

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1319 School Readiness Program

SPONSOR(S): Nixon and others

TIED BILLS: None **IDEN./SIM. BILLS:** SB 1918

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Early Learning & Elementary Education Subcommittee	18 Y, 0 N	Sleap	Brink
2) PreK-12 Appropriations Subcommittee			
3) Education & Employment Committee			

SUMMARY ANALYSIS

Established in 1999, Florida's 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. The bill makes the following changes to the School Readiness Program:

- Revises the definition of "economically disadvantaged" to include a family income that does not exceed 150 percent of the federal poverty level or 70 percent of the state median income, whichever is greater.
- Revises the duties of an Early Learning Coalition (ELC) to set minimum provider reimbursement rates for each provider type and care level.
- Requires each ELC to reimburse the minimum payment rate to each contracted school readiness program provider, by provider type and care level, regardless of the provider's private pay rate.
- Revises the data collected and reported by the Department of Education (DOE) based on the revised definition of economically disadvantaged.

Additionally, the bill requires the Division of Early Learning (DEL) within Florida's DOE to amend its Child Care and Development Fund Plan, which serves as the states' application for federal School Readiness Program funds, to identify child care personnel as essential workers so their children will be eligible to participate in the School Readiness Program. The bill requires DEL to annually collect data and report on:

- The total number of child care personnel whose children were determined eligible for the program, by county.
- The total number of eligible children of child care personnel served by the program, disaggregated by age.
- The total cost to serve eligible children of child care personnel.
- Whether providing eligibility for the program for children of child care personnel led to employee retention.

Provisions relating to identifying child care personnel as essential workers expire on September 30, 2024, unless reenacted by the Legislature.

The bill does not appear to have a fiscal impact.

The bill provides an effective date of July 1, 2022.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

School Readiness Program

Present Situation

Overview

Established in 1999,¹ Florida's 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.² 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, Child Care Resource and Referral (CCR&R) and the Voluntary Prekindergarten Education (VPK) Program.³

The School Readiness Program is a state-federal partnership between Florida's Department of Education (DOE) and the Office of Child Care of the United States Department of Health and Human Services (OCCHHS).⁴ It is administered by early learning coalitions (ELC) at the county or regional level.⁵ The DOE, through its Division of Early Learning (DEL), administers the program at the state level.⁶

Student enrollment in the School Readiness Program for the 2020-2021 school year, the most recent year measured, was 209,801 with a wait list of 12,609.⁷

Early Learning Coalition Responsibilities

In order to participate in the School Readiness Program, each ELC must submit a school readiness plan to the DOE for approval.⁸ The plan must include, among other things:⁹

- The minimum number of children to be served by care level.
- A detailed budget outlining the estimated expenditures for state, federal, and local matching funds.
- A detailed accounting of all revenues and expenditures during the previous state fiscal year.¹⁰

¹ Section 1, ch. 99-357, L.O.F.

² Sections 1002.81 and 1002.87, F.S.

³ Florida Department of Education, Division of Early Learning, *Financial Assistance-School Readiness Program*, <http://www.floridaearlylearning.com/parents/family-resources/financial-assistance> (last visited Feb. 2, 2022).

⁴ See U.S. Department of Health and Human Services, Office of Child Care, *Child Care and Development Fund Final Rule Frequently Asked Questions*, <https://www.acf.hhs.gov/occ/faq/child-care-and-development-fund-final-rule-frequently-asked-questions> (last visited Feb. 2, 2022).

⁵ Section 1002.83, F.S.

⁶ In 2021, the Legislature removed the Office of Early Learning from the DOE's Office of Independent Education and Parental Choice and established it as the Division of Early Learning within the DOE, under the direction of the Commissioner of Education and oversight authority of the State Board of Education. See, e.g., ss. 2, 22, and 23, ch. 2021-010, L.O.F., *codified at* ss. 20.15(3)(c), 1001.03(8), and 1001.11, F.S. (2021)

⁷ Florida Department of Education, Division of Early Learning, *Division of Early Learning Annual Report (2021)*, at 12, available at [http://www.floridaearlylearning.com/Content/Uploads/floridaearlylearning.com/files/DEL Annual Report 2020-21 FINAL ADA.pdf](http://www.floridaearlylearning.com/Content/Uploads/floridaearlylearning.com/files/DEL%20Annual%20Report%2020-21%20FINAL%20ADA.pdf).

⁸ Section 1002.85(2), F.S.

⁹ Section 1002.85(2)(a)-(j), F.S.

¹⁰ Section 1002.85(2)(f), F.S.

In addition to submitting a school readiness plan, each ELC has specific responsibilities for implementing the plan, including:

- Establishing a uniform waiting list to track eligible children.
- Coordinating professional development.
- Determining child and provider eligibility.
- Establishing a parent sliding fee scale.
- Monitoring School Readiness Program providers.
- Adopting a provider rate payment schedule.¹¹

School Readiness Eligibility

Federal regulations governing the Child Care and Development Fund (CCDF),¹² the primary funding source for the School Readiness Program, authorize states to use grant funds for services, if:¹³

- 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.

Within these broad federal eligibility categories, Florida law specifies that ELCs must admit children into the School Readiness Program according to the following priorities:

- **First priority** is a child under 13 years of age from families in which an adult is receiving temporary cash assistance and subject to federal work requirements.¹⁴
- **Second priority** is a child under the age of 9 who is "at-risk."¹⁵
- **Subsequent priority** is based on a local ELC's assessment based on the needs of families and provider capacity for the following:
 - A child, birth to beginning of the school year for which the child is eligible for kindergarten, from a working family that is economically disadvantaged and may include such a child's eligible siblings who are eligible to enter kindergarten through the summer before sixth grade, provided that the ELC uses local revenues first.
 - A child of a parent who transitions from the work program into employment from birth through the summer before kindergarten.
 - An at-risk child, ages 9 – 13. Such a child is given priority over other children if his or her sibling is enrolled in the School Readiness Program under eligibility priorities 1 or 2 or the first bullet of this section.
 - A child younger than 13 years of age from a working family that is economically disadvantaged.

¹¹ See s. 1002.84(2)-(18), F.S.

¹² 45 C.F.R. parts 98 and 99.

¹³ 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, available at http://www.floridaearlylearning.com/Content/Uploads/floridaearlylearning.com/files/CCDBG_FY2019-2021CCDFPlanFINAL_FINAL_4.9.19.pdf. [hereinafter *CCDF State Plan*].

¹⁴ Recipients of assistance under a state's Temporary Assistance for Needy Families Block Grant must meet Federal work requirements. These work requirements require a state to meet or exceed minimum rates of recipients participating in "work activities," e.g., employment, education, job search, community service, and vocational training. 42 U.S.C. s. 607(a)-(d). Under Florida law, the maximum number of hours a recipient of subsidized child care, who is not otherwise exempt from work activity, may be required to work is 40 hours per week. Section 445.024(2), F.S.

¹⁵ At-risk children include, among other things, children who are homeless or who may be experiencing abuse, neglect, abandonment or exploitation, children under the supervision of DCF or a contracted provider, or children placed in court-ordered, long term custody or under the guardianship of a relative after termination of supervision by DCF or its contracted provider. Section 1002.81(1), F.S.

(definition of "at-risk child").

- A child younger than 13 years of age whose parent transitions from the work program into employment.
- A child who is not younger than 3 years of age who has a current individual education plan with a Florida school district. Such a child is eligible until he or she is old enough for kindergarten admission.
- A child who is also concurrently enrolled in the Head Start program and the VPK Program.¹⁶

Under current law, a working family that is economically disadvantaged is defined as a family whose income does not exceed 150 percent of the federal poverty level (FPL) for family size.¹⁷ Based on the 2021 Federal Poverty Guidelines, 150 percent of the FPL for a household of four is an annual gross income of \$39,750.¹⁸

An economically disadvantaged family is eligible to receive subsidies for child care under the School Readiness Program as long as the family size income is at or below 150 percent of the FPL for initial eligibility and at or below 85 percent of the state median income for continued eligibility.¹⁹ For a household of four, 85 percent is an annual gross income of \$65,703.²⁰

In 2021, the United States Department of Health and Human Services Administration for Children and Families (HHS) issued guidance to states administering CCDF discretionary funds appropriated in the Coronavirus Response and Relief Supplemental Appropriations (CRRSA) Act.²¹ The CRRSA Act authorized states to use funds to provide child care assistance to health care sector employees, emergency responders, sanitation workers, farmworkers, and other workers deemed essential.²² Each state could define which workers were to be considered essential.²³ Florida provided child care and early learning services to 28,000 children of first responders and health care workers, regardless of income, at free or reduced rates.²⁴ The program ended on March 31, 2021.

The HHS requires states to amend their CCDF Plan for substantial program changes such as changes in program eligibility.²⁵ Florida's draft 2022-2024 CCDF State Plan does not define essential workers for the purpose of providing eligibility for services.²⁶

¹⁶ Section 1002.87(1)(c), F.S.

¹⁷ Section 1002.81(6), F.S. Economically disadvantaged also includes being a child of a working migratory family or an agricultural worker who is employed by more than one agricultural employer during the course of a year, and whose income varies according to weather conditions and market stability.

¹⁸ Florida Department of Education, Office of Early Learning, *Memo-2021 Sliding Fee Schedule, Program Guidance 400.01 Federal Poverty Guidelines and State Median Income Estimates- OEL 2021-006* (March 11, 2021), available at <http://www.floridaearlylearning.com/Content/Uploads/floridaearlylearning.com/files/SlidingFeeScaleOEL2021-006Final ADA.pdf>; Florida Department of Education, Office of Early Learning, *2021 Sliding Fee Scale Model* (March 11, 2021), available at <http://www.floridaearlylearning.com/Content/Uploads/floridaearlylearning.com/files/2021%20SlidingFeeScaleModel 2021-22%20Final ADA Revised.pdf>.

¹⁹ Rule 6M-4.200(2)(b)3.a., F.A.C.

²⁰ Florida Department of Education, Office of Early Learning, *Memo-2021 Sliding Fee Schedule, Program Guidance 400.01 Federal Poverty Guidelines and State Median Income Estimates- OEL 2021-006* (March 11, 2021), available at <http://www.floridaearlylearning.com/Content/Uploads/floridaearlylearning.com/files/SlidingFeeScaleOEL2021-006Final ADA.pdf>; Florida Department of Education, Office of Early Learning, *2021 Sliding Fee Scale Model* (March 11, 2021), available at <http://www.floridaearlylearning.com/Content/Uploads/floridaearlylearning.com/files/2021%20SlidingFeeScaleModel 2021-22%20Final ADA Revised.pdf>.

²¹ U.S. Department of Health and Human Services, *CCDF-ACF-IM-2021* (April 14, 2021), available at <https://www.acf.hhs.gov/sites/default/files/documents/occ/CCDF-ACF-IM-2021-01.pdf>.

²² *Id.* at 4

²³ *Id.*

²⁴ Florida Department of Education, Division of Early Learning, *COVID-19 Resources*, <http://www.floridaearlylearning.com/covid-19-resources> (last visited Feb. 3, 2022).

²⁵ U.S. Department of Health and Human Services, *CCDF-ACF-IM-2021* (April 14, 2021), at 14, available at <https://www.acf.hhs.gov/sites/default/files/documents/occ/CCDF-ACF-IM-2021-01.pdf>.

²⁶ See Florida Department of Education, Division of Early Learning, *2022-2024 Draft Child Care Development Fund Plan*, available at [http://www.floridaearlylearning.com/Content/Uploads/floridaearlylearning.com/files/2022-2024 Draft Child Care Development Fund State Plan \(CCDF\).pdf](http://www.floridaearlylearning.com/Content/Uploads/floridaearlylearning.com/files/2022-2024 Draft Child Care Development Fund State Plan (CCDF).pdf).

Effect of Proposed Changes

The bill requires the DEL to amend its CCDF Plan, which serves as the states' application for School Readiness Program funds to the OCCHHS, to identify Florida's child care personnel as essential workers so their children will be eligible for the School Readiness Program. Child care personnel would still be subject to statutorily required priority of service²⁷ and family income requirements.²⁸

The bill requires DEL to annually collect and report on:

- The total number of child care personnel whose children were determined eligible for the program, by county.
- The total number of eligible children of child care personnel served by the program, disaggregated by age.
- The total cost to serve eligible children of child care personnel.
- Whether providing eligibility for the program for children of child care personnel led to employee retention.

Under the bill, the requirements to amend the CCDF and collect and report on providing School Readiness Program services to children of child care personnel expires on September 30, 2024, unless reenacted by the Legislature.

The bill revises the definition of "economically disadvantaged" to include a family income that does not exceed 150 percent of the federal poverty level or 70 percent of the state median income, whichever is greater. Under the revised definition, using 2021 guidelines, a household of four would be eligible to receive subsidies for child care under the School Readiness Program if their income does not exceed \$54,108.60, which is 70 percent of the state median income for that size household.²⁹ The current income eligibility requirement, 150 percent of the FPL, caps eligibility for a household of four with an annual gross income over \$39,750.

The bill revises the data collected and reported by the DOE to include the percentage of children served compared to the total number of children under the age of 5 years who are eligible based on the revised eligibility criteria under the bill.

School Readiness Program Funding

Present Situation

School Readiness Funding

School Readiness funding for participating providers comes primarily from reimbursements from the ELC and tuition payments by participating families.³⁰ Each ELC reimburses participating providers with appropriated funds for each eligible child, either through child care certificates provided by parents or through contracted slots.³¹ The reimbursement and co-payment amounts are determined locally by ELCs, subject to approval by the DOE. 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.³²

²⁷ See s. 1002.81(1), F.S.

²⁸ 45 C.F.R. s. 98.20(a). A child's family income cannot exceed 85 percent of the state's median income for a family of the same size.

²⁹ Email from Katherina Maroney, Deputy Director of Program and Policy, Department of Education-Division of Early Learning, re: SMI (Feb. 4, 2022).

³⁰ See ss. 1002.84(8) and 1002.89, F.S.; Specific Appropriation 83, s. 2, ch. 2021-36, L.O.F.

³¹ See rule 6M-4.500(1), F.A.C.; See also *CCDF State Plan, supra*, note 13.

³² See s. 1002.895, F.S.; rules 6M-4.400(2) and 6M-4.500(1), F.A.C.

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.³³ 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 OCCHHS, the DOE must calculate the prevailing market rate (i.e., the 75th percentile rate),³⁴ or another rate based on a federally approved model for each county to help ELCs determine provider reimbursement schedules.³⁵ The DOE establishes market rates for the following provider types and levels of care for each county:³⁶

- 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
 - 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.³⁷

To calculate market rates, the DOE sorts provider private pay rates for a given level of care within the county from highest to lowest and calculates the prevailing market 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 DOE.³⁸ In addition, a provider may receive additional funding above the minimum reimbursement rate if it qualifies for any of the following quality-based differentials:³⁹

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

In 2021, the Legislature amended how the biennial market rates must be calculated by the DOE.⁴⁰ While the DOE has not published prevailing market rates as of this analysis, the last biennial market rate report was published in 2019-2020.⁴¹

³³ 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.

³⁴ See s. 1002.81(12), F.S.

³⁵ See ss. 1002.82(2)(a)(d) and 1002.895(4), F.S. (2021); 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 the Early Learning & Elementary Education Subcommittee [hereinafter *Market Rate Presentation*].

³⁶ Section 1002.895(2)(a) and (b), F.S.

³⁷ Section 1002.895(1) and (2)(a), (c), and (d), F.S.

³⁸ See s. 1002.895(4), F.S.; See also Florida CCDF Plan at 7, *supra*, note 13.

³⁹ See s. 1002.82(2)(o), F.S.; rule 6M-4.500(9), (10), and (11), F.A.C.

⁴⁰ Chapter 2021-10, L.O.F.

⁴¹ Florida Department of Education, Office of Early Learning, *Market Rate*, <http://www.floridaearlylearning.com/providers/market-rate> (last visited Feb. 2, 2022).

Generally, an ELC may not reimburse a provider at a higher rate than the provider's private pay rate.⁴² However, the total additional reimbursement for these differentials may exceed a provider's private pay rate by up to 20 percent.⁴³ 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).⁴⁴

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.⁴⁵ Each sliding fee scale must be approved by the DOE, 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 DOE.⁴⁶ The co-payment may not be equal or greater than the provider's private pay rate.⁴⁷ 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.⁴⁸

For fiscal year 2021-2022, the Legislature appropriated \$690 million for the School Readiness Program with the ELCs receiving from \$4.3 million to \$130 million.⁴⁹ The DOE has the authority to reallocate the funds between ELCs if any ELC does not have a waiting list and has met its expenditure cap.⁵⁰ The Legislature appropriated an additional \$72 million to address School Readiness Program wait lists that existed as of July 1, 2021.⁵¹

Effect of Proposed Changes

The bill requires each ELC to adopt a payment rate schedule, which must identify a minimum payment rate for each provider type and care level. Each ELC must reimburse the minimum payment rate to each contracted school readiness program provider, by provider type and care level, regardless of the provider's private pay rate. The bill requires all minimum payment rate reimbursements to be charged as direct services.

The bill makes conforming changes to reflect the ELC's adoption of a payment rate schedule.

B. SECTION DIRECTORY:

Section 1. Amends s. 1002.81, F.S.; revising the definition of the term "economically disadvantaged".

Section 2. Amends s. 1002.84, F.S.; requiring early learning coalitions to adopt a payment rate schedule rather than a payment schedule; providing requirements for the payment rate schedule; requiring early learning coalitions to reimburse contracted school readiness program providers the minimum payment rate; providing that minimum payment rate reimbursements shall be charged as direct services.

⁴² See *Market Rate Presentation*, *supra*, note 35.

⁴³ Rule 6M-4.500(8)(a), F.A.C.

⁴⁴ Rule 6M-4.500(5) and (6), F.A.C.

⁴⁵ Rule 6M-4.400(1), F.A.C.

⁴⁶ *Id.*

⁴⁷ Rule 6M-4.400(2)(d), F.A.C.

⁴⁸ Section 1002.84(8), F.S.; Rule 6M-4.400(6), F.A.C.

⁴⁹ Specific Appropriation 83, s. 2, ch. 2021-36, L.O.F.

⁵⁰ Specific Appropriation 83, s. 2, ch. 2021-36, L.O.F.; See s. 1002.89(5), F.S. Current law caps ELC expenditures for administrative costs at 5 percent and administrative costs, quality activities and nondirect services at 22 percent of funds received by the ELC.

⁵¹ Specific Appropriation 83, s. 2, ch. 2021-36, L.O.F.

- Section 3.** Amends s. 1002.85, F.S.; revising the required contents of early learning coalition plans.
- Section 4.** Amends s. 1002.895, F.S.; conforming provisions to changes made by the act.
- Section 5.** Directing the Division of Early Learning within the Department of Education to amend its Child Care and Development Fund Plan to identify certain personnel as essential workers for a specified purpose; requiring the division to annually collect certain data and include such data in a specified annual report; providing for the future repeal of such directive
- Section 6.** Provides an effective day of July 1, 2022.

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:

By revising the definition of economically disadvantaged, additional Florida families might be eligible to participate in the School Readiness Program. An increase in the number of children eligible for the program might affect program wait lists.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

None.