



The Florida Senate

Interim Project Report 2004-116

December 2003

Committee on Commerce, Economic Opportunities, and Consumer Services James E. "Jim" King, Jr., President

ADMINISTRATION OF THE SCHOOL READINESS PROGRAMS

SUMMARY

In 1999, the Legislature consolidated the state's early childhood education and child care programs, including the prekindergarten early intervention program and the subsidized child care program. These consolidated programs were designated as "school readiness programs" and were transferred under the School Readiness Act for local administration by school readiness coalitions and statewide coordination by the Florida Partnership for School Readiness.

Even though evolving state policy has united early childhood education and child care as a single subject, laws governing these consolidated school readiness programs are codified in disparate sections throughout chapters 402, 409, and 411, F.S. Further, the School Readiness Act (s. 411.01, F.S.) is a labyrinthine section, comprising an expansive range of diverse provisions and containing several obsolete and vague provisions. In addition, related laws have not been revised since the transfer of these programs, and, consequently, these laws do not reflect the current organizational structure of the school readiness system.

Since the Legislature required statewide licensure of child care facilities in 1974, the state's child care licensing laws (ss. 402.301-402.319, F.S.) have incrementally been amended, gradually broadening the distinctions in licensing standards between the types of child care providers; however, these laws have not been revised to adequately reflect these distinctions.

The Legislature is presented with new challenges in implementing the voluntary universal prekindergarten education program. Before the Legislature confronts these new challenges, this interim project report recommends that a single chapter be prepared which integrates early childhood education and child care, revises the School Readiness Act and related laws, and clarifies distinctions in the child care licensing laws to better distinguish between the types of providers.

BACKGROUND

State-funded early childhood education and child care programs

Before 1999, Florida's state-funded early childhood education and child care programs were delivered through various independent programs, with administration of the programs divided principally between the Department of Education (DOE) and the Department of Children and Family Services (DCF):

- DOE formerly administered early childhood education programs, including the prekindergarten early intervention program; the Florida First Start Program; the migrant education program; and the federal Even Start Family Literacy Programs.
- DCF formerly administered the subsidized child care program, which funded child care services for at-risk and economically disadvantaged children younger than 13 years of age.

The Legislature prescribed separate requirements for each of these state-funded programs, including eligibility criteria (e.g., family income); minimum hours and days of service; appropriate types of settings (i.e., child care providers or school-based sites); staff-to-children ratios; qualifications for instructional staff (e.g., training, education, and professional credentials); and sliding fee scales.

School readiness programs

In 1999, the Legislature enacted the School Readiness Act (s. 411.01, F.S.), which consolidated each of these early childhood education and child care programs into one integrated program of school readiness services.¹ The act directed that school readiness programs would be administered by local school readiness coalitions at the county (or multicounty) level and would be coordinated by the Florida Partnership for School Readiness at the statewide level.

¹ Chapter 99-357, L.O.F.

School readiness programs must contain, at a minimum, the following elements: developmentally appropriate curriculum, a character development program, an age-appropriate assessment of each child's development, a pretest and posttest administered as children enter and leave programs, an appropriate staff-to-children ratio, a healthful and safe environment, and a resource and referral network that assists parents in making an informed choice of child care providers.²

Before implementing its school readiness program, each school readiness coalition must develop and submit a school readiness plan to the Florida Partnership for School Readiness. The plan must include, among other things, a sliding fee scale, parental choice of settings and locations where services will be provided, eligibility priorities, qualifications for instructional staff, reimbursement rates, systems support and direct enhancement services, a business plan, strategies to meet the needs of unique populations, and performance standards and outcome measures.³ The partnership may approve a coalition's plan, reject the plan, or approve the plan with conditions.⁴ Fifty school readiness coalitions, encompassing all 67 counties of the state, currently operate under approved plans.⁵

School readiness programs are funded through a mixture of state and federal funds. The combined budget of the system is approximately \$687.2 million, comprised of \$386.6 million from the federal Child Care and Development Fund (CCDF) block grant; \$112.5 million from the federal Temporary Assistance for Needy Families (TANF) block grant; \$170.9 million from the state's General Revenue Fund; and \$17.2 million from other funds, including \$500,000 from the federal Social Services Block Grant.⁶

Amendments to the school readiness system

In 2001, the Legislature made several changes to the school readiness system, including the:

- Transfer of the Florida Partnership for School Readiness from the Executive Office of the Governor to the Agency for Workforce Innovation (AWI);⁷

- Transfer of the subsidized child care program, the prekindergarten early intervention program, the migrant education program, and the Florida First Start Program to AWI;⁸
- Transfer of the Child Care Executive Partnership and the statewide resource and referral network to AWI;⁹ and
- Designation of AWI as the lead agency for the federal Even Start Family Literacy Programs.¹⁰

Effective January 1, 2002, the Legislature repealed the sections prescribing program requirements for the Florida First Start Program,¹¹ the prekindergarten early intervention program,¹² and the subsidized child care program.¹³ In 2002, the program requirements for the migrant education program were repealed.¹⁴ These repeals marked the end of these former early childhood education and child care programs as separate from the school readiness programs.

Regulation of child care providers

The delivery system for school readiness programs is comprised of child care providers and of school-based sites operated by public and nonpublic schools.¹⁵ Child care providers are distinguished by six types of settings: child care facilities, specialized child care facilities for the care of mildly ill children, large family child care homes, family day care homes, religious-exempt providers,¹⁶ and informal providers.¹⁷ Child care providers are generally subject to two parallel systems of regulatory requirements. Unless exempted, all child care providers other than informal providers are subject to state regulation,¹⁸ regardless of whether they receive state funds for school readiness programs. These state regulations generally govern the health, safety, sanitation, nutrition, physical surroundings, and child development needs of children receiving child care services; child care personnel requirements (e.g., training, professional credentials, and background

⁸ Sections 17 and 18, ch. 2001-170, L.O.F.

⁹ Section 17, ch. 2001-170, L.O.F.

¹⁰ Section 19, ch. 2001-170, L.O.F.; s. 411.0105, F.S.

¹¹ Former s. 230.2303, F.S. (2000).

¹² Former s. 230.2305, F.S. (2000).

¹³ Former s. 402.3015, F.S. (2000).

¹⁴ Section 1058, ch. 2002-387, L.O.F., repealed former ch. 228, F.S., which included the section prescribing program requirements for the migrant education program, former s. 228.062, F.S. (2001).

¹⁵ Section 411.01(5)(d)3.b., F.S.

¹⁶ See s. 402.316, F.S.

¹⁷ Although the term "informal child care arrangement" is used in s. 411.01(5)(e)2. and (7)(a), F.S., the term is not defined. The term "informal provider" is commonly used in the child care industry to refer to a relative or other caregiver who provides unregulated child care services.

¹⁸ Section 402.312, F.S.

² Section 411.01(5)(c)2., F.S.

³ Section 411.01(5)(d)3. and 5., F.S.

⁴ Section 411.01(5)(d)2., F.S.

⁵ Florida Partnership for School Readiness, *2002 Annual Report: Ready to Reach for the Stars* 6, 15, & 17-18 (Mar. 2003).

⁶ Specific Appropriations 2010-2022, *General Appropriations Act for Fiscal Year 2003-2004*, ch. 2003-397, L.O.F.

⁷ Section 16, ch. 2001-170, L.O.F.

screening); and staff-to-children ratios.¹⁹ Child care providers receiving school readiness funds are also subject to the provider requirements established by the school readiness coalitions.

Except for certain facilities that are exempt from licensure (e.g., religious-exempt providers), all child care facilities in the state must be licensed.²⁰ Specialized child care facilities for the care of mildly ill children and large family child care homes also must be licensed.²¹ Depending on local requirements, family day care homes must either be licensed or registered.²² The licensure or registration of child care providers is administered by the Child Care Services Program Office of the Department of Children and Family Services or, in seven counties (Alachua, Brevard, Broward, Hillsborough, Palm Beach, Pinellas, and Sarasota), by local licensing agencies that have licensing standards meeting or exceeding the state's minimum standards.²³

The Child Care Services Program Office also develops, approves, and coordinates training programs for child care personnel; develops and verifies professional credentials, including the state equivalent of the child development associate and the credential for directors of child care facilities; and develops standards for the Gold Seal Quality Care program,²⁴ which creates the basis for increased reimbursement rates in school readiness programs.²⁵

Voluntary universal prekindergarten education program

In 2002, the electors of Florida approved Amendment No. 8 to the State Constitution, which requires the Legislature to establish by the 2005 school year a new early childhood education program (i.e., the voluntary universal prekindergarten education program) for every 4-year-old child in the state which is voluntary, high quality, free, and delivered according to professionally accepted standards.²⁶ In response, the 2003 Legislature directed the State Board of Education to conduct a study and submit a report on the curriculum, design,

and standards for this new prekindergarten program.²⁷ The state board established a Universal Prekindergarten Education Advisory Council, which issued a report of its recommendations to the state board in October 2003.²⁸ In addition, the Legislature directed the Office of Program Policy Analysis and Government Accountability (OPPAGA) and the Auditor General to conduct audits of the school readiness system and submit reports by January 15, 2004.²⁹

METHODOLOGY

The objective of this interim project was to review the School Readiness Act (s. 411.01, F.S.), as well as any related laws governing school readiness programs and associated child care programs, to identify those obsolete or erroneous provisions and other technical and conforming changes needed to improve the organization and clarity of these laws in order to prepare for the Legislature's anticipated consideration of policy changes to the school readiness system at the 2004 Regular Session, resulting from implementation of the voluntary universal prekindergarten education program.

To achieve this objective, committee staff organized an informal workgroup composed of staff from the Florida Partnership for School Readiness, the Agency for Workforce Innovation, the Child Care Services Program Office of the Department of Children and Family Services, the Florida Children's Forum, and the Governor's Office of Policy and Budget, and staff from the Senate and the House of Representatives. In order to assist the workgroup in reviewing the School Readiness Act and related laws, committee staff prepared draft revisions to these laws. Although the workgroup did not issue formal recommendations, the workgroup examined these draft revisions in order for committee staff to draw upon the combined expertise of the workgroup's membership and to provide committee staff with technical assistance in reviewing these laws.

FINDINGS

Evolving state policy has united early childhood education and child care as a single subject.

Florida's policy on early childhood education and child care has evolved during the past three decades, as

¹⁹ See, e.g., ss. 402.305, 402.313, and 402.3131, F.S.

²⁰ Sections 402.305 and 402.312, F.S.

²¹ Sections 402.305(17), 402.312, and 402.3131, F.S.

²² Sections 402.312 and 402.313, F.S.

²³ Sections 402.306 and 402.307, F.S.

²⁴ Section 402.281, F.S.

²⁵ See, e.g., Specific Appropriation 2014A, *General Appropriations Act for Fiscal Year 2003-2004*, ch. 2003-397, L.O.F. (funds "may be used to enhance the quality of child care ... by providing a rate differential or stipend to programs which reach the Gold Seal Quality Care designation. The rate differential shall not exceed twenty percent of the reimbursement rate.").

²⁶ Section 1(b) and (c), Art. IX of the State Constitution.

²⁷ Section 1, ch. 2003-93, L.O.F.; s. 411.012, F.S.

²⁸ Florida State Board of Education, Universal Prekindergarten Education Advisory Council, *Report and Recommendations to the Florida State Board of Education* (Oct. 21, 2003).

²⁹ Section 2, ch. 2003-93, L.O.F.

illustrated by incremental policy changes that have increased the training required for child care personnel, enhanced the educational services provided as part of state-funded child care programs, and united early childhood education and child care programs through an integrated delivery system.

In 1974, child care personnel were required to have “minimum levels of training in first aid.”³⁰ This training requirement has gradually been increased to require child care personnel to successfully complete a 40-clock-hour (30 clock hours for operators of family day care homes) introductory course in child care and pass a competency examination.³¹ In 1991, the Legislature required that, for every 20 children in a child care facility, one of the child care personnel must have a child development associate or equivalent credential,³² but delayed enforcement of this requirement until 1996.³³ Effective in 2000, the Legislature established a professional credential for directors of child care facilities, which, by January 1, 2004, is a licensing requirement for these facilities.³⁴ More recently, requirements were increased for inservice training and continuing education.³⁵

In 1999, the Legislature consolidated each of the state-funded early childhood education and child care programs into one integrated system under the School Readiness Act. The act required each coalition’s school readiness program to prepare preschool children to enter kindergarten ready to learn; to comprise a comprehensive program of readiness services that enhance the cognitive, social, and physical development of children; and to include developmentally appropriate curriculum and an age-appropriate assessment of each child’s development.³⁶

As a consequence of these increased training requirements for child care personnel, the consolidation of the state’s early childhood education and child care programs, and the enhancement of the educational requirements for these state-funded programs, the distinctions between early childhood education and child care have become extremely small.

Laws governing early childhood education and child care are codified in disparate sections.

Despite the evolving union of early childhood education and child care, laws governing state-funded school readiness programs are codified among sections in chapters 402, 409, and 411, F.S. Laws governing the regulation of child care providers are found within a range of sections in chapter 402, F.S.,³⁷ which is generically titled “Health and Human Services: Miscellaneous Provisions.” The disparate arrangement of these sections creates difficulty in locating relevant provisions, in understanding the current organizational structure of the state for administration of these provisions, and in comprehending the interrelationship of these provisions.

School Readiness Act comprises an expansive range of diverse provisions.

The School Readiness Act (s. 411.01, F.S.) is a comprehensive section that establishes, among other things, the organizational structure of the school readiness system, eligibility criteria and priorities for school readiness programs, program expectations, parental choice requirements, and accountability provisions. Although it is appropriate for these related provisions to be codified together, the arrangement of these diverse provisions in one section creates difficulty in locating relevant provisions within such an expansive section. In addition, several of the act’s provisions are not grouped together with related provisions, causing potential confusion. For example, paragraph (5)(b) specifies that school readiness programs are established for children from “birth to 5 years of age or until the child enters kindergarten.” Subsection (6) provides that school readiness programs are established for children “under the age of kindergarten eligibility.” Even though these provisions are similar, varying interpretations of them may generate different policy outcomes.

School Readiness Act and related laws contain several obsolete provisions.

Phase-in of school readiness programs.—The School Readiness Act specified that school readiness programs would be phased in on a coalition-by-coalition basis;³⁸ directed the Florida Partnership for School Readiness and the school readiness coalitions, as they established school readiness programs, to integrate the programs and funding from the former early childhood education and child care programs (e.g., subsidized child care

³⁰ Section 5(1), ch. 74-113, L.O.F.

³¹ Sections 402.305(2)(d) and 402.313(4), F.S.

³² Section 2, ch. 91-300, L.O.F.

³³ Section 76, ch. 96-175, L.O.F. (delayed requirement from July 1, 1995, to July 1, 1996, and applied the requirement only to facilities operating 8 or more hours per week).

³⁴ Section 10, ch. 99-304, L.O.F.; s. 2, ch. 2002-300, L.O.F. (delayed licensure requirement from January 1, 2003, to January 1, 2004); *see also* s. 402.305(2)(f), F.S.

³⁵ Chapter 2003-131, L.O.F.

³⁶ Section 411.01(5)(c)1.a. and 2., F.S.

³⁷ Sections 402.301-402.319, F.S.

³⁸ Section 411.01(3)(a) and (5)(d)1., F.S.

program and prekindergarten early intervention program);³⁹ and authorized the partnership to provide financial awards to coalitions demonstrating success in merging and integrating the funding streams of these former programs.⁴⁰ Since July 1, 2002, all 67 counties of the state have been served by school readiness coalitions with approved school readiness plans.⁴¹ The act also required school readiness coalitions to adopt performance standards and outcome measures until the partnership adopted statewide standards and measures.⁴² In August 2001, the partnership adopted performance standards for 3-year-old, 4-year-old, and 5-year-old children.⁴³

Central agencies.—The former subsidized child care program was regionally administered by state community child care coordinating agencies (commonly cited as “central agencies”). The successors of these central agencies have continued under the school readiness system as contractors of the school readiness coalitions. Coalitions routinely contract with central agencies and other qualified entities to provide enrollment services, operate the coalition’s single point of entry and unified waiting list, perform eligibility determinations, serve as the coalition’s local resource and referral agency, conduct training of child care personnel, and carry out other duties for the coalition. Several references to central agencies remain in law, notwithstanding that their successor agencies currently exist as contractors with a modest distinction from other contractors.

Subsidized child care transportation and case management programs.—Before the repeal of the former subsidized child care program, as a complement to the program, the Department of Children and Family Services (DCF) previously provided for the transportation of children at risk of abuse or neglect to child care programs (commonly cited as “Project Safety Net”).⁴⁴ After the former program’s repeal, these transportation services were continued by the school readiness system through an interagency agreement with DCF and specific appropriations. Effective July 1, 2003, statewide funding is no longer provided, although school readiness coalitions may locally offer these transportation services using school readiness

funds. In addition, DCF previously administered a case management program for these at-risk children, in which DCF participated in case staffing meetings; provided technical assistance to child care personnel and parents; and supplemented training in child development.⁴⁵ The department reports that, despite the former program’s repeal, its Family Safety Program Office continues to monitor at-risk children and perform these case management functions under its child protective duties in chapter 39, F.S.

Early Head Start collaboration grants.—In 1999, the Legislature authorized the Florida Partnership for School Readiness to award, subject to legislative appropriation, collaboration grants as assistance to local agencies in securing Early Head Start programs through federal grants.⁴⁶ The Legislature has not provided appropriations for the state grants, and, consequently, the partnership has not established the grant program.

School Readiness Act and related laws contain several vague provisions.

School-age children.—The former subsidized child care program historically served children younger than 13 years of age.⁴⁷ In 1999, the School Readiness Act specified that school readiness programs are established for children “under the age of kindergarten eligibility.”⁴⁸ The act also provided, however, that school readiness coalitions may, subject to approval by the Florida Partnership for School Readiness, “receive subsidized child care funds for all children eligible for any federal subsidized child care program.”⁴⁹ In February 2002, the Agency for Workforce Innovation issued an opinion interpreting the latter provision as allowing coalitions to serve children older than the age of kindergarten eligibility (i.e., school-age children), but younger than 13 years of age, using funds from the federal Child Care and Development Fund (CCDF) block grant, if these federal funds were administratively segregated to distinguish them from school readiness program funds.⁵⁰ The act established a priority list of eligible children and directs school readiness coalitions to give priority for participation in school readiness programs to these children.⁵¹ Because school-age children do not appear on the priority list as an

³⁹ Section 411.01(2)(c), (3)(a), (5)(d)2., and (9)(d), F.S.

⁴⁰ Section 411.01(9)(e), F.S.

⁴¹ The partnership had approved 57 school readiness coalitions, but several of these coalitions consolidated, resulting in the current organization of 50 coalitions.

⁴² Section 411.01(4)(j)9. and (5)(d)3.e., F.S.

⁴³ Florida Partnership for School Readiness, *Florida School Readiness Performance Standards for Three-, Four-, and Five-Year-Old Children* (2002) (adopted by the partnership on August 14, 2001).

⁴⁴ Section 402.3145, F.S.

⁴⁵ Section 402.3135, F.S.

⁴⁶ Section 402.3016, F.S.

⁴⁷ Former s. 402.3015(1), F.S. (2000).

⁴⁸ Section 411.01(6), F.S.

⁴⁹ Section 411.01(5)(d)8., F.S.

⁵⁰ Memorandum from Michelle M. Austin, General Counsel, Agency for Workforce Innovation, to Katherine Kamiya, Executive Director, Florida Partnership for School Readiness (Feb. 15, 2002).

⁵¹ Section 411.01(6), F.S.

eligibility group, it is unclear to what extent school-age children may be served at the exclusion of children in eligibility groups on the priority list.

At-risk children.—The former subsidized child care program historically served certain children at risk of abuse, neglect, or exploitation who were younger than 13 years of age.⁵² In 1999, the School Readiness Act limited this priority in school readiness programs to at-risk children who are under the age of kindergarten eligibility. In 2003, the Rilya Wilson Act established that second-highest priority⁵³ for participation in school readiness programs would be given to certain children at risk of abuse, neglect, or abandonment who are 3 years of age to school entry. The 2003 act replaced the prior requirement that priority be given to at-risk children who are under the age of kindergarten eligibility, thereby enhancing the priority for at-risk children from 3 years of age to school entry, but eliminating the eligibility group for at-risk children younger than 3 years of age. Despite these policy changes, school readiness coalitions continue to serve at-risk children younger than 13 years of age under the interpretation allowing services for school-age children.

Attendance and reporting responsibilities.—The Rilya Wilson Act also requires licensed early childhood education and child care providers to report each unexcused absence and seven consecutive excused absences of certain at-risk children to the Family Safety Program Office of the Department of Children and Family Services or the community-based lead agency. The department has authority to discipline licensed child care providers for violations of ss. 402.301-402.319, F.S.⁵⁴ Because the Rilya Wilson Act is codified in s. 39.604, F.S., however, it is unclear whether licensed providers may be disciplined for failure to comply with these attendance and reporting responsibilities.

Review of school readiness plans.—The School Readiness Act required school readiness programs to be phased in, and, until a coalition's school readiness plan was approved by the Florida Partnership for School Readiness, the various agencies responsible for delivering services under the former early childhood education and child care programs would continue to provide those services.⁵⁵ The act mandated that the

partnership review each coalition's plan at least annually and required the coalition to review and revise its own plan at least biennially.⁵⁶ After a coalition's initial plan is approved and implementation of its school readiness plan has begun, however, the act does not specify how the partnership would provide for uninterrupted school readiness services if, during an annual review of a school readiness coalition or upon review of a revised plan, the partnership rejected the coalition's plan. In June 2003, the partnership adopted a policy allowing it to designate a qualified agency to carry out a coalition's school readiness program on an interim basis until the coalition is reestablished.⁵⁷

Rulemaking authority.—In 2002, the Legislature's Office of Program Policy and Government Accountability (OPPAGA) reported that there has been a continuing discussion about the relative authority of the Florida Partnership for School Readiness to adopt statewide rules governing school readiness program expectations as compared to the authority of school readiness programs to be locally designed, operated, and managed.⁵⁸ In September 2003, OPPAGA presented preliminary and tentative findings from its current audit of the school readiness system.⁵⁹ These findings acknowledge that the partnership has adopted some rules,⁶⁰ but cite the partnership's lack of other rules and formal procedures as a continuing challenge to full implementation of the School Readiness Act.⁶¹

School readiness funds.—Several provisions of the School Readiness Act are unclear whether they apply only to school readiness funds provided by the state or also to funds provided by local governments and private sources. For example, school readiness coalitions are prohibited from adopting reimbursement rates that create "standards or levels of services that have not been authorized by the Legislature."⁶² This prohibition against tiered reimbursements is unclear whether it applies to local funds or only to school readiness funds. In its September 2003 presentation, OPPAGA recognized that most coalitions desire to implement a tiered reimbursement system, thereby

⁵⁶ Section 411.01(5)(d)2. and 5., F.S.

⁵⁷ Florida Partnership for School Readiness, *Policy Relating to Coalitions that Do Not Have Approved Plans Effective July 1, 2003*, Item 2003-72 (June 20, 2003).

⁵⁸ OPPAGA, *School Readiness Program's Potential Not Realized With Critical Issues Unresolved*, Report No. 02-07 (Jan. 2002); see s. 411.01(2)(d) and (4)(k), F.S.

⁵⁹ Tim Elwell, Chief Legislative Analyst, OPPAGA, PowerPoint Presentation to the Universal Prekindergarten Education Advisory Council, *Review of Florida's School Readiness Program* (Sept. 17, 2003).

⁶⁰ See ch. 60BB-4, F.A.C.

⁶¹ Elwell, *supra* note 59, at 10 & 12.

⁶² Section 411.01(5)(d)3.f., F.S.

⁵² Former s. 402.3015(1)(a), F.S. (2000).

⁵³ For fiscal year 2003-2004, the act implementing the 2003-2004 General Appropriations Act requires first priority for participation in school readiness programs to be given to children from families receiving temporary cash assistance and subject to federal work requirements (s. 74, ch. 2003-399, L.O.F.; s. 411.01(13), F.S.).

⁵⁴ Section 402.310(1), F.S.

⁵⁵ Section 411.01(5)(d)1., F.S.

reimbursing child care providers at varying levels based upon the relative quality of their services.⁶³

Single point of entry.—The School Readiness Act requires school readiness coalitions to implement a single point of entry and unified waiting list.⁶⁴ The term “single point of entry” is not defined. One interpretation of the term infers that parents must enroll their children in school readiness programs at a single geographic location within a county. The alternate interpretation infers that school readiness coalitions must implement an integrated information system that allows children to be enrolled for programs at various locations throughout a county, but that the information system must track all children on a unified waiting list.

Minimum number of children served.—The School Readiness Act requires that a coalition’s school readiness program must serve at least as many children as were served before implementation of the program.⁶⁵ The act does not specify how to calculate this comparison or the number of children (i.e., headcount or full-time equivalent). In addition, the Florida Partnership for School Readiness reports that, because the former early childhood education and child care programs previously reported data inconsistently across programs, standardized data for calculating the number of children served in school readiness programs is not available for years before fiscal year 2002-2003.

Competitive procurement.—The School Readiness Act specifies that school readiness coalitions must, “[a]t least once every 3 years,” follow the competitive procurement requirements of s. 287.057, F.S., for school readiness programs.⁶⁶ This provision is unclear as to when coalitions are required to use competitive sealed bidding to award contracts for the purchase of commodities and contractual services. Further, this once-every-three-years requirement is less clear for the purchase of commodities than for the purchase of contractual services. The Agency for Workforce Innovation obtained the opinion of counsel from the Department of Management Services, which reflected that this provision is subject to varying interpretations.⁶⁷

Ethics provisions.—The School Readiness Act specifies that members of the Florida Partnership for School Readiness and the school readiness coalitions

are subject to the ethics provisions in part III of chapter 112, F.S.,⁶⁸ which contains the code of ethics for public officers and employees and comprises 33 sections of law. Because many of these sections do not appear applicable to school readiness coalitions, the partnership has received inquiries from coalitions as to which sections apply. The Agency for Workforce Innovation obtained the opinion of counsel from the Commission on Ethics that three sections are generally applicable to coalitions: s. 112.313, F.S. (standards of conduct); s. 112.3135, F.S. (restriction on employment of relatives); and s. 112.3143, F.S. (voting conflicts).⁶⁹

Several laws do not reflect the organizational structure of the school readiness system.

Transferred programs.—The transfers of the former early childhood education and child care programs to the school readiness system were enacted as one-paragraph provisions⁷⁰ that transferred these programs through type two transfers.⁷¹ The legislation did not, however, replace corresponding references to these former programs throughout the Florida Statutes. Consequently, several obsolete references to the former subsidized child care program and other repealed programs remain. In addition, the text of several sections transferred to the Florida Partnership for School Readiness or the Agency for Workforce Innovation inaccurately continues to reflect the Department of Children and Family Services as the agency responsible for its administration:

- Statewide resource and referral network (s. 402.27, F.S.);
- Determination of prevailing market rates (s. 402.3051, F.S.);
- Toll-free “Warm-Line” for support on the health, development, disability, and special needs of children (s. 402.3018, F.S.);
- Child Care Executive Partnership (s. 409.178, F.S.); and
- Teacher Education and Compensation Helps (TEACH) scholarship program (s. 402.3017, F.S.).

⁶⁸ Section 411.01(4)(e) and (5)(a)4., F.S.

⁶⁹ Letter from Julia Cobb Costas, Staff Attorney, Commission on Ethics, to A. Denise Sagerholm, Senior Attorney, Agency for Workforce Innovation (June 4, 2003).

⁷⁰ See ss. 17-19, ch. 2001-170, L.O.F.

⁷¹ Section 20.06(2), F.S., defines a “type two transfer” as the: merging into another agency or department of an existing agency or department or a program, activity, or function thereof or, if certain identifiable units or subunits, programs, activities, or functions are removed from the existing agency or department, or are abolished, it is the merging into an agency or department of the existing agency or department with the certain identifiable units or subunits, programs, activities, or functions removed therefrom or abolished.

⁶³ Elwell, *supra* note 59, at 30.

⁶⁴ Section 411.01(5)(c)1.e., F.S.

⁶⁵ Section 411.01(5)(c)1.f., F.S.

⁶⁶ Section 411.01(5)(e)1., F.S.

⁶⁷ Letter from Richard L. Brown, Office of the General Counsel, Department of Management Services, to A. Denise Sagerholm, Senior Attorney, Agency for Workforce Innovation (Feb. 19, 2003).

Even Start Family Literacy Programs.—In 2001, the United States Congress clarified that federal grants awarded to a state under the William F. Goodling Even Start Family Literacy Programs must be administered by the state educational agency (i.e., Department of Education).⁷² Section 411.0105, F.S., designates the Agency for Workforce Innovation as the state’s lead agency for these federal programs. In deference to the federal act, the Department of Education complies with the lead agency responsibilities under federal law, and the Florida Partnership for School Readiness administers the programs under an interagency agreement with the department.

Agency for Workforce Innovation.—The School Readiness Act specifies that the Agency for Workforce Innovation (AWI) shall administer school readiness funds, plans, and policies under contract with the Florida Partnership for School Readiness and that all instructions to school readiness coalitions shall emanate from AWI.⁷³ The current interagency agreement clarifies that AWI’s responsibilities are generally limited to fiscal issues, including financial management, budget management, contract and grant management, state and federal reporting requirements, and the financial administration of the school readiness system.⁷⁴

Child care licensing laws do not adequately distinguish between types of providers.

In 1974, the Legislature mandated the statewide licensure of child care facilities.⁷⁵ Although the 1974 law distinguished between two types of child care providers — child care facilities and family day care homes, the law established a single set of licensing standards. During the next 25 years, however, these child care licensing laws were incrementally amended, gradually broadening the difference in licensing standards between family day care homes and other child care facilities. In 1999, the Legislature further differentiated between provider types by creating separate licensing standards applying to specialized child care facilities for the care of mildly ill children and to large family child care homes.⁷⁶

As a result of these incremental changes, the child care licensing laws inconsistently use the term “child care

facility” to mean any type of regulated child care provider or, in other contexts, a distinct license type that is distinguished from other license types (e.g., family day care homes or large family child care homes). For example, s. 402.309, F.S., authorizes provisional licenses to be issued to “child care facilities.” In this section, the term refers to any child care provider that is subject to licensure. Conversely, s. 402.305, F.S., provides licensing standards for “child care facilities.” In this section, the term refers only to the distinct license type and would not apply, for example, to family day care homes.

In addition, the 1999 law codified the creation of large family child care homes in a separate section (s. 402.3131, F.S.), but codified the creation of specialized child care facilities for the care of mildly ill children as subsection (17) within the section governing the licensure of other child care facilities (s. 402.305, F.S.). The Department of Children and Family Services distinguishes specialized child care facilities for the care of mildly ill children as a distinct license type in its rules.⁷⁷

RECOMMENDATIONS

Committee staff recommends that the School Readiness Act (s. 411.01, F.S.) and related laws governing state-funded early childhood education and child care programs, together with the child care licensing laws (ss. 402.301-402.319, F.S.), be united in a single chapter that integrates these provisions. Committee staff further recommends that the Legislature, if it enacts this uniform chapter, recognize its evolving policy on early childhood education and child care by combining these concepts under one title (e.g., child development) and consider codifying the voluntary universal prekindergarten education program within this new chapter.

Committee staff recommends that the School Readiness Act be divided into multiple sections within this new chapter, with its provisions grouped into related subjects, and that these laws be revised to reflect the organizational structure of the school readiness system. As part of this revision, committee staff recommends that the obsolete and vague laws identified in this interim project report be corrected, updated, or clarified and that the distinctions in the child care licensing laws be better distinguished between the types of providers.

⁷² No Child Left Behind Act of 2001, Pub. L. No. 107-110, 115 Stat. 1425, 1555 (2002) (codified at 20 U.S.C. ss. 6381-6381k).

⁷³ Section 411.01(9)(b), F.S.

⁷⁴ *Interagency Agreement, Agency for Workforce Innovation and Florida Partnership for School Readiness, 2003-2004* (June 2003).

⁷⁵ Chapter 74-113, L.O.F.

⁷⁶ Chapter 99-304, L.O.F.

⁷⁷ Chapter 65C-25, F.A.C.