

**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 Appropriations Subcommittee on Education

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BILL: SB 1336

INTRODUCER: Senator Gibson

SUBJECT: Gold Seal Quality Care Program

DATE: April 7, 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: Favorable</b>
3.	_____	_____	<u>AP</u>	_____

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**I. Summary:**

SB 1336 transfers the Gold Seal Quality Care (GSQC) program from the Department of Children and Families to the Department of Education (DOE) and modifies requirements for GSQC accreditation. The bill provides flexibility by allowing a qualified entity to become an accreditor, regardless of whether the entity is part of an association.

The bill requires the DOE to establish a process, including an auditing program, for verifying compliance with the revised requirements for accrediting entities and requires the DOE to recommend to the State Board of Education (SBE) termination of the accreditor's eligibility for two to five years if it is unable to correct deficiencies within 30 days. If an accreditor loses its approved status, the bill allows the providers it accredited one year to obtain accreditation from another approved accreditor. An accreditor is liable for repayment of provider payment differentials if it fraudulently grants accreditation or fails to conduct on-site verification.

The bill authorizes the DOE to revoke an accrediting entity's approval if the entity has accredited 10 or fewer child care providers in the previous five years. The bill also authorizes the DOE to recommend to the SBE that a GSQC provider maintain its status after it is cited for certain violations in specified circumstances.

The bill does not require a state appropriation. The bill requires a Type 2 transfer of functions from the DCF to the DOE and increases the differential payment that school readiness providers with the GSQC designation receive from a maximum of 20 percent to a minimum of 20 percent. See Section V.

The bill takes effect upon becoming a law.

## II. Present Situation:

### The Department of Children and Families

The Department of Children and Families (DCF) administers the state's child care provider licensing program<sup>1</sup> and is responsible for enforcing compliance with licensing standards by child care facilities, including large family child care homes and family day care homes.<sup>2</sup>

### The GSQC Quality Care Program

The DCF also adopts rules to administer the Gold Seal Quality Care (GSQC) program.<sup>3</sup> A GSQC designation entitles child care providers to a rate differential of up to 20 percent above the Early Learning Coalition's (ELC's) approved reimbursement rate<sup>4</sup> and other benefits, including certain property tax and sales tax exemptions.<sup>5</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>6</sup>

To achieve GSQC status, a licensed child care provider must be accredited by an approved accrediting association. Accrediting standards must be based on applicable accrediting standards of the National Association for the Education of Young Children (NAEYC), the National Association of Family Child Care (NAFCC), and the National Early Childhood Program Accreditation Commission (NECPAC).<sup>7</sup>

To be approved as an accrediting association, the association must be recognized as an accrediting association and have accrediting standards that meet or exceed the GSQC accrediting standards adopted by the DCF.<sup>8</sup> Specifically, the accrediting association must:<sup>9</sup>

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

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<sup>1</sup> See ss. 402.301-402.319, F.S., and s. 1002.88, F.S.

<sup>2</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>3</sup> Section 402.281, F.S.

<sup>4</sup> Rule 6M-4.500(9), F.A.C.

<sup>5</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. Section 212.08(5), F.S. A licensed or legally exempt child care facility that achieves GSQC status is an educational institution exempt from ad valorem tax. Section 402.26(6), F.S.

<sup>6</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>7</sup> Section 402.281(2), F.S.

<sup>8</sup> Section 402.281(3)(a), F.S.

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

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

In approving accrediting associations, the DCF must consult with:<sup>11</sup>

- The Florida Department of Education (DOE);
- The Florida Head Start Director's Association;
- The Florida Association of Child Care Management;
- The Florida Family Child Care Home Association;
- The Florida Children's Forum;
- The Florida Association for the Education of the Young;
- The Child Development Education Alliance;
- The Florida Association of Academic Nonpublic Schools;
- The Association of Early Learning Coalitions;
- Exempt child care providers;<sup>12</sup> and
- Parents.

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

The DCF has adopted fourteen accreditor standards with respect to child care facilities, including Staff Training and Professional Development, Teacher-Child Interactions, Literacy Support, and Health and Safety. There are seven such standards for home-based providers.<sup>17</sup> Each standard includes detailed indicators of provider expectations. For example, within the Curriculum/Teacher standard, one indicator is whether the program has rich and varied materials to sustain curriculum plans and occupy children in activities that meet their interests.<sup>18</sup> As part of the process for approving accrediting associations, the team of reviewers must evaluate whether the association's standards substantially meet or exceed all indicators.<sup>19</sup>

If the accrediting association receives a compliance score between 70 and 85 percent, it may resubmit its application with revisions and work to reach compliance by the next application

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<sup>11</sup> Section 402.281(3)(b), F.S.

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

<sup>13</sup> Florida Department of Children and Families, *GSQC Quality Care Program Review Process and Procedures* (2015), incorporated by reference in rule 65C-22.009(4)(c), F.A.C., available at <https://www.flrules.org/Gateway/reference.asp?No=Ref-05545> (download pdf file).

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

<sup>15</sup> Rules 65C-22.009(4)(e), F.A.C.

<sup>16</sup> Rule 65C-22.009(4)(b), F.A.C.

<sup>17</sup> *GSQC Program Review Process and Procedures*, note 13, *supra*, at 6.

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

<sup>19</sup> *See id.* *See also* *GSQC Program Review Process and Procedures*, note 13, *supra*.

submission period, which is a span of six months.<sup>20</sup> If the application is below 70 percent compliance, it must be denied, and the association must wait at least six months until the next submission period to reapply.<sup>21</sup>

As of December 2020, there were 18 approved accrediting associations, including the NAEYC, the NAFCC, and the NECPAC,<sup>22</sup> and 1,883 child care facilities, large family child care homes, and family day care homes possess a GSQC designation.<sup>23</sup>

## **The Department of Education**

### ***State Board of Education***

The State Board of Education (SBE)<sup>24</sup> is the chief implementing and coordinating body of public education in Florida and is authorized to adopt rules to implement the provisions of law conferring duties upon the SBE to improve the state system of K-20 public education, except for the state university system. The SBE has authority over the DOE and is authorized to delegate the SBE's general powers to the commissioner or the directors of the divisions of the DOE.<sup>25</sup>

### ***Department of Education***

The DOE is the administrative and supervisory agency under the implementation direction of the SBE.<sup>26</sup> The commissioner is appointed by the SBE and serves as the executive director of the DOE.<sup>27</sup> The DOE includes the Office of Early Learning (OEL), which is administered by an executive director who is fully accountable to the commissioner.<sup>28</sup>

### ***Office of Early Learning***

The OEL oversees three programs—the school readiness program, the Voluntary Prekindergarten Education (VPK) program, and child care resource and referral services<sup>29</sup>—and an annual budget of \$1.37 billion.<sup>30</sup> The OEL is the lead agency in Florida for administering the federal Child Care and Development Block Grant Trust Fund (CCDF).<sup>31</sup> The OEL adopts rules as required for the establishment and operation of the school readiness program and the VPK

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<sup>20</sup> See *GSQC Program Review Process and Procedures*, note 13, *supra*, at 8-9.

<sup>21</sup> Rule 65C-22.009(4)(b), F.A.C.

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

<sup>23</sup> Florida Department of Children and Families, *GSQC 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>.

<sup>24</sup> The State Board of Education is established as “a body corporate and [shall] have such supervision of the system of free public education as is provided by law.” Art. IX, s. 2, Fla. Const.

<sup>25</sup> Section 1001.02, F.S.

<sup>26</sup> Section 1001.20(1), F.S.

<sup>27</sup> Section 20.15(2), F.S.

<sup>28</sup> Section 20.15(3)(i), F.S.

<sup>29</sup> *Id.*

<sup>30</sup> Early Learning Services Program Total, s. 2, ch. 2020-111, L.O.F.

<sup>31</sup> Section 1002.82(1), F.S.

program.<sup>32</sup> The executive director of the OEL is responsible for administering early learning programs at the state level. The OEL governs the day-to-day operations of statewide early learning programs and administers federal and state child care funds.

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

Across the state, 30 regional ELCs and the Redlands Christian Migrant Association are responsible for delivering local services, including the VPK program and the school readiness program.<sup>33</sup> Each ELC is governed by a board of directors comprised of various stakeholders and community representatives.<sup>34</sup>

### ***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>35</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>36</sup> To participate in the school readiness program, a provider must execute a school readiness contract.<sup>37</sup> During the 2019-2020 academic year, 6,932 school readiness providers served 211,711 children enrolled in a school readiness program.<sup>38</sup>

### ***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:<sup>39</sup>

- The minimum and the maximum rates for child care providers that hold a 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>32</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>33</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>34</sup> Section 1002.83(3), F.S.

<sup>35</sup> Section 1002.87, F.S.

<sup>36</sup> Section 1002.86, F.S.

<sup>37</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>38</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>39</sup> Section 1002.895, F.S.

The market rate schedule must also differentiate rate by the type of child care services provided, including services provided for:<sup>40</sup>

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

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>41</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>42</sup>

To calculate market rates, the OEL sorts provider private pay rates for a given level of care within the county from highest to lowest, calculates the average market rate, and identifies the 75<sup>th</sup> percentile pay rate. Each ELC must consider the market rate schedule in determining its own minimum reimbursement rates, which must be approved by the OEL.<sup>43</sup> In addition, a provider may receive differential payments above the minimum reimbursement rate of:<sup>44</sup>

- Twenty percent for GSQC status.
- Ten percent for a quality performance incentive.
- Five percent for participating in an OEL-approved child assessment tool.

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.<sup>45</sup> The 75<sup>th</sup> percentile rate for the same services was \$48.26.<sup>46</sup> 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, the 75<sup>th</sup> percentile rate was \$40.00, and the reimbursement rate was \$30.00.<sup>47</sup>

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<sup>40</sup> Section 1002.895, F.S.

<sup>41</sup> Rule 6M-4.500, F.A.C.

<sup>42</sup> Section 1002.895, F.S.

<sup>43</sup> See s. 1002.895(4), F.S.

<sup>44</sup> See s. 1002.82(2)(o), F.S.; rule 6M-4.500(9), (10), and (11), F.A.C.

<sup>45</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>.

<sup>46</sup> *Id.*

<sup>47</sup> *Id.*

### III. Effect of Proposed Changes:

#### GSQC Quality Care Program Accreditation

The bill provides a type two transfer<sup>48</sup> of administrative responsibility for the Gold Seal Quality Care (GSQC) program from the Department of Children and Families (DCF) to the Department of Education (DOE), including rulemaking authority to the SBE.

For purposes of accreditation under the GSQC program, the bill requires that accreditation standards be based on nationally recognized standards and not limited to those established by the National Association for the Education of Young Children (NAEYC), the National Association of Family Child Care (NAFCC), and the National Early Childhood Program Accreditation Commission (NECPAC).

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

- Removing the requirement that the accreditor be a “recognized accrediting association” and instead specifying that it must have qualified personnel experienced in the accreditation of child care facilities, large family child care homes, or family day care homes;
- Requiring that it has proven expertise with accrediting standards that are substantially similar to the standards adopted by the DCF;
- Codifying the requirement that it be incorporated in Florida;
- Requiring that it provide evidence that its accreditation process includes:
  - Clearly defined prerequisites that a child care provider must meet before beginning the accreditation process;
  - Procedures for completion of a self-study and comprehensive onsite verification process for each classroom;
  - A training process for accreditation verifiers to ensure inter-rater reliability;
  - Ongoing compliance procedures that include completion of an audit and filing of an annual report;
  - Procedures for renewal every five years, including onsite verification;
  - A process for verifying continued compliance if ownership changes;
  - Procedures for revocation for failure to meet accreditation standards; and
  - A process to communicate accreditation issues with governmental stakeholders.

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

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<sup>48</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.

The bill authorizes the DOE to revoke an accrediting entity's approval if the entity has accredited 10 or fewer child care providers in the previous five years. The bill also authorizes the DOE to recommend to the SBE that a GSQC provider maintain its status after it is cited for a Class I or Class II violation if it has been in business for five or more years and has no other Class I violations.

The bill increases the differential payment that school readiness providers with the GSQC designation receive from a maximum of 20 percent to a minimum of 20 percent.

The bill takes effect upon becoming a law.

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

A. Municipality/County Mandates Restrictions:

None.

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:

None.

C. Government Sector Impact:

The bill does not require a state appropriation. However, there may be indeterminate costs associated with the transfer of administrative responsibilities for the GSQC program from the Department of Children and Families (DCF) to the Department of Education (DOE). DCF currently has a contract with a third-party vendor for the administration of



the Gold Seal Quality Care program. The type-two transfer will move that contract from DCF to DOE. DCF does not have any personnel or associated administrative support positions that are tasked with working exclusively on the Gold Seal Quality Care program, outside of the third-party contracted vendor. The DCF contract with a third-party vendor is approximately \$195,395.<sup>49</sup>

The bill increases the differential payment that school readiness providers with the Gold Seal Quality Care (GSQC) designation receive from a maximum of 20 percent to a minimum of 20 percent. This may cause an indeterminate impact to available funding for school readiness provider reimbursements.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 39.604, 212.08, 402.26, 402.315, 1002.55, 1002.69, 1002.895.

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

**IX. Additional Information:**

**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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<sup>49</sup> Department of Children and Families, *2021 Agency Legislative Bill Analysis of SB 1336* (Feb. 18, 2021).