

USA Gymnastics

**Help! I'm Worried Florida
Wants My Gym Licensed
as a Child Care Center!**

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FL Child Care Licensing Actions

→FL Department of Children & Families (DCF) is regularly, consistently inspecting FL USAGym club operations to determine whether you fall under the provisions of the FL Child Care Law.

No surprise...DCF appears to be finding its oversight applies!

→Until/unless you pursue change, every FL USAGym club might consider some level of additional legal professional services to ensure an interim defense.



Is DCF Serious?

YES.



Will Things Change on Their Own?

NOT LIKELY.



Florida Child Care Law

A. Title XXIX, F.S., §402.301

→establishes “...statewide minimum standards for the care and protection of children in child care facilities, to ensure maintenance of these standards,...through a program of licensing.”

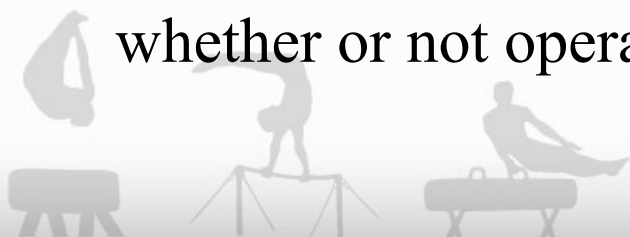


Florida Child Care Defined

B. §402.302

→“Child care” means 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.

→“Child care facility” ...any child care center or child care arrangement which provides child care for more than five children unrelated to the operator...which receives a payment, fee, or grant for any of the children..., wherever operated, and whether or not operated for profit.” *Exceptions follow...*



Florida Child Care - Exceptions

§402.302 - Not included:

- Public schools and nonpublic schools + their integral programs
- Summer camps having children in full-time residence
- Summer day camps
- Bible schools normally conducted during vacation periods; and
- Operators of transient establishments (hotels, inns)...provide child care services solely for guests of their establishment or resort, provided that all child care personnel... are screened according to the level 2 screening requirements.



Florida Child Care - Exception

→“...membership organizations affiliated with national organizations *which do not provide child care, whose primary purpose is providing activities that contribute to the development of good character or good sportsmanship* or to the education or cultural development of minors in FL, which charge only a nominal annual membership fee, which are not for profit, and which are certified by their national associations as being in compliance with the association’s minimum standards and procedures shall not be considered child care facilities. (402.301(6))

However, all personnel...of such membership organizations must meet background screening requirements through the department.



Florida Child Care – Indoor Recreation

“Indoor recreational facility” an indoor commercial facility established for the primary purpose of entertaining children in a planned fitness environment through equipment, games, and activities in conjunction with food service and which provides child care for a given child no more than 4 hours any one day.

An indoor recreational facility must be licensed as a child care facility...but is exempt from the minimum outdoor-square-footage-per-child requirement...if the indoor recreational facility has, at a minimum, 3,000 square feet of usable indoor floor space.

(402.302 (10))



Florida Child Care Licensing

§402.305- Licensing standards

→Florida DCF establishes licensing standards each facility must meet regardless of the origin or source of the fees used to operate the facility or the type of children served by the facility.

→DCF must recognize different age groups may require different standards. DCF may adopt different min. standards for facilities that serve different age groups, including school-age children. DCF **shall** adopt by rule a definition for child care which distinguishes between child care programs that require child care licensure and after-school programs that do not require licensure.



Florida Child Care Licensing

§402.305- Licensing standards

→Notwithstanding any other provision of law to the contrary, minimum child care licensing standards shall be developed to provide for reasonable, affordable, and safe before-school and after-school care. Standards, at a minimum, shall allow for a credentialed director to supervise multiple before-school and after-school sites.



Florida County Regulation

Florida permits any county with licensing standards that meet or exceed state minimum standards to designate by ordinance, a local child care licensing agency in their county.

DCF is responsible for 62 out of 67 counties. Five counties regulate licensing of child care facilities and homes as permitted: *Broward, Hillsborough, Palm Beach, Pinellas, and Sarasota.*



Florida County Regulation

Broward - Child Care Licensing & Enforcement section, Environmental & Consumer Protection Division. Drop-in child care occasional child care in a business whose sole purpose is to provide babysitting for no more than a 4-hour period. Parent remains on premises at all times. Drop-in child care must be licensed. Does not include child care arrangements in health clubs/spas/gyms, bowling alleys, hotels/resorts, athletic training/instructional facilities, or similar-type establishments. Determination made by the local licensing agency on a case-by-case basis.

Hillsborough – Child Care Licensing Department. Programs that provide activities to all children, regardless of age, that are strictly instructional or tutorial/academic in nature. Examples include, but are not limited to, computer class, ballet, karate, gymnastics, baseball, and other sports; plus, minimum background screening requirements.

Palm Beach - FL Department of Health. Drop-in child care where child is in care for no more than a 4 hour period. Parent remains on premises all times. Drop-in child care must be licensed. Does not include child care arrangements in health clubs/spas/gyms, bowling alleys, athletic training/instructional facilities. Determination made by Department on a case-by-case basis.

Pinellas – Child Care License Program. Instruction/Tutorial Program has a single instructional/tutorial purpose. That purpose is the only service the program provides. Examples include, but are not limited to, tutoring, computer class, ballet class, karate class, baseball instruction or other sport. Cannot provide any service beyond the instructional activity. Does not cater, serve or prepare meals. May provide drinks, ready-to-eat snacks individually pre-packaged, do not require refrigeration. 1. Does not advertise child care. 2. Enrollment must clearly define duration of instructional sessions. Session time may not exceed two hours.

*Sarasota – County Health Department. Summer residential and day camps. Clubs such as YMCA, Boys Club, Scouts and similar civic youth organizations, which only have children over 6 years of age. (*Yet incorporates state statutory and regulatory standards.)*



Enforcement Actions Since at Least 2000

Did DCF formerly recognize a licensing exemption for “specialized classes” of instruction that included gymnastics training?

NO.

No records of DCF interpretations ever “exempting”

- Afterschool programs
- Parents’ Night Out
- Sports Pre-schools
- Open gym activities (even “supervised”)



The “Test”

Child Care Licensure Questionnaire

<http://ccrain.fl-dcf.org/documents/6/243.pdf>

...Results interpreted by DCF determine whether your business and programs must be licensed as a “Child Care Facility.”

DCF Website Under heading -- “Are You Subject to Licensure?”

<http://www.myflfamilies.com/service-programs/child-care/child-care-licensure>



Your Child Care Roadmap

<https://www.flrules.org/Gateway/reference.asp?No=Ref-08747>

Child Care Facility Handbook (1/2/2018)



2016 Changes...

DCF Hearings 65C-22.008 School Age Child Care

DCF workshops to which all were invited.

-Workshop A: June 6, 2016, 9:00 a.m. – 11:00 a.m. ET

-Workshop B: June 9, 2016, 2:00 p.m. – 4:00 p.m. ET

Workshop A: DCF, 1317 Winewood Boulevard, Building 4, Tallahassee, Florida 32399-0700

Workshop B: Hiawassee Branch/Orange County Library 7391 W. Colonial Drive Orlando, FL 32818

→DCF established a tiered licensing system for school-age programs. New rule will also clarifies license exemptions and minimum standards for school-age child care facilities.



2019 Changes...Pending

Notice of Proposed Rule for 65C-22, F.A.C. - Child Care Facility

The DCF, Office of Child Care Regulation, filed a Notice of Proposed Rule for rule changes for Child Care Facility Standards and held a public hearing on January 30, 2019. This is an opportunity for the Department to receive comments from providers, community partners, coalition staff, stakeholders, and the public related to the rule changes. The hearing was open to the public and does not require a reservation. Proposed rule changes at: <http://www.myflfamilies.com/service-programs/child-care/>

DCF accepted comments on the proposed rule language until 5:00 PM EST on Friday, February 8, 2019 at HQW.Child.Care.Licensing@myflfamilies.com.



DCF Office of Child Care Regulation

Contact DCF Office to see if comments are still in order:

Samantha Wass de Czege, Director
Dinah Davis, Policy Manager
Office of Child Care Regulation
317 Winewood Boulevard, Building 6
Tallahassee, Florida 32399-0700
(850)488-4900



Required Reading. Why? Ignore at Your Peril.

FL DCF Child Care Licensing Overview -

<http://ccrain.fl-dcf.org/documents/7/36.pdf#page=1>

Child Care Facility Overview –

<http://ccrain.fl-dcf.org/documents/7/32.pdf#page=1>



What Changed?

→As far as applicability of the Florida Child Care law to gymnastics clubs – and revenue generating programs beyond straight gymnastics instruction – little has changed except for prioritization of attention to the gymnastics business sector

(DCF determination that, “hey,” you too are subject to the law.)

→Enough outlier clubs to warrant action?

→Visibility and/or size/success of targeted clubs?

→Consumer complaints?

→This attention pre-dates national bad press.



Gain Clarity or...

1. Persuade Appointed DCF Secretary That FL Child Care Law Should Not be Read to Apply to Club Sports Instruction Activities?

Problem: Remember, today only *Very Limited* exemptions apply to:

(1) Schools + their integral programs, (2) Summer camps w/ children in full-time residence, (3) Summer day camps (capacity & hours restrictions), (4) Bible schools conducted during vacation periods, (5) Transient establishments (hotel care), (6) Boys & Girls Club exception.

Interim: DCF Secretary would need to exercise full scope of discretion to (a) minimize inspection/enforcement of gymnastics clubs, and/or (b) “waive” licensure. *Likely only (a) until statutory revision can occur.*



...or Change the Policy

► If FL DCF can't (due to lack of adequate statutory authority), or won't (no political will to do so), issue helpful, clarifying interpretation of the FL Child Care Law that essentially exempts (or deprioritizes) FL USAGym clubs, you will need legislation providing a precise exemption for most (may not be all) gymnastics clubs.



Member Participation is KEY!

2. There IS Strength in Numbers...Every FL USAGym Member Should Participate!

→Why?←

At Present, It's Not a Matter of IF but WHEN the FL DCF Will Come by for A Visit at Your Club.



Activating Member List & Contacts

3. FL USAGym Member List and Contact Info is Invaluable. Start Communications Now.

→First Things First – Create an Inventory of Who Knows Who in FL government.

→Second – Secure max participation from FL USAGym clubs, then link up with any sports or other instruction disciplines similarly affected. Build a critical mass that can't be ignored.

→Third – Form a steering committee of volunteers who will marshal & coordinate efforts North/South/East/West!



FL USAGym Tactics & Tools

4. Once Organized –

- a. Frame up a letter to the FL DCF Secretary.
- b. Ask for a meeting with him for a representative number of FL USAGym clubs from around FL. Include the USAGym “fact sheet” on what gymnastics clubs mean to the state of FL.
- c. After a reasonable time, and calls to cement the appointment, make the letter public. Use social media and traditional media.
- d. Copy every single member of the FL legislature, with an extra cover note to each legislator noting that if the FL DCF can't/doesn't help out small businesses (you) in their (the legislators') communities, you'll be in to ask for relief in the matter. Keep your local representatives informed each step of the way in effort to secure a change directly from, or working with, the FL DCF



FL USAGym Tactics & Tools (cont.)

- e. Eventually, copy every legislator's local papers in a guest op/ed, or series of letters to the Editor, urging the need for a change in focus from FL gymnastics businesses to true child care settings. Don't stop there - publish in local Chamber of Commerce newsletters, community blogs, any publication your clients might read so they understand how this affects them and their kid's sports-related activities.
- f. Make your district office appointment, ASAP, with each club legislator to begin the conversation about the "lost focus" of inspection and enforcement of this law on businesses that likely never created the need for it in the first place.
- g. Keep it positive! Focus on that "lost focus" that doesn't do a thing for your unique clients in a unique sports sector. Emphasize how FL USAGym clubs will, first, be working with the FL DCF to produce a different result for gymnastics clubs, including yours, in his/her district. Keep them posted...and let them know you'll be back if necessary.



FL USAGym Tactics & Tools (cont.)

h. About that meeting

Chad Poppell, Secretary

Florida Department of Children and Families

1317 Winewood Blvd., Building 1, Room 202

Tallahassee, Florida 32399-0700

Phone: 850-487-1111

Fax: 850-922-2993

With a copy to:

DCF General Counsel

Office of the General Counsel

Florida Department of Children & Families

1317 Winewood Blvd. Building 2, Rm. 204

Tallahassee, FL 32399

850-488-2381 (Work)

850-922-3947 (Fax)



FL USAGym Tactics & Tools (cont.)

Know Your Agency Official – **DCF Secretary Chad Poppell**

Poppell came to Tallahassee from Jacksonville in 2013 to serve as Chief of Staff for the Department of Economic Opportunity and then as the Secretary of the Department of Management Services. Poppell had no previous experience in child protection when Governor DeSantis appointed him to head the program.

Poppell worked as “IBM Industry Client Leader” for Florida’s public sector, which includes state and local government, as well as K-12 and higher education leading all IBM sales and technical teams (services, software, hardware) supporting State Government accounts.

From 2011-2013, he worked as the Director of Employee Services at JEA, a municipally owned electric, water, and sewer provider in Jacksonville.

Poppell also was appointed by then-Jacksonville Mayor John Peyton as Human Resources Chief for the City of Jacksonville. He received his undergraduate and master’s degrees in psychology from Valdosta State University.

Poppell succeeded Mike Carroll, the longest-serving DCF head in the agency’s 21-year history. Carroll worked at DCF and its predecessor, the Department of Health and Rehabilitative Services (HRS), since January 1990.



FL USAGym Tactics & Tools (cont.)

- i. Don't be surprised if the meeting doesn't produce immediate results in the form of a new FL reinterpretation of what is/isn't a "child care facility." If not, get a tight timeline for a final decision from the DCF that gymnastics clubs can be viewed as not covered by the law.
- j. Consider working with NFIB-Florida and/or other sports instruction businesses along with your local chambers of commerce, and professional & trade associations. A reform bill will take "all hands on deck." Then...plan on supporting legislation to make necessary changes.



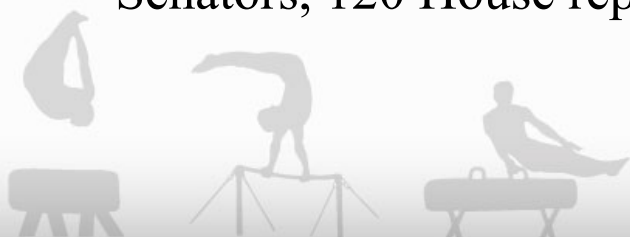
Member Support is a MUST!

5. Support the Legislation That May be Necessary.

Goal = 100% member club participation via -

- (i) letter writing in support a Child Care Law reform bill
- (ii) meet with every legislator within the vicinity of every FL USAGym club (at least 1 Senator and 1 Representative per club)
- (iii) club & coalition representatives appear at every scheduled reform bill hearing scheduled to provide testimony and support rallies
- (iv) go on local radio, local television, social media and generate op-eds
- (v) copy the governor's legislative deputy responsible for advising on the proposed bill when it reaches him.

Veto? Press hard for a veto override (2/3 vote in both houses of Legislature). You've seen - in advance - as many of the 160 members of FL legislature (20 Senators, 120 House reps.). Now follow-up heading to override vote!



Florida USA Gymnastics Member Clubs Strength in Numbers

Q&A

Loree Galimore

Director of Club Services

lgalimore@usagym.org

