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**Authority**

The provisions of this Chapter 405 issued under Article XV-D(b) of the Public School Code of 1949 (24 P. S. §§ 15-1511-D—15-1516-D), unless otherwise noted.

**Source**

The provisions of this Chapter 405 adopted June 4, 2010, effective June 5, 2010, 40 Pa.B. 2940, unless otherwise noted.

**GENERAL PROVISIONS****§ 405.1. Purpose.**

This chapter establishes rules and procedures for implementing the Program created to provide expanded access to high quality prekindergarten experiences for eligible students.

**§ 405.2. Definitions.**

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

*Act*—Article XV-D(b) of the Public School Code of 1949 (24 P. S. §§ 15-1511-D—15-1516-D), added by the act of July 20, 2007 (P. L. 278, No. 45).

*Approved provider*—An eligible provider that has been approved by the Department to offer prekindergarten under the act.

*At-risk child*—A child who is at risk of educational failure because of poverty, economic disadvantage, limited English proficiency, academic difficulties, or individual or community factors.

*CDA*—Child Development Associate credential.

*Department*—The Department of Education of the Commonwealth.

*Eligible applicant*—Any of the following entities:

- (i) A school district.
- (ii) A Head Start program.
- (iii) A nursery school licensed under the Private Academic Schools Act (24 P. S. §§ 6701—6721).
- (iv) A regulated child day care center or a group day care home that is designated a STAR 3, or higher under the Keystone STARS quality rating system established by the Department of Public Welfare, as of the beginning of the 2009-2010 program year.
- (v) A third party entity that will carry out fiduciary and other lead agency responsibilities for entities eligible to operate program classrooms.

*Eligible provider*—An eligible provider as defined in section 1511-D of the act (24 P. S. § 15-1511-D). A child day care center or group day care home must have been designated a STAR 3, or higher under the Keystone STARS quality rating system established by the Department of Public Welfare as of the beginning of the 2009-2010 program year.

*Eligible student*—An eligible student as defined in the section 1511-D of the act.

*Grant*—An award of funds by the Department for the purposes of carrying out the Program.

*Identified developmental delay or disability*—As used in this chapter, a child who has a written Individualized Education Program under Chapter 14 (relating to special education services and programs) and the Federal Individuals with Disabilities Education Improvement Act (20 U.S.C.A. §§ 1400—1419).

*Lead agency*—An entity that submits an application for funding and will undertake reporting, recordkeeping, compliance and fiduciary responsibilities for the members of a partnership under the grant.

*Location*—The site, place or address where Program services are provided.

*Partner*—One, or more, entities that are in a formal relationship with a lead agency to provide Program services using grant funds and that have signed a written partnership agreement.

*Partnership agreement*—The written document that specifies the roles and responsibilities of all entities in the partnership established to provide Program services using grant funds.

*Program*—The PA Pre-K Counts Program established under the act.

*Program year*—The school year during which Program services are delivered to children enrolled in the program.

*Teacher*—The primary teacher in the classroom who is responsible for the instruction of children and meets the requirements in § 405.44 (relating to staffing and professional development).

*Teacher aide*—A paraprofessional who provides instructional support to students, including those who do one or more of the following:

- (i) Provide one-on-one tutoring if tutoring is scheduled at a time when a student would not otherwise receive instruction from a teacher.
- (ii) Assist with classroom management, by organizing instructional materials.
- (iii) Provide instructional assistance in a computer laboratory.
- (iv) Conduct parental involvement activities.
- (v) Provide instructional support in a library or media center.
- (vi) Act as a translator.
- (vii) Provide instructional support services under the direct supervision of the primary teacher.

**Cross References**

This section cited in 22 Pa. Code § 49.31 (relating to criteria for eligibility); 22 Pa. Code § 49.82 (relating to Instructional I); and 22 Pa. Code § 405.11 (relating to eligible provider).

**§ 405.3. General rules.**

- (a) Program services shall be provided free of charge.
- (b) Nothing in this section shall be construed to prevent families with children who participate in the Program and are willing and able to pay part or all of the cost of the participation, from doing so. Approved and eligible providers and lead agencies are prohibited from soliciting costs from families.
- (c) A student participating in the Program may not be included in the average daily membership or adjusted average daily membership of an approved provider school district for the purpose of reimbursement under Article XXV of the Public School Code of 1949 (24 P. S. §§ 25-2501—25-2599.3).
- (d) Programs must be open to children with identified developmental delays or disabilities, or both, and provide inclusive environments for these children.
- (e) Approved providers may enroll eligible students who reside outside of the providers' usual attendance area but all eligible children must be residents of this Commonwealth.
- (f) Program grant funds are to be used for providing services and programs to age-eligible students as described in § 405.21 (relating to targeting children to be served). Program classes may include children supported by alternative funding sources, including Early Intervention, Head Start, school district or other public funds. In addition, those other funding sources may be used to support a student in a Program outside the age requirements or the 2-year time limitation.
- (g) Approved providers shall verify the income and family size of all children participating in the Program prior to enrollment pursuant to Program announcements issued by the Department.
- (h) Program providers shall be provided with Program announcements issued by the Department to provide guidance and direction regarding application, implementation and reporting requirements.
- (i) The Department will administer the Program consistent with the statutory authorization.

**COMPETITIVE APPLICATION PROCEDURES****§ 405.11. Eligible provider.**

An eligible provider may apply for a grant alone or in combination with other eligible providers as a joint applicant, in which case the entity that applies for the grant shall be the lead agency in a partnership, as defined in § 405.2 (relating to definitions).

**§ 405.12. Proposal submission.**

(a) The Department will announce through its web site that competitive grant applications are to be submitted to the Department, specifying the submission deadline.

(b) To be considered for a grant award, an applicant shall meet the deadline for submission of all information by the dates announced in the request for applications.

**§ 405.13. Grant agreements.**

(a) After an eligible provider has been approved, the provider or lead agency shall enter into a grant agreement with the Department. Grant agreements must contain, at a minimum, a work statement and budget.

(b) Grantees shall contact the Department for guidance if a change needs to be made to the scope of work or the budget contained in the grant agreement.

**§ 405.14. Annual community needs assessment.**

Applicants for Program funding shall conduct an annual assessment of community needs for Pre-K services as part of the application process for continuation, expansion or new grant funds.

**PROGRAM PLANNING****§ 405.21. Targeting children to be served.**

The Department will instruct applicants to target their Program enrollment to children who are most at risk, consistent with the description in the Program guidance of targeting services to children most at risk, if it is likely that the funds appropriated for the upcoming program year will be less than the funds required to serve all eligible children in this Commonwealth. The Department will also instruct approved providers to engage in outreach and partnership with Child Care Works, Head Start, and other appropriate programs of the Office of Child Development and Early Learning to inform Programs and families that they serve about the availability of the Program and to coordinate with these programs, particularly when there are waiting lists.

**Cross References**

This section cited in 22 Pa. Code § 405.3 (relating to general rules).

**§ 405.22. Maximizing resources.**

Approved providers shall use Program grant funds to supplement, not to supplant, public funds from any other source that are used to serve otherwise eligible students, including, but not limited to, Accountability Block Grant funds, local funds, or Federal or State Head Start funds for Programs provided in the same geographic area. However, this requirement does not prohibit combining funding

sources for support of a single Program as long as additional eligible students are served and all of the Program standards are met by the program supported with combined resources.

**§ 405.23. Disallowance of duplicate funding.**

Program funds may not be used to provide the same service for a child already receiving that service funded by another resource.

**§ 405.24. Enrollment.**

Each approved provider shall develop and implement a plan for securing full enrollment on the first day of class for the program year and maintaining full enrollment throughout the program year, except as follows:

(1) When a student leaves the Program after the start of the program year, the provider shall have up to 20 instructional days to fill the vacancy, after which time the Department may request the return of funds or reduce future payments for the vacated and unfilled slot in the amount of funds relative to the remaining instructional days of the Program for that program year, unless the vacancy occurs within 21 instructional days of the last day of class.

(2) If an enrolled child has ten or more unexcused absences, the provider shall take appropriate steps to address attendance, up to and including dismissal of the child from the Program. The Department may request the return of funds or reduce future payments to Programs that have not taken appropriate steps to overcome unexcused absences.

(3) Provider policies regarding unexcused absences and the number allowed must be written and provided to parents, families or guardians of enrolled children, and to the Department.

(4) An approved provider may not deny a student admission to a Program by reason of the student's disability.

**PROGRAM COORDINATION AND COLLABORATION**

**§ 405.31. Coordination and collaboration with agencies providing services to young children.**

(a) Approved providers shall coordinate and collaborate with the local agencies providing Early Intervention services to Infants and Toddlers to ensure a smooth transition for children and families that have been receiving services from Early Intervention.

(b) Approved providers shall coordinate and collaborate with the local agencies providing Early Intervention services to preschool age children to ensure the following:

(1) A smooth transition for children and families that have been receiving services from Early Intervention.

(2) Coordination of any continued Early Intervention services the child will receive while enrolled in the Program.

(3) Awareness of the available Early Intervention services for children enrolled in the Program who have not been identified as in need of Early Intervention services but who may be eligible for the services, and the capacity to provide appropriate information to parents and make appropriate referrals for Early Intervention evaluations and services.

(c) Approved providers shall coordinate and collaborate with the Child Care Information Services agency in their area to coordinate services and benefits received by families and to achieve enrollment in the Program of children who are most at risk and in need of services.

(d) Approved providers shall coordinate and collaborate with programs that provide the before and after Program child care for participating children so that transportation arrangements, emergency contacts and other necessary information are shared and so that the needs of families whose children are enrolled in the Program are met.

(e) Approved providers shall coordinate and collaborate with Head Start agencies.

(f) Approved providers shall coordinate and collaborate with school districts in those areas from which they are enrolling children in the Program to develop and implement plans for a smooth transition for children who will leave the Program to be enrolled in the school districts' K-12 program; to ensure alignment of curriculum and standards between the Program and the K-12 school district program; and to consolidate activities, such as professional development, to the extent practicable, to the advantage of both programs and creation of greater efficiencies.

(g) Approved providers shall coordinate and collaborate with the local community groups that engage the public in issues related to early childhood education.

(h) Approved providers shall coordinate and collaborate with other Program sites in their county on activities such as professional development, family outreach and child enrollment strategies, to the extent practicable to the advantage of all of the Programs and creation of greater efficiencies.

### **§ 405.32. Partnerships.**

Partnerships of eligible providers must have a signed partnership agreement. The agreement shall be submitted to and approved by the Department. The partnership agreement must delineate how the entities that comprise the partnership will carry out their roles and responsibilities within the Program, including: communication, decision-making, reporting, monitoring of program requirements, recordkeeping and fiduciary matters.

**PROGRAM AND CLASSROOM REQUIREMENTS****§ 405.41. School term.**

Programs shall offer a minimum of 180 days of developmentally appropriate instructional practices and activities for students.

(1) In the first year of operation as a provider, if the provider is unable to start up immediately at the beginning of the program year, the provider may serve children for fewer than 180 days, but in no case fewer than 160 days.

(2) Days may not be counted as days of developmentally appropriate practices and activities when the Program is closed, and time may not be counted as time spent on developmentally appropriate practices and activities for an activity to which admission is charged.

**§ 405.42. Program day and developmentally appropriate instructional practices and activities.**

Instructional time for students shall be time in the program devoted to developmentally appropriate instructional practices and activities provided as an integral part of the Program under the direction of qualified employees.

(1) The following practices and activities, as described in the early learning standards in § 4.20 (relating to prekindergarten education), count towards instructional time:

- (i) Classroom instruction.
- (ii) Orientation of children during regular school hours to the Program, Program setting and Program routines conducted.
- (iii) Meals and snack-time, as long as they are integral parts of the curriculum, facilitated by the lead teacher and used for student learning experiences.
- (iv) Play-time, including outdoor and indoor play or child directed activities as long as they are an integral part of the instructional day, facilitated by the lead teacher and used for student learning.
- (v) Time spent at the library, and in art, music or physical education.
- (vi) Opening exercises that engage children, including opening circle time, in preparation for the day.
- (vii) School, group or class educational trips to which admission is not charged to students or parents and provided that a teacher accompanies the students.
- (viii) Student services, such as guidance and counseling services, psychological services, speech pathology and audiology services, and student health services.
- (ix) Civil defense, fire, bus evacuation and similar drills.
- (x) Early dismissal and delayed opening only when due to inclement weather.



(2) Time spent in transportation, professional development and parent/teacher conferences does not count as instructional time.

(3) In addition to the activities described in subsection (a), home visiting may be counted toward required instructional time, provided that the home visits are of sufficient frequency and duration for each child to constitute the equivalent of classroom hours missed and that this activity has been approved by the Department in advance of implementation.

**§ 405.43. Class size and student/staffing ratio.**

(a) Program class enrollments are limited to at most 20 students with at least one teacher and one aide in the classroom, however, for high quality programming a maximum of 17 students is recommended.

(b) If a Program class has ten or fewer students, there shall be one teacher in the classroom and an aide must be available onsite to assist the teacher as needed.

(c) Whenever the enrollment in a class exceeds 20, the class shall be divided into two classes so that each class individually does not exceed 20 students. Each class must be properly staffed and, if space is to be shared, that space must be divided by a barrier that adequately separates the spaces for instructional purposes.

**§ 405.44. Staffing and professional development.**

(a) Teachers of eligible students supported by Program funding shall meet the following requirements:

(1) In school districts, teachers shall have early childhood education certification.

(2) In Head Start and child care programs, teachers shall possess a minimum of an associate's degree in early childhood education or child development.

(3) In licensed nursery school programs, teachers shall have a minimum of a bachelor's degree, 18 credits from an institution of higher education in early childhood education and a private academic teaching or temporary approval certificate.

(4) By December 31, 2011, all teachers in Program classrooms shall have early childhood education certification.

(b) Teacher aides in any classroom of eligible students supported by Program funding shall meet one of the following criteria:

(1) Completion of at least 2 years of full-time postsecondary study or the equivalent.

(2) Possession of an associate's degree or higher.

(3) Ability to meet a rigorous standard of quality and demonstration of knowledge through a formal state or local academic assessment or possession by the teacher aide of a Child Development Associate's (CDA) certificate.

(4) Teacher aides who work solely as translators shall have a high school diploma or its equivalent, and do not have to meet any of the other requirements of paragraphs (1)—(3).

(c) A lead teacher in the Program, including those in community-based settings, including outdoor and indoor play or child directed activities with an Instructional Level I certificate shall convert the certificate to an Instructional Level II certificate within 6 years from the time of initial service as an Instructional Level I teacher in the Program. Teachers holding an Instructional Level I early childhood certificate may count their time working in a Program community-based program toward the 3 years of required experience necessary before converting the certificate to an Instructional Level II certificate, in accordance with the requirements of the Department, including a year's participation in a Department approved teacher induction plan, six semiannual evaluations and the Department specified continuing professional development credits.

(d) Program teachers shall undertake continuous professional development as specified by the Department and, at a minimum, meet the requirements of sections 1205.1—1205.5 of the Public School Code of 1949 (24 P. S. §§ 12-1205.1—12-1205.5).

(e) Program teacher aides shall take a minimum of 24 hours of continuous professional development as specified by the Department, and in early childhood education and development, each year.

#### Cross References

This section cited in 22 Pa. Code § 405.2 (relating to definitions).

### § 405.45. Curriculum.

(a) The curriculum used in any classroom that includes a child who is enrolled in the Program must be standards-based.

(b) The curriculum used in the Program must be determined by the Department to be aligned with the Early Learning Standards established by the Department.

### § 405.46. Assessment.

Approved providers shall:

(1) Assess eligible students with a minimum frequency determined by the Department using an assessment tool approved by the Department.

(2) Participate in Department conducted training in the use of the assessment tool as prescribed by the Department.

(3) Report aggregate assessment information to the Department for purposes of Program monitoring, evaluation, reporting child outcomes and accountability in a manner and with a frequency and schedule determined by the Department.

(4) Participate in a Department conducted assessment of the Program learning environment and attend the training in the use of the environmental self-assessment tool as prescribed by the Department.

**§ 405.47. Parent involvement.**

Approved providers shall develop and implement a plan for involvement and input of parents, families and guardians of children enrolled in the Program to inform them of program goals, instructional strategies, and the progress of their children and to involve them in supportive activities designed to help ensure their child's success.

**§ 405.48. Program transition planning.**

(a) Approved providers shall develop and implement plans designed to ensure a smooth and supportive transition for children entering the program from the setting from which they are coming, including the home, Early Intervention services, Early Head Start or child care.

(b) Approved providers shall develop and implement plans to ensure a smooth and supportive transition for children leaving the Program to enter kindergarten and the K-12 school environment.

**§ 405.49. Immunizations.**

Approved providers shall meet the immunization requirements that pertain to their provider type; for school districts and licensed nursery schools see 28 Pa. Code §§ 23.81—23.87 (relating to immunization); for child care centers and group child care homes see 28 Pa. Code § 27.77 (relating to immunization requirements for children in child care group settings); and for Head Start agencies see 45 CFR 1304.20 (relating to child health and development services), the Federal Head Start Performance Standards.

**§ 405.50. Emergency response plans.**

Approved providers shall develop, implement and review and revise annually, as necessary, a comprehensive disaster and emergency response plan that meets the guidelines of the Pennsylvania Emergency Management Agency. See, *Practical Information on Crisis Planning: a Guide for Schools and Communities*, at [www.pema.state.pa.us](http://www.pema.state.pa.us).

**§ 405.51. Inclusive environments.**

A Program classroom should reflect the naturally occurring ratio of students with and without developmental delays and disabilities in the area served by the approved provider and should not contain more than 20% of students who have been identified by the start of the program year as having a developmental delay

or disability. However, in attempting to promote inclusion in this way, approved providers may not deny students admission to a classroom based on their disability or delay.

**RECORDKEEPING, REPORTING AND ATTENDANCE AT  
DEPARTMENT SPONSORED MEETINGS AND TRAINING**

**§ 405.61. Program reporting.**

Approved providers shall provide reports as requested by the Department and in the manner and at times as prescribed by the Department, including, but not limited to, expenditure reports, reconciliation of cash reports, enrollment, attendance, demographic information and child outcomes.

**§ 405.62. Recordkeeping.**

Approved providers shall maintain all records pertinent to the program, including, but not limited to, financial, statistical, property, changes in Keystone STARS status, child care certificate, nursery school license, teacher evaluations and recommendations, and any other supporting documentation, for a period of at least 7 years from the date of submission of their final closeout report, or until all audits are complete and findings have been completely resolved, whichever occurs last.

**§ 405.63. Attendance at Department sponsored meetings and training.**

Approved providers shall attend any mandatory meetings and training sessions arranged by the Department.

**§ 405.64. Teacher induction plans and evaluations.**

Approved providers shall facilitate activities that teachers must undertake to advance their certification from Instructional Level I to Instructional Level II.

(1) Providers shall implement a teacher induction program that meets the requirements of §§ 49.16 and 49.83 (relating to approval of induction plans; and Instructional II) and implementing Department guidelines, and that has been approved by the Department and facilitates the involvement of teachers in the Program.

(2) Providers shall conduct or make available to teachers holding Level I teaching certificates semiannual evaluations as are necessary for Level I certificate holders to be recommended for a Level II teaching certificate.

**GRANTEE FISCAL RESPONSIBILITIES**

**§ 405.71. Segregation of funds.**

An approved provider that receives grant funds under the Program shall maintain a separate account in its budget to facilitate monitoring and auditing of the

use of the grant funds. If the approved provider is a school district, the school district may not place grant funds in a reserve account.

**§ 405.72. Grant awards.**

(a) Grants shall be awarded by the Department to approved providers on a per-child basis, in an amount set by the Department, for each eligible student served by an approved provider.

(b) The amount of grant funds provided per-student may not exceed the cost of administering the approved provider's prekindergarten program.

**§ 405.73. Use of funds.**

(a) Funds may only be used for the costs associated with providing Program services to eligible students enrolled in the Program.

(b) Funds may not be used for administrative or indirect costs.

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