

05 DEPARTMENT OF EDUCATION

071 STATE BOARD OF EDUCATION/COMMISSIONER OF  
EDUCATION

Chapter 124: BASIC APPROVAL STANDARDS: PUBLIC PRESCHOOL  
PROGRAMS

SUMMARY: This rule establishes school approval standards governing the school administrative units which are implementing public preschool programs and adopts procedures for ascertaining compliance with all applicable legal requirements, as authorized by Title 20-A, Maine Revised Statutes, chapter 203 and 206. This rule applies to Education in the Unorganized Territories and the Maine Center for Deaf and hard of Hearing. By July 1, 2017 all preschool programs must comply with the program standards contained in this rule. Any new public preschool programs implemented for the 2015-16 school year must be approved prior to opening.

Section 1. GENERAL OBJECTIVES

1.01 This rule establishes the substantive school approval standards pertaining to school administrative units which operate a public preschool program. Its intent is to provide a framework for planning and growth with local flexibility as influenced by local conditions. This rule establishes procedures for comprehensive reviews of school administrative units which operate a public preschool program by which the Commissioner will determine compliance with applicable standards and methods of enforcement for ensuring compliance.

1.02 School administrative units may operate a public preschool program or provide for children to participate in such programs in accordance with 20-A §4271 and shall meet all school approval requirements of Title 20-A, Maine Revised Statutes (20-A MRSA), other statutes, and rules applicable to the operation of public preschool programs, and the requirements of this rule.

Section 2. DEFINITIONS

2.01 Administrator: "Administrator" means any person certified by the Commissioner as an administrator and employed by a school administrative unit in an administrative capacity.

2.02 Assessment: "Assessment" means an educational instrument or activity designed to gather information on a child's knowledge and skill to make instructional decisions.

2.03 Commissioner: "Commissioner" means the Commissioner of the Maine Department of Education or a designee.

2.04 Curriculum: "Curriculum" means the school administrative unit's written document that includes the learning expectations for all children for all domains of development as indicated in the Early Learning and Development Standards.

2.05 Department: "Department" means the Maine Department of Education.

2.07 Early Learning and Development Standards (ELDS): "Early Learning and Development Standards" means what should children know and be able to do at kindergarten entry.

2.08 Elementary school: "Elementary school" means that portion of a school that provides instruction in any combination of grades pre-kindergarten through grade 8.

2.09 Essential Programs and Services: "Essential Programs and Services" means those programs and services, as defined by the State Board of Education or adopted by the Legislature, that a school administrative unit offers for each student to have the opportunity to meet the content standards of the system of Early Learning and Development Standards/Learning Results.

2.10 Instructional day: "Instructional day" means a school day during which both students and teachers are present, either in a school or in another setting.

2.11 Instructional time: "Instructional time" means that portion of a school day devoted to the teaching-learning process, but not including extra-curricular activities, lunchtime, or recess. Time spent on organized field trips related to school studies may be considered instructional time, but the instructional time counted for extended field trips shall not exceed a normal school day for each day of the field trip.

2.12 Kindergarten: "Kindergarten" means a one or two-year instructional program aligned with the system of Learning Results, immediately prior to grade one.

2.13 Parent: "Parent" means the parent or legal guardian of a student, or the student if of majority age.

2.14 Provisional Approval: "Provisional Approval" means an approval for a specified period of time during which a school administrative unit must take corrective action to the public preschool program to comply with this rule.

2.15 Public Preschool Program: "Public Preschool Program" means a program offered by a public school that provides instruction of children who are four years of age by October 15th.

2.16 School: "School" means an individual attendance center within a school administrative unit including any combination of grades pre-kindergarten through 12. In this rule, an educational program located in or operated by a juvenile correctional facility, an educational program located in the unorganized territories and operated by the Department of Education, the Maine School of Science and Mathematics, and the Center for Deaf and hard of Hearing shall be considered schools.

2.17 School administrative unit: "School administrative unit" means the state-approved unit of school administration and includes a municipal school unit, school administrative district, community school district, regional school unit or any other municipal or quasi-municipal corporation responsible for operating or constructing public schools, except that it does not include a career and technical education region. Beginning July 1, 2009, "school administrative unit" means the state-approved unit of school administration and includes only the following:

- A. A municipal school unit;
- B. A regional school unit formed pursuant to chapter 103-A;
- C. An alternative organizational structure as approved by the commissioner and approved by the voters;
- D. A school administrative district that does not provide public education for the entire span of kindergarten to grade 12 that has not reorganized as a regional school unit pursuant to chapter 103-A;
- E. A community school district that has not reorganized as a regional school unit pursuant to chapter 103-A;
- F. A municipal or quasi-municipal district responsible for operating public schools that has not reorganized as a regional school unit pursuant to chapter 103-A;
- G. A municipal school unit, school administrative district, community school district, regional school unit or any other quasi-municipal district responsible for operating public schools that forms a part of an alternative organizational structure approved by the commissioner; and
- H. A public charter school authorized under chapter 112 by an entity other than a local school board.

2.18 School calendar: "School calendar" means the schedule of school days adopted in advance of the school year by the school board.

2.19 School day: "School day" means a day in which school is in operation as an instructional day and/or a teacher in-service day.

2.20 School personnel: "School personnel" means individuals employed by a school administrative unit or under contract with the unit to provide services to the children enrolled in the schools of the unit.

2.21 School year: "School year" means the total number of school days in a year as established by the school administrative unit.

2.22 Screening. "Screening: means utilizing a standard or norm-referenced screening tool designed and validated to identify a child's level of performance overall in developmental areas (i.e., cognition, fine motor, gross motor, communication, self-help/adaptive, and gross motor skills). The screening is a brief check (10-15 minutes) of the child's development and is not diagnostic or confirming in content.

2.23 Student records: "Student records" means those records that are directly related to a student and are maintained by a school or a party acting for the school.

2.24 Teacher: "Teacher" means any person who is regularly employed for the instruction of students in a school and who is certified by the Commissioner for this position.

2.25 Teacher in-service day: "Teacher in-service day" means a school day during which a majority of teachers and professional staff report for work, but students are not present for instruction. These days may include days devoted to in-service educational programs, administrative meetings, parent-teacher conferences, record-keeping duties, curriculum preparation, and other similar activities related to the operation of school programs, and may take place in a school in the school administrative unit.

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Section 3. CLASS SIZE,

3.01 Maximum class size: 16 children

Section 4. CURRICULUM AND COMPREHENSIVE ASSESSMENT SYSTEM

4.01 Each school administrative unit shall have an evidence-based written curriculum aligned with the Early Learning and Development Standards. The school administrative unit shall inform parents and students of the curriculum, instructional expectations, and assessment system.

4.02 Public preschool programs must demonstrate curriculum practice that aligns with the Maine Early Learning and Development Standards and is appropriate for the age and developmental level of the students. Teachers must organize space and select materials in all content and developmental areas to stimulate exploration, experimentation, discovery and conceptual learning.

A) A variety of activity areas are offered every session including, but not limited to: block building, dramatic play, writing, art, music, science, math, literacy, sand/water play, manipulatives, gross motor activities and mealtime routines , which allows teachers to eat with children.

B) Equipment, materials and furnishings are available and are accessible to all children, including children with disabilities.

- C) A daily schedule is posted that includes:
1. Opportunities for individual, small group and whole group activities. The amount of time spent in large group, teacher-directed activity is limited to short periods of time – 10-20 minutes depending on the time of the year.
  2. Opportunities for physical movement, fresh air and access to drinking water are provided to the children.
  3. Opportunity for rest in a full-day program (more than 5 hours) is provided for the children. Cots or mats are provided for each child.
  4. The schedule and program activities minimize the transitions that children make from one classroom space to another, including school “specials” especially during the first half of the school year. Most special supports or therapies are provided in-class to minimize transitions for children with disabilities.
  5. Program development and services to any and all English learners are overseen by an English as a Second Language-endorsed teacher.

#### 4.03 Screening and Assessment

##### A) Screening

1. All children must receive a valid and reliable research-based screening tool within the first 30 days of the school year (or prior to school entry) which includes: early language and literacy/numeracy/cognitive; gross and fine motor; personal/social; social/emotional development- to identify those who may be in need of additional assessment or to determine eligibility for special education services unless the child has an existing Individualized Education Program-IEP). All children must receive a hearing, vision, and health screening upon entry to the public preschool program. The health screening must include information pertaining to oral health and lead poisoning awareness. If hearing, vision, and health screening has been done in the public preschool, the screenings do not have to be redone in kindergarten, unless there is a concern.

2. Each preschool program shall develop a written Child Find referral policy consistent with the the State of Maine Unified Special Education Rules 05-071 Chapter 101 Section IV.2(D)(E).

3. Administration of a home language survey is undertaken to identify possible English learners.

##### B) Assessment

Programs provide periodic and ongoing research based assessment of children’s learning and development that:

1. Documents each child's interests, needs and progress to help plan instruction, relying mostly on demonstrated performance of authentic activities.
2. Includes: children's work samples, observations, anecdotal notes, checklists and inventories, parent conference notes, photographs, video, health screening reports and referral records for support services.
3. Communicates with families regularly to ensure connection between home and school, including providing interpreters and translators, as needed.
4. Aligns with the Early Learning and Development Standards and are used to inform curriculum and instruction.
5. Is informed by family culture, experiences, children's abilities and disabilities, and home language;.
6. Is used in settings familiar to the children.
7. Informs activities to support planning for individual children.

#### 4.04 Child Development Reporting

Parents shall have the opportunity to meet individually with their child's teacher about their child's development at least twice during each school year using the research based assessment (providing interpreters and translators as needed).

### Section 5. INSTRUCTIONAL TIME

#### 5.01 School Year

A school administrative unit shall make provision for the maintenance of all its schools for at least 180 school days. At least 175 school days shall be used for instruction. In meeting the requirement of a 180-day school year, no more than 5 days may be used for in-service education for teachers, administrative meetings, parent-teacher conferences, records' days and similar activities.

#### 5.02 Public Preschool Instructional Time

Instructional time for public preschool program shall be a minimum of 10 hours per week for 35 weeks and shall not include rest time. Public preschool programs shall schedule within the 175 school days that the school administrative unit has designated as instructional time, but does not have to use all days, allowing flexibility as to numbers of days per week.

Extended public preschool program Day: A school administrative unit

is encouraged to schedule public preschool for more than 10 hours per week to improve child outcomes and to reduce the risk of later school failure.

Section 6. SCHOOL ADMINISTRATIVE UNIT ORGANIZATION AND SCHOOL SIZE

6.01 Personnel Ratios

A) Classroom student-teacher ratios

- (1) Maximum adult to child ratio is 1 adult to 8 children
- (2) Ratios include, at a minimum, one teacher holding appropriate teacher certification from the Maine Department of Education (as per current statute) and a support staff with a minimum of an Educational Technician Authorization II from the Maine DOE. These ratios are maintained during both indoor and outdoor activities and during mealtimes.

Section 7. QUALITY OF EDUCATION PERSONNEL

7.01 Specific Requirements

- A) Teacher degree requirement: Teachers must hold (as per current statute) the required Maine DOE Early Childhood 081 (B-5) endorsement.
- B) Assistant teacher requirements: An assistant teacher must hold (as per current statute), at a minimum, an Educational Technician II Authorization from the Maine DOE who obtains a Level 4 status on the Maine Roads to Quality Registry within 3 years.
- C) All preschool staff must join the Maine Roads to Quality Registry.

Section 8. NUTRITION

8.01 General Requirements

The program shall serve well-balanced meals and/or snack that follow the U.S. Department of Agriculture guidelines in all programs.

8.02 Specific Requirements

- A) The program shall serve at least one meal and/or snacks at regularly established times. Meals and snacks are not more than three hours apart.

- B) Each child is given sufficient time at mealtimes and snacks to eat at a reasonable, leisurely rate.
- C) Classroom ratios will be maintained during mealtimes.
- D) Meals and or snacks are culturally responsive to participating families.
- E) The meal and snack time offers opportunities for interactions between adults and children.

Section 9. SCHOOL FACILITIES

9.01 Indoor: Minimum requirement shall be 35 square feet per child. Areas not to be calculated as usable space include but are not limited to: hallways, lockers, cubbies, door swings, closets, supply cabinets, corridors, bathrooms, teacher spaces, food preparation areas and offices.

- A) All classroom spaces must be accessible to all children, including children with disabilities.
- B) There shall be a water source in the classroom for hand washing, and drinking water is readily available to children throughout the day.
- C) The indoor environment shall be designed so staff can supervise children by sight and sound at all times. Supervision for short intervals by sound is permissible, as long as teachers check frequently on children who are out of sight (e.g., independent toileting).
- D) Toilets, accessible for use by all participating children, must be within 40 feet of the indoor areas that children use. It is preferable to have them within the classroom.
- E) Electrical outlets in public preschool classrooms shall be protected by safety caps, plugs or other means.
- F) Natural light must be present in any classroom used for four-year-old program activities.
- G) Easily accessible and individual space shall be made available for children's outside clothing and personal possessions.

9.02 Outdoor: The program must have access to an outdoor play area with at least 75 square feet of usable space per child and with equipment of a size suitable to the age and needs of four-year-old children as dictated by the National Safety Standards for playgrounds in public schools.

- A) The outdoor play area must be protected by fences or natural barriers.
- B) Surfaces used under climbers, swings and at the bottom of slides are energy-absorbing materials such as mulch, sand or bark. Concrete or asphalt shall not be used.
- C) Outdoor play areas provide both shade and sun.
- D) There are established protocols for emergencies.
- E) The playground areas and equipment are accessible to all children.

F) Preschool classrooms schedule outdoor time by themselves, with other preschool classrooms, or with kindergarten children.

## Section 10. FAMILY ENGAGEMENT

10.02 Programs identify how they will engage in a process of partnership-building with families to establish mutual trust and to identify child strengths, goals, and necessary services and supports.

10.02 Programs have written policies and procedures that demonstrate intentional practices designed to foster strong reciprocal relationships with families, including, but not limited to: application information, family orientation, parent conferences, parent education-specifically around literacy and numeracy, newsletters, PTA participation, home visits, family events, program evaluations, , and these policies and procedures are to be translated in a language understandable to parents/guardians.

## Section 11. COMMUNITY ENGAGEMENT

Programs establish relationships with community-based learning resources and agencies, such as libraries, arts education programs, and family literacy programs.

## Section 12. COORDINATED PUBLIC PRESCHOOL PROGRAMS

12.01 Any school administrative unit that wishes to develop an early childhood program for children 4 years of age must submit a public preschool program implementation plan for children 4 years of age for submission to and approval by the department. Evaluation of the proposal must include consideration of at least the following factors:

A. Demonstrated coordination with other early childhood programs in the community to maximize resources;

B. Consideration of the extended child care needs of working parents; and

C. Provision of public notice regarding the proposal to the community being served, including the extent to which public notice has been disseminated broadly to other early childhood programs in the community. [20-A MRSA §4502(9)]

D. Demonstrated coordination with Child Development Services.

12.02 Schools offering a public preschool program in partnership with a community agency must submit a Memorandum of Understanding (MOU), signed by all involved parties, on a yearly basis. The elements of the MOU shall, at a minimum, include:

- Roles and responsibilities of each of the partners;

- A budget, including the amount of resources that each partner will provide for the implementation of the plan;
- Describe the organizational capacity and the existing infrastructure of the SAU and the partners to deliver a high quality program;
- The methods and processes for making different types of decisions (e.g., policy, operational);
- How the partners will coordinate, but not supplant, the delivery of the public preschool program with existing services for preschool –aged children including, if applicable, programs and services supported through Title I of ESEA, the Head Start Act, and Child Care Development Block Grant.
- How the partners will coordinate with Child Development Services (under Part B, Section 619 of IDEA) regional site to ensure access for CDS for conducting its statutory obligations under IDEA and Maine law /regulations
- A description of the responsibilities and process of sharing child records that meets Section 16 of this chapter.

12.03 Beginning with 2015-16 school year the Commissioner may provide start-up funding as set forth in 20-A MRSA §4271 to school administrative units to implement or expand public preschool programs for children 4 years of age as required by 20-A MRSA §4502(9).

### Section 13 TRANSITION

13.01 Enrollment transition into the public preschool program. Public preschool programs will have a process for enrollment transition from home and or other early childhood programs. The process will involve parents/legal guardians, including parental consent for transition of the pertinent educational records.

13.02 Public preschool to kindergarten transition. Public preschool program will have a process to provide transition between four-year-old programs and the kindergarten program. This includes links, by the elementary school, with other area Head Start and early childhood programs serving young children who will be entering kindergarten. The process will involve parents/legal guardians, including parental consent for transition of pertinent educational records.

### Section 14 TRANSPORTATION

14.01 If a school transports public preschool children, it is recommended that the standard of care offered to public preschool students meet the standard of care as defined by “Guideline for the Safe Transportation of Preschool Age Children in School Buses,” which is provided by the National Highway Transportation Safety Agency, as follows:

- A) Children should be in a child safety restraint system appropriate for the age, weight and height of the student.
- B) There should be at least one aide on board the bus to assist with loading, unloading, correct securement and behavior/emotional support.
- C) There will be training, communication and operational policy items for drivers, aides, parents, students and routes.

NOTE: Pursuant to 20-A MRSA §5401(3-A) school administrative units are not required to provide transportation for public preschool children.

## Section 15. RECORDS AND REPORTS

If the public preschool program operates within the school administrative units (SAU) , the SAU addresses these provisions within the basic school approval.

If the public preschool program operates in an external facility and/or under a contract with the SAU, the contract between the SAU and the contractor must address the provisions of this section.

### 15.01 Student Records

Each school board shall adopt a policy in accordance with the Family Education Rights and Privacy Act (FERPA) that establishes the procedure for changing a student record by adding or removing items, and for controlling access to records.

A) Each school administrative unit shall maintain accurate and up-to-date education records on each enrolled student. Education records shall be defined as in FERPA and shall include academic records, disciplinary records, and other information including directory information.

(1) Academic records include information relating to the student's educational performance including student performance on the local assessment system and on other assessments as may be required for an individual student.

(2) Disciplinary records include, but are not limited to, a record of suspensions and expulsions, and other violations of the Student Code of Conduct adopted by the school board.

- B) Records shall be entrusted to designated personnel who shall be knowledgeable about the confidentiality provisions applicable to the records. All records shall be safeguarded from unauthorized access. Either student records will be kept in fireproof storage at the school or a duplicate set will be kept off site.
- C) Upon request of the parent or school officials, a student's education records, including special education records, shall be forwarded to any school in which the student is enrolled or is intending to enroll. The school administrative unit shall notify parents that all records, including disciplinary records, must be sent to a school administrative unit to which a student applies for transfer.

D) Parental Access Rights: Confidentiality

Each school administrative unit shall adopt a policy describing the access rights of parents, students, and educational personnel to student records and the applicable confidentiality rights of parents and students. Student records shall be made available to the parents, or to the student of majority age, for inspection and copying.

A copy of the policy shall be posted in each school and parents shall be notified annually of the policy. The school administrative unit shall maintain records in accordance with the Family Education Rights and Privacy Act (FERPA).

Section 16. PUBLIC PRESCHOOL APPROVAL

16.01 Approval Procedures

- A) A school administrative unit shall obtain approval from the Commissioner prior to opening a new public preschool program. All new public preschool programs implemented in the 2015-16 school year must be approved prior to opening. By July 1, 2017 all public preschool programs implemented before 2015-16 must comply with programs standards contained in this rule.
- B) A school administrative unit seeking approval status for any public preschool program shall make this intention known to the Commissioner in writing at least nine months prior to the school year. School units that have received school construction approval from the State Board of Education shall be deemed to have met this notice requirement.

- C) An Implementation Plan for initial approval status shall be made on forms provided by the Commissioner and available on the Maine Department of Education Public Preschool website.. The superintendent of the school administrative unit is responsible for supplying all information necessary for a determination that the school is entitled to approval. The implementation plan application form must be signed by the superintendent of the school administrative unit in which the school is located, certifying that the form contains information that is accurate at the time of reporting. Prior to receiving approval from the Commissioner, the facility shall be approved for safety by the State Fire Marshal or local municipal fire department official, and certified as sanitary by the Department of Health and Human Services (DHHS).
- D) Two months prior to the initial opening the applicant school must arrange for an on-site inspection by a representative of the Commissioner.
- E) Approval status shall be awarded when the Commissioner determines that the school is likely to comply with all approval standards.
- F) Upon obtaining approval by the Commissioner, the school administrative unit shall be entitled to operate the public preschool program and to receive state subsidy aid to which it is otherwise entitled.
- G) Six weeks after student occupancy, representatives of the Commissioner shall visit the public preschool program while it is in session to determine if all applicable school approval standards are being met. If school approval standards are not being met, approval status shall continue until compliance is demonstrated or until the end of the school year, whichever is the earlier date.

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#### 16.02 Provisional Approval

- A) Any public preschool program that is determined by the Commissioner not to comply with applicable school approval standards shall be placed on provisional approval. Failure to submit School Approval Reports, other than financial reports, in a timely manner, in accordance with Section 15.05 of this rule, shall result in provisional approval status. Failure to submit financial reports in a timely manner shall result in a withholding of state subsidy in accordance with Section 16.03.B.

- B) When placing a school on provisional approval status the Commissioner shall take the following action:
- (1) The Commissioner shall notify, in writing, the superintendent responsible for any public preschool programs placed on provisional approval status and shall include a statement of the reasons for provisional approval status.
  - (2) Representatives of the Commissioner shall meet with the superintendent and shall determine a reasonable deadline for achieving compliance with school approval standards.
  - (3) A school or school administrative unit on provisional approval status shall be required to file with the Commissioner an acceptable written plan of corrective action.
  - (4) Failure to file a required plan of corrective action shall result in enforcement action by the Commissioner, pursuant to Section 16.03 of this rule.
- C) The Commissioner shall restore full approval status upon the Commissioner's determination of compliance with school approval standards.

### 16.03 Enforcement Measures

#### A) Notice of Failure to Comply

The Commissioner shall give written notice of pending enforcement action to the superintendent of any school or school administrative unit that fails to comply with school approval standards by the established deadlines in statute or in the plan of corrective action established in Section 16.02.B.(3). Such notice shall include a statement of the laws and regulations with which the school or school administrative unit fails to comply. School administrative units failing to comply with school approval standards shall be given notice and the opportunity for a hearing.

#### B) Penalties

The Commissioner may impose the following penalties on school administrative units until compliance is achieved:

- (1) Withhold state subsidy and other state funds from school administrative unit;
- (2) Refer the matter to the Attorney General, who may seek injunctive relief to enjoin activities not in compliance with the governing statute or seek any other remedy authorized by law; or
- (3) Employ other penalties authorized in statute or authorized or required by federal law.

Section 17. PRESCHOOL PROGRAM MONITORING

17.01 Public preschool programs, including partnerships, will complete the electronic Public Preschool Program Annual Report online and submit to the Maine Department of Education no later than 30 days after the end of the school year.

17.02 Each public preschool program, including partnerships, will receive a site visit by the Department no less than once every three years.

17.03 The review will utilize observational instruments, implemented by qualified individuals with demonstrated reliability, that assess:  
A) compliance with the program standards,  
B) classroom quality, and  
C) multiple dimensions of teacher-child interactions that are linked to positive child development and later achievement.

17.04 The results of this classroom evaluation will be shared with the teacher and principal and a plan for training and technical assistance will be developed.

STATUTORY AUTHORITY:       20-A MRSA §4502(5)  
  20-A MRSA §4271(4)

EFFECTIVE DATE:  
February 14, 1974 (filed October 23, 1978)

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