2600 PREKINDERGARTEN EDUCATION Effective: July 1, 2016

Selected Definitional Sections and Statutory Authority

See 16 V.S.A. § 11(a)(31) for the definition of "prekindergarten education." See also 16 V.S.A. § 11(a)(6) for the definition of "kindergarten," 16 V.S.A. § 1073(a) for the definition of "legal pupil."

2601 Statement of Purpose and Applicability

The purpose of prekindergarten education is to provide young children with developmentally appropriate learning, and developmental experiences that are responsive to each child's strengths, interests, and needs, and aligned with Vermont Early Learning Standards. These rules establish standards for prekindergarten education which shall be offered by local school districts in accordance with 16 V.S.A. § 829.

2602 Definitions

The following definitions shall apply to terminology which is used throughout these rules:

(1) **Average Daily Membership (ADM).** Average daily membership is defined in accordance with 16 V.S.A. § 4001(1). A district of residence may include within its average daily membership any prekindergarten child for whom it has provided prekindergarten education or on whose behalf it has paid tuition pursuant to this section.

(2) **Developmentally Appropriate.** Developmentally appropriate describes practices which are based upon principles of how children develop and learn, as articulated by the National Association for the Education of Young Children (NAEYC); these practices are responsive to each child's individual strengths, interests and needs, and are aligned with Vermont's Early Learning Standards;

(3) **Effective Parental Participation.** Effective parental participation in a prekindergarten education program means the opportunity for parents and guardians to be actively involved in the program, and may include involvement in program development, policy work, program evaluation, curriculum development, and helping in the class;

(4) **Early Childhood Special Education Services.** Early Childhood Special Education services (ECSE) means early childhood special education services and supports for eligible children which are provided pursuant to Part B of the Individuals with Disabilities Education Act, and in accordance with 16 V.S.A., Chapter 101,and which may be provided as part of a prekindergarten education program;

(5) **Full-time Equivalent for Prekindergarten.** For purposes of ADM, ~~A~~ a full-time equivalent for prekindergarten is defined as ten hours of prekindergarten education per week for 35 weeks annually.

(6) **National Accreditation.** National accreditation means accreditation by the National Association for the Education of Young Children;

(7) **Prekindergarten Child.** Prekindergarten child means~~:~~ a child who is three, four or five years of age by the date established by the district of residence for kindergarten eligibility and not yet enrolled in kindergarten.

(8) **Prekindergarten Education.** Prekindergarten education means services designed to prekindergarten children with developmentally appropriate early learning and developmental experiences based on Vermont's Early Learning Standards.

(9) **Prequalified Prekindergarten Education Program.** A prequalified public or private prekindergarten education program means a program or provider of prekindergarten education which at a minimum satisfies the requirements set forth in Sections 2604-2606 of these rules and that has been approved by the Agencies of Education and Human Services;

(10) **Program Expansion.** Program expansion is when a school district seeks to increase the number of children served in a district operated program and such an increase would require additional~~,~~ teachers and/or classrooms;

(11) **School District.** School district is defined in accordance with 16 V.S.A. § (11)(a)(10);

(12) **Step Ahead Recognition System (STARS).** The Step Ahead Recognition System is Vermont's graduated quality rating and improvement system (QRIS) for early learning and development programs, based upon the state's established program quality standards;

(13) **Tuition.** Tuition in these rules means the annual statewide rate paid by a district to a public or private prequalified prekindergarten education program for ten hours per weeks for 35 weeks annually for prekindergarten education.

(14) **Vermont Early Learning Standards (VELS).** The Vermont ~~E~~early ~~L~~learning ~~S~~standards are state-recognized performance standards and learning outcomes children birth through grade three.

2603 Access to Prekindergarten Education

(1) Each prekindergarten child whose parent or guardian enrolls the child at the child's district of residence is entitled to no less than ten hours per week for 35 weeks annually of publicly funded prekindergarten education at an available prequalified prekindergarten education program operated by a public school or private program.

(2) When a parent or guardian enrolls a prekindergarten child in his/her district of residence, the district of residence shall either:
    a. Enroll the child in a prequalified prekindergarten education program that it operates; or
    b. At the request of the parent or guardian, pay tuition to a prequalified prekindergarten education program operated by a private program or a public school outside the district.

(3) If requested by the parent or guardian, the school district of residence shall pay tuition to a

public school or private prequalified program even if it operates its own prekindergarten program.

(4) If a district has an approved "prekindergarten region" pursuant to Section 2609(8) of these Rules, it is only obligated to pay tuition to a prequalified prekindergarten education program within the approved region.

(5) Each district will establish enrollment procedures for prekindergarten children. Each district will notify parents and guardians of the right to and availability of publicly funded prekindergarten education and of the enrollment procedures through a variety of sources adequate to inform parents and guardians throughout the district. To be entitled to publicly funded prekindergarten education, a parent or guardian must comply with the enrollment procedures in the district of residence.

(6) A child receiving ECSE services may receive those services in a prequalified prekindergarten education program. A Local Education Agency (LEA) may, but is not required to, provide ECSE services outside of the LEA, even if a child is attending an out-of-district prekindergarten program.

(7) If the demand for publicly funded prekindergarten education exceeds the capacity of existing prequalified prekindergarten education programs operated by public schools and private programs in a region, a district is not required to begin or expand a program to satisfy such demand; but the district will collaborate with the Agencies of Education and Human Services and the local Building Bright Futures Council to develop a regional plan to expand capacity for additional prequalified prekindergarten programs. Demand is considered to exceed capacity when a parent or guardian enrolls his or her prekindergarten child in the district of residence and there is no available prequalified prekindergarten education program operated by a public school or a private program with capacity to admit the child for 10 hours per week for 35 weeks annually.

2604 Prequalified Prekindergarten Education Programs Status

(1) Only children enrolled in prequalified public school or private prekindergarten education programs shall be included in a school district's ADM count. A public school or private prekindergarten education program shall be considered prequalified only if it meets all of the following criteria:

(a) The public or private program receives and maintains at least one of the following quality program recognition standards:

(i) National accreditation through the National Association for the Education of Young Children (NAEYC);

(ii) A minimum of four stars in Vermont's Step Ahead Recognition System (STARS), with at least two points in each of the five arenas; or

(iii) Three stars in Vermont STARS if the program has a plan approved by the Department for Children and Families and the Secretary of Education to achieve

four or more stars within two years, including at least two points in each of the five arenas, and if the program has met intermediate steps;

(b) The public or private program is currently licensed or registered, as applicable, by the Department for Children and Families, and is in good regulatory standing;

(c) The public or private program's curricula are aligned with the Vermont Early Learning Standards;

(d) The public or private program staff meets the professional standards described in Section 2605 of these rules.

(2) In order to be approved as a prequalified prekindergarten education program, a public school or private program must apply for approval to the Agencies of Education and Human Services on a form provided by the Agencies for that purpose. Upon receipt of a complete application, the Agencies have thirty business days to process the application.
(3) Upon receipt of a complete application, the Agencies have thirty business days to process the application.

(4) Once approved, a prequalified public school or private program must report any changes in compliance with the criteria listed above to the Agencies of Education and Human Services within five days of the change. A lack of compliance with the above criteria may result in revocation of approval as a prequalified prekindergarten education program.

2605 Staff Qualifications

In addition to meeting all the applicable early childhood program licensing regulations of the Department for Children and Families, staff in prequalified public and private prekindergarten education programs shall meet the following qualifications:

(1) Teachers in each prekindergarten classroom in a district-operated prekindergarten education programs shall hold a valid Vermont educator license with an endorsement in either early childhood education or early childhood special education;
(2) private prequalified prekindergarten education program operated in a licensed Center Based Program shall employ, or contract for the services of, at least one teacher who holds a valid Vermont educator license with an endorsement in either early childhood education or early childhood special education. Ten hours that the licensed teacher is present shall coincide with the hours of prekindergarten education paid for by tuition from districts;
(3) The operator of each registered or licensed Family Child Care Home approved as a prequalified prekindergarten education program shall ensure that one of the following requirements is met:
    (a) The operator holds a valid Vermont educator license with an endorsement in either early childhood education or early childhood special education; or

    (b) The operator employs or contracts with the services of a teacher who holds a valid Vermont educator license with an endorsement in either early childhood education or early childhood special education for at least ten hours per week for 35 weeks

annually . Ten hours that the licensed teacher is present shall coincide with the hours of prekindergarten education paid for by tuition from district; or

(c) The program receives regular, hands-on active training and supervision from a teacher who holds a valid Vermont educator license with an endorsement in either early childhood education or early childhood special education at least three hours per week, during each of the 35 weeks per year in which prekindergarten education is paid for by tuition from districts. The operator shall maintain appropriate written documentation of the supervision on location; and

(4) Nothing in these rules shall be construed as restricting the ability of a public or private prequalified prekindergarten education program from filling a staff position with an individual who holds a provisional or emergency license. Under such circumstances, however, , the public or private prequalified prekindergarten education program, and the holder of the provisional or emergency license, shall meet all of the terms and conditions of VSBPE Rules 5350-5364 and their successor rules. When a public or private prekindergarten program is unable to employ a licensed educator for the purpose of meeting the staff qualification requirements of these rules, a superintendent may, but is not required to, on behalf of the requesting public or private prekindergarten education program, and pursuant to the terms and conditions of VSBPE Rules 5350-5364 and their successor rules, apply to the Agency of Education for a provisional or emergency license for one or more individual(s) whom the program wishes to employ or contract with in order to meet the staff qualifications requirements. Under such circumstances, the superintendent shall monitor the progress and completion of the required two year plan for obtaining a Level I License.

2606 Requirements of Prequalified Prekindergarten Programs–

(1) Any prequalified public or private prequalified prekindergarten education program shall:

(a) Adhere to all applicable federal and state laws including, but not limited to, Part B of the Individuals With Disabilities in Education Act (IDEA), Section 504 of the Rehabilitation Act of 1973, the Americans With Disabilities Act (ADA) and Title VII of the Civil Rights Act of 1964;

(b) Implement a developmentally appropriate curriculum which is aligned with Vermont's Eearly Llearning Sstandards;

(c) Provide prekindergarten education for a minimum of 10 hours per week for thirty-five (35) weeks per academic year;

(d) Conduct child development assessments of each child enrolled using the assessment tool approved by the Agency of Education at least two times a year, and report the results of those assessments to the Agency of Education by July 31;

(e) Provide parents or guardians with a report of their child's developmental progress at least twice per year, and offer parents at least two opportunities per year to meet with the teacher;

(f) Provide opportunities for effective parental involvement and participation. These opportunities may include involvement in program development, policy work, program evaluation, curriculum development, and helping in the class; and

(g) Permit on-site visits, announced and unannounced, by representatives from the Agency of Education, the Department for Children and Families, and School district staff;

(h) Complete reports for enrollment, attendance, child assessment, costs of prekindergarten education, finances and other areas as required by state law and the Agency of Education;

(i) Participate in training which may be required for the purpose of fulfilling the program's responsibilities under tuition agreements with districts;

(j) With respect to children receiving ECSE services who are enrolled in the prekindergarten education program, comply with all requirements of state and federal laws governing IDEA Part B and Early Childhood Special Education, including allowing access to ECSE service providers; and

(k) Participate in the state approved prekindergarten education monitoring system described in Section 2612.

2607 Agreements with Prequalified Prekindergarten Programs

(1) School districts that pay tuition to prequalified prekindergarten education programs shall enter into written agreements which, at a minimum, shall include the all the requirements set forth in Section 2606 above and a provision that the prequalified provider shall maintain its status as a prequalified prekindergarten education program in accordance with Sections 2604, 2605 and 2602 of these rules, and report any change in this status, including alleged or proven violations of program licensure or registration requirements, to the school district, within five days of such accusation or finding.

(2) A school district may create new agreements with or continue existing partnerships with prekindergarten education programs that are not prequalified if the school district provides supports that enable the program to fulfill the requirements of Section 2605 (1) and (2). The statewide tuition rate for prekindergarten education does not apply to non-eligible prekindergarten programs; the district and the non-qualified partner shall negotiate tuition amounts.

2608 Establishing or Expanding A School Operated Prekindergarten Education Program

(1) Prior to a school district's establishment or expansion of a school operated prequalified prekindergarten education program, as defined in Section 2602 (11) the school district shall complete an application and receive prior approval from the Agencies of Education and Human Services. Approval for establishment or expansion of a school operated prequalified prekindergarten education program shall be based upon:

(a) The estimated number of three, four and five year old children not yet enrolled in kindergarten in the region which includes the requesting school district and bordering districts~~,~~ and

(b) The types, locations and available enrollment opportunities of prequalified public and private prekindergarten education programs in the school district and bordering districts that currently serve these children.

(c) If data are not clear or other complex issues arise, the Secretaries of Education and Human Services may choose to conduct a community needs assessment prior to approval of establishment or expansion of a prequalified prekindergarten education program.

(d) The requirement for school districts to provide Early Childhood Special Education services to preschool children under IDEA.

2609 Tuition

(1) If a district is paying tuition for prekindergarten education on behalf of a prekindergarten child to a private prequalified prekindergarten education program or a public prequalified prekindergarten education program outside of the district, it shall pay for no fewer than 10 hours per week for 35 weeks per year for a full-time equivalent prekindergarten child. The tuition weeks shall be weeks that are within the district's academic year.

(2) Tuition paid shall be at a statewide rate determined pursuant to the process set forth below in Section 2609(3) for 10 hours per week for 35 weeks annually of prekindergarten education that meets all established quality standards.

(3) The statewide prekindergarten tuition rate is determined by using the National Institute of Early Education Research (NIEER) cost model for the cost of prekindergarten education adjusted for Vermont by cost of living and for 10 hours per week for 35 weeks annually of prekindergarten education. For the 2015-2016 school year the statewide tuition rate using this process is determined to be $3000 per child for 10 hours per week for 35 weeks annually of prekindergarten education. This amount shall be adjusted each year thereafter by the New England Economic Project cumulative price index for state and local government purchases of goods and services as of November 15th each year.

(4) A district's obligation to pay tuition shall arise upon:
   a. The district receiving notice from the child's parent or guardian that the child is or will be admitted to a public or private prequalified prekindergarten education program; and
   b. The concurrent enrollment of the prekindergarten child in the district of residence for purposes of budgeting and determining ADM.

(5) Tuition paid by a district to a public or private prequalified prekindergarten education program shall:
   a. Be paid in accordance with a schedule that allows the prequalified prekindergarten education program to maintain financial stability;
   b. Not inhibit the ability of a parent or guardian to enroll a prekindergarten child in the public or private prequalified prekindergarten education program;
   c. Be made pursuant to an agreement complying with Section 2607 of these rules and requiring quality assurance, transition and other matters deemed necessary by the district, and an agreement by the program to notify the district when the child is no longer enrolled.
   d. Be made in accordance with federal statutes and rules regarding the requirement that Title I funds shall supplement and not supplant the state and local funds expended on prekindergarten education in the state (20 U.S.C. §6321(b).
   e. Be used by the program to fully cover the cost of ten hours per week for 35 weeks annually of prekindergarten education. If the tuition received by the program exceeds the actual cost of ten hours per week for 35 weeks annually of prekindergarten education, then the excess shall be applied to additional hours the child attends the prekindergarten program. A parent or guardian may only be charged for any hours that exceed ten hours per week for 35 weeks annually and that exceed the cost covered by the annual tuition received.

(6) When presenting its annual budget to the voters, a district of residence shall include the direct costs of operating a prekindergarten education program and shall include any anticipated tuition payments and any administrative, quality assurance, quality improvement, transition planning and other prekindergarten-related costs.

(7) Prequalified public or private prekindergarten providers may receive additional payment

directly from the parent or guardian for prekindergarten education in excess of the hours paid for by the district or for child care services, or both. Prequalified private programs are not bound by the statewide rate in determining rates they will charge parents or guardians in excess of ten hours per week for 35 weeks annually.

(8) Geographic Limitations:

a. A school board may choose to propose to limit the geographic area within which it will pay tuition for prekindergarten education by establishing a "prekindergarten region."
b. To establish a "prekindergarten region" a school board must submit an application to the Secretaries of Education and Human Services. At a minimum, any application must include:
    i. A clearly defined proposed "prekindergarten region";
    ii. The rationale for requesting a "prekindergarten region;
    iii. The date[s] and summary[ies] of any public school board discussion on the proposed "prekindergarten region, including a copy of the notice warning the public about the discussion.
c. Approval of a "prekindergarten region" shall be determined jointly by the Agencies of Education and Human Services in consultation with the requesting school board, private prequalified providers, parents and guardians of prekindergarten children and other interested parties pursuant to a process that includes:
    i. Applications due by November 15th and decisions made by February 15th of the subsequent year;
    ii. Notice to the public and required parties;
    iii. A public hearing in the proposed prekinderegarten region; and
    iv. Acceptance of written comments.
d. A "prekindergarten region":
    i. Shall not be smaller than the geographic boundaries of the school district;
    ii. Shall be based in part on the estimated number of prekindergarten children residing in the district and bordering districts, the availability of public and private prequalified prekindergarten education programs, commuting patterns and other region-specific criteria; and
    iii. Shall be designed to support existing partnerships between school districts and private providers of prekindergarten education.

(d) If a prekindergarten child is unable to access publicly funded prekindergarten within an approved "prekindergarten region," the parent or guardian may request, and in its discretion the district may pay tuition at the statewide rate, for a prequalified prekindergarten education program located outside the district's "prekindergarten region."

(e) Approval of a prekindergarten region shall be for a period of 3 years, at which time application for renewal may be made by a district. A district may apply once annually for a change to the boundaries of the region.

2610 Reporting the Costs of Prekindergarten Education

(1) To ensure transparency and accountability for prekindergarten education costs, school districts shall submit financial reports on forms provided by the Secretary of Education, detailing their

costs for prekindergarten education on an annual basis, and in accordance with the following provisions:

(a) Providers under an agreement with a school district shall report to the district all allowable prekindergarten education costs as specified in their agreements, on forms provided by the Secretary of Education; and

(b) School districts shall compile the financial reports from all of their prequalified prekindergarten education programs to whom they pay tuition, and shall report those costs to the Secretary of Education on or before August 15th of every year;

(2) School districts shall report their expenditures for both district-operated and out-of-district prekindergarten education programs and for ECSE services, by source of funds (e.g., state, or federal funds), to the Secretary of Education, on or before August 1 of every year; and

(3) School districts shall specify the identifiable costs for prekindergarten education and ECSE services in their annual budgets, and in their annual reports to the community.

2611 Reporting on the Effects of Prekindergarten Education

(1) Each district shall provide annual data to the Secretary of Education on the progress of all of its resident children who are: (a) enrolled in a prequalified prekindergarten education program or (b) included in its average daily membership.

(2) district shall require all public and private prequalified prekindergarten education programs to use the state approved on-line child assessment tool for all enrolled children included in its ADM during the beginning of the year and again during the last weeks of the program on an annual basis.

(3) Each district shall ensure that child assessment data are complete for all children included in its ADM no later than June 30th of each year.

2612 Monitoring

(1) The Agency of Education and Department for Children and Families shall jointly monitor and evaluate all public and private prekindergarten education programs to promote optimal outcomes for children and to collect data to inform future decisions. The state approved system for monitoring prekindergarten programs shall include, but not be limited to collecting and evaluating information and data regarding:

a. The programmatic details, including number of children served, number in public and private prekindergarten education programs operated, and the public financial investment made;
b. The quality of the public and private prekindergarten education programs and efforts to ensure continuous quality improvements through mentoring, training, technical assistance, and otherwise; and
c. The outcomes for children enrolled in public and private prekindergarten education program, including school readiness and proficiency in numeracy and literacy.
d. The effects, if any, on equality of opportunities between private and public programs regarding socioeconomic stratification, equality of access, staff qualifications, quality of program and other relevant variables.

2613 Quality Standards

The Agencies of Education and of Human Services shall review existing program and personnel quality standards (Section 2604 and 2605) for prekindergarten education programs and determine if higher standards are appropriate. Rulemaking may be initiated under 3 V.S.A. chapter 25 to require higher standards of quality; however no new standards may take effect earlier than July 1, 2016. Any changes to the quality standards shall be designed to ensure that programs are based on intentional, evidence-based practices that create a developmentally appropriate environment and support the delivery of an engaging program that supports the social, emotional, intellectual, language, literacy, and physical development of prekindergarten children.

2614 Administrative Complaint Procedures

Whenever issues arise, parties should attempt to resolve the issue prior to going into a formal administrative complaint process. If parties are unable to resolve an issue informally, the following process is available for resolution:

(1) A parent or guardian of a prekindergarten child or a prekindergarten education program may challenge an action of a district or the State on the grounds that it is in violation of state statute or these rules through an administrative complaint process.

(2) A school district may challenge an action of a prekindergarten education program or the State through an administrative complaint process when the district believes the prekindergarten education program or the State is in violation of the state statute or these rules.

(3) Complaints shall be filed in writing by the complainant with both the Secretary of Education and the Secretary of Human Services, within 30 calendar days of the alleged violation which gives rise to the complaint. Written complaints must contain a description of the facts upon which the complainant relies and an explanation of why the-complainant believes that the actions violated the requirements of the statute or rule. The complainant shall also provide copies of the written complainant to all parties within the time limits allowed by these rules;

(5) For purposes of complaints under this rule, party status shall be limited to the complainant(s) and the school district or State. The school district or State shall have 15 working days from receipt of the complainant's submission to respond in writing to the submission, and shall provide copies of its response to all parties;

(6) Complaints shall be considered jointly by the Secretaries of Education and Human Services or their counsels. The Secretaries may request additional written submissions from one or both of the parties, and under such circumstances, copies of both the request(s) and the response(s) shall be sent to all parties by the Secretaries. The Secretaries, in their discretion, may hold a hearing, in accordance with Rule 1230 of the State Board of Education Rules, either at the request of one or more of the parties, or on their own initiative;

(7) The burden of proof shall be on the complainant. The standard of review shall be by a preponderance of the evidence; and
(8) The Secretaries shall confer with the parties and jointly issue a written decision within 15 working days of the close of the record, and the decision shall be final. If the Secretaries do not reach an agreement, the complaint fails.

2615 Effective Date

These Rules shall become effective on July 1, 2016 and shall apply to enrollments on that date and thereafter.