



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

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To: Superintendents in Districts Receiving Universal Prekindergarten (UPK) and/or Statewide Universal Full-Day Prekindergarten (SUFDPK) Funding

From: Erik Sweet, Executive Director of the Office of Early Learning
Sara Madison, Coordinator, Office of Facilities Planning
Sean Giambattista, Director, Office of State Aid

Subject: Field Guidance for the use of Building Aid to Support Expansion of UPK/SUFDPK spaces

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Education Law §3602(6) allows the use of Building Aid for construction of new buildings, additions, and alterations/reconstruction of facilities that serve elementary and/or secondary students. To enable districts to accommodate more UPK and/or SUFDPK funded students, this law was extended in 2023 to include the expansion of UPK and SUFDPK spaces. Below illustrates various potential arrangements for adding PreK spaces and their aidability:

1. District-Owned Building, District-Operated Program

Capital construction projects for additions of PreK classrooms are aidable if an evaluation of all the District's elementary schools confirms insufficient space is available for PreK classrooms as determined by Office of Facilities Planning's Aid Guidelines. Please note that an OCFS license is not required as it is a district owned location.

2. District-Owned Building, Standalone PreK Center

This option is Building Aidable so long as the district confirms insufficient space is available for PreK classrooms in the district's elementary schools as determined by Office of Facilities Planning's Aid guidelines. Please note that an OCFS license is not required as it is a district owned location.

3. District-Owned Building, Community-Based Organization (CBO) Operated Program

As a district-owned building, the same conditions described above apply, but Building Aid will not be paid on capital construction projects if the district has a money-bearing lease agreement with the CBO. If the CBO pays the district to lease the space, then no building aid is available. Please note that this space would not require licensing by OCFS as long as the district assumes responsibility as operator.

4. Privately-Owned Building, CBO-Operated Program

Typically, this is not Building Aid eligible, but there are two potential avenues in which a district could receive Building Aid. If the district:



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- Can confirm insufficient space in the district's existing buildings for the PreK program and enters into a lease for a CBO-operated space in a privately-owned building, the district could receive building aid on these lease expenses; or
- Leases space from a privately-owned CBO-operated space and would like to do capital construction on that space, Commissioner's Regulations require that the lease must have at least 10 years remaining, following construction, in order to receive Building Aid (§403-b; 8 NYCRR 155.12).

Please note that this space would require licensing by OCFS as it is being run by the CBO and is not a district-owned building.

5. Privately-Owned Building, District-Operated Program

If the District:

- Can confirm insufficient space in their existing buildings for the PreK program, and enters into a lease for privately-owned space, the district could receive building aid for those lease expenses; or
- Leased space from a private owner and would like to do capital construction on that space, Commissioner's Regulations require that the lease has at least 10 years left after the construction in order to receive Building Aid (§403-b; 8 NYCRR 155.12).

Please note that an OCFS license is not required as the district operates the program.

If considering any of the scenarios above, it is recommended that the district first conduct its due diligence to evaluate and confirm current space limitations by communicating with its architectural and/or engineering firm. Once completed, submit a Preliminary Review package to the Office of Facilities Planning (OFP). See [checklist here](#). OFP will conduct a preliminary review to evaluate and confirm insufficient space for prekindergarten classrooms. Please note this process may take several months. The New York State Education Department's State Aid Office is responsible for determining and distributing state building aid to public school districts. Funding amounts will be based on the district's existing space, proposed addition, and projected enrollment.

If there are questions or concerns, regarding the scenarios above and your district specifically, please contact OFP at (518) 474-3906 or emscfp@nysed.gov. For licensing questions, please contact the Office of Children and Family Services at info@ocfs.ny.gov. For programmatic or funding questions related to UPK or SUFDPK, please contact the Office of Early Learning at (518) 474-5807 or OEL@nysed.gov.