



Frequently Asked Questions – Universal Prekindergarten

1. What Laws and Regulations are associated with Universal Prekindergarten (UPK)?

Education Law 3602-e and Commissioner's Regulations Subpart 151-1 (8 NYCRR 151-1) oversee all state-administered universal prekindergarten programs in New York.

2. Who is eligible to register for UPK?

Section 3602-e of Education Law defines an "eligible child" as a resident child who is four years of age on or before December 1st of the school year in which they are enrolled or who will otherwise be first eligible to enter public school kindergarten commencing with the following school year.

3. Is UPK participation mandatory?

No. UPK is a voluntary program for both districts and children. Parents and/or caregivers may choose, but are not required, to enroll their child(ren) in a UPK program. However, upon enrollment, the school district's attendance policy must be applied.

4. Can a district give preference for enrollment to children who are from families that are Economically Disadvantaged (ED)?

No. Section 3602-e of Education Law requires that school districts must establish a process to select eligible children to receive UPK to receive UPK services on a random basis when there are more eligible children than can be served in a given school year.

5. How do we enroll students classified as McKinney-Vento students who are eligible to attend UPK when many of them enroll later in the school year?

By Federal Law, McKinney-Vento students should be enrolled in UPK when they become known to the district. In certain circumstances, it may be necessary for the program to obtain a class size variance to go beyond the maximum of 20 students in a classroom. Districts should contact the New York State Education Department's (NYSED) Office of Early Learning (OEL) regarding this variance as the need arises.

6. What are allowable costs?

Allowable costs are those items specified as "approved expenditures" in Section 151-1.2(a) of the Commissioner's Regulations. Such costs include, but are not limited to, program components, professional salaries, professional development, support services, materials and supplies, administrative support services, transportation services, leasing expenses, or other appropriate facilities expenses and other costs approved by the Commissioner.

7. Can money be used to lease facilities? If a facility is leased, what building requirements apply?

Leasing expense is an approved expenditure of UPK funds. Building and classrooms operated by a school district outside of New York City (NYC), but located off of school grounds, shall meet the NYS Uniform Fire Prevention and Building Code (9 NYCRR Parts 600 through 1250), Sections 11 NYCRR 151-2.7 and 155.7, and regulations of the Office of Children and Family Services (OCFS) 18 NYCRR Part 418.

8. Can additional children be served in UPK with local funding?

Yes, however, the district should report such children as "other funded" on the Basic Educational Data System (BEDS) report.

9. What is an eligible agency?

"Eligible agencies", as defined in 8 NYCRR 151-1.2(b) are a provider of child care and early education, a day care provider, early childhood program or center or community based organization (CBO) including, but not limited to, an approved preschool special education program, Head Start, nursery schools, libraries, and museums which meet the standards and requirements of Subpart 151-1.

10. Do eligible agencies have to be located within the school district's boundaries?

For the purpose of the NYS UPK program, it is allowable for participating school districts to contract with eligible early childhood providers physically located within or outside of the district's geographic boundaries, assuming the process for establishing a collaboration is followed and the eligible agency is located in a contiguous district or otherwise transportation to and from the child's home to the eligible agency does not impose a hardship for the child, the family, or the district.

11. What is the collaboration requirement for UPK program?

Education Law 3602-e requires that districts use at least 10% of their UPK allocation to contract with one or more eligible agencies for the provision of the instructional program for a specified number of enrolled children. Districts must undertake a competitive process as outlined in 8 NYCRR 151-1.6 in the selection of their contracted agencies.

12. How do we know what eligible agencies are in our school district's boundaries?

The Office of Children and Family Services has a list of licensed providers on their website (<https://ocfs.ny.gov/programs/childcare/looking/>). Districts can search for providers by school district boundaries. Districts must send out a Request for Proposal (RFP) to all eligible agencies located within their district boundaries.

13. When is a school district eligible to submit a variance request for the 10% collaboration requirement?

A district can apply for a variance request for the 10% collaboration requirement if: (1) no eligible agencies are willing to collaborate, (2) there are no eligible agencies located within the

district's boundaries, or (3) there is good cause for not contracting with any eligible agency who has submitted an RFP.

14. What constitutes as a "good cause" reason for a district not to collaborate with an eligible agency who has submitted an RFP?

There are number of "good cause" reasons as to why a district can choose not to partner with an eligible agency who has submitted an RFP. Those "good cause" reasons include: (1) the eligible agency has health and safety violations, (2) teacher(s) at the eligible agency are not willing to develop a 5-year plan towards obtaining teacher certification, (3) the district would have fiscal solvency issues due to the collaboration, (4) the eligible agency is a new provider without a record of program effectiveness or fiscal solvency, or (5) the eligible agency has continued to not meet the terms of prior contracts with the district.

15. How do districts select collaborating agencies?

Districts must select the eligible agencies with which it will collaborate through a competitive process. Section 151-1.6 of Commissioner's Regulations explicitly describes the process for issuing an RFP as well as the criteria to consider for selecting which eligible agency or agencies will receive funds from the district to provide the UPK program.

16. Does a school district have to conduct a competitive process every year?

After the implementation of the initial competitive process and the selection of an eligible agency or agencies to provide the program, districts must develop a purchase of service contract with such agencies. Contracts may be of varying lengths depending on the arrangements established between the agency and the district. It is imperative the district's attorney or legal team ensures the contract is valid and that districts have clauses for discontinuing or extending a contract. The Office of Early Learning has every right to ask the district for its contracts with eligible agencies.

17. We currently contract with six eligible agencies. This year the district is receiving increased funding for UPK. Do we have to issue the RFP for the additional funds?

There is not a clear cut answer to this question. While a district may be happy with their current providers, there also may be eligible agencies in the community that would like the opportunity to participate in the UPK program. In addition, the district should take into consideration the capacity of the current providers to serve additional UPK children and be in continued compliance with Commissioner's Regulations 8 NYCRR 151-1. Districts should also consider other factors such as the ease with which families can use the current providers and whether there are unserved areas of the district.

18. Is there a set per pupil rate that the district gives their eligible agencies?

No. As part of the RFP process, any eligible agency who is interested in running a UPK program should be submitting to the district a budget of what it would cost to run a high-quality UPK program at their agency.

19. Am I required to give more than 10% of the UPK allocation to eligible agencies?

No. A district is not required to go beyond the 10% minimum set-aside to partner with eligible agencies. However, the district should keep in mind that these are district children attending the programs and should be receiving the same high-quality UPK program regardless if they attend UPK in-district or at an eligible agency.

20. Can summer months be included as part of the "180 days per year" requirement?

UPK programs starting at the beginning of the school year and reporting their student count on the October BEDS date must operate for a minimum of 180 days during the school year. By law, "school year" is defined as July 1st through June 30th. As part of 8 NYCRR 151-1.4(b), a district may operate a summer program during the months of July and August only upon demonstrating to the Commissioner's satisfaction that the school district is unable to operate a program during the regular school session because of a lack of available space in both district buildings and eligible agencies.

21. Does operating only during the summer months have an impact on our funding?

As part of 8 NYCRR 151-1.4(b), when a school district operates a summer only program, the aid per prekindergarten pupil shall be reduced by 1/180th for each day less than 180 days that the summer program is in session.

22. Can a district start a program "mid-year"?

Districts implementing state-funded programs for the first time or who have been awarded expansion slots may operate a minimum of 90 days, provided that in such instances the aid per prekindergarten pupil shall be reduced by 1/180th for each day less than 180 days that such program or expansion slots are in session.

23. What are the hour requirements for a half-day and full-day program?

A half-day program must operate for a minimum of 2.5 hours a day for 5 days a week for at least 180 days. A full-day program must operate for a minimum of 5 hours a day for 5 days a week for at least 180 days.

24. Is mealtime (lunch) counted towards the instructional hours in the day?

Mealtime is an important part of a young child's development and can include many learning experiences. Mealtime can provide a natural environment for young learners to share in conversations that build language skills and develop relationships with peers and adults. If the program chooses to include mealtime as part of the instructional day, it should be a positive experience for each child and must include meaningful adult-child interactions and opportunities for learning. The Office of Early Learning looks carefully at mealtime when conducting on-site visitations to justify this time being included as part of the instructional day.

25. Is nap time required for children who attend a full-day prekindergarten program?

While not required, NYSED's Office of Early Learning suggests that all programs serving prekindergarten students in a full-day program provide a regularly scheduled nap or rest time.

During this time, students are encouraged to rest, relax, and nap. Quiet activities should be planned for students who do not wish to nap.

26. Do Superintendent Conference Days count toward the minimum of 180 days per year?

Yes. The days for UPK are calculated in the same manner as for the district's K-12 program.

27. Does the district have to screen incoming prekindergarten students?

Yes. The school district is responsible for ensuring that the diagnostic screening of new entrants as required by Commissioner's Regulations Part 117. Districts may accomplish this in different ways with the eligible agencies they have partnered with.

28. When does the diagnostic screening have to be completed by?

As part of Commissioner's Regulations Part 117, all new entrants to the district must be screened prior to the start of the school year, if possible, but no later than December 1st of the school year. For new entrants after December 1st, the screening should be conducted within 15 days of enrollment.

29. Who is considered a "new entrant"?

As part of 8 NYCRR 117.2(d), a "new entrant" shall mean a student entering the New York State public system, prekindergarten – grade 12, for the first time, or reentering a New York State public school with no available record of a prior screening.

30. If a student transfers into the school district and has already been screened by another NYS public school district, does the district still have the responsibility to screen the student?

If the student transfers from one NYS public school district to another, and comes with a screening record, the district does not have to screen the student. However, the district is welcome to screen the child should they use a different diagnostic screener.

31. We are a new district running a prekindergarten for the first time. We typically hold kindergarten screening each year. Are we still required to do this?

As part of Commissioner's Regulations Part 117, the district would only be required to screen incoming kindergarten students if they fall under the definition of a "new entrant". However, the district can continue this practice, should they wish to choose to do so.

32. Is lead screening required by Commissioner's Regulations Part 117?

No. Lead screening is not required for new entrants to the school district. Public Health Law requires that public schools, day care providers, and nursery schools "obtain evidence" of lead screening for all children under six years of age. If the parent is unable to provide such evidence, the district must give the parent information on lead poisoning and prevention, refer the parent to their health care provider, or the county health department for a lead blood

screening. A child may not be excluded from the program because their parents failed to take the child for lead screening.

33. Is the district required to provide meals and snacks?

Prekindergarten programs that operate for less than 3 hours must provide a nutritional meal and/or snack. Programs operating more than three hours must provide appropriate meals and snacks to ensure the nutritional needs of children are met.

34. Are the costs of meals and snack allowable expenses under the grant?

Yes. The cost of meals and snacks are allowable expenses under the grant. In addition, districts and eligible agencies may access USDA reimbursement for eligible children through the Free and Reduced Lunch (FRL) Program or the Child and Adult Food Program, respectively. Where districts choose to charge parents for the cost of meals and/or snacks, parents must be provided the option of providing their own meal or snack for their child(ren) rather than purchasing.

For more information on FRL program, contact your district's school lunch coordinator or the [NYSED Child Nutrition Knowledge Center](#). Information on the Child and Adult Care Food Program can be obtained through the [New York State Department of Health](#).

35. Does the district have the right to choose the curricula that must be used at each eligible agency?

Curricula selection is the responsibility of the district. It is highly recommended that the same curricula be used in all UPK classrooms regardless of the setting. However, the district does have the discretion to allow eligible agencies to use alternative curricula, if upon review, it is determined that such curricula are aligned with the New York State Learning Standards and provides a continuity of learning with the district's early elementary program. More information regarding curricula can be found on [OEL's curriculum web page](#).

36. Does NYSED have a list of recommend curricula or assessments for UPK programs?

No. NYSED does not endorse any curricula or assessment tools. The selection of these is up to each district. However, NYSED's Office of Early Learning can provide guidance and technical assistance to assist districts to help them select curricula and assessment tools. More information can be found on [OEL's assessment web page](#).

37. What are the appropriate certifications for UPK teachers?

Commissioner's Regulations 151-1.3(e) outlines the qualifications for teachers providing instruction in UPK classrooms or in eligible agencies. Teachers must hold a teaching license or certificate valid for serve in the early childhood grades pursuant to Part 80 of this Title.

38. Do UPK teachers providing instruction in eligible agencies need to be certified?

No. UPK teachers employed by an eligible agency are not required to hold certification. However, these teachers must have a five-year plan that will lead to obtaining NYS teacher

certification in Early Childhood Education (Birth – Grade 2). The eligible agency must provide to the district a copy of the five-year plans as part of the RFP process.

39. Are there additional requirements for eligible agencies if there are uncertified teachers?

Yes. All eligible agencies who have uncertified teachers providing instruction in a UPK classroom must have an on-site education director who holds a valid NYS teacher certification in either Early Childhood Education (Birth – Grade 2) or Childhood Education (N – Grade 6). If the eligible agency is unable to provide an on-site education director who holds certification, the district may opt to assign an individual to be on-site during the hours of UPK operation and perform this function.

40. Do teachers in eligible agencies need to be included in the district's staff development days?

It is the responsibility of the school district to ensure that all staff in eligible agencies receive the amount and type of professional development that supports their ability to provide a high-quality instructional program meeting the needs of the children enrolled.

If district-planned staff development is relevant to UPK, it makes good program sense to include UPK teachers/staff from the eligible agencies. Conversely, most agencies have professional development for their own staff. Including district staff in these opportunities could also be beneficial.

41. How can staff in eligible agencies attend the district's professional development without closing the program for the day?

Contracted UPK is for a minimum of 180 days, usually following the district's calendar that has Superintendent conference days included. The district has options that may include, but are not limited to, requiring participation in some or all of the district's professional development as part of their contract with the eligible agency. Many agencies close UPK classes on district conference days so staff can attend. In some situations, the agency or district agree to provide substitutes for the UPK class to permit staff to attend the professional development opportunities.

42. How long will it take to receive approval of our UPK application? Are we able to register students prior to approval?

UPK is an allocational grant and is not competitive. Therefore, districts should proceed with developing their UPK plans and getting all components in place including the recruitment, registration, and enrollment of students. Once the UPK application is submitted and reviewed by NYSED's Office of Early Learning, districts can anticipate receiving notification that their application and budget were approved.

43. What if more students are registered than there are seats available in the program?

Section 3602-e of Education Law requires that all districts have a random selection process in place if there are more children registered than there are seats available.

44. Our district has run our UPK program for many years and have not had to use the random selection process. Do we still need to have one in place?

Yes. Section 3602-e of Education Law requires a random selection process be in place. The New York State Education Department's Office of Early Learning carefully checks during on-site visits or desk reviews of programs if a random selection process is in place regardless if a district had to use it in the current school year.

45. When will the UPK application be available and where can it be found?

Districts will receive notification via the NYS Business Portal (MVPS) when the UPK application has been uploaded and can be filled out by the district staff who have access to the UPK application in the business portal. The district is strongly encouraged to also send the Office of Early Learning a contact information form for their UPK program contacts. The form can be found [here](#) and can be emailed to OEL@nysed.gov.

46. Can two or more school districts submit a joint application to run their UPK program?

Yes. It is allowable for two or more districts to submit a joint application to operate a joint UPK program. The application must identify which district will be the fiscal agent for the joint grant. The partnership agreement specifying the roles and responsibilities of each participating district for implementation and oversight of the program must be included with the application.

47. Can districts request variances from the UPK requirements?

Yes, however, the Office of Early Learning reviews these on an individual basis. Section 3602-e of Education Law allows districts to request a variance for some requirements. These includes variances for class size limitations, the 10% set-aside for collaboration with eligible agencies, and to operate a summer-only program. If approved, the variance is only in effect for the school year in which it was approved. The district is required to submit a variance every program year, regardless if a variance was approved in the past.

48. Are there any other reports that districts who operate a UPK program need to submit to OEL?

Each year, districts are required by Education Law 3602-e to submit a final program report to the Office of Early Learning. In a typical year, these are due to OEL no later than July 31st. Final program reports are filled out in the NYSED Business Portal (MVPS). Program contacts will receive an e-mail notification when the final program report template becomes available in MVPS.

49. What is the age requirement for compulsory education?

As part of Education Law, all children between the ages of 6 and 16 must attend school. Therefore, prekindergarten is not considered compulsory education.

50. Our district has a standalone early learning center that includes prekindergarten and kindergarten. Are there any additional requirements for buildings who do not serve students of compulsory age?

For standalone early learning centers who do not serve students of compulsory education and operate for more than 3 hours a day or 15 hours a week must be licensed through the Office of Children and Family Services (OCFS) regardless of being a building operated by a school district to be in compliance with Social Services Law 390.

51. Are there any cases where an early learning center does not have to be licensed by OCFS?

Yes. If the program operates for less than 3 hours a day or for less than 15 hours a week, it is not required to be licensed. A building also does not need to be licensed if there are students of compulsory education in the building, or if it shares the same physical address with a building or campus that serves students of compulsory age.

52. What is the difference between “allocation” and “maximum grant payable”?

A district’s allocation is the maximum they can be reimbursed for their UPK grant should all slots be filled. The maximum grant payable is calculated based upon the number of slots filled as well as the number of instructional days (should it be less than 180 days). The maximum grant payable can be less than the maximum allocation available to the district.

53. Are there specific budget forms that need to be submitted throughout the year?

Yes. All districts running a UPK program must submit an FS-10 to the Office of Early Learning when they submit their application. It is strongly encouraged that districts also submit budget amendments (FS-10-A) if there are changes in their budget prior to submitting their final budget expenditures (FS-10-F) to Grants Finance. Failure to submit an amendment could cause the district to be disallowed funding related to finance law. Forms and further information can be found at NYSED’s [Grants Finance website](#).

54. Is there a place to see what my maximum grant payable is based upon student enrollment?

Yes. The State Aid Unit in NYSED allows all districts to run their State Aid Management System (SAMS) output report. Each district receiving UPK funding can check their maximum grant payable by accessing their [output reports](#).

55. What is the length of the project period for the UPK grant?

The project period runs from July 1 – June 30 of each year. For example, for the 2021-2022 school year, the project period will run from July 1, 2021 – June 30, 2022. Districts are encouraged to make sure all budget amendments (FS-10-A) are submitted by June 30th.

56. Our district is receiving new funding from the 2022 enacted budget on top of state-funds we already receive to run a state-funded prekindergarten program. Do we have to convert our half-day program to a full-day program with our old allocation?

No. For districts who have been receiving funding to run state-funded UPK programs for half-day programs do not need to convert those seats to full-day slots. However, any new funding the district is receiving through the 2022 enacted budget requires these slots to be for full-day 4-year-old students.

57. Since our district now has old UPK funding and new UPK funding through the 2022 enacted budget, are there any specific requirements that must be met?

Yes. For districts who have received state-funding to currently run a UPK program and have received additional funding through the 2022 enacted budget, they must follow the finance law regarding "supplementing vs. supplanting" of funds. In order to access any new funding, the district first must "max out" its old allocation by meeting their Maintenance of Effort (MoE) for 4-year-old students as shown on their allocation chart.

58. We are receiving funding for the first time through the 2022 enacted budget and have never run a UPK program before. Are we allowed to run a half-day program for the first year?

No. The funding made available through the 2022 enacted budget is only to support full-day programming for 4-year-old students. Districts are not allowed to convert these full-day seats to half-day seats.

59. If we serve more students than what our allocation is for, will the district get reimbursed additional funding?

No. Any seats that are filled beyond what has been allocated to the district are at the district's own expense. A district cannot receive additional funding if they fill more slots than what they are allocated for.

60. Is the district allowed to use all their UPK funding to contract out the entire program to eligible agencies?

Yes. There is nothing that prevents a district from entirely using eligible agencies to run a UPK program. However, the district would still have oversight of the program as the funding is awarded to the district and not the eligible agencies.

61. Are prekindergarten students eligible for transportation aid?

No. Prekindergarten students are not eligible for transportation aid unless they are classified as McKinney-Vento students. However, districts can use their grant towards the cost of transportation. More information can be found at NYSED's [State Aid website](#).

62. Since prekindergarten students are not eligible for transportation aid, are we required to transport them?

No. The district is not required to transport prekindergarten students as outlined in Education Law Section 3635(g). Furthermore, Education Law 3635(g) states that if the district is transporting prekindergarten students to district buildings, it must also transport those students who attend UPK in their eligible agencies.

63. If the district is offering transportation to PreK students, is the district allowed to ask parents if they would like district transportation or if they would like to transport their child(ren) to UPK?

Yes. The district has every right to ask parents if they would like district transportation. Some parents may prefer to transport their child(ren) to UPK for a variety of reasons and may wish not to put their child(ren) on a school bus. However, the district should have a clear procedure to ensure all parents have been offered district transportation if it is being provided and have a record of this communication.

64. Can we charge our eligible agencies for transportation costs?

No. Transportation costs cannot be charged to the eligible agencies as it is the responsibility of the district to provide transportation regardless of where the child's attends UPK.