§ 3602-e. Universal prekindergarten program. 1. Definitions. For the purposes of this section, the following terms shall have the following meanings:

a. "School district" shall mean all public school districts eligible for total foundation aid pursuant to subdivision four of section three thousand six hundred two of this article, such term shall not include boards of cooperative educational services.

b. "Eligible agencies" shall mean a provider of child care and early education, a day care provider, early childhood program or center, non-profit organization, charter school, library, museum, or community-based organization, including but not limited to approved pre-school special education programs, head start, and nursery schools so long as the standards and qualifications set forth pursuant to subdivision twelve of this section have been met.

c. "Eligible four-year-old children" shall mean resident children who are four years of age on or before December first of the year in which they are enrolled or who will otherwise be first eligible to enter public school kindergarten commencing with the following school year.

c-1. "Eligible three-year-old children" shall mean resident children who are three years of age on or before December first of the year in which they are enrolled or who will otherwise be first eligible to enter public school kindergarten commencing two years from the time of enrollment.

d. "Pre-kindergarten program plan" shall mean a plan approved by the board of education or, in the case of a school district having a population of one million or more, by the community superintendent and the chancellor that is designed to effectively serve eligible children directly through the school district or through collaborative efforts between the school district and an eligible agency or agencies.

e. "Session" shall mean one universal prekindergarten program class operating pursuant to time, staff ratio and other regulatory

requirements as set forth by the board of regents and the commissioner for such purpose.

f. "Universal access proxy" shall mean the product of eighty-five percent multiplied by the positive difference, if any, between the sum of the public school enrollment and the nonpublic school enrollment of children attending full-day and half-day kindergarten programs in the district in the year prior to the base year less the number of resident children who attain the age of four before December first of the base year, who were served during such school year by a prekindergarten program approved pursuant to section forty-four hundred ten of this chapter, where such services are provided for more than four hours per day.

g. "Half-day program" shall mean a program which serves students for at least two and five-tenths hours but less than five hours per day.

h. "Full-day program" shall mean a program which serves students for at least five hours per day.

2. The commissioner is hereby authorized and directed to award grants for the establishment and implementation of a prekindergarten program to serve eligible children.

* 3. Beginning in the two thousand twenty-three--two thousand twenty-four school year, all school districts shall annually report to the commissioner: (i) the number of four-year-old prekindergarten students the district intends to serve in full-day and half-day slots in district-operated prekindergarten programs in the current school year; (ii) the number of four-year-old prekindergarten students the district intends to serve in full-day and half-day slots in prekindergarten programs operated by community-based organizations in the current school year; (iii) the number of four-year-old prekindergarten students in the current school year the district is unable to serve due to a lack of capacity; (iv) the reason for the lack of capacity, including the availability of appropriate space, facilities, and staff; and (v) any other information available to districts and determined by the commissioner to be necessary to accurately estimate the unmet demand for

four-year-old prekindergarten programs within a district. School districts that are eligible to receive an apportionment under this section or section thirty-six hundred two-ee of this part but have not claimed the full apportionment shall include in the report to the commissioner information on barriers to implementing new or expanding existing universal prekindergarten programs despite available funding. Such report shall be due on or before September first of each year and shall be collected as part of the application submitted pursuant to subdivision five of this section. Beginning November first, two thousand twenty-three, the commissioner shall annually submit a report to the governor, the temporary president of the senate, and the speaker of the assembly on the information reported by districts.

* NB Repealed December 30, 2026

5. In any school district, other than the city school district of the city of New York, that seeks an apportionment pursuant to this section, the school district shall develop and submit an application pursuant to the rules and regulations adopted by the board of regents and the commissioner for such purpose. Such application shall be submitted by a date and in a form prescribed by the commissioner pursuant to subdivision eight of this section, including the program elements as provided for in subdivision seven of this section and shall be consistent with the plan adopted by the district.

a. If the school district chooses to coordinate proposals for prekindergarten program services, it shall conduct a competitive process in accordance with procedures set forth by the commissioner and with the requirements and regulations set forth in, and pursuant to, subdivisions seven, eight and twelve of this section.

b. An application developed by coordinating proposals submitted by eligible agencies pursuant to a competitive process shall ensure delivery of prekindergarten program services in an effective, efficient and non-duplicative manner.

c. The results of the competitive process for prekindergarten program services shall be made public at a regular meeting of the board of

education. An eligible agency may request a written statement from the board of education stating why the application was not accepted.

d. Notwithstanding any other provision of law, the school districts shall be authorized to enter any contractual or other arrangements necessary to implement the district's prekindergarten plan.

e. Not less than ten percent of the total grant award to the school district shall be set aside for collaborative efforts with eligible agencies, provided that the commissioner may waive such set aside requirement based upon documented evidence that the school district was unable to use the set aside to make a collaborative arrangement that would meet all requirements of this subdivision because of unavailability of eligible agencies willing to collaborate or other factors beyond the control of the school district, or for school districts which have fully implemented a universal prekindergarten program by serving all eligible four year olds in the nineteen hundred ninety-eight--ninety-nine school year and due to parental choice the ten percent set aside requirement exceeds the total of the district's aid per kindergarten pupil multiplied by the number of pre-kindergarten pupils in collaborative programs. In such cases, school districts shall set aside, for collaborative efforts with eligible agencies, the total of the district's aid per kindergarten pupil multiplied by the number of prekindergarten pupils in collaborative programs.

f. Notwithstanding any other provisions of this section to the contrary, two or more school districts may submit a joint application to operate a joint universal prekindergarten program. For purposes of paragraph e of this subdivision and all other provisions of this section except subdivision ten, all references to a school district shall be deemed a reference to all school districts participating in such joint program as if they were a single district. For purposes of subdivision ten of this section, the grant award for the joint program shall be the sum of the grant awards computed for each participating district pursuant to such subdivision ten.

6. In the city school district of the city of New York, if a community

school superintendent seeks to receive an apportionment pursuant to this section, the community school superintendent shall submit such plan to the chancellor for adoption, modification or rejection.

a. If the chancellor adopts such plan as submitted or as modified by the chancellor, the chancellor shall submit an application in accordance with subdivision five of this section.

b. If the chancellor rejects such plan, he or she shall notify the community superintendent in writing and shall state the reasons for such rejection.

The community superintendent may modify and resubmit such application to the chancellor for adoption.

7. In order to receive approval from the commissioner to implement a prekindergarten program, applications and proposals shall demonstrate that the program to be implemented contains, at a minimum, the following components:

a. provides for an age and developmentally appropriate curriculum and activities which are learner-centered;

b. provides for an assessment of the development of language, cognitive and social skills;

c. ensures continuity in the program with instruction in the early elementary grades;

d. encourages children to be self-assured and independent;

e. encourages the co-location and integration of children with special needs;

f. utilizes staff who meet the qualifications set forth pursuant to the rules of the board of regents;

g. provides for strong parental partnerships and involvement in the implementation of and participation in the plan;

h. provides staff development and teacher training for staff and teachers in all settings in which prekindergarten services are provided pursuant to this section; and

i. establishes a method for selection of eligible children to receive prekindergarten program services on a random selection basis where there are more eligible children than can be served in a given school year, provided, however, that a school district that operated a targeted prekindergarten program in the base year may use the selection process established for such program.

8. Each application for a prekindergarten program pursuant to this section shall be on a form prescribed by the commissioner and shall include, but not be limited to:

a. a prekindergarten program plan identifying specific goals, including how the district will expand its program to assure that all eligible children may be served, and a proposed timetable for the implementation and achievement of such goals;

b. a proposed budget and a description of the proposed use of the grant funds including the mechanism for the distribution of such funds;

c. the local share to be used, as defined by the commissioner, which may include resources which may be available from the community;

d. the participation and contribution of each of the collaborative partners; and

e. a description of any costs associated with the administration of the program.

10. Universal prekindergarten apportionment. School districts shall receive a universal prekindergarten apportionment, in the two thousand

twenty-six--two thousand twenty-seven school year and thereafter, equal to the sum of the four-year-old apportionment and the three-year-old apportionment.

a. The four-year-old apportionment shall equal the lesser of (i) the product of aid per four-year-old prekindergarten pupil multiplied by four-year-old prekindergarten pupils served, or (ii) total actual grant expenditures incurred by the school district as approved by the commissioner.

(1) "Aid per four-year-old prekindergarten pupil" shall equal the greater of (A) the school district's selected foundation aid for the current year projection as of the final electronic data file prepared by the commissioner pursuant to paragraph b of subdivision twenty-one of section three hundred five of this chapter prior to July first of the current year, calculated pursuant to subdivision four of section thirty-six hundred two of this part, (B) ten thousand dollars, or (C) the amount set forth for such school district as "2025-26 4YO MAX UPK AID" on the school aid computer listing produced by the commissioner in support of the executive budget for the two thousand twenty-six--two thousand twenty-seven fiscal year and entitled "BT262-7" divided by the amount set forth as "2025-26 4YO MAX FTE" on such listing.

(2) "Four-year-old prekindergarten pupils served" shall mean the sum of (i) the unduplicated count of all eligible four-year-old children registered to receive educational services in a full-day program, as registered on the date prior to November first that is specified by the commissioner as the enrollment reporting date for the school district, as reported to the commissioner plus (ii) for the two thousand twenty-six--two thousand twenty-seven school year through the two thousand twenty-seven--two thousand twenty-eight school year, the product of five tenths multiplied by the unduplicated count of eligible four-year-old children registered to receive educational services in a half-day program, as registered on such date and reported to the commissioner.

b. The three-year-old apportionment shall equal the lesser of (i) the product of the three-year-old maximum apportionment and the three-year-old maintenance of effort percentage or (ii) total actual

grant expenditures incurred by the school district as approved by the commissioner.

(1) "Three-year-old maximum apportionment" shall equal the greater of the three-year-old maximum apportionment from the base year or the amount set forth for such school district as "2025-26 3YO MAX UPK AID" on the school aid computer listing produced by the commissioner in support of the executive budget for the two thousand twenty-six--two thousand twenty-seven fiscal year and entitled "BT262-7."

(2) "Three-year-old maintenance of effort percentage" shall equal the quotient of three-year-old students served divided by the maximum eligible three-year-old students, but shall not exceed one hundred percent.

(A) "Three-year-old students served" shall equal the sum of (i) the unduplicated count of eligible three-year-old children registered to receive educational services in a full-day program as registered on the date prior to November first that is specified by the commissioner as the enrollment reporting date for the school district, as reported to the commissioner, plus (ii) the product of five-tenths multiplied by the unduplicated count of eligible three-year-old children registered to receive educational services in a half-day program, as registered on such date and reported to the commissioner, (iii) less the three-year-old overage penalty.

(I) "Three-year-old overage penalty" shall equal, for districts with thirty percent fewer three-year-old students served in full-day programs in the current year than the maximum eligible three-year-old full-day students, due to the conversion of the maximum eligible three-year-old full-day students to three-year-old students served in half-day programs in the current year, the difference of the product of seven-tenths multiplied by the maximum eligible three-year-old full-day students, rounded down to the nearest whole number, less the number of three-year-old students served in full-day programs in the current year.

(II) School districts may apply to the commissioner for a hardship waiver that would allow a district to convert more than thirty percent of three-year-old students served in full-day programs in the current year to three-year-old students served in half-day programs in the current year. Such waiver shall be granted upon a demonstration by the school district that due to a significant change in the resources

available to the school district and absent such hardship waiver, the school district would be unable to serve such pupils in prekindergarten programs, without causing significant disruption to other district programming. If a hardship waiver is granted, the three-year-old overage penalty shall be zero for the current school year. No school district shall be eligible for a waiver in three or more consecutive school years.

(B) "Maximum eligible three-year-old students" shall equal the greater of the amount set forth for such school district as "2025-26 3YO MAX UPK FTE" on the school aid computer listing produced by the commissioner in support of the executive budget for the two thousand twenty-six--two thousand twenty-seven fiscal year and entitled "BT262-7" or the sum of (i) the maximum eligible three-year-old students in full-day programs in the base year plus (ii) the product of five-tenths multiplied by the maximum eligible three-year-old students in half-day programs in the base year.

c. School districts shall receive up to fifty percent of the universal prekindergarten apportionment defined in this subdivision upon approval of the application submitted pursuant to subdivision five of this section, but not earlier than September first. School districts may be eligible for an additional twenty percent of such apportionment after April first of each school year upon completion of a request for funds on a form designated by the commissioner. The remainder of such apportionment shall be paid to each school district upon acceptance of a final expenditure report submitted on a form designated by the commissioner in the following school year.

11. No later than the two thousand twenty-eight--two thousand twenty-nine school year, all school districts shall serve in a full-day prekindergarten program all eligible four-year-old children whose parent or guardian applies to enroll such child in the district's universal prekindergarten program, whether such services are provided directly through the school district, a board of cooperative educational services, or collaborative efforts between the school district and an eligible agency or agencies.

12. The board of regents and the commissioner shall be authorized to adopt regulations to implement the provisions of this section and which shall prescribe uniform quality standards for such prekindergarten programs. In developing such regulations, the board of regents and the commissioner shall consider and seek to coordinate any regulations which may currently be applicable to any existing programs or eligible agencies. In addition, the regents when developing regulations shall consider and recognize the diversity of settings and models available for the delivery of prekindergarten programs operated by eligible agencies in alternative settings, including libraries and community based organizations, that comply with this section. Such regulations shall include but not be limited to:

a. minimum qualifications for personnel providing instructional and other services in prekindergarten programs. In promulgating such regulations, the commissioner and the board of regents shall take into account the availability of certified teachers and teaching assistants to provide instruction in prekindergarten programs and shall consider ways to increase the pool of qualified personnel;

b. curriculum standards consistent with the New York state prekindergarten early learning standards to ensure that such programs have strong instructional content that is integrated with the school district's instructional program in grades kindergarten through twelve;

c. performance standards for prekindergarten programs, which shall include procedures for assessing the performance of such programs and establishing mechanisms for tracking progress of such programs and reporting such progress to parents of prekindergarten students and the public;

d. transitional guidelines and rules which allow a program to meet the required staff qualifications and any other requirements set forth pursuant to this section and regulations adopted by the board of regents and the commissioner; provided that such guidelines include an annual process by which a district may apply to the commissioner by September first of the current school year for a waiver that would allow personnel

employed by an eligible agency that is collaborating with a school district to provide prekindergarten services and licensed by an agency other than the department, to meet the staff qualifications prescribed by the licensing or registering agency. Provided, further, that the commissioner shall annually submit a report by November first to the chairperson of the assembly ways and means committee, the chairperson of the senate finance committee and the director of the budget which shall include but not be limited to the following: (a) a listing of the school districts receiving a waiver pursuant to this paragraph from the commissioner for the current school year; (b) the number and proportion of students within each district receiving a waiver pursuant to this paragraph for the current school year that are receiving instruction from personnel employed by an eligible agency that is collaborating with a school district to provide prekindergarten services and licensed by an agency other than the department; and (c) the number and proportion of total prekindergarten personnel for each school district that are providing instructional services pursuant to this paragraph that are employed by an eligible agency that is collaborating with a school district to provide prekindergarten services and licensed by an agency other than the department, to meet the staff qualifications prescribed by the licensing or registering agency.

e. health and safety standards;

f. time requirements which reflect the needs of the individual school districts for flexibility, but meeting a minimum weekly time requirement; provided, however, that the minimum weekly time requirement for full-day programs shall be twenty-five hours, and the weekly minimum time requirement for half-day programs shall be twelve and one-half hours;

g. the staff/child ratio;

h. reasonable grounds and basis for the non-acceptance of a proposal submitted to the school district when the proposal otherwise meets, to the extent applicable, all the regulations of the commissioner and the requirements set forth in this subdivision, as well as subdivisions

seven and eight of this section;

i. any other program components, such as health, nutrition or support services, which the regents deem appropriate and necessary for the appropriate and effective implementation of a prekindergarten program;

j. a provision for a waiver of any inconsistent provisions of this section or the regulations implementing this section to allow school districts that operated a targeted prekindergarten program in the two thousand six--two thousand seven school year to continue to operate such program pursuant to the regulations of the commissioner that applied to targeted prekindergarten programs in such school year; provided that, notwithstanding any other provision of this section to the contrary, the amounts allocated to such targeted prekindergarten program from grants awarded pursuant to this section shall not exceed the amount of targeted prekindergarten grant funds received by the district for the two thousand six--two thousand seven school year;

k. a process by which a school district must submit an application;

l. a definition of the approved expenditures for which grant funds may be used, which shall include but not be limited to transportation services and lease expense or other appropriate facilities expenses; and

m. a process for the waiver of the time requirements established pursuant to this subdivision in order to authorize the operation of a summer universal prekindergarten program limited to the months of July and August, upon a finding by the commissioner that the school district is unable to operate the program during the regular school session because of a lack of available space pursuant to regulations of the commissioner. Notwithstanding any other provision of this section to the contrary, such process shall provide for a reduction of the aid per prekindergarten pupil payable for pupils served pursuant to such waiver by one one-hundred eightieth of the aid per prekindergarten pupil determined pursuant to paragraph a of subdivision ten or subparagraph (i) of paragraph b of subdivision ten-a of this section for each day less than one hundred eighty days that the summer program is in session.

13. Each school district that has implemented a prekindergarten program shall on an annual basis report to the board of regents, the commissioner, parents, teachers and the public on the status of such program. Such annual report shall include a financial summary of the approved expenditures of the program, as defined pursuant to paragraph l of subdivision twelve of this section, setting forth the expenditures from state, local and other revenue sources, and the district shall maintain documentation to insure that all grant funds are used for such approved expenditures.

14. On February fifteenth, two thousand, and annually thereafter, the commissioner and the board of regents shall include in its annual report to the legislature and the governor, information on school districts receiving grants under this section; the amount of each grant; a description of the program that each grant supports and an assessment by the commissioner of the extent to which the program meets measurable outcomes required by the grant program or regulations of such commissioner; and any other relevant information, which shall include but not be limited to the following:

a. (i) the total number of students served in state-funded district-operated prekindergarten programs, (ii) the total number of students served in state-funded community-based prekindergarten programs, (iii) the total number of students served in state-funded half-day prekindergarten programs, and (iv) the total number of students served in state-funded full-day prekindergarten programs;

b. (i) the total number of students served in state, federal and locally funded district-operated prekindergarten programs, (ii) the total number of students served in state, federal and locally funded community-based prekindergarten programs, (iii) the total number of students served in state, federal and locally funded half-day prekindergarten programs, and (iv) the total number of students served in state, federal and locally funded full-day prekindergarten programs;

c. the total spending on prekindergarten programs from state, federal,

and local sources;

d. the total number of students on a district wait list for a prekindergarten slot in a state-funded prekindergarten program; and

e. for each program described in subparagraphs (i), (ii), (iii) and (iv) of paragraph a of this subdivision, and subparagraphs (i), (ii), (iii) and (iv) of paragraph b of this subdivision, the total number of students served with disabilities that have an individualized education plan and, of those, the total number of students requiring any of the following approved services: special education itinerant services; special class in an integrated setting; or a special class. Such report shall also contain any recommendations to improve or otherwise change the program.

15. The commissioner shall also provide for a system for evaluation and assessment of the prekindergarten programs which have been implemented to determine the short and long-term success, outcomes and effects of the programs based on relevant and measurable performance standards. The commissioner shall prohibit the administration of traditional standardized tests, as defined in regulations issued by the commissioner, in prekindergarten programs; provided, however, that nothing herein shall prohibit assessments in which students perform real-world tasks that demonstrate application of knowledge and skills or assessments that are otherwise required to be administered by federal law.

16. The grant payable to a school district pursuant to this section in the current year shall be reduced by one one-hundred eightieth for each day less than one hundred eighty days that the universal prekindergarten classes of the district were actually in session, except that the commissioner may disregard such reduction for any deficiency that may be disregarded in computing total foundation aid pursuant to subdivision seven or eight of section thirty-six hundred four of this chapter and in addition may disregard a reduction for any deficiency that is caused by a delay in the opening of public school classes due to extraordinarily adverse weather conditions or other cause cited in such subdivision

seven of section thirty-six hundred four that results in cancellation of the prekindergarten program or of transportation to such program.

17. Approved quality indicators. A school district receiving funding pursuant to this section shall agree to adopt approved quality indicators within two years, including, but not limited to, valid and reliable measures of environmental quality, the quality of teacher-student interactions and child outcomes, and ensure that any such assessment of child outcomes shall not be used to make high-stakes educational decisions for individual children.

18. Notwithstanding paragraph (a) of subdivision one of section twenty-eight hundred fifty-four of this chapter and paragraph (c) of subdivision two of section twenty-eight hundred fifty-four of this chapter, charter schools shall be eligible to participate in universal prekindergarten programs under this section as eligible agencies, provided that all such monitoring, programmatic review and operational requirements under this section shall be the responsibility of the charter entity and shall be consistent with the requirements under article fifty-six of this chapter. The provisions of paragraph (b) of subdivision two of section twenty-eight hundred fifty-four of this chapter shall apply to the admission of prekindergarten students. The limitations on the employment of uncertified teachers under paragraph (a-1) of subdivision three of section twenty-eight hundred fifty-four of this chapter shall apply to all teachers from prekindergarten through grade twelve.