



Charlie Crist
Governor
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Director

MEMORANDUM

TO: Gladys Wilson, Director Office of Early Learning

FROM: Rosa N. McNaughton and C.J. Weinman

DATE: August 17, 2007

RE: Legal Opinion on VPK Provider Requirements

Issue: Whether a coalition can allow a private provider to provide a VPK program in the absence of meeting statutory requirements where the provider is expected to meet requirements within a short period of time.

Statutory Requirements Must be Met Prior to VPK Program Delivery

VPK providers must meet all statutory requirements for providing a VPK program prior to the delivery of the program. Section 1002.55(3)(b), Florida Statutes, expressly requires that the statutory requirements in Chapter 1002, Florida Statutes, be met prior to delivery of the VPK program. Section 1002.55(3)(b) states, in pertinent part:

The private prekindergarten provider must:

3. . . . demonstrate, before delivering the Voluntary Prekindergarten Education Program, as verified by the early learning coalition, that the provider meets each of the requirements of the program under this part, including, but not limited to, the requirements for credentials and background screenings of prekindergarten instructors . . . , minimum and maximum class sizes . . . , prekindergarten director credentials . . . , and a developmentally appropriate curriculum

Thus, where a provider does not meet the statutory requirements, it cannot provide a VPK program. If there is documentation to demonstrate that a provider can meet all statutory

requirements in a reasonable time period, then the VPK program may be re-scheduled until the provider is in full compliance.

Statutory Requirements Met, But Documentation Has Not Been Received

In the case where a provider lacks documentation of compliance, the coalition may allow the provider to provide a VPK program, if the coalition is able to verify compliance with all statutory requirements, is assured that documentation can be provided within a reasonable period of time and determines that child safety and welfare is not jeopardized by the lack of documentation. The provider agreement must have an addendum setting forth the verification of compliance and requiring prescribed documentation to be provided within a reasonable period of time. This addendum is subject to the approval of the Agency for Workforce Innovation, Office of Early Learning.

Background Screening

Under no circumstances should a provider be allowed to provide a VPK program unless it is in full compliance with statutory background screening requirements. Sections 1002.55(3)(d) and 1002.63(6), Florida Statutes, require that “[e]ach prekindergarten instructor ... must be screened using the level 2 screening standards in s. 435.04 before employment and rescreened at least once every 5 years....” Documentation of background screening must be provided without exception.