

STATE BOARD OF EDUCATION

Action Item

February 15, 2011

SUBJECT: Approval of New Rule 6A-1.099824, Voluntary Prekindergarten (VPK) Low Performing Provider Good Cause Exemption

PROPOSED BOARD ACTION

For Approval

AUTHORITY FOR STATE BOARD ACTION

Section 1002.69, Florida Statutes

EXECUTIVE SUMMARY

This rule establishes the criteria for granting VPK Good Cause Exemptions. Pursuant to Section 1002.69, Florida Statutes, the State Board of Education, upon request of a private prekindergarten provider or public school that remains on probation for two (2) consecutive years or more and subsequently fails to meet the minimum rate adopted under Section 1002.69(6)(a), Florida Statutes, and for good cause shown, may grant to the provider or school an exemption from being determined ineligible to deliver the Voluntary Prekindergarten Education Program and receive state funds for the program.

Supporting Documentation Included: Proposed Rule 6A-1.099824, Voluntary Prekindergarten (VPK) Low Performing Provider Good Cause Exemption, Form VPK-GCE-01, VPK Good Cause Exemption Data Form, and Form VPK-GCE-02, VPK Good Cause Exemption Application Form

Facilitator/Presenter: Dr. Frances Haithcock, Chancellor, PreK-12 Public Schools

6A-1.099824 Voluntary Prekindergarten (VPK) Low Performing Provider Good Cause Exemption.

Pursuant to Section 1002.69, F.S., the State Board of Education, upon request of a private prekindergarten provider or public school that remains on probation for two (2) consecutive years or more and subsequently fails to meet the minimum rate adopted under Section 1002.69(6)(a), F.S., and for good cause shown may grant to the provider or school an exemption from being determined ineligible to deliver the Voluntary Prekindergarten Education Program and receive state funds for the program.

(1) Criteria for Granting Good Cause Exemptions. Each of the following criteria must be met to be granted a good cause exemption:

(a) Learning Gains. The private prekindergarten provider or public school must demonstrate learning gains on a standardized assessment that tracks the achievement and progress over time of the children having completed the provider's VPK program. The ratio of students making learning gains to the total number of students assessed must be proportional to the ratio of students ready for kindergarten reflected in the current year's readiness rate. The documentation of learning gains shall meet the following criteria:

1. Providers may utilize an assessment from a list of Department-approved assessments which may be accessed on the Department's website at <https://vpk.fl DOE.org/Downloads/ProviderAcknowledgement.pdf>. A provider using an assessment which does not appear on the list of approved assessments must include technical documentation supporting the standardized assessment as evidence of the reliability standard of the assessment and must address VPK standards incorporated in Rule 6A-1.099823, F.A.C., not limited to, but including emergent literacy. The standardized assessment must have an internal consistency reliability coefficient of 0.70 or greater as documented in the publisher's technical manual.

2. Testing procedures for each assessment shall be performed according to the publisher's guidelines and assessment results shall be tabulated according to the publisher's guidelines. The provider shall take appropriate measures to ensure the integrity of the testing process. The resulting data from the standardized assessment must be presented in a manner that is clear, concise and easily allows the reviewers to determine the achievement and progress made by the children who completed the VPK program. Applicant must submit a summary of the data using the Department's VPK Good Cause Exemption Data Form VPK-GCE-01, (<http://www.flrules.org/Gateway/reference.asp?No=Ref-00031>) March 2011, which is incorporated by reference herein.

3. At a minimum, data must be provided for all years following the third year of a provider having been designated a low performing provider. Additional data may be included. Assessment results for all program completers who were assessed shall be included in the documentation provided. An explanation shall be included for any program completers who were not assessed.

4. The results of the assessment shall demonstrate substantial and appropriate learning gains by program completers. Learning gains are substantial and appropriate if the ratio of students making learning gains to the total number of students assessed is proportional to the ratio of students ready for kindergarten reflected in the current year's readiness rate.

(b) Student Population. The private prekindergarten provider or public school must have served at least twice the statewide percentage of children with disabilities as defined in Section 1003.01(3)(a), F.S., or children identified as limited English proficient as defined in Section 1003.56, F.S.

(c) Health and Safety Requirements. Pursuant to Section 1002.69(7)(d), F.S., a good cause exemption may not be granted to any private prekindergarten provider that has any Class I violations or two or more Class II violations within the 2 years preceding the provider's or school's application for the exemption. For purposes of this rule, Class I violations and Class II violations have the same meaning as provided in Section 402.281(3), F.S. The good cause exemption application must include copies of all Department of Children and Families Childcare Inspection Checklists for all inspections performed by the Department of Children and Families under authority of Sections 402.301-402.319, F.S., during the two-year time period prior to application for good cause exemption.

(d) Individual Circumstances. Extraordinary or unique circumstances under which the provider should be allowed to continue to deliver the Voluntary Prekindergarten Education Program after having been designated as low performing for at least four (4) consecutive years.

(e) Adherence to an approved provider improvement plan under Section 1002.67(3)(c), F.S., following all steps towards improvement specified in the plan.

(2) Calculation of Percentages:

(a) The statewide percentage of kindergarten children with disabilities or limited English proficient students shall be calculated based on the October FTE enrollment survey.

(b) A provider's percentage of children with disabilities shall be calculated based on the number of children with disabilities who were included in the provider's last readiness rate divided by the total number of students included in the provider's last readiness rate.

(c) A provider's percentage of limited English proficient students shall be calculated based on the number of limited English proficient students who were included in the provider's last readiness rate divided by the total number of students included in the provider's last readiness rate.

(3) Application. A provider seeking a good cause exemption shall complete the Department's VPK Good Cause Exemption Application Form VPK-GCE-02, (<http://www.flrules.org/Gateway/reference.asp?No=Ref-00032>) March 2011, which is incorporated by reference herein. The submission of an application for a good cause exemption must adhere to the following:

(a) In addition to the application form, the provider must submit with the application supporting documentation meeting the criteria described in subsection (1) of this rule. The provider may submit additional documentation in support of its application.

(b) A fourth-year low performing provider may submit a good cause exemption application at any time after the release of the annual preliminary VPK Readiness Rates. Supporting documentation submitted with the application must include a review of adherence to the provider improvement plan, fidelity of implementation of the required curriculum pursuant to Section 1006.27(3)2, Florida Statutes, and feedback from the previous year Department's site visits. The good cause exemption application and all supporting documentation must be received by the Department no later than fourteen (14) days after the timely filed provider acknowledgment of being a low-performing provider submitted pursuant to Rule 6A-1.099821, F.A.C.

(c) The Department may grant an extension of time for submitting the good cause exemption application or supporting documentation for good cause shown. Good cause includes unavoidable circumstances such as illness or natural disaster, or excusable neglect.

(4) Department Review and Recommendation.

(a) Eligibility. The Department shall review each application for a good cause exemption to verify that the provider is eligible to apply. The Department shall deny any application that is submitted by a provider who does not meet the criteria described in paragraph (1)(b) or (1)(c) of this rule, without further review.

(b) The Department will review each application for a good cause exemption filed by an eligible provider, and shall make a recommendation to the State Board of Education as to whether or not to grant the good cause exemption to the provider. The Department may include outside consultants in the review process. The Department may request additional information from providers to supplement provider applications and may consider additional relevant documentation gathered or received by the Department from any source. The Department shall allow the provider an opportunity to rebut any evidence considered that was not submitted by the provider.

(c) The Department will consider each application individually and shall include in its recommendation and report:

1. Whether the provider met the criteria described in subsection (1) of this rule;
2. Whether the provider was previously granted a good cause exemption;
3. The readiness rates of other providers in comparable circumstances, if such information is available and relevant;
4. Whether the circumstances warrant granting the request for a good cause exemption; and
5. Whether any conditions should be imposed upon the grant of a good cause exemption. Each conclusion or recommendation shall be accompanied by an explanation in the report.

(d)1. The Department shall issue a preliminary recommendation and report and provide a copy of it to the provider.

2. The provider may submit a written response to the Department's preliminary recommendation and report within fourteen (14) days of receipt.

3. The Department shall consider any timely response and revise the recommendation and report, if appropriate.

(5) State Board of Education Determination.

(a) The Department will make its final recommendation to the State Board of Education by forwarding a final recommendation and report to the State Board of Education regarding each application submitted. A copy of the final recommendation and report will be provided to the applicant.

(b) The Department will provide to the State Board of Education copies of the following documents:

1. The provider's good cause application, with supporting documents;
2. Additional documentation considered by the Department in making its recommendation;
3. The Department's preliminary recommendation and report;
4. The provider's response to the preliminary recommendation and report, if one was submitted; and
5. The Department's final recommendation and report.

(c) The State Board of Education may consider a provider's application based on the written submissions alone or may, in its discretion, allow oral argument before the Board.

(d) The State Board of Education shall grant or deny each application. The State Board of Education may conditionally grant an application if, but for the proposed condition(s), the application would be denied.

(e) The Department shall notify the Agency for Workforce Innovation of all good cause exemptions granted by the State Board of Education. Any provider granted a good cause exemption shall continue to implement its improvement plan and continue the corrective actions required under Section 1002.67(3)(c)2., F.S. Any exemption granted by the State Board of Education is valid for one (1) year and may be renewed through the same application process.

(f) The Department will provide onsite review of adherence to the curriculum as approved in the provider improvement plan pursuant to Section 1002.67(3)(c), F.S., implementation of the VPK standards and research based instructional practices, and ensure that ongoing student progress monitoring is administered by all providers granted a good cause exemption.

Rulemaking Authority 1002.73(2), 1002.69(7) FS. Law Implemented 1002.67(3), 1002.69(7) FS. History–New

Florida Department of Education
2011 VPK Good Cause Exemption Application Process
VPK Good Cause Exemption Data Form - March 2011

Please provide the following information regarding student data demonstrating learning gains for review through the VPK Good Cause Exemption Application Process. A sample chart is provided below. This form may be submitted via mail, fax, or email to:

Florida Department of Education, Office of Early Learning
325 West Gaines Street, Suite 514
Tallahassee, Florida 32399-0400
Fax: 850-245-5105
earlylearning@fldoe.org

Achievement and Progress of Children Served:

SAMPLE Data Chart

Name of Provider/School:		
Name of standardized assessment used to support application:		
Student's Name:		Student Number:
Assessment Period 1 Date: __/__/____ Results:	Assessment Period 2 Date: __/__/____ Results:	Assessment Period 3 Date: __/__/____ Results:
Data Summary:		

CERTIFICATION STATEMENT

I, _____, as the owner/director/principal/district contact of the VPK Program aforesaid, hereby certify that the facts set forth in the above data document are true and correct.

Signature of Owner/Director/Principal/District Contact (name if emailed)

Agency Submitting Application

Title of Person Submitting Application

* Please note that Section 837.06, Florida Statutes, provides that "[w]hoever knowingly makes a false statement in writing with the intent to mislead a public servant in the performance of his or her official duty shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 755.083."

Florida Department of Education
2011 VPK Good Cause Exemption Application Process
VPK Good Cause Exemption Application Form – March 2011

Please provide the following information regarding your application for review through the VPK Good Cause Exemption Application Process. Please type responses into the boxes below. This form may be submitted via mail, fax, or email to:

Florida Department of Education, Office of Early Learning
 325 West Gaines Street, Suite 514
 Tallahassee, Florida 32399-0400
 Fax: 850-245-5105
earlylearning@fldoe.org

VPK Provider:

Program Type:	<input type="checkbox"/> School-year <input type="checkbox"/> Summer
Provider Type:	<input type="checkbox"/> Private <input type="checkbox"/> Public <input type="checkbox"/> Public/Charter
Name of Provider/School:	
County of Provider:	
Name of Owner/Director/Principal:	
Email:	
Mailing Address:	
City/State/Zip Code:	
Phone:	
Fax:	
Type of Good Cause Exemption Application:	<input type="checkbox"/> New Application <input type="checkbox"/> Renewal Application (approved good cause exemptions are valid for one year)

Type of Setting and Licensing Information:

Please check one of the following and provide the supporting documentation:

Licensed private provider:

- Child care facility
- Family day care home
- Large family child care home
- Private school

Non-licensed private provider:

- Faith-based child care (claims exemption under s. 402.316, F.S.)
- Faith-based private school (claims exemption under s. 402.3025, F.S., or s. 402.316, F.S.)
- Nonreligious private school (claims exemption under s. 402.3025, F.S.)

Public School:

- Public school (licensed or uses contractors)
- Public school (exempt from licensure under s. 402.3025, F.S.)
- Public/charter school (exempt from licensure under s. 402.3025, F.S.)

Accreditation Information (for non-licensed providers):

Name of accrediting agency:

Accrediting agency is a member of:

- Commission on International and Trans-Regional Accreditation
- Florida Association of Academic Nonpublic Schools
- National Council for Private School Accreditation
- None of the above (Using Gold Seal: specify Florida Approved Gold Seal Accreditation Program _____)

VPK Provider Demographic Information (to be completed by DOE):

Percentage of children served with disabilities:	
Percent of children served identified as limited English proficient:	

Curriculum Information:

Curriculum Name:	
Purchase Date:	
Implementation Date:	

Health and Safety Requirements:

Application must include copies of all Department of Children and Families Childcare Inspection Checklists for all inspections performed by the Department of Children and Families under authority of s. 402.301-402.319, Florida Statutes during the two-year time period prior to application for good cause exemption.

Individual Circumstances

Cite any extraordinary or unique circumstances under which the provider should be allowed to continue to deliver the Voluntary Prekindergarten Education Program after having been designated as low performing for at least four consecutive years.

Narrative:

Compliance with Improvement Plan:

The Improvement Plan under authority of s. 1002.67, F.S., is being faithfully adhered to and implemented as agreed.

YES

NO

If no, please explain:

Additional Information:

Narrative:

CERTIFICATION STATEMENT

I, _____, as the owner/director/principal/district contact of the VPK Program aforesaid, hereby certify that the facts set forth in the above application are true and correct.

Signature of Owner/Director/Principal/District Contact (name if emailed)

Agency Submitting Application

Title of Person Submitting Application

Date

* Please note that Section 837.06, Florida Statutes, provides that “[w]hoever knowingly makes a false statement in writing with the intent to mislead a public servant in the performance of his or her official duty shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 755.083.”