

Frequently Asked Questions

Act 166 of 2014

An act relating to providing access to publicly funded prekindergarten education



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Act 166: Vermont Universal Access to Prekindergarten Education Frequently Asked Questions

Introduction

This is the latest round of Frequently Asked Questions (FAQs) related to Act 166 implementation. The Agencies of Education and Human Services intend to keep gathering and disseminating updated FAQs over the coming months as we receive additional questions from the field and interpret policies and procedure.

In order to have one comprehensive list of FAQs, we are creating one document. Questions that were provided at the end of Guidance Part 1 are included here; an asterisk denotes new questions and sections that are added. The FAQs are organized into major areas and identified with a letter and questions are numbered for easier reference.

Please note that responses in this FAQ are based on draft rules that are in promulgation and which may change once the rulemaking process is completed.

Frequently Asked Questions

A. Act 166 “Early Adopters” and “Later Adopters”

1. If a school district decides to move forward and implement universal prekindergarten education starting on July 1, 2015, what requirements will it need to meet?

These “early adopter” school districts will need to meet all of the requirements of Act 166 including universal access for all resident 3, 4, and 5 year olds not enrolled in kindergarten, pay the statewide tuition rate, and have the option to project the number of prekindergarten children in the school census.

2. If a school district decides to delay implementation until July 1, 2016, can it continue to operate as it did before Act 166 was passed?

Yes, but with some exceptions. These “later adopters” will need to apply for recognition as a “prequalified” program prior to 2015-2016, and they will need to follow the interim policy for establishing or expanding a school operated prekindergarten education program.

3. What support will school districts who are early adopters receive from the Agencies of Education and Human Services?

The agencies will offer regional meetings to early adopter districts, as well as technical assistance and additional guidance.

4. Will there be a list of early adopters and where will it be posted?

A list of supervisory unions and districts will be posted on the [Agency of Education \(AOE\) website](#). A link to this list also will be posted on the Child Development Division/Department for Children and Families (CDD/DCF) website.

5. When should a school district that is a “late adopter” and wants to establish a PreK Region submit an application?

These school districts should submit an application to the AOE and Agency of Human Services (AHS) Secretaries during the 2015-2016 school year.

B. Prequalification

1. Will all school operated and private community-based prekindergarten programs need to complete a prequalification application even if they are in a district that is not an early adopter?

Yes, all programs, regardless of setting, that want to provide prekindergarten education in 2015-2016 must be approved as a prequalified prekindergarten education program.

2. Can schools use agreements to require standards that are higher than what is established in Act 166?

No, school districts cannot establish standards that would result in not paying tuition to a prequalified prekindergarten education program. Schools may negotiate some specific requirements, such as participation in training or school meetings, to achieve consistency across programs.

3. Does a school district need to partner with every prequalified prekindergarten program families choose (assuming they are located within the district’s PreK Region if one has been established)? Is this the same for early adopters as well as for later adopters?

Early adopters will need to partner with all prequalified prekindergarten programs families want their children to attend. If the district has an approved “Prekindergarten Region” that places geographic limits on partnerships, then early adopters are not required to partner with prequalified programs outside of their region.

For 2015-2016, later adopters are not required to partner with all prequalified programs; families and directors of those programs may request a partnership, but the school district may decide whether to partner or not. Starting in 2016-2017, later adopters will need to partner with all prequalified prekindergarten programs families want their children to attend, unless an approved “PreK Region” places geographic limits on partnerships.

4. If a religious school operates a non-religious preschool program, can it partner with a district to provide PreK education?

Yes, if the program provides an assurance that it operates a secular, non-religious PreK on the prequalification application and provides supporting documentation that the PreK program is a secular program notwithstanding the program’s sectarian or religious affiliation.

5. Do all regulated center based and family child care home programs have to apply to become prequalified if they provide services to 3, 4 and 5 year old children?"

No. Prequalification is **only** required for those center based and family child care home programs that want to provide publicly funded prekindergarten education in partnership with school district(s) and that meet the prequalification standards.

6. Once a program receives approval as a prequalified prekindergarten education program, how long is the prequalification status good for?

Prequalification status is valid for three years.

7. Where can I find the application to become a prequalified prekindergarten education program?

The application can be found on the AOE website on the [Act 166 page](#). It can be accessed [here](#).

8. If a family child care provider does not have an educator license, and has an ECE or ECSE licensed mentor 3 or more hours per week, how many years is it necessary to have a mentor? Is the mentoring required for the entire calendar year?

A family child care provider who isn't a licensed early childhood educator and has a licensed mentor needs to continue with the 3 hours/week mentoring for the 35 weeks academic year until the provider obtains her/his own license, however long that takes.

9. Are there two versions of the prequalification application? Which should be used?

It was necessary for us to make some tweaks to the first prequalification application, so there have been two with the most current being the one that's posted on the [AOE website](#). Applications submitted through either form are acceptable. It is best to go to the [AOE website](#) and get the link for the most recent application.

10. To apply for Prequalification, 3 Stars are needed. In order to do that, you have to be open for a year. If a program hasn't been open for a year, how can it proceed?

It is possible for a new program to obtain 3 Stars in the first year; however, since there wouldn't be any points in the Compliance arena of STARS, the program would need to earn enough points in the other arenas in order to get to 3 Stars. The new 3 Star program would then need to submit a plan to obtain 4 Stars with 2 points in each arena within two years to the AOE Secretary and DCF Commissioner. Since 3 years of compliance is needed to earn 2 points in the Compliance arena, the STARS Oversight Committee recently adopted a policy that provides a *provisional 1 point* for newly established programs in Year 2 if they have been in full compliance in Year 1.

11. When will the online list of prequalified programs be available to families?

As programs are recognized as Prequalified, a flag indicating they are prequalified is added to their information on the [BFIS searchable database](#) available on the CDD/DCF website. There also is a link to this site from the [AOE website](#). Information about how to search for prequalified programs by town will be posted on the BFIS site.

12. If a district is not implementing Act 166 this year, do its school operated PreK programs need to apply for prequalification this year?

Yes, they do. Otherwise, the children enrolled in those programs can NOT be included in the school census.

13. Can a program be prequalified if the teacher has a provisional license?

Yes, a provisional Vermont educator license is still a valid educator license.

14. If a family child care program plans to hire a licensed early childhood educator (ECE) mentor in order to become prequalified, should the provider apply for Prequalification even if a mentor has not been hired yet?

No, an early childhood program should wait until everything needed to meet the Prequalification standards is in place before completing the prequalification application. No program will be approved as prequalified unless all standards are met at the time of application."

15. What is the application process for NEW private programs that plan to operate in a school beginning in the fall of 2015? If the program runs programs in other schools and is already prequalified, can it use the same prequalified application for the new program?

Prequalification is not transferrable. A Prequalification application is required for *each site*.

16. If there a "grace period" for a newly established PreK program to achieve 4-5 STARS? Can it become Prequalified without STARS?

No, there is no "grace" period for newly established programs. Without STARS or NAEYC accreditation, it cannot become prequalified. See response to Question 10 above about meeting STARS requirement for prequalification for new programs.

17. If a program is prequalified and the licensed ECE or early childhood special educator (ECSE) teacher leaves, what happens?

The program is required to notify the state and should notify the school district as well. The program must hire a new licensed ECE or ECSE to continue to meet prequalification standards. A program may hire an unlicensed educator to fill the position for up to 30 consecutive calendar days, after which time the educator would need a provisional or emergency license to continue in the position. A licensed educator with a different endorsement may fill the ECE or ECSE position for up to 30 consecutive calendar days; after that time, the Standards Board may grant one 30-day extension. Thereafter, the educator would need to become endorsed in ECE or ECSE, or the Superintendent would need to request a provisional or emergency license (refer to page 18 in the [educator licensing regulations](#)).

18. Should private programs that are eligible to provide PreK because the school district is providing and funding a licensed teacher/mentor, apply to be recognized as "Prequalified"?
No. School districts may choose to partner with programs in this way however, only programs that meet the Prequalification standards independently of the school district should apply to be recognized as "Prequalified".

C. Establishing or Expanding School Operated Prekindergarten Programs

1. What constitutes program expansion of a school operated prekindergarten education program that must be approved by the Agencies of Education and Human Services?

Program expansion is defined as an increase in the number of children served in a school operated program that requires additional teachers and/or classrooms.

Increasing teacher hours or even adding staff to accommodate the same number of children for more hours would not be considered an expansion. Adding additional students in a classroom with the same number of staff would not be considered an expansion (group size may not exceed 20 and staff: child ratio may not exceed 1:10).

Increasing teacher/staff hours or adding staff or classrooms in order to serve more students would be considered expansion and require approval. If there are specific questions on a school operated program, contact AOE for clarification.

2. If a school district chooses to delay providing universal prekindergarten education until 2016 but wants to expand its public school operated program, what process does it need to follow?

All school districts that seek to establish a school operated prekindergarten program or expand a current school operated prekindergarten program will need to follow [the Implementation Guidance on Act 166 of 2014, Part 2](#) on establishing or expanding school operated prekindergarten programs, regardless of whether they are early or later adopters. Establishing or expanding school operated programs requires approval from the Secretary of the Agency of Education and the Secretary of the Agency of Human Services. This policy is in effect now.

3. If a school operated program is running a program for less than ten hours per week and wants to add hours to provide ten hours per week to meet the Act 166 definition of prekindergarten, is this considered an expansion?

No it is not an expansion, as long as the number of children served is not increased.

4. If there are more students in an early adopter district who want to enroll in prekindergarten than the number of slots available in any prequalified prekindergarten education program, does the school need to expand school operated programs?

No, schools are not required to expand the number of slots. If the supply of prequalified public and private providers is insufficient to meet the demand for publicly funded prekindergarten

education, the local Building Bright Futures (BBF) Council shall meet with school districts and private providers in the region to develop a plan to expand capacity.

5. If schools are already in a partnership with a provider, are they obligated to continue that partnership vs. starting their own program?

School districts that believe their community needs or wants a school operated PreK program must first get approval from the Agencies of Education and Human Services. They need to complete the [Establishing a School Operated PreK application](#).

Once Act 166 is implemented, parent choice drives which prequalified program a child attends. Districts will have to partner with any prequalified program a resident parent chooses unless a PreK region is established. Applications for PreK regions must reflect existing partnerships.

6. Where will school districts seeking to apply to expand or establish a school operated PreK program find data on enrollment capacity in the district and bordering districts?

Much of the information needed can be found on the [BBF Insights data reporting system](#). Districts will be asked to provide references that verify any data they provide on applications.

7. May individual school districts apply to expand or establish a school operated PreK program, or do all applications need to be SU wide?

Yes, individual school districts may apply to expand or establish school operated PreK programs.

8. If a teacher's time in a school operated PreK has to be increased to meet existing child need, is this considered "expansion"?

No. An expansion is defined as an increase in the number of children served that requires additional teachers/classrooms. Increasing teacher hours or adding staff to accommodate the same number of children is not considered an expansion.

D. Enrollments

1. If a child enters a prequalified prekindergarten education program after the beginning of the school year, is the child eligible for publicly funded prekindergarten?

Yes if the school district is an early adopter, then prekindergarten education is an entitlement for all 3, 4 and 5 year old children starting on July 1, 2015. Annual tuition may be prorated to reflect the number of weeks the child is enrolled.

However, if the child resides in a later adopter school district, the decision of whether to provide publicly funded prekindergarten education rests with the school district, but only for the 2015-2016 school year.

2. If a child withdraws before the end of the school year or enrolls after the beginning of the school year, does the school district have to pay full tuition for that year?

No, annual tuition may be prorated to reflect the number of weeks the child was actually enrolled.

3. Can a school district operate a classroom for 4 year olds without also serving 3 year olds in the school operated program?

Yes, any school may elect to serve only 4 year olds in its school operated program. However, the district must provide tuition for all 3 year olds and other eligible children so they may enroll in other prequalified prekindergarten programs. Provision of tuition to all 3 to 5 year olds for the 2015-2016 school year is dependent on whether the district is an early or a later adopter of Act 166.

4. Can a school district prioritize providing access to specific groups of children (e.g., low income, dual language learners) if there is a limited number of prequalified prekindergarten slots?

No, neither early nor later adopters may prioritize giving access to specific groups of children. The only group that can be prioritized is children receiving Essential Early Education (EEE) services.

5. Will families need to enroll their child in PreK at the local school district if they are planning on having their child attend a private prequalified program?

Yes, children must enroll in publicly funded prekindergarten education with their home district. When they enroll, they tell the district what prequalified program their child will be attending.

6. Are schools obligated to find an opening for every resident child who wants to access PreK?

No, school districts are not obligated to find a prequalified PreK program for all children who want to attend. However, Act 166 requires that they provide tuition to all resident eligible 3-5 year olds who are enrolled in prequalified programs (within an established pre-k region, if applicable).

7. Are private prequalified programs required to accept children on a first come first serve basis, or can they do a lottery?

Private prequalified prekindergarten education programs may use whatever nondiscriminatory enrollment process they choose.

8. Can school programs prioritize serving children from their own district in their school operated program rather than accept children from outside their district?

School districts that have school operated prequalified PreK programs are not required to accept children from other districts. They may limit enrollment solely to resident children or decide to accept resident children first and then add non-resident children who apply.

9. If a child turns 3 after the school district's kindergarten cut-off date, does this child qualify for Act 166 in that school year?

No, the child must be 3 by the district's kindergarten entry date in order to be eligible for publicly funded PreK.

10. Is it necessary for a school district to partner with prequalified private programs?

If a resident child is enrolled in a prequalified private program, then under Act 166 the school district must partner with that private program. If the district has a PreK Region and the private program is outside the district's region, then the district has discretion in deciding whether to partner or not. Districts waiting until 2016 to fully implement Act 166 can continue operating as they currently operate until July 1, 2016.

11. If a district is waiting until 2016 to implement Act 166, can resident children attend a prequalified program outside of the district in 2015-2016?

Since the school district won't be implementing Act 166 until 2016, for 2015-2016, the families will need to request the resident school district partner with the prequalified program. It is in the resident school district's discretion as to whether or not to approve the request until full implementation in 2016/17.

E. Young Children with Special Needs

1. Is a Local Education Agency (LEA) required to provide Free and Appropriate Public Education (FAPE) (early childhood special education services) outside of the school district boundaries?

No, the LEA is only responsible for the identification and evaluation of resident children with disabilities and to offer the provision of FAPE, in the least restrictive environment (LRE) for resident children found eligible for special education and related services within the school district boundaries or at the discretion of the school district. Placement decisions regarding resident children served under Part B of the Individuals with Disabilities Education Act (IDEA) must be individually determined based on the child's abilities and needs as described in the child's Individual Education Plan (IEP). Parents may choose to accept or decline the provision of early childhood special education and related services as offered by the LEA.

2. Can a district prioritize children who have identified special needs to access a limited number of prequalified prekindergarten education slots?

Yes, since the federal IDEA requires the Local Education Agency (LEA) to offer FAPE within a Least Restrictive Environment for resident children found eligible for special education and related services, the district may prioritize prequalified prekindergarten education slots for children with Individualized Education Plans (IEPs). This applies to both early and later adopter districts.

3. Can school programs prioritize serving children on IEPs in their school operated PreK programs since they receive specific federal and state funds to serve these children?

Yes. This is the only group that a school district may prioritize.

4. If the parents decide that a partner center is best for their child, is the district obligated to provide special services should the child fall under EEE/IEP/504, etc.

No. Under VT Special Education Rule 2361.3 Educational Placement in the Least Restrictive Environment (LRE) placement decisions regarding resident children served under Part B of the Individuals with Disabilities Education Act (IDEA) must be individually determined based on the child's abilities and needs as described in the child's Individual education Plan (IEP). The LEA of the child's residence shall offer FAPE. Where services are provided, shall be provided at the discretion of the LEA in which the child resides. Parents may choose to accept or decline the provision of early childhood special education and related services as offered by the LEA.

F. Tuition Payments and Finance

1. If a parent residing in an early adopter school district requests tuition for a child to attend a prequalified program, does the school district have to provide tuition?

Yes, unless it is outside of an approved prekindergarten region for that school district. A parent may request an individual exception to the prekindergarten region from the school district.

2. Does the required statewide tuition rate apply only to early adopter school districts?

Yes. In 2015-2016, the statewide tuition rate will only apply to early adopters. The statewide rate will apply to all districts paying tuition starting on July 1, 2016.

3. Can school districts that choose to delay implementing universal prekindergarten education continue to negotiate tuition rates with their partners?

Yes, they may continue to negotiate tuition rates with their partners for the 2015-2016 school year. Thereafter, they are required to pay the statewide tuition rate.

4. Can programs charge parents for the 10 hours then reimburse parents when they receive tuition payments from an early adopter school district?

No, programs may not charge parents at all for the 10 hours of prekindergarten education.

5. Is the tuition paid to prequalified programs prorated for holidays or other partial weeks of school?

No, tuition is set at an annual rate and is not prorated when holidays or school closings create a partial week of school.

6. Is there a required payment schedule to private prequalified programs school districts must follow?

Act 166 requires school districts to establish a tuition payment schedule that will not cause the partner program any financial hardships. While there is no state required payment schedule, it is recommended that school districts pay their private prequalified PreK partners at least one month in advance and then on a monthly or bi-monthly basis.

7. How will the federal Preschool Development & Expansion Grant (PDG) affect the per child tuition for children who meet the PDG criteria?

Its effect will be neutral since the federal PDG funds can only supplement the state funds required to provide the 10 hours of publicly funded prekindergarten education.

8. Is there any way to mitigate the impact of many new Pre-K children enrolling and districts paying, when funds move to districts on 2-year rolling average?

Act 166 allows a school district to use a one-time estimate of new, publicly funded prekindergarten students the district will fund in the first year of implementation. This will allow the equalized pupil count (a 2-year average calculation) to include the students when the cost is incurred. In the following year there will be reconciliation between any estimated count used and the actual count for that same year.

9. Are private programs allowed to establish one tuition scale for public PreK families and one for those who pay out of pocket?

No. A uniform tuition scale should be established and should be the same for all families, regardless of funding source.

10. How does 10 hours get reflected in child care subsidies through CDD Child Care Financial Assistance program (CC FAP)?

CC FAP payments are established by family eligibility and a child's enrollment and attendance in child care services. Subsidies should not be impacted by Act 166 tuition payments. School districts will pay \$3,000 per child to a prequalified private provider for 10 hours of pre-K education, even if the parents are already receiving a full-time child care subsidy from DCF which is being used to pay for full-time child care. The \$3,000 from the district covers ten hours of high quality prekindergarten education while the child is onsite but does not cover child care.

Other parents are eligible for partial child care subsidies to assist in paying for child care. These subsidies do not cover the full cost of child care and parents pay an additional amount to the child care provider. In situations such as these, where the provider is prequalified, the \$3,000 pre-K tuition for 10 hours would be used to offset the parental costs in order to support access to high quality prekindergarten programs for all children.

11. Has the \$3000 per child tuition been finalized? If not, when will we know for the purpose of partner agreements?

The statewide tuition rate will be finalized when the rules are adopted. As of the publication of this FAQ, the rules had not been finalized by the State Board of Education.

G. Prekindergarten Regions

1. May a school board establish a PreK Region by simply voting for one?

No. The school board must apply to the Agencies of Education and Human Services in order to propose establishing a PreK Region. The Secretaries of both agencies must approve the proposed PreK Region.

2. How are the boundaries of a geographic PreK region established?

The rules, process, and link to the online application can be found in [Implementation Guidance on Act 166 of 2014, Part 2.](#)

H. Partnerships

1. Will there be a template for district-partner agreements?

Yes. A sample school district-partner agreement can be found on the [Act 166 webpage](#) on the AOE website. School districts and partners are not required to use this sample agreement form; it is only suggested.

2. Is there a sample parent contract with a private provider for Act 166 available, or are there plans to design one?

No, there are no plans to develop one at this time. Contracts between private programs and families are unique to each program. However, parent contracts should reflect the requirements under Act 166 regarding tuition.

3. Can a school district require partners to attend trainings above and beyond the law?

As part of their agreement, school districts can negotiate some specific requirements, such as participation in training or school meetings, to achieve consistency across partner programs.

4. If children residing in a school district enroll in various prequalified PreK programs, must the school district enter into multiple partnerships and write one agreement with each program?

Yes, an agreement with each partner program is required.

I. Head Start

1. May Head Start programs use the *Head Start Child Development and Early Learning Framework (HSCD&ELF)*, instead of the Vermont Early Learning Standards (VELS) until the new Birth through Grade Three VELS is completed?

No, they may not. In order to become prequalified, the program's curriculum must be aligned with the existing VELS and then with the new VELS once they are adopted

2. How can we preserve current Head Start-Local Educational Agency (LEA) prekindergarten education partnerships from being dissolved by Act 166?

Provisions preserving current Head Start-LEA prekindergarten education partnerships are found in the following places:

- Sections 2605, 2607, and 2608 in the proposed Rule pertaining to staff qualifications, agreements with prequalified prekindergarten programs, and establishing or expanding a school operated prekindergarten education program, respectively;
- Provisions regarding the establishment or expansion of a public school operated prekindergarten education program in [Implementation Guidance on Act 166 of 2014, Part 1](#); and
- Prequalified Head Start programs section in [Implementation Guidance on Act 166 of 2014, Part 2](#).

3. Can a Head Start program use Act 166 prekindergarten education funds to pay for a licensed teacher?

Yes, because the federal Office of Head Start does not require classroom teachers in Head Start programs to hold a state license and endorsement in early childhood education or early childhood special education, a Head Start program can use Act 166 prekindergarten education funds received from a school district to pay for a licensed ECE or ECSE teacher for the 10 hours of prekindergarten education.

4. Does Act 166 require written prekindergarten education partnership agreements between Head Start programs and their prekindergarten education school partners?

Yes, Act 166 requires such written agreements.

J. Assessment of Child Progress

1. Can a private program or a Head Start program share TS Gold information with a school district operated program if the child is dually enrolled? Who should collect the information through TS Gold?

Yes, it is possible for two or more educators or programs to contribute to a child's TS GOLD portfolio since there should only be one portfolio per child. There are several ways both programs can contribute and share information built into the TSG online system. As with any child assessment data, families should be informed and agree to any planned sharing of information.

2. If the state of Vermont is monitoring child progress two times per year through TS Gold, will local schools and Head Start programs also have access to TS Gold child progress data?

Yes, school districts and Head Start programs have access to aggregated data for children under different TS Gold licenses as long as the children are identified as belonging to the school district and/or Head Start program. The process for getting those data has not yet been perfected; hence, it is sometimes necessary to ask the AOE to run a progress report.

K. Monitoring

1. Under Act 166, will school districts continue to be responsible for ensuring that prequalified partners are in compliance? Are partners still required to report changes in compliance to the district? What is the state's role in monitoring compliance?

School districts will need to continue to monitor partners' compliance with the agreements they have signed. In the agreement, it should require partners to report any changes that would affect the terms of the agreement. AOE and AHS monitor prequalified PreK programs compliance with Act 166.

2. If a private PreK program rents space in a public school, is the staff of the private PreK program required to be fingerprinted as public school staff need to be?

Any staff person of a private prekindergarten program that is located in a public school and who may have unsupervised contact with a child must go through a fingerprint supported background check pursuant to Sec. 255 of Title 16.

3. If a private early education program contracts with a part-time licensed educator, is there a specified time when the licensed teacher must be onsite?

The part-time licensed early childhood or early childhood special educator must be onsite during the designated prekindergarten education program.