

STATE BOARD OF EDUCATION

Consent Item

October 25, 2018

SUBJECT: Amendment to Rule 6M-8.301, Standard Statewide Provider Contract for the VPK Program

PROPOSED BOARD ACTION

For Approval

AUTHORITY FOR STATE BOARD ACTION

Section 1001.213(2), Florida Statutes

EXECUTIVE SUMMARY

The Office of Early Learning (OEL) administers federal and state child care funds and partners with 30 local early learning coalitions to deliver comprehensive early learning services statewide. The office oversees three programs—the School Readiness Program, the Voluntary Prekindergarten (VPK) Education Program, and Child Care Resource and Referral services. OEL is required to submit its proposed rules to the State Board of Education for approval.

Sections 1002.61(3)(b) and 1002.63(3)(b), F.S., requires OEL to establish by rule a standard statewide provider contract to be used with each Voluntary Prekindergarten Program provider. Rule 6M-8.301, F.A.C., establishes the standard statewide provider contract and contract provisions.

The Office of Early Learning revised the current rule text and incorporated forms to include new VPK Program requirements enacted in House Bill 7055, effective July 1, 2018. OEL amended the rule text and incorporated forms to include provisions regarding providers' inability to provide the VPK Program due to DCF Class 1 health and safety violations. OEL further revised the current rule text and incorporated forms to provide clarity and alignment with the School Readiness Program Statewide Provider Contract.

Supporting Documentation Included: Proposed Rule 6M-8.301, F.A.C. Forms OEL-VPK-20, VPK Statewide Contract, OEL-VPK 20A, Amendment to Statewide VPK Provider Contract, OEL-VPK 20PS Public School (October 2018), and OEL-VPK 20PP Private Provider Attachment (under separate cover)

Facilitator/Presenter: Rodney J. MacKinnon, Executive Director, Office of Early Learning

6M-8.301 Standard Statewide Provider Contract for the VPK Program.

(1) Early learning coalitions may not execute a provider contract with a VPK provider before the VPK provider has registered with the coalition and the coalition has determined the VPK provider's eligibility to offer VPK services in accordance with Rule 6M-8.300, F.A.C.

(2) ~~(a)~~ Beginning with the 2017-2018 VPK Program Year, ~~all~~ ~~the~~ VPK providers ~~that~~ ~~which~~ register to offer the VPK program must execute Form OEL-VPK 20, including either Form OEL-VPK 20PP or Form OEL-VPK 20PS as appropriate. A coalition must be a party to a provider agreement. A school district may sign a single provider agreement on behalf of all public school VPK providers in the district. The owner or manager of multiple private VPK providers may sign a single provider agreement on behalf of all of his or her private VPK providers.

(b) Beginning with the 2018-2019 VPK Program Year, all providers that register to offer the VPK program must submit all forms adopted by this rule on the Statewide Information System (known as the Provider Portal) and found at <https://providerservices.floridaearlylearning.com>. Public school districts, public universities, county governments (67 Florida counties) and public hospitals may print completed documents from the Provider Portal for the purpose of having original signatures if required by the local school board or governing body; however, no changes may be made to Form OEL-VPK 20.

(3) The "State of Florida Statewide Voluntary Prekindergarten Provider Contract (Form OEL-VPK 20)" dated October ~~2018~~ ~~2016~~, is hereby adopted and incorporated by reference. All VPK providers, private or public school, must execute this document to deliver the VPK program. The incorporated form is available from the Office of Early Learning, 250 Marriott Drive, Tallahassee, FL 32399 or at <http://www.flrules.org/Gateway/reference.asp?No=Ref> <http://www.flrules.org/Gateway/reference.asp?No=Ref-07578>.

(4) The "State of Florida Statewide Voluntary Prekindergarten Provider Contract Private Provider Attachment (Form OEL-VPK 20PP)," dated October ~~2018~~ ~~2016~~, is hereby adopted and incorporated by reference. This attachment becomes part of the contract for all private providers that execute the contract adopted in subsection (3). The incorporated form is available from the Office of Early Learning, 250 Marriott Drive, Tallahassee, FL 32399 or at: <http://www.flrules.org/Gateway/reference.asp?No=Ref> ~~<http://www.flrules.org/Gateway/reference.asp?No=Ref-07579>~~.

(5) The "State of Florida Statewide Voluntary Prekindergarten Provider Contract Public School Attachment

(Form OEL-VPK 20PS),” dated October ~~2018~~ ~~2016~~, is hereby adopted and incorporated by reference. This attachment becomes part of the contract for all public schools that execute the contract adopted in subsection (3). The incorporated form is available from the Office of Early Learning, 250 Marriott Drive, Tallahassee, FL 32399 or at:<http://www.flrules.org/Gateway/reference.asp?No=Ref->
<http://www.flrules.org/Gateway/reference.asp?No=Ref-07580>.

(6) Before VPK services are delivered by a provider, the VPK provider and the coalition shall fully execute the Provider Contract and the appropriate private or public provider attachment. A coalition shall execute and retain this Contract electronically in compliance with Section 668.50, F.S., The Uniform Electronic Transaction Act.

(7) Neither a coalition nor a VPK provider may omit, supplement, or amend the terms and conditions of the Provider Contract or include any attachments, addenda, or exhibits to the contract except described in this subsection. Form OEL-VPK 20PP and Form OEL-VPK 20PS are approved attachments to the provider contract. The coalition and VPK provider may agree to amend the provider contract if the specific type of amendment is identified on Form OEL-VPK 20A (October ~~2018~~ ~~2016~~), titled Amendment to Statewide Voluntary Prekindergarten Provider Contract, which is hereby incorporated by reference. The incorporated form is available from the Office of Early Learning, 250 Marriott Drive, Tallahassee, FL 32399 or at <http://www.flrules.org/Gateway/reference.asp?No=Ref->
<http://www.flrules.org/Gateway/reference.asp?No=Ref-07581>. Form OEL-VPK 20A shall be executed by both the coalition and the VPK provider.

(8) For the purpose of this subsection “individual associated with a provider” means an individual or family member of an individual who, regardless of compensation, holds a management position, oversees the operations of a provider, or is an officer, shareholder, beneficial owner or member of the board of directors of a provider. A provider shall not be eligible to contract to offer the VPK program if any of the following circumstances apply:

- (a) The provider is on the United States Department of Agriculture National Disqualified List;
- (b) An individual associated with the provider was, or is, associated with another provider that is on the United States Department of Agriculture National Disqualified List;
- (c) The provider has been terminated from participation in the program due to fraud and is currently not eligible to participate in the VPK program, or

(d) An individual associated with the provider was, or is, associated with another provider that has been terminated from participation in the program due to fraud and is currently not eligible to participate in the VPK program.

(e) The provider is currently ineligible to participate in the program pursuant to Section 1002.67(4), F.S.

(f) An individual associated with the provider was, or is, associated with another provider that is currently ineligible to participate in the program pursuant to Sections 1002.67(4), 1002.55 (5)(b) or 1002.75(3)(c), F.S.

(g) For multi-site providers, such as corporate chains or school districts, VPK program ineligibility identified in paragraphs (e) and (f) above, is per site and may not apply to all locations unless specifically determined otherwise by the coalition. In determining ineligibility of multi-site providers, the coalition shall consider the following factors: the severity of the provider's actions leading to the ineligibility, the health, safety and welfare of children enrolled at the provider sites, the financial impact of the provider's actions, the impact that ineligibility would have upon the local community, consistency with coalition's actions against other providers for similar violations of the Contract or program requirements, the length of time that provider provided services under the Contract with the coalition, and whether the provider had previously violated the terms of the Contract and prior contracts with the coalition.

(h) For providers removed from eligibility due to noncompliance specifically related to VPK pre- and post-assessment or VPK readiness rates under Section 1002.67(4), F.S., the removal from eligibility applies to VPK program type (school-year or summer) and therefore, in paragraphs (e) and (f) above, ineligibility to contract is per program type.

(9) Transfer of ownership. In the event of a change of ownership, sale, sale of assets, conveyance of ownership or other transfer of ownership interest, the provider shall notify the coalition no later than 30 calendar days prior to the transfer of ownership. The coalition and the new owner shall execute a new contract for VPK services, provided the new owner meets the eligibility requirements of Sections 1002.55, 1002.61, and 1002.63, F.S., and is not disqualified from contracting pursuant to subsection (8) of this rule. Upon receipt of a request for a new contract due to a transfer of ownership, the coalition shall have up to thirty (30) calendar days to execute or decline a new contract. This timeline may be extended if all prerequisite requirements have not been met.

(10) The early learning coalition may refuse to contract with a VPK provider or revoke a VPK provider's eligibility to deliver the Voluntary Prekindergarten Education Program if the prekindergarten provider has been

cited for a Class I violation by the Department of Children and Families (DCF) in accordance with Rule 65C-22.010 or 65C-20.012, F.A.C. (as applicable to the provider type) or local licensing agency (as applicable to the provider location). Action taken by a coalition to revoke a provider's eligibility must be consistent with Section 1002.67(4)(b) in that the revocation is for a period of five (5) years. If the coalition chooses to implement this provision the coalition must develop policies and procedures to ensure the standard is applied consistently to all potential and current VPK program providers. Each coalition shall:

(a) Develop policy and procedures that are written and made available to all providers or potential providers.

The policies and procedures developed must state the time period for violations considered.

(b) Document all actions taken by the coalition to remove a VPK provider from the program or revoke a provider's eligibility.

(c) Ensure providers are offered due process as described in paragraph 60 of Form OEL-VPK 20.

(11) (10) Form OEL-VPK 20B (October 2016), titled VPK Logotype Usage and Brand Guidelines, is hereby incorporated by reference. The incorporated form is available from the Office of Early Learning, 250 Marriott Drive, Tallahassee, FL 32399 or at <http://www.flrules.org/Gateway/reference.asp?No=Ref-07582>.

Rulemaking Authority 1001.213, 1002.75(1),(3)(c), 1002.79 FS. Law Implemented 1002.55(3)(i),(5), 1002.61(3)(b), 1002.63(3)(b), 1002.67(4)(b), 1002.75(1),(3)(c) 1002.91(5), (7) FS. History—New 8-17-06, Amended 5-24-07, 12-21-10, Formerly 60BB-8.301, Amended 4-9-15, 12-18-16. _____