

SUBPART 151-1 – UNIVERSAL PREKINDERGARTEN

151-1.1 Scope of Subpart

The purpose of this Subpart is to provide four-year-old children with universal opportunity to access prekindergarten programs. This Subpart sets forth procedures and requirements for implementing such programs and making application to the commissioner of education.

151-1.2 Definitions. As used in this Subpart:

(a) Approved expenditures means any expenses for which grant funds may be used, such as, but not limited to, program components, professional salaries, professional development, support services, materials and supplies, administrative support services, transportation services, leasing expenses or other appropriate facilities expenses and other costs as approved by the commissioner. Pursuant to section 3202 of the Education Law, no parent and/or guardian of a child participating in a universal prekindergarten program should be subjected to a fee/charge for the instructional program.

(b) Eligible agencies shall mean a provider of child care and early education, a day care provider, early childhood program or center or community-based organization including, but not limited to, approved preschool special education program, Head Start, nursery schools, libraries and museums which meet the standards and requirements of this Subpart.

(c) Eligible child means a child who resides within the school district who is four years of age on or before December 1st of the year in which he or she is enrolled or who will otherwise be first eligible to enter public school kindergarten commencing with

the following school year. For a summer only program provided in accordance with the provisions of subdivision (d) of section 151-1.4 of this Subpart, "eligible child" means a child who resides within the school district who is five years of age on or before December 1st of the year in which he or she is enrolled or who will otherwise be first eligible to enter public school kindergarten commencing with the current school year. Parents and/or guardians may choose, but are not required, to enroll their child(ren) in a universal prekindergarten program. However, upon enrollment, the school district's attendance policy must be applied.

(d) Universal prekindergarten program plan means a plan approved by the board of education or, in the case of a school district having a population of one million or more, by the community superintendent and chancellor, that is designed to effectively serve eligible children directly through the school district or through collaborative efforts between the school district and an eligible agency or agencies.

(e) "Traditional standardized test" shall mean a systematic method of gathering information from objectively scored items that allow the test taker to select one or more of the given options or choices as their response. Examples include multiple-choice, true-false, and matching items. Traditional standardized tests are those that require the student (and not the examiner/assessor) to directly use a "bubble" answer sheet. Traditional standardized tests do not include performance assessments or assessments in which students perform real-world tasks that demonstrate application of knowledge and skills; assessments that are otherwise required to be administered by federal law; and/or assessments used for diagnostic or formative purposes, including

but not limited to assessments used for diagnostic screening required by Education Law § 3208(5).

151-1.3 Uniform quality standards for all universal prekindergarten classrooms, including both district-based and eligible agency-based classrooms

(a) Curriculum.

(1) Each school district operating a prekindergarten program shall adopt and implement curricula, aligned with the State learning standards, that ensures continuity with instruction in the early elementary grades and is integrated with the district's instructional program in kindergarten through grade twelve.

(2) Each school district operating a prekindergarten program shall provide early literacy and emergent reading instruction based on effective, evidence-based practices. Essential components of this program shall include:

- (i) background knowledge;
- (ii) phonological awareness;
- (iii) expressive and receptive language;
- (iv) vocabulary development; and
- (v) phonemic awareness.

(3) Activities shall be learner-centered and shall be designed and provided in a way that promotes the child's total growth and development, and ensures that:

- (i) children are encouraged to be self-assured and independent through a balanced schedule of teacher-initiated and child-initiated learning activities;
- (ii) instructional materials and equipment shall be arranged in learning centers that promote a balance of individual and small group activities; and

(iii) teachers shall use intentional planning to focus instruction to meet differentiated learning styles of students.

(b) Assessments, monitoring and reporting.

(1) School districts shall establish a process for assessing the developmental baseline and progress of all children participating in the program. Such process must at a minimum provide for on-going assessment of the development of language, cognitive and social skills, and ensure that:

(i) the instrument(s) used for assessment must be valid and reliable; and

(ii) assessment information must be used to inform classroom instruction and professional development.

(2) School districts shall use the results of such assessments to annually monitor and track prekindergarten program effectiveness. A program shall be considered effective if the enrolled children demonstrate significant gains, as determined by the Commissioner, in language, cognitive and social skills.

(3) Beginning in the 2008-2009 school year, school districts shall report annually, in a manner and timeline prescribed by the Commissioner, the percentage of prekindergarten children making significant gains, as determined by the Commissioner, in language, cognitive and social skills. The data shall be made part of school performance reports to parents and/or guardians of preschool children and the public.

(4) Prohibition on administration of traditional standardized tests.

Notwithstanding the provisions of this subdivision, no school district shall administer traditional standardized tests in a pre-kindergarten program; provided that nothing herein shall prohibit assessments in which students perform real-world tasks that

demonstrate application of knowledge and skills or assessments that are otherwise required to be administered by federal law.

(c) Health and nutrition.

(1) All prekindergarten students shall be screened as new entrants as set forth in Part 117 of this Title.

(2) Prekindergarten programs that operate for less than three hours shall provide a nutritional meal and/or snack. Programs operating more than three hours shall provide appropriate meals and snacks to ensure that the nutritional needs of the children are met. Meals and snacks shall be provided in an environment conducive to interaction between staff and children and at a time appropriate to meet the children's needs and provide sufficient time for eating and interaction.

(d) Class size. The maximum class size for a prekindergarten class is 20 children. For classes of up to 18 students, there must be one teacher and one paraprofessional assigned to each class. For classes of 19 or 20 students, there must be one teacher and two paraprofessionals assigned to each class.

(e) Staff qualifications.

(1) Prekindergarten teachers providing instruction through this Part shall possess:

(i) a teaching license or certificate valid for service in the early childhood grades pursuant to Part 80 of this Title; or

(ii) a teaching license or certificate for students with disabilities valid for service in early childhood grades pursuant to Part 80 of this Title; or

(iii) for eligible agencies collaborating with the district to provide prekindergarten services, a bachelor's degree in early childhood education or a related field, or a teaching license or certificate valid for services in the childhood grades pursuant to Part 80 of this Title, and a written plan to obtain a certification valid for service in the early childhood grades within five years.

(iv) Eligible agencies collaborating with the district to provide prekindergarten services and licensed by an agency other than the State Education Department may employ staff who meet the standards of the licensing or registering agency, until the beginning of the 2008-2009 school year, at which time all prekindergarten teachers shall meet the qualifications set forth in subdivisions (i)-(iii) of this section.

(2) Until all universal prekindergarten teachers at an eligible agency site possess a teaching license or certificate valid for services in the early childhood or childhood grades, the agencies operating such programs shall employ an on-site education director during the hours that the prekindergarten program is in operation that will be responsible for program implementation. The on-site director shall possess a teaching license or certificate valid for services in the early childhood or childhood grades pursuant to Part 80 of this Title.

(3) A prekindergarten teaching assistant providing instructional support in a prekindergarten classroom shall meet qualifications pursuant to Part 80 of this Title.

(4) A prekindergarten teacher aide providing support in a prekindergarten classroom shall meet the requirements prescribed by the local board of education.

(f) Fiscal and program oversight. A school district shall monitor compliance by collaborating eligible agencies with all fiscal and program requirements, shall assess

student progress in the prekindergarten program, and shall correct any identified deficiencies.

(g) Professional development. Professional development shall be based on the instructional needs of children and shall be provided to prekindergarten teachers and staff in district and agency settings in which prekindergarten services are provided under this Subpart.

(h) Parental involvement. Each school operating a prekindergarten program shall develop procedures to ensure active engagement of parents and/or guardians in the education of their children.

(i) Support services. School districts shall provide, either directly or through referral, support services to children and their families necessary to support the child's participation in the prekindergarten program. Support services must be provided to the maximum extent practicable in the language or mode of communication which the parents and/or guardians and the child best understand. Whenever possible, such support services shall be provided in collaboration with other community organizations in a non-duplicative manner.

151-1.4 Program design

(a) Programs may be either full-day or half-day and must operate five days per week a minimum of 180 days per year; except that districts implementing programs for the first time or expansion classes in other districts may operate a minimum of 90 days, provided that in such instances the aid per prekindergarten pupil shall be reduced by one one-hundred eightieth for each day less than 180 days that such program or expansion class is in session, except that the commissioner may disregard such

reduction for any deficiency that may be disregarded in computing total foundation aid pursuant to Education Law section 3604(7) or (8).

(b) A district may operate a summer only program during the months of July and August, only upon demonstrating to the commissioner's satisfaction that the school district is unable to operate the program during the regular school session because of a lack of available space in both district buildings and eligible agencies. When a school district operates a summer only program the aid per prekindergarten pupil shall be reduced by one one-hundred eightieth for each day less than 180 days that the summer program is in session.

(c) Unless waived by the Commissioner pursuant to Education Law section 3602-e(5)(e) and section 151-1.5 of this Subpart, not less than 10 percent of the total grant award to school districts shall be set aside for the provision of the instructional program through collaborative efforts with eligible agencies. The program shall effectively use resources of the school district, eligible agencies, and the community to ensure that services are provided in an efficient and non-duplicative manner.

(d) School districts must establish a process to select eligible children to receive universal prekindergarten services on a random selection basis where there are more eligible children than can be served in a given school year, provided, however, that a school district that operated a targeted prekindergarten program in the base year may use the selection process established for such program.

(e) Integration of children with disabilities. The environment and learning activities of the prekindergarten program shall be designed to promote and increase inclusion and integration of preschool children with disabilities.

(f) The program shall be designed to ensure that participating children with limited English proficiency are provided equal access to the program and opportunities to achieve the same program goals and standards as other participating children.

151-1.5 Application process

(a) An application for an allocation to operate a universal prekindergarten program shall be submitted by the school district to the State Education Department for approval in a format and pursuant to a timeline prescribed by the commissioner. Two or more school districts may submit a joint application to operate a joint universal prekindergarten program. The maximum grant award for a joint program shall be the sum of the grant awards computed for each participating district.

(b) The application shall set forth the following information:

(1) a description of the prekindergarten program plan approved by the board of education;

(2) a proposed budget and a description of the proposed use of the funds;

(3) the participation and contribution of each of the collaborative partners;

(4) the local share to be used;

(5) a description of any costs associated with the administration of the program;

(6) a listing of district and eligible agency sites selected for the universal prekindergarten program, including the projected number of children and other projected program data as requested by the Department;

(7) a written request for a variance where applicable. The Department will consider variance requests for the following:

(i) the 10 percent set aside for collaboration as set forth in Education Law §3602-e(5)(e):

(a) for a district unable to use the set aside to establish a collaborative arrangement that would meet the requirements of this Subpart because of the unavailability of eligible agencies willing to collaborate, or other factors beyond the control of the school district; or

(b) for a district that had fully implemented a universal prekindergarten program by serving all eligible four-year-olds in the 1998-1999 school year and due to parental choice the 10 percent set aside exceeds the total district aid per kindergarten pupil multiplied by the number of prekindergarten pupils in collaborative programs;

(ii) class size based upon the unique characteristics of the program at the universal prekindergarten site or to promote the inclusion of preschool children with disabilities or children who are homeless;

(iii) for a district that operated a targeted prekindergarten program pursuant to Subpart 151-2 in the 2006-2007 school year, a variance from any inconsistent provisions of Education Law section 3602-e or this Subpart, in order to operate under the targeted prekindergarten regulations. The amount of funding supporting classrooms to which such variance applies may not exceed the amount of targeted prekindergarten grant funds received by the district for the 2006-2007 school year; and

(iv) for a district that is unable to operate the program during the regular school session because of a lack of available space in both district buildings and eligible agencies, a variance for the district to operate a summer only program pursuant to section 151-1.4(b) of this Subpart; and

(8) When two or more school districts submit a joint application, the following additional information must be submitted:

(i) which district will serve as the fiscal agent for the joint grant;

(ii) a partnership agreement that specifies the roles and responsibilities of each school district for the implementation and oversight of the program.

(c) A final report shall be submitted to the Department within 30 days after the program ends. The final report shall include such program and fiscal information as requested by the Department.

151-1.6 Competitive process

(a) In designing a collaborative universal prekindergarten program, districts shall accept proposals from eligible agencies to collaborate with the district to implement the universal prekindergarten program. The district shall conduct a competitive process to determine with which eligible agencies it will collaborate.

(b) Each district shall develop a process by which eligible agencies shall submit proposals. The process shall be designed to provide the district with sufficient information on which to determine the eligible agencies it will collaborate with to implement the prekindergarten program. The request for proposals developed by the school district shall include at minimum a request for the following information from each eligible agency:

(1) a description of the services to be provided by the eligible agency;

(2) a detailed narrative which describes how the eligible agency proposes to meet the goals and objectives of the district's universal prekindergarten program plan;

(3) a description of the eligible agency's staff qualifications, staffing patterns, child-staff ratio and administrative structure; and

(4) a budget of proposed expenditures for services rendered.

(c) Upon review of the proposals submitted, the eligible agency or agencies shall be selected to collaborate with the district, based on criteria, including but not limited to:

(1) the eligible agency's capacity to effectively, efficiently and immediately provide needed services;

(2) the ease of utilization and accessibility of the program to parents and/or guardians;

(3) capacity to provide ongoing staff development;

(4) staffing patterns and qualifications;

(5) documentation that all applicable health and safety codes and licensure or registration requirements are met;

(6) anticipated fiscal share and other resources will be contributed to the universal prekindergarten program;

(7) current program design and experience in providing developmentally-appropriate programs;

(8) fiscal solvency;

(9) stability of staff, rate of turnover and ability to fill vacancies in a timely manner;

(10) articulated mission/philosophy statements;

(11) record management and documentation procedures followed by the agency;

(12) administrative structure;

(13) capacity and experience in serving children with disabilities;

(14) capacity and experience in serving children and their parents and/or guardians when they are limited English proficient;

(15) children's progress as demonstrated by assessments; and

(16) demonstrated effectiveness of the eligible agency's program.

(d) The above criteria may be used to rank proposals when the district does not have the capacity to contract with all eligible agencies submitting proposals.

(e) The district shall conduct at a minimum one site visit to settings where the universal prekindergarten program will be located prior to contracting for services.

(f) The results of the competitive process shall be made public at a regular meeting of the board of education.

151-1.7 Facilities requirements

(a) All buildings, premises, equipment and furnishings used for the universal prekindergarten program shall be safe and suitable for the comfort and care of the children, shall comply with all applicable requirements of the Americans With Disabilities Act and shall be provided and maintained in a state of good repair and sanitation.

(b) Except for schools in the City of New York, buildings and classrooms located on district grounds and operated by the school district shall meet the New York State Uniform Fire Prevention and Building Code, section 155.3 of this Title or its equivalent (notwithstanding the exemption for schools in cities with populations over 125,000 persons) and section 151-2.7 of this Title. Any new construction shall also meet the standards specified in the State Education Department Manual of Planning Standards.

(c) Except for schools in the City of New York, buildings and classrooms operated by the school district, but located off school grounds, shall meet the New York State Uniform Fire Prevention and Building Code (9 NYCRR Parts 600 through 1250), sections 151-2.7 and 155.7 of this Title or its equivalent (notwithstanding the exemption for schools in cities with populations over 125,000 persons) and Part 418 of the Regulations of the Department of Social Services (18 NYCRR Part 418).

(d) In the case of schools in the City of New York, buildings and classrooms operated by the school district shall meet all applicable local fire safety and building codes.

(e) Buildings and classrooms operated by eligible agencies shall meet all applicable fire safety and building codes and any applicable facility requirements of a State or local licensing or registering agency.