

Florida Statute
Title XLVIII
K-20 EDUCATION
CODE

Chapter 1002
STUDENT AND PARENTAL RIGHTS AND EDUCATIONAL
CHOICES

1002.45 Virtual instruction programs.—

(1) PROGRAM.—

(a) For purposes of this section, the term:

1. "Approved provider" means a provider that is approved by the Department of Education under subsection (2), the Florida Virtual School, a franchise of the Florida Virtual School, or a Florida College System institution.

2. "Virtual instruction program" means a program of instruction provided in an interactive learning environment created through technology in which students are separated from their teachers by time or space, or both.

(b) Each school district that is eligible for the sparsity supplement pursuant to s. 1011.62(7)(a) and (b) shall provide all enrolled public school students within its boundaries the option of participating in part-time and full-time virtual instruction programs. Each school district that is not eligible for the sparsity supplement pursuant to s. 1011.62(7)(a) and (b) shall provide at least three options for part-time and full-time virtual instruction. All school districts must provide parents with timely written notification of at least one open enrollment period for full-time students of 90 days or more which ends 30 days before the first day of the school year. The purpose of the program is to make quality virtual instruction available to students using online and distance learning technology in the nontraditional classroom. A school district virtual instruction program shall consist of the following:

1. Full-time and part-time virtual instruction for students enrolled in kindergarten through grade 12.

2. Full-time or part-time virtual instruction for students enrolled in dropout prevention and academic intervention programs under s. 1003.53, Department of Juvenile Justice education programs under s. 1003.52, core-curricula courses to meet class size requirements under s. 1003.03, or Florida College System institutions under this section.

(c) To provide students with the option of participating in virtual instruction programs as required by paragraph (b), a school district may:

1. Contract with the Florida Virtual School or establish a franchise of the Florida Virtual School for the provision of a program under paragraph (b). Using this option is subject to the requirements of this section and s. 1011.61(1)(c)1.b.(III) and (IV) and (4). A district may report full-time equivalent student membership for credit earned by a student who is enrolled in a virtual education course provided by the district which was completed after the end of the regular school year if the FTE is reported no later than the deadline for amending the final student membership report for that year.

2. Contract with an approved provider under subsection (2) for the provision of a full-time or part-time program under paragraph (b).

3. Enter into an agreement with other school districts to allow the participation of its students in an approved virtual instruction program provided by the other school district. The agreement must indicate a process for the transfer of funds required by paragraph (7)(f).

4. Establish school district operated part-time or full-time kindergarten through grade 12 virtual instruction programs under paragraph (b) for students enrolled in the school district. A full-time program shall operate under its own Master School Identification Number.

5. Enter into an agreement with a virtual charter school authorized by the school district under s. 1002.33.

Contracts under subparagraph 1. or subparagraph 2. may include multidistrict contractual arrangements that may be executed by a regional consortium for its member districts. A multidistrict contractual arrangement or an agreement under subparagraph 3. is not subject to s. 1001.42(4)(d) and does not require the participating school districts to be contiguous. These arrangements may be used to fulfill the requirements of paragraph (b).

(d) A virtual charter school may provide full-time virtual instruction for students in kindergarten through grade 12 if the virtual charter school has a charter approved pursuant to s. 1002.33 authorizing full-time virtual instruction. A virtual charter school may:

1. Contract with the Florida Virtual School.
2. Contract with an approved provider under subsection (2).
3. Enter into an agreement with a school district to allow the participation of the virtual charter school's students in the school district's virtual instruction program. The agreement must indicate a process for reporting of student enrollment and the transfer of funds required by paragraph (7)(f).

(e) Each school district shall:

1. Provide to the department by October 1, 2011, and by each October 1 thereafter, a copy of each contract and the amounts paid per unweighted full-time equivalent student for services procured pursuant to subparagraphs (c)1. and 2.
2. Expend the difference in funds provided for a student participating in the school district virtual instruction program pursuant to subsection (7) and the price paid for contracted services procured pursuant to subparagraphs (c)1. and 2. for the district's local instructional improvement system pursuant to s. 1006.281 or other technological tools that are required to access electronic and digital instructional materials.
3. At the end of each fiscal year, but no later than September 1, report to the department an itemized list of the technological tools purchased with these funds.

(2) PROVIDER QUALIFICATIONS.—

(a) The department shall annually publish online a list of providers approved to offer virtual instruction programs. To be approved by the department, a provider must document that it:

1. Is nonsectarian in its programs, admission policies, employment practices, and operations;
2. Complies with the antidiscrimination provisions of s. 1000.05;
3. Locates an administrative office or offices in this state, requires its administrative staff to be state residents, requires all instructional staff to be Florida-certified teachers under chapter 1012 and conducts background screenings for all employees or contracted personnel, as required by s. 1012.32, using state and national criminal history records;
4. Provides to parents and students specific information posted and accessible online that includes, but is not limited to, the following teacher-parent and teacher-student contact information for each course:
 - a. How to contact the instructor via phone, e-mail, or online messaging tools.
 - b. How to contact technical support via phone, e-mail, or online messaging tools.
 - c. How to contact the administration office via phone, e-mail, or online messaging tools.
 - d. Any requirement for regular contact with the instructor for the course and clear expectations for meeting the requirement.
 - e. The requirement that the instructor in each course must, at a minimum, conduct one contact via phone with the parent and the student each month;
5. Possesses prior, successful experience offering online courses to elementary, middle, or high school students as demonstrated by quantified student learning gains in each subject area and grade level provided for consideration as an instructional program option. However, for a provider without sufficient prior, successful experience offering online courses, the department may conditionally approve the provider to offer courses measured pursuant to subparagraph (8)(a)2. Conditional approval shall be valid for 1 school year only

and, based on the provider's experience in offering the courses, the department shall determine whether to grant approval to offer a virtual instruction program;

6. Is accredited by a regional accrediting association as defined by State Board of Education rule;
 7. Ensures instructional and curricular quality through a detailed curriculum and student performance accountability plan that addresses every subject and grade level it intends to provide through contract with the school district, including:
 - a. Courses and programs that meet the standards of the International Association for K-12 Online Learning and the Southern Regional Education Board.
 - b. Instructional content and services that align with, and measure student attainment of, student proficiency in the Next Generation Sunshine State Standards.
 - c. Mechanisms that determine and ensure that a student has satisfied requirements for grade level promotion and high school graduation with a standard diploma, as appropriate;
 8. Publishes for the general public, in accordance with disclosure requirements adopted in rule by the State Board of Education, as part of its application as a provider and in all contracts negotiated pursuant to this section:
 - a. Information and data about the curriculum of each full-time and part-time program.
 - b. School policies and procedures.
 - c. Certification status and physical location of all administrative and instructional personnel.
 - d. Hours and times of availability of instructional personnel.
 - e. Student-teacher ratios.
 - f. Student completion and promotion rates.
 - g. Student, educator, and school performance accountability outcomes;
 9. If the provider is a Florida College System institution, employs instructors who meet the certification requirements for instructional staff under chapter 1012; and
 10. Performs an annual financial audit of its accounts and records conducted by an independent certified public accountant which is in accordance with rules adopted by the Auditor General, is conducted in compliance with generally accepted auditing standards, and includes a report on financial statements presented in accordance with generally accepted accounting principles.
 - (b) An approved provider shall retain its approved status during the 3 school years after the date of the department's approval under paragraph (a) as long as the provider continues to comply with all requirements of this section. However, each provider approved by the department for the 2011-2012 school year must reapply for approval to provide a part-time program for students in grades 9 through 12.
- (3) VIRTUAL INSTRUCTION PROGRAM REQUIREMENTS.—Each virtual instruction program under this section must:
- (a) Align virtual course curriculum and course content to the Sunshine State Standards under s. 1003.41.
 - (b) Offer instruction that is designed to enable a student to gain proficiency in each virtually delivered course of study.
 - (c) Provide each student enrolled in the program with all the necessary instructional materials.
 - (d) Provide each full-time student enrolled in the program who qualifies for free or reduced-price school lunches under the National School Lunch Act, or who is on the direct certification list, and who does not have a computer or Internet access in his or her home with:
 1. All equipment necessary for participants in the virtual instruction program, including, but not limited to, a computer, computer monitor, and printer, if a printer is necessary to participate in the program; and
 2. Access to or reimbursement for all Internet services necessary for online delivery of instruction.

- (e) Not require tuition or student registration fees.
- (4) CONTRACT REQUIREMENTS.—Each contract with an approved provider must at minimum:
 - (a) Set forth a detailed curriculum plan that illustrates how students will be provided services and be measured for attainment of proficiency in the Next Generation Sunshine State Standards for each grade level and subject.
 - (b) Provide a method for determining that a student has satisfied the requirements for graduation in s. 1003.428 or s. 1003.4282 if the contract is for the provision of a full-time virtual instruction program to students in grades 9 through 12.
 - (c) Specify a method for resolving conflicts among the parties.
 - (d) Specify authorized reasons for termination of the contract.
 - (e) Require the approved provider to be responsible for all debts of the virtual instruction program if the contract is not renewed or is terminated.
 - (f) Require the approved provider to comply with all requirements of this section.
- (5) STUDENT ELIGIBILITY.—A student may enroll in a virtual instruction program provided by the school district or by a virtual charter school operated in the district in which he or she resides if the student meets eligibility requirements for virtual instruction pursuant to s. 1002.455.
- (6) STUDENT PARTICIPATION REQUIREMENTS.—Each student enrolled in a virtual instruction program or virtual charter school must:
 - (a) Comply with the compulsory attendance requirements of s. 1003.21. Student attendance must be verified by the school district.
 - (b) Take state assessment tests within the school district in which such student resides, which must provide the student with access to the district’s testing facilities.
- (7) VIRTUAL INSTRUCTION PROGRAM AND VIRTUAL CHARTER SCHOOL FUNDING.—
 - (a) Students enrolled in a virtual instruction program or a virtual charter school shall be funded through the Florida Education Finance Program as provided in the General Appropriations Act. However, such funds may not be provided for the purpose of fulfilling the class size requirements in ss. 1003.03 and 1011.685.
 - (b) For purposes of a virtual instruction program or a virtual charter school, “full-time equivalent student” has the same meaning as provided in s. 1011.61(1)(c)1.b.(III) or (IV).
 - (c) For a student enrolled in a kindergarten through grade 12 virtual instruction program, a “full-time equivalent student” has the same meaning as provided in s. 1011.61(1)(c)1.b.(III) and (IV).
 - (d) The full-time equivalent student membership calculated under this subsection is subject to the requirements in s. 1011.61(4).
 - (e) Beginning in the 2016-2017 fiscal year, the reported full-time equivalent students and associated funding of students enrolled in courses requiring passage of an end-of-course assessment under s. 1003.4282 to earn a standard high school diploma shall be adjusted if the student does not pass the end-of-course assessment. However, no adjustment shall be made for a student who enrolls in a segmented remedial course delivered online.
 - (f) The school district providing virtual instruction shall report full-time equivalent students for a virtual instruction program or a virtual charter school to the department in a manner prescribed by the department, and funding shall be provided through the Florida Education Finance Program.
 - (g) A Florida College System institution provider may not report students who are served in a virtual instruction program for funding under the Florida College System Program Fund.
- (8) ASSESSMENT AND ACCOUNTABILITY.—
 - (a) Each approved provider contracted under this section must:
 1. Participate in the statewide assessment program under s. 1008.22 and in the state’s education performance accountability system under s. 1008.31.
 2. Receive a school grade under s. 1008.34 or a school improvement rating under s. 1008.341, as applicable. The school grade or school improvement rating received by each

approved provider shall be based upon the aggregated assessment scores of all students served by the provider statewide. The department shall publish the school grade or school improvement rating received by each approved provider on its Internet website. The department shall develop an evaluation method for providers of part-time programs which includes the percentage of students making learning gains, the percentage of students successfully passing any required end-of-course assessment, the percentage of students taking Advanced Placement examinations, and the percentage of students scoring 3 or higher on an Advanced Placement examination.

(b) The performance of part-time students in grades 9 through 12 shall not be included for purposes of school grades or school improvement ratings under subparagraph (a)2.; however, their performance shall be included for school grading or school improvement rating purposes by the nonvirtual school providing the student's primary instruction.

(c) An approved provider that receives a school grade of "D" or "F" under s. 1008.34 or a school improvement rating of "Declining" under s. 1008.341 must file a school improvement plan with the department for consultation to determine the causes for low performance and to develop a plan for correction and improvement.

(d) An approved provider's contract must be terminated if the provider receives a school grade of "D" or "F" under s. 1008.34 or a school improvement rating of "Declining" under s. 1008.341 for 2 years during any consecutive 4-year period or has violated any qualification requirement pursuant to subsection (2). A provider that has a contract terminated under this paragraph may not be an approved provider for a period of at least 1 year after the date upon which the contract was terminated and until the department determines that the provider is in compliance with subsection (2) and has corrected each cause of the provider's low performance.

(9) EXCEPTIONS.—A provider of digital or online content or curriculum that is used to supplement the instruction of students who are not enrolled in a virtual instruction program under this section is not required to meet the requirements of this section.

(10) MARKETING.—Each school district shall provide information to parents and students about the parent's and student's right to participate in a virtual instruction program under this section and in courses offered by the Florida Virtual School under s. 1002.37.

(11) RULES.—The State Board of Education shall adopt rules necessary to administer this section, including rules that prescribe disclosure requirements under subsection (2) and school district reporting requirements under subsection (7).

History.—s. 4, ch. 2008-147; s. 11, ch. 2009-59; s. 9, ch. 2010-154; s. 30, ch. 2011-5; s. 10, ch. 2011-55; s. 4, ch. 2011-137; s. 9, ch. 2011-175; s. 4, ch. 2012-192; s. 8, ch. 2013-27; s. 44, ch. 2013-35; s. 9, ch. 2013-45.