

HOUSE OF REPRESENTATIVES STAFF FINAL BILL ANALYSIS

BILL #: CS/CS/HB 419 Early Learning and Early Grade Success

SPONSOR(S): Education & Employment Committee; PreK-12 Appropriations Subcommittee, Grall, Aloupis and others

TIED BILLS: None **IDEN./SIM. BILLS:** CS/SB 1282

FINAL HOUSE FLOOR ACTION: 118 Y's

0 N's

GOVERNOR'S ACTION: Approved

SUMMARY ANALYSIS

CS/CS/HB 419 passed the House on April 22, 2021, as amended, and subsequently passed the Senate on April 26, 2021.

The Florida Office of Early Learning (OEL) is responsible for overseeing statewide implementation of the School Readiness and Voluntary Prekindergarten Education (VPK) early learning programs. Although situated within the Department of Education (DOE) and accountable to the Commissioner of Education, the OEL and its executive director have independent authority to exercise all powers, duties, and functions prescribed by law and adopt rules. The bill revises statewide governance and accountability for early learning programs implemented through the OEL by:

- repealing the OEL and its executive director and establishing a Division of Early Learning within the DOE, thereby placing the responsibility for overseeing the VPK and School Readiness programs, including rulemaking authority, with the State Board of Education (SBE);
- providing a type two transfer of the Gold Seal Quality Care Program from the Department of Children and Families to the DOE and revising requirements to become an accrediting association; and
- establishing the Council for Early Grades Success within the DOE to review the implementation and administration of a coordinated screening and progress monitoring program.

The bill requires the Commissioner of Education to design and implement, starting in the 2022-2023 program year, a coordinated screening and progress monitoring program to assess emergent literacy and mathematics skills for VPK through grade 3 students. The program must be based on the Next Generation Sunshine State Standards and VPK standards and provide the outcomes and learning gains data for the VPK performance metric. Among other elements, the program must identify students who may be performing below grade or developmental level.

The bill repeals s. 1002.69, F.S., relating to kindergarten screening and readiness rate calculation and establishes a timeline for phasing in a new VPK accountability system. Beginning in the 2022-2023 program year, the accountability system is based on a performance metric that includes student outcomes, learning gains, and observations of child-teacher interactions. Beginning in the 2023-2024 program year, the accountability system must assign VPK providers a performance designation.

The bill provides the SBE with oversight and enforcement authority over the state's early learning coalitions (ELCs), reduces the maximum allowable number of ELCs from 31 to 30, and revises ELC membership.

The bill also:

- allows certain child care providers on military installations to participate in early learning programs; and
- allows districts to use the research-based reading allocation to fund intensive interventions for VPK students who are identified with a substantial deficiency in early literacy skills.

The Fiscal Year 2021-2022 General Appropriations Act provides \$7.5 million to the DOE to implement CS/CS/HB 419. See Fiscal Comments.

The bill was approved by the Governor on May 4, 2021, ch. 2021-10, L.O.F., and will become effective on July 1, 2021.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h0419z.DOCX

DATE: 5/17/2021

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Governance of Early Learning Programs

State-Level Governance

Present Situation

The State Board of Education (SBE) is the constitutional entity charged with supervising the system of free public schools in Florida.¹ In this role, it coordinates and implements public education in Florida—except for the State University System, establishes objectives and long range plans, appoints the Commissioner of Education, annually develops a coordinated K-20 budget, and oversees the Florida Department of Education (DOE).² The SBE has rulemaking authority to carry out these functions³ and implements accountability measures based primarily on student achievement for Florida's K-20 public education system, which includes K-12 free public schools and the Florida College System.⁴

Specifically, the SBE has education and oversight authority over school districts and the Florida College System concerning performance and compliance with laws. This includes the authority of the commissioner to investigate allegations of noncompliance; order compliance within a specified timeframe; and withhold the transfer of state funds, discretionary grant funds, discretionary lottery funds, and other funds deemed eligible by the Legislature until compliance is achieved.⁵

While the SBE is responsible for K-20 public education in the state, Florida's Office of Early Learning (OEL) is responsible for statewide implementation of the School Readiness and Voluntary Prekindergarten Education (VPK) programs.⁶ In 2013, the Legislature established the OEL in the Office of Independent Education and Parental Choice at the DOE. The OEL is accountable to the commissioner but has authority to independently exercise all powers, duties, and functions prescribed by law and adopt rules to implement the School Readiness and VPK programs.⁷ It oversees local Early Learning Coalitions (ELCs) regarding child enrollment, attendance reporting, and reimbursement of program providers and monitors compliance with program requirements.⁸ It is administered by an executive director.⁹ The commissioner may appoint staff to carry out the duties and functions of the OEL as part of the DOE.¹⁰ As of the 2019-2020 fiscal year, the OEL's annual budget is \$1.3 billion.¹¹

All OEL rules are submitted to the SBE for approval or disapproval; rules not acted on by the SBE within 60 days of receipt are deemed approved and filed with the Department of State.¹² The OEL also administers the statewide Child Care Resource and Referral (CCR&R) network, which provides families with information about state-funded early learning programs and a customized listing of child care providers. The CCR&R is used to document requests for services. For providers, the CCR&R provides technical assistance regarding initiating or expanding services and program and budget development.¹³

¹ See Fla. Const. Art. IX, s. 2; s. 1001.02(1), F.S.

² See s. 1001.02, F.S.

³ Section 1001.02(1), F.S.

⁴ See ss. 1008.31, and 1008.32, F.S.

⁵ See s. 1008.32(2)-(4), F.S.

⁶ See ss. 20.15(3)(i)1. and 1001.213, F.S.

⁷ Section 1001.213(1)-(2), F.S.

⁸ Section 1002.75(2), F.S.

⁹ Section 20.15(3)(c)(i)1., F.S.

¹⁰ Section 1001.10(6)(a), F.S.

¹¹ Florida Department of Education, *Agency Legislative Bill Analysis for HB 1013 (2020)*, at 19.

¹² See s. 1001.213(2), F.S.

¹³ Sections 1001.213(5), 1002.82(2)(f)1.b., and 1002.92(1) and (3), F.S.; Florida Office of Early Learning, *Welcome to Florida's Early Learning Family Portal*, <https://familyservices.floridaearlylearning.com/> (last visited Feb. 26, 2021); see also Florida's Office of Early Learning, *Early Learning Family Portal*, <https://familyservices.floridaearlylearning.com/> (last visited Feb. 26, 2021).

The law defines the OEL as a state agency for purposes of establishing an inspector general within it.¹⁴ The OEL inspector general operates separately from the DOE inspector general and must, among other things:

- review agency actions to improve program performance;
- direct, coordinate, and supervise audits, investigations, and management reviews;
- conduct activities to prevent and detect fraud in OEL programs and operations and recommend corrective actions; and
- keep the Chief Inspector General informed about fraud, abuses, and deficiencies relating to OEL programs and operations.¹⁵

Although appointed by the Chief Inspector General, the OEL inspector general reports administratively to the OEL executive director. According to the DOE, it processes nearly \$2 million annually in repayments from ELCs or individuals who have committed fraud.

The Department of Children and Families (DCF) administers the state's child care provider licensing program, including inspections of all child care providers for specified health and safety standards,¹⁶ and oversees state-mandated child care personnel training.¹⁷ It also administers the Gold Seal Quality Care Program (Gold Seal program), which the Legislature established in 1996 to recognize facility and home-based child care providers that go beyond minimum licensing requirements and are accredited based on specified standards by qualifying accrediting associations.¹⁸ These standards must be based on applicable accrediting standards of the National Association for the Education of Young Children, the National Association of Family Child Care, and the National Early Childhood Program Accreditation Commission.¹⁹

Child care providers that earn the Gold Seal program designation may be eligible for benefits such as certain property tax and sales tax exemptions and increased reimbursement rates through the School Readiness program.²⁰ However, committing a class I violation²¹ is grounds for termination of the Gold Seal program designation for 2 years.²²

Section 402.315(5), F.S., requires the DCF to hold in a trust fund all child care licensing moneys the DCF collects to be reallocated at specified times to fund child care licensing activities, including the Gold Seal Quality Care program.

Effect of the Bill

The bill expands Florida's K-20 public education system under the supervision of the SBE to include the School Readiness and VPK programs currently overseen by the OEL. Requirements in law relating to the K-20 education system, the K-20 Education Code, and the K-20 data warehouse are changed to

Learning, *Family Resources: Find Quality Child Care*, <http://www.floridaearlylearning.com/family-resources/find-quality-child-care/locate-a-child-care-resource-referral-service> (last visited Feb. 26, 2021).

¹⁴ Section 20.055(1)(d), F.S.

¹⁵ See s. 20.055(2), F.S.

¹⁶ See ss. 402.301-402.319, and 1002.88, F.S.

¹⁷ Sections 402.301-402.319, F.S.; see also Florida Department of Children and Family Services, *Provider Search*, <https://cares.myflfamilies.com/PublicSearch> (last visited Feb. 26, 2021).

¹⁸ See s. 402.281(1)-(2), F.S.; rule 65C-20.014, F.A.C.; Florida Department of Children and Families, *Child Care: About the Gold Seal Quality Care Program*, <https://www.myflfamilies.com/service-programs/child-care/goldseal.shtml> (last visited Feb. 26, 2021).

¹⁹ Section 402.281(2), F.S.

²⁰ See ss. 212.08(5)(m) and 402.26(6), F.S., and rule 12D-7.015, F.A.C.

²¹ The DCF classifies licensing violations as class I, II, and III violations. Class I violations are the most serious in nature, pose an imminent threat to a child including abuse or neglect and which could or does result in death or serious harm to the health, safety or well-being of a child. Class II violations are less serious in nature than Class I violations, and could be anticipated to pose a threat to the health, safety or well-being of a child, although the threat is not imminent. Rule 65C-22.010(1)(e), F.A.C.

²² See 402.281(4)(a), F.S.

reflect the Early Learning-20 system. This will require data from early learning programs to be included in the education warehouse for the first time. Changes to the database may be necessary to include the new data.

The bill removes the OEL from the Office of Independent Education and Parental Choice and establishes it as the Division of Early Learning (DEL) within the DOE. Accordingly, rulemaking authority and accountability responsibilities for VPK and School Readiness will fall under the SBE. The SBE's oversight and enforcement authority, including the authority to withhold funds, will now apply to ELCs.

The bill deletes the OEL executive director position, which places day-to-day administration of the DEL under the direct authority of the commissioner.

Because the OEL is repealed, the bill deletes authority for a dedicated OEL inspector general. The functions currently performed by the OEL inspector general will become the responsibility of the DOE inspector general.

The bill provides a type two transfer of administrative responsibility for the Gold Seal Quality Care Program from the DCF to the DOE, including rulemaking authority. For purposes of accreditation under the Gold Seal program, accreditation standards must be based on nationally recognized standards rather than only those established by the National Association for the Education of Young Children, the National Association of Family Child Care, and the National Early Childhood Program Accreditation Commission.

In order to be an approved Gold Seal program accreditor, the bill requires the accreditor to demonstrate to the DOE that its accreditation processes have:

- clearly defined prerequisites that a child care provider must meet before beginning the accreditation process;
- procedures for completion of a self-study and comprehensive onsite verification process for each classroom;
- a training process for accreditation verifiers to ensure inter-rater reliability;
- ongoing compliance procedures that include completion of an audit and filing of an annual report;
- procedures for renewal every 5 years, including onsite verification;
- a process for verifying continued compliance if ownership changes;
- procedures for revocation for failure to meet accreditation standards; and
- a process to communicate accreditation issues with governmental stakeholders.

The DOE must establish a process for verifying Gold Seal program accreditor compliance with these requirements, including an auditing program. The bill requires the DOE to recommend to the SBE termination of the accreditor's eligibility for 2 to 5 years if it is unable to correct deficiencies within 30 days. If an accreditor loses its approved status, the providers it accredited have 1 year to obtain accreditation from another approved accreditor. An accreditor is liable for repayment of provider payment differentials if it fraudulently grants accreditation or fails to conduct on-site verification.

The bill allows the DOE to recommend to the SBE that a Gold Seal program provider maintain its status after it is cited for a Class I or Class II violation if it has been in business for 5 or more years and has no other Class I violations.

The bill retains reference to the Gold Seal Quality Care program in s. 402.315(5), which could result in the DCF being required to use child care licensing moneys held in the DCF's trust fund for the purposes of the Gold Seal Quality Care program that will now be administered by DOE.

The bill provides additional transparency of VPK and School Readiness program providers by requiring the following additional information be accessible through the CCR&R:

- Whether the provider participates in the Child Care Food Program.

- A link to licensing inspection reports.
- A VPK provider's performance metric, as discussed *infra*, including its program assessment composite score, learning gains score, achievement score, and its designations.
- A School Readiness provider's program assessment composite score, including care-level composite scores delineated by infant, toddler, and preschool classrooms.
- Whether a School Readiness program participates in child observation assessments.
- Whether the provider holds a Gold Seal Quality Care designation.
- Whether the provider implements a DOE-approved curriculum and the name of the curriculum.

The CCR&R must also include an ELC's customer satisfaction survey data, as discussed *infra*.

Local Oversight

Present Situation

Local oversight of the School Readiness and VPK programs is provided by ELCs and school districts, with ELCs responsible for private providers and districts responsible for programs provided by public schools.²³ There are currently 30 ELCs, based on counties or regions, although the law permits the establishment of up to 31 ELCs.²⁴ ELCs may, but cannot be required to, join for purposes of planning and implementation.

Each ELC is governed by a board of directors composed of various stakeholders and community representatives. Three board members, including the chair, are appointed by the Governor.²⁵ Members may not serve more than two consecutive terms at a time, and the chair is appointed in that position for a period of 4 years.²⁶ Membership must be between 15 and 30 persons and must include:

- A DCF regional administrator or his or her designee.
- A district school superintendent or his or her designee.
- A local workforce development board executive director or his or her designee.
- A county health department director or his or her designee.
- A children's services council or juvenile welfare board chair or executive director, if applicable.
- An agency head of a local child care licensing agency.
- A president of a Florida College System institution or his or her permanent designee.
- A member appointed by a board of county commissioners or the governing board of a municipality.
- A Head Start director.
- A representative of private for-profit child care providers, including private for-profit family day care homes.
- A representative of faith-based child care providers.
- A representative of programs for children with disabilities under the federal Individuals with Disabilities Education Act.
- A central agency administrator, where applicable.²⁷

If two or more ELC members represent the same entity, only one of the members may serve as a voting member.²⁸ More than one-third of the members of each ELC must be private sector business

²³ Sections 1002.55(1), 1002.61(1)(a)-(b), 1002.63(1), and 1002.82(1), F.S.

²⁴ Section 1002.83(1), F.S.; Florida Office of Early Learning, *Early Learning Coalition Directory* (Feb 26, 2021), available at <http://www.floridaearlylearning.com/Content/Uploads/floridaearlylearning.com/files/ED%20ELAC/6.%20Coalition%20Directory.pdf>

²⁵ Section 1002.83(3), F.S.

²⁶ Section 1002.83(11), F.S.

²⁷ Section 1002.83(4), F.S.

²⁸ Section 1002.83(5), F.S.

members who do not have, or do not have a relative²⁹ who has, a substantial financial interest in the design or delivery of the VPK or School Readiness programs.³⁰

Every 2 years, each ELC must submit a School Readiness program plan for approval by the OEL before administering the program and before funds may be expended.³¹ The plan must include detailed descriptions of the ELCs procedures for implementing the School Readiness program, the ELC's quality activities and services, and a budget, among other things.³² If the OEL finds that an ELC has not substantially implemented its School Readiness plan, met performance standards adopted by the OEL, or effectively administered the School Readiness or VPK program, it may contract with a qualified entity to continue School Readiness and prekindergarten program services until it reestablishes the ELC with a new, approved plan.³³

An ELC may not contract with a member or a member's relative without a two-thirds vote of the ELC with a quorum present, all conflicts of interest disclosed before the vote, and OEL approval before execution. Such contracts under \$25,000 are not subject to OEL approval; however, OEL must be notified within 30 days after approval by the ELC.³⁴

Effect of the Bill

The bill reduces the total number of ELCs that may be established from 31 to 30. The bill removes the central agency administrator as a required member and allows the appointment of a DCF child care regulation representative as an alternative to the local licensing agency head. The bill provides that a children's services council or juvenile welfare board chair must be appointed from each county in the ELC's service area, if applicable. The ELC may also appoint two additional members of the business community.

If the Governor-appointed chair is absent, the bill authorizes the commissioner to appoint an interim chair from within the ELC board membership. If a member is found to be nonparticipating (i.e., is consistently absent from meetings), the bill allows the ELC to request an alternate designee to fill the nonparticipating member's seat. The bill also requires each ELC to annually evaluate its executive director or chief executive officer on forms adopted by the DOE and submit the evaluation to the commissioner by August 30.

The term of the chair will be established by each ELC with the repeal of the 4-year limitation on the chair's appointment, subject to existing term limits. The bill adds board members of any early learning sub-recipient entity to the list of individuals for whom a contract with the ELC must be approved.

The bill transfers ELC oversight responsibility from the OEL to the DOE and requires the DOE to adopt procedures for merging and consolidating ELCs, including procedures for minimizing duplication of programs and services due to the merger and termination of terms of ELC members as necessary. The DOE may remove an ELC from eligibility to administer early learning programs, including VPK, if it fails to meet performance standards.

The DOE must adopt performance standards and outcome measures for ELCs that include implementation of a customer satisfaction survey. The survey must be provided to:

- customers who use the CCR&R upon completion of a referral inquiry;
- parents, annually, at the time eligibility for programs is determined;

²⁹ A "relative" includes a father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, or daughter-in-law. *See* s. 112.3143(1)(c), F.S.

³⁰ Section 1002.83(5), F.S.

³¹ *Id.*

³² *See* s. 1002.85(3), F.S.

³³ Section 1002.82(3), F.S.

³⁴ *See* s. 1002.84(20), F.S.

- VPK and School Readiness program providers; and
- ELC board members who fill seats as required by law.

Annual survey results must be based on a statistically significant sample size of completed surveys and included in the DOE’s ELC report. The survey must be conducted by a state university or independent researcher with specific expertise in customer service survey development. If the ELC’s satisfaction survey results are below 60 percent, the ELC must be placed on a correction plan that outlines specific steps the ELC must take to improve customer service survey results, including, but not limited to, technical assistance, staff professional development or coaching. If the ELC does not raise its customer satisfaction above 60 percent by the next year, the DOE may contract with another entity or merge the ELC, regardless of whether it meets VPK performance standards.

The Voluntary Prekindergarten Education Program

Overview

In 2004, the Legislature established the VPK program, a voluntary, free prekindergarten program offered to eligible four-year-old children in the year before admission to kindergarten.³⁵ A child must be a Florida resident and attain 4 years of age on or before September 1 of the program year to be eligible for the VPK program.³⁶ The child is eligible for the VPK program during that program year or the subsequent program year and remains eligible until enrollment in kindergarten or attaining 6 years of age by February 1 of any school year.³⁷ Parents may choose either a school-year or summer program offered by either a public school or private prekindergarten provider.³⁸

Voluntary Prekindergarten Education Programs			
Program Characteristics	School Year-Programs		Summer Program (s. 1002.61, F.S.)
	Public School (s. 1002.63, F.S.)	Private Prekindergarten Provider (s. 1002.55, F.S.)	
Provider Type	Public school	Private prekindergarten provider	Public school or private prekindergarten provider
Minimum Program Length	540 instructional hours	540 instructional hours	300 instructional hours
Class Size	4 to 20 students	4 to 20 students	4 to 12 students
Prekindergarten Director Credential ³⁹	Not required	Required	Private prekindergarten provider only
Minimum Required Instructor Credential	Child Development Associate (CDA)	CDA plus 2 trainings or equivalent	Florida-certified teacher or bachelor’s or higher degree in specified major

³⁵ Section 1, ch. 2004-484, L.O.F.; part V, ch. 1002, F.S.; *see also* Art. IX, s. 1(b)-(c), Fla. Const. The VPK program originated from a ballot initiative proposing an amendment to the Florida Constitution in the November 2002 general election. The amendment required the Legislature to establish a free prekindergarten education program for every four-year old child residing in Florida by the 2005 academic year.

³⁶ Section 1002.53(2), F.S. Funds appropriated for the VPK program may not be used to enroll eligible students participating in the Gardiner Scholarship Program. *See* s. 1002.385(4)(a), F.S.

³⁷ Section 1002.53(2), F.S. Children who attain five years of age on or before September 1 of the academic year are eligible for admission to public kindergarten. Section 1003.21(1)(a)2., F.S.

³⁸ Section 1002.53(3), F.S. In 2010, the Legislature established a specialized instructional services program for children with disabilities as an option under the VPK program. Section 3, ch. 2010-227, *codified at* s. 1002.53(3)(d), F.S. Beginning with the 2012-13 academic year, a child who has a disability is eligible for specialized instructional services if the child is eligible for the VPK program and has a current Individual Education Plan (IEP) developed by the district school board. Specialized instructional services include applied behavior analysis, speech-language pathology, occupational therapy, and physical therapy. DOE is responsible for approving SIS providers. Section 1002.66, F.S. Children who participate in the program are eligible to receive a McKay Scholarship to enroll in and attend a private school. *See* s. 1002.39(2)(a)1., F.S.

³⁹ The Florida Department of Education establishes the minimum standards for a credential for directors of private prekindergarten providers delivering the VPK program. Section 1002.57(1), F.S.; *see also* rule 6M-8.610, F.A.C.

Voluntary Prekindergarten Education Programs			
Program Characteristics	School Year-Programs		Summer Program (s. 1002.61, F.S.)
	Public School (s. 1002.63, F.S.)	Private Prekindergarten Provider (s. 1002.55, F.S.)	
	plus 2 trainings or equivalent		
Second Instructor for Large Classes (credential not required)	For classes of 12 to 20 students	For classes of 12 to 20 students	Not allowed

Student enrollment in the VPK program for the 2019-2020 school year was 171,199.⁴⁰

Each ELC is the single point of entry for VPK program registration and enrollment in the ELC's county or multi-county service area.⁴¹ Each ELC must coordinate with each school district in its service area to develop procedures for enrolling children in public school VPK programs.⁴²

The DOE is responsible for adopting and requiring each school district to administer a statewide kindergarten readiness screening within the first 30 days of each school year.⁴³

The DCF administers the state's child care provider licensing program, oversees the state-mandated child care personnel training, and posts VPK program provider profiles on its website.⁴⁴

To offer the VPK program, a private prekindergarten provider must apply with the ELC using forms prescribed by the OEL and must be a:

- licensed child care facility;
- licensed family child care home (FCCH);
- licensed large family child care home (LFCCH);
- nonpublic school exempt from licensure; or
- faith-based child care provider exempt from licensure.⁴⁵

In addition, a private prekindergarten provider must:

- be accredited by an accrediting association that is:
 - a member of either the National Council for Private School Accreditation or the Florida Association of Academic Nonpublic Schools, or be accredited by the Southern Association of Colleges and Schools, the Western Association of Colleges and Schools, the Middle States Association of Colleges and Schools, or the New England Association of Colleges and Schools, and
 - has written accreditation standards that meet the state's licensing requirements and requires at least one onsite visit before accreditation is granted,⁴⁶

⁴⁰ Florida Office of Early Learning, *2019-20 OEL Annual Report* (Dec. 2020) at 25, available at [http://www.floridaearlylearning.com/Content/Uploads/floridaearlylearning.com/files/2019-20%20OEL%20Annual%20Report%20FINAL%2012-29-30-GA\(1\).pdf](http://www.floridaearlylearning.com/Content/Uploads/floridaearlylearning.com/files/2019-20%20OEL%20Annual%20Report%20FINAL%2012-29-30-GA(1).pdf).

⁴¹ Section 1002.53(4)(a)-(b), F.S. There are currently 30 ELCs. Florida's Office of Early Learning, *Early Learning Coalitions*, <http://www.floridaearlylearning.com/family-resources/find-quality-child-care/locate-your-early-learning-coalition> (last visited Feb. 26, 2021).

⁴² Section 1002.53(4)(c), F.S.

⁴³ Sections 1002.69(1)-(3) and 1002.73, F.S.

⁴⁴ Sections 402.301-402.319, F.S.; see also Florida Department of Children and Family Services, *Provider Search*, <https://cares.myflfamilies.com/PublicSearch> (last visited Feb. 26, 2021).

⁴⁵ Section 1002.55(3)(a) and (h), F.S.; see also rule 6M-8.300(3), F.A.C.; s. 402.305, F.S. (child care facilities licensing); s. 402.313, F.S. (family day care homes licensing); s. 402.3131, F.S. (large family child care homes licensing); s. 402.316, F.S. (faith-based provider exempt from licensure).

⁴⁶ Section 1002.55(3)(b)1., F.S.; see also National Council for Private School Accreditation, <http://www.ncpsa.org> (last visited Feb. 26, 2021); Florida Association of Academic Nonpublic Schools, <http://www.faans.org> (last visited Feb. 26, 2021); Southern

- hold a current Gold Seal Quality Care designation;⁴⁷ or
- be licensed and demonstrate to the ELC that the provider meets the VPK program’s statutory requirements.⁴⁸

VPK Providers by Classification 2019-2020⁴⁹	
Provider Classification	Participating Providers
Licensed Child Care Facility	4,537
Licensed FCCH	10
Licensed LFCCH	31
License-Exempt	118
Public School	1,305
Private School	450
Specialized Service Providers	50
Total Providers	6,501

Private prekindergarten providers must also sign and agree to the terms outlined in the approved statewide VPK provider contract, follow all applicable statutes and administrative rules, maintain general liability insurance and maintain any required workers’ compensation insurance and reemployment assistance or unemployment compensation coverage.⁵⁰

Each district school board determines which district schools will offer the school-year and summer VPK programs and such schools must apply with the ELC.⁵¹ School districts must offer a summer VPK program and may limit enrollment at individual public schools so long as admission is provided to every eligible student who seeks enrollment in the district’s summer program.⁵²

VPK Program Training Requirements

Present Situation

A public school or private prekindergarten provider offering a school-year VPK program must have, for each class, at least one instructor with the following credentials:

- a child development associate (CDA) issued by the National Credentialing Program of the Council for Professional Recognition, plus five clock hours of training in emergent literacy and successful completion of a student performance standards training course,⁵³ or

Association of Colleges and Schools, <http://www.sacs.org/> (last visited Feb. 26, 2021); Western Association of Colleges and Schools, <http://www.acswasc.org/> (last visited Feb. 26, 2021); Middle States Association of Colleges and Schools, <https://www.msa-cess.org/> (last visited Feb. 26, 2021); New England Association of Colleges and Schools, <http://www.neasc.org/> (last visited Feb. 26, 2021).

⁴⁷ Section 402.281, F.S.; rule 65C-22.009, F.A.C.; see also Florida Department of Children and Family Services, *Gold Seal Quality Care*, <https://www.myflfamilies.com/service-programs/child-care/goldseal.shtml> (last visited Feb. 26, 2021). The DCF issues the Gold Seal Quality Care designation to child care facilities, LFCCHs, and FCCHs that are accredited by a nationally recognized accrediting association with standards that meet or exceed DCF-adopted standards. DCF’s standards are based upon those of the National Association for the Education of Young Children, National Association of Family Child Care, and National Early Childhood Program Accreditation Commission. Section 402.281(1)-(3), F.S.

⁴⁸ Section 1002.55(3)(b), F.S.

⁴⁹ Florida Office of Early Learning, *2019-20 OEL Annual Report* (Nov. 2020) at 25, available at [http://www.floridaearlylearning.com/Content/Uploads/floridaearlylearning.com/files/2019-20%20OEL%20Annual%20Report%20FINAL%2012-29-30-GA\(1\).pdf](http://www.floridaearlylearning.com/Content/Uploads/floridaearlylearning.com/files/2019-20%20OEL%20Annual%20Report%20FINAL%2012-29-30-GA(1).pdf).

⁵⁰ Section 1002.55(3)(i) – (l), F.S.

⁵¹ Sections 1002.61(3)(a) and (8) and 1002.63(3) and (8), F.S.

⁵² Sections 1002.53(6)(b) and 1002.61(3)(a), F.S.

⁵³ Sections 1002.55(3)(c)1.a. and 2., 1002.59, and 1002.63(4), F.S. Emergent literacy includes oral communication, knowledge of print and letters, phonemic and phonological awareness (recognition that words are made up of sounds), and vocabulary and comprehension development. Sections 1002.59, F.S. The emergent literacy training requirement does not apply to individuals who completed required training for staff of child care facilities, family day care homes, and large family child care homes licensed by

- a credential approved by DCF as being equivalent to or greater than the CDA, plus five clock hours of training in emergent literacy and successful completion of a student performance standards training course.⁵⁴

However, in lieu of the minimum credentials listed above, a prekindergarten instructor for a private prekindergarten provider may hold:

- an educational credential approved by OEL as being equivalent to or greater than any of these educational credentials;
- an associate's or higher degree in child development;
- 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 teaching or providing child care services for children any age from birth through 8 years of age;
- a bachelor's or higher degree in early childhood education, prekindergarten or primary education, preschool education, or family and consumer science; or
- a bachelor's or higher degree in elementary education, if the instructor has been certified to teach children any age from birth through grade 6, regardless of whether the educator certificate is current.⁵⁵

A public school or private prekindergarten provider offering a school-year VPK program must have a second adult instructor for each class of 12 or more students; however, the second instructor is not required to meet the same qualifications as the lead instructor.⁵⁶

A public school or private prekindergarten provider offering a summer VPK program must have, for each class, a Florida-certified teacher or at least one instructor with the following credentials:

- bachelor's or higher degree in early childhood education, prekindergarten or primary education, preschool education, or family and consumer science; or
- bachelor's or higher degree in elementary education, if the instructor has been certified to teach children any age from birth through grade 6, regardless of whether the educator certificate is current.⁵⁷

The OEL must adopt minimum standards for one or more emergent literacy training courses for prekindergarten teachers to meet training requirements.⁵⁸ Each course must be at least 5 clock hours long and provide strategies and techniques regarding 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.

DCF before the establishment of emergent literacy training courses or April 1, 2005, whichever occurred later. Section 1002.55(3)(c)2., F.S.; *see* ss. 402.305(2)(d)5., 402.313(6), and 402.3131(5), F.S.

⁵⁴ Sections 1002.55(3)(c)1.b. and 2. and 1002.59, F.S. An active Birth Through Five Child Care Credential awarded as a Florida Child Care Professional Credential, Florida Department of Education Child Care Apprenticeship Certificate, or Early Childhood Professional Certificate satisfies the staff credential requirement. Florida Department of Children and Families, *Child Care Facility Handbook* (2017), *incorporated by reference* in rule 65C-22.001(7), F.A.C.

⁵⁵ Section 1002.55(4), F.S. Although these credentialing requirements appear in the section of law regarding private prekindergarten providers offering the school year program, OEL interprets them to also apply to public school instructors of the school year program. Florida Department of Education, *Technical Assistance Paper: #07-01*, at 2 (Jan. 2007), *available at* <http://info.fldoe.org/docushare/dsweb/Get/Document-4196/07-02att1.pdf>.

⁵⁶ Sections 1002.55(3)(f) and 1002.63(7), F.S.

⁵⁷ Sections 1002.61(4) and 1002.55(4)(a)-(b), F.S.

⁵⁸ Section 1002.59(1), F.S.

Each emergent literacy course must also provide strategies for helping students with disabilities and other special needs maximize their benefit from the VPK program.⁵⁹ In addition, the OEL must adopt minimum standards for one or more training courses on the VPK performance standards it adopts.⁶⁰

Professional development and teacher resources are available online, including the VPK Teacher Toolkit, activity plans aligned to the VPK standards, Bright Beginnings resources, and courses developed by the OEL in collaboration with the Lastinger Center at the University of Florida.⁶¹

Effect of the Bill

The bill revises provisions relating to VPK Program training by:

- requiring the minimum standards for a prekindergarten director credential to include training on implementation of curriculum and use of student data to inform instruction;
- allowing a private school administrator who holds a valid educational leadership certificate issued by the DOE to satisfy the VPK prekindergarten director requirement;
- requiring the DOE to make available online courses, of at least 8 hours in length, that support prekindergarten instructors in increasing the competency of teacher-child interactions;
- requiring a prekindergarten teacher to complete three, rather than only one, emergent literacy courses, beginning July 1, 2022, and to complete at least 1 emergent literacy course every 5 years thereafter; and
- specifying that the prekindergarten teacher training course on VPK standards be recognized as part of an informal early learning career pathway.⁶²

The bill also requires school district summer VPK programs to give priority to teachers who have completed the emergent literacy and VPK standards training and provides that a child care facility director credential no longer satisfies the prekindergarten director credential requirement for VPK providers.

VPK Provider Accountability

Present Situation

Kindergarten Readiness Rate

The performance of each VPK provider is annually reflected in its kindergarten readiness rate calculated by the OEL.⁶³ The readiness rate must be determined using the results of a kindergarten readiness screening that measures a child's attainment of Florida's VPK standards. The screening adopted for this purpose is the Florida Kindergarten Readiness Screener (FLKRS).⁶⁴

The VPK standards describe what children should know and be able to do at the end of VPK in eight domains: physical development; approaches to learning; social and emotional development; language and literacy; mathematical thinking; scientific inquiry; social studies; and creative expression through the arts.⁶⁵ Florida's Constitution expressly requires VPK standards to help students make age-

⁵⁹ See *id.*

⁶⁰ Section 1002.59(2), F.S.

⁶¹ See Florida Office of Early Learning, *Professional Development*, <http://www.floridaearlylearning.com/providers/professional-development> (last visited Feb. 26, 2021). See also Early Learning Florida, *Courses*, <https://www.earlylearningflorida.com/catalog> (last visited Feb. 26, 2021).

⁶² See s. 1002.995(1)(b), F.S.

⁶³ See s. 1002.69(5), F.S.

⁶⁴ The DOE selected the Star Early Literacy Assessment, developed by Renaissance Learning, Inc., as the FLKRS in 2017. Florida Department of Education Contract No. 17-651 (2017). See rule 6M-8.602(3)(b)1., F.A.C.

⁶⁵ See s. 1002.67(1), F.S. See also Florida's Office of Early Learning, *Early Learning and Developmental Standards: 4 Years Old to Kindergarten* (2017) at 1, incorporated by reference in rule 6M-8.602, F.A.C., available at <http://flbt5.floridaearlylearning.com/docs/OEL-SR15BtoK.pdf>.

appropriate progress in the development of language and cognitive capabilities and emotional, social, regulatory, and moral capacities.⁶⁶

Students must be tested within the first 30 school days of kindergarten and the statewide screening must provide objective data concerning each student's readiness for kindergarten.⁶⁷

The readiness rates are expressed as the percentage of children who are ready for kindergarten as demonstrated by achieving the score identified in rule.⁶⁸ A provider must have at least 60 percent of children meet the "ready for kindergarten" score on the FLKRS in order to avoid probationary status.⁶⁹ Children who attended less than 70 percent of a VPK program are not included in a provider's readiness rates, and readiness rates are not calculated for providers with fewer than four children assessed. Providers that do not meet the minimum readiness rate are placed on probation and required to take certain corrective actions.⁷⁰

The methodology for calculating the readiness rate must include student learning gains, when available, based on a VPK preassessment and postassessment known as the "Florida VPK Assessment."⁷¹ The OEL adopted the VPK Assessment in 2015.⁷² The OEL must determine learning gains using a value-added measure based on growth demonstrated by the results of the preassessment and postassessment from at least 2 successive years of administration. Learning gains are demonstrated if a student attains a higher scoring category (below expectations, meeting expectations, or exceeding expectations) from the preassessment to the postassessment on the following domains: Print Knowledge, Phonological Awareness, Mathematics, and Oral Language/Vocabulary.⁷³

The Florida VPK Assessment must be administered by individuals who are employed by a VPK provider and who:

- complete training on proper administration of the assessment that is offered by the OEL or OEL-trained individuals, through online training, or via DVD, if available; and
- meet the VPK instructor qualifications in law.⁷⁴

In 2019, the OEL adopted a rule establishing a readiness rate based on 90 percent student achievement on the FLKRS and 10 percent learning gains on the VPK assessment.⁷⁵ Beginning with the 2018-2019 VPK program year, providers can again be placed on probation for failing to meet the minimum readiness rate.⁷⁶

About 53 percent of kindergarten students were designated as "ready for kindergarten" based on the Fall 2019 administration of the FLKRS.⁷⁷ Of the total number screened, 66 percent completed at least 70 percent of a VPK program and their readiness rate was 63 percent.⁷⁸ For the 2018-2019 VPK program year, 2,175 providers did not meet the minimum rate and were placed on probation.⁷⁹ An

⁶⁶ Fla. Const. Art. IX, s. (1)(b).

⁶⁷ See s. 1002.69(1), F.S.

⁶⁸ Rule 6M-8.601(3)(b)1., F.A.C.

⁶⁹ Rule 6M-8.601(3)(b)5., F.A.C.

⁷⁰ Section 1002.67(4)(c)1., F.S.

⁷¹ Section 1002.69(5), F.S.; rule 6A-1.09433(1)(b), F.A.C.

⁷² See rule 6A-1.09433, F.A.C.

⁷³ Rule 6M-8.601(3)(b)3., F.A.C.

⁷⁴ See Rule 6A-1.09433(2), F.A.C.

⁷⁵ Rule 6M-8.601(3), F.A.C.

⁷⁶ Rule 6M-.601(5)(b), F.A.C.

⁷⁷ Florida Office of Early Learning, *OEL Annual Report 2019-20* (Nov. 2020) at 47, available at [http://www.floridaearlylearning.com/Content/Uploads/floridaearlylearning.com/files/2019-20%20OEL%20Annual%20Report%20FINAL%2012-29-30-GA\(1\).pdf](http://www.floridaearlylearning.com/Content/Uploads/floridaearlylearning.com/files/2019-20%20OEL%20Annual%20Report%20FINAL%2012-29-30-GA(1).pdf).

⁷⁸ *Id.*

⁷⁹ *Id.*

additional 26 providers continued on probation.⁸⁰ Together, currently, one-third of VPK providers are on probation.⁸¹ Thirty providers have lost eligibility due to not meeting the minimum rate.⁸² Provider accountability implications for the 2020 administration of the FLKRS were waived for the 2019-2020 program year due to the emergency caused by the COVID-19 pandemic.⁸³

Program Assessment

In 2018, the Legislature revised School Readiness program accountability requirements to include a program assessment measuring the quality of teacher-child interactions, including emotional and behavioral support, engaged support for learning, classroom organization, and instructional support for children ages birth to 5 years.⁸⁴ The OEL has selected the Teachstone Classroom Assessment Scoring System (CLASS) Assessment Tool as the program assessment, and requirements for observations and observers are provided in the Program Assessment Requirements Handbook.⁸⁵ CLASS observations must be provided by each ELC annually and observers who administer the CLASS must be certified for the age group of the classroom being observed. Certification is achieved by completing and passing all trainings and assessments required by Teachstone to conduct a CLASS observation; only ELC staff, OEL vendors, or ELC designees may conduct an observation.⁸⁶

Unlike School Readiness providers, VPK providers are not required to undergo program assessments.

Eligibility to Provide the VPK Program

Each ELC and district school board is responsible for verifying that private and public VPK providers, respectively, comply with VPK Program laws.⁸⁷ If a provider refuses to comply with law or engages in misconduct, the OEL must require the ELC or district school board to remove the provider or public school from eligibility to deliver the VPK Program and receive VPK funds for a period of 5 years.⁸⁸ An ELC or school district must require a provider or public school that falls below the minimum kindergarten readiness rate to:

- submit for approval and implement an improvement plan;
- place the provider or school on probation; and
- take certain corrective actions, including the use of an OEL-approved curriculum or an OEL-approved staff development plan to strengthen instruction in language development and phonological awareness.⁸⁹

If the provider or public school remains on probation for 2 consecutive years and does not meet the readiness rate and is not granted a good cause exemption, it must be removed from eligibility to provide the program for 5 years.⁹⁰

A good cause exemption releases a public school or private prekindergarten provider from being determined ineligible to deliver the VPK program and receive state funds for the VPK program. Upon request by a public school or private prekindergarten provider, OEL may grant such provider or school

⁸⁰ *Id.*

⁸¹ *Id.*

⁸² *Id.*

⁸³ Florida Department of Education, *Emergency Order No. 2020-EO-01* (March 23, 2020), at 9, available at <http://www.fldoe.org/core/fileparse.php/19861/urlt/DOEORDERNO2020-EO-01.pdf>.

⁸⁴ Section 1002.82(2)(n), F.S.

⁸⁵ See Form OEL-SR 740, incorporated by reference in rule 6M-4.740, F.A.C.; Florida's Office of Early Learning, *Classroom Assessment Scoring System* (2018), available at

http://www.floridaearlylearning.com/Content/Uploads/floridaearlylearning.com/files/CLASS%20FAQ_ADA.pdf.

⁸⁶ See Form OEL-SR 740 at 1, incorporated by reference in rule 6M-4.740, F.A.C.

⁸⁷ Section 1002.67(4)(a), F.S.

⁸⁸ Section 1002.67(4)(b), F.S.

⁸⁹ Section 1002.67(4)(c)1., F.S.

⁹⁰ Section 1002.67(4)(c)3., F.S.

a good cause exemption. Such exemption is valid for 1 year, and may be renewed upon request by the public school or private prekindergarten provider.⁹¹ A public school or private prekindergarten provider that receives a good cause exemption must continue to implement its improvement plan and take corrective actions until such school or provider meets the minimum kindergarten readiness rate.⁹²

A request by a public school or private prekindergarten provider to OEL for good cause exemption or renewal of such exemption must include the following:

- Submission of data by the public school or private prekindergarten provider which documents student achievement and learning gains, as measured by a state-approved pre- and post-assessment.
- Submission and review of data available from the respective ELC or district school board, DCF, local licensing authority, or an accrediting association, as applicable, relating to the public school's or private prekindergarten provider's compliance with state and local health and safety standards.
- Submission and review of data available to OEL on the performance of the children served and the calculation of the public school's or private prekindergarten provider's kindergarten readiness rate.⁹³

A good cause exemption may not be granted to any private prekindergarten provider that has any class I violations or two or more class II violations within the 2 years preceding the provider's or school's request for the exemption.⁹⁴

The OEL must notify the applicable ELC of the good cause exemption granted to a private prekindergarten provider within the coalition's service area, and direct that coalition to not remove the provider from eligibility to deliver the VPK program.⁹⁵

Effect of the Bill

The bill revises the VPK standards to include mathematical thinking and early math skills and executive functioning skills. It also requires that a VPK provider's curriculum include instruction in early math skills and prepare students for kindergarten. The bill requires the DOE to review and, if necessary, revise the standards for the end-of-prekindergarten screening at least every 3 years.

The bill repeals the kindergarten readiness rate and the FLKRS and VPK Assessment and phases in a VPK program performance metric that, by the beginning of the 2022-2023 program year, will include:

- a program assessment composite score;
- learning gains and norm-referenced learning outcomes based on the VPK standards for early literacy and math; and
- beginning with the 2023-2024 program year, the ability to assign a performance designation for each provider.

Under the bill, each ELC is responsible for conducting program assessments and must ensure individuals conducting the assessments are doing so according to assessment requirements. The SBE must determine by rule the minimum program assessment composite score and who may administer program assessments, screening, and progress monitoring.

Consistent with the CLASS used for School Readiness providers, the program assessment must measure in each VPK classroom the quality of teacher-child interactions, including emotional and behavioral support, engaged support for learning, classroom organization, and instructional support for

⁹¹ Section 1002.69(7)(a), F.S.

⁹² Sections 1002.69(7)(e) and 1002.67(3)(c)2., F.S.

⁹³ Section 1002.69(7)(b)-(c), F.S.

⁹⁴ Section 1002.69(7)(d), F.S.

⁹⁵ Section 1002.69(7)(f), F.S.

children ages 3 to 5 years. Results from the assessment must be given to the provider within 14 days after the observation.

Learning gains and learning outcomes must be determined using a new, coordinated screening and progress monitoring program (CSPMP) for all students in VPK through grade 3. For VPK students, beginning in the 2022-2023 program year, the CSPMP must be administered once within the first 30 days of the program year, once midyear, and once within the last 30 days before the end of the program year, pursuant to SBE rule. The SBE may adopt alternate timeframes for nontraditional school year calendars or summer programs. A student’s learning gains must be based on the initial and final progress monitoring results during the VPK program year. A kindergarten student’s initial progress monitoring results will not be used to calculate the performance of a VPK provider.

For the 2021-2022 program year, the department must calculate a kindergarten readiness rate for each VPK program provider but may not place providers that do not meet the minimum rate on probation. Students who are not administered the screener may not be included in the readiness rate calculation. The department may not use kindergarten screening results to calculate provider performance.

The bill provides the following transition to the new performance metric; a score will be calculated for each VPK provider based on the components identified for each program year:

Program Year	Outcomes/Readiness	Learning Gains	Program Assessment Composite Score
2020-21	Percent of students assessed as ready for kindergarten (based on kindergarten FLKRS administration in the 2020-21 school year)	VPK Assessment	N/A
2021-22	N/A	CSPMP (initial and final administration)	N/A
2022-23	CSPMP	CSPMP (initial and final administration)	At least 50%
2023-24 (Includes assignment of performance designation to VPK Provider)	CSPMP	CSPMP (initial and final administration)	At least 50%

Beginning with the 2023-2024 program year, the DOE must assign a designation to each VPK provider within 45 days after the conclusion of the VPK program year based on the methodology in place for the 2022-2023 program year. The designations are “excellent,” highly proficient,” “proficient,” “emerging proficiency,” and “unsatisfactory”; however, the DOE may adopt comparable designation terminology so long as letter grades are not used. Each provider must annually receive a program assessment composite score; a performance metric consisting of the learning outcomes, learning gains, and program assessment composite score; and a designation. The designations must be included in the provider’s performance profile accessible through the CCR&R.

The bill establishes a payment differential for VPK providers based upon provider designations. Subject to appropriation, the DOE must provide for a performance-based differential payment of up to 15 percent of the base VPK student allocation; however, VPK providers that earn a designation of “proficient” or below are not eligible. The DOE must confer with the Council for Early Grades Success, established by the bill as discussed *infra*, before approval of the methodology and differential payments.

The bill authorizes VPK providers who do not meet the minimum composite score as adopted by the DOE to request one program assessment per program year in an effort to achieve the score and requalify for the program. The requesting provider must pay for such a program assessment.

If a VPK provider does not meet the minimum performance metric or designation, the ELC or school district, as applicable, must:

- require the provider to submit an improvement plan for approval and implement the plan;
- place the provider on probation; and
- require corrective action, including the use of DOE-approved VPK curriculum.

The bill requires that if a VPK provider remains on probation for 2 years and does not meet the minimum program performance metric or designation or is not eligible for a good cause exemption, the provider's contract must be terminated for a least 2 years, but no more than 5 years. This time frame is reduced from the current prohibition of 5 years. Similarly, the bill reduces the time frame during which a VPK provider that fails to implement an improvement plan or take corrective actions may not participate in the VPK program from at least 5 years to between 2 and 5 years.

Each VPK program must be provided fiscal and programmatic monitoring at least biennially. The bill provides that a child care provider with a provisional license issued by the DCF may still be eligible to offer the VPK program.

The bill requires representatives from school districts and ELCs to meet annually to develop strategies for transitioning students from the VPK program to kindergarten.

The bill also specifies that child development programs operating on a military installation certified by the U.S. Department of Defense and accredited by a national accrediting body may offer a VPK program. Such a program may satisfy basic health and safety requirements by submitting and verifying annual inspections by the Department of Defense. Additionally, the provider may demonstrate liability coverage by affirming that it is subject to the Federal Tort Claims Act.⁹⁶

School Readiness Program

Overview

Established in 1999,⁹⁷ the School Readiness Program provides subsidies for child care services and early childhood education for children of low-income families; children in protective services who are at risk of abuse, neglect, abandonment, or homelessness; foster children; and children with disabilities.⁹⁸ The School Readiness Program offers financial assistance for child care to these families while supporting children in the development of skills for success in school. Additionally, the program provides developmental screening and referrals to health and education specialists where needed. These services are provided in conjunction with other programs for young children such as Head Start, Early Head Start, Migrant Head Start, CCR&R and the VPK program.⁹⁹ The School Readiness Program

⁹⁶ 28 U.S.C. ss. 2671 *et seq.*

⁹⁷ Section 1, ch. 99-357, L.O.F.

⁹⁸ Sections 1002.81 and 1002.87, F.S.

⁹⁹ Florida Office of Early Learning, *School Readiness Program*, <http://www.floridaearlylearning.com/family-resources/financial-assistance> (last visited July 3, 2019).

is a state-federal partnership between the OEL¹⁰⁰ and the Office of Child Care of the United States Department of Health and Human Services.¹⁰¹

Federal regulations governing the Child Care and Development Fund (CCDF),¹⁰² the primary funding source for the School Readiness Program, authorize states to use grant funds for child care services, if:

- the child is under 13 years of age, or at the state's option, under age 19 if the child is physically or mentally incapable of caring for himself or herself or under court supervision;
- the child's family income does not exceed 85 percent of the state's median income for a family of the same size; and
- the child:
 - resides with a parent or parents who work or attend job training or educational programs; or
 - receives, or needs to receive, protective services.¹⁰³

Within these broad federal eligibility categories, Florida law specifies additional priorities to include students who are considered at-risk (e.g., are homeless or in foster care).¹⁰⁴

A child who is ineligible due to a parent's job loss or cessation of education or job training will continue to receive School Readiness Program services for at least three months to enable the parent to obtain employment or resume education or job training.¹⁰⁵

Student enrollment in the School Readiness program for the 2019-2020 school year, the most recent year measured, was 221,711.¹⁰⁶

Provider Eligibility

Present Situation

In order to be eligible to deliver the School Readiness program, a provider must be:

- A licensed child care facility;
- A licensed or registered family day care home (FDCH);
- A licensed large family day care home (LFDCH);
- A public school or nonpublic school;
- A license-exempt faith-based child care provider;
- A before-school or after-school program; or
- An informal child care provider authorized in the state's CCDF plan.¹⁰⁷

¹⁰⁰ In 2013, the Legislature established the Office of Early Learning in the Office of Independent Education and Parental Choice within the Department of Education. The office is administered by an executive director and is fully accountable to the Commissioner of Education but shall independently exercise all powers, duties, and functions prescribed by law, as well as adopt rules for the establishment and operation of the School Readiness Program and the VPK Program. Section 1, ch. 2013-252, L.O.F., *codified at s. 1001.213*, F.S.

¹⁰¹ See U.S. Department of Health and Human Services, *Office of Child Care Fact Sheet*, <http://www.acf.hhs.gov/programs/occ/fact-sheet-occ> (last visited Feb. 28, 2021).

¹⁰² 45 C.F.R. parts 98 and 99.

¹⁰³ 45 C.F.R. s. 98.20(a). Florida does not provide school readiness funding for children 13-18 years of age who are physically or mentally incapable of self-care or under court supervision. See Florida's Office of Early Learning, *Florida Child Care Development Fund (CCDF) Plan with Conditional Approval Letter for FY 2019-2021*, at 53 (October 1, 2018), available at http://www.floridaearlylearning.com/Content/Uploads/floridaearlylearning.com/files/CCDBG_FY2019-2021CCDFPlanFINAL_FINAL_4.9.19.pdf. [hereinafter *CCDF State Plan*].

¹⁰⁴ See ss. 1002.81(1)(d) and (f) and 1002.87(1), F.S.

¹⁰⁵ Section 1002.87(6), F.S.

¹⁰⁶ Florida Office of Early Learning, 2019-20 OEL Annual Report (Nov. 2020) at 20, available at [http://www.floridaearlylearning.com/Content/Uploads/floridaearlylearning.com/files/2019-20%20OEL%20Annual%20Report%20FINAL%2012-29-30-GA\(1\).pdf](http://www.floridaearlylearning.com/Content/Uploads/floridaearlylearning.com/files/2019-20%20OEL%20Annual%20Report%20FINAL%2012-29-30-GA(1).pdf).

¹⁰⁷ Section 1002.88(1)(a), F.S.

School Readiness Providers by Classification Fiscal Year 2018-2019 ¹⁰⁸										
Provider Classification	Total Providers		Gold Seal Providers		Non-Gold Seal Providers		Providers Participating in Quality Performance Incentive (QPI) ¹⁰⁹		Providers Participating in Child Assessment	
	#	%	#	%	#	%	#	%	#	%
Licensed Child Care Facilities	5,009	69%	1,356	82%	3,653	66%	2,647	75%	949	55%
Licensed FDCH	902	13%	60	4%	842	15%	531	15%	303	18%
Licensed LFDCH	264	4%	66	4%	198	4%	186	5%	147	9%
Licensed-Exempt Faith-Based Child Care Providers	165	2%	12	1%	153	3%	70	2%	115	7%
Private Schools	140	2%	46	3%	94	2%	57	2%	87	5%
Public Schools	650	9%	104	6%	546	10%	13	0%	61	4%
Registered FCCH	77	1%	0	0%	77	1%	29	1%	50	3%
Informal	1	0%	0	0%	1	0%	0	0%	1	0%
Total	7,208	100%	1,644	100%	5,564	100%	3,533	100%	1,713	100%

Beginning with the 2019-20 School Readiness contract year and subsequent years, all School Readiness providers serving children from birth to kindergarten entry must have a program assessment conducted and meet the contract minimum threshold to be eligible to participate in the School Readiness Program.¹¹⁰ A coalition must waive the contract minimum threshold if the coalition determines that a provider is essential to meet local child care capacity needs as defined in the Coalition’s School Readiness plan.¹¹¹

Other eligibility requirements include screening child care personnel, implementing curriculum approved by the OEL, meeting basic health and safety requirements and comply with immunization requirements, maintaining appropriate liability insurance coverage, and executing the standard provider contract.¹¹²

Effect of the Bill

The bill includes the following providers as eligible for the School Readiness Program:

- Child development programs operating on a military installation certified by the U.S. Department of Defense and accredited by a national accrediting body.
- Providers issued a provisional license by the DCF.¹¹³

The bill requires that School Readiness providers collect parent copayment fees, unless a waiver is granted, to be eligible to offer the program. A provider may not deliver the program while its license has been converted to probationary status by the DCF.

¹⁰⁸ Email from Katerina Maroney, Early Learning Policy Manager, Florida Office of Early Learning, *Updated School Readiness Information* (October 9, 2019).

¹⁰⁹ The QPI is the differentiated payment schedule for providers who earn certain scores on the CLASS program assessment.

¹¹⁰ Rule 6M-4.740(2), F.A.C.

¹¹¹ *Id.* Providers that have had the contract minimum threshold waived must be on a Quality Improvement Plan. Providers that meet the minimum score for contracting but do not meet the Quality Improvement Threshold must be placed on a Quality Improvement Plan.

¹¹² See s. 1002.88(1), F.S.

¹¹³ A provisional license may be issued to providers who do not meet all licensing requirements but meet background screening and health and safety requirements. See s. 402.309, F.S.

The bill repeals the Child Care Executive Partnership established in s. 1002.94, F.S., which last convened in June 2017.¹¹⁴

The bill also specifies that a U.S. Department of Defense-certified and nationally accredited child development program operating on a military installation may satisfy basic health and safety requirements by submitting and verifying annual inspections by the Department of Defense. The provider may demonstrate liability coverage by affirming that it is subject to the Federal Tort Claims Act.¹¹⁵

School Readiness Funding

Present Situation

School Readiness funding for participating providers comes primarily from reimbursements from the ELC and tuition payments by participating families.¹¹⁶ Each ELC reimburses participating providers with appropriated funds for each eligible child, either through child care certificates provided by parents or through contracted slots.¹¹⁷ The reimbursement and co-payment amounts are determined locally by ELCs, subject to approval by the OEL. Any additional amount a parent must pay is based on the difference between the provider's tuition rate and the sum of the reimbursement rate and required parent co-payment. Reimbursement amounts vary based on provider type and level of care, and co-payments are determined using a sliding fee scale.¹¹⁸

Federal regulation requires states to ensure equal access to child care through the CCDF by determining a fair market rate every 2 years using a statistically valid and reliable survey.¹¹⁹ The survey must be completed at least 2 years before the market rates are calculated and take effect. Based in part on recommendation by the Office of Child Care within the federal Department of Health and Human Services, the OEL calculates the average market rate and the 75th percentile market rate for each county to help ELCs determine provider reimbursement schedules.¹²⁰ The OEL establishes market rates for the following provider types and levels of care for each county:¹²¹

- Provider Type:
 - Private Center
 - Large Family Child Care Home
 - Family Child Care Home
 - Public School
 - Non-Public School
 - Faith-Based Exempt

- Level of Care:
 - Infant – Birth to 12 months
 - Toddler – 12 to 24 months
 - 2 year-old – 24 to 36 months

¹¹⁴ Florida Office of Early Learning, *Meeting Agendas*, <http://www.floridaearlylearning.com/coalitions/ccep-program/meeting-agendas>.

¹¹⁵ 28 U.S.C. ss. 2671 *et seq.*

¹¹⁶ See ss. 1002.84(8) and 1002.89, F.S.; Specific Appropriation 86, s. 2, ch. 2019-115, L.O.F.

¹¹⁷ See rule 6M-4.500(1), F.A.C.; see also CCDF State Plan, *supra*, note 102.

¹¹⁸ See s. 1002.895, F.S.; rules 6M-4.400(2) and 6M-4.500(1), F.A.C.

¹¹⁹ See 45 C.F.R. § 98.45(a) and (c). Alternatively, states may set payment rates using an alternative methodology approved by the federal Administration for Children and Families.

¹²⁰ See s. 1002.895(4), F.S.; Child Care and Development Fund (CCDF) Program, 81 FR 67438 (Nov. 29, 2016) (codified at 45 C.F.R. pt. 98); Florida Office of Early Learning, *2019 Market Rate Survey and Process* (May 2019), *on file with House Education staff* [hereinafter referred to as Market Rate Presentation].

¹²¹ Section 1002.895(2)(a) and (b), F.S.

- Preschool 3 year-old – 36 to 48 months
- Preschool 4 year-old; 48 to 60 months
- School Age; School entry to 14 years
- Special Needs; Birth to 14 years

The market rate calculation must also differentiate rates between full-time and part-time child care services, differentiate between Gold Seal program provider status and non-Gold Seal program provider status, and consider discounted rates for child care services for multiple children in a single family.¹²²

To calculate market rates, the OEL sorts provider private pay rates for a given level of care within the county from highest to lowest, calculates the average market rate, and identifies the 75th percentile pay rate. Although there is no minimum threshold for provider reimbursement rates in law, ELCs must consider the market rate schedule in determining its own minimum reimbursement rates, which must be approved by the OEL.¹²³ In addition, a provider may receive additional funding above the minimum reimbursement rate if it qualifies for any of the following quality-based differentials:¹²⁴

- Up to an additional 20 percent for Gold Seal status.
- Up to an additional 10 percent for achieving certain CLASS scores identified in rule (also known as the quality performance incentive).
- An additional 5 percent for participating in an OEL-approved child assessment tool.

Generally, an ELC may not reimburse a provider at a higher rate than the provider's private pay rate.¹²⁵ However, the total additional reimbursement for these differentials may exceed a provider's private pay rate by up to 20 percent.¹²⁶ Providers may also receive differentials for participating in the Contracted Slots Program (10 percent above the 75th percentile market rate) and for serving children with special needs (up to 20 percent above the maximum approved base reimbursement rate established for infant care by the ELC).¹²⁷

Below is an overview of the 2017 state-level, market rate calculations for Gold Seal Private Centers, taken from the 2017 Market Rate Report. Note that the OEL compares the average reimbursement rate actually used by ELCs as compared to the average and 75th percentile market rates.¹²⁸

¹²² Section 1002.895(1) and (2)(a), (c), and (d), F.S.

¹²³ See s. 1002.895(4), F.S.; see also Florida CCDF Plan at 6, *supra*, note 102.

¹²⁴ See s. 1002.82(2)(o), F.S.; rule 6M-4.500(9), (10), and (11), F.A.C.

¹²⁵ See Market Rate Presentation, *supra*, note 119.

¹²⁶ Rule 6M-4.500(8)(a), F.A.C.

¹²⁷ Rule 6M-4.500(5) and (6), F.A.C.

¹²⁸ Florida Office of Early Learning, *Florida Department of Education 2017 Market Rate Report* (last updated Apr. 29, 2019), available at

http://www.floridaearlylearning.com/Content/Uploads/floridaearlylearning.com/files/Market_Rate_Report_2017_Full_Time_Final_w_eb_04292019.pdf.

Gold Seal
Private Centers

Care Level	Number of Providers		Market Rate (Private Pay Rates)						School Readiness Reimbursement Rate		
	Rates Included	Rates Excluded	Average	Maximum	Minimum	Median	Most Frequent	75th Percentile Rate	Average SR Reimbursement Rate	% of Average Market Rate	% of 75th Percentile Rate
Infant	1,031	27	\$195.72	\$309.00	\$57.50	\$190.00	\$150.00	\$225.00	\$156.76	80.10%	69.67%
Toddler	1,378	20	\$171.65	\$307.00	\$55.00	\$165.00	\$135.00	\$194.75	\$130.49	76.02%	67.01%
Preschool	1,422	23	\$153.72	\$307.00	\$57.74	\$146.67	\$150.00	\$175.00	\$117.54	76.46%	67.17%
School age	1,112	19	\$132.37	\$290.00	\$50.00	\$125.50	\$110.00	\$152.25	\$102.09	77.13%	67.06%

Each ELC must assess a co-payment for each child that participates in the School Readiness program. The co-payment is determined using a sliding scale so that participating families have equitable access to child care.¹²⁹ Each sliding fee scale must be approved by the OEL, which reviews the scale to determine whether it reflects annually released income limits, has an effective date no later than July 1 of that year, and that co-payments do not exceed 10 percent of a family’s income, regardless of the number of children in care. If the co-payment does exceed 10 percent, the ELC must justify that the co-payment is affordable in order for the scale to be approved by the OEL.¹³⁰ The co-payment may not be equal or greater than the provider’s private pay rate.¹³¹ Co-payments may also be waived on a case-by-case basis for an at-risk family or temporarily waived for a family that experiences a natural disaster or other event specified in law.¹³²

Effect of the Bill

The bill revises the DOE’s procedures for determining the market rate calculation and payment differentials, as they relate to providers that hold a Gold Seal Quality Care program designation, to require the provider to adhere to the accrediting agency’s teacher-to-child ratios and group size requirements. Currently, the provider must attain an overall compliance percentage of 85 percent with the agency’s accreditation standards.¹³³ A provider meeting these requirements will be eligible for a minimum differential payment of 20 percent.

The bill also revises the market rate calculation by basing it on the prevailing rate or an alternative model that has been approved by the Administration for Children and Families pursuant to 45 C.F.R. s. 98.45(c), rather than the average rate in an ELC.

The bill expands the circumstances in which a parent co-payment may be waived to include the parent’s participation in the Head Start or Early Head Start Program and requires the DOE to adopt requirements for making contracted slots available to children who reside in a poverty area tract based on census data. The contracted slots program may be used to increase child care capacity using the assessment of local priorities based on family needs and community data.

Early Literacy

Research-Based Reading Instruction Allocation

Present Situation

¹²⁹ Rule 6M-4.400(1), F.A.C.

¹³⁰ *Id.*

¹³¹ Rule 6M-4.400(2)(d), F.A.C.

¹³² Section 1002.84(8), F.S.; rule 6M-4.400(6), F.A.C.

¹³³ *See* rule 65C-20.014(4)(c), F.A.C.

The research-based reading instruction allocation in the Florida Education Finance Program (FEFP) is established to assist school districts with implementing their comprehensive reading instruction and interventions for K-12 students in public schools.¹³⁴ The Legislature annually appropriates these funds to each school district, which must be used to provide a system of reading instruction.¹³⁵ The system may include:

- an additional hour per day of intensive reading instruction to students in the 300 lowest-performing elementary schools;
- kindergarten through grade 5 reading intervention teachers;
- reading coaches;
- professional development for school district teachers in scientifically based reading instruction;
- summer reading camps for all students in kindergarten through grade 2 who demonstrate a reading deficiency as determined by district and state assessments, and students in grades 3 through 5 who score at Level 1 on the statewide, standardized English Language Arts assessment;
- supplemental instructional materials; and
- intensive interventions for K-12 students who have been identified as having a reading deficiency or who are reading below grade level.¹³⁶

School districts must annually submit a K-12 comprehensive reading plan for the specific use of the research-based reading instruction allocation using a form provided by the DOE.

Effect of the Bill

The bill expands allowable uses of the research-based reading instruction allocation to include:

- intensive interventions for students who completed the VPK program and exhibited a substantial deficiency in early literacy; and
- participation of such students in summer reading camps currently provided for students in K-3.

VPK students who exhibit a substantial reading deficiency based on the new coordinated screening and progress monitoring program must be referred to the school district, where they may be provided these interventions using the school district's research-based reading allocation.

The bill also requires that intensive reading interventions provided through the research-based reading instruction allocation be evidence based and defines evidence based to mean demonstrating a statistically significant effect on improving student outcomes or other relevant outcomes.¹³⁷

Supplemental instructional materials purchased with allocation funds must be scientifically researched and evidence based as identified by the DOE's Just Read, Florida! Office.

Progress Monitoring and Intervention

Present Situation

¹³⁴ See s. 1011.62(9), F.S.

¹³⁵ See s. 1011.62(9)(c), F.S.

¹³⁶ See *id.*

¹³⁷ The language "demonstrating a statistically significant effect on improving student outcomes or other relevant outcomes" is drawn from part of the definition of "evidence based" under the federal Every Student Succeeds Act (ESSA). Pub. L. No. 114-95, 129 Stat. 1802 (Dec. 10, 2015); 20 U.S.C. s. 6301 *et seq.* Under ESSA, this language includes any state, local or school activity, strategy, or intervention that has strong evidence from at least one well-designed and well-implemented study, moderate evidence from at least one well-designed and well-implemented quasi-experimental study, or promising evidence from at least one well-designed and well-implemented correlational study with statistical controls for selection bias. See 20 § 7801(21)(A)(i).

Each district school board must establish a plan for student progression based on the student's mastery of the Next Generation Sunshine State Standards (NGSSS).¹³⁸ The plan must, among other things, emphasize student reading proficiency in grades K-3 and provide targeted instructional support for students with identified deficiencies.¹³⁹ School districts must prioritize remedial and supplemental instruction resources for K-3 students who have a substantial deficiency based upon screening, diagnostic, progress monitoring, or assessment data; statewide assessments; or teacher observations.¹⁴⁰ These students must be provided intensive, explicit, systematic, and multisensory reading interventions immediately following the identification of the deficiency. The intensive interventions must continue until the student demonstrates grade level proficiency as determined by the district, which may include achieving a Level 3 on the statewide, standardized English Language Arts assessment.¹⁴¹

Effect of the Bill

The bill adds to progress monitoring and intervention provisions by requiring the commissioner to design the coordinated screening and progress monitoring program (CSPMP) to assess emergent literacy and mathematics skills for VPK through grade 3 students based on the NGSSS and VPK standards. The CSPMP must be implemented for VPK and kindergarten students beginning with the 2022-2023 school year and must:

- provide interval level and norm-referenced data that measures equivalent levels of growth;
- be adaptive and developmentally appropriate, valid and reliable direct assessment;
- be able to capture data on students who may be performing below grade or developmental level and which may enable the identification of early indicators of dyslexia or other developmental delays;
- accurately measure the core content in the applicable grade level standards;
- document learning gains for the achievement of these standards; and
- provide teachers with progress monitoring supports and materials that enhance differentiated instruction and parent communication.

The results of the CSPMP for students in VPK through grade 3 must be reported to the DOE and maintained in the education data warehouse.

The bill establishes within the DOE the Council for Early Grades Success (CEGS), as a council defined under s. 20.03, F.S.,¹⁴² to oversee the CSPMP. The CEGS is responsible for reviewing the implementation and administration of the CSPMP, including training and student outcomes, and must provide recommendations to the DOE that supports grade-level or higher reading for grade 3 students. The CEGS must:

- review any procurement solicitation documents and criteria prior to publication;
- develop training plans and timelines;
- identify appropriate personnel, processes, and procedures required for the administration of the CSPMP;
- provide input on the methodology for calculating a VPK provider's performance metric and the grading system;
- work with the department to review the methodology for determining a child's kindergarten readiness;
- review data on age-appropriate learning gains by grade level that a student would need to attain in order to demonstrate proficiency in reading by grade 3;

¹³⁸ Sections 1003.41 and 1008.25, F.S. The plan must focus specifically on ELA, math, science and social study standards.

¹³⁹ See s. 1008.25(2)(a), F.S.

¹⁴⁰ See s. 1008.25(3)(a) and (5)(a), F.S.

¹⁴¹ See s. 1008.25(5)(a), F.S.

¹⁴² Section 20.03(7) defines "council" to mean an "advisory body created by specific statutory enactment and appointed to function on a continuing basis for the study of the problems arising in a specified functional or program area of state government and to provide recommendations and policy alternatives." *See id.*

- continually review anonymized data from the results of the CSPMP to support practices that enable grade 3 students to read at or above grade level.

All members of the CEGS must be Florida residents. Membership is as follows:

- 3 members appointed by the Governor.
 - A representative of the Department of Education.
 - A parent of a child who is 4 to 9 years old.
 - An elementary school administrator.
- 7 members appointed by the President of the Senate:
 - A Senator.
 - A representative of an urban school district.
 - A representative of a rural ELC.
 - A representative of a faith-based early learning VPK provider.
 - A second grade teacher with at least 5 years of teaching experience.
 - 2 representatives with subject matter expertise in early learning, early grade success, or child assessments and who are not direct stakeholders within an ELC or public school system or potential recipients of a contract resulting from the CEGS's recommendations.
- 7 members appointed by the Speaker of the House of Representatives:
 - A Representative.
 - A representative of a rural school district.
 - A representative of an urban ELC.
 - A representative of an early learning VPK provider.
 - A kindergarten teacher with at least 5 years of teaching experience.
 - 2 representatives with subject matter expertise in early learning, early grade success, or child assessments and who are not direct stakeholders within an ELC or public school system or potential recipients of a contract resulting from the CEGS's recommendations.

The CEGS must elect a chair and vice chair, one of which being a subject matter expert. The vice chair must be an appointee of either the Senate President or Speaker of the House but may not be one of the subject matter experts appointed by either presiding officer. The bill specifies that a majority of the members, not just those members present, constitutes a quorum. The CEGS must meet at least biennially; members may be reimbursed for travel expenses but may not receive compensation. The bill does not establish member term limits.

The commissioner must also:

- develop a plan, in coordination with the CEGS, for implementing the CSPMP taking into account timelines for the review of the NGSSS and VPK standards;
- provide data, reports, and information as requested to the CEGS.

Other Provisions

The Florida Children and Youth Cabinet is a coordinating council tasked with promoting interdepartmental collaboration and program implementation to improve the self-sufficiency, safety, economic stability, health, and quality of life for Florida's children. The cabinet is within the Executive Office of the Governor and must meet between four and six times a year.¹⁴³ It has 16 members, including the executive director of the OEL. Because the bill repeals the OEL, the membership of the cabinet is revised to include a representative from the DEL.

¹⁴³ See s. 402.56(3), F.S.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The Fiscal Year 2021-2022 General Appropriations Act provides \$7.5 million to the DOE to implement CS/CS/HB 419 including funding for the VPK program assessments and the market rate study.

The bill repeals the kindergarten readiness screening established in s. 1002.69(1), F.S., and the Voluntary Prekindergarten (VPK) program pre- and post-assessment established in s. 1002.67(3), F.S. The estimated total amount of recurring base funds use to contract for these two assessments is \$6.8 million which could be used to offset the costs associated with the bill.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.