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2022 Legislature

1
2 An act relating to parental rights in education;
3 amending s. 1001.42, F.S.; requiring district school
4 boards to adopt procedures that comport with certain
5 provisions of law for notifying a student's parent of
6 specified information; requiring such procedures to
7 reinforce the fundamental right of parents to make
8 decisions regarding the upbringing and control of
9 their children in a specified manner; prohibiting the
10 procedures from prohibiting a parent from accessing
11 certain records; providing construction; prohibiting a
12 school district from adopting procedures or student
13 support forms that prohibit school district personnel
14 from notifying a parent about specified information or
15 that encourage or have the effect of encouraging a
16 student to withhold from a parent such information;
17 prohibiting school district personnel from
18 discouraging or prohibiting parental notification and
19 involvement in critical decisions affecting a
20 student's mental, emotional, or physical well-being;
21 providing construction; prohibiting classroom
22 discussion about sexual orientation or gender identity
23 in certain grade levels or in a specified manner;
24 requiring certain training developed or provided by a
25 school district to adhere to standards established by

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26 | the Department of Education; requiring school
27 | districts to notify parents of healthcare services and
28 | provide parents the opportunity to consent or decline
29 | such services; providing that a specified parental
30 | consent does not wave certain parental rights;
31 | requiring school districts to provide parents with
32 | certain questionnaires or health screening forms and
33 | obtain parental permission before administering such
34 | questionnaires and forms; requiring school districts
35 | to adopt certain procedures for resolving specified
36 | parental concerns; requiring resolution within a
37 | specified timeframe; requiring the Commissioner of
38 | Education to appoint a special magistrate for
39 | unresolved concerns; providing requirements for the
40 | special magistrate; requiring the State Board of
41 | Education to approve or reject the special
42 | magistrate's recommendation within specified
43 | timeframe; requiring school districts to bear the
44 | costs of the special magistrate; requiring the State
45 | Board of Education to adopt rules; providing
46 | requirements for such rules; authorizing a parent to
47 | bring an action against a school district to obtain a
48 | declaratory judgment that a school district procedure
49 | or practice violates certain provisions of law;
50 | providing for the additional award of injunctive

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51 relief, damages, and reasonable attorney fees and
 52 court costs to certain parents; requiring school
 53 district to adopt policies to notify parents of
 54 certain rights; providing construction; requiring the
 55 department to review and update, as necessary,
 56 specified materials by a certain date; providing an
 57 effective date.

58

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

60

61 Section 1. Paragraph (c) is added to subsection (8) of
 62 section 1001.42, Florida Statutes, to read:

63 1001.42 Powers and duties of district school board.—The
 64 district school board, acting as a board, shall exercise all
 65 powers and perform all duties listed below:

66 (8) STUDENT WELFARE.—

67 (c)1. In accordance with the rights of parents enumerated
 68 in ss. 1002.20 and 1014.04, adopt procedures for notifying a
 69 student's parent if there is a change in the student's services
 70 or monitoring related to the student's mental, emotional, or
 71 physical health or well-being and the school's ability to
 72 provide a safe and supportive learning environment for the
 73 student. The procedures must reinforce the fundamental right of
 74 parents to make decisions regarding the upbringing and control
 75 of their children by requiring school district personnel to

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76 encourage a student to discuss issues relating to his or her
77 well-being with his or her parent or to facilitate discussion of
78 the issue with the parent. The procedures may not prohibit
79 parents from accessing any of their student's education and
80 health records created, maintained, or used by the school
81 district, as required by s. 1002.22(2).

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

97 3. Classroom instruction by school personnel or third
98 parties on sexual orientation or gender identity may not occur
99 in kindergarten through grade 3 or in a manner that is not age-
100 appropriate or developmentally appropriate for students in

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101 accordance with state standards.

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

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

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

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

124 a. At a minimum, the procedures must require that within
125 30 days after notification by the parent that the concern

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126 remains unresolved, the school district must either resolve the
 127 concern or provide a statement of the reasons for not resolving
 128 the concern.

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

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

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

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151 injunctive relief.

152 c. Each school district shall adopt policies to notify
153 parents of the procedures required under this subparagraph.

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

157 Section 2. By June 30, 2023, the Department of Education
158 shall review and update, as necessary, school counseling
159 frameworks and standards; educator practices and professional
160 conduct principles; and any other student services personnel
161 guidelines, standards, or frameworks in accordance with the
162 requirements of this act.

163 Section 3. This act shall take effect July 1, 2022.