



FLORIDA IMPACT

EXPANDING AFTERSCHOOL MEALS IN FLORIDA  
*Through Local Recreation Programs*



A White Paper Prepared By



**FLORIDA IMPACT**

With Support From



**HEALTH  
FOUNDATION**  
of south florida

&

**MAZON**

A Jewish Response  
To Hunger

## Introduction

Florida Impact is dedicated to securing economic justice in Florida by reducing hunger and poverty. Since 1979, Florida Impact has helped community leaders secure more responsive public programs and policies to address hunger by mobilizing communities to increase access to federal food, nutrition, and other economic support programs. This focus supported the statewide establishment of the School Breakfast Program when school is in, and the Afterschool Meal and Summer Food Service programs when school is out.

Since the establishment of the Afterschool Meals Program (AMP) in our state, Florida Impact has worked with after-school programs and providers to expand access to at-risk meals. Part of this work has involved analyzing the administration of the AMP in our state, comparing alternative approaches from different states, and identifying solutions to program barriers.

In our research, we identified municipal and county Parks and Recreation Departments as a group that could greatly expand access to meals if minor adjustments were made to the existing State statute. This white paper describes the current administration of the At-Risk Afterschool Meals Program in Florida and recommends adopting legislation for government-sponsored recreation programs.



## **About the At-Risk Afterschool Meals Program**

The Child and Adult Care Food Program (CACFP) is a federally funded, state-administered nutrition program that provides funding to child and adult care centers and homes that serve healthy meals and snacks. The Department of Agriculture's ("USDA") Food and Nutrition Service ("FNS") administers the CACFP at the federal level.

Since 2010, the At-Risk Afterschool Meals ("AMP") component of the CACFP has provided meal reimbursements for eligible at-risk after-school sites in all 50 states and the District of Columbia.<sup>1</sup> Under the Federal regulations of the USDA, eligible after-school programs do not need to be licensed to participate in the program, unless there is a state or local requirement for licensing.<sup>2</sup> If there is no state or local requirement for licensing, then after-school programs must meet state or local health and safety standards.

In Florida, the Department of Health's Bureau of Child Care Food Programs ("DOH BCFP") administers the AMP and requires participating sites to have child care licensure or proof of exemption from licensure pursuant to the regulations promulgated by the Florida Department of Children and Families ("DCF").<sup>3</sup>

In a 2016 report released by the Food Research Action Center, Florida data shows that for every 100 low income children that received a free lunch under the National School Lunch Program, only 6.8 children received an after-school supper. If that ratio were increased to 15 children per 100, Florida would receive an additional \$6,865,936 in federal funds.<sup>4</sup>

### **Florida's AMP**

To participate in the AMP, eligible at-risk after-school programs must submit an application to the Florida Department of Health.<sup>5</sup> To be eligible, an at-risk after-school program must: (1) Be organized primarily to provide care for children after school or on

the weekends, holidays, or school vacations during the regular school year; (2) Provide organized regularly scheduled education or enrichment activities (i.e., in a structured and supervised environment); and (3) Be located in an attendance area of a school where at least 50 percent or more of the children are eligible for free or reduced price meals.

In addition to meeting federal eligibility requirements, sites in Florida are required to provide documentation of a Child Care License from DCF or Local Licensing Agency; a letter from DCF or the local licensing agency stating licensure is not required; or a Religious-Exempt Accreditation Certificate.

### **Child Care Licensing in Florida**

The Florida Legislature has delegated broad authority to DCF to “establish statewide minimum standards for the care and protection of children in child care facilities, to ensure maintenance of these standards, and to approve county administration and enforcement to regulate conditions in such facilities through a program of licensing.”<sup>6</sup>

DCF regulates child care licensure and exempts certain types of facilities and arrangements from licensure.<sup>7</sup> License-exempt programs are still required to comply with local health and safety laws and employees must undergo the state’s minimum background screening requirements.<sup>8</sup>

DCF regulates licensed child care facilities, licensed family day care homes, licensed large family child care homes, and licensed mildly ill facilities in 62 of the 67 counties in Florida.<sup>9</sup> Five counties have decided, either by statute or by the adoption of a local ordinance or resolution, to designate a local licensing authority to regulate child care providers in their areas. The following counties have elected to exercise this option: Broward, Hillsborough, Palm Beach, Pinellas and Sarasota. Florida Statute 402.36 requires that the local licensing must meet or exceed state minimum standards.



## **Florida’s Child Care Facilities**

The Florida Statutes define child care as “the care, protection, and supervision of a child for a period of less than 24 hours a day on a regular basis, which supplements parental care, enrichment, and health supervision for the child, in accordance with his or her individual needs, and for which a payment, fee or grant is made for care.”<sup>10</sup> “Child Care Facility” includes any child care center or child care arrangement which provides child care for more than five children unrelated to the operator and which receives a payment, fee, or grant for any of the children receiving care, wherever operated, and

whether or not operated for profit. If a program meets the statutory definition of child care, it is subject to regulation by DCF or local licensing agencies, unless the statute specifically does not include it in the definition of a child care facility.

Many Parks and Recreation Departments operated by local counties and municipalities throughout the state offer government-operated after-school recreation programs, which the Florida Statutes defines as “a program for which an agency assumes responsibility for a child participating in that program, including, but not limited to, after-school programs, athletic programs, nature programs, summer camps, or other recreational programs.”<sup>11</sup> These programs are regulated by both state and local government, including requiring Level 2 background checks for all employees and mandatory fire, safety, and health inspections.

Many of the children in these programs are low income, which is one of the eligibility requirements for AMP sites. Expanding local government sites could greatly increase access to meals for hungry children throughout the state. However, in order to qualify for AMP, these local government entities are being required to undergo child care licensure, which is a burdensome, duplicitous, and costly endeavor that discourages them from pursuing AMP funding, and ultimately prevents them from serving federally-funded meals to hungry children who attend their after-school programs.

As an example of duplicate regulation, under State Statute,<sup>12</sup> even though all programs are already required by their city or county governments to conduct Level 2 Background Screens on all staff, DCF requires those same programs to put the same personnel through the same screening a second time. As another example, prior to approving licensure, and on a regular basis thereafter, DCF must conduct fire inspections, playground inspections, and occupancy load assessments, which

city/county governments already do, resulting in having to now do it twice. DCF also reviews registration forms, employee applications, first aid kits, fire extinguishers, fanny packs, staff training documentation, emergency drills, and transportation regulations at each potential location, even though local government policy and municipal code



already require their after-school programs to uphold and audit compliance with published standards. Also, even though local governments who operate after-school programs at multiple sites must, per municipal policy, maintain all employee records in the government's central human resources office, DCF requires them to duplicate the records and

keep copies at each after-school site. And, when municipalities try to embed tutoring, cultural arts and academic enrichment activities in their after-school programs to support children's academic achievement, DCF requires that the Certified Teachers they hire must undergo duplicate Level 2 Background Screens and attain a DCF School Age Children Certification including a mandated 45 hours of training and exams. Likewise, contracted instructors who provide enrichment activities such as violin, art, health and nutrition, chorus and dance classes, and are certified in their fields of expertise, must all undergo duplicate Level 2 Background Screens and take the aforementioned training. These mandates discourage teachers and instructors from working in government-operated after-school programs, further complicating efforts of municipalities that





collaborate with local school districts to improve the academic performance of low income children in their communities by embedding academic enrichments in after-school programs.

These duplicative regulations have a chilling effect

on parks and recreation departments that want to serve meals. As a result, these agencies don't pursue DCF licensure, leaving thousands of Florida's low income children who could benefit from after-school meals going without.

### **Recommendation**

The Florida Legislature should amend Florida Statute 402.302 to exclude government-sponsored recreation programs for school-aged children from the definition of child care facility when these programs are properly regulated at the state and local level. Such legislative action would honor the definition of "government-sponsored recreation program" that already exists in Florida Statute, and ensure compliance with Level 2 screening requirements for personnel pursuant to Chapter 435. This would eliminate burdensome and costly licensing requirements for counties and municipalities that offer after-school recreation programs through parks and recreation departments, thereby removing barriers for participation in the AMP and greatly benefitting Florida's at-risk and low-income children.

## Proposed Legislation for Government-Sponsored Recreation Programs

Under Florida Statute 402.302, the following child care centers or child care arrangements are not included in the definition of child care facility:

- (a) *Public schools and nonpublic schools and their integral programs, except as provided in s. 402.3025;*
- (b) *Summer camps having children in full-time residence;*
- (c) *Summer day camps;*
- (d) *Bible schools normally conducted during vacation periods; and*
- (e) *Operators of transient establishments, as defined in chapter 509, which provide child care services solely for the guests of their establishment or resort, provided that all child care personnel of the establishment are screened according to the level 2 screening requirements of chapter 435.*

We contend that the Legislature should exclude *government-sponsored recreation programs* from the definition of a child care facility, and therefore the below language and definition should be added to the statute:

- (f) **Government Sponsored Recreation Programs**, as defined in this chapter.

(19) “Government Sponsored Recreation Programs” means a school-age recreation program operated by a county or municipality with three hours or less per day of programming, provided the government body of the county or municipality adopts standards of care by ordinance for such programs, that such standards are provided to the parents of each program participant, and that the ordinances shall include, at a minimum, staffing ratios, minimum staff qualifications including Level 2 background checks for all staff and volunteers working at the facilities, and minimum facility, health and safety standards; furthermore, provided that the local government body certifies that the Program is in compliance with said standards; and further provided that

parents be informed that the program is not licensed by the state and the program is not advertised as a child care facility.

Such legislation would eliminate duplicative requirements for parks and recreation departments operated and staffed by counties and municipalities. Florida would join several states in exempting such programs, and benefit by saving resources and expanding access to at-risk after school meals through government-sponsored recreation programs.

### **Examples from Other States**

The state of Texas exempts certain after-school and summer recreation programs from state licensing requirements, including:

An elementary-age recreation program operated by a municipality provided the government body of the municipality annually adopts standards of care by ordinance after a public hearing for such programs, that such standards are provided to the parents of each program participant, and that the ordinances shall include, at a minimum, staffing ratios, minimum staff qualifications, minimum facility, health and safety standards, and mechanisms for monitoring and enforcing the adopted local standards; and further provided that parents be informed that the program is not licensed by the state and the program may not be advertised as a child care facility.<sup>13</sup>

As an example of how this is implemented at the local level, the local government in Georgetown, Texas, adopted an Ordinance on March 14, 2017, effectively making the City of Georgetown exempt from Texas Child Care Services regulations, in a manner that is distinct from Florida's current policy where counties may opt to regulate child

care. In Florida, counties are only able to do so if they accept responsibility for regulating all forms of child care countywide, including all municipalities and all privately run childcare centers and child care programs operated by non-profit organizations. In contrast, the City of Georgetown in Texas, is not responsible for regulating all child care throughout the city, but merely setting forth minimum standards by which the Georgetown Parks and Recreation Department will operate its youth recreation programs.

Georgia<sup>14</sup>, Virginia<sup>15</sup>, Illinois<sup>16</sup>, Minnesota<sup>17</sup>, Wisconsin<sup>18</sup>, Nebraska<sup>19</sup>, and Wyoming<sup>20</sup> are also among the states that exempt recreation activities offered by local governments from state regulations.



## Conclusion

Parks and recreation programs across the state of Florida which are referred to in State Statute as *government-sponsored recreation programs*, already assume responsibility for the children they serve and, under the proposed legislation should adopt and comply with State and local regulations to operate these programs, rather than being licensed by DCF.

To effect this change, this white paper recommends amending Florida Statute 402.302 to exclude government-sponsored recreation programs from licensure if they are in compliance with the screening requirements for personnel pursuant to s. 402.302 and enforce locally legislated standards.

Florida Impact believes that this change will greatly increase the benefit of AMP to Florida's at-risk youth. By encouraging local governments to adopt the program through their wide network of after-school recreation centers, our state's low income children can get access to healthy and nutritious meals.

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## End Notes

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<sup>1</sup> Pub. L. No. 111-296, 124 STAT. 3183.

<sup>2</sup> 7 C.F.R. § 226.6(d)(1).

<sup>3</sup> Fla. Stat. §402.301-319.

<sup>4</sup> 2018 After School Nutrition Report, Table 2 Average Daily Participation(ADP) in Supper and Additional Federal Reimbursement if states reached FRAC's goal of 15 supper participants per 100 National School Lunch Program (NSLP) participants, [www.frac.org](http://www.frac.org).

<sup>5</sup> Florida Department of Health, Afterschool Meals Program: <http://www.floridahealth.gov/programs-and-services/childrens-health/child-care-food-program/afterschool-meal-program.html>.

<sup>6</sup> Fla. Stat. §402.301(1).

<sup>7</sup> Fla. Admin. Code R. 65C-22.008.

<sup>8</sup> Fla. Admin. Code R. 65C-22.008(3).

<sup>9</sup> Florida Statutes 402.301-402.319 provides statewide minimum standards for the care and protection of children in child care facilities.

<sup>10</sup> Fla. Stat. § 402.302 (1)

<sup>11</sup> Fla. Stat. §119.071(5)(c).

<sup>12</sup> Fla. Stat. §435.

<sup>13</sup> Georgetown, Texas, Municipal Code §8.40 adopting Standards of Care for youth recreation programs.

<sup>14</sup> **Georgia** exempts programs that are owned and operated by any department or agency of state, county, or municipal government. This includes, but is not limited to, the customary school day, as defined in Georgia law, and before and/or after school programs in public schools operated by the public school system and staffed with school system employees and recreation programs operated by city or county parks and recreation departments and staffed with city or county employees.

<sup>15</sup> **Virginia** exempts a program of recreational activities offered by local governments, staffed by local government employees, and attended by school-age children. Such programs shall be subject to safety and supervisory standards established by local governments.

<sup>16</sup> **Illinois** exempts special activities programs, including athletics, crafts instruction and similar activities conducted on an organized and periodic basis by civic, charitable and governmental organizations. [225 ILCS 10/2.09]

<sup>17</sup> **Minnesota**: exempts recreation programs for children or adults that are operated or approved by a park and recreation board whose primary purpose is to provide social and recreational activities. Minnesota Statutes, 245A.03, subdivision 2.

<sup>18</sup> **Wisconsin** exempts parents, guardians and certain other relatives; public and parochial (private) schools; persons employed to come to the home of the child's parent to provide care for less than 24 hours per day; and counties, cities, towns, school districts and libraries that provide programs for children primarily intended for social or recreational purposes from the requirement for a license. Section 48.65 (2), Stats.

<sup>19</sup> **Nebraska** exempts recreation camps as defined in Neb. Rev. Stat. § 71-3101, a recreation facility, center, or program operated by a political or governmental subdivision pursuant to the authority provided in Neb. Rev. Stat. § 13-304;

<sup>20</sup> **Wyoming** exempts child care facilities supervised by the state, any local government, school district or agency or political subdivision thereof.

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