



Act 166 Implementation: The Promise and the Challenge

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Introduction

The Vermont Council of Special Education Administrators supports and is committed to the goals of Act 166, and applauds a statewide structure for implementing public and private high quality pre-kindergarten experiences. The passage of Act 166 reflects a major milestone in addressing the needs of Vermont's preschool children. The law's intent to provide access to publicly funded preschool education is educationally sound and economically wise. A robust pre-kindergarten system that is accessible to all who chose such an experience for their children can provide a powerful foundation for early learning and development. There is much potential within Act 166 for a strong state, regional and district system that invites all families to participate in choosing their child's program to match their developmental and family needs.

VCSEA's collective experience is a resource for achieving Vermont's vision for pre-kindergarten education. Many of VCSEA's members are deeply involved in early implementation of Act 166 with others actively planning for implementation in 2016. VCSEA is committed to working collaboratively with AOE and AHS on the following implementation challenges.

Problem Statement:

To realize the promise of Act 166 there are a number of challenges that need to be addressed. Key challenges are introduced below and are detailed further in the document:

- **Access to high quality programs for all children regardless of socio-economic status is critical to the success of Act 166. Significant obstacles to realizing this goal exist.**
- **Families of children with disabilities have fewer choices for high quality preschool if they are to receive Early Essential Education (EEE - IEP) services for their child in either private or public settings. Preschool students are not entitled to receive EEE special education services if the family chooses a child care setting, public or private, outside the boundaries of their school district. Therefore, children with disabilities do not have equity of access with their non-disabled peers.**
- **Public and private programs that accept non-resident students are obligated under Act 166 to provide individualized and appropriate services under a Section 504 Plan to students with disabilities as an alternative to the resident district providing IEP services within the resident district. The**

provision of appropriate Section 504 Plan may represent both an unanticipated cost to that program and an unanticipated role.

- **Both public and private programs who seek to operate stable and supportive high quality programs face uncertainty with regard to enrollment predictability and stability. Instability is both financially and operationally challenging.**
- **The capacity in AHS and AOE to develop, implement and monitor the comprehensive and complex leadership and administrative structures needed to implement Act 166 is insufficient for the enormity of the statewide task. Universal pre-kindergarten is imperative but is precariously balanced against a backdrop of systems issues.**

Research Background:

- **A large body of research over the past thirty years supports an intensive system of pre-kindergarten education.** Clear and compelling research evidence supports using public funds for high-quality pre-kindergarten programs. In a longitudinal study of Child Parent Centers (CPC) of the Chicago Public Schools the provision of services results in significantly higher rates of attendance at 4 year colleges, employment in higher skilled jobs and significantly lower rates of felony arrests and symptoms of depression in young adulthood (Science Daily, 2/4/2011). Long term benefits to children, families and to the state, both educationally and economically, can be anticipated within a robust preschool system.
- **Child care costs represent a very large portion of poor, working families' budgets.** According to the Economic Policy Institute's (EPI) Report of 2015, "Child care costs are one of the most significant expenses in family's budget..." "Center based care is out of reach for many working families."
- **The link between poverty and disability is significant. Dramatically increasing childhood poverty and family stressors are evident nationally and in Vermont.** Significant financial stressors, opiate and other drug and alcohol addiction, and related neglect and abuse dramatically increase the risk for learning difficulties and developmental trauma in young children. (Meaningful Differences in the Everyday, Experience of Young American Children (Hart and Risely, 2003), (Disability Scoop: Nearly 1 in 3 with Disabilities in Poverty, Reasley, 2014), (Trends in Demography of Childhood Poverty and Disability, Fujiura, Yamaki, Exceptional Children Vol.66, No. 2, pp.187-199, 2000).
- **These findings provide a foundation for VCSEA's commitment to a system of universal access that maximizes the preschool experience of all children. Instruction that benefits children with disabilities benefits all children. Children with disabilities do better socially and educationally in inclusive settings.** A commitment to the education of preschoolers with disabilities to the greatest extent possible with nondisabled peers in high quality, inclusive preschool settings is critical to maximize progress; it is also necessary for maximizing the use of public dollars.

The Challenges to Quality, Equity and Access, and Sustainable Implementation:

Quality of Programs:

- **Program quality for all of Vermont's pre-kindergarten children is VCSEA's highest priority.** The statewide implementation of ten hours of week of high quality pre-kindergarten education within a tuition system represents an enormous commitment of public dollars to the well-being of Vermont's children.
- **The Agency of Education and Local Education Agency (LEAs) have a critical obligation to conduct the essential quality monitoring of the partner programs within the expansion of pre-kindergarten services.** The current STARS system of accountability is under the Agency of Human Services. Oversight by Agency of Education of the educational components of the preschool quality standards is critical in order to address adequately the needs of all preschoolers including those who are at risk or who have disabilities.
- **Act 166 does not require that private pre-kindergarten programs align tuition increases with quality improvement. Significantly increased tuition charges for pre-kindergarten child care services are being reported to VCSEA members in various areas of the state.** Private tuition increases depending on public dollars need to be accompanied by verified quality improvement. The private - public partnership reflected in Act 166 is important, and there must be checks on tuition increases to assure for program quality.
- **The requirement that resident school districts pay tuition to another school district's preschool program or local private preschools represents a major expansion of the use of tuition; this practice will impact school budgets.** Vermont's current residency requirements and tax structures are not designed for this level of expansion of tuition payments.
- **There are serious dilemmas for districts regarding the delivery of services for students with disabilities within Act 166. There is no legal obligation to provide necessary EEE - IEP services outside the district of legal residence. Therefore, if a parent chooses to place their child in a childcare setting outside the district the high quality services needed and identified in the child's IEP may not be provided.** VCSEA remains deeply committed to appropriate services for children with disabilities at the earliest possible time. Losing precious time at this age places the child further at risk.

If services were to be provided by the district of residence at sites distant from the district of residence costs will increase significantly due to professional time and travel and administrative oversight. The decision to provide EEE – IEP services outside the school district of residence will lie with that pre-school child's district of residence. Inconsistency of IEP services around Vermont will be the result making an increase in conflicts and potential due process hearings regarding placement and services predictable.

- **Public and private programs that accept non-resident students are obligated under Act 166 to provide individualized and appropriate services under a Section 504 Plan to students with disabilities that are accepted into their programs.** Section 504 services, as an alternative to implementing an IEP, would not be compensated for by the district of residence, and therefore, represent additional costs to the selected preschool programs. A child's enrollment, however, cannot be denied on the basis of disability.

VCSEA is concerned about the awareness and knowledge of these obligations and anticipated increased costs.

Accessibility and Equity of Programs:

- **The relationship between family socio-economics and access to high quality pre-kindergarten programs must be examined. There are concerns about increasing the current socio-economic divide.** Children from low income households are much more likely to attend less qualified programs if cost differences between a program of high quality and one of lower quality are evident. Children from lower income families will likely be concentrated in lower cost child care settings. Rural districts will face disproportionate challenges in this regard due to the wide variability in number and distribution of high quality private programs. This stratification of children by parental income does not meet the equity standard of Vermont education law.
- Act 166 favors higher income families in accessing pre-qualified preschool experiences in the private market. Many poor working families cannot afford to pay for the hours, beyond the 10 hours a week paid for by the resident district, to achieve full time child care. A significant number of child care centers favor full time enrollment. This circumstance drives lower income working families into lower cost child care settings that do not meet the high quality pre-kindergarten criteria. Access to pre-approved, high quality private preschool programs for children with disabilities is complicated by relatively lower incomes in many of these families.
- **There is potential for children to leave school based programs in order to access full day programs in private settings with the result that children of lower income families and those with disabilities will be concentrated in public programs, or community programs not pre-approved for high quality.** Local district preschool programs may not have the critical number of students for inclusive classrooms. If receiving 10 hours of service in a public setting within the district of residence access to high quality child care for the remainder of the day is compromised if private programs do not accept part time child care enrollments. VCSEA members are reporting situations where part time enrollment is discouraged. Uncertainty as to enrollments and, therefore, sustainability of preschool programs is a concern.
- **Implementation of the federal and state required IEP and Section 504 Plan components relevant to the preschool setting must take place in pre-kindergarten programs.** Districts are legally responsible for the education of preschoolers with disabilities; services and placement exist within the context of existing federal and state law. Therefore, access to the preschool program by school district staff for purposes of training, supervision and monitoring must be assured. These expectations cannot be viewed as discretionary on the part of private pre-kindergarten programs.
- **Transportation issues will impact access to services for students with disabilities in preschool environments within and outside the district of residence.** Adequate access to safe and reliable transportation for preschool children is critical and very difficult to implement in rural areas. Transportation issues will disproportionately impact lower income families.

Sustainability of Administrative Leadership and Financial Structures:

- **The capacity within existing AHS and AOE structures to develop and implement the comprehensive leadership and administrative structures needed to fully implement Act 166 is**

inadequate for the enormity of the task. Universal access to pre-kindergarten education is a large state wide initiative and current staff within both AOE and AHS are working diligently to realize the ambitious goals of Act 166. Yet, the state level administrative and financial structures needed to implement this law with fidelity are not yet in place. This circumstance leaves large parts of the creation of structures to each of the supervisory unions and districts at a time when comprehensive organizational restructuring is already taking place under Act 46. Some regions, particularly those with large population centers, do have well established structures in place. Many other regions enjoy fewer collaborative structures and fewer options. A fully operational, stable state level implementation plan and leadership structure sufficient for the scope of work is critical to ensure program quality and access for all children.

- **Districts and Supervisory Unions are challenged to comply with a burdensome application process for designated regions under Act 166. Detailed and extensive data sources and cost projections are required; meeting these requirements is too cumbersome and may result in districts or supervisory unions choosing to opt out of this process, thereby furthering the potential for children to attend out of district preschool programs.**

- **All districts are required to build capacity within their boundaries in collaboration with the community, parents and private providers that are committed to implementation. The networking of public and private, and local, regional and state pre-kindergarten structures is complex and challenging and includes numerous administrative functions such as:**

- Partner agreement elements that offer statewide consistency. Increased community partnerships reflect increases in the administrative demands on districts. Many districts will manage contracts and relationships with multiple providers.
- Management of assessment data including reporting to AHS and AOE and to the LEA regardless of where the child attends pre-kindergarten.
- Consistent enrollment processes and timelines, and management of attendance records and exit records.
- Establishment and management of agreed upon payment schedules that are consistent with attendance records and allow for sustainability of the pre-kindergarten program.
- Criminal records check processes for staff.
- Professional licensing processes within AOE and AHS should not be duplicative.
- Reliable and uniform data collection throughout Vermont needs to be connected to AHS/AOE and each LEA's system of data collection so that preschoolers can be meaningfully tracked over time.

The collaborative efforts of the Agency of Education and Agency of Human Services remain foundational to Act 166 implementation. This collaboration creates the potential for all children and families to receive the responsive and comprehensive services needed through well-developed and monitored administrative and communication structures at both state and local levels. Recognizing both the complexity and promise of Act 166, VCSEA is deeply committed to working with the AOE and AHS to address the challenges and promise of this law for Vermont's preschool children.