

## MEMORANDUM

TO: House Committee on Education,  
Rep. Kathryn Webb, Chair

FROM: Daniel M. French, Secretary of Education  
Michael K. Smith, Secretary of Human Services

SUBJECT: Administration Position on Draft Request 20-0816 Draft 5.1

DATE: February 20, 2020

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### Position Statement

Thank you for the opportunity to testify on your committee bill regarding changes to the laws governing prekindergarten education (PreK) in Vermont. We can, at this time, support a bill that makes technical changes and gradual improvement to PreK in Vermont, but are not looking for comprehensive changes to Vermont's Universal PreK system.

There has been a lot of discussion this session and over the last few years about whether and how we should bifurcate the oversight and regulation of PreK. After reviewing the proposed draft and many conversations about the best way to proceed in clarifying administration of the Universal PreK system, we have concluded that "bifurcation" of administration, oversight or rulemaking should not be pursued this session. Accordingly, we **strongly recommend** that the committee not make changes to 16 V.S.A. § 829(e) (Sec. 1 (e) of the bill) or 33 V.S.A. § 3502 (Sec. 2), as well as changes to the requirements for instruction or oversight by licensed educators, etc.

We agree that these are important issues, however we would like to continue working together under the new monitoring system and are committed to working together to support the needs of both public and private providers.

Our two Agencies are pleased that through the discussions around this bill, and the other important work we have been doing together, we have found many agreed upon statutory changes that are also found in your bill.

Both the Agency of Human Services and the Agency of Education agree on the following principles to guide our ongoing work together on PreK:

- We need and rely on a mixed delivery system.
- We need to implement and administer standards and monitoring jointly and collaboratively.
- At this time, we are not prepared to make any changes surrounding licensing requirements.

What follows is a list of the items that we agree on and the current status in your latest version of the bill. All other considerations regarding changes to oversight and regulation are big topics

of conversation that we will continue to discuss and present any recommendations to your committee in the future.

## AOE and AHS Agreed Positions on DR 20-0816

- **Enrollment Criteria:** Our agencies agree with the committees update to the enrollment criteria regarding age and IEP status. However, we have an important suggestion edit to clarify language (see Suggested Draft Changes).
- **Notification Requirement:** We agree that SU/SDs should be required to notify private providers they contract with when a school board warns consideration of expanding a public PreK program.
- **Strike 3 STARS:** The Agencies support removal of 3 STARS rating from Approved Provider list.
- **Tuition and Budgeting:** We agree that PreK education should continue to be funded from the Education Fund.
- **Uniform forms and Processes:** The agencies agree that this is a good idea, but will need much more time than in the bill to implement. The legislated date should ensure the forms are ready by SY21-22. We agree that the deadline should be July 1, 2020 to account for the administrative work required to develop these forms and processes.
- **Definition of PreK in 16 V.S.A. §11 (Sec. 3):** The Agencies believe this definition is duplicative, could lead to potential conflicts in statute, and should be removed from 16 V.S.A. §11 via strike all in the bill.

## Additional Policy Comments

- The Agencies agree that educator certifications should be limited to licensed teachers and not include other certifications such as Montessori, etc. (as drafted in a previous version of the bill)
- We agree that school districts should not be required to adopt local monitoring policies (as drafted in a previous version of the bill)

## Suggested Draft Changes

In the interest of writing the best and clearest legislation possible, we suggest the following non-substantive suggested draft changes

- Sec. 1 (a)(1)(b)
  - **SUGGEST EDIT:** "five years of age but is not yet enrolled in kindergarten if the child is on an individualized education program ~~or a plan under Section 504 of the Rehabilitation Act of 1973~~ and the child's individualized education program team ~~or evaluation and planning team~~ recommends that the child receive prekindergarten education services."
  - **Rationale:** Section 504 of the Rehabilitation Act of 1973 is an access statute. It does not operate within educational context to independently impact placement. Reference to IEP teams is sufficient.

- Sec. 1 (a)(3) (and throughout)
  - **Recommend:** "private prekindergarten education provider"
- Sec. 1 (a)(3) (and throughout)
  - **Recommend:** "public prekindergarten education provider"
- Sec. 1 (b)(2):
  - **SUGGEST DRAFT CLEANUP EDIT:** (ii) a public school provider located outside the district that operates a prekindergarten program that has been prequalified pursuant to subsection (c) of this section that is not other than the program operated by the school district of residence; or
- Sec. 1 (b)(3):
  - **SUGGEST DRAFT CLEANUP EDIT:** If requested by the parent or guardian of a prekindergarten child, the school district of residence shall pay tuition to a prequalified prekindergarten education program operated by a private provider or a public school in another district provider other than the program operated by the school district of residence even if the district of residence operates a prekindergarten education program