



THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK

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TO: Superintendents in Districts receiving UPK and/or SUFDPK Funding
PreK Program District Contacts receiving UPK and/or SUFDPK Funding
Community-Based Organization Directors Contracting with a School District for UPK Services

FROM: Jason Breslin, Director of Early Learning

SUBJECT: Approval of Emergency Regulations at the September Board of Regents Meeting

DATE: **September 20, 2022**

On September 13, 2022, the Board of Regents adopted emergency regulations to 151-1.3 regarding the qualifications of staff of an eligible agency who partners with a public school district for the provision of UPK services. With these emergency regulations in effect, teachers employed by an eligible agency must meet the qualifications of their oversight agency to be eligible to provide UPK services. For eligible agencies outside of New York City, the oversight agency, if not the New York State Education Department (NYSED) is primarily the Office of Children and Family Services (OCFS). For eligible agencies located within New York City, the oversight agency is primarily the New York City Department of Health and Mental Hygiene (NYC DOHMH).

For districts who are collaborating with an eligible agency for the provision of UPK services, a new process has been put into place in which the district files a waiver along with their UPK application indicating the number of teacher(s) not certified as well as the number of students serviced by those teacher(s). These waivers are to be submitted on an annual basis by August 1st of the current school year.

As in the past, if there are teachers uncertified at an eligible agency who is partnering with a district, an on-site education director must be employed during the hours in which UPK services are being provided. However, NYSED is cognizant of the teacher shortage that is plaguing the education system and has amended the language regarding qualifications of the on-site director. The emergency regulations allow for an on-site education director to possess a bachelor's degree or higher in the area of early childhood education. However, if the on-site director is uncertified, they must submit a plan of study to obtain a certification valid for service in the early childhood grades within 5 years of the date such individual begins employment as the on-site director. These plans shall be submitted to the district, who will submit to NYSED all study plans by October 31st of each school year through the NYSED Business Portal's Monitoring and Vendor Performance System (MVPS). The district must also put a plan in place to oversee program implementation at the agency until the on-site director meets all the requirements as set forth in Commissioner's regulations 151-1.3(2)(i).

It is anticipated that the proposed rule will be presented to the Board of Regents for adoption as a permanent rule at the January 2023 meeting, which is the first scheduled meeting after the expiration of the 60-day public comment period mandated by the State Administrative Procedure Act (SAPA) for state

agency rulemaking. Should there be any questions regarding the emergency regulations, please do not hesitate to reach out to the Office of Early Learning at OEL@nysed.gov