

1       **§ 829. Prekindergarten education**

2           (a) Definitions. As used in this section:

3               (1) "Prekindergarten child" means a child who, as of the date established  
4               by the district of residence for kindergarten eligibility, is three or four years of  
5               age or is five years of age but is not yet enrolled in kindergarten.

6               (2) "Prekindergarten education" means services designed to provide to  
7               prekindergarten children developmentally appropriate early development and  
8               learning experiences based on Vermont's early learning standards.

9               (3) "Prequalified private provider" means a private provider of  
10              prekindergarten education that is qualified pursuant to subsection (c) of this  
11              section.

12           (b) Access to publicly funded prekindergarten education.

13               (1) No fewer than ten hours per week of publicly funded prekindergarten  
14              education shall be available for 35 weeks annually to each prekindergarten  
15              child whom a parent or guardian wishes to enroll in an available, prequalified  
16              program operated by a public school or a private provider.

17               (2) If a parent or guardian chooses to enroll a prekindergarten child in an  
18              available, prequalified program, then, pursuant to the parent or guardian's  
19              choice, the school district of residence shall:

20                    (A) pay tuition pursuant to subsections (d) and (h) of this section upon  
21              the request of the parent or guardian to:

1 (i) a prequalified private provider; or

2 (ii) a public school located outside the district that operates a  
3 prekindergarten program that has been prequalified pursuant to subsection (c)  
4 of this section; or

5 (B) enroll the child in the prekindergarten education program that it  
6 operates.

7 (3) If requested by the parent or guardian of a prekindergarten child, the  
8 school district of residence shall pay tuition to a prequalified program operated  
9 by a private provider or a public school in another district even if the district of  
10 residence operates a prekindergarten education program.

11 (4) If the supply of prequalified private and public providers is  
12 insufficient to meet the demand for publicly funded prekindergarten education  
13 in any region of the State, nothing in this section shall be construed to require a  
14 district to begin or expand a program to satisfy that demand; but rather, in  
15 collaboration with the Agencies of Education and of Human Services, the local  
16 Building Bright Futures Council shall meet with school districts and private  
17 providers in the region to develop a regional plan to expand capacity.

18 (c) Prequalification. Pursuant to rules jointly developed and overseen by the  
19 Secretaries of Education and of Human Services and adopted by the State  
20 Board pursuant to 3 V.S.A. chapter 25, the Agencies jointly may determine  
21 that a private or public provider of prekindergarten education is qualified for

1 purposes of this section and include the provider in a publicly accessible  
2 database of prequalified providers. At a minimum, the rules shall define the  
3 process by which a provider applies for and maintains prequalification status,  
4 shall identify the minimum quality standards for prequalification, and shall  
5 include the following requirements:

6 (1) A program of prekindergarten education, whether provided by a  
7 school district or a private provider, shall have received:

8 (A) National Association for the Education of Young Children  
9 (NAEYC) accreditation; or

10 (B) at least four stars in the Department for Children and Families'  
11 STARS system with a plan to get to at least two points in each of the five  
12 arenas; or

13 (C) three stars in the STARS system if the provider has developed a  
14 plan, approved by the Commissioner for Children and Families and the  
15 Secretary of Education, to achieve four or more stars with at least two points in  
16 each of the five arenas in no more than three years, and the provider has met  
17 intermediate milestones.

18 (2) A licensed provider shall employ or contract for the services of at  
19 least one teacher who is licensed and endorsed in early childhood education or  
20 in early childhood special education under chapter 51 of this title.

1           (3) A registered home provider that is not licensed and endorsed in early  
2 childhood education or early childhood special education shall receive regular,  
3 active supervision and training from a teacher who is licensed and endorsed in  
4 early childhood education or in early childhood special education under  
5 chapter 51 of this title.

6           (d) Tuition, budgets, and average daily membership.

7           (1) On behalf of a resident prekindergarten child, a district shall pay  
8 tuition for prekindergarten education for ten hours per week for 35 weeks  
9 annually to a prequalified private provider or to a public school outside the  
10 district that is prequalified pursuant to subsection (c) of this section; provided,  
11 however, that the district shall pay tuition for weeks that are within the  
12 district's academic year. Tuition paid under this section shall be at a statewide  
13 rate, which may be adjusted regionally, that is established annually through a  
14 process jointly developed and implemented by the Agencies of Education and  
15 of Human Services. A district shall pay tuition upon:

16           (A) receiving notice from the child's parent or guardian that the child  
17 is or will be admitted to the prekindergarten education program operated by the  
18 prequalified private provider or the other district; and

19           (B) concurrent enrollment of the prekindergarten child in the district  
20 of residence for purposes of budgeting and determining average daily  
21 membership.

1           (2) In addition to any direct costs of operating a prekindergarten  
2 education program, a district of residence shall include anticipated tuition  
3 payments and any administrative, quality assurance, quality improvement,  
4 transition planning, or other prekindergarten-related costs in its annual budget  
5 presented to the voters.

6           (3) Pursuant to subdivision 4001(1)(C) of this title, the district of  
7 residence may include within its average daily membership any  
8 prekindergarten child for whom it has provided prekindergarten education or  
9 on whose behalf it has paid tuition pursuant to this section.

10          (4) A prequalified private provider may receive additional payment  
11 directly from the parent or guardian only for prekindergarten education in  
12 excess of the hours paid for by the district pursuant to this section or for child  
13 care services, or both. The provider is not bound by the statewide rate  
14 established in this subsection when determining the rates it will charge the  
15 parent or guardian.

16          (e) Rules. The Secretary of Education and the Commissioner for Children  
17 and Families shall jointly develop and agree to rules and present them to the  
18 State Board for adoption under 3 V.S.A. chapter 25 as follows:

19           (1) To permit private providers that are not prequalified pursuant to  
20 subsection (c) of this section to create new or continue existing partnerships  
21 with school districts through which the school district provides supports that

1 enable the provider to fulfill the requirements of subdivision (c)(2) or (3), and  
2 through which the district may or may not make in-kind payments as a  
3 component of the statewide tuition established under this section.

4 (2) To authorize a district to begin or expand a school-based  
5 prekindergarten education program only upon prior approval obtained through  
6 a process jointly overseen by the Secretaries of Education and of Human  
7 Services, which shall be based upon analysis of the number of prekindergarten  
8 children residing in the district and the availability of enrollment opportunities  
9 with prequalified private providers in the region. Where the data are not clear  
10 or there are other complex considerations, the Secretaries may choose to  
11 conduct a community needs assessment.

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

14 (4) To establish a process by which:

15 (A) a parent or guardian notifies the district that the prekindergarten  
16 child is or will be admitted to a prekindergarten education program not  
17 operated by the district and concurrently enrolls the child in the district  
18 pursuant to subdivision (d)(1) of this section;

19 (B) a district:

20 (i) pays tuition pursuant to a schedule that does not inhibit the  
21 ability of a parent or guardian to enroll a prekindergarten child in a

1 prekindergarten education program or the ability of a prequalified private  
2 provider to maintain financial stability; and

3 (ii) enters into an agreement with any provider to which it will pay  
4 tuition regarding quality assurance, transition, and any other matters; and

5 (C) a provider that has received tuition payments under this section on  
6 behalf of a prekindergarten child notifies a district that the child is no longer  
7 enrolled.

8 (5) To establish a process to calculate an annual statewide tuition rate  
9 that is based upon the actual cost of delivering ten hours per week of  
10 prekindergarten education that meets all established quality standards and to  
11 allow for regional adjustments to the rate.

12 (6) [Repealed.]

13 (7) To require a district to include identifiable costs for prekindergarten  
14 programs and essential early education services in its annual budgets and  
15 reports to the community.

16 (8) To require a district to report to the Agency of Education annual  
17 expenditures made in support of prekindergarten education, with distinct  
18 figures provided for expenditures made from the General Fund, from the  
19 Education Fund, and from all other sources, which shall be specified.

20 (9) To provide an administrative process for:

1           (A) a parent, guardian, or provider to challenge an action of a school  
2 district or the State when the complainant believes that the district or State is in  
3 violation of State statute or rules regarding prekindergarten education; and

4           (B) a school district to challenge an action of a provider or the State  
5 when the district believes that the provider or the State is in violation of State  
6 statute or rules regarding prekindergarten education.

7           (10) To establish a system by which the Agency of Education and  
8 Department for Children and Families shall jointly monitor and evaluate  
9 prekindergarten education programs to promote optimal results for children  
10 that support the relevant population-level outcomes set forth in 3 V.S.A. §  
11 2311 and to collect data that will inform future decisions. The Agency and  
12 Department shall be required to report annually to the General Assembly in  
13 January. At a minimum, the system shall monitor and evaluate:

14           (A) programmatic details, including the number of children served,  
15 the number of private and public programs operated, and the public financial  
16 investment made to ensure access to quality prekindergarten education;

17           (B) the quality of public and private prekindergarten education  
18 programs and efforts to ensure continuous quality improvements through  
19 mentoring, training, technical assistance, and otherwise; and

20           (C) the results for children, including school readiness and  
21 proficiency in numeracy and literacy.



1           (11) To establish a process for documenting the progress of children  
2 enrolled in prekindergarten education programs and to require public and  
3 private providers to use the process to:

4                   (A) help individualize instruction and improve program practice; and

5                   (B) collect and report child progress data to the Secretary of  
6 Education on an annual basis.

7           (f) Other provisions of law. Section 836 of this title shall not apply to this  
8 section.

9           (g) Limitations. Nothing in this section shall be construed to permit or  
10 require payment of public funds to a private provider of prekindergarten  
11 education in violation of Chapter I, Article 3 of the Vermont Constitution or in  
12 violation of the Establishment Clause of the U.S. Constitution.

13           (h) Geographic limitations.

14                   (1) Notwithstanding the requirement that a district pay tuition to any  
15 prequalified public or private provider in the State, a school board may choose  
16 to limit the geographic boundaries within which the district shall pay tuition by  
17 paying tuition solely to those prequalified providers in which parents and  
18 guardians choose to enroll resident prekindergarten children that are located  
19 within the district's "prekindergarten region" as determined in subdivision (2)  
20 of this subsection.

1           (2) For purposes of this subsection, upon application from the school  
2 board, a district's prekindergarten region shall be determined jointly by the  
3 Agencies of Education and of Human Services in consultation with the school  
4 board, private providers of prekindergarten education, parents and guardians of  
5 prekindergarten children, and other interested parties pursuant to a process  
6 adopted by rule under subsection (e) of this section. A prekindergarten region:

7           (A) shall not be smaller than the geographic boundaries of the school  
8 district;

9           (B) shall be based in part upon the estimated number of  
10 prekindergarten children residing in the district and in surrounding districts, the  
11 availability of prequalified private and public providers of prekindergarten  
12 education, commuting patterns, and other region-specific criteria; and

13           (C) shall be designed to support existing partnerships between the  
14 school district and private providers of prekindergarten education.

15           (3) If a school board chooses to pay tuition to providers solely within its  
16 prekindergarten region, and if a resident prekindergarten child is unable to  
17 access publicly funded prekindergarten education within that region, then the  
18 child's parent or guardian may request and in its discretion the district may pay  
19 tuition at the statewide rate for a prekindergarten education program operated  
20 by a prequalified provider located outside the prekindergarten region.

1           (4) Except for the narrow exception permitting a school board to limit  
2           geographic boundaries under subdivision (1) of this subsection, all other  
3           provisions of this section and related rules shall continue to apply.