

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Appropriations

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**BILL:** PCS/SB 1282 (112068)

**INTRODUCER:** Appropriations Committee; (Recommended by Appropriations Subcommittee on Education); and Senator Harrell

**SUBJECT:** Early Learning and Early Grade Success

**DATE:** April 21, 2021

**REVISED:** \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Brick</u>	<u>Bouck</u>	<u>ED</u>	<b>Favorable</b>
2.	<u>Underhill</u>	<u>Elwell</u>	<u>AED</u>	<b>Recommend: Fav/CS</b>
3.	<u>Underhill</u>	<u>Sadberry</u>	<u>AP</u>	<b>Pre-meeting</b>

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

PCS/SB 1282 expands accountability and assessment requirements for Voluntary Prekindergarten Education Program (VPK) providers. Specifically, the bill requires:

- A coordinated screening and progress monitoring program (CSPM) for students in VPK through grade 3 to provide information on students' progress in mastering the appropriate grade-level standards to parents, teachers, and school and program administrators.
- Beginning in the 2022-2023 program year, a program assessment composite score for each VPK provider based on the results of a program assessment that measures the quality of teacher-child interactions, including emotional and behavioral support, engaged support for learning, classroom organization, and instructional support for children ages 3 to 5 years, in each VPK classroom.
- A performance metric that provides a score to each VPK provider based on the results of the CSPM, including learning gains, and the program assessment, beginning in the 2022-2023 program year.
- The assignment of a performance designation for VPK providers beginning with the 2023-2024 program year.

The bill creates the Council for Early Grade Success within the Department of Education (DOE) to oversee the CSPM and requires the new screenings and assessments to be administered by qualified individuals.

The bill modifies the market rate schedule paid to school readiness providers to require a market rate schedule based on the prevailing market rate. The bill authorizes early learning coalitions to adopt an alternative payment schedule that has been approved by the federal Administration for Children and Families. The bill also transfers the Gold Seal Quality Care program to the Office of Early Learning (OEL) from the Department of Children and Families and adds standards for accrediting associations.

The bill will have a significant negative fiscal to the state to implement the new coordinated screening and progress monitoring program and to implement the VPK program assessment. See Section V.

The bill takes effect upon becoming a law.

## II. Present Situation:

### State Level Governance

#### *Department of Education*

The Department of Education (DOE) is the administrative and supervisory agency under the implementation direction of the State Board of Education (SBE).<sup>1</sup> The Commissioner of Education (commissioner) is appointed by the SBE and serves as the executive director of the DOE. The DOE includes the Office of Early Learning (OEL), which is administered by an executive director who is fully accountable to the commissioner.<sup>2</sup>

#### *Office of Early Learning*

The OEL administers the school readiness program and the Voluntary Prekindergarten Education Program (VPK)<sup>3</sup>—and an annual budget of \$1.37 billion.<sup>4</sup> The OEL is the lead agency in Florida for administering the federal Child Care and Development Block Grant Trust Fund (CCDF).<sup>5</sup> The OEL adopts rules as required for the establishment and operation of the school readiness program and the VPK program.<sup>6</sup> The executive director of the OEL is responsible for administering early learning programs at the state level. The OEL administers statewide the child care resource and referral (CCR&R) network, which provides information about state-funded early learning programs, provides families with a customized listing of child care providers, is used to document requests for services, and provides technical assistance to providers.<sup>7</sup>

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<sup>1</sup> Section 1001.20(1), F.S.

<sup>2</sup> Section 20.15, F.S.

<sup>3</sup> *Id.*

<sup>4</sup> Early Learning Services Program Total, s. 2, ch. 2020-111, L.O.F.

<sup>5</sup> Section 1002.82(1), F.S.

<sup>6</sup> The OEL is required to submit the rules to the State Board of Education for approval or disapproval. If the state board does not act on a rule within 60 days after receipt, the rule shall be immediately filed with the Department of State. Section 1001.213, F.S.

<sup>7</sup> See ss. 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 Mar. 19, 2021); see also Florida's Office of Early 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 Mar. 19, 2021).

The OEL employs an inspector general, as required by law, to promote accountability, integrity, and efficiency in the administration of early learning programs. Statutory duties of the inspector general include the duty to advise the OEL in the development of performance measures, standards, and procedures employed by the OEL.<sup>8</sup>

### ***Early Learning Coalitions***

The OEL governs the day-to-day operations of statewide early learning programs and administers federal and state child care funds. Across the state, 30 regional early learning coalitions (ELCs) and the Redlands Christian Migrant Association are responsible for delivering local services, including the VPK program and the school readiness program.<sup>9</sup> Each ELC is governed by a board of directors comprised of various stakeholders and community representatives.<sup>10</sup> The SBE does not have authority over ELCs, and early learning data is not collected in the K-20 student database as part of the management information databases governed by the SBE.<sup>11</sup>

### ***Child Care Executive Partnership Program***

A body politic and corporate known as the Child Care Executive Partnership governs the Child Care Executive Partnership (CCEP) Program. The purpose of the CCEP Program is to use state and federal funds as incentives for matching local funds derived from local governments, employers, charitable foundations, and other sources so that Florida communities may create local flexible partnerships with employers. The CCEP Program funds are used at the discretion of local communities to meet the needs of working parents.<sup>12</sup> The CCEP Program was not funded in the 2020 fiscal year.<sup>13</sup>

### ***Florida Civil Rights Act***

Title VI, 42 U.S.C. s. 2000d, et seq., was enacted as part of the landmark Civil Rights Act of 1964. It prohibits discrimination on the basis of race, color, and national origin in programs and activities receiving federal financial assistance.<sup>14</sup> The 1992 Florida Legislature enacted the Florida Civil Rights Act (FCRA) to protect persons from discrimination in education, employment, housing, and public accommodations. In addition to the classes of race, color, religion, sex, and national origin protected in federal law, the FCRA includes age, handicap, and marital status as protected classes.<sup>15</sup> The FCRA applies to employers who employ 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year, and any agent of such a person.<sup>16</sup>

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<sup>8</sup> Section 20.055(1), F.S.

<sup>9</sup> The Office of Early Learning, *Coalitions*, <http://www.floridaearlylearning.com/coalitions.aspx> (last visited Mar. 19, 2021). See also 1002.83(1), F.S.

<sup>10</sup> Section 1002.83(3), F.S.

<sup>11</sup> Florida Department of Education, *Agency Legislative Bill Analysis for HB 1013* (2020), at 13.

<sup>12</sup> Section 1002.94, F.S.

<sup>13</sup> Chapter 2020-111, L.O.F.

<sup>14</sup> U.S. Department of Justice, *Title VI of the Civil Rights Act of 1964 42 U.S.C. § 2000d et seq.*, available at <https://www.justice.gov/crt/fcs/TitleVI-Overview> (last visited Apr. 8, 2021).

<sup>15</sup> Section 760.10(1)(a), F.S.

<sup>16</sup> Section 760.02(7), F.S.

## The Voluntary Prekindergarten Education Program

The Florida Constitution requires the State to provide every four-year old child a high quality pre-kindergarten learning opportunity in the form of an early childhood development and education program which must be voluntary, high quality, free, and delivered according to professionally accepted standards.<sup>17</sup> In 2004, the State established a free Voluntary Prekindergarten (VPK) program offered to eligible four-year-old children.<sup>18</sup> Parents may choose either a school-year or summer program offered by either a public or private school.<sup>19</sup> For the 2020-2021 year, \$412.2 million was appropriated from General Revenue for the VPK program in the 2020 General Appropriations Act.<sup>20</sup> During the 2019-2020 academic year, the VPK program served 156,956 students.<sup>21</sup>

ELCs and school districts administer the VPK program at the county or regional level. Each ELC is the single point of entry for VPK program registration and enrollment in the coalition's service area. A local ELC must coordinate with the local school district in the ELC's service area to develop procedures for enrolling children in public school VPK programs.<sup>22</sup>

The OEL adopts procedures governing the administration of the VPK program for ELCs and school districts, including procedures for:

- Enrolling children and documenting and certifying student enrollment and student attendance.
- Providing parents with profiles of VPK providers.
- Registering private prekindergarten providers and public schools to deliver the program.
- Determining the eligibility of private prekindergarten providers to deliver the program and streamlining the process of provider eligibility whenever possible.
- Verifying the compliance and removing VPK providers from eligibility to deliver the program due to noncompliance or misconduct.
- Placing schools on probation and requiring corrective actions.
- Paying VPK providers.
- Reconciling advance payments in accordance with the uniform attendance policy.
- Reenrolling students dismissed by a VPK provider for noncompliance with the VPK provider's attendance policy.
- Approving improvement plans.
- Approving and paying specialized instructional services providers.<sup>23</sup>

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<sup>17</sup> Art. IX, s. 1(b), Fla. Const. An early childhood development and education program means an organized program designed to address and enhance each child's ability to make age appropriate progress in an appropriate range of settings in the development of language and cognitive capabilities and emotional, social, regulatory and moral capacities through education in basic skills and such other skills as the Legislature may determine to be appropriate.

<sup>18</sup> Section 1, ch. 2004-484, L.O.F.; part V, ch. 1002, F.S.; *see also* Art. IX, s. 1(b)-(c), Fla. Const.

<sup>19</sup> Section 1002.53(3), F.S.

<sup>20</sup> Specific Appropriation 88, s. 2, ch. 2020-111, L.O.F.

<sup>21</sup> Florida Office of Early Learning, *2019-20 Annual Report*, 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), at 8 (last visited Mar. 19, 2021).

<sup>22</sup> Section 1002.53(4), F.S.

<sup>23</sup> Section 1002.75(2), F.S.

The OEL consults with the DOE regarding procedures implemented by ELCs and school districts for administering corrective action to VPK providers and administering the VPK program for specialized instructional services for children with disabilities.<sup>24</sup>

***VPK Instructor Requirements***

A VPK provider offering a school-year VPK program must have, for each class, at least one instructor with:

- A Child Development Associate (CDA) issued by the National Credentialing Program of the Council for Professional Recognition; or
- A credential approved by the Department of Children and Families (DCF) as being equivalent to or greater than the CDA; and
- Five clock hours of training in emergent literacy and successful completion of a student performance standards training course.<sup>25</sup>

An instructor in a school-year VPK program implemented by a public school district must meet the same qualifications that are required of a private VPK program instructor, in addition to standard employment requirements for all instructional personnel in public schools.<sup>26</sup> A school-year VPK provider 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.<sup>27</sup>

In lieu of the minimum credentials listed above, a private VPK program instructor may hold:

- An associate's or higher degree in child development;
- An associate's or higher degree in an unrelated field, at least six 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 eight years of age;
- A bachelor's or higher degree in early childhood education, prekindergarten or primary education, preschool education, or family and consumer science;
- 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; or
- An educational credential approved by the OEL as being equivalent to or greater than any of these educational credentials.<sup>28</sup>

The OEL sets minimum standards for emergent literacy training courses for VPK instructors. Each course must be at least five clock hours long and provide strategies and techniques regarding the age-appropriate progress of prekindergarten students in developing emergent

<sup>24</sup> Section 1002.67(3), F.S.; *see also* s. 1002.66, F.S.

<sup>25</sup> Sections 1002.55(3)(c)1.a. and 2., 1002.59, and 1002.63(4), 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* (2019), *incorporated by reference* in Rule 65C-22.001(7), F.A.C.

<sup>26</sup> Sections 1002.63(5)-(6), F.S.; *see also* Florida Department of Education, *Technical Assistance Paper: VPK Instructor Qualifications #07-01*, at 2 (Jan. 2007), available at

<https://info.fl DOE.org/docushare/dsweb/Get/Document-4196/07-02att1.pdf>.

<sup>27</sup> Sections 1002.55(3)(f) and 1002.63(7), F.S.

<sup>28</sup> Section 1002.55(4), F.S.

literacy skills. Each emergent literacy course must also provide strategies for helping students with disabilities and other special needs maximize their benefit from the VPK program. Each course on performance standards must be at least three clock hours, provide instruction in strategies and techniques to address age-appropriate progress of each child in attaining the standards, and be available online.<sup>29</sup>

### ***VPK Performance Standards***

The OEL develops and adopts performance standards for students in VPK programs. The performance standards must address the age-appropriate progress of students in the development of:

- The capabilities, capacities, and skills required in the development of language and cognitive capabilities and emotional, social, regulatory and moral capacities.
- Emergent literacy skills, including oral communication, knowledge of print and letters, phonemic and phonological awareness, and vocabulary and comprehension development.<sup>30</sup>

Each VPK provider's curriculum must be developmentally appropriate, designed to prepare a student for early literacy, enhance age-appropriate student progress in attaining state-adopted performance standards, and prepare students to be ready for kindergarten based on the statewide kindergarten screening.<sup>31</sup>

### ***Statewide Kindergarten Readiness Screening***

The DOE has adopted a statewide kindergarten readiness screening, the Florida Kindergarten Readiness Screener (FLKRS),<sup>32</sup> and requires each school district to administer the statewide kindergarten readiness screening within the first 30 days of each school year.<sup>33</sup> The screening measures a child's readiness for kindergarten 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.<sup>34</sup>

Kindergarten student scores must demonstrate a score of at least 500 on the screening assessment to be considered "ready for kindergarten." For the fall 2019 administration of the screening assessment, 53 percent of 190,805 kindergarten students were designated as "ready for kindergarten."<sup>35</sup>

<sup>29</sup> Section 1002.59(1) and (2), F.S.

<sup>30</sup> Section 1002.67, F.S.; Art. IX, s. 1(b), Fla. Const.

<sup>31</sup> Section 1002.67(1)(b), F.S.

<sup>32</sup> The DOE selected the Star Early Literacy Assessment, developed by Renaissance Learning, Inc., as the Florida Kindergarten Readiness Screener (FLKRS). Rule 6M-8.601(3)(b)1., F.A.C.; see also FDOE, *Florida Kindergarten Readiness Screener*, <http://www.fldoe.org/accountability/assessments/k-12-student-assessment/flkrs/> (last visited Mar. 13, 2021).

<sup>33</sup> Sections 1002.69(1)-(3) and 1002.73, F.S.

<sup>34</sup> 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.

<sup>35</sup> Florida Office of Early Learning, *2019-20 Annual Report*, 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), at 46 (last visited Mar. 19, 2021).

### ***Kindergarten Readiness Rate***

The OEL annually calculates a kindergarten readiness rate for each VPK provider based on results of the annual screening.<sup>36</sup> The readiness rates are expressed as the percentage of children whose scores demonstrate readiness for kindergarten.<sup>37</sup> 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.” The OEL must determine learning gains using a value-added measure based on growth demonstrated by the results of the Florida VPK Assessment from at least two successive years of administration.<sup>38</sup>

Beginning in January 2021, and continuing through the 2021-2022 school year, the DOE launched a VPK progress monitoring pilot program by permitting up to 1,900 VPK providers to administer the assessment used for the statewide kindergarten screening. The DOE allocated \$2.9 million from the CARES Act funds for the program.<sup>39</sup>

The DOE allocated \$18 million of the Child Care Development and Block Grant Fund from the CARES Act to implement summer programs for rising kindergarten students identified with limited language and emergent literacy skills as determined by the VPK assessments and teacher recommendations.<sup>40</sup>

### ***VPK Provider Probation and Corrective Action***

At least 60 percent of a VPK provider’s students must meet the “ready for kindergarten” score on the screening in order for the provider to avoid probationary status.<sup>41</sup> Providers that do not meet the minimum readiness rate are placed on probation. An ELC or school district must require a VPK provider that falls below the minimum kindergarten readiness rate to:

- Submit for approval and implement an improvement plan;
- Place the provide 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.<sup>42</sup>

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<sup>36</sup> Rule 6M-8.601(3)(b), F.A.C.

<sup>37</sup> Sections 1002.69(5)-(6), F.S.; To be considered “ready for kindergarten,” a student must achieve a score of 500 or higher on the Star Early Literacy assessment. Rule 6M-8.601, F.A.C.

<sup>38</sup> Section 1002.69(5), F.S.; Rule 6A-1.09433(1)(b), F.A.C and Rule 6M-8.601(3)(b), F.A.C.

<sup>39</sup> Florida Department of Education, *Progress Monitoring: Building Effective, Data-Informed Strategies to Close Achievement Gaps* (Nov. 18, 2020), available at <https://www.fldoe.org/core/fileparse.php/19925/urlt/2-3.pdf> at 6, (last visited Mar. 13, 2021).

<sup>40</sup> Florida Department of Education, *Reopening Florida’s Schools and the CARES Act*, available at <http://www.fldoe.org/core/fileparse.php/19861/urlt/FLDOEReopeningCARESAct.pdf> at 98, (last visited Mar. 13, 2021).

<sup>41</sup> *Id.*

<sup>42</sup> Section 1002.67(4), F.S.

Out of 126,238 students who completed the VPK program, 63 percent were “ready for kindergarten” in the fall of 2019. Of 6,611 rated VPK providers, 2,175 failed to meet the minimum rate. Of these 2,175 providers, 2,201 remained on probation.<sup>43</sup>

A VPK provider on probation and failing to meet the minimum readiness rate for two consecutive years must be removed from eligibility to provide the VPK program for 5 years; unless the provider receives from the OEL a good cause exemption.<sup>44</sup>

### ***Good Cause Exemption***

A VPK provider on probation and failing to meet the minimum readiness rate for two consecutive years must be removed from eligibility to provide the VPK program for 5 years; unless the provider receives a good cause exemption. A VPK provider must submit a request for a good cause exemption to OEL for review and approval. The request must include:

- Data which documents student achievement and learning gains, as measured by a state-approved pre- and post-assessment.
- Data available from the respective ELC or district school board, the DCF, local licensing authority, or an accrediting association, as applicable, relating to the provider’s compliance with state and local health and safety standards.
- Data available to the OEL on the performance of the children served and the calculation of the provider’s kindergarten readiness rate.<sup>45</sup>

A VPK provider that receives a good cause exemption must continue to implement its improvement plan and take corrective actions until the provider meets the minimum kindergarten readiness rate. The OEL must notify the applicable ELC of the good cause exemption, which remains valid for one year, and may be renewed upon request by the VPK provider.<sup>46</sup>

A good cause exemption may not be granted to any VPK provider that has any class I violations or two or more class II violations within the two years preceding the provider’s request for an exemption.<sup>47</sup> Additionally, if a provider refuses to comply with program requirements or engages in misconduct, the OEL must require the ELC or district school board to remove the provider from eligibility to deliver the VPK program for a period of five years.<sup>48</sup>

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<sup>43</sup> Florida Office of Early Learning, *2019-20 Annual Report*, 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), at 46 (last visited Mar. 19, 2021).

<sup>44</sup> Section 1002.67(4)(c)3., F.S. A VPK provider must submit a request for a good cause exemption to the OEL for review and approval and include specified data. Section 1002.69(7)(b)-(c), F.S. A VPK provider that receives a good cause exemption must continue to implement its improvement plan and take corrective actions until the provider meets the minimum kindergarten readiness rate. Sections 1002.69(7)(e) and 1002.67(3)(c)2., F.S.

<sup>45</sup> Section 1002.69(4)(c)3. and (7)(b)-(c), F.S.

<sup>46</sup> Sections 1002.69(7) and 1002.67(3)(c)2., F.S.

<sup>47</sup> Section 1002.69(7)(d), F.S. DCF classifies licensing violations as class I, II, and III violations. Class I violations consist of conduct posing an imminent threat to a child. Class II violations pose a threat to the health, safety or well-being of a child, although the threat is not imminent. Rule 65C-22.010(1)(d), F.A.C.

<sup>48</sup> Section 1002.67(4)(b), F.S.



## The School Readiness Program

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, or abandonment, and children with disabilities.<sup>49</sup> The school readiness program offers financial assistance for child care to support working families and children to develop skills for success in school and provides developmental screening and referrals to health and education specialists where needed.<sup>50</sup> To participate in the school readiness program, a provider must execute a school readiness contract.<sup>51</sup> During the 2019-2020 academic year, 6,932 school readiness providers served 211,711 children enrolled in a school readiness program.<sup>52</sup>

### *Program Assessment*

The OEL is required to adopt a program assessment for school readiness program providers that measures 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 five years.<sup>53</sup> The OEL has selected the Teachstone Classroom Assessment Scoring System (CLASS) Assessment Tool as the program assessment, with the associated requirements for observations and observers provided in the Program Assessment Requirements Handbook.<sup>54</sup> CLASS observations must be conducted annually by observers who 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.<sup>55</sup>

All school readiness providers must receive an annual program assessment and meet the required minimum program assessment composite score prior to executing a school readiness contract.<sup>56</sup> No providers failed to earn the minimum program assessment score for eligibility to contract to deliver the school readiness program for the 2019-2020 program year.<sup>57</sup>

The OEL has adopted a differential payment program based on quality measures of school readiness providers.<sup>58</sup> The differential payment may not exceed a total of 15 percent for each care level and unit of child care for a child care provider. No more than five percent of the 15 percent total differential may be provided to providers who submit valid and reliable data to the

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<sup>49</sup> Section 1002.87, F.S.

<sup>50</sup> Section 1002.86, F.S.

<sup>51</sup> Rule 6M-4.610, F.A.C. Form OEL-SR 20, *Statewide School Readiness Provider Contract*, available at [http://www.floridaearlylearning.com/Content/Uploads/floridaearlylearning.com/images/FormOEL-SR20StatewideSRProviderContract\\_7-8-20\\_ADA\\_final.pdf](http://www.floridaearlylearning.com/Content/Uploads/floridaearlylearning.com/images/FormOEL-SR20StatewideSRProviderContract_7-8-20_ADA_final.pdf).

<sup>52</sup> Florida Office of Early Learning, *2019-20 Annual Report*, 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), at 20 (last visited Mar. 19, 2021).

<sup>53</sup> Section 1002.82(2)(n), F.S.

<sup>54</sup> 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](http://www.floridaearlylearning.com/Content/Uploads/floridaearlylearning.com/files/CLASS%20FAQ_ADA.pdf).

<sup>55</sup> See Form OEL-SR 740 at 1, *incorporated by reference in rule 6M-4.740, F.A.C.*

<sup>56</sup> Rule 6M-4.741, F.A.C.

<sup>57</sup> Email, Florida Department of Education (Dec. 15, 2020) (on file with the Senate Committee on Education).

<sup>58</sup> Rule 6M-4.500, F.A.C.

statewide information system in the domains of language and executive functioning using a child assessment. Providers who fail to attain a minimum composite score on the program assessment are ineligible for a differential payment.<sup>59</sup>

### ***School Readiness Funding***

Funding for the school readiness program is allocated among the ELCs according to law and the General Appropriations Act.<sup>60</sup> The school readiness program is funded primarily by the CCDF block grant.<sup>61</sup> States administering funds from the CCDF are required to conduct a statistically valid and reliable survey of the market rates for child care services or an alternative methodology, such as a cost estimation model, that has been pre-approved by the U.S. Administration for Children and Families (ACF) and approved by the lead state agency.<sup>62</sup>

Many child care providers report that they are unable to set published prices that reflect the full cost of providing quality services because parents would be unable to pay these prices. As a result, the published prices reflected in market rate surveys are not always adequate to cover providers' full costs, particularly for high-quality care. A cost estimation model is an alternative methodology that accounts for key factors in determining the payment schedule. Key factors account for costs that vary across submarkets, such as age and sparsity, and include, for example:

- Staff salaries and benefits.
- Training and professional development
- Curricula and supplies
- Group size of children and staff-child ratios
- Enrollment levels.
- Program size.
- Facility costs.<sup>63</sup>

State, federal, and local matching funds provided to an ELC for purposes of the school readiness program must be used for implementation of its approved school readiness program plan, including the hiring of staff to effectively operate the school readiness program.<sup>64</sup>

For Fiscal Year 2020-2021, a total of \$895.9 million was appropriated for the school readiness program from state and federal funds.<sup>65</sup>

### ***Contracted Slots***

The OEL is required to adopt a standard statewide provider contract to be used with each school readiness program provider. The standard statewide contract must include minimum statutory

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<sup>59</sup> Section 1002.82(2)(o), F.S.

<sup>60</sup> Section 1002.89(1), F.S.

<sup>61</sup> The Office of Early Learning, *2019-2021 Child Care Development Fund State Plan*, [http://www.floridaearlylearning.com/oel\\_resources/ccdf\\_plan.aspx](http://www.floridaearlylearning.com/oel_resources/ccdf_plan.aspx) (last visited Mar. 19, 2021).

<sup>62</sup> 45 C.F.R. s. 98.45.

<sup>63</sup> U.S. Office of Child Care, Early Childhood Training and Technical Assistance System, *Market Rates and Costs*, available at [https://childcareta.acf.hhs.gov/ccdf-fundamentals/occ-approved-alternative-methodology#\\_ednref2](https://childcareta.acf.hhs.gov/ccdf-fundamentals/occ-approved-alternative-methodology#_ednref2) (last visited Apr. 8, 2021).

<sup>64</sup> Section 1002.89(5), F.S.

<sup>65</sup> Specific Appropriation 85, s. 2, ch. 2020-111, L.O.F.

requirements, such as contracted slots and provisions for provider probation and termination.<sup>66</sup> A school readiness child care slot is the number of school readiness paid child care slots filled during a month of service.<sup>67</sup> The standard statewide provider contract provides an option for school readiness providers to participate in a Contracted Slots Program whereby a provider agrees to reserve a specified number of slots determined necessary by the ELC in return for a higher reimbursement rate.<sup>68</sup>

If an ELC participates in the Contracted Slots Program, and the ELC determines a provider is eligible for the program, then the coalition may reimburse the provider up to ten percent above the 75th percentile of the market rate.<sup>69</sup>

### ***Gold Seal Quality Care Program***

The DCF is responsible for enforcing compliance with licensing standards by child care facilities, including large family child care homes and family day care homes.<sup>70</sup>

The DCF also adopts rules to administer the Gold Seal Quality Care Program (GSQC Program).<sup>71</sup> A GSQC designation entitles a school readiness provider to a rate differential at 20 percent above the ELC's approved reimbursement rate.<sup>72</sup> The law disqualifies child care facilities from accreditation if they receive a specified maximum number of Class I, II, or III violations within the two-year period preceding the application for accreditation.<sup>73</sup>

Educational materials, such as glue, paper, paints, crayons, unique craft items, scissors, books, and educational toys purchased by a licensed child care facility that meets minimum statutory standards, holds a current GSQC designation, and provides basic health insurance to all employees are exempt from sales, rental, use, consumption, distribution, and storage tax.<sup>74</sup> A licensed or legally exempt child care facility that achieves GSQC status is an educational institution exempt from ad valorem tax.<sup>75</sup>

Currently, 1,883 child care facilities, large family child care homes, and family day care homes possess a GSQC designation.<sup>76</sup>

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<sup>66</sup> Section 1002.82(2)(m), F.S.

<sup>67</sup> Rule 6M-4.740, F.A.C.

<sup>68</sup> Rule 6M-4.610, F.A.C., Form OEL-SR 20 (July 2019).

<sup>69</sup> Rule 6M-4.500, F.A.C.

<sup>70</sup> Section 402.305, F.S. Certain child care facilities which are an integral part of a church or specified parochial school are exempt from licensing standards. Section 402.316, F.S.

<sup>71</sup> Section 402.281, F.S.

<sup>72</sup> Rule 6M-4.500, F.A.C.

<sup>73</sup> Section 402.281, F.S. DCF rules governing child care facilities define Class I, II, and III violations, which are designated in ascending order of severity, for noncompliance with minimum licensing standards of child care facilities. Rule 65C-20.012, F.A.C.

<sup>74</sup> Section 212.08, F.S.

<sup>75</sup> Section 402.26, F.S.

<sup>76</sup> Florida Department of Children and Families, *Gold Seal Quality Care Summary and Detail Data* (Dec. 2020), available at <https://www.myflfamilies.com/service-programs/child-care/docs/gold-seal/Summary%20Dec%202020.pdf>.

### ***Market Rate***

The OEL is required to establish procedures for the adoption of a market rate schedule for the school readiness program. The schedule must include, at a minimum, county-by-county rates, differentiated by type of child care provider and the type of child care services provided. Rates must be differentiated for the types of providers by:

- The minimum and the maximum rates for child care providers that hold a Gold Seal Quality Care (GSQC) designation.
- Child care providers that do not hold a GSQC designation.
- Licensed child care facilities.
- Public or nonpublic schools exempt from licensure.
- Faith-based child care facilities exempt from licensure.
- Licensed large family child care homes.
- Licensed or registered family day care homes.<sup>77</sup>

The market rate schedule must also differentiate rate by the type of child care services provided, including services provided for:

- Children with special needs or risk categories.
- Infants, toddlers, preschool-age children, and school-age children.
- Full-time and part-time child care.<sup>78</sup>

Reimbursement rates for school readiness providers are paid based on a child's care level and unit of care as defined by the ELC's approved provider rate schedule for the county in which the provider's facility is located.<sup>79</sup> ELCs are required to consider the market rate schedule in the adoption of a payment schedule.

The payment schedule must consider the average market rate, include the projected number of children to be served, and be submitted for approval by the OEL. Informal child care arrangements may be reimbursed at no more than 50 percent of the rate adopted for a family day care home.<sup>80</sup>

The 2019 market rate report includes a state summary that reflects market rates by provider type and service type. For example, the average market rate in the state for GSQC designated private child care centers was \$42.01 for services provided to infants. The 75<sup>th</sup> percentile rate for the same services was \$48.26. The reimbursement rate for GSQC designated private centers was \$36.00. For private centers without a GSQC designation, the average market rate was \$36.71 for services provided to infants, and the 75<sup>th</sup> percentile rate was \$40.00, and the reimbursement rate was \$30.00.<sup>81</sup>

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<sup>77</sup> Section 1002.895, F.S.

<sup>78</sup> *Id.*

<sup>79</sup> Rule 6M-4.500, F.A.C.

<sup>80</sup> Section 1002.895, F.S.

<sup>81</sup> Office of Early Learning, *2019 Market Rate Report: State Summary*, available at

<http://www.floridaearlylearning.com/Content/Uploads/floridaearlylearning.com/files/Market%20Rate%20FY1920%20Report%20Full%20Time%20Statewide%20Summary-ADA-Final.pdf>.

### **Research-Based Reading Allocation**

The state allocates funding to school districts for research-based reading instruction to students in kindergarten through grade 12.<sup>82</sup> Funds must be used to provide a system of comprehensive reading instruction to students enrolled in kindergarten through grade 12, including:<sup>83</sup>

- An additional hour of intensive reading instruction beyond the normal school day for students in the 300 lowest-performing elementary schools.
- Reading intervention teachers and reading coaches.
- Professional development for teachers to earn a certification or an endorsement in reading.
- Summer reading camps for students in kindergarten through grade 5 who exhibit certain reading deficiencies, depending on grade level.<sup>84</sup>
- Supplemental instructional materials that are grounded in scientifically based reading research as identified by the Just Read, Florida! Office (JRFO).
- Intensive interventions for students in kindergarten through grade 12 who have been identified as having a reading deficiency or who are reading below grade level as determined by the statewide, standardized ELA assessment.

District school boards must develop reading plans which detail the specific uses of the research-based reading instruction allocation. The plans must be annually submitted to the DOE for approval and provide for intensive reading interventions through integrated curricula that incorporate strategies identified by the JRFO and are delivered by a teacher who is certified or endorsed in reading. The DOE monitors and tracks the implementation of each district plan and collects specific data on expenditures and reading improvement results. By February 1 of each year, the DOE reports its findings to the Legislature.<sup>85</sup>

### **III. Effect of Proposed Changes:**

The bill expands accountability and assessment requirements for Voluntary Prekindergarten Education Program (VPK) providers. Specifically, the bill requires:

- A coordinated screening and progress monitoring program (CSPM) for students in VPK through grade 3 to provide information on students' progress in mastering the appropriate grade-level standards to parents, teachers, and school and program administrators.
- Beginning in the 2022-2023 program year, a program assessment composite score for each VPK provider based on the results of a program assessment that measures the quality of teacher-child interactions, including emotional and behavioral support, engaged support for learning, classroom organization, and instructional support for children ages 3 to 5 years, in each VPK classroom.
- A performance metric that provides a score to each VPK provider based on the results of the CSPM, including learning gains, and the program assessment, beginning in the 2022-2023 program year.

<sup>82</sup> Section 1011.62(9), F.S. The state appropriated \$130 million to school districts for the research-based reading instruction allocation for the 2020-2021 fiscal year. Specific Appropriations 8 and 92, s. 2, ch. 2020-111, L.O.F.

<sup>83</sup> Section 1011.62(9)(c), F.S.

<sup>84</sup> 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. Section 1011.62(9)(c)5., F.S.

<sup>85</sup> Section 1011.62(9)(d)1., F.S.

- The assignment of a performance designation for VPK providers beginning with the 2023-2024 program year.

The bill creates the Council for Early Grade Success within the Department of Education (DOE) to oversee the CSPM and requires the new screenings and assessments to be administered by qualified individuals.

The bill modifies the market rate schedule paid to school readiness providers to require a market rate schedule based on the prevailing market rate. The bill authorizes early learning coalitions to adopt an alternative payment schedule that has been approved by the federal Administration for Children and Families. The bill also transfers the Gold Seal Quality Care program to the Office of Early Learning (OEL) from the Department of Children and Families and adds standards for accrediting associations.

### Early Learning Coalitions

The bill makes early learning coalitions (ELCs) responsible for ensuring that public schools delivering the VPK program comply with VPK program requirements. The bill also requires ELCs to be evaluated on performance through deployment of customer service surveys.

Specifically, the bill:

- Requires the results of the customer service surveys of ELCs to be based on a statistically significant sample size and calculated annually for each ELC and included in the DOE's annual report.
- Requires the OEL, beginning in 2023-2024 fiscal year, to place an ELC on a one-year corrective action plan if its customer satisfaction survey results fall below 60 percent, and authorizes the OEL to remove the ELC's eligibility, contract out, or merge the ELC to administer early learning programs if the ELC does not improve through corrective action.
- Requires the DOE to adopt procedures for merging ELCs for failure to meet the requirements for delivering early learning programs, including procedures for the consolidation of merging coalitions that minimizes duplication of programs and services due to the merger, and for the early termination of the terms of the coalition members which are necessary to accomplish the mergers.

The bill also modifies the membership requirements of ELCs. Specifically, the bill:

- Removes the requirement that ELCs appoint a central agency administrator, where applicable.
- Authorizes, in the absence of a governor-appointed chair, the commissioner to appoint an interim chair from the current ELC board membership.
- Adds to the requirement of existing law that each ELC include a children's services council or juvenile welfare board chair or executive director to additionally require that each ELC must include a children's services council or juvenile welfare board chair or executive director from each county within the ELC's jurisdiction.
- Clarifies that a Department of Children and Families (DCF) child care regulation representative may serve as an alternative to the required member who also serves as an agency head.

- Authorizes an ELC to request an alternate ELC member who meets the same qualifications or membership requirements of a member who the ELC determines is not participating.
- Authorizes ELCs to appoint additional members who are independent private sector business members.
- Requires each ELC to complete an annual evaluation of the ELC's executive director or chief executive officer on forms adopted by the DOE. The annual evaluation must be submitted to the commissioner by June 30 of each year.

### **The Voluntary Prekindergarten Education Program**

The bill modifies performance standards for VPK providers, instructors, and students. The bill requires VPK providers to comply with the Florida Civil Rights Act of 1992. The bill also adds to the list of eligible VPK providers:

- A nationally accredited child development program operating on a certified military installation, which may also demonstrate required liability coverage by affirming that it is subject to jurisdiction under the federal Tort Claims Act.<sup>86</sup>
- A private prekindergarten provider with a provisional child care facility license.

### ***VPK Instructor Requirements***

The bill modifies requirements for VPK instructors and administrators by adding to the requirement that school districts give priority to teachers who have experience or coursework in early childhood education that the teachers must also have completed emergent literacy and performance standards courses. The bill also provides that:

- A VPK instructor in a class of 11 or less children must complete two additional emergent literacy training courses, for a total of three, and adds that they must include developmentally appropriate and experiential learning practices for children.
- Completion of the course must be part of the informal early learning career pathway and be available online or in person.
- A prekindergarten director credential must include training in the implementation of curriculum and usage of student level data to inform the delivery of instruction.
- The possession of a child care facility director credential completed before the later of the establishment of the prekindergarten director credential or July 1, 2006, no longer satisfies the requirement that a private VPK provider have a prekindergarten director who has a prekindergarten director credential.
- A certificate in educational leadership issued by the OEL to a private school administrator satisfies the requirement for a prekindergarten director credential.
- VPK curricula must support student learning gains through differentiated instruction as measured by the CSPM.

The bill modifies requirements for professional development training courses to require the DOE to make professional development courses available that train prekindergarten instructors and increase the competency of teacher-child interactions. Each course must be comprised of at least eight clock hours and be available online.

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<sup>86</sup> 28 U.S.C. s. 2671.

### ***VPK Performance Standards***

The bill modifies the performance standards for students in the VPK program and adds mathematical thinking and early math skills to the list of student skills required to be addressed in performance standards adopted by the OEL for the VPK program. The bill also:

- Adds early math skills to the required curricula of a VPK provider and the training courses that the OEL must adopt procedures for approving.
- Removes the requirement that performance standards be tied to the statewide kindergarten screening.
- Modifies the existing requirement that the OEL periodically review and revise the performance standards to require the OEL to review and revise the standards at least once every three years.

The bill repeals the existing statewide kindergarten readiness screening, but requires public schools to administer a statewide kindergarten screening in the 2021-2022 academic year within the first 30 school days and authorizes private schools to administer the statewide kindergarten screening.

### ***Coordinated Screening and Progress Monitoring***

The bill requires the Commissioner of Education (commissioner) to design a statewide, standardized CSPM to assess early literacy, dyslexia, and mathematics skills, and the English Language Arts and mathematics standards established in law.

Beginning in the 2022-2023 academic year, the bill requires all VPK and public school kindergarten students to participate in the CSPM within the first 30 days of enrollment, midyear, and within the last 30 days of the school year. The bill requires each parent who enrolls a child in VPK to allow the child to participate in the CSPM.

The bill establishes the purposes of the CSPM. Specifically, the bill requires the CSPM to:

- Provide interval level and norm-referenced data that measures equivalent levels of growth;
- Be a 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 bill provides requirements for the use of data obtained from the administration of the CSPM. Specifically, the bill provides that the data from the CSPM must be used by VPK providers and school districts to improve instruction. The data must also be used by teachers to guide learning objectives and provide timely and appropriate supports and interventions to students not meeting grade level expectations.



The bill requires the results of the CSPM to be reported to the DOE for inclusion in the educational data warehouse and requires the OEL to use the data to:

- Identify student learning gains;
- Index development learning outcomes upon program completion relative to performance standards and representative norms; and
- Inform a provider's performance metric.

The bill requires each VPK provider and public school to provide parents with screening or progress monitoring results within seven days.

#### Research-Based Reading Allocation

The bill requires any VPK student with a substantial early literacy deficiency to be referred to the local school district. The local school district may provide the student intensive reading intervention using the research-based reading allocation before the student's participation in kindergarten. The bill also requires ELCs and school district representatives to meet annually to develop strategies to transition students from VPK to kindergarten.

The bill modifies the research-based reading instruction allocation to require intensive reading instruction provided under the allocation to be evidence-based and supplemental instructional materials to be scientifically-researched and evidence-based. The bill defines "evidence-based" as demonstrating a statistically significant effect on improving student outcomes or other relevant outcomes.

#### Council for Early Grade Success

The bill creates the Council for Early Grade Success (Council) and requires the commissioner to coordinate with the Council to develop a plan for implementation of the CSPM in consideration of the timelines for implementing new early literacy and mathematics skills and the English Language Arts and mathematics standards and the VPK program standards. The bill requires the commissioner to provide data, reports, and information as requested to the Council. The bill also provides that the Council be composed of 17 members, who must all be residents of the state, and include:

- Three members appointed by the Governor, to include:
  - One representative from the DOE.
  - One parent of a child who is four to nine years of age.
  - One representative who is a school principal.
- Seven members appointed jointly by the President of the Senate, as follows:
  - One senator who serves at the pleasure of the President of the Senate.
  - One representative of an urban school district.
  - One representative of a rural early learning coalition.
  - One representative of a faith-based early learning provider that offers the Voluntary Prekindergarten Education Program.
  - One representative who is a second grade teacher with at least 5 years of teaching experience.
  - Two representatives with subject matter expertise in early learning, early grade success, or child assessments.

- Seven members appointed by the Speaker of the House of Representatives, as follows:
  - One member of the House of Representatives who serves at the pleasure of the Speaker of the House.
  - One representative of a rural school district.
  - One representative of an urban early learning coalition.
  - One representative of an early learning provider that offers the Voluntary Prekindergarten Education Program.
  - One member who is a kindergarten teacher with at least 5 years of teaching experience.
  - Two representatives with subject matter expertise in early learning, early grade success, or child assessment.

The bill requires the Council to elect a chair and vice chair. The chair must be one of the four members with subject matter expertise and the vice chair must be a member appointed by the President of the Senate and Speaker of the House. The bill requires the Council to meet at least bi-annually in person or by teleconference to:

- Review the implementation of, training for, and outcomes of the CSPM and provide recommendations to the DOE to support grade-level reading by grade three.
- Identify appropriate personnel, processes, and procedures for administration of the CSPM.
- Continually review data and inform the DOE on recommendations to achieve grade level proficiency by grade three.
- Make recommendations to the DOE regarding the:
  - Methodology for calculating the performance metric and grading system for VPK providers.
  - Methodology for determining kindergarten readiness.
  - Age-appropriate learning gains by grade level required to demonstrate proficiency by grade 3.

### ***Performance Metric***

The bill requires the OEL to adopt a performance metric to measure the effectiveness of a VPK provider. For the 2020-2021 program year, the OEL must calculate the kindergarten readiness rate for each VPK provider based upon learning gains and the percentage of students who are assessed as ready for kindergarten.

The OEL must adopt a methodology for the performance metric beginning in the 2022-2023 program year. The performance metric must include:

- Program assessment composite scores weighted at no less than 50 percent.
- Learning gains from the initial and final progress monitoring results. The learning gains must be determined using a value-added measure based on growth demonstrated by the results of the pre-and post-assessment in use before the 2021-2022 program year.
- Norm-referenced developmental learning outcomes.

The bill requires the methodology for calculating the performance metric to include only prekindergarten students who have attended at least 85 percent of a VPK provider's program as opposed to the current 75 percent attendance rate required for inclusion in the kindergarten readiness rate.

The methodology must also include a statistical latent profile analysis that has been conducted by an expert. The bill requires the contracted expert to:

- Have experience in relevant quantitative analysis, early childhood assessment, and designing state-level accountability systems.
- Produce an analysis that includes a limited number of program performance metric profiles that summarize all programs' profiles that inform the assignment of designations of "unsatisfactory," "emerging proficiency," "proficient," "highly proficient," and "excellent" or comparable terminology determined by the OEL, which may not include letter grades. The designation must be displayed as associated with delivery of the VPK program in the provider's performance profile and accessible through the CCR&R.
- Confer with the Council in the development of the methodology.
- Also develop a methodology for determining a student's readiness for kindergarten that must be assessed by the CSPM.
- Not have had a stake or financial interest in the design or delivery of the VPK program or public school system within the last five years.

Beginning in the 2023-2024 academic year, the OEL must calculate each VPK provider's performance metric and designation within 45 days of the conclusion of the delivered school year or summer program.

The bill specifies that the grading system adopted by the OEL must provide for a differential payment to VPK providers based on program performance, and subject to appropriation. The maximum differential payment may not exceed 15 percent of the base student allocation per full-time equivalent student. A VPK provider may not receive a differential payment if it is assigned a designation of "proficient" or below.

The bill adds the performance metric of a VPK provider to the information that the OEL must publish and provide to each parent enrolling a child in the VPK program.

### ***Probation***

The bill specifies that a designation of "proficient" or better demonstrate satisfactory delivery of the VPK program. A provider who fails to meet the minimum kindergarten readiness rate for the 2020-2021 program year must be placed on probation. If a VPK provider fails to meet the minimum program assessment composite score, the provider may not participate in the VPK program until the provider meets the minimum composite score for contracting. The bill authorizes VPK providers to request an additional program assessment in order to requalify for the same program year.

If a VPK provider fails to meet the minimum performance metric or designation, the bill requires the applicable ELC to place the VPK provider on probation and requires the provider to:

- Submit an improvement plan for approval by the ELC and implement the plan; and
- Implement a curriculum approved by the OEL; or
- Implement a staff development plan to strengthen instructional practices in emotional support, classroom organization, instructional support, language development, phonological awareness, alphabet knowledge, and mathematical thinking.

The probation period lasts until the VPK provider attains the minimum required performance metric or grade. The bill requires an annual notification by the OEL to any providers who have been placed on probation and continue to fail to meet the minimum performance metric. The failure to comply with the probation or attain the minimum performance metric after two years of probation must result in the VPK provider's suspension from the program for a period of two to five years, as determined by the applicable ELC.

The bill also prohibits a VPK provider from delivering the VPK program if the provider's license has been converted to a probation-status license by the DCF.

### ***Good Cause Exemption***

The bill authorizes the OEL to grant a VPK provider a good cause exemption from being determined ineligible to deliver the VPK program and receive state funds for the program. The exemption is valid for one year and is renewable. A request for a good cause exemption must include data from:

- The VPK provider which documents the achievement and progress of the children served, as measured by any required screenings or assessments.
- Program assessments which demonstrates effective teaching practices as recognized by the tool developer.
- The ELC or district school board, the DCF, or the local licensing authority reflecting compliance with state and local health and safety standards.

The bill requires the DOE to adopt criteria to consider when determining whether to grant a request for an exemption. The criteria must include:

- Child demographic data that evidences a VPK provider serves a statistically significant population of children with special needs who have individual education plans and can demonstrate progress toward meeting the goals outlined in the student's individual education plans.
- Learning gains of children served in the VPK program on an alternative measure that has comparable validity and reliability of the screening and progress monitoring program.
- Program assessment data which demonstrates effective teaching practices as recognized by the contracted expert.
- Verification that local and state health and safety requirements are met.

The bill prohibits the OEL from granting a good cause exemption to any VPK provider that has any class I violations involving an imminent threat to the health, safety, or welfare of a student or two or more class II<sup>87</sup> violations involving an unreasonable risk to the health, safety, or welfare of a student within the two years preceding the provider's request for an exemption. The DOE is required to inform the applicable ELC if an exemption is granted to a VPK provider that remains on probation for two consecutive years.

The bill requires each ELC to verify VPK provider compliance with the statutory requirements for delivering the VPK. The OEL must require each applicable ELC to suspend a provider who

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<sup>87</sup> Class I and Class II violations are defined in s. 402.281(4), F.S.

refuses to comply with VPK requirements or commits misconduct. The ELC must suspend the provider's eligibility to provide VPK for a period of two to five years.

The bill incorporates the number of good cause exemptions and justifications into the annual reporting requirements of the OEL.

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, 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 GSQC designation.
- Whether the provider implements an OEL-approved curriculum and the name of the curriculum.

### **The School Readiness Program**

The bill modifies requirements for regulating the school readiness program. Specifically, the bill:

- Modifies the requirement that the OEL adopt rules for ELCs in the implementation of statewide procedures. The bill instead requires the OEL to provide technical support to ELCs to facilitate the use of a standard statewide provider contract adopted by the OEL.
- Requires the OEL to monitor the alignment and consistency of the standards and benchmarks that address the age-appropriate progress of children in the development of school readiness skills. This requirement modifies existing law which only requires the OEL to develop and adopt the standards and benchmarks.
- Requires the minimum program assessment composite score adopted by the OEL to align with the minimum program assessment composite score for VPK providers and requires the independent expert who conducted the statistical latent profile analysis for the methodology for calculation of the performance metric for VPK providers to review the minimum program assessment composite score.
- Requires the OEL to evaluate ELCs in the administration of school readiness programs at least biennially.

The bill modifies requirements for school readiness providers. Specifically, the bill:

- Exempts a qualified provider at a military installation from child care facility licensing requirements, health and safety and immunization requirements, and liability coverage requirements.
- Authorizes provisionally licensed child care facilities or homes to deliver the school readiness program.
- Prohibits a child care facility or home from delivering the school readiness program while its license is on a probation status.

- Provides that the OEL and the ELCs may not require a school readiness provider to administer a VPK program assessment.
- Clarifies that a contract with a qualified entity to administer a regional school readiness program in the place of a noncompliant ELC lasts until the OEL reestablishes or merges the ELC and a new school readiness plan is approved.
- Adds a parent's participation in an Early Head Start or Head Start Program to the list of circumstances that qualify for waiver of a school readiness program copayment.

### ***Market Rate***

The bill modifies the market rate to be paid to school readiness providers by the OEL. Specifically, the bill:

- Redefines the average market rate as the “prevailing market rate” to mean the biennially determined 75<sup>th</sup> percentile of a reasonable frequency distribution of the market rate by program level and provider type in a geographical market at which child care providers charge a person for child care services.
- Modifies the requirement that the market rate include minimum and maximum rates for GSQC providers to clarify that the GSQC providers included in the determination of rates must also adhere to the teacher to child ratios and group size requirements of their respective accrediting associations.
- Clarifies that the payment schedule must account for the prevailing market rate and the projected number of children served in each county.
- Removes the requirement for each ELC to consider the market rate schedule.
- Removes the requirement that informal child care arrangements be reimbursed at 50 percent or less than the rate adopted for a family day care home.
- Authorizes the OEL to establish, and ELCs to adopt, an alternative model for determining payments to providers for delivering the school readiness program.

### ***Contracted Slots***

The bill requires, by July 1, 2022, the OEL to develop and adopt requirements for the implementation of a program designed to make available contracted slots to serve children at the greatest risk of school failure as determined by being located in an area that has been designated as a poverty area tract according to the latest census data.

The bill also provides that the contracted slot program may be used to increase the availability of child care capacity based on the assessment of local priorities within the county or multicounty region based on the needs of families and provider capacity using available community data.

### ***Gold Seal Quality Care Program***

The bill provides for a type two transfer<sup>88</sup> of the GSQC program from the DCF to the OEL and requires the OEL to adopt rules establishing GSQC accreditation standards using nationally recognized accrediting standards as well as input from accrediting associations. The bill requires the OEL to adopt rules to provide criteria for reviewing and approving accrediting associations

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<sup>88</sup> A program transferred by a type two transfer has all its statutory powers, duties, and functions, and its records, personnel, property, and unexpended balances of appropriations, allocations, or other funds, except those transferred elsewhere or abolished, transferred to the agency or department to which it is transferred. Section 20.06, F.S.

and for conferring and revoking GSQC status. The transfer of power includes only contracts that were in existence prior to July 1, 2020.

The bill codifies and specifies standards for approval of accrediting associations by the DOE for participation in the GSQC Program. In order to be approved by the DOE, an accrediting association must apply to the DOE and demonstrate that it is operational and:

- Is a recognized accrediting association.<sup>89</sup>
- Meets or exceeds State Board of Education (SBE) standards.<sup>90</sup>
- Is a registered corporation with the Department of State.
- Accreditation requirements that include clearly defined accreditation prerequisites and procedures for:
  - Completion of a self-study and comprehensive onsite verification for each classroom that documents compliance with standards.
  - Training for accreditation verifiers to ensure inter-rater reliability.
  - Ongoing compliance to include the filing of an annual report with the accrediting association;
  - Renewal requiring onsite verification at least every five years.
  - Verifying compliance upon transfer of ownership.
  - Revoking accreditation.
  - Communicating issues to state agencies with oversight.

The bill requires the OEL to review and recommend to the SBE the termination of an accrediting association that fails to cure within 30 days any deficiencies noted by the OEL in the processes and procedures submitted to and approved by the OEL. The OEL must remove a noncompliant accrediting association for a period of two to five years. The bill provides one year for a child care provider that was accredited by a noncompliant accrediting association to obtain a new accreditation from an approved accrediting association.

If a child care provider is ineligible for GSQC status because of a class I violation, the bill authorizes the OEL to recommend to the OEL to maintain the GSQC designation if the provider has been in business for five years with no other class I violations. The bill requires licensed or legally exempt child care facilities that participate in the school readiness program and achieve GSQC status to receive at least a 20 percent rate differential for each enrolled school readiness child by care level and unit of child care. An accrediting association is liable under the bill for the repayment of any rate differentials paid to a facility as a result of a GSQC designation if the accrediting association fraudulently granted the designation.

The bill takes effect upon becoming a law.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

None.

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<sup>89</sup> This is an existing statutory requirement of the DCF GSQC Program.

<sup>90</sup> This is an existing statutory requirement of the DCF GSQC Program.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

None.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

Private providers may incur costs associated with having their VPK instructors complete at least three qualifying emergent literacy training courses by July 1, 2021.

In addition, private providers may incur costs associated with computer equipment needed to administer the new coordinated screening and progress monitoring system.

**C. Government Sector Impact:**

The DOE estimated the cost at \$1.5 million per grade level to annually administer the progress monitoring assessment.<sup>91</sup> In order to administer the assessment a minimum of three times per year for grade levels PK-3, the total recurring cost is estimated to be \$22.5 million. These costs would be offset, in part, by the elimination of the current VPK assessment and kindergarten screening in fiscal year 2022-2023. To assist with the procurement of the new system and its ongoing management, the department anticipates needing one additional Program Specialist IV position, at a cost of \$87,075 annually. School districts may also incur costs associated with computer equipment needed to administer the new assessments.

The DOE estimated a cost of \$5 million to implement the VPK program assessment requirements associated with teacher training and support; technology system to capture results from CLASS observations; technology system to track data by provider and

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<sup>91</sup> E-mail from Bethany Swanson, Deputy Chief of Staff, Florida Department of Education (March 10, 2021) (on file with the Senate Appropriations Subcommittee on Education).



includes improvement plans/processes; and costs associated with conducting the observations.<sup>92</sup>

The potential impact of the requirement to provide for a differential payment to VPK providers will not be known until after new performance metrics are developed in the 2022-2023 program year. Any additional funding for this provision is subject to an appropriation.

#### **VI. Technical Deficiencies:**

The bill provides that a certificate in educational leadership issued by the Office of Early Learning to a private school administrator satisfies the requirement for a prekindergarten director credential. The Department of Education, however, is the agency that issues the certificate in educational leadership.<sup>93</sup>

#### **VII. Related Issues:**

None.

#### **VIII. Statutes Affected:**

The bill substantially amends the following sections of the Florida Statutes: 39.604, 212.08, 402.26, 402.315, 1001.213, 1001.215, 1001.23, 1002.32, 1002.53, 1002.55, 1002.57, 1002.59, 1002.61, 1002.63, 1002.67, 1002.73, 1002.79, 1002.81, 1002.82, 1002.83, 1002.84, 1002.85, 1002.88, 1002.895, 1002.92, 1008.25, and 1011.62.

The bill repeals the following sections of the Florida Statutes: 1002.69, and 1002.75.

The bill creates the following sections of the Florida Statutes: 1002.68, and 1008.2125.

The bill transfers and renumbers section 402.281 of the Florida Statutes as section 1002.945.

#### **IX. Additional Information:**

- A. **Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

##### **Recommended CS by the Appropriations Subcommittee on Education on April 8, 2021:**

The committee substitute:

- Removes provisions of the bill consolidating authority and oversight of early learning programs within the State Board of Education. However, the amendment retains the transfer from the Department of Children and Families to the Office of Early Learning (OEL) the administration of the Gold Seal Quality Care Program for child care facilities. The committee substitute also limits the transfer to contracts that were in existence before July 1, 2020. The committee substitute also:

<sup>92</sup> *Id.*

<sup>93</sup> Rule 6A-4.082, F.A.C.

- Requires VPK providers to comply with the Florida Civil Rights Act of 1992 instead of the antidiscrimination requirements of 42 U.S.C. s. 2000d.
- Advances to July 1, 2021, the requirement for prekindergarten instructors to complete additional emergent literacy training courses.
- Removes the requirement for the DOE to calculate a program assessment composite score threshold for the 2021-2022 program year that VPK providers must meet. The amendment retains language that removes VPK providers from eligibility to deliver the VPK program for failing to attain the minimum program assessment composite score.
- Authorizes VPK providers to request one program assessment per program year in order to requalify for participation in the VPK program. If a VPK provider would like an additional program assessment completed within the same program year, the VPK provider will be responsible for the cost of the program assessment.
- Authorizes the OEL to establish an alternative model of payments to school readiness providers that has been approved by the Administration for Children and Families pursuant to federal law.
- Requires the OEL to establish procedures for an alternative model of calculating reimbursements to school readiness providers when an alternative model has been approved by the Administration for Children and Families pursuant to federal law.
- Requires early learning coalitions to adopt an alternative model, that has been approved by the Administration for Children and Families pursuant to federal law, for a payment schedule to school readiness providers.
- Specifies that the customer service surveys established in the bill to determine performance of early learning coalitions must be statistically valid and conducted by a state university or other independent researcher with specific expertise in customer service survey development. The committee substitute postpones from 2022-2023 to the 2023-2024 program year the deployment of the survey.
- Modifies the membership of the Council for Early Grade Success created in the bill. The amendment removes the thirteen joint appointments and requires seven appointments each from the Senate President and the House Speaker, and adds one appointment from the Governor.
- Restores the Child Care Executive Partnership Program which was repealed in the bill.
- Removes the appropriations provided for by the bill.

**B. Amendments:**

None.