

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 575 The Gold Seal Quality Care Program

SPONSOR(S): Omphroy and others

TIED BILLS: None **IDEN./SIM. BILLS:** SB 1336

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Early Learning & Elementary Education Subcommittee	18 Y, 0 N	Guy	Brink
2) Children, Families & Seniors Subcommittee	17 Y, 0 N	Rahming	Brazzell
3) PreK-12 Appropriations Subcommittee			
4) Education & Employment Committee			

SUMMARY ANALYSIS

The Gold Seal Quality Care Program provides financial incentives, in the form of certain tax exemptions and increased reimbursements, to qualifying child care providers. A qualifying provider must be accredited by an association approved by the Florida Department of Children and Families (DCF) as meeting certain national accrediting standards and other criteria. The DCF is responsible for administering the Gold Seal program, including through rulemaking.

The bill provides a type two transfer of administrative responsibility for the Gold Seal program from the DCF to the Florida Department of Education (DOE), placing rulemaking authority with the State Board of Education (SBE).

The bill revises Gold Seal program accrediting standards and the requirements for approving an accreditor under the program. The bill specifies that an accreditor is not required to be an association and rather may be an accrediting entity.

The bill requires the DOE to establish a process for verifying Gold Seal accreditor compliance with the revised requirements, including an auditing program, and 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 revoke an accrediting entity's approval if the entity has accredited 10 or fewer child care providers in the previous 5 years. The bill also allows the DOE to recommend to the SBE that a Gold Seal provider maintain its status after it is cited for certain violations in specified circumstances.

The bill specifies that a School Readiness provider with the Gold Seal designation must receive a minimum differential payment of 20 percent, rather than up to 20 percent.

The bill has an indeterminate fiscal impact. See Fiscal Comments, *infra*.

The bill takes effect on July 1, 2021.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Gold Seal Quality Care Program Accreditors

The Department of Children and Families (DCF) administers the state's child care provider licensing program, including inspections of child care providers for specified health and safety standards,¹ and oversees state-mandated child care personnel training.² It also administers the Gold Seal Quality Care 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.³ Child care providers that earn the Gold Seal designation may be eligible for benefits such as certain property tax and sales tax exemptions and increased reimbursement rates through the School Readiness program.⁴ However, committing a class I violation⁵ is grounds for termination of the Gold Seal designation for 2 years.⁶

Accrediting standards must be based on applicable accrediting standards of the National Association for the Education of Young Children (NAEYC), the National Association of Family Child Care (NAFCC), and the National Early Childhood Program Accreditation Commission (NECPAC).⁷ To be approved as an accrediting association, the association must be recognized as an accrediting association and have accrediting standards that meet or exceed the Gold Seal accrediting standards adopted by the DCF.⁸ In addition, the accrediting association must:⁹

- Have been active and accrediting child care facilities for at least 5 years before submitting an application to the DCF;
- Be currently incorporated and registered to conduct business in Florida;
- Submit and meet the requirements of the accrediting association application form;¹⁰ and
- Submit a cross walk of its accrediting standards with the DCF's Gold Seal accrediting standards.

In approving accrediting associations, the DCF must consult with:¹¹

- The Florida Department of Education;
- The Florida Head Start Director's Association;
- The Florida Association of Child Care Management;
- The Florida Family Child Care Home Association;
- The Florida Children's Forum;

¹ See ss. 402.301-402.319, and 1002.88, F.S.

² Ss. 402.301-402.319, F.S.; see also Florida Department of Children and Families, *Provider Search*, <https://cares.myflfamilies.com/PublicSearch> (last visited Feb. 26, 2021).

³ 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).

⁴ See ss. 212.08(5)(m) and 402.26(6), F.S., and rule 12D-7.015, F.A.C.

⁵ 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. Class III violations are less serious in nature than either Class I or Class II violations. Rule 65C-22.010(1)(e), F.A.C.

⁶ See 402.281(4)(a), F.S.

⁷ S. 402.281(2), F.S.

⁸ S. 402.281(3)(a), F.S.

⁹ See s. 402.281(3), F.S.; rule 65C-22.009(4)(a), F.A.C.

¹⁰ See Form CF-FSP 5315, *incorporated by reference in rule 65C-22.009(4)(a)3.*, F.A.C. (2019), available at <https://www.flrules.org/gateway/reference.asp?No=Ref-10508>.

¹¹ S. 402.281(3)(b), F.S.

- The Florida Association for the Education of the Young;
- The Child Development Education Alliance;
- The Florida Association of Academic Nonpublic Schools;
- The Association of Early Learning Coalitions;
- Exempt child care providers;¹² and
- Parents.

The DCF establishes review teams composed of at least 5 members from the above stakeholder groups to evaluate an accrediting association's application for approval.¹³ To receive approval, the association must obtain an overall compliance score of 85 percent or higher based on the accrediting association criteria contained in the Gold Seal Quality Care Accrediting Association Evaluation Manual for Child Care Facilities.¹⁴ The approval period lasts for up to 5 years, unless the DCF terminates approval or the association voluntarily surrenders approval.¹⁵ Applications may only be submitted in January or July.¹⁶

There are 14 DCF-adopted accreditor standards with respect to child care facilities, such as Staff Training and Professional Development, Teacher-Child Interactions, Literacy Support, and Health and Safety. There are seven such standards for home-based providers.¹⁷ Each standard includes detailed indicators of provider expectations. For example, within the Curriculum/Teacher standard, one indicator is whether the program has rich and varied materials to sustain curriculum plans and occupy children in activities that meet their interests.¹⁸ The DCF recommends compliance with this standard be demonstrated through documentation of the materials and equipment used by the provider. As part of the accrediting association approval process, the team of reviewers would evaluate whether the association's standards substantially meet, exceed, or do not meet this indicator and, based on other indicators, the standard.¹⁹

If the accrediting association receives a compliance score between 70 and 85 percent, it may resubmit its application with revisions and work to reach compliance by the next application submission period, a span of 6 months.²⁰ If the application is below 70 percent compliance, it must be denied and the association must wait at least 6 months until the next submission period to reapply.²¹

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.

¹² Certain child care providers are exempt from child care licensing standards, except for background screening and local health and safety standards, if they submit documentation to the DCF showing they are an integral part of a church or parochial school conducting regularly scheduled classes, courses of study, or educational programs and are accredited by an organization based on health, safety, and sanitation standards. See s. 402.316, F.S.

¹³ Florida Department of Children and Families, *Gold Seal Quality Care Program Review Process and Procedures* (2015) at 1, incorporated by reference in rule 65C-22.009(4)(c), F.A.C., available at [https://www.myflfamilies.com/service-programs/child-care/docs/whats-new/Gold-Seal/Gold%20Seal%20Quality%20Care%20Program%20Review%20Process%20and%20Procedures%20\[NOPR2\].pdf](https://www.myflfamilies.com/service-programs/child-care/docs/whats-new/Gold-Seal/Gold%20Seal%20Quality%20Care%20Program%20Review%20Process%20and%20Procedures%20[NOPR2].pdf) [hereinafter referred to as *Gold Seal Program Review Process and Procedures*].

¹⁴ See Form CF-FSP 5389, incorporated by reference in rule 65C-22.009(4)(c), F.A.C. (2015), available at <https://www.flrules.org/gateway/reference.asp?No=Ref-05514>.

¹⁵ Rules 65C-22.009(4)(e), F.A.C.

¹⁶ Rule 65C-22.009(4)(b), F.A.C.

¹⁷ *Gold Seal Program Review Process and Procedures*, note 13, *supra*, at 6.

¹⁸ See Form CF-FSP 5389, incorporated by reference in rule 65C-22.009(4)(c), F.A.C. (2015) at 10, available at <https://www.flrules.org/gateway/reference.asp?No=Ref-05514>.

¹⁹ See *id.* See also *Gold Seal Program Review Process and Procedures*, note 13, *supra*, at 6-8.

²⁰ See *Gold Seal Program Review Process and Procedures*, note 13, *supra*, at 8-9.

²¹ R. 65C-22.009(4)(b), F.A.C.

As of December 2020, there are 18 approved accrediting associations, including the NAEYC, the NAFCC, and the NECPAC,²² and 1,892 Gold Seal-designated child care providers.²³

School Readiness Provider Funding

Established in 1999,²⁴ 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.²⁵ 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.²⁶

School Readiness funding for participating providers comes primarily from reimbursements from early learning coalitions (ELC) and tuition payments by participating families.²⁷ Each ELC reimburses participating providers with appropriated funds for each eligible child, either through child care certificates provided by parents or through contracted slots.²⁸ The reimbursement and co-payment amounts are determined locally by ELCs, subject to approval by the Office of Early Learning (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.²⁹

Federal regulation requires states to ensure equal access to child care through the Child Care and Development Fund by determining a fair market rate every 2 years using a statistically valid and reliable survey.³⁰ 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.³¹ The OEL establishes market rates for the following provider types and levels of care for each county:³²

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

²² Florida Department of Children and Families, *Gold Seal Quality Care Accrediting Associations* (Dec. 2020), available at <https://www.myflfamilies.com/service-programs/child-care/docs/Approved%20Gold%20Seal%20Quality%20Care%20Program%20Accrediting%20Associations.pdf?d=2021-3-10>.

²³ Email from John Paul Fiore, Legislative Specialist, Florida Department of Children and Families, HB 575 – Request from H. Early Learning & Elementary Education Subcommittee, Mar. 10, 2021.

²⁴ Section 1, ch. 99-357, L.O.F.

²⁵ Ss. 1002.81 and 1002.87, F.S.

²⁶ Florida Office of Early Learning, *School Readiness Program*, <http://www.floridaearlylearning.com/family-resources/financial-assistance> (last visited Mar. 10, 2021).

²⁷ See ss. 1002.84(8) and 1002.89, F.S.; Specific Appropriation 86, s. 2, ch. 2019-115, L.O.F.

²⁸ See rule 6M-4.500(1), F.A.C.; see also 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 referred to as CCDF Plan].

²⁹ See s. 1002.895, F.S.; rules 6M-4.400(2) and 6M-4.500(1), F.A.C.

³⁰ 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.

³¹ 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 Committee staff.

³² S. 1002.895(2)(a) and (b), F.S.

- Infant – Birth to 12 months
- Toddler – 12 to 24 months
- 2 year-old – 24 to 36 months
- 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 status and non-Gold Seal provider status, and consider discounted rates for child care services for multiple children in a single family.³³

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, each ELC must consider the market rate schedule in determining its own minimum reimbursement rates, which must be approved by the OEL.³⁴ In addition, a provider may receive additional funding above the minimum reimbursement rate if it qualifies for any of the following quality-based differentials:³⁵

- Up to an additional 20 percent for Gold Seal status.
- Up to an additional 10 percent for a 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.³⁶ However, the total additional reimbursement for these differentials may exceed a provider’s private pay rate by up to 20 percent.³⁷ 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).³⁸

About 62 percent of Florida’s approximately 1.1 million children younger than age 6 are in the School Readiness program.³⁹

Effect of Proposed Changes

Gold Seal Quality Care Program Accreditation

The bill provides a type two transfer of administrative responsibility for the Gold Seal Quality Care Program from the DCF to the Department of Education (DOE), including rulemaking authority to the State Board of Education (SBE). For purposes of accreditation under the Gold Seal program, the bill requires that accreditation standards be based on nationally recognized standards and not limited to those established by the NAEYC, the NAFCC, and the NECPAC.

The bill changes the term “accrediting association” to “accrediting entity” and revises the requirements to be an approved accreditor by:

³³ S. 1002.895(1) and (2)(a), (c), and (d), F.S.

³⁴ See s. 1002.895(4), F.S.; see also Florida CCDF Plan at 6, *supra*, note 28.

³⁵ See s. 1002.82(2)(o), F.S.; rule 6M-4.500(9), (10), and (11), F.A.C.

³⁶ See rule 6M-4.500(8)(a), F.A.C., (requiring that payments exceeding market rate be counted as quality expenditures).

³⁷ *Id.*

³⁸ R. 6M-4.500(5) and (6), F.A.C.

³⁹ Office of Early Learning, School Readiness, <http://www.floridaearlylearning.com/school-readiness#:~:text=There%20are%20approximately%201.1%20million,readiness%20services%20from%207%2C676%20providers.> (last visited Mar. 19, 2021).

- Deleting the requirement that the accreditor be a “recognized accrediting association” and instead specifying that it must have qualified personnel experienced in the accreditation of child care facilities, large family child care homes, or family day care homes;
- Requiring that it have proven expertise with accrediting standards that are substantially similar to the standards adopted by the DCF;
- Codifying the requirement that it be incorporated in Florida; and
- Requiring that it provide evidence that its accreditation process has the following:
 - 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 accreditor compliance with these requirements, including an auditing program, and 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 revoke an accrediting entity’s approval if the entity has accredited 10 or fewer child care providers in the previous 5 years. The bill also allows the DOE to recommend to the SBE that a Gold Seal 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 specifies that a School Readiness provider with the Gold Seal designation must receive a minimum differential payment of 20 percent, rather than up to 20 percent.

The bill takes effect on July 1, 2021.

B. SECTION DIRECTORY:

Sections 1 - 3. Amend ss. 39.604, 212.08, and 402.26, F.S.; conforming provisions and cross-references to changes made by the act.

Section 4. Transfers, renumbers, and amends s. 402.281, F.S.; revising the requirements of the Gold Seal Quality Care program; requiring the State Board of Education to adopt specified rules; specifying requirements for an accrediting entity, rather than an accrediting association, to be approved for participation in such program; requiring the Department of Education to establish a specified process and providing requirements therefor; deleting a provision requiring consultation with certain entities for specified purposes; authorizing the Department of Education to recommend the maintenance of Gold Seal Quality Care designation for certain child care facilities; and provides an exemption from ad valorem taxation and rate differentials for certain child care facilities.

Section 5. Provides for a type two transfer of the Gold Seal Quality Care program within the Department of Children and Families to the Department of Education within a specified time period; providing for the continuation of certain contracts and agreements.

Sections 6 - 9. Amends ss. 402.315, 1002.55, 1002.69, and 1002.895, F.S.; conforming cross-references to changes made by the act.

Section 10. Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

See Fiscal Comments, *infra*.

D. FISCAL COMMENTS:

The bill requires that School Readiness program providers with a Gold Seal designation receive a minimum differential payment of 20 percent, rather than up to 20 percent. This may cause an indeterminate impact to available funding for School Readiness provider reimbursements.

There may be indeterminate costs associated with the transfer of administrative responsibilities for the Gold Seal Quality Care Program from the DCF to the DOE.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill transfers rulemaking authority for the Gold Seal Quality Care Program from the DCF to the SBE.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.