

NO. 62. AN ACT RELATING TO PREKINDERGARTEN EDUCATION.

(H.534)

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. FINDINGS

The general assembly finds:

- (1) The first five years of a child's life are crucial to a child's development.
- (2) The family plays the most important role in the life of a young child. Families have the primary responsibility and right to nurture and provide for the early childhood development and education of their children.
- (3) Approximately 70 percent of Vermont parents are employed in the workforce. At least 70 percent of Vermont's three- and four-year-old children are in "out of the home" child care for up to 50 hours per week, while their parents work to provide for the family's needs.
- (4) The broader community has a vested interest in assuring that all children and families have access to the care and support needed for the growth and development of children. Failure to meet the needs of young children results in significant societal costs in the future.
- (5) A child's growth and development occur best in integrated environments. Early nurture and development opportunities are best provided in locations that are convenient to families and minimize transitions for children.

(6) The provision of early care and prekindergarten education through high-quality private providers is one of the most crucial elements supporting the strength and stability of the system serving young children.

Sec. 2. 16 V.S.A. § 11(a)(31) is amended to read:

(31) “Early childhood education,” ~~means a program which provides educational~~ “early education,” or “prekindergarten education” means services for designed to provide developmentally appropriate early development and learning experiences based on Vermont’s early learning standards to children who are three to five four years of age and to five-year-old children who are not eligible for or enrolled in kindergarten.

Sec. 3. 16 V.S.A. § 829 is added to read:

§ 829. PREKINDERGARTEN EDUCATION; RULES

The commissioner of education and the commissioner for children and families shall jointly develop and agree to rules and present them to the state board of education for adoption under chapter 25 of Title 3 as follows:

(1) To ensure that, before a school district begins or expands a prekindergarten education program that intends to enroll students who are included in its average daily membership, the district engage the community in a collaborative process that includes an assessment of the need for the program in the community and an inventory of the existing service providers.

(2) To ensure that, if a school district begins or expands a prekindergarten education program that intends to include any of the students

in its average daily membership, the district shall use existing qualified service providers to the extent that existing qualified service providers have the capacity to meet the district's needs effectively and efficiently.

(3) To require that the school district provides opportunities for effective parental participation in the prekindergarten education program.

(4) To establish a process by which a parent or guardian residing in the district or a provider, or both, may request a school district to enter into a contract with a provider located in or outside the district.

(5) To identify the services and other items for which state funds may be expended when prekindergarten children are counted for purposes of average daily membership, such as tuition reduction, quality improvements, or professional development for school staff or private providers.

(6) To ensure transparency and accountability by requiring private providers under contract with a school district to report costs for prekindergarten programs to the school district and by requiring school districts to report these costs to the commissioner of education.

(7) To require school districts to include identifiable costs for prekindergarten programs and essential early education services in their annual budgets and reports to the community.

(8) To require school districts to report to the departments their annual expenditures made in support of prekindergarten care and education, with

distinct figures provided for expenditures made from the general fund, from the education fund, and from all other sources, which shall be specified.

(9) To provide an appeal process for parent, guardian, or provider to challenge an action of the school district when the appellant believes that the district is in violation of state statute or rules regarding prekindergarten education.

(10) To establish the minimum quality standards necessary for a district to include prekindergarten children within its average daily membership. At a minimum, the standards shall include the following requirements:

(A) A provider must have received:

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

(ii) At least four stars in the department for children and families STARS system with at least two points in each of the five arenas; or

(iii) Three stars in the STARS system if the provider has developed a plan, approved by the commissioner for children and families and the commissioner of education, to achieve four or more stars within three years with at least two points in each of the five arenas, and the provider has met intermediate milestones; and

(B) A licensed center shall employ or contract for the services of at least one teacher who is licensed and endorsed in early childhood education or in early childhood special education under chapter 51 of this title; and

(C) A registered home shall receive regular, active supervision and training from a teacher who is licensed and endorsed in early childhood education or in early childhood special education under chapter 51 of this title.

(11) To establish a process for documenting the progress of children enrolled in prekindergarten programs and to require public and private providers to use the process to collect and report child progress data to the commissioner of education on an annual basis.

Sec. 4. 16 V.S.A. § 4001(15) is added to read:

(15) “Prekindergarten child” means a three- or four-year-old child who is enrolled in a prekindergarten program offered by or through a public school pursuant to rules adopted under section 829 of this title or who is receiving essential early education services offered pursuant to section 2956 of this title. Prekindergarten child also means a five-year-old child who otherwise meets the terms of this definition if that child is not yet eligible for or enrolled in kindergarten.

Sec. 5. 16 V.S.A. § 1073(c) is amended to read:

(c) An individual who is not a legal pupil shall not ~~may~~ be enrolled in a public school, ~~except for enrollment in a prekindergarten program offered by or through a public school pursuant to rules adopted under section 829 of this title or in a program of essential early education, without the consent of the superintendent offered pursuant to section 2956 of this title.~~

Sec. 6. 16 V.S.A. § 4001(1) is amended to read:

(1) “Average daily membership” of a school district, or if needed in order to calculate the appropriate homestead tax rate, of the municipality as defined in 32 V.S.A. § 5401(9), in any year means:

(A) ~~the~~ The full-time equivalent enrollment of pupils, as defined by the state board by rule, who are legal residents of the district or municipality attending a school owned and operated by the district, attending a public school outside the district under an interdistrict agreement, or for whom the district pays tuition to one or more approved independent schools or public schools outside the district during the annual census period. The census period consists of the first 40 days of the school year in which school is actually in session; ~~and~~.

(B) ~~the~~ The full-time equivalent enrollment in the year between the end of the last census period and the end of the current census period, of any state-placed students as defined in subdivision 11(a)(28) of this title. A school district which provides for the education of its students by paying tuition to an approved independent school or public school outside the district shall not count a state-placed student for whom it is paying tuition for purposes of determining average daily membership. A school district which is receiving the full amount, as defined by the state board by rule, of the student’s education costs under subsection 2950(a) of this title, shall not count the student for purposes of determining average daily membership. A state-placed

student who is counted in average daily membership shall be counted as a student for the purposes of determining weighted student count.

(C) The full-time equivalent enrollment for each prekindergarten child as follows: If a child is enrolled in 10 or more hours of prekindergarten education per week or receives 10 or more hours of essential early education services per week, the child shall be counted as one full-time equivalent pupil. If a child is enrolled in six or more but fewer than 10 hours of prekindergarten education per week or if a child receives fewer than 10 hours of essential early education services per week, the child shall be counted as a percentage of one full-time equivalent pupil, calculated as one multiplied by the number of hours per week divided by ten. A child enrolled in prekindergarten education for fewer than six hours per week shall not be included in the district's average daily membership. Although there is no limit on the total number of children who may be enrolled in prekindergarten education or who receive essential early education services, the total number of prekindergarten children that a district may include within its average daily membership shall be limited as follows:

(i) All children receiving essential early education services may be included.

(ii) Of the children enrolled in prekindergarten education who are not receiving essential early education services, the greater of the following may be included:

(I) ten children; or

(II) the number resulting from:

(aa) one plus the average annual percentage increase or decrease in the district's first grade enrollment as counted in the census period of the previous five years; multiplied by

(bb) the most immediately previous year's first grade census count; or

(III) the total number of four-year-olds in the district.

Sec. 7. 16 V.S.A. § 4010 is amended to read:

§ 4010. DETERMINATION OF WEIGHTED MEMBERSHIP

(a) On or before the first day of December during each school year, the commissioner shall determine the average daily membership of each school district for the current school year. The determination shall list separately:

(1) ~~resident~~ Resident prekindergarten children;

(2) Resident pupils being provided elementary or kindergarten education; and

~~(2) resident~~ (3) Resident pupils being provided secondary education.

* * *

(c) The commissioner shall determine the weighted long-term membership for each school district using the long-term membership from subsection (b) of this section and the following weights for each class:

~~Grade Level Weight~~

Prekindergarten 0.46

Elementary or kindergarten 1.0

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Sec. 8. 33 V.S.A. § 3502 is amended to read:

§ 3502. CHILD CARE FACILITIES; SCHOOL AGE CARE IN PUBLIC
SCHOOLS; 21ST CENTURY FUND

(a) Unless exempted under subsection (b) of this section, a person shall not operate a child care facility without a license, or operate a family day care home without registration from the department. All prekindergarten programs, regardless of whether they are located in a public school or a private facility, shall be licensed by the department. This provision does not apply to essential early education services provided to individual children.

(b) The following persons are exempted from the provisions of subsection (a) of this section:

(1) A person providing care for children of not more than two families other than that of the person providing the care.

(2) A hospital or establishment holding a license issued by the department of health, or a person operating a program primarily for recreational or therapeutic purposes, unless the hospital, establishment or person provides services for the care, protection and supervision of children not incidental to its primary purpose in which case subsection (a) shall apply to those nonincidental additional services.

(3) Child care facilities operated by religious organizations for the care and supervision of children during or in connection with religious services or church sponsored activities.

~~(4) Nursery schools or other preschool establishments, attended by children of less than compulsory school age, which are subject to regulation by the department of education. [Repealed.]~~

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Sec. 9. DEPARTMENT OF EDUCATION AND DEPARTMENT FOR
CHILDREN AND FAMILIES; RESPECTIVE DUTIES
REGARDING PREKINDERGARTEN AND KINDERGARTEN
PROGRAMS

The respective jurisdiction and duties of the department of education and the department for children and families with respect to prekindergarten and kindergarten programs shall be as outlined in the memorandum of understanding executed by the department of education and the precursor to the department for children and families on May 28, 1999.

Sec. 10. REPORT TO GENERAL ASSEMBLY

On or before January 1, 2010, the commissioners of education and for children and families shall file a written report with the house and senate committees on education regarding:

(1) The per-district enrollment of children who are in prekindergarten programs and who are receiving essential early education services.

(2) The breakdown of districts choosing to limit the average daily membership of prekindergarten children by each of the three methods set forth in 16 V.S.A. § 4001(1)(C)(2).

(3) The statewide cost, including the cost to the education fund, of providing prekindergarten programs by or through school districts and any changes to that cost since the effective date of this act.

(4) The annual expenditures spent in support of prekindergarten care and education, with distinct figures provided for expenditures made from the general fund, from the education fund, and from all other sources, which sources shall be specified, from the effective date of this act forward.

(5) The information and data required through rulemaking in 16 V.S.A. § 829(5) through (7).

(6) The effectiveness of prekindergarten programs in reaching quality program standards set forth in department of education rule.

(7) The effects that the prekindergarten programs covered by this act have had on the early development, learning experiences, and behaviors, including extreme or disruptive behaviors, of young children in Vermont.

(8) The effect that the limits on the number of prekindergarten children that may be included within a district's ADM established in Sec. 6 of this act have had on the ability to serve the needs of young children and the advisability of eliminating or amending those limits.

(9) An analysis of whether and to what extent retention, elimination, or amendment of the ADM limits would affect the state's ability to fund in an adequate manner the child care subsidy program administered by the department for children and families. The child care subsidy program enables many at-risk children to receive both nurture and developmental services crucial to preparing these children to enter school. The report shall also discuss any other actions that the commissioners believe would increase the state's ability to fund the child care subsidy program adequately.

(10) A proposal for consolidating the authority currently exercised by the department for children and families and the department of education to regulate and fund all early childhood programs.

Sec. 11. TRANSITIONAL PROVISIONS

Any district that offered prekindergarten education during the 2006–2007 academic year shall not be affected by the provisions of 16 V.S.A. § 4001(1)(C) in Sec. 6 of this act that limit the total number of prekindergarten children who may be counted within the district’s average daily membership; rather, the district may instead choose to include within its average daily membership the total number of prekindergarten children enrolled in its program, provided that the number does not exceed the highest number of prekindergarten children enrolled and counted within its average daily membership in any one of the following three academic years: 2004–2005, 2005–2006, or 2006–2007. If, at any time, the district elects to determine its average daily membership of prekindergarten children based on the limitations in 16 V.S.A. § 4001(1)(C), the decision shall be final, and the district shall at all times be bound by that subdivision.

Sec. 12. PREKINDERGARTEN EDUCATION STUDY COMMITTEE

(a) The prekindergarten education study committee created in Sec. 1 of No. 186 of the Acts of the 2005 Adj. Sess. (2006) shall continue its existence and composition until March 1, 2008 to:

(1) analyze additional financial data;

(2) receive periodic reports from the commissioner of education and the commissioner for children and families regarding implementation of this act, particularly the rulemaking required in Sec. 2 of this act;

(3) propose legislation to the general assembly as the committee deems necessary.

(b) The committee shall meet no more than twice when the general assembly is not in session. For attendance at a meeting when the general assembly is not in session, legislative members of the committee shall be entitled to per diem compensation and reimbursement of expenses as provided in 2 V.S.A. § 406(a).

Sec. 13. CONSTRUCTION

Nothing in this act shall be construed to require a school district to provide a prekindergarten education program.

Sec. 14. REPEAL

Subsection 2(a) of No. 186 of the Acts of the 2005 Adj. Sess. (2006) (moratorium on state board of education rules regarding early childhood or prekindergarten services) is repealed.

Sec. 15. EFFECTIVE DATES

This act shall take effect on July 1, 2007, except that the rules required by Sec. 3 of this act shall apply beginning in the 2008–2009 academic year.

Approved: June 1, 2007