

1002.36 Florida School for the Deaf and the Blind.--

(1) RESPONSIBILITIES.--The Florida School for the Deaf and the Blind, located in St. Johns County, is a state-supported residential public school for hearing-impaired and visually impaired students in preschool through 12th grade. The school is a component of the delivery of public education within Florida's K-20 education system and shall be funded through the Department of Education. The school shall provide educational programs and support services appropriate to meet the education and related evaluation and counseling needs of hearing-impaired and visually impaired students in the state who meet enrollment criteria. Unless otherwise provided by law, the school shall comply

with all laws and rules applicable to state agencies. Education services may be provided on an outreach basis for sensory-impaired children ages 0 through 5 years and their parents. Graduates of the Florida School for the Deaf and the Blind shall be eligible for the William L. Boyd, IV, Florida Resident Access Grant Program as provided in s. 1009.89.

(2) MISSION.--The mission of the Florida School for the Deaf and the Blind is to utilize all available talent, energy, and resources to provide free appropriate public education for eligible sensory-impaired students of Florida. As a school of academic excellence, the school shall strive to provide students an opportunity to maximize their individual potential in a caring, safe, unique learning environment to prepare them to be literate, employable, and independent lifelong learners. The school shall provide outreach services that include collaboration with district school boards and shall encourage input from students, staff, parents, and the community. As a diverse organization, the school shall foster respect and understanding for each individual.

(3) AUDITS.--The Auditor General shall conduct annual audits of the accounts and records of the Florida School for the Deaf and the Blind. The Department of Education's Inspector General is authorized to conduct investigations at the school as provided in s. 1001.20(4)(e).

(4) BOARD OF TRUSTEES.--

(a) There is hereby created a Board of Trustees for the Florida School for the Deaf and the Blind which shall consist of seven members. Of these seven members, one appointee shall be a blind person and one appointee shall be a deaf person. Each member shall have been a resident of the state for a period of at least 10 years. Their terms of office shall be 4 years. The appointment of the trustees shall be by the Governor with the confirmation of the Senate. The Governor may remove any member for cause and shall fill all vacancies that occur.

(b) The board of trustees shall elect a chair annually. The trustees shall be reimbursed for travel expenses as provided in s. 112.061, the accounts of which shall be paid by the Chief Financial Officer upon itemized vouchers duly approved by the chair.

(c) The board of trustees has authority to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement provisions of law relating to operation of the Florida School for the Deaf and the Blind. Such rules shall be submitted to the State Board of Education for approval or disapproval. After a rule is approved by the State Board of Education, the rule shall be filed immediately with the Department of State. The board of trustees shall act at all times in conjunction with the rules of the State Board of Education.

(d) The board of trustees is a body corporate and shall have a corporate seal. Unless otherwise provided by law, all actions of the board of trustees shall be consistent with all laws and rules applicable to state agencies. Title to any gift, donation, or bequest received by the board of trustees pursuant to subparagraph (e)11. shall vest in the board of trustees. Title to all other property and other assets of the Florida School for the Deaf and the Blind shall vest in the State Board of Education, but the board of trustees shall have complete jurisdiction over the management of the school.

(e) The board of trustees is invested with full power and authority to:

1. Appoint a president, faculty, teachers, and other employees and remove the same as in its judgment may be best and fix their compensation.
2. Procure professional services, such as medical, mental health, architectural, and engineering.
3. Procure legal services without the prior written approval of the Attorney General.
4. Determine eligibility of students and procedure for admission.

5. Provide for the students of the school necessary bedding, clothing, food, and medical attendance and such other things as may be proper for the health and comfort of the students without cost to their parents, except that the board of trustees may set tuition and other fees for nonresidents.
6. Provide for the proper keeping of accounts and records and for budgeting of funds.
7. Enter into contracts.
8. Sue and be sued.
9. Secure public liability insurance.
10. Do and perform every other matter or thing requisite to the proper management, maintenance, support, and control of the school at the highest efficiency economically possible, the board of trustees taking into consideration the purposes of the establishment.
11. Receive gifts, donations, and bequests of money or property, real or personal, tangible or intangible, from any person, firm, corporation, or other legal entity. However, the board of trustees may not obligate the state to any expenditure or policy that is not specifically authorized by law. If the bill of sale, will, trust indenture, deed, or other legal conveyance specifies terms and conditions concerning the use of such money or property, the board of trustees shall observe such terms and conditions.
12. Deposit outside the State Treasury such moneys as are received as gifts, donations, or bequests and may disburse and expend such moneys, upon its own warrant, for the use and benefit of the Florida School for the Deaf and the Blind and its students, as the board of trustees deems to be in the best interest of the school and its students. Such money or property shall not constitute or be considered a part of any legislative appropriation, and such money shall not be used to compensate any person for engaging in lobbying activities before the House of Representatives or Senate or any committee thereof.
13. Sell or convey by bill of sale, deed, or other legal instrument any property, real or personal, received as a gift, donation, or bequest, upon such terms and conditions as the board of trustees deems to be in the best interest of the school and its students.
14. Invest such moneys in securities enumerated under s. 215.47(1), (2)(d), (3), (4), and (9), and in The Common Fund, an Investment Management Fund exclusively for nonprofit educational institutions.

(f) The board of trustees shall:

1. Prepare and submit legislative budget requests for operations and fixed capital outlay, in accordance with chapter 216 and ss. 1011.56 and 1013.60, to the Department of Education for review and approval. The department must analyze the amount requested for fixed capital outlay to determine if the request is consistent with the school's campus master plan, educational plant survey, and facilities master plan.
2. Approve and administer an annual operating budget in accordance with ss. 1011.56 and 1011.57.
3. Require all funds received other than gifts, donations, bequests, funds raised by or belonging to student clubs or student organizations, and funds held for specific students or in accounts for individual students to be deposited in the State Treasury and expended as authorized in the General Appropriations Act.
4. Require all purchases to be in accordance with the provisions of chapter 287.

5. Administer and maintain personnel programs for all employees of the board of trustees and the Florida School for the Deaf and the Blind who shall be state employees, including the personnel classification and pay plan established in accordance with ss. 110.205(2)(d) and 216.251(2)(a)2. for academic and academic administrative personnel, the provisions of chapter 110, and the provisions of law that grant authority to the Department of Management Services over such programs for state employees.

6. Give preference in appointment and retention in positions of employment as provided within s. 295.07(1).

7. Ensure that the Florida School for the Deaf and the Blind complies with s. 1013.351 concerning the coordination of planning between the Florida School for the Deaf and the Blind and local governing bodies.

8. Ensure that the Florida School for the Deaf and the Blind complies with s. 112.061 concerning per diem and travel expenses of public officers, employees, and authorized persons.

9. Adopt a master plan which specifies the mission and objectives of the Florida School for the Deaf and the Blind. The plan shall include, but not be limited to, procedures for systematically measuring the school's progress toward meeting its objectives, analyzing changes in the student population, and modifying school programs and services to respond to such changes. The plan shall be for a period of 5 years and shall be reviewed for needed modifications every 2 years. The board of trustees shall submit the initial plan and subsequent modifications to the Speaker of the House of Representatives and the President of the Senate.

10. Designate a portion of the school as "The Verle Allyn Pope Complex for the Deaf," in tribute to the late Senator Verle Allyn Pope.

(5) STUDENT AND EMPLOYEE PERSONNEL RECORDS.--The Board of Trustees for the Florida School for the Deaf and the Blind shall provide for the content and custody of student and employee personnel records. Student records shall be subject to the provisions of s. 1002.22. Employee personnel records shall be subject to the provisions of s. 1012.31.

(6) LEGAL SERVICES.--The Board of Trustees for the Florida School for the Deaf and the Blind may provide legal services for officers and employees of the board of trustees who are charged with civil or criminal actions arising out of and in the course of the performance of assigned duties and responsibilities. The board of trustees may provide for reimbursement of reasonable expenses for legal services for officers and employees of said board of trustees who are charged with civil or criminal actions arising out of and in the course of the performance of assigned duties and responsibilities upon successful defense by the officer or employee. However, in any case in which the officer or employee pleads guilty or nolo contendere or is found guilty of any such action, the officer or employee shall reimburse the board of trustees for any legal services that the board of trustees may have supplied pursuant to this section. The board of trustees may also reimburse an officer or employee thereof for any judgment that may be entered against him or her in a civil action arising out of and in the course of the performance of his or her assigned duties and responsibilities. Each expenditure by the board of trustees for legal defense of an officer or employee, or for reimbursement pursuant to this section, shall be made at a public meeting with notice pursuant to s. 120.525(1). The providing of such legal services or reimbursement under the conditions described in this subsection is declared to be a school purpose for which school funds may be expended.

(7) PERSONNEL SCREENING.--

(a) The Board of Trustees of the Florida School for the Deaf and the Blind shall, because of the special trust or responsibility of employees of the school, require all employees and applicants for employment to undergo personnel screening and security background investigations as provided in chapter 435, using the level 2 standards for screening set forth in that chapter, as a condition of employment and continued employment. The cost of a personnel screening

and security background investigation for an employee of the school shall be paid by the school. The cost of such a screening and investigation for an applicant for employment may be paid by the school.

(b) As a prerequisite for initial and continuing employment at the Florida School for the Deaf and the Blind:

1. The applicant or employee shall submit to the Florida School for the Deaf and the Blind a complete set of fingerprints taken by an authorized law enforcement agency or an employee of the Florida School for the Deaf and the Blind who is trained to take fingerprints. The Florida School for the Deaf and the Blind shall submit the fingerprints to the Department of Law Enforcement for state processing and the Federal Bureau of Investigation for federal processing.

2.a. The applicant or employee shall attest to the minimum standards for good moral character as contained in chapter 435, using the level 2 standards set forth in that chapter under penalty of perjury.

b. New personnel shall be on a probationary status pending a determination of compliance with such minimum standards for good moral character. This paragraph is in addition to any probationary status provided for by Florida law or Florida School for the Deaf and the Blind rules or collective bargaining contracts.

3. The Florida School for the Deaf and the Blind shall review the record of the applicant or employee with respect to the crimes contained in s. 435.04 and shall notify the applicant or employee of its findings. When disposition information is missing on a criminal record, it shall be the responsibility of the applicant or employee, upon request of the Florida School for the Deaf and the Blind, to obtain and supply within 30 days the missing disposition information to the Florida School for the Deaf and the Blind. Failure to supply missing information within 30 days or to show reasonable efforts to obtain such information shall result in automatic disqualification of an applicant and automatic termination of an employee.

4. After an initial personnel screening and security background investigation, written notification shall be given to the affected employee within a reasonable time prior to any subsequent screening and investigation.

(c) The Florida School for the Deaf and the Blind may grant exemptions from disqualification as provided in s. 435.07.

(d) The Florida School for the Deaf and the Blind may not use the criminal records, private investigator findings, or information reference checks obtained by the school pursuant to this section for any purpose other than determining if a person meets the minimum standards for good moral character for personnel employed by the school. The criminal records, private investigator findings, and information from reference checks obtained by the Florida School for the Deaf and the Blind for determining the moral character of employees of the school are confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(e) It is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, for any person willfully, knowingly, or intentionally to:

1. Fail, by false statement, misrepresentation, impersonation, or other fraudulent means, to disclose in any application for voluntary or paid employment a material fact used in making a determination as to such person's qualifications for a position of special trust.

2. Use the criminal records, private investigator findings, or information from reference checks obtained under this section or information obtained from such records or findings for purposes other than screening for employment or release such information or records to persons for purposes other than screening for employment.

(f) For the purpose of teacher certification, the Florida School for the Deaf and the Blind shall be considered a school district.

(8) CAMPUS POLICE.--

(a) The Board of Trustees for the Florida School for the Deaf and the Blind is permitted and empowered to employ police officers for the school, who must be designated Florida School for the Deaf and the Blind campus police.

(b) Each Florida School for the Deaf and the Blind campus police officer is a law enforcement officer of the state and a conservator of the peace who has the authority to arrest, in accordance with the laws of this state, any person for a violation of state law or applicable county or municipal ordinance if that violation occurs on or in any property or facilities of the school. A campus police officer may also arrest a person off campus for a violation committed on campus after a hot pursuit of that person which began on campus. A campus police officer shall have full authority to bear arms in the performance of the officer's duties and carry out a search pursuant to a search warrant on the campus. Florida School for the Deaf and the Blind campus police, upon request of the sheriff or local police authority, may serve subpoenas or other legal process and may make arrests of persons against whom arrest warrants have been issued or against whom charges have been made for violations of federal or state laws or county or municipal ordinances.

(c) The campus police shall promptly deliver all persons arrested and charged with felonies to the sheriff of the county within which the school is located and all persons arrested and charged with misdemeanors to the applicable authority as provided by law, but otherwise to the sheriff of the county in which the school is located.

(d) The campus police must meet the minimum standards established by the Criminal Justice Standards and Training Commission of the Department of Law Enforcement and chapter 943 for law enforcement officers. Each campus police officer must, before entering into the performance of the officer's duties, take the oath of office established by the board of trustees. The board of trustees may obtain and approve a bond on each campus police officer, conditioned upon the officer's faithful performance of the officer's duties, which bond must be payable to the Governor. The board of trustees may determine the amount of the bond. In determining the amount of the bond, the board may consider the amount of money or property likely to be in the custody of the officer at any one time. The board of trustees must provide a uniform set of identifying credentials to each campus police officer it employs.

(e) In performance of any of the powers, duties, and functions authorized by law, campus police have the same rights, protections, and immunities afforded other law enforcement officers.

(f) The board of trustees shall adopt rules, including, without limitation, rules for the appointment, employment, and removal of campus police in accordance with the State Career Service System and shall establish in writing a policy manual, that includes, without limitation, procedures for managing routine law enforcement situations and emergency law enforcement situations. The board of trustees shall furnish a copy of the policy manual to each of the campus police officers it employs. A campus police officer appointed by the board of trustees must have completed the training required by the school in the special needs and proper procedures for dealing with students served by the school.

(9) REPORT OF CAMPUS CRIME STATISTICS.--

(a) The school shall prepare an annual report of statistics of crimes committed on its campus and shall submit the report to the board of trustees and the Commissioner of Education. The data for these reports may be taken from the annual report of the Department of Law Enforcement. The board of trustees shall prescribe the form for submission of these reports.

(b) The school shall prepare annually a report of statistics of crimes committed on its campus for the preceding 3 years. The school shall give students and prospective students notice that this report is available upon request.

1002.361 Florida School for the Deaf and the Blind; direct-support organization; authority.--

(1) The board of trustees of the Florida School for the Deaf and the Blind may establish a direct-support organization that is:

- (a) A Florida corporation, not for profit, incorporated under chapter 617 and approved by the Secretary of State.
- (b) Organized and operated exclusively to receive, hold, invest, and administer property and to make expenditures to or for the benefit of the Florida School for the Deaf and the Blind or the board of trustees.
- (c) An organization that the board of trustees, after review, has certified to be operating in a manner consistent with the goals of the Florida School for the Deaf and the Blind and the board of trustees and in the best interests of the state. Unless so certified, the organization may not use the name of the Florida School for the Deaf and the Blind.

(2) The direct-support organization shall operate under written contract with the board of trustees. The contract must provide for:

- (a) Approval of the articles of incorporation and bylaws of the direct-support organization by the board of trustees.
- (b) Submission of an annual budget for the approval of the board of trustees. The budget must comply with rules adopted by the board of trustees.
- (c) Certification by the board of trustees that the direct-support organization is complying with the terms of the contract and in a manner consistent with the goals and purposes of the board and in the best interest of the state. The certification must be made annually and reported in the official minutes of a meeting of the board of trustees.
- (d) The reversion to the board of trustees, or to the state if the Florida School for the Deaf and the Blind or the board of trustees ceases to exist, of moneys and property held in trust by the direct-support organization for the benefit of the Florida School for the Deaf and the Blind or the board of trustees, if the direct-support organization is no longer approved to operate for the Florida School for the Deaf and the Blind or board of trustees or if the Florida School for the Deaf and the Blind or the board of trustees ceases to exist.
- (e) The fiscal year of the direct-support organization, which must begin July 1 of each year and end June 30 of the following year.

(f) The disclosure of material provisions of the contract and of the distinction between the board of trustees and the direct-support organization to donors of gifts, contributions, or bequests, and the disclosure on all promotional and fundraising publications.

(3) The direct-support organization shall provide for an annual financial audit in accordance with s. 215.981. The board of trustees and Auditor General may require and receive from the organization or its independent auditor any detail or supplemental data relative to the operation of the organization.

(4) The chair of the board of trustees and the chief administrative employee of the Florida School for the Deaf and the Blind shall be directors of the direct-support organization and shall jointly name, at a minimum, three other individuals to serve as directors of the organization.

(5) The board of trustees may authorize the direct-support organization established in this section to use property of the Florida School for the Deaf and the Blind or of the board of trustees, except money, and use facilities and personal

services subject to this section. If the direct-support organization does not provide equal employment opportunities to all persons regardless of race, color, religion, gender, age, or national origin, it may not use the property, facilities, or personal services of the Florida School for the Deaf and the Blind or of the board of trustees. For the purposes of this section, the term "personal services" includes full-time personnel and part-time personnel as well as payroll processing as prescribed by rule of the board of trustees. The board of trustees shall adopt rules prescribing the procedures by which the direct-support organization is governed and any conditions with which a direct-support organization must comply to use property, facilities, or personal services of the Florida School for the Deaf and the Blind or of the board of trustees.

History. --s. 6, ch. 2004-331.

1002.37 The Florida Virtual School.--

(1)(a) The Florida Virtual School is established for the development and delivery of on-line and distance learning education and shall be administratively housed within the Commissioner of Education's Office of Technology and Information Services. The Commissioner of Education shall monitor the school's performance and report its performance to the State Board of Education and the Legislature.

(b) The mission of the Florida Virtual School is to provide students with technology-based educational opportunities to gain the knowledge and skills necessary to succeed. The school shall serve any student in the state who meets the profile for success in this educational delivery context and shall give priority to:

1. Students who need expanded access to courses in order to meet their educational goals, such as home education students and students in inner-city and rural high schools who do not have access to higher-level courses.
2. Students seeking accelerated access in order to obtain a high school diploma at least one semester early.

(c) To ensure students are informed of the opportunities offered by the Florida Virtual School, the commissioner shall provide the board of trustees of the Florida Virtual School access to the records of public school students in a format prescribed by the board of trustees.

The board of trustees of the Florida Virtual School shall identify appropriate performance measures and standards based on student achievement that reflect the school's statutory mission and priorities, and shall implement an accountability system for the school that includes assessment of its effectiveness and efficiency in providing quality services that encourage high student achievement, seamless articulation, and maximum access.

(2) The Florida Virtual School shall be governed by a board of trustees comprised of seven members appointed by the Governor to 4-year staggered terms. The board of trustees shall be a public agency entitled to sovereign immunity pursuant to s. 768.28, and board members shall be public officers who shall bear fiduciary responsibility for the Florida Virtual School. The board of trustees shall have the following powers and duties:

(a)1. The board of trustees shall meet at least 4 times each year, upon the call of the chair, or at the request of a majority of the membership.

2. The fiscal year for the Florida Virtual School shall be the state fiscal year as provided in s. 216.011(1)(o).

(b) The board of trustees shall be responsible for the Florida Virtual School's development of a state-of-the-art technology-based education delivery system that is cost-effective, educationally sound, marketable, and capable of sustaining a self-sufficient delivery system through the Florida Education Finance Program.

(c) The board of trustees shall aggressively seek avenues to generate revenue to support its future endeavors, and

shall enter into agreements with distance learning providers. The board of trustees may acquire, enjoy, use, and dispose of patents, copyrights, and trademarks and any licenses and other rights or interests thereunder or therein. Ownership of all such patents, copyrights, trademarks, licenses, and rights or interests thereunder or therein shall vest in the state, with the board of trustees having full right of use and full right to retain the revenues derived therefrom. Any funds realized from patents, copyrights, trademarks, or licenses shall be considered internal funds as provided in s. 1011.07. Such funds shall be used to support the school's marketing and research and development activities in order to improve courseware and services to its students.

(d) The board of trustees shall be responsible for the administration and control of all local school funds derived from all activities or sources and shall prescribe the principles and procedures to be followed in administering these funds.

(e) The Florida Virtual School may accrue supplemental revenue from supplemental support organizations, which include, but are not limited to, alumni associations, foundations, parent-teacher associations, and booster associations. The governing body of each supplemental support organization shall recommend the expenditure of moneys collected by the organization for the benefit of the school. Such expenditures shall be contingent upon the review of the executive director. The executive director may override any proposed expenditure of the organization that would violate Florida law or breach sound educational management.

(f) In accordance with law and rules of the State Board of Education, the board of trustees shall administer and maintain personnel programs for all employees of the board of trustees and the Florida Virtual School. The board of trustees may adopt rules, policies, and procedures related to the appointment, employment, and removal of personnel.

1. The board of trustees shall determine the compensation, including salaries and fringe benefits, and other conditions of employment for such personnel.

2. The board of trustees may establish and maintain a personnel loan or exchange program by which persons employed by the board of trustees for the Florida Virtual School as academic administrative and instructional staff may be loaned to, or exchanged with persons employed in like capacities by, public agencies either within or without this state, or by private industry. With respect to public agency employees, the program authorized by this subparagraph shall be consistent with the requirements of part II of chapter 112. The salary and benefits of board of trustees personnel participating in the loan or exchange program shall be continued during the period of time they participate in a loan or exchange program, and such personnel shall be deemed to have no break in creditable or continuous service or employment during such time. The salary and benefits of persons participating in the personnel loan or exchange program who are employed by public agencies or private industry shall be paid by the originating employers of those participants, and such personnel shall be deemed to have no break in creditable or continuous service or employment during such time.

3. The employment of all Florida Virtual School academic administrative and instructional personnel shall be subject to rejection for cause by the board of trustees, and shall be subject to policies of the board of trustees relative to certification, tenure, leaves of absence, sabbaticals, remuneration, and such other conditions of employment as the board of trustees deems necessary and proper, not inconsistent with law.

4. Each person employed by the board of trustees in an academic administrative or instructional capacity with the Florida Virtual School shall be entitled to a contract as provided by rules of the board of trustees.

5. All employees except temporary, seasonal, and student employees may be state employees for the purpose of being eligible to participate in the Florida Retirement System and receive benefits. The classification and pay plan, including terminal leave and other benefits, and any amendments thereto, shall be subject to review and approval by the Department of Management Services and the Executive Office of the Governor prior to adoption.

- (g) The board of trustees shall establish priorities for admission of students in accordance with paragraph (1)(b).
- (h) The board of trustees shall establish and distribute to all school districts and high schools in the state procedures for enrollment of students in courses offered by the Florida Virtual School.
- (i) The board of trustees shall establish criteria defining the elements of an approved franchise. The board of trustees may enter into franchise agreements with Florida district school boards and may establish the terms and conditions governing such agreements. The board of trustees shall establish the performance and accountability measures and report the performance of each school district franchise to the Commissioner of Education.
- (j) The board of trustees shall submit to the State Board of Education both forecasted and actual enrollments and credit completions for the Florida Virtual School, according to procedures established by the State Board of Education. At a minimum, such procedures must include the number of public, private, and home education students served by program and by county of residence.
- (k) The board of trustees shall provide for the content and custody of student and employee personnel records. Student records shall be subject to the provisions of s. 1002.22. Employee records shall be subject to the provisions of s. 1012.31.
- (l) The financial records and accounts of the Florida Virtual School shall be maintained under the direction of the board of trustees and under rules adopted by the State Board of Education for the uniform system of financial records and accounts for the schools of the state.

The Governor shall designate the initial chair of the board of trustees to serve a term of 4 years. Members of the board of trustees shall serve without compensation, but may be reimbursed for per diem and travel expenses pursuant to s. 112.061. The board of trustees shall be a body corporate with all the powers of a body corporate and such authority as is needed for the proper operation and improvement of the Florida Virtual School. The board of trustees is specifically authorized to adopt rules, policies, and procedures, consistent with law and rules of the State Board of Education related to governance, personnel, budget and finance, administration, programs, curriculum and instruction, travel and purchasing, technology, students, contracts and grants, and property as necessary for optimal, efficient operation of the Florida Virtual School. Tangible personal property owned by the board of trustees shall be subject to the provisions of chapter 273.

(3) Funding for the Florida Virtual School shall be provided as follows:

- (a) A "full-time equivalent student" for the Florida Virtual School is one student who has successfully completed six credits that shall count toward the minimum number of credits required for high school graduation. A student who completes less than six credits shall be a fraction of a full-time equivalent student. Half-credit completions shall be included in determining a full-time equivalent student. Credit completed by a student in excess of the minimum required for that student for high school graduation is not eligible for funding.
- (b) Full-time equivalent student credit completed through the Florida Virtual School, including credits completed during the summer, shall be reported to the Department of Education in the manner prescribed by the department and shall be funded through the Florida Education Finance Program.
- (c) School districts may not limit student access to courses offered through the Florida Virtual School.
- (d) Full-time equivalent student credit completion for courses offered through the Florida Virtual School shall be reported only by the Florida Virtual School. School districts shall report full-time equivalent student membership only

for courses for which the district provides the instruction.

(e) The district cost differential as provided in s. 1011.62(2) shall be established as 1.000.

(f) The Florida Virtual School shall receive funds for operating purposes in an amount determined as follows: multiply the maximum allowable nonvoted discretionary millage for operations pursuant to s. 1011.71(1) by the value of 95 percent of the current year's taxable value for school purposes for the state; divide the result by the total full-time equivalent membership of the state; and multiply the result by the full-time equivalent membership of the school. The amount thus obtained shall be discretionary operating funds and shall be appropriated from state funds in the General Appropriations Act.

(g) The Florida Virtual School shall receive additional state funds as may be provided in the General Appropriations Act.

(h) In addition to the funds provided in the General Appropriations Act, the Florida Virtual School may receive other funds from grants and donations.

(4) School districts operating a virtual school that is an approved franchise of the Florida Virtual School may count full-time equivalent students, as provided in paragraph (3)(a), if such school has been certified as an approved franchise by the Commissioner of Education based on criteria established by the board of trustees pursuant to paragraph (2)(i).

(5) Under no circumstance may the credit of the state be pledged on behalf of the Florida Virtual School.

(6) The board of trustees shall annually submit to the Governor, the Legislature, the Commissioner of Education, and the State Board of Education a complete and detailed report setting forth:

(a) The operations and accomplishments of the Florida Virtual School.

(b) The marketing and operational plan for the Florida Virtual School, including recommendations regarding methods for improving the delivery of education through the Internet and other distance learning technology.

(c) The assets and liabilities of the Florida Virtual School at the end of the fiscal year.

(d) A copy of an annual financial audit of the accounts and records of the Florida Virtual School, conducted by an independent certified public accountant and performed in accordance with rules adopted by the Auditor General.

(e) Recommendations regarding the unit cost of providing services to students. In order to most effectively develop public policy regarding any future funding of the Florida Virtual School, it is imperative that the cost of the program is accurately identified. The identified cost of the program must be based on reliable data.

(f) Recommendations regarding an accountability mechanism to assess the effectiveness of the services provided by the Florida Virtual School.

(7) The State Board of Education may adopt rules it deems necessary to implement reporting requirements for the Florida Virtual School.

History.--s. 102, ch. 2002-387; s. 19, ch. 2003-391.

1002.38 Opportunity Scholarship Program.--

(1) FINDINGS AND INTENT.--The purpose of this section is to provide enhanced opportunity for students in this state

to gain the knowledge and skills necessary for postsecondary education, a career education, or the world of work. The Legislature recognizes that the voters of the State of Florida, in the November 1998 general election, amended s. 1, Art. IX of the Florida Constitution so as to make education a paramount duty of the state. The Legislature finds that the State Constitution requires the state to provide a uniform, safe, secure, efficient, and high-quality system which allows the opportunity to obtain a high-quality education. The Legislature further finds that a student should not be compelled, against the wishes of the student's parent, to remain in a school found by the state to be failing for 2 years in a 4-year period. The Legislature shall make available opportunity scholarships in order to give parents the opportunity for their children to attend a public school that is performing satisfactorily or to attend an eligible private school when the parent chooses to apply the equivalent of the public education funds generated by his or her child to the cost of tuition in the eligible private school as provided in paragraph (6)(a). Eligibility of a private school shall include the control and accountability requirements that, coupled with the exercise of parental choice, are reasonably necessary to secure the educational public purpose, as delineated in subsection (4).

(2) OPPORTUNITY SCHOLARSHIP ELIGIBILITY.--A public school student's parent may request and receive from the state an opportunity scholarship for the student to enroll in and attend a private school in accordance with the provisions of this section if:

- (a)1. By assigned school attendance area or by special assignment, the student has spent the prior school year in attendance at a public school that has been designated pursuant to s. 1008.34 as performance grade category "F," failing to make adequate progress, and that has had 2 school years in a 4-year period of such low performance, and the student's attendance occurred during a school year in which such designation was in effect;
2. The student has been in attendance elsewhere in the public school system and has been assigned to such school for the next school year; or
3. The student is entering kindergarten or first grade and has been notified that the student has been assigned to such school for the next school year.

(b) The parent has obtained acceptance for admission of the student to a private school eligible for the program pursuant to subsection (4), and has notified the Department of Education and the school district of the request for an opportunity scholarship no later than July 1 of the first year in which the student intends to use the scholarship.

The provisions of this section shall not apply to a student who is enrolled in a school operating for the purpose of providing educational services to youth in Department of Juvenile Justice commitment programs. For purposes of continuity of educational choice, the opportunity scholarship shall remain in force until the student returns to a public school or, if the student chooses to attend a private school the highest grade of which is grade 8, until the student matriculates to high school and the public high school to which the student is assigned is an accredited school with a performance grade category designation of "C" or better. However, at any time upon reasonable notice to the Department of Education and the school district, the student's parent may remove the student from the private school and place the student in a public school, as provided in subparagraph (3)(a)2.

(3) SCHOOL DISTRICT OBLIGATIONS.--

(a) A school district shall, for each student enrolled in or assigned to a school that has been designated as performance grade category "F" for 2 school years in a 4-year period:

1. Timely notify the parent of the student as soon as such designation is made of all options available pursuant to this section.
2. Offer that student's parent an opportunity to enroll the student in the public school within the district that has been

designated by the state pursuant to s. 1008.34 as a school performing higher than that in which the student is currently enrolled or to which the student has been assigned, but not less than performance grade category "C." The parent is not required to accept this offer in lieu of requesting a state opportunity scholarship to a private school. The opportunity to continue attending the higher performing public school shall remain in force until the student graduates from high school.

(b) The parent of a student enrolled in or assigned to a school that has been designated performance grade category "F" for 2 school years in a 4-year period may choose as an alternative to enroll the student in and transport the student to a higher-performing public school that has available space in an adjacent school district, and that school district shall accept the student and report the student for purposes of the district's funding pursuant to the Florida Education Finance Program.

(c) For students in the school district who are participating in the state Opportunity Scholarship Program, the school district shall provide locations and times to take all statewide assessments required pursuant to s. 1008.22.

(d) Students with disabilities who are eligible to receive services from the school district under federal or state law, and who participate in this program, remain eligible to receive services from the school district as provided by federal or state law.

(e) If for any reason a qualified private school is not available for the student or if the parent chooses to request that the student be enrolled in the higher performing public school, rather than choosing to request the state opportunity scholarship, transportation costs to the higher performing public school shall be the responsibility of the school district. The district may utilize state categorical transportation funds or state-appropriated public school choice incentive funds for this purpose.

(4) PRIVATE SCHOOL ELIGIBILITY.--To be eligible to participate in the Opportunity Scholarship Program, a private school must be a Florida private school, may be sectarian or nonsectarian, and must:

(a) Demonstrate fiscal soundness by being in operation for 1 school year or provide the Department of Education with a statement by a certified public accountant confirming that the private school desiring to participate is insured and the owner or owners have sufficient capital or credit to operate the school for the upcoming year serving the number of students anticipated with expected revenues from tuition and other sources that may be reasonably expected. In lieu of such a statement, a surety bond or letter of credit for the amount equal to the opportunity scholarship funds for any quarter may be filed with the department.

(b) Notify the Department of Education and the school district in whose service area the school is located of its intent to participate in the program under this section by May 1 of the school year preceding the school year in which it intends to participate. The notice shall specify the grade levels and services that the private school has available for the Opportunity Scholarship Program.

(c) Comply with the antidiscrimination provisions of 42 U.S.C. s. 2000d.

(d) Meet state and local health and safety laws and codes.

(e) Accept scholarship students on an entirely random and religious-neutral basis without regard to the student's past academic history; however, the private school may give preference in accepting applications to siblings of students who have already been accepted on a random and religious-neutral basis.

(f) Be subject to the instruction, curriculum, and attendance criteria adopted by an appropriate nonpublic school accrediting body and be academically accountable to the parent for meeting the educational needs of the student. The

private school must furnish a school profile which includes student performance.

(g) Employ or contract with teachers who hold a baccalaureate or higher degree, or have at least 3 years of teaching experience in public or private schools, or have special skills, knowledge, or expertise that qualifies them to provide instruction in subjects taught.

(h) Comply with all state statutes relating to private schools.

(i) Accept as full tuition and fees the amount provided by the state for each student.

(j) Agree not to compel any student attending the private school on an opportunity scholarship to profess a specific ideological belief, to pray, or to worship.

(k) Adhere to the tenets of its published disciplinary procedures prior to the expulsion of any opportunity scholarship student.

(5) OBLIGATION OF PROGRAM PARTICIPATION.--

(a) Any student participating in the Opportunity Scholarship Program must remain in attendance throughout the school year, unless excused by the school for illness or other good cause, and must comply fully with the school's code of conduct.

(b) The parent of each student participating in the Opportunity Scholarship Program must comply fully with the private school's parental involvement requirements, unless excused by the school for illness or other good cause.

(c) The parent shall ensure that the student participating in the Opportunity Scholarship Program takes all statewide assessments required pursuant to s. 1008.22.

(d) A participant who fails to comply with this subsection shall forfeit the opportunity scholarship.

(6) OPPORTUNITY SCHOLARSHIP FUNDING AND PAYMENT.--

(a) The maximum opportunity scholarship granted for an eligible student shall be a calculated amount equivalent to the base student allocation in the Florida Education Finance Program multiplied by the appropriate cost factor for the educational program that would have been provided for the student in the district school to which he or she was assigned, multiplied by the district cost differential. In addition, the calculated amount shall include the per-student share of instructional materials funds, technology funds, and other categorical funds as provided for this purpose in the General Appropriations Act.

(b) The amount of the opportunity scholarship shall be the calculated amount or the amount of the private school's tuition and fees, whichever is less. Fees eligible shall include textbook fees, lab fees, and other fees related to instruction, including transportation.

(c) The school district shall report all students who are attending a private school under this program. The students attending private schools on opportunity scholarships shall be reported separately from those students reported for purposes of the Florida Education Finance Program.

(d) The public or private school that provides services to students with disabilities shall receive the weighted funding for such services at the appropriate funding level consistent with the provisions of s. 1011.62(1)(e).

(e) For purposes of calculating the opportunity scholarship, a student will be eligible for the amount of the appropriate basic cost factor if:

1. The student currently participates in a Group I program funded at the basic cost factor and is not subsequently identified as having a disability; or
2. The student currently participates in a Group II program and the parent has chosen a private school that does not provide the additional services funded by the Group II program.

(f) Following annual notification on July 1 of the number of participants, the Department of Education shall transfer from each school district's appropriated funds the calculated amount from the Florida Education Finance Program and authorized categorical accounts to a separate account for the Opportunity Scholarship Program for quarterly disbursement to the parents of participating students.

(g) Upon proper documentation reviewed and approved by the Department of Education, the Chief Financial Officer shall make opportunity scholarship payments in four equal amounts no later than September 1, November 1, February 1, and April 1 of each academic year in which the opportunity scholarship is in force. The initial payment shall be made after Department of Education verification of admission acceptance, and subsequent payments shall be made upon verification of continued enrollment and attendance at the private school. Payment must be by individual warrant made payable to the student's parent and mailed by the Department of Education to the private school of the parent's choice, and the parent shall restrictively endorse the warrant to the private school.

(7) LIABILITY.--No liability shall arise on the part of the state based on any grant or use of an opportunity scholarship.

(8) RULES.--The State Board of Education may adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this section. Rules shall include penalties for noncompliance with subsections (3) and (5). However, the inclusion of eligible private schools within options available to Florida public school students does not expand the regulatory authority of the state, its officers, or any school district to impose any additional regulation of private schools beyond those reasonably necessary to enforce requirements expressly set forth in this section.

History.--s. 103, ch. 2002-387; s. 1945, ch. 2003-261; s. 79, ch. 2004-357.

1002.39 The John M. McKay Scholarships for Students with Disabilities Program.--There is established a program that is separate and distinct from the Opportunity Scholarship Program and is named the John M. McKay Scholarships for Students with Disabilities Program, pursuant to this section.

(1) THE JOHN M. MCKAY SCHOLARSHIPS FOR STUDENTS WITH DISABILITIES PROGRAM.--The John M. McKay Scholarships for Students with Disabilities Program is established to provide the option to attend a public school other than the one to which assigned, or to provide a scholarship to a private school of choice, for students with disabilities for whom an individual education plan has been written in accordance with rules of the State Board of Education. Students with disabilities include K-12 students who are mentally handicapped, speech and language impaired, deaf or hard of hearing, visually impaired, dual sensory impaired, physically impaired, emotionally handicapped, specific learning disabled, hospitalized or homebound, or autistic.

(2) SCHOLARSHIP ELIGIBILITY.--The parent of a public school student with a disability who is dissatisfied with the student's progress may request and receive from the state a John M. McKay Scholarship for the child to enroll in and attend a private school in accordance with this section if:

(a) By assigned school attendance area or by special assignment, the student has spent the prior school year in attendance at a Florida public school. Prior school year in attendance means that the student was enrolled and reported by a school district for funding during the preceding October and February Florida Education Finance Program surveys in kindergarten through grade 12. However, this paragraph does not apply to a dependent child of a member of the

United States Armed Forces who transfers to a school in this state from out of state or from a foreign country pursuant to a parent's permanent change of station orders. A dependent child of a member of the United States Armed Forces who transfers to a school in this state from out of state or from a foreign country pursuant to a parent's permanent change of station orders must meet all other eligibility requirements to participate in the program.

(b) The parent has obtained acceptance for admission of the student to a private school that is eligible for the program under subsection (4) and has notified the school district of the request for a scholarship at least 60 days prior to the date of the first scholarship payment. The parental notification must be through a communication directly to the district or through the Department of Education to the district in a manner that creates a written or electronic record of the notification and the date of receipt of the notification.

This section does not apply to a student who is enrolled in a school operating for the purpose of providing educational services to youth in Department of Juvenile Justice commitment programs. For purposes of continuity of educational choice, the scholarship shall remain in force until the student returns to a public school or graduates from high school. However, at any time, the student's parent may remove the student from the private school and place the student in another private school that is eligible for the program under subsection (4) or in a public school as provided in subsection (3).

(3) SCHOOL DISTRICT AND DEPARTMENT OF EDUCATION OBLIGATIONS.--

(a) A school district shall timely notify the parent of the student of all options available pursuant to this section and offer that student's parent an opportunity to enroll the student in another public school within the district. The parent is not required to accept this offer in lieu of requesting a John M. McKay Scholarship to a private school. However, if the parent chooses the public school option, the student may continue attending a public school chosen by the parent until the student graduates from high school. If the parent chooses a public school consistent with the district school board's choice plan under s. 1002.31, the school district shall provide transportation to the public school selected by the parent. The parent is responsible to provide transportation to a public school chosen that is not consistent with the district school board's choice plan under s. 1002.31.

(b) For a student with disabilities who does not have a matrix of services under s. 1011.62(1)(e), the school district must complete a matrix that assigns the student to one of the levels of service as they existed prior to the 2000-2001 school year. The school district must complete the matrix of services for any student who is participating in the John M. McKay Scholarships for Students with Disabilities Program and must notify the Department of Education of the student's matrix level within 30 days after receiving notification by the student's parent of intent to participate in the scholarship program. The Department of Education shall notify the private school of the amount of the scholarship within 10 days after receiving the school district's notification of the student's matrix level. Within 10 school days after it receives notification of a parent's intent to apply for a McKay Scholarship, a district school board must notify the student's parent if the matrix has not been completed and provide the parent with the date for completion of the matrix required in this paragraph.

(c) If the parent chooses the private school option and the student is accepted by the private school pending the availability of a space for the student, the parent of the student must notify the school district 60 days prior to the first scholarship payment and before entering the private school in order to be eligible for the scholarship when a space becomes available for the student in the private school.

(d) The parent of a student may choose, as an alternative, to enroll the student in and transport the student to a public school in an adjacent school district which has available space and has a program with the services agreed to in the student's individual education plan already in place, and that school district shall accept the student and report the student for purposes of the district's funding pursuant to the Florida Education Finance Program.

(e) For a student in the district who participates in the John M. McKay Scholarships for Students with Disabilities Program whose parent requests that the student take the statewide assessments under s. 1008.22, the district shall provide locations and times to take all statewide assessments.

(f) A school district must notify the Department of Education within 10 days after it receives notification of a parent's intent to apply for a scholarship for a student with a disability. A school district must provide the student's parent with the student's matrix level within 10 school days after its completion.

(4) PRIVATE SCHOOL ELIGIBILITY.--To be eligible to participate in the John M. McKay Scholarships for Students with Disabilities Program, a private school must be a Florida private school, may be sectarian or nonsectarian, and must:

(a) Demonstrate fiscal soundness by being in operation for 1 school year or provide the Department of Education with a statement by a certified public accountant confirming that the private school desiring to participate is insured and the owner or owners have sufficient capital or credit to operate the school for the upcoming year serving the number of students anticipated with expected revenues from tuition and other sources that may be reasonably expected. In lieu of such a statement, a surety bond or letter of credit for the amount equal to the scholarship funds for any quarter may be filed with the department.

(b) Notify the Department of Education of its intent to participate in the program under this section. The notice must specify the grade levels and services that the private school has available for students with disabilities who are participating in the scholarship program.

(c) Comply with the antidiscrimination provisions of 42 U.S.C. s. 2000d.

(d) Meet state and local health and safety laws and codes.

(e) Be academically accountable to the parent for meeting the educational needs of the student.

(f) Employ or contract with teachers who hold baccalaureate or higher degrees, or have at least 3 years of teaching experience in public or private schools, or have special skills, knowledge, or expertise that qualifies them to provide instruction in subjects taught.

(g) Comply with all state laws relating to general regulation of private schools.

(h) Adhere to the tenets of its published disciplinary procedures prior to the expulsion of a scholarship student.

(5) OBLIGATION OF PROGRAM PARTICIPANTS.--

(a) A parent who applies for a John M. McKay Scholarship is exercising his or her parental option to place his or her child in a private school. The parent must select the private school and apply for the admission of his or her child.

(b) The parent must have requested the scholarship at least 60 days prior to the date of the first scholarship payment.

(c) Any student participating in the scholarship program must remain in attendance throughout the school year, unless excused by the school for illness or other good cause, and must comply fully with the school's code of conduct.

(d) The parent of each student participating in the scholarship program must comply fully with the private school's parental involvement requirements, unless excused by the school for illness or other good cause.

(e) If the parent requests that the student participating in the scholarship program take all statewide assessments required pursuant to s. 1008.22, the parent is responsible for transporting the student to the assessment site

designated by the school district.

(f) Upon receipt of a scholarship warrant, the parent to whom the warrant is made must restrictively endorse the warrant to the private school for deposit into the account of the private school.

(g) A participant who fails to comply with this subsection forfeits the scholarship.

(6) SCHOLARSHIP FUNDING AND PAYMENT.--

(a)1. The maximum scholarship granted for an eligible student with disabilities shall be a calculated amount equivalent to the base student allocation in the Florida Education Finance Program multiplied by the appropriate cost factor for the educational program that would have been provided for the student in the district school to which he or she was assigned, multiplied by the district cost differential.

2. In addition, a share of the guaranteed allocation for exceptional students shall be determined and added to the calculated amount. The calculation shall be based on the methodology and the data used to calculate the guaranteed allocation for exceptional students for each district in chapter 2000-166, Laws of Florida. Except as provided in subparagraph 3., the calculation shall be based on the student's grade, matrix level of services, and the difference between the 2000-2001 basic program and the appropriate level of services cost factor, multiplied by the 2000-2001 base student allocation and the 2000-2001 district cost differential for the sending district. Also, the calculated amount shall include the per-student share of supplemental academic instruction funds, instructional materials funds, technology funds, and other categorical funds as provided for such purposes in the General Appropriations Act.

3. Until the school district completes the matrix required by paragraph (3)(b), the calculation shall be based on the matrix that assigns the student to support level I of service as it existed prior to the 2000-2001 school year. When the school district completes the matrix, the amount of the payment shall be adjusted as needed.

(b) The amount of the John M. McKay Scholarship shall be the calculated amount or the amount of the private school's tuition and fees, whichever is less. The amount of any assessment fee required by the participating private school may be paid from the total amount of the scholarship.

(c) If the participating private school requires partial payment of tuition prior to the start of the academic year to reserve space for students admitted to the school, that partial payment may be paid by the Department of Education prior to the first quarterly payment of the year in which the John M. McKay Scholarship is awarded, up to a maximum of \$1,000, and deducted from subsequent scholarship payments. If a student decides not to attend the participating private school, the partial reservation payment must be returned to the Department of Education by the participating private school. There is a limit of one reservation payment per student per year.

(d) The school district shall report all students who are attending a private school under this program. The students with disabilities attending private schools on John M. McKay Scholarships shall be reported separately from other students reported for purposes of the Florida Education Finance Program.

(e) Following notification on July 1, September 1, December 1, or February 1 of the number of program participants, the Department of Education shall transfer, from General Revenue funds only, the amount calculated under paragraph (b) from the school district's total funding entitlement under the Florida Education Finance Program and from authorized categorical accounts to a separate account for the scholarship program for quarterly disbursement to the parents of participating students. When a student enters the scholarship program, the Department of Education must receive all documentation required for the student's participation, including the private school's and student's fee schedules, at least 30 days before the first quarterly scholarship payment is made for the student. The Department of Education may not make any retroactive payments.

(f) Upon proper documentation reviewed and approved by the Department of Education, the Chief Financial Officer shall make scholarship payments in four equal amounts no later than September 1, November 1, February 1, and April 15 of each academic year in which the scholarship is in force. The initial payment shall be made after Department of Education verification of admission acceptance, and subsequent payments shall be made upon verification of continued enrollment and attendance at the private school. Payment must be by individual warrant made payable to the student's parent and mailed by the Department of Education to the private school of the parent's choice, and the parent shall restrictively endorse the warrant to the private school for deposit into the account of the private school.

(7) LIABILITY.--No liability shall arise on the part of the state based on the award or use of a John M. McKay Scholarship.

(8) RULES.--The State Board of Education shall adopt rules pursuant to ss. 120.536(1) and 120.54 to administer this section, including rules that school districts must use to expedite the development of a matrix of services based on a current individual education plan from another state or a foreign country for a transferring student with a disability who is a dependent child of a member of the United States Armed Forces. The rules must identify the appropriate school district personnel who must complete the matrix of services. For purposes of these rules, a transferring student with a disability is one who was previously enrolled as a student with a disability in an out-of-state or an out-of-country public or private school or agency program and who is transferring from out of state or from a foreign country pursuant to a parent's permanent change of station orders. However, the inclusion of eligible private schools within options available to Florida public school students does not expand the regulatory authority of the state, its officers, or any school district to impose any additional regulation of private schools beyond those reasonably necessary to enforce requirements expressly set forth in this section.

History.--s. 104, ch. 2002-387; s. 1946, ch. 2003-261; s. 11, ch. 2004-230.

PART IV

HOME EDUCATION, PRIVATE SCHOOLS, OTHER EDUCATION OPTIONS

1002.41 Home education programs.

1002.42 Private schools.

1002.43 Private tutoring programs.

1002.41 Home education programs.--

(1) A "home education program" is defined in s. 1002.01. The parent is not required to hold a valid regular Florida teaching certificate.

(a) The parent shall notify the district school superintendent of the county in which the parent resides of her or his intent to establish and maintain a home education program. The notice shall be in writing, signed by the parent, and shall include the names, addresses, and birthdates of all children who shall be enrolled as students in the home education program. The notice shall be filed in the district school superintendent's office within 30 days of the establishment of the home education program. A written notice of termination of the home education program shall be filed in the district school superintendent's office within 30 days after said termination.

(b) The parent shall maintain a portfolio of records and materials. The portfolio shall consist of the following:

1. A log of educational activities that is made contemporaneously with the instruction and that designates by title any reading materials used.
2. Samples of any writings, worksheets, workbooks, or creative materials used or developed by the student.

The portfolio shall be preserved by the parent for 2 years and shall be made available for inspection by the district school superintendent, or the district school superintendent's agent, upon 15 days' written notice. Nothing in this section shall require the district school superintendent to inspect the portfolio.

(c) The parent shall provide for an annual educational evaluation in which is documented the student's demonstration of educational progress at a level commensurate with her or his ability. The parent shall select the method of evaluation and shall file a copy of the evaluation annually with the district school superintendent's office in the county in which the student resides. The annual educational evaluation shall consist of one of the following:

1. A teacher selected by the parent shall evaluate the student's educational progress upon review of the portfolio and discussion with the student. Such teacher shall hold a valid regular Florida certificate to teach academic subjects at the elementary or secondary level;
2. The student shall take any nationally normed student achievement test administered by a certified teacher;
3. The student shall take a state student assessment test used by the school district and administered by a certified teacher, at a location and under testing conditions approved by the school district;
4. The student shall be evaluated by an individual holding a valid, active license pursuant to the provisions of s. 490.003(7) or (8); or
5. The student shall be evaluated with any other valid measurement tool as mutually agreed upon by the district school superintendent of the district in which the student resides and the student's parent.

(2) The district school superintendent shall review and accept the results of the annual educational evaluation of the student in a home education program. If the student does not demonstrate educational progress at a level commensurate with her or his ability, the district school superintendent shall notify the parent, in writing, that such progress has not been achieved. The parent shall have 1 year from the date of receipt of the written notification to provide remedial instruction to the student. At the end of the 1-year probationary period, the student shall be reevaluated as specified in paragraph (1)(c). Continuation in a home education program shall be contingent upon the student demonstrating educational progress commensurate with her or his ability at the end of the probationary period.

(3) A home education program shall be excluded from meeting the requirements of a school day.

(4) Home education students may participate in interscholastic extracurricular student activities in accordance with the provisions of s. 1006.15.

(5) Home education students may participate in the Bright Futures Scholarship Program in accordance with the provisions of ss. 1009.53-1009.539.

(6) Home education students may participate in dual enrollment programs in accordance with the provisions of ss. 1007.27(4) and 1007.271(10).

(7) Home education students are eligible for admission to community colleges in accordance with the provisions of s.

1007.263.

(8) Home education students are eligible for admission to state universities in accordance with the provisions of s. 1007.261.

(9) Home education program students may receive testing and evaluation services at diagnostic and resource centers, in accordance with the provisions of s. 1006.03.

History.--s. 106, ch. 2002-387.

1002.42 Private schools.--

(1) DEFINITION.--A "private school" is defined in s. 1002.01.

(2) ANNUAL PRIVATE SCHOOL SURVEY.--

(a) The Department of Education shall organize, maintain, and annually update a database of educational institutions within the state coming within the provisions of this section. There shall be included in the database of each institution the name, address, and telephone number of the institution; the type of institution; the names of administrative officers; the enrollment by grade or special group (e.g., career education and exceptional child education); the number of graduates; the number of instructional and administrative personnel; the number of days the school is in session; and such data as may be needed to meet the provisions of this section and s. 1003.23(2).

(b) For the purpose of organizing, maintaining, and updating this database, each private school shall annually execute and file a database survey form on a date designated by the Department of Education which shall include a notarized statement ascertaining that the owner of the private school has complied with the provisions of paragraph (c). For the purpose of this section, "owner" means any individual who is the chief administrative officer of a private school.

(c)1. Notwithstanding the provisions of paragraph (h), each person who is an owner or who establishes, purchases, or otherwise becomes an owner of a private school shall, within 5 days of assuming ownership of a school, file with the Department of Law Enforcement a complete set of fingerprints for state processing and checking for criminal background. The fingerprints shall be taken by an authorized law enforcement officer or an employee of the school who is trained to take fingerprints. The costs of fingerprinting, criminal records checking, and processing shall be borne by the applicant or private school. The result of the criminal records checking by the Department of Law Enforcement shall be forwarded to the owner of the private school and shall be made available for public inspection in the private school office as soon as it is received.

2. It shall be unlawful for a person who has been convicted of a crime involving moral turpitude to own or operate a private school.

3. An owner of a private school may require school employees to file a complete set of fingerprints with the Department of Law Enforcement for processing and criminal records checking. Findings from such processing and checking shall be reported to the owner for use in employment decisions.

4. Owners or employees of private schools who have been fingerprinted pursuant to this paragraph, s. 1012.32, or s. 402.3055 shall not be required to be refingerprinted if they have not been unemployed or unassociated with a private school or child care facility for more than 90 days.

5. Persons holding a valid Florida teaching certificate who have been fingerprinted pursuant to s. 1012.35 shall not be required to comply with the provisions of this paragraph.

(d) The data inquiries to be included and answered in the survey required in paragraph (b) shall be limited to matters set forth in paragraph (a). The department shall furnish annually to each school sufficient copies of this form.

(e) To ensure completeness and accuracy of the database, each existing private educational institution falling within the provisions of this section shall notify the Department of Education of any change in the name of the institution, the address, or the chief administrative officer. Each new institution shall notify the department of its establishment.

(f) Annually, the department shall make accessible to the public data on private education in this state. Such data shall include that collected pursuant to paragraph (a) and from other sources.

(g) The failure of any institution to submit the annual database survey form and notarized statement of compliance with the provisions of paragraph (c), as required by this section, shall be judged a misdemeanor and, upon conviction, proper authorities of such institution shall be subject to a fine not exceeding \$500. Submission of data for a nonexistent school or an institution providing no instruction or training, the purpose of which is to defraud the public, is unlawful and the person or persons responsible commit a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. Persons found to be in violation of subparagraph (c)2. commit a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(h) It is the intent of the Legislature not to regulate, control, approve, or accredit private educational institutions, but to create a database where current information may be obtained relative to the educational institutions in this state coming within the provisions of this section as a service to the public, to governmental agencies, and to other interested parties. It is not the intent of the Legislature to regulate, control, or monitor, expressly or implicitly, churches, their ministries, or religious instruction, freedoms, or rites. It is the intent of the Legislature that the annual submission of the database survey by a school shall not be used by that school to imply approval or accreditation by the Department of Education.

(3) RETENTION OF RECORDS.--

(a) As used in this subsection:

1. "Defunct private school" means any private school that has terminated the operation of an education or training program, or that has no students in attendance, or that has dissolved as a business entity.
2. "Student records" means those records, files, documents, and other materials that contain information directly related to students that are maintained by a private school or by a person acting for such institution and that are accessible to other professional personnel to facilitate the instruction, guidance, and educational progress of students. Information contained in student records shall be classified as follows:
 - a. Permanent information, which includes verified information of clear educational importance, containing the following: student's full name and any known changes thereto due to marriage or adoption; authenticated birthdate, place of birth, race, and sex; last known address of student; names of student's parents; name and location of last school attended; number of days present and absent; date enrolled; date withdrawn; courses taken and record of achievement; and date of graduation or program achievement.
 - b. Temporary information, which includes verified information subject to change, containing, but not limited to, the following: health information, standardized test scores, honors and activities, personal attributes, work experience, teacher and counselor comments, and special reports.

(b) All private schools that become defunct shall transfer all permanent information contained in student records to the district school superintendent of the public school district in which the private school was located; or, if the private

school is a member of a private school system or association, such school may transfer such records to the principal office of such system or association, which shall constitute full compliance with this subsection. In the event that such private school system or association becomes defunct, it shall transfer all the permanent information contained in its files to the district school superintendent of the public school district in which the private school was located.

(c) All private schools that become defunct shall notify the Department of Education Office of Private Schools and Home Education Programs of the date of transfer of student records, the location of storage, the custodian of such records, and the number of records to be stored. The department shall act as a clearinghouse and maintain a registry of such transfers of student records.

(d) It is not the intent of the Legislature to limit or restrict the use or possession of any student records while a school is operational, but to facilitate access to academic records by former students seeking to continue their education or training after a private school has become defunct.

(4) ATTENDANCE RECORDS AND REPORTS.--All officials, teachers, and other employees in parochial, religious, denominational, and private schools shall keep and prepare records in accordance with the provisions of s. 1003.23(2).

(5) SCHOOL-ENTRY HEALTH EXAMINATIONS.--The governing authority of each private school shall require students to present a certification of a school-entry health examination in accordance with the provisions of s. 1003.22(1) and (2).

(6) IMMUNIZATIONS.--The governing authority of each private school shall require students to present a certification of immunization in accordance with the provisions of s. 1003.22(3)-(11).

(7) ATTENDANCE REQUIREMENTS.--Attendance of a student at a private, parochial, religious, or denominational school satisfies the attendance requirements of ss. 1003.01(13) and 1003.21(1).

(8) ATHLETIC COMPETITION.--A private school may participate in athletic competition with a public high school in accordance with the provisions of s. 1006.20(1).

(9) RECEIPT OF EDUCATIONAL MATERIALS.--The Department of Education may disseminate educational materials and sell copies for educational use to private schools pursuant to s. 1006.39.

(10) INSTRUCTIONAL MATERIALS.--District school boards may dispose of instructional materials when they become unserviceable or surplus or are no longer on state contract by giving them to a private school in accordance with the provisions of s. 1006.41.

(11) DIAGNOSTIC AND RESOURCE CENTERS.--Diagnostic and resource centers may provide testing and evaluation services to private school students in accordance with the provisions of s. 1006.03(3).

(12) EXCEPTIONAL EDUCATION SERVICES.--District school boards may provide instruction for an appropriate program of special instruction, facilities, and services for exceptional students through contractual arrangements with approved private schools in accordance with the provisions of s. 1003.57.

(13) PROFESSIONAL DEVELOPMENT SYSTEM.--An organization of private schools that has no fewer than 10 member schools in this state may develop a professional development system to be filed with the Department of Education in accordance with the provisions of s. 1012.98(6).

(14) BUS DRIVER TRAINING.--Private school bus drivers may participate in a district school board's bus driver training program, if the district school board makes the program available pursuant to s. 1012.45(4).

(15) POOL PURCHASE OF SCHOOL BUSES.--

(a) Florida private schools that demonstrate a racially nondiscriminatory student admission policy may purchase school buses from the state pool purchase program as authorized in s. 1006.27(1), if the private school meets the following conditions:

1. Students in one or more grades, kindergarten through grade 12, are provided an education program by the school and the school has submitted the information required pursuant to this section and the most recent school survey required in subsection (2).
2. All conditions of the contracts for purchasing school buses between the Department of Education and the companies involved, including bus specifications, ordering deadlines, delivery period and procedures, and payment requirements, shall be met.
3. Purchase orders shall be made out to the appropriate company or companies involved and shall be accompanied by a certified check in the amount of 25 percent of the total cost of the bus or buses as a good faith deposit that the bus or buses will be purchased.
4. The remainder of the total cost shall be paid upon delivery of the bus or buses to the representative of the private school receiving the bus or buses, or shall be paid when the company informs the purchaser that the buses are ready for delivery if the purchaser has specified that buses are to be picked up at the company's location. If the chassis and the body are purchased from different companies, the remainder of the chassis' total cost shall be payable upon delivery of the chassis to the body manufacturer.
5. If the private school does not meet the obligation stated in subparagraph 4. within 30 calendar days after notice that the bus is ready for delivery or that the chassis has been delivered to the body manufacturer, the selling company may retain 15 percent of the amount being held by the company as a good faith deposit, and all obligations to the private school may be canceled. When the 15 percent is retained, the company shall return 10 percent of the good faith deposit to the nonpublic school within 15 days of cancellation of the companies' objection.

(b) Any bus purchased under this section may not be sold, if still titled as a motor vehicle, within 5 calendar years of the date of the initial Florida title being issued, unless the following conditions are met:

1. The bus or buses may be sold only to a Florida public school district or Florida private school. Any such sale during the first 5 years shall be documented to the Department of Education within 15 days after the sale.
2. The bus or buses shall be advertised by the private school in one major newspaper located in each of the five regions of the state for 3 consecutive days and a copy of the advertisement and the name of each newspaper shall be sent to the Department of Education before the first day of advertising the bus or buses for sale.
3. The bus may not be sold at a profit. The bus shall be depreciated at a rate of 10 percent per calendar year, with the first year starting on the date of issue of the initial title in this state.
4. Notwithstanding any other provisions of law and rule regarding purchase of used school buses, the bus may be sold to a public school district if the conditions of subparagraph 3. are met.
5. Any public school district or private school purchasing a bus under the conditions of this subsection must accept the obligations of this subsection, and such shall be entered in the sales contract.

(c) Any private school, including the owner or corporation purchasing a bus or buses under the conditions of this section, that does not comply with all the conditions of this section shall not be eligible for future purchases of a school bus under this section.

(d) Any private school interested in purchasing a bus under this section shall notify, in writing, the Department of Education. The Department of Education shall send the school the appropriate forms, instructions, and price quotations.

(e) Notwithstanding any other provisions of this section, no school bus manufacturer, distributor, or dealer shall be required to violate any dealer contract or franchise agreement entered into before the effective date of this section regarding the sale of its buses.

(f) The State Board of Education may adopt rules pursuant to ss. 120.536 and 120.54 necessary to implement this section, maintain the integrity of the school bus pool purchase program, and ensure the best and lowest price for purchasing school buses by the public school districts.

History.--s. 107, ch. 2002-387; s. 33, ch. 2003-391; s. 36, ch. 2004-41; s. 80, ch. 2004-357.

1002.43 Private tutoring programs.--

(1) Regular school attendance as defined in s. 1003.01(13) may be achieved by attendance in a private tutoring program if the person tutoring the student meets the following requirements:

(a) Holds a valid Florida certificate to teach the subjects or grades in which instruction is given.

(b) Keeps all records and makes all reports required by the state and district school board and makes regular reports on the attendance of students in accordance with the provisions of s. 1003.23(2).

(c) Requires students to be in actual attendance for the minimum length of time prescribed by s. 1011.60(2).

(2) Private tutors shall keep and prepare records in accordance with the provisions of s. 1003.23(2).

History.--s. 108, ch. 2002-387; s. 37, ch. 2004-41.

PART V

VOLUNTARY PREKINDERGARTEN EDUCATION PROGRAM

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1002.51 Definitions.--As used in this part, the term:

(1) "Department" means the Department of Education.

(2) "Early learning coalition" or "coalition" means an early learning coalition created under s. 411.01.

(3) "Prekindergarten director" means an onsite person ultimately responsible for the overall operation of a private prekindergarten provider or, alternatively, of the provider's prekindergarten program, regardless of whether the person is the owner of the provider.

(4) "Prekindergarten instructor" means a teacher or child care personnel as defined in s. 402.302 who provide instruction to students in the Voluntary Prekindergarten Education Program.

(5) "Private prekindergarten provider" means a provider other than a public school which is eligible to deliver the school-year prekindergarten program under s. 1002.55 or the summer prekindergarten program under s. 1002.61.

History.--s. 1, ch. 2004-484.

1002.53 Voluntary Prekindergarten Education Program; eligibility and enrollment.--

(1) There is created the Voluntary Prekindergarten Education Program. The program shall take effect in each county at the beginning of the 2005-2006 school year and shall be organized, designed, and delivered in accordance with s. 1(b) and (c), Art. IX of the State Constitution.

(2) Each child who resides in this state who will have attained the age of 4 years on or before September 1 of the school year is eligible for the Voluntary Prekindergarten Education Program during that school year. The child remains eligible until the beginning of the school year for which the child is eligible for admission to kindergarten in a public school under s. 1003.21(1)(a)2. or until the child is admitted to kindergarten, whichever occurs first.

(3) The parent of each child eligible under subsection (2) may enroll the child in one of the following programs:

(a) A school-year prekindergarten program delivered by a private prekindergarten provider under s. 1002.55;

(b) A summer prekindergarten program delivered by a public school or private prekindergarten provider under s. 1002.61; or

(c) A school-year prekindergarten program delivered by a public school, if offered by a school district that is eligible under s. 1002.63.

Except as provided in s. 1002.71(4), a child may not enroll in more than one of these programs.

(4)(a) Each parent enrolling a child in the Voluntary Prekindergarten Education Program must complete and submit an application to the early learning coalition through the single point of entry established under s. 411.01.

(b) The application must be submitted on forms prescribed by the Agency for Workforce Innovation and must be accompanied by a certified copy of the child's birth certificate. The forms must include a certification, in substantially the form provided in s. 1002.71(6)(b)2., that the parent chooses the private prekindergarten provider or public school in accordance with this section and directs that payments for the program be made to the provider or school. The Agency for Workforce Innovation may authorize alternative methods for submitting proof of the child's age in lieu of a certified copy of the child's birth certificate.

(c) Each early learning coalition shall coordinate with each of the school districts within the coalition's county or multicounty region in the development of procedures for enrolling children in prekindergarten programs delivered by public schools.

(5) The early learning coalition shall provide each parent enrolling a child in the Voluntary Prekindergarten Education Program with a profile of every private prekindergarten provider and public school delivering the program within the coalition's county or multicounty region. The profiles shall be provided to parents in a format prescribed by the Agency for Workforce Innovation. The profiles must include, at a minimum, the following information about each provider and school:

(a) The provider's or school's services, curriculum, instructor credentials, and instructor-to-student ratio; and

(b) The provider's or school's kindergarten readiness rate calculated in accordance with s. 1002.69, based upon the most recent available results of the statewide kindergarten screening.

(6)(a) A parent may enroll his or her child with any private prekindergarten provider that is eligible to deliver the Voluntary Prekindergarten Education Program under this part; however, the provider may determine whether to admit any child. An early learning coalition may not limit the number of students admitted by any private prekindergarten provider for enrollment in the program. However, this paragraph does not authorize an early learning coalition to allow a provider to exceed any staff-to-children ratio, square footage per child, or other requirement imposed under ss. 402.301-402.319 as a result of admissions in the prekindergarten program.

(b) A parent may enroll his or her child with any public school within the school district which is eligible to deliver the Voluntary Prekindergarten Education Program under this part, subject to available space. Each school district may limit the number of students admitted by any public school for enrollment in the program; however, the school district must provide for the admission of every eligible child within the district whose parent enrolls the child in a summer prekindergarten program delivered by a public school under s. 1002.61.

(c) Each private prekindergarten provider and public school must comply with the antidiscrimination requirements of 42 U.S.C. s. 2000d, regardless of whether the provider or school receives federal financial assistance. A private prekindergarten provider or public school may not discriminate against a parent or child, including the refusal to admit a child for enrollment in the Voluntary Prekindergarten Education Program, in violation of these antidiscrimination requirements.

History.--s. 1, ch. 2004-484.

1002.55 School-year prekindergarten program delivered by private prekindergarten providers.--

(1) Each early learning coalition shall administer the Voluntary Prekindergarten Education Program at the county or

regional level for students enrolled under s. 1002.53(3)(a) in a school-year prekindergarten program delivered by a private prekindergarten provider.

(2) Each school-year prekindergarten program delivered by a private prekindergarten provider must comprise at least 540 instructional hours.

(3) To be eligible to deliver the prekindergarten program, a private prekindergarten provider must meet each of the following requirements:

(a) The private prekindergarten provider must be a child care facility licensed under s. 402.305, family day care home licensed under s. 402.313, large family child care home licensed under s. 402.3131, nonpublic school exempt from licensure under s. 402.3025(2), or faith-based child care provider exempt from licensure under s. 402.316.

(b) The private prekindergarten provider must:

1. Be accredited by an accrediting association that is a member of the National Council for Private School Accreditation, the Commission on International and Trans-Regional Accreditation, or the Florida Association of Academic Nonpublic Schools;

2. Hold a current Gold Seal Quality Care designation under s. 402.281; or

3. Be licensed under s. 402.305, s. 402.313, or s. 402.3131 and demonstrate, before delivering the Voluntary Prekindergarten Education Program, as verified by the early learning coalition, that the provider meets each of the requirements of the program under this part, including, but not limited to, the requirements for credentials and background screenings of prekindergarten instructors under paragraphs (c) and (d), minimum and maximum class sizes under paragraph (e), prekindergarten director credentials under paragraph (f), and a developmentally appropriate curriculum under s. 1002.67(2)(b).

(c) The private prekindergarten provider must have, for each prekindergarten class, at least one prekindergarten instructor who meets each of the following requirements:

1. The prekindergarten instructor must hold, at a minimum, one of the following credentials:

a. A child development associate credential issued by the National Credentialing Program of the Council for Professional Recognition; or

b. A credential approved by the Department of Children and Family Services as being equivalent to or greater than the credential described in sub-subparagraph a.

The Department of Children and Family Services may adopt rules under ss. 120.536(1) and 120.54 which provide criteria and procedures for approving equivalent credentials under sub-subparagraph b.

2. The prekindergarten instructor must successfully complete an emergent literacy training course approved by the department as meeting or exceeding the minimum standards adopted under s. 1002.59. This subparagraph does not apply to a prekindergarten instructor who successfully completes approved training in early literacy and language development under s. 402.305(2)(d)5., s. 402.313(6), or s. 402.3131(5) before the establishment of one or more emergent literacy training courses under s. 1002.59 or April 1, 2005, whichever occurs later.

(d) Each prekindergarten instructor employed by the private prekindergarten provider must be of good moral character, must be screened using the level 2 screening standards in s. 435.04 before employment and rescreened at least once every 5 years, must be denied employment or terminated if required under s. 435.06, and must not be

ineligible to teach in a public school because his or her educator certificate is suspended or revoked.

(e) Each of the private prekindergarten provider's prekindergarten classes must be composed of at least 4 students but may not exceed 18 students. In order to protect the health and safety of students, each private prekindergarten provider must also provide appropriate adult supervision for students at all times and, for each prekindergarten class composed of 11 or more students, must have, in addition to a prekindergarten instructor who meets the requirements of paragraph (c), at least one adult prekindergarten instructor who is not required to meet those requirements but who must meet each requirement of paragraph (d). This paragraph does not supersede any requirement imposed on a provider under ss. 402.301-402.319.

(f) Before the beginning of the 2006-2007 school year, the private prekindergarten provider must have a prekindergarten director who has a prekindergarten director credential that is approved by the department as meeting or exceeding the minimum standards adopted under s. 1002.57. Successful completion of a child care facility director credential under s. 402.305(2)(f) before the establishment of the prekindergarten director credential under s. 1002.57 or July 1, 2006, whichever occurs later, satisfies the requirement for a prekindergarten director credential under this paragraph.

(g) The private prekindergarten provider must register with the early learning coalition on forms prescribed by the Agency for Workforce Innovation.

(h) The private prekindergarten provider must deliver the Voluntary Prekindergarten Education Program in accordance with this part.

(4) A prekindergarten instructor, in lieu of the minimum credentials and courses required under paragraph (3)(c), may hold one of the following educational credentials:

(a) A bachelor's or higher degree in early childhood education, prekindergarten or primary education, preschool education, or family and consumer science;

(b) A bachelor's or higher degree in elementary education, if the prekindergarten instructor has been certified to teach children any age from birth through 6th grade, regardless of whether the instructor's educator certificate is current, and if the instructor is not ineligible to teach in a public school because his or her educator certificate is suspended or revoked;

(c) An associate's or higher degree in child development;

(d) An associate's or higher degree in an unrelated field, at least 6 credit hours in early childhood education or child development, and at least 480 hours of experience in teaching or providing child care services for children any age from birth through 8 years of age; or

(e) An educational credential approved by the department as being equivalent to or greater than an educational credential described in this subsection. The department may adopt criteria and procedures for approving equivalent educational credentials under this paragraph.

History. --s. 1, ch. 2004-484.

1002.57 Prekindergarten director credential.--

(1) By July 1, 2006, the department shall adopt minimum standards for a credential for prekindergarten directors of private prekindergarten providers delivering the Voluntary Prekindergarten Education Program. The credential must encompass requirements for education and onsite experience.

(2) The educational requirements must include training in the following:

(a) Professionally accepted standards for prekindergarten programs, early learning, and strategies and techniques to address the age-appropriate progress of prekindergarten students in attaining the performance standards adopted by the department under s. 1002.67;

(b) Strategies that allow students with disabilities and other special needs to derive maximum benefit from the Voluntary Prekindergarten Education Program; and

(c) Program administration and operations, including management, organizational leadership, and financial and legal issues.

(3) The prekindergarten director credential must meet or exceed the requirements of the Department of Children and Family Services for the child care facility director credential under s. 402.305(2)(f), and successful completion of the prekindergarten director credential satisfies these requirements for the child care facility director credential.

(4) The department shall, to the maximum extent practicable, award credit to a person who successfully completes the child care facility director credential under s. 402.305(2)(f) for those requirements of the prekindergarten director credential which are duplicative of requirements for the child care facility director credential.

History.--s. 1, ch. 2004-484.

1002.59 Emergent literacy training courses.--By April 1, 2005, the department shall adopt minimum standards for one or more training courses in emergent literacy for prekindergarten instructors. Each course must comprise 5 clock hours and provide instruction in strategies and techniques to address the age-appropriate progress of prekindergarten students in developing emergent literacy skills, including oral communication, knowledge of print and letters, phonemic and phonological awareness, and vocabulary and comprehension development. Each course must also provide resources containing strategies that allow students with disabilities and other special needs to derive maximum benefit from the Voluntary Prekindergarten Education Program. Successful completion of an emergent literacy training course approved under this section satisfies requirements for approved training in early literacy and language development under ss. 402.305(2)(d)5., 402.313(6), and 402.3131(5).

History.--s. 1, ch. 2004-484.

1002.61 Summer prekindergarten program delivered by public schools and private prekindergarten providers.--

(1)(a) Each school district shall administer the Voluntary Prekindergarten Education Program at the district level for students enrolled under s. 1002.53(3)(b) in a summer prekindergarten program delivered by a public school.

(b) Each early learning coalition shall administer the Voluntary Prekindergarten Education Program at the county or regional level for students enrolled under s. 1002.53(3)(b) in a summer prekindergarten program delivered by a private prekindergarten provider.

(2) Each summer prekindergarten program delivered by a public school or private prekindergarten provider must:

(a) Comprise at least 300 instructional hours;

(b) Not begin earlier than May 1 of the school year; and

(c) Not deliver the program for a child earlier than the summer immediately before the school year for which the child

is eligible for admission to kindergarten in a public school under s. 1003.21(1)(a)2.

(3)(a) Each district school board shall determine which public schools in the school district are eligible to deliver the summer prekindergarten program. The school district shall use educational facilities available in the public schools during the summer term for the summer prekindergarten program.

(b) Except as provided in this section, to be eligible to deliver the summer prekindergarten program, a private prekindergarten provider must meet each requirement in s. 1002.55.

(4) Notwithstanding ss. 1002.55(3)(c)1. and 1002.63(5), each public school and private prekindergarten provider must have, for each prekindergarten class, at least one prekindergarten instructor who:

(a) Is a certified teacher; or

(b) Holds one of the educational credentials specified in s. 1002.55(4)(a) or (b).

As used in this subsection, the term "certified teacher" means a teacher holding a valid Florida educator certificate under s. 1012.56 who has the qualifications required by the district school board to instruct students in the summer prekindergarten program. In selecting instructional staff for the summer prekindergarten program, each school district shall give priority to teachers who have experience or coursework in early childhood education.

(5) Each prekindergarten instructor employed by a public school or private prekindergarten provider delivering the summer prekindergarten program must be of good moral character, must be screened using the level 2 screening standards in s. 435.04 before employment and rescreened at least once every 5 years, must be denied employment or terminated if required under s. 435.06, and must not be ineligible to teach in a public school because his or her educator certificate is suspended or revoked. This subsection does not supersede employment requirements for instructional personnel in public schools which are more stringent than the requirements of this subsection.

(6) Notwithstanding ss. 1002.55(3)(e) and 1002.63(7), each prekindergarten class in the summer prekindergarten program, regardless of whether the class is a public school's or private prekindergarten provider's class, must be composed of at least 4 students but may not exceed 10 students. In order to protect the health and safety of students, each public school or private prekindergarten provider must also provide appropriate adult supervision for students at all times. This subsection does not supersede any requirement imposed on a provider under ss. 402.301-402.319.

(7) Each public school delivering the summer prekindergarten program must also:

(a) Register with the early learning coalition on forms prescribed by the Agency for Workforce Innovation; and

(b) Deliver the Voluntary Prekindergarten Education Program in accordance with this part.

History. --s. 1, ch. 2004-484.

1002.63 School-year prekindergarten program delivered by public schools.--

(1) Each school district eligible under subsection (4) may administer the Voluntary Prekindergarten Education Program at the district level for students enrolled under s. 1002.53(3)(c) in a school-year prekindergarten program delivered by a public school.

(2) Each school-year prekindergarten program delivered by a public school must comprise at least 540 instructional hours.

(3) The district school board of each school district eligible under subsection (4) shall determine which public schools

in the district are eligible to deliver the prekindergarten program during the school year.

(4) To be eligible to deliver the prekindergarten program during the school year, each school district must meet both of the following requirements:

(a) The district school board must certify to the State Board of Education that the school district:

1. Has reduced the average class size in each classroom in accordance with s. 1003.03 and the schedule in s. 1(a), Art. IX of the State Constitution; and
2. Has sufficient satisfactory educational facilities and capital outlay funds to continue reducing the average class size in each classroom in the district's elementary schools for each year in accordance with the schedule for class size reduction and to achieve full compliance with the maximum class sizes in s. 1(a), Art. IX of the State Constitution by the beginning of the 2010-2011 school year.

(b) The Commissioner of Education must certify to the State Board of Education that the department has reviewed the school district's educational facilities, capital outlay funds, and projected student enrollment and concurs with the district school board's certification under paragraph (a).

(5) Each public school must have, for each prekindergarten class, at least one prekindergarten instructor who meets each requirement in s. 1002.55(3)(c) for a prekindergarten instructor of a private prekindergarten provider.

(6) Each prekindergarten instructor employed by a public school delivering the school-year prekindergarten program must be of good moral character, must be screened using the level 2 screening standards in s. 435.04 before employment and rescreened at least once every 5 years, must be denied employment or terminated if required under s. 435.06, and must not be ineligible to teach in a public school because his or her educator certificate is suspended or revoked. This subsection does not supersede employment requirements for instructional personnel in public schools which are more stringent than the requirements of this subsection.

(7) Each prekindergarten class in a public school delivering the school-year prekindergarten program must be composed of at least 4 students but may not exceed 18 students. In order to protect the health and safety of students, each school must also provide appropriate adult supervision for students at all times and, for each prekindergarten class composed of 11 or more students, must have, in addition to a prekindergarten instructor who meets the requirements of s. 1002.55(3)(c), at least one adult prekindergarten instructor who is not required to meet those requirements but who must meet each requirement of subsection (6).

(8) Each public school delivering the school-year prekindergarten program must:

(a) Register with the early learning coalition on forms prescribed by the Agency for Workforce Innovation; and

(b) Deliver the Voluntary Prekindergarten Education Program in accordance with this part.

History.--s. 1, ch. 2004-484.

1002.65 Professional credentials of prekindergarten instructors; aspirational goals; legislative intent.--

(1) The Legislature recognizes that there is a strong relationship between the skills and preparation of prekindergarten instructors and the educational outcomes of students in the Voluntary Prekindergarten Education Program.

(2) To improve these educational outcomes, the Legislature intends that all prekindergarten instructors will continue to improve their skills and preparation through education and training, so that the following aspirational goals will be

achieved:

(a) By the 2010-2011 school year:

1. Each prekindergarten class will have at least one prekindergarten instructor who holds an associate's or higher degree in the field of early childhood education or child development; and
2. For each prekindergarten class composed of 11 or more students, in addition to a prekindergarten instructor who meets the requirements of subparagraph 1., the class will have at least one prekindergarten instructor who meets the requirements of s. 1002.55(3)(c).

(b) By the 2013-2014 school year, each prekindergarten class will have at least one prekindergarten instructor who holds a bachelor's or higher degree in the field of early childhood education or child development.

History. --s. 1, ch. 2004-484.

1002.67 Performance standards; curricula and accountability.--

(1) By April 1, 2005, the department shall develop and adopt performance standards for students in the Voluntary Prekindergarten Education Program. The performance standards must address the age-appropriate progress of students in the development of:

- (a) The capabilities, capacities, and skills required under s. 1(b), Art. IX of the State Constitution; and
- (b) Emergent literacy skills, including oral communication, knowledge of print and letters, phonemic and phonological awareness, and vocabulary and comprehension development.

(2)(a) Each private prekindergarten provider and public school may select or design the curriculum that the provider or school uses to implement the Voluntary Prekindergarten Education Program, except as otherwise required for a provider or school that is placed on probation under paragraph (3)(c).

(b) Each private prekindergarten provider's and public school's curriculum must be developmentally appropriate and must:

1. Be designed to prepare a student for early literacy;
2. Enhance the age-appropriate progress of students in attaining the performance standards adopted by the department under subsection (1); and
3. Prepare students to be ready for kindergarten based upon the statewide kindergarten screening administered under s. 1002.69.

(c) The department shall review and approve curricula for use by private prekindergarten providers and public schools that are placed on probation under paragraph (3)(c). The department shall maintain a list of the curricula approved under this paragraph. Each approved curriculum must meet the requirements of paragraph (b).

(3)(a) Each early learning coalition shall verify that each private prekindergarten provider delivering the Voluntary Prekindergarten Education Program within the coalition's county or multicounty region complies with this part. Each district school board shall verify that each public school delivering the program within the school district complies with this part.

(b) If a private prekindergarten provider or public school fails or refuses to comply with this part, or if a provider or

school engages in misconduct, the Agency for Workforce Innovation shall require the early learning coalition to remove the provider, and the Department of Education shall require the school district to remove the school, from eligibility to deliver the Voluntary Prekindergarten Education Program and receive state funds under this part.

(c)1. If the kindergarten readiness rate of a private prekindergarten provider or public school falls below the minimum rate adopted by the State Board of Education as satisfactory under s. 1002.69(6), the early learning coalition or school district, as applicable, shall require the provider or school to submit an improvement plan for approval by the coalition or school district, as applicable, and to implement the plan.

2. If a private prekindergarten provider or public school fails to meet the minimum rate adopted by the State Board of Education as satisfactory under s. 1002.69(6) for 2 consecutive years, the early learning coalition or school district, as applicable, shall place the provider or school on probation and must require the provider or school to take certain corrective actions, including the use of a curriculum approved by the department under paragraph (2)(c).

3. A private prekindergarten provider or public school that is placed on probation must continue the corrective actions required under subparagraph 2., including the use of a curriculum approved by the department, until the provider or school meets the minimum rate adopted by the State Board of Education as satisfactory under s. 1002.69(6).

4. If a private prekindergarten provider or public school remains on probation for 2 consecutive years and fails to meet the minimum rate adopted by the State Board of Education as satisfactory under s. 1002.69(6), the Agency for Workforce Innovation shall require the early learning coalition or the Department of Education shall require the school district, as applicable, to remove the provider or school from eligibility to deliver the Voluntary Prekindergarten Education Program and receive state funds for the program.

(d) Each early learning coalition, the Agency for Workforce Innovation, and the department shall coordinate with the Child Care Services Program Office of the Department of Children and Family Services to minimize interagency duplication of activities for monitoring private prekindergarten providers for compliance with requirements of the Voluntary Prekindergarten Education Program under this part, the school readiness programs under s. 411.01, and the licensing of providers under ss. 402.301-402.319.

History.--s. 1, ch. 2004-484.

1002.69 Statewide kindergarten screening; kindergarten readiness rates.--

(1) The department shall adopt a statewide kindergarten screening that assesses the readiness of each student for kindergarten based upon the performance standards adopted by the department under s. 1002.67(1) for the Voluntary Prekindergarten Education Program. The department shall require that each school district administer the statewide kindergarten screening to each kindergarten student in the school district within the first 30 school days of each school year.

(2) The statewide kindergarten screening shall provide objective data concerning each student's readiness for kindergarten and progress in attaining the performance standards adopted by the department under s. 1002.67(1).

(3) The statewide kindergarten screening shall incorporate mechanisms for recognizing potential variations in kindergarten readiness rates for students with disabilities.

(4) Each parent who enrolls his or her child in the Voluntary Prekindergarten Education Program must submit the child for the statewide kindergarten screening, regardless of whether the child is admitted to kindergarten in a public school or nonpublic school. Each school district shall designate sites to administer the statewide kindergarten screening for children admitted to kindergarten in a nonpublic school.

(5) The State Board of Education shall adopt procedures for the department to annually calculate each private prekindergarten provider's and public school's kindergarten readiness rate, which must be expressed as the percentage of the provider's or school's students who are assessed as ready for kindergarten. The kindergarten readiness rates must be based exclusively upon the results of the statewide kindergarten screening for students completing the Voluntary Prekindergarten Education Program, beginning with students completing the program during the 2005-2006 school year who are administered the statewide kindergarten screening during the 2006-2007 school year. The rates must not include students who are not administered the statewide kindergarten screening.

(6)(a) The State Board of Education shall periodically adopt a minimum kindergarten readiness rate that, if achieved by a private prekindergarten provider or public school, would demonstrate the provider's or school's satisfactory delivery of the Voluntary Prekindergarten Education Program.

(b) The minimum rate must not exceed the rate at which more than 15 percent of the kindergarten readiness rates of all private prekindergarten providers and public schools delivering the Voluntary Prekindergarten Education Program in the state would fall below the minimum rate.

History. --s. 1, ch. 2004-484.

1002.71 Funding; financial and attendance reporting.--

(1) Funds appropriated for the Voluntary Prekindergarten Education Program may be used only for the program in accordance with this part. If the student enrollment in the program for a fiscal year exceeds the estimated enrollment upon which the appropriation for that fiscal year is provided, thereby causing a shortfall, funds appropriated to the program for the subsequent fiscal year must be used first to fund the shortfall.

(2) A full-time equivalent student in the Voluntary Prekindergarten Education Program shall be calculated as follows:

(a) For a student in a school-year prekindergarten program delivered by a private prekindergarten provider: 540 instructional hours.

(b) For a student in a summer prekindergarten program delivered by a public school or private prekindergarten provider: 300 instructional hours.

(c) For a student in a school-year prekindergarten program delivered by a public school: 540 instructional hours.

Except as provided in subsection (4), a student may not be reported for funding purposes as more than one full-time equivalent student.

(3)(a) The base student allocation per full-time equivalent student in the Voluntary Prekindergarten Education Program shall be provided in the General Appropriations Act and shall be equal for each student, regardless of whether the student is enrolled in a school-year prekindergarten program delivered by a private prekindergarten provider, a summer prekindergarten program delivered by a public school or private prekindergarten provider, or a school-year prekindergarten program delivered by a public school.

(b) Each county's allocation per full-time equivalent student in the Voluntary Prekindergarten Education Program shall be calculated annually by multiplying the base student allocation provided in the General Appropriations Act by the county's district cost differential provided in s. 1011.62(2). Each private prekindergarten provider and public school shall be paid in accordance with the county's allocation per full-time equivalent student.

(c) The initial allocation shall be based on estimated student enrollment in each coalition service area. The Agency for

Workforce Innovation shall reallocate funds among the coalitions based on actual full-time equivalent student enrollment in each coalition service area.

(4) Notwithstanding s. 1002.53(3) and subsection (2):

(a) A child who, for any of the prekindergarten programs listed in s. 1002.53(3), has not completed more than 10 percent of the hours authorized to be reported for funding under subsection (2) may withdraw from the program for good cause, reenroll in one of the programs, and be reported for funding purposes as a full-time equivalent student in the program for which the child is reenrolled.

(b) A child who has not substantially completed any of the prekindergarten programs listed in s. 1002.53(3) may withdraw from the program due to an extreme hardship that is beyond the child's or parent's control, reenroll in one of the programs, and be reported for funding purposes as a full-time equivalent student in the program for which the child is reenrolled.

A child may reenroll only once in a prekindergarten program under this section. A child who reenrolls in a prekindergarten program under this subsection may not subsequently withdraw from the program and reenroll. The Agency for Workforce Innovation shall establish criteria specifying whether a good cause exists for a child to withdraw from a program under paragraph (a), whether a child has substantially completed a program under paragraph (b), and whether an extreme hardship exists which is beyond the child's or parent's control under paragraph (b).

(5)(a) Each early learning coalition shall maintain through the single point of entry established under s. 411.01 a current database of the students enrolled in the Voluntary Prekindergarten Education Program for each county within the coalition's region.

(b) The Agency for Workforce Innovation shall adopt procedures for the payment of private prekindergarten providers and public schools delivering the Voluntary Prekindergarten Education Program. The procedures shall provide for the advance payment of providers and schools based upon student enrollment in the program, the certification of student attendance, and the reconciliation of advance payments in accordance with the uniform attendance policy adopted under paragraph (6)(d). The procedures shall provide for the monthly distribution of funds by the Agency for Workforce Innovation to the early learning coalitions for payment by the coalitions to private prekindergarten providers and public schools. The department shall transfer to the Agency for Workforce Innovation at least once each quarter the funds available for payment to private prekindergarten providers and public schools in accordance with this paragraph from the funds appropriated for that purpose.

(6)(a) Each parent enrolling his or her child in the Voluntary Prekindergarten Education Program must agree to comply with the attendance policy of the private prekindergarten provider or district school board, as applicable. Upon enrollment of the child, the private prekindergarten provider or public school, as applicable, must provide the child's parent with a copy of the provider's or school district's attendance policy, as applicable.

(b)1. Each private prekindergarten provider's and district school board's attendance policy must require the parent of each student in the Voluntary Prekindergarten Education Program to verify, each month, the student's attendance on the prior month's certified student attendance.

2. The parent must submit the verification of the student's attendance to the private prekindergarten provider or public school on forms prescribed by the Agency for Workforce Innovation. The forms must include, in addition to the verification of the student's attendance, a certification, in substantially the following form, that the parent continues to choose the private prekindergarten provider or public school in accordance with s. 1002.53 and directs that payments for the program be made to the provider or school:

VERIFICATION OF STUDENT'S ATTENDANCE
AND CERTIFICATION OF PARENTAL CHOICE

I, (Name of Parent), swear (or affirm) that my child, (Name of Student), attended the Voluntary Prekindergarten Education Program on the days listed above and certify that I continue to choose (Name of Provider or School) to deliver the program for my child and direct that program funds be paid to the provider or school for my child.

(Signature of Parent)

(Date)

3. The private prekindergarten provider or public school must keep each original signed form for at least 2 years. Each private prekindergarten provider must permit the early learning coalition, and each public school must permit the school district, to inspect the original signed forms during normal business hours. The Agency for Workforce Innovation shall adopt procedures for early learning coalitions and school districts to review the original signed forms against the certified student attendance. The review procedures shall provide for the use of selective inspection techniques, including, but not limited to, random sampling. Each early learning coalition and school district must comply with the review procedures.

(c) A private prekindergarten provider or school district, as applicable, may dismiss a student who does not comply with the provider's or district's attendance policy. A student dismissed under this paragraph is not removed from the Voluntary Prekindergarten Education Program and may continue in the program through reenrollment with another private prekindergarten provider or public school. Notwithstanding s. 1002.53(6)(b), a school district is not required to provide for the admission of a student dismissed under this paragraph.

(d) The Agency for Workforce Innovation shall adopt, for funding purposes, a uniform attendance policy for the Voluntary Prekindergarten Education Program. The attendance policy must apply statewide and apply equally to all private prekindergarten providers and public schools. The attendance policy must establish a minimum requirement for student attendance and include the following provisions:

1. A student who meets the minimum requirement may be reported as a full-time equivalent student for funding purposes.
2. A student who does not meet the minimum requirement may be reported only as a fractional part of a full-time equivalent student, reduced pro rata based on the student's attendance.
3. A student who does not meet the minimum requirement may be reported as a full-time equivalent student if the student is absent for good cause in accordance with exceptions specified in the uniform attendance policy.

The uniform attendance policy shall be used only for funding purposes and does not prohibit a private prekindergarten provider or public school from adopting and enforcing its attendance policy under paragraphs (a) and (c).

(7) The Agency for Workforce Innovation shall require that administrative expenditures be kept to the minimum

necessary for efficient and effective administration of the Voluntary Prekindergarten Education Program. Each early learning coalition may retain and expend no more than 5 percent of the funds paid by the coalition to private prekindergarten providers and public schools under paragraph (5)(b). Funds retained by an early learning coalition under this subsection may be used only for administering the Voluntary Prekindergarten Education Program and may not be used for the school readiness program or other programs.

(8) Except as otherwise expressly authorized by law, a private prekindergarten provider or public school may not:

(a) Require payment of a fee or charge for services provided for a child enrolled in the Voluntary Prekindergarten Education Program during a period reported for funding purposes; or

(b) Require a child to enroll for, or require the payment of any fee or charge for, supplemental services as a condition of admitting a child for enrollment in the Voluntary Prekindergarten Education Program.

(9) A parent is responsible for the transportation of his or her child to and from the Voluntary Prekindergarten Education Program, regardless of whether the program is delivered by a private prekindergarten provider or a public school. However, a provider or school may use part of the funds it is paid under paragraph (5)(b) for transporting students to and from the program. A student enrolled in the Voluntary Prekindergarten Education Program may not be reported under s. 1011.68 for student transportation funds.

History. --s. 1, ch. 2004-484; s. 4, ch. 2005-56.

1002.72 Records of children in the Voluntary Prekindergarten Education Program.--

(1) The individual records of a child enrolled in the Voluntary Prekindergarten Education Program held by an early learning coalition, the Agency for Workforce Innovation, or a Voluntary Prekindergarten Education Program provider are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. For purposes of this section, such records include assessment data, health data, records of teacher observations, and personal identifying information of an enrolled child and his or her parent. This exemption applies to individual records of a child enrolled in the Voluntary Prekindergarten Education Program held by an early learning coalition, the Agency for Workforce Innovation, or a Voluntary Prekindergarten Education Program provider before, on, or after the effective date of this exemption.

(2) A parent has the right to inspect and review the individual Voluntary Prekindergarten Education Program record of his or her child and to obtain a copy of such record.

(3) Confidential and exempt Voluntary Prekindergarten Education Program records may be released to:

(a) The United States Secretary of Education, the United States Secretary of Health and Human Services, and the Comptroller General of the United States for the purpose of federal audits.

(b) Individuals or organizations conducting studies for institutions to develop, validate, or administer assessments or improve instruction.

(c) Accrediting organizations in order to carry out their accrediting functions.

(d) Appropriate parties in connection with an emergency if the information is necessary to protect the health or safety of the child or other individuals.

(e) The Auditor General in connection with his or her official functions.

(f) A court of competent jurisdiction in compliance with an order of that court pursuant to a lawfully issued subpoena.

(g) Parties to an interagency agreement among early learning coalitions, local governmental agencies, Voluntary Prekindergarten Education Program providers, or state agencies for the purpose of implementing the Voluntary Prekindergarten Education Program.

Agencies, organizations, or individuals receiving such confidential and exempt records in order to carry out their official functions must protect the records in a manner that will not permit the personal identification of an enrolled child or his or her parent by persons other than those authorized to receive the records.

(4) This section is subject to the Open Government Sunset Review Act of 1995 in accordance with s. 119.15 and shall stand repealed October 2, 2010, unless reviewed and saved from repeal through reenactment by the Legislature.

History.--s. 1, ch. 2005-88.

1002.73 Department of Education; powers and duties; accountability requirements.--

(1) The department shall administer the accountability requirements of the Voluntary Prekindergarten Education Program at the state level.

(2) The department shall adopt procedures for the department's:

(a) Approval of prekindergarten director credentials under ss. 1002.55 and 1002.57.

(b) Approval of emergent literacy training courses under ss. 1002.55 and 1002.59.

(c) Certification of school districts that are eligible to deliver the school-year prekindergarten program under s. 1002.63.

(d) Administration of the statewide kindergarten screening and calculation of kindergarten readiness rates under s. 1002.69.

(3) Except as provided by law, the department may not impose requirements on a private prekindergarten provider that does not deliver the Voluntary Prekindergarten Education Program or receive state funds under this part.

History.--s. 1, ch. 2004-484.

1002.75 Agency for Workforce Innovation; powers and duties; operational requirements.--

(1) The Agency for Workforce Innovation shall administer the operational requirements of the Voluntary Prekindergarten Education Program at the state level.

(2) The Agency for Workforce Innovation shall adopt procedures governing the administration of the Voluntary Prekindergarten Education Program by the early learning coalitions and school districts for:

(a) Enrolling children in and determining the eligibility of children for the Voluntary Prekindergarten Education Program under s. 1002.53.

(b) Providing parents with profiles of private prekindergarten providers and public schools under s. 1002.53.

(c) Registering private prekindergarten providers and public schools to deliver the program under ss. 1002.55, 1002.61, and 1002.63.

(d) Determining the eligibility of private prekindergarten providers to deliver the program under ss. 1002.55 and

1002.61.

(e) Verifying the compliance of private prekindergarten providers and public schools and removing providers or schools from eligibility to deliver the program due to noncompliance or misconduct as provided in s. 1002.67.

(f) Paying private prekindergarten providers and public schools under s. 1002.71.

(g) Documenting and certifying student enrollment and student attendance under s. 1002.71.

(h) Reconciling advance payments in accordance with the uniform attendance policy under s. 1002.71.

(i) Reenrolling students dismissed by a private prekindergarten provider or public school for noncompliance with the provider's or school district's attendance policy under s. 1002.71.

(3) The Agency for Workforce Innovation shall adopt, in consultation with and subject to approval by the department, procedures governing the administration of the Voluntary Prekindergarten Education Program by the early learning coalitions and school districts for:

(a) Approving improvement plans of private prekindergarten providers and public schools under s. 1002.67.

(b) Placing private prekindergarten providers and public schools on probation and requiring corrective actions under s. 1002.67.

(c) Removing a private prekindergarten provider or public school from eligibility to deliver the program due to the provider's or school's remaining on probation beyond the time permitted under s. 1002.67.

(4) The Agency for Workforce Innovation shall also adopt procedures for the agency's distribution of funds to early learning coalitions under s. 1002.71.

(5) Except as provided by law, the Agency for Workforce Innovation may not impose requirements on a private prekindergarten provider or public school that does not deliver the Voluntary Prekindergarten Education Program or receive state funds under this part.

History.--s. 1, ch. 2004-484.

1002.77 Florida Early Learning Advisory Council.--

(1) There is created the Florida Early Learning Advisory Council within the Agency for Workforce Innovation. The purpose of the advisory council is to submit recommendations to the department and the Agency for Workforce Innovation on the early learning policy of this state, including recommendations relating to administration of the Voluntary Prekindergarten Education Program under this part and the school readiness programs under s. 411.01.

(2) The advisory council shall be composed of the following members:

(a) The chair of the advisory council who shall be appointed by and serve at the pleasure of the Governor.

(b) The chair of each early learning coalition.

(c) One member who shall be appointed by and serve at the pleasure of the President of the Senate.

(d) One member who shall be appointed by and serve at the pleasure of the Speaker of the House of Representatives.

The chair of the advisory council appointed by the Governor and the members appointed by the presiding officers of

the Legislature must each have a background in early learning.

(3) The advisory council shall meet at least quarterly but may meet as often as necessary to carry out its duties and responsibilities.

(4)(a) Each member of the advisory council shall serve without compensation but is entitled to receive reimbursement for per diem and travel expenses for attendance at council meetings as provided in s. 112.061.

(b) Each member of the advisory council is subject to the ethics provisions in part III of chapter 112.

(c) For purposes of tort liability, each member of the advisory council shall be governed by s. 768.28.

(5) The Agency for Workforce Innovation shall provide staff and administrative support for the advisory council.

History.--s. 1, ch. 2004-484.

1002.79 Rulemaking authority.--

(1) The State Board of Education shall adopt rules under ss. 120.536(1) and 120.54 to administer the provisions of this part conferring duties upon the department.

(2) The Agency for Workforce Innovation shall adopt rules under ss. 120.536(1) and 120.54 to administer the provisions of this part conferring duties upon the agency.

History.--s. 1, ch. 2004-484.