

**ATTACHMENT II**  
**Text of Adopted Amendment to 19 TAC**

**Chapter 102. Educational Programs**

**Subchapter AA. Commissioner's Rules Concerning Early Childhood Education Programs**

**§102.1002. Prekindergarten Early Start Grant Program.**

- (a) Definitions. The following words and terms when used in this section shall have the following meanings, unless the context clearly indicates otherwise.
- (1) Eligible student--A child is eligible for enrollment in a prekindergarten class under this section if the child is at least three years of age and meets eligibility criteria consistent with the Texas Education Code (TEC), §29.153.
  - (2) Licensed child care--Child care that meets the requirements adopted by the Texas Department of Family and Protective Services under the Human Resources Code, §42.002(3).
  - (3) Nonprofit--An organization that meets the requirements of the United States Code, Title 26, Subtitle A, Chapter 1, Subchapter F, Part I, Section 501(a).
  - (4) Partner--A non-public school organization collaborating with a public school to provide an educational component to eligible prekindergarten children.
  - (5) Prekindergarten Early Start Grant Program--A program established in accordance with the TEC, §29.155, to administer grant funds to implement and expand prekindergarten programs. [~~This grant program was formerly known as the Prekindergarten Expansion Grant Program.~~]
  - (6) Prekindergarten site--A public or non-public school classroom where teachers work with three- and four-year-old children in a prekindergarten school readiness program.
  - (7) Proven school readiness components--The components of proven school readiness are:
    - (A) a high-quality, developmentally appropriate, and rigorous curriculum, based on the Texas Prekindergarten Guidelines ;
    - (B) continuous monitoring of student progress in the classroom; and
    - (C) professional development, including mentoring, to promote student achievement.
  - (8) School district--For the purposes of this section, the definition of a school district includes an open-enrollment charter school.
  - (9) School readiness certification system (SRCS) --In accordance with the TEC, §29.161, the school readiness certification system is a valid, research-based automated system provided by the State Center for Early Childhood Development through which an early childhood education program submits an application demonstrating the program's record of cognitive, social, and emotional development of young children to be certified as a school ready program.
  - (10) School readiness integration--In accordance with the TEC, §29.158, school readiness integration refers to cooperative strategies to share resources across public and non-public program delivery organizations in a community or communities that may include, but are not limited to:
    - (A) sharing certified or highly qualified teachers so that every child in each targeted classroom receives a minimum of three hours daily of high-quality skill development consistent with developing children's social and emotional well-being;
    - (B) developing a comprehensive instructional framework, based on the Texas Prekindergarten Guidelines, consisting of common performance goals that encompass the unique characteristics of each individual organization responsible for preparing young children for school success;
    - (C) sharing physical space if one organization lacks capacity while another has available capacity;

- (D) conducting joint professional development programs that focus on proven school readiness components, including the Texas Prekindergarten Guidelines; and
  - (E) adopting similar approaches to student progress monitoring to inform classroom instruction.
- (11) School readiness integration partnership--A collaboration among public prekindergarten programs and local workforce development boards, Head Start providers, college or university early childhood programs, and/or providers of private for-profit or nonprofit licensed child care services that provides a school readiness component to eligible prekindergarten students.
  - (12) School ready or school readiness--A term that refers to a child being able to function competently in a school environment in the areas of early language and literacy, mathematics, and social skills as objectively measured by state-approved assessment instruments.
  - (13) Shared services arrangement (SSA)--An agreement between two or more school districts and/or education service centers (ESCs) that provides services for entities involved.
  - (14) State Center for Early Childhood Development (SCECD)--The state center for early childhood education research and training for early childhood teachers and caregivers administered by The University of Texas Health Science Center at Houston.
  - (15) Texas Prekindergarten Guidelines--Guidelines approved by the commissioner of education that offer detailed descriptions of expected behaviors across multiple skill domains that should be observed in four- to five-year-old children by the end of their prekindergarten experience. The guidelines are to prepare prekindergarten children to master the skills and concepts in each subject area specified in §74.1 of this title (relating to Essential Knowledge and Skills) in the kindergarten Texas Essential Knowledge and Skills.
  - (16) Tier 1 grantee--An applicant not currently eligible to receive funds under Tier 2 eligibility criteria. [; with an average student performance over the last three consecutive years on the Grade 3 assessment instruments administered under the TEC, §39.023, substantially below the state average for this time period that meets one of the following:]
    - ~~[(A) has not previously received Prekindergarten Expansion Grant funding; or]~~
    - ~~[(B) has previously received Prekindergarten Expansion Grant funding but did not participate in Cycle 14 (school year 2008-2009).]~~
  - (17) Tier 2 grantee--An applicant that participated as a Tier 2 grantee in ~~[Cycle 14 of]~~ the Prekindergarten Early Start [Expansion] Grant Program in school years 2009-2010 and 2010-2011 [ (school year 2008-2009) ] that is eligible to receive continuation funding [due to the applicant's above state average student performance over the last three consecutive years on the Grade 3 assessment instruments administered under the TEC, §39.023] .
  - ~~[(18) Tier 3 grantee--An applicant that participated in Cycle 14 of the Prekindergarten Expansion Grant Program (school year 2008-2009) that is eligible to receive continuation funding on the basis of the applicant's substantially below state average Grade 3 student performance over the last three consecutive years on the Grade 3 assessment instruments administered under the TEC, §39.023.]~~
- (b) Eligibility. Eligible applicants include school districts, open-enrollment charter schools, and ESCs operating as the fiscal agent of an SSA. An applicant may apply for Prekindergarten Early Start Grant Program funds if the applicant meets the criteria for a grantee as defined in subsection (a)(16) or (17) of this section and :
- (1) establishes a school readiness integration partnership; ~~[and]~~
  - (2) demonstrates how the applicant will measure student progress based on proven school readiness components and the SRCS [school readiness certification system] in accordance with TEC, §29.161 ; and ~~[ ]~~
  - (3) demonstrates a commitment to adopt a kindergarten reading diagnostic assessment instrument compatible with the requirements for submission of kindergarten data to the SRCS.
- (c) Application and grant award.

- (1) An eligible applicant must submit a Prekindergarten Early Start Grant Program application in accordance with the instructions provided by the Texas Education Agency (TEA).
  - (2) An applicant must document in the grant application its locally adopted procedures for:
    - (A) determining which eligible students will participate in the program;
    - (B) implementing a strategic plan encouraging eligible students to attend the program; and
    - (C) sustaining the level of program quality and services following the term of the grant period.
  - (3) Each applicant shall provide evidence that before establishing a new prekindergarten program, the school district considered the possibility of sharing use of an existing Head Start or other licensed child care prekindergarten site as a prekindergarten site.
- (d) Notification. The TEA will notify each applicant in writing of its selection or non-selection for funding. In the case of an application selected for funding, notification to the grantee will include the contractual conditions which the grantee must accept in accordance with state law.
- (e) Funding. Funding allocations may take into account the percentage of educationally disadvantaged students served in the district, in addition to other funding allocation methods as determined by the commissioner annually in the grant application. Contingent upon adequate appropriations, distribution of funds will be according to the following funding structure.
- (1) Tier 1 funding. The highest percentage of available funding [~~as determined annually in the grant application.~~] will be proportionately awarded to Tier 1 grantees. Funding will be provided for a period not to exceed five years from year one of grant application approval and will be based on annual accomplishment of grant objectives and requirements set forth in the application in subsequent years of the five-year cycle.
    - (A) Grants will be awarded first to Tier 1 applicants whose average student performance over the last three consecutive years on the Grade 3 assessment instruments administered under the TEC, §39.023, is substantially below state average and whose application score meets a minimum score as defined in the grant application.
    - (B) Any funds remaining after all grants for Tier 1 applicants meeting criteria defined in subparagraph (A) of this paragraph have been awarded may be awarded to Tier 1 applicants whose average student performance over the last three consecutive years on the Grade 3 assessment instruments administered under the TEC, §39.023, is at or above the state average and whose application score meets a minimum score as defined in the grant application.
  - (2) Tier 2 funding. A percentage of available funding [~~as determined~~] ~~annually~~ [~~in the grant application.~~] will be awarded to Tier 2 grantees on a continuation basis . Continuation funding [~~Funding~~] will be provided for a period not to exceed three years or through the 2011-2012 school year. [~~from year one of grant application approval and will be based on annual accomplishment of grant objectives and requirements set forth in the application in subsequent years of the three year cycle.~~]
  - ~~[(3) Tier 3 funding. A percentage of available funding, as determined annually in the grant application, will be awarded to Tier 3 grantees. Funding will be provided for a period not to exceed two years. Tier 3 grantees will apply annually and shall be required to participate in intensive technical assistance provided by the SCECD focused on proven school readiness components aligned with the Texas Prekindergarten Guidelines.]~~
- (f) Allowable expenditures. Allowable expenditures include, but are not limited to, the following:
- (1) expenditures related to the continuation of existing full-day prekindergarten programs;
  - (2) personnel costs related to the teaching personnel needed to expand prekindergarten programs to meet the requirements of at least six hours of instruction by a certified teacher each day;
  - (3) curriculum materials based on scientific research that are consistent with the Texas Prekindergarten Guidelines and designed to improve the school readiness of preschool children;

- (4) equipment, including computers and other technology;
  - (5) leases for space for prekindergarten programs;
  - (6) costs associated with developing plans for and entering into integrated school readiness partnerships, including costs associated with infrastructure and administration of the program and partnership;
  - (7) training activities on proven school readiness components conducted by the SCECD or another provider;
  - (8) costs associated with the grantee's participation in the SRCS [school readiness certification system]; and
  - (9) indirect costs.
- (g) Unallowable expenditures. Grant funds may not be expended on the following:
- (1) portable buildings;
  - (2) construction of classroom space;
  - (3) renovation or remodeling of existing space; or
  - (4) expenditures related to students who are not eligible for the program.
- (h) Conditions of operation.
- (1) Each grantee must agree to submit all information requested by the TEA through periodic activity/progress reports, a final evaluation report, and other activities related to the evaluation of the program. Reports must be submitted in the prescribed time and must contain all requested information in the prescribed format. These reports will be used by the TEA to evaluate the implementation and progress of grant-funded programs and to determine if modifications or adjustments to the program are necessary.
  - (2) Each grantee must provide a prekindergarten program designed to develop children's school readiness that is aligned with the Texas Prekindergarten Guidelines.
  - (3) Each grantee must collaborate in a school readiness integration partnership as established in its grant application. In coordinating school readiness services under this section and in making any related decision to contract with partners such as local workforce development boards, Head Start and Early Head Start providers, licensed child care providers, or other licensed private for-profit or nonprofit child care services providers, a school district shall give preference to entities willing to commit through mutual agreement to implement proven school readiness components that are aligned with the Texas Prekindergarten Guidelines, including participation in:
    - (A) the SRCS [school readiness certification system] in accordance with the TEC, §29.161;
    - (B) a nationally recognized accrediting organization approved by the Texas Workforce Commission and the Texas Department of Family and Protective Services; or
    - (C) the Texas Rising Star Provider certification program administered by the Texas Workforce Commission.
  - (4) Each grantee must develop and implement, throughout the duration of the grant period, a sustainability plan to continue the quality and level of services of the program after the grant period ends. The sustainability plan must include continuation of the school readiness integration plan and participation in the SRCS. [school readiness certification system.]
- (i) Continuation [Subsequent] funding. All continuation [subsequent] funding will be awarded according to the tier funding structure described in subsection (e) of this section. To receive continuation [subsequent] funding for the Prekindergarten Early Start Grant Program, all grantees must reapply for funding each year of the grant cycle and meet all applicable performance standards included in the prior year's grant agreement. A Tier 2 grantee applying for funding in year three must present valid, research-based empirical data as evidence that the grantee has implemented a prekindergarten program that includes proven school readiness components. [In addition, the following provisions apply.]

~~[(1) — A Tier 2 grantee applying for funding in years two and three must present valid, research based empirical data as evidence that the grantee has implemented a prekindergarten program that includes proven school readiness components. After three years of not receiving funds subsequent to the end of the last year of the three year grant cycle, a Tier 2 grantee will be eligible to reapply for funding as a Tier 1 applicant if the school district's Grade 3 performance on the assessment instruments administered under the TEC, §39.023, is substantially below the state average, as defined in the grant application.]~~

~~[(2) — A Tier 3 grantee will be eligible to reapply for funding as a Tier 2 grantee after the initial two-year cycle if the grantee's Grade 3 student performance level demonstrates improvement, based on valid and reliable measurement by the school readiness certification system, by the end of the grant period.]~~

(j) Exemptions.

(1) The requirement in subsection (h)(3) of this section for a school readiness integration partnership may be exempted if Head Start and/or licensed child care programs required for school readiness integration planning are unavailable in a local community. A school district must provide proof of inability to enter into a school readiness integration partnership by submitting an Exemption Request form in the grant application signed by the superintendent or his/her designee, including a statement signed by the authorized member of the school district's board of trustees certifying inability to submit the required school readiness integration plan based upon unavailability of eligible entities and programs with which to coordinate. An open-enrollment charter school board may also provide a statement certifying inability to enter into a school readiness integration plan based on limitations of the approved charter.

(2) All requests for exemptions from program requirements must be submitted as part of the application.

(3) A Tier 2 grantee ~~[that does not administer the Texas Primary Reading Inventory (TPRI) or Tejas LEE by the effective date of this section]~~ may request an exemption from the requirement in subsection (b)(2) of this section to participate in the SRCS if the Tier 2 grantee was not using a Kindergarten reading diagnostic instrument compatible with the SRCS by April 2, 2009, the original adoption date of this section, ~~[school readiness certification system].~~ The grantee ~~[; however,]~~ will be required to establish a policy for providing another source of valid and reliable data to demonstrate program effectiveness. Approval of a request for an exemption from the requirement to participate in the SRCS ~~[school readiness certification system]~~ will also apply to the condition of operation specified in subsection (h)(3)(A) of this section. However, a district receiving such an exemption will be required to allow evaluation of Kindergarten-Grade 2 student performance by the state, or its designee or its evaluator, using a Kindergarten reading diagnostic instrument compatible with the SRCS or any other developmentally appropriate diagnostic assessment instrument.

(k) Technical assistance. The TEA or its contractors will provide technical assistance, contingent on available funding, to implement proven school readiness components to selected school districts and their school readiness integration partners. Based on a comprehensive analysis of student performance, SRCS results, periodic activity/progress reports, final evaluation reports, and other relevant data from grantees, selected grantees and their school readiness integration partners will be required to participate in the technical assistance.

(l) Evaluation. Each grantee operating a prekindergarten program using Prekindergarten Early Start Grant Program funds must comply with evaluation procedures consistent with the TEC, §29.154, in a manner established by the commissioner. Annual submission of evaluation reports based on program quality and student performance will be required in the manner and time set forth in the application for funding.

(m) Revocation.

(1) The commissioner may revoke a grant award for the Prekindergarten Early Start Grant Program based on the following factors:

- (A) noncompliance with application assurances and/or the provisions of this section;
- (B) lack of program success as evidenced by progress reports and program data;

- (C) failure to participate in data collection and audits;
  - (D) failure to meet performance standards specified in the application; or
  - (E) failure to provide accurate, timely, and complete information as required by the TEA to evaluate the effectiveness of the Prekindergarten Early Start Grant Program.
- (2) A decision by the commissioner to revoke the grant award of a Prekindergarten Early Start Grant Program is final and may not be appealed.
- (n) Recovery of funds. The commissioner may audit the use of grant funds and may recover funds against any state provided funds.
- (o) Implementation. The funding structure delineated in subsection (e) of this section takes effect beginning with school year 2011-2012 [~~2009-2010~~].