

**STATE BOARD OF EDUCATION**

**Consent Item**

October 25, 2018

**SUBJECT:** Amendment to Rule 6M-4.610, Statewide Provider Contract for the School Readiness Program

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**PROPOSED BOARD ACTION**

For Approval

**AUTHORITY FOR STATE BOARD ACTION**

Section 1001.213(2), Florida Statutes

**EXECUTIVE SUMMARY**

The Office of Early Learning (OEL) administers federal and state child care funds and partners with 30 local early learning coalitions to deliver comprehensive early learning services statewide. The office oversees three programs—the School Readiness Program, the Voluntary Prekindergarten (VPK) Education Program, and Child Care Resource and Referral services. OEL is required to submit its proposed rules to the State Board of Education for approval.

OEL is required to comply with lead agency responsibilities in the administration of the Child Care and Development Block Grant Trust Fund. OEL must implement specific program eligibility requirements, which includes provider eligibility. Section 1002.82(2)(m), F.S. requires OEL to establish by rule a standard statewide provider contract to be used with each School Readiness provider. Rule 6M-4.610 establishes the standard statewide provider contract and contract provisions.

The Office of Early Learning revised the current rule text and incorporated forms to include new School Readiness Program requirements enacted in House Bills 1091 and 7055, effective July 1, 2018. OEL amended the rule text and incorporated forms to include provisions regarding program assessment requirements, child assessment requirements, contracted slots and providers' inability to provide the School Readiness Program due to Class 1 health and safety violations. OEL further revised the current rule text and incorporated forms to provide clarity and alignment with the VPK Program Statewide Provider Contract.

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**Supporting Documentation Included:** Proposed Rule 6M-4.610, F.A.C. Forms OEL-SR 20, Statewide School Readiness Provider Contract (July 2019); OEL-SR 20A, Amendment to the Statewide School Readiness Provider Contract (July 2019); OEL-SR 20L, Licensed Provider Responsibilities (July 2019); OEL-SR 20LE Licensed Exempt Provider Responsibilities (July 2019); and OEL-SR FFN, Informal Provider Responsibilities (July 2019) (Forms under separate cover)

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**6M-4.610 Statewide Provider Contract for the School Readiness Program.**

(1) General Provisions.

(a) Forms.

1. The State of Florida Statewide School Readiness Provider Contract, Form OEL-SR 20 with exhibits 1 through 5 (October 2016 ~~November 2018~~), is hereby adopted and incorporated by reference. Form OEL-SR 20L entitled "State of Florida Statewide School Readiness Provider Contract Licensed Provider Responsibilities" (October 2016), Form OEL-SR 20LE entitled "State of Florida Statewide School Readiness Provider Contract License Exempt Provider Responsibilities" (~~October 2016~~ ~~November 2018~~), Form OEL-SR 20FFN entitled "State of Florida Statewide School Readiness Provider Contract Informal Provider Responsibilities" (October 2016), and Form OEL-SR 20A entitled "State of Florida Amendment to the Statewide School Readiness Provider Contract Amendments" (~~October 2016~~ ~~November 2018~~) are hereby adopted and incorporated by reference. A copy of Form OEL-SR 20 including exhibits 1 through 5, Form OEL-SR 20FFN, OEL-SR 20LE and OEL-SR 20L may be obtained at [http://www.floridaearlylearning.com/oel\\_resources/rules\\_guidance\\_technical\\_assistance.aspx](http://www.floridaearlylearning.com/oel_resources/rules_guidance_technical_assistance.aspx) or from the Office of Early Learning, 250 Marriott Drive, Tallahassee, FL 32399. The incorporated forms are also available at: <http://www.flrules.org/Gateway/reference.asp?No=Ref-07583>.

2. The State of Florida Statewide School Readiness Provider Contract, Form OEL-SR 20 with exhibits 1 through 7 (July 2019), is hereby adopted and incorporated by reference. Form OEL-SR 20L entitled "State of Florida Statewide School Readiness Provider Contract Licensed Provider Responsibilities" (July 2019), Form OEL-SR 20LE entitled "State of Florida Statewide School Readiness Provider Contract License Exempt Provider Responsibilities" (July 2019), Form OEL-SR 20FFN entitled "State of Florida Statewide School Readiness Provider Contract Informal Provider Responsibilities" (July 2019), and Form OEL-SR 20A entitled "State of Florida Amendment to the Statewide School Readiness Provider Contract" (July 2019) are hereby adopted and incorporated by reference. A copy of Form OEL-SR 20 including exhibits 1 through 7, Form OEL-SR 20FFN, OEL-SR 20LE and OEL-SR 20L may be obtained at [http://www.floridaearlylearning.com/oel\\_resources/rules\\_guidance\\_technical\\_assistance.aspx](http://www.floridaearlylearning.com/oel_resources/rules_guidance_technical_assistance.aspx) or from the Office of Early Learning, 250 Marriott Drive, Tallahassee, FL 32399. The incorporated forms are also available at: [http://www.flrules.org/Gateway/reference.asp?No=Ref\\_\\_\\_\\_\\_](http://www.flrules.org/Gateway/reference.asp?No=Ref_____).

(b) To request participation in the SR Program, a provider must complete a copy of the Statewide School

Readiness Provider Contract, the appropriate provider responsibility form, and submit all required documentation as indicated in the Statewide School Readiness Provider Contract to the early learning coalition under which the provider will operate.

(c) All forms referenced in paragraph (1)(a)1. above, shall be used by the early learning coalitions to enter into provider contracts with an end effective date of June 30, 2019. All forms reference in paragraph (1)(a)2. above, shall be used by the early learning coalitions to enter into provider contracts with a beginning effective date of July 1, 2019 and all dates thereafter until a new contract form is subsequently adopted. This contract shall not be effective until on or after July 1, 2019. All SR providers that register to offer the SR Program must execute Form OEL-SR-20 including exhibits ~~1 through 5~~, and Form OEL-SR 20FFN, OEL-SR 20LE or OEL-SR 20L for the appropriate contract year.

(d) The Statewide School Readiness Provider Contract shall be in effect for a term of one year. A school district may sign a single Statewide School Readiness Provider Contract on behalf of all public schools in the district offering the SR Program. The owner, officer, principal or other authorized representative of multiple private child care providers may sign a single Statewide School Readiness Provider Contract on behalf of all of his or her private providers within an early learning coalition service area in which it operates.

~~(e) An early learning coalition shall not pay a new School Readiness (SR) Program provider, which registers to offer the SR Program on or after January 1, 2017, except under the Statewide School Readiness Provider Contract adopted herein with the coalition. A coalition must be a party to a Statewide School Readiness Provider Contract.~~

~~(e)(f)~~ A coalition shall keep the original fully executed Statewide School Readiness Provider Contract in the coalition's records for each SR provider. An early learning coalition shall ~~may~~ execute and retain this contract electronically in compliance with Section 668.50, F.S., the Uniform Electronic Transaction Act.

~~(f)(g)~~ Neither a coalition nor an SR provider may omit, supplement or amend the terms and conditions of the Statewide School Readiness Provider Contract, except for those amendments made with the execution of Form OEL-SR 20A ~~(School Readiness Provider Contract Amendments)~~ as appropriate for the contract year. Neither a coalition nor an SR provider may include any attachments, addenda or exhibits to the Statewide School Readiness Provider Contract except the exhibits set forth in the Form OEL-SR 20, 1 (Provider Location List), Exhibit 2 (Required Documentation), Exhibit 3 (Provider Reimbursement Rates), Exhibit 4 (Holiday Schedule), Exhibit 5 (Due Process Procedures), Form OEL-SR 20L ~~(Licensed Provider Responsibilities)~~, Form OEL-SR 20LE ~~(License~~

~~Exempt Provider Responsibilities~~), Form OEL-SR 20FFN (~~Informal Provider Responsibilities~~), and Form OEL-SR 20A (~~School Readiness Provider Contract Amendments~~) as appropriate for the contract year.

(2) Inspections.

(a) Upon the effective date of this rule, and annually thereafter, all participating school readiness program providers shall receive an inspection to determine compliance with the health and safety requirements of Section 1002.88, F.S., and minimum standards adopted under Rule 6M-4.620, F.A.C. Annual inspections shall be conducted by the Department of Children and Families (the department) or local licensing agency, whichever is applicable, be unannounced and shall take place within the contract year at a time as scheduled by the department or local licensing agency (as applicable).

(b) For all new providers that are not regulated by the department or local licensing that request participation in the SR Program and have not previously provided SR Program services or have had a one year lapse in providing SR Program services, a fully compliant pre-contractual health and safety inspection must be conducted prior to the execution of a school readiness contract. Upon determination by the coalition that a provider is eligible to participate in the SR Program, an early learning coalition shall complete and execute the Statewide School Readiness Provider Contract with the provider.

(c) For new SR Program providers that are currently regulated by the department or local licensing agency, an inspection conducted by the department or local licensing agency within four (4) months for center-based programs and six (6) months for family child care homes prior to the execution of the Statewide School Readiness Provider Contract will be sufficient to meet the pre-contractual health and safety inspection requirement. However, prior to execution of an initial school readiness contract a provider must not have any outstanding violations or issues of noncompliance pending from their most recent inspection. Upon determination by the coalition that a provider is eligible to participate in the SR Program, an early learning coalition shall complete and execute the Statewide School Readiness Provider Contract with the provider.

(3) School Readiness Program Ineligibility. For the purpose of this subsection “individual associated with a provider” means an individual or family member of an individual who, regardless of compensation, holds a management position, oversees the operations of a provider, or is an officer, shareholder, beneficial owner or member of the board of directors of a provider. A provider shall not be eligible to contract to offer the SR program if any of the following circumstances apply:

(a) The early learning coalition may refuse to contract with a SR provider or revoke a SR provider's eligibility to deliver the School Readiness Program if the provider has been cited for a Class 1 violation by the department or local licensing agency, as applicable, in accordance with Rules 6M-4.620 and 65C-22.010 or 65C-20.012, F.A.C. (as applicable to the provider type). Action taken by a coalition to revoke a provider's eligibility must be consistent with Section 1002.88(2)(b) in that the revocation is for a period of five (5) years. If the coalition chooses to implement this provision the coalition must develop policies and procedures, in accordance with Element V. Monitoring in Form OEL-SR 115, as incorporated by reference in Rule 6M-9.115, F.A.C., to ensure the standard is applied consistently to all potential and current SR program providers. Each coalition shall;

1. Develop policy and procedures that are written and made available to all providers or potential providers.

2. Document all actions taken by the coalition to remove a SR provider from the program or revoke a provider's eligibility.

3. Ensure providers are offered due process as described in Form OEL-SR 20.

(b) ~~(a)~~ The provider is on the United States Department of Agriculture National Disqualified List;

(c) ~~(b)~~ An individual associated with the provider was, or is, associated with another provider that is on the United States Department of Agriculture National Disqualified List;

(d) ~~(c)~~ The provider has been terminated from participation in the program due to fraud and is currently not eligible to participate in the school readiness program;

(e) ~~(d)~~ An individual associated with the provider was, or is, associated with another provider that has been terminated from participation in the program due to fraud and is currently not eligible to participate in the school readiness program;

(f) ~~(e)~~ The provider is currently ineligible to participate in the program pursuant to Section 1002.88(2), F.S.

(g) ~~(f)~~ An individual associated with the provider was or is associated with another provider that is currently ineligible to participate in the program pursuant to Section 1002.88(2), F.S.

(h) ~~(g)~~ For multi-site providers, such as corporate chains or school districts, School Readiness program ineligibility identified in paragraphs (f) ~~(e)~~ and (g) ~~(f)~~ above, is per site and may not apply to all locations unless specifically determined otherwise by the coalition. In determining ineligibility of multi-site providers, the coalition shall consider the following factors: the severity of the provider's actions leading to the ineligibility, the health, safety and welfare of children enrolled at the provider sites, the financial impact of the provider's actions, the impact

that ineligibility would have upon the local community, consistency with coalition's actions against other providers for similar violations of the Contract or program requirements, the length of time that provider provided services under the contract with the coalition, and whether the provider had previously violated the terms of the Contract and prior contracts with the coalition.

(4) Transfer of ownership. In the event of a change of ownership, sale, sale of assets, conveyance of ownership or other transfer of ownership interest, the provider shall notify the coalition no later than 30 calendar days prior to the transfer of ownership. The coalition and the new owner shall execute a new contract for SR services, provided the new owner meets the eligibility requirements pursuant to subsection (2) of this rule, and Section 1002.88, F.S., and is not disqualified from contracting pursuant to subsection (3) of this rule. Upon a request to contract due to a transfer of ownership, the coalition shall have up to 30 calendar days to execute or decline the contract. This timeline may be extended if all prerequisite requirements have not been met.

*Rulemaking Authority 1001.213(2), 1002.82(2)(m) FS. Law Implemented 1002.82(2)(m), (6), 1002.82, 1002.84(8), (10), (15), (17), 1002.85(2)(h), 1002.87(2), 1002.88, 1002.91, 1002.97(3) FS. History--New 2-18-15, Amended 12-18-16, \_\_\_\_\_*