

TITLE 92 - NEBRASKA DEPARTMENT OF EDUCATION
 CHAPTER 11 - REGULATIONS FOR THE APPROVAL OF PREKINDERGARTEN PROGRAMS ESTABLISHED BY SCHOOL BOARDS OR EDUCATIONAL SERVICE UNITS AND FOR THE ISSUANCE OF EARLY CHILDHOOD EDUCATION PROGRAMS GRANTS

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001 General Provisions

001.01 Statutory Authority. This Chapter is adopted pursuant to Sections 79-1101 to 1104 of the Revised Statutes of Nebraska (R.R.S.).

001.02 Scope and Application of this Rule. This Chapter governs the approval of prekindergarten programs established by school boards or educational service units for children ages birth to kindergarten entrance age under the provisions of 79-1104 R.R.S. This Chapter also governs the administration issuance of the Early Childhood Education Grants Programs to school districts for programs serving children ages three to kindergarten entrance age under the provisions of Sections 79-1101 to 44041103 R.R.S.

~~001.03 Intent. This Chapter provides for the approval of any early childhood education program that is established by a school board or educational service unit. This Chapter also provides for the distribution of grant funds to early childhood education programs.~~

001.043 Related Regulations. In addition to the requirements of this Chapter, public school districts are also governed by regulations contained in Title 92 Nebraska Administrative Code (NAC), Chapter 10, dealing with the accreditation of schools; 92 NAC Chapters 21 and 24 dealing with teacher certification and endorsement; and 92 NAC Chapter 51 dealing with special education programs.

002 Definitions

002.01 At risk when used with reference to a child means the child is experiencing conditions or factors which could have a negative impact on his or her development or learning, including low birth weight, poverty, being a child of teen parents or parents who did not graduate from high school, or living in a home whose occupants have limited ability to speak and understand English.

002.024 Board means the State Board of Education.

002.03 Center-based program means a prekindergarten program serving a group or groups of children in a classroom.

002.04 Class means a group of children who are receiving early childhood services in a classroom for a specific time period established by the school district or educational service unit. Each class shall meet instructional hour requirements for center-based programs indicated in Section 005 of this Chapter.

002.052 Commissioner means the State Commissioner of Education.

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002.063 Comprehensive services means ~~the~~ services ~~available in addition to other than~~ the educational and family development and support components of the prekindergarten early childhood education programs that are accessible to program participants including, but not limited to, ~~family development, involvement and support and access to~~ nutritional, medical, dental, social, and mental health services.

002.07 Curriculum means an intentional design to enhance children's learning that is appropriate for the age and development of the children and is designed and implemented to promote positive outcomes in the areas of social, emotional, intellectual, language, physical, and aesthetic development, for all children served in the program.

002.084 Department means the State Department of Education, which is comprised of the Board and the Commissioner.

002.059 Developmentally appropriate means that the learning environment and teaching strategies are based on widely accepted theories and research about the typical and atypical growth, development, and learning of children.

~~002.06 Early childhood education program means any prekindergarten part day or full-day program or in-home family support program with a stated purpose of promoting social, emotional, intellectual, language, physical, and aesthetic development and learning for children from birth to kindergarten entrance age and family development and support.~~

002.10 Established when used with reference to prekindergarten programs established by a school board or educational service unit shall mean a prekindergarten program that is operated by a school district or educational service unit directly, or by contract with another entity, or in coordination, cooperation, collaboration or partnership agreement with another entity.

~~002.0713 Family development and support means those components of ~~an early childhood education~~ a prekindergarten program which recognize the central role of the family parents in their children's development. Family development and support includes, but is not limited to, home visitation, parent resources and information, conferences, and referrals for additional services for children and families. ~~with the goal of helping to create productive members of society. Family development and support components enhance parenting skills and the family's ability to gain access to and benefit from community resources.~~~~

002.0814 Family literacy means education and related activities ~~such as the federal Even Start Family Literacy program,~~ which involve ~~parents and children~~ and their families in interactive literacy experiences. activities; training for parents regarding how to be the primary teacher for their children; parent literacy; and an age appropriate education to prepare children for success in school and life experiences.

002.15 Full-day program means a prekindergarten center-based program that provides instruction, programming, and services for 6 or more hours per day in a class setting.

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002.16 Home visiting services means a method of service delivery for child and family development and support where guidance, information, and child development services are offered in partnership with the family. Services may be provided in the family home or at another location determined by the family and the home visiting specialist or teacher. This definition does not apply to or include special education services in the home under Rule 51 and Rule 52 (92 NAC 51 and 52).

002.17 Home visitor means a person who provides family development and support services under the supervision of a home visiting specialist or a teacher.

002.18 Home visitor specialist means a person who develops, supervises, and provides home visiting services.

002.19 Infant means a child age birth to 18 months.

002.20 In-home family support means a prekindergarten family support program that specifically provides home visiting services. In-home family support is referred to as “home- based services” in these regulations.

002.21 Instructional hour when used in connection with center-based programs means a period of time, at least sixty (60) minutes, which is used for teaching in the following areas of children’s growth and learning: social-emotional development, cognitive learning in the areas of language and literacy, mathematics, science, and problem solving; creative arts, health and nutrition; and physical and motor development. Meal or snack time is part of the program curriculum and provides opportunities for learning and social development, as well as nutrition, and therefore, is included as part of the instruction time. Outdoor and gross motor time will be included as part of the instruction time. Time spent transporting, conducting parent/teacher conferences or home visits will not count as instructional time. Instructional hour when used in connection with home-based programs means contact hours.

002.22 Kindergarten entrance age means age five years of age on or before July 31 of the current school year.

002.0923 Paraeducator means an individual who serves in a non-teaching role under the supervision of a teacher certificated to teach pursuant to 92 NAC 21.

002.4024 Parent means parent or legal guardian.

002.25 Part-day program means a prekindergarten center-based program that provides instruction, programming, and services for less than 6 hours each day in a class setting.

002.26 Partnership agreement means a formal written agreement that describes the level and nature of commitment of each party to the prekindergarten program. The partnership agreement should describe the following: resources contributed by each partner; rights and responsibilities of each partner; and any other relevant information agreed upon by all parties.

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002.4127 Prekindergarten programs means all early childhood part-day or full-day center-based programs or in-home family support (home-based) programs provided for children who have not reached the age of five on or before July 31 by October 15 of the current school year.

002.28 Preschooler means a child age 3 years to kindergarten entrance age.

002.4229 Teach means and includes, but is not limited to, the following responsibilities: (a) the organization and management of the classroom or the physical area in which the learning experience of prekindergarten age children takes place; (b) the assessment and diagnosis of the individual educational needs of the children; (c) the planning, selecting, organizing, prescribing, and directing of the learning experiences of the children; (d) the planning of teaching strategies and the selection of available materials and equipment to be used; ~~and~~ (e) the evaluation and reporting of children's progress; and (f) the provision of a learning environment and opportunities for positive relationships with children and families.

002.4330 Teacher means a person who is certificated pursuant to 92 NAC 21 to teach.

002.31 Toddler means a child age 18 months to 3 years.

003 Prekindergarten Early Childhood Education Program Approval Process

003.01 Intent to Operate Statement: Any public school district or educational service unit intending to establish a prekindergarten program shall provide the following information to the Department at least 60 days prior to providing any such program:

003.01A A written statement indicating the intent to establish a prekindergarten program meeting the requirements of this Chapter and a description of the prekindergarten program to be provided. The description shall include the type of service to be provided, the planned number of instructional hours for a center-based program or contact hours for a home-based program, and the ages of children in the program. This statement shall be signed by the school district superintendent or the educational service unit (ESU) administrator.

003.01B Written verification that the district or educational service unit staff member who coordinates the prekindergarten program holds a Nebraska Teaching Certificate and has at least 9 college credit hours in early childhood education.

003.01C When known, name of the certificated teacher or teachers who will assume teaching responsibilities.

003.021 Approval Requirements. ~~Early childhood education~~ Prekindergarten programs established by school boards or educational service units shall be approved by the Board pursuant to this Chapter upon the recommendation of the Commissioner. Approval requires compliance with the ~~program~~ requirements identified in ~~Section 004 of~~ this Chapter.

003.032 Duration and Continuation of Program Approval. Program approval is granted for one year from each July 1 through the following June 30. Renewal is based on the program's compliance with this Chapter during the prior school year.

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~~003.04.004.13~~ Approval For the Purpose of Early Childhood Education Grants or the Tax Equity and Educational Opportunities Support Act (TEEOSA). ~~In order for early childhood education programs to receive funds under the Tax, Equity and Educational Opportunities Support Act (TEEOSA) or expansion grants and continuation grants under this Chapter, the program shall submit annually. Prekindergarten programs established by school districts may be approved annually for purposes of TEEOSA or Early Childhood Education expansion grants and continuation grants under this Chapter on the annual submission of the following by the establishing district: (THIS SECTION MOVED FROM 004.13)~~

~~003.04A004.13A~~ A continuation plan demonstrating that the program will continue to meet the requirements of ~~Section 004 of~~ this Chapter, and

~~003.04B004.13B~~ A proposed operating budget demonstrating that the program will receive resources from other funding sources equal to or greater than the sum of any grant received pursuant to ~~Neb. Rev. Stat. § 79-1103~~ this Chapter for the prior school year plus any calculated state aid as calculated pursuant to subsection (1) of Neb. Rev. Stat. 79-1103 for the prior school year. ~~Calculated state aid shall be calculated by multiplying the cost grouping cost per student for the school district's local system cost grouping by the adjusted formula students attributed to the approved early childhood prekindergarten program.~~

~~003.035~~ General Reports. The head administrator of each school district or educational service unit establishing a prekindergarten an early childhood education program shall include information about such programs in the Nebraska Student and Staff Record System (NSSRS) and the Consolidated Data Collection (CDC). All early childhood data is due as specified by the NSSRS and CDC calendar. ~~on the Fall Personnel Report due September 15, the Curriculum Report due annually in February, the Fall Membership Report due October 15, and the Annual Statistical Summary due June 30.~~

~~003.046~~ Early Childhood Program Report. An Early Childhood Program Report Form shall be submitted annually by October 15, and on the form provided by the Department. The report form is contained in Appendix A of this Chapter. When the report reflects failure to comply with the requirements of this Chapter, it shall be accompanied by a written plan for correcting the violation(s). ~~before the beginning of the following school year.~~ The plan is subject to approval by the Commissioner or his or her designee. The Commissioner or his or her designee may approve the plan if in his or her judgment it is reasonably calculated to correct the violation prior to the beginning of the next school year.

~~003.05~~ Loss of Approval. ~~An early childhood education program not in compliance with the requirements of this Chapter may be subject to loss of program approval and/or loss of grant funding. The Commissioner may, at his or her discretion, make recommendations to the State Board to end or deny program approval and/or grant funding. (THIS SECTION MOVED TO 008.01)~~

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004 Requirements For ~~All Prekindergarten Early Childhood Education~~ Programs (Center-based and Home-based) Established By School Boards or Educational Service Units

004.01 Stated Purpose. ~~Each program shall have a stated purpose of promoting social, emotional, intellectual, language, physical, and aesthetic development and learning for the children served and of promoting family development and support.~~

004.012 Planning. Each program shall have a planning period. The planning period shall include activities associated with:

004.012A Determining the community's unmet needs for early childhood education for prekindergarten children in terms of the number of such children in the community, an estimate of the number of children at risk ~~according to the categories specified in Sections 005.01B1 through 005.01B4~~, kinds of programs available, numbers of children birth to kindergarten entrance age who are not currently receiving services, and barriers to the provision of services.

004.012B Developing cooperative relationships with public and nonpublic providers of early childhood programs, including the development of cooperative agreements and contracts, as needed to carry out the proposed program.

004.012C Recruiting and training staff.

004.012D Identifying and listing existing school-community resources available to provide comprehensive services ~~to for the program participants. , including nutritional, medical, dental, social services, mental health services and their respective eligibility requirements.~~

004.053 Advisory Committee. A local Early Childhood Advisory Committee shall be established with membership representing families and community members.

004.053A An existing advisory committee such as that required for services to children below age five (5) with disabilities in Title 92 NAC Chapter 51, a Head Start Policy Council, or a Title I Advisory Committee, may serve this purpose if the representation conforms with this section and the mission is expanded to encompass the purpose of this ~~eChapter.~~

004.03B ~~Advisory Committee meetings are subject to the Open Meetings Act as described in Neb. Rev. Stat. §84-1407 to 84-1414.~~

004.04 Hours. ~~The program shall operate a minimum of twelve (12) instructional hours per week during the school year. Programs receiving grant funds pursuant to Section 005 of this Chapter or receiving Tax Equity and Educational Opportunities Support Act (TEEOSA) funds shall operate a minimum of four hundred and fifty (450) instructional hours per school year.~~

004.04A ~~Instructional hour means a period of time, at least sixty (60) minutes, which is used for teaching in the following areas of children's growth and learning: social-emotional development; cognitive learning in the areas of language and literacy; mathematics, science, and problem solving; creative arts; health and nutrition; and,~~

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physical and motor development. Meal or snack time is part of the program curriculum and provides opportunities for learning and social development, as well as nutrition, and therefore is included as part of the instructional time. (MOVED TO 005)

004.024 Coordination with Existing Programs and Funding Sources. Each program shall develop, and keep on file, a written ~~budget~~ plan to show that the program will be coordinated or contracted with existing programs ~~and funding sources, including those listed in Subsection 004.04A and nonpublic programs which meet the requirements of this Chapter.~~ Each program shall develop and keep on file a written ~~The budget plan to coordinate and use a combination of local, state, and federal funding sources including, but not limited to, those listed in Subsection 004.04A shall include a locally developed sliding scale formula for parent fees~~ in order to maximize the participation of economically and categorically diverse groups of children and to ensure that participating children and families have access to knowledge of comprehensive services that may be available. ~~Existing programs and funding sources include, but are not limited to:~~

004.04A For the purposes of Subsection 004.04, existing programs and funding sources are as follows:

004.024A1 Grants provided through the Early Childhood Education Grant Program for children ages three to kindergarten entrance age under Neb. Rev. Stat. 79-1103 and the Early Childhood Grant Program for children ages birth to three (Sixpence Grants) under Neb. Rev. Stat. 79-1104.02

004.024BA2 Programs for Funds provided for children with disabilities below five years of age funded through the Special Education Act, the Early Intervention Act, and funds available through the flexible funding provisions under the Special Education Act.

004.024CA3 The federal Head Start or Early Head Start program.

004.024D ~~The federal Even Start Family Literacy Program.~~

004.024EA4 Title I of the federal funds provided through the Elementary and Secondary Education Act and subsequent reauthorizations or other appropriate federal legislation.

004.024FA5 Child care assistance through the Department of Health and Human Services ~~System.~~

004.024GA6 Local district funds.

004.024HA7 Funds obtained through contracts with other school districts, such as contracts to provide services to children below age five with disabilities pursuant to 92 NAC 51.

004.024HA8 Private grants and gifts.

004.024JA9 Parent fees from the program's locally-developed sliding scale.

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004.024KA10 Nonpublic ~~early childhood education~~ prekindergarten programs which meet the requirements of Neb. Rev. Stat. 79-1104(2) and this Chapter.

004.05 Fees. Fees charged shall not exceed the actual cost for providing prekindergarten programs. Programs charging fees shall have a plan to use a sliding fee scale in order to maximize the participation of economically and categorically diverse groups. Programs may waive fees on the basis of need. This Subsection does not allow any school district to fail to meet its responsibilities under the Special Education Act (Neb. Rev. Stat. 79-1110 to 79-1167).

~~004.06~~ ~~Family Development and Support.~~ Each program shall provide a strong family development and support component which recognizes the central role of parents in their children's development and establishes a working partnership with each parent. The family development and support component shall include, as a minimum: ~~(MOVED TO 005.02)~~

~~004.06A~~ ~~Written information for parents about the program's philosophy, policies, and procedures.~~

~~004.06B~~ ~~An orientation to the program for children and parents.~~

~~004.06C~~ ~~At least two home visits per year between the parent(s) and the teacher to discuss the child's development and learning. These visits may occur in locations other than the home as determined by the parent(s) and teacher.~~

~~004.06D~~ ~~Specified opportunities for program staff to dialogue with parents through such activities as parent conferences, participation on advisory committees, needs assessments, participation as classroom volunteers, and flexible scheduling of meetings and events.~~

~~004.06E~~ ~~Family development, support, and services based on the family's needs and interests including but not limited to their economic and logistical needs.~~

004.06 Program Coordinator. Prekindergarten programs shall be coordinated by a staff member who holds a Nebraska Teaching Certificate with at least 9 college credit hours in early childhood education.

004.07 Program and Staff Requirements. Each center-based part- day or full- day program shall meet program and staff requirements in Section 005 of this Chapter. Each home-based program shall meet the program and staff requirements in Section 006 of this Chapter.

004.038 Participation and Inclusion. Participation of children and parents families in any program under this Chapter shall be voluntary. Programs shall ~~include not exclude~~ children verified as having disabilities pursuant to 92 NAC 51 or 52. Programs shall integrate include to the extent possible children of diverse social and economic characteristics.

(THE FOLLOWING HAS ALL BEEN MOVED TO SECTION 005)

004.08 Program Staff. The program shall hire, utilize, and provide staff development for qualified staff as set forth below.

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~~004.08A Teacher.~~ Any teacher in an early childhood education program shall hold a valid Nebraska Teaching Certificate with an endorsement in Early Childhood Education, Early Childhood Special Education, Preschool Disabilities, or Early Childhood Education Unified. A program may employ a teacher without such an endorsement if the teacher files a plan to complete the endorsement with the Department as part of the annual Early Childhood Program Report. The plan will require the teacher to receive at least three (3) semester hours of credit annually toward completion of the endorsement. When fifty percent (50%) of the required courses have been completed, the teacher is eligible for a provisional endorsement pursuant to 92 NAC 24 which is valid for three (3) years and can be renewed upon completion of at least fifteen (15) credit hours.

~~004.08B Paraeducator.~~ A paraeducator assigned to work as a member of a classroom team shall have received at least twelve (12) semester hours of undergraduate or graduate credit in child development/early childhood education, or the equivalent in prior training or experience as determined by the Commissioner or his or her designee. Equivalencies include, but are not limited to the following:

~~004.08B1~~ Holding a current Child Development Associate Credential issued by the Council for Early Childhood Professional Recognition in Washington, D.C. shall be an equivalent for the twelve (12) semester hour requirement.

~~004.08B2~~ Holding a current Nebraska teaching certificate with a K-6 elementary endorsement shall be an equivalent for the twelve (12) semester hour requirement.

~~004.08B3~~ Each two (2) years of employment in a program serving children birth through second grade shall be an equivalency for three (3) credit hours of the twelve (12) semester hour requirement. This experience may count for a maximum of six (6) of the twelve (12) semester hour requirement.

~~004.08B4~~ Early childhood training hours (including web-based training) provided by or sponsored by the Nebraska Department of Education Office of Early Childhood shall count toward the twelve (12) semester hour requirement. Fifteen (15) clock hours constitute one (1) semester hour.

~~004.08B5~~ The program may employ a paraeducator who does not meet the twelve (12) semester hour requirement as long as the paraeducator completes a minimum of six (6) semester hours or the equivalent in training or experience within the first year of employment and meets the full twelve (12) semester hour requirement before the end of the second year of employment.

~~004.08C Language Resource.~~ If the majority of children enrolled in the program use a common language other than spoken English, at least one staff member who uses such language shall be available as an active participant to communicate with such children in classroom or group experiences. Where less than a majority of the children enrolled in the program speak a language different from the rest, one staff member or a community resource person or parent shall be identified to serve as a resource to the program.

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~~004.08D Staff Development Plan.~~ There shall be a written plan detailing staff development opportunities for all staff working in the program who have regular contact with children and their families.

~~004.08E Staff Development Hours.~~ Teachers and paraeducators who have regular contact with children in early childhood programs shall participate in at least twelve (12) clock hours annually of staff development related to early childhood education or child development.

~~004.08F Background checks.~~ Program staff who are not required to hold a Nebraska Teaching Certificate and who have contact with children shall be checked by program administration against the Nebraska Central Registry of Child Abuse and Neglect, and the Nebraska Adult Protective Services Registry before being hired.

~~004.09 Child/Staff Ratio and Group Size.~~ Child/staff ratios and group sizes shall be maintained as indicated below with staff assigned who meet the qualifications described in Section 004.08. When age groups are mixed, the lower ratio shall prevail.

~~004.09A~~ If the program serves children, age six (6) weeks to eighteen (18) months, one (1) staff member in the classroom shall hold a valid Nebraska Teaching Certificate. A paraeducator or an additional teacher shall be assigned to assure a ratio of at least one (1) adult for each four (4) children with a maximum group size of eight (8).

~~004.09B~~ If the program serves children, age eighteen (18) months to three (3) years, one (1) staff member in the classroom shall hold a valid Nebraska Teaching Certificate. A paraeducator or an additional teacher shall be assigned to assure a ratio of at least one (1) adult for each six (6) children with a maximum group size of twelve (12).

~~004.09C~~ If the program serves children, age three (3) years to kindergarten entrance age, one (1) staff member in the classroom shall hold a valid Nebraska Teaching Certificate for each group of twenty (20) children. A paraeducator or additional teacher shall be assigned to assure a ratio of at least one (1) adult for each ten (10) children with a maximum group size of twenty (20).

~~004.10 Developmentally and Culturally Appropriate Curriculum, Practices, and Assessment.~~ The early childhood education program shall provide a play-oriented learning environment, which facilitates the optimal growth and development of children, with opportunities for age-appropriate learning experiences through active involvement with people and materials.

~~004.10A~~ A written plan shall be developed to explain the program. The written program plan shall include a description of how the program curriculum, practices and assessment provide a variety of developmentally appropriate, experiential activities which:

~~004.10A1~~ Promote a positive self-concept in each child.

~~004.10A2~~ Develop social skills in each child.

~~004.10A3~~ Encourage each child to think, reason, question, and experiment.

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~~004.10A4 Foster both receptive and expressive language development and provide early literacy experiences.~~

~~004.10A5 Incorporate family literacy experiences.~~

~~004.10A6 Develop an understanding of quantities of things, of time, and of space.~~

~~004.10A7 Enhance each child's physical development and skills.~~

~~004.10A8 Encourage sound safety, health, and nutritional practices, including avoidance of controlled substances.~~

~~004.10A9 Stimulate each child in creative expression and appreciation of the arts.~~

~~004.10A10 Include exploratory play in a language and literacy rich environment during a majority of the daily schedule.~~

~~004.10A11 Reflect and respect the diversity of races, national origins, gender, and physical and mental abilities in the larger society and with particular emphasis on the cultural and ethnic backgrounds of the children enrolled through planned activities, use of materials, and use of equipment.~~

~~004.10A12 Use positive, age appropriate techniques of child guidance including redirection, anticipation, and elimination of potential problems, and encouragement.~~

~~004.10A13 Use child assessment (evaluation) practices based on documentation gathered through an established system of ongoing observation and assessment to provide objective measures of each child's performance and progress in development and learning. The assessment data is used to plan activities to meet the individual needs of children. Any formal assessment tools used must meet accepted standards of reliability and validity.~~

~~004.10A14 Link the Early Childhood Education Program to the district's kindergarten/primary program through a written transition plan insuring continuity, identification, and implementation of processes necessary to facilitate the transition of children. The early childhood program shall be included in the district school improvement plan.~~

~~004.10A15 Include a well defined language development and early literacy emphasis, including the involvement of parents in family literacy activities.~~

004.11 Facilities, Equipment, Health, and Safety

~~004.11A Classrooms shall provide at least thirty five (35) square feet per child of space usable by the children.~~

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~~004.11B~~ An outdoor play area that is protected by fences or physical barriers shall be available which provides at least seventy five (75) square feet per child of play space.

~~004.11C~~ Each classroom and outdoor play area shall be equipped with safe, durable, age appropriate equipment and materials for indoor and outdoor activities.

~~004.11D~~ If needed, modifications of the equipment, materials, and activities shall be made to assure maximum participation in the ongoing activities of the program for children with disabilities attending the program.

~~004.11E~~ Equipment and materials shall be organized into clearly defined areas of interest which are arranged to encourage independent choice; cooperative activity; and alteration between quiet and active exploration and teacher and child initiated activities.

~~004.11F~~ Each early childhood education program shall maintain safe, healthful, and sanitary conditions within the facilities used for the program and on the outdoor playground and meet applicable fire, safety, and health codes.

~~004.11G~~ At least one (1) staff member per classroom who has received first aid and CPR training specifically designed for children shall be on duty at all times. Written verification of current training shall be available.

~~004.12~~ Evaluation and Quality Assurance. The program shall participate in periodic program evaluations to assure program quality and positive child outcomes. The evaluation process will be designed by the Department and will include, but not be limited to the following:

~~004.12A~~ An assessment of program quality.

~~004.12B~~ A report of child outcomes including at least one objective measure of child performance and progress.

~~004.12C~~ A plan for dissemination of the results of the evaluation.

~~004.13~~ Approval for the Purpose of Grants or the Tax Equity and Educational Opportunities Support Act. In order for early childhood education programs to receive funds under the Tax Equity and Educational Opportunities Support Act (TEEOSA) or expansion grants and continuation grants under this Chapter, the program shall submit annually:

~~004.13A~~ A continuation plan demonstrating that the program will continue to meet the requirements of Section 004 of this Chapter, and

~~004.13B~~ A proposed operating budget demonstrating the program will continue to receive resources from other funding sources equal to or greater than the sum of any grant received pursuant to Neb. Rev. Stat. § 79-1103 plus any calculated state aid for the prior school year. Calculated state aid shall be calculated by multiplying the cost grouping cost per student for the school district's local system cost grouping by the adjusted formula students attributed to the approved early childhood education program.

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~~005 Early Childhood Education Grants.— School districts, individually or in cooperation with other school districts or educational service units, working in cooperation with existing nonpublic programs that operate early childhood education programs meeting the requirements found in Section 004 may submit an application for an Early Childhood Education Grant. Administrative authority for grant programs for children from birth to age three (3) resides with the Early Childhood Education Endowment Board of Trustees. The grant requirements contained throughout Section 005 of this Chapter do not apply to programs for children from birth to age three (3). (MOVED TO SECTION 007)~~

~~005.01 Children Who May Be Served With Grant Funds.~~

~~005.01A All prekindergarten age children, regardless of their abilities, disabilities, or the social, linguistic, or economic diversity of the children's families are eligible to be served with grant funds.~~

~~005.01B Grant funds shall be targeted toward serving the following prekindergarten age children ages three to kindergarten entrance age.~~

~~005.01B1 Children whose family income qualifies them for participation in the federal free or reduced lunch program.~~

~~005.01B2 Children who reside in a home where a language other than spoken English is used as the primary means of communication.~~

~~005.01B3 Children whose parents are younger than eighteen or who have not completed high school.~~

~~005.01B4 Children who were born prematurely or at low birth weight as verified by a physician.~~

~~005.01C Up to thirty percent of the funds granted to each early childhood education program under this Chapter may be used to offset program costs for children who are not identified in Sections 0075.01B1 through 0075.01B4 or who are not supported through any of the funding sources listed in Subsection 004.02b through 004.02k, in order to maximize the participation of children from diverse groups.~~

~~005.01D Early Childhood Education Program Grant funds shall not be used to support the participation of children who are eligible by age to enroll in kindergarten (those who reach age five by October 15 of the current year).~~

~~005.02 Grant Application Process.~~

~~005.02A Request For Proposals.— For years in which grant funds are available, the Department shall issue a Request for Proposals (RFP) for early childhood education grants.~~

~~005.02B Forms.— Each district, cooperative or educational service unit applying for grant funding under this Chapter, individually or in cooperation with other school districts or educational service units, shall submit applications on forms supplied by the Department.~~

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~~The application form for new, or expansion grants is contained in Appendix B of this Chapter for use by applicants until the process is established online by the Department of Education on January 31, 2008. The continuation grant application process is established online and requires electronic submission of information identified in Appendix C of this Chapter.~~

~~005.02C Applications. Applications shall be rated on the basis of conformance with the requirements of this Chapter.~~

~~005.02D Panel. The Commissioner or his or her designee shall appoint a panel of persons knowledgeable in early childhood education to evaluate the applications and to recommend proposals for funding to the Commissioner.~~

~~005.02E Commissioner's Recommendation. Application funding recommendations by the Commissioner shall be made at a meeting of the State Board of Education. Upon action by the Board, all applicants shall be notified of the outcome.~~

~~005.02F Funding Distribution. The Department shall make an effort to fund programs across the state in both rural and urban areas.~~

~~005.03 Grant Funding.~~

~~005.03A Each prekindergarten early childhood education program approved under the provisions of Section 0075.02 shall be eligible for grant funding of up to fifty percent of the total approved budget of the program, subject to the following:~~

~~005.03A1 Appropriation of the funds by the Legislature.~~

~~005.03A2 An annual review of compliance with this Chapter.~~

005 Additional Program and Staff Requirements for Prekindergarten Programs Serving Children Birth to Kindergarten Eligibility Age in a Center-Based Program

005.01 Instructional Hours. Each class in the program shall operate a minimum of twelve (12) instructional hours per week during the school year. Programs receiving grant funds pursuant this Chapter or receiving Tax Equity and Educational Opportunities Support Act (TEEOSA) funds shall operate a minimum of four hundred and fifty (450) instructional hours per school year.

(MOVED FROM 004.04)

005.02 Family Development and Support. Each center-based part- day or full- day prekindergarten program shall provide a strong family development and support component which recognizes the central role of parents in their children's development and establishes a working partnership with each parent. The family development and support component shall include, as a minimum: (MOVED FROM 004.06)

005.02A Written information for families about the program's philosophy, policies, and procedures.

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005.02B An orientation to the program for children and families.

005.02C At least two (2) home visits per year between the parent(s) and the teacher to discuss the child's development and learning. If the family decides to have the visit at another location other than the home, it must be conducted at a location determined jointly by the family and teacher.

005.02D Specified opportunities for program staff to dialogue with families through such activities as parent conferences, participation on advisory committees, needs assessments, participation as classroom volunteers, and flexible scheduling of meetings and events.

005.02E Services based on the family's needs and interests that include but are not limited to, components that will enhance parent skills and the family's ability to access community resources.

005.03 Developmentally and Culturally Appropriate Curriculum, Practices, and Assessment. The part- day or full- day center- based prekindergarten program shall provide a play-oriented learning environment, which facilitates the optimal growth and development of children, with opportunities for age-appropriate learning experiences through active involvement with people and materials. (MOVED FROM 004.10)

005.03A A written program plan shall be developed to explain and implement the program. The written program plan shall include a description of how the program curriculum, practices and assessment provide a variety of developmentally appropriate, experiential activities which:

005.03A1 Promote a positive self-concept in each child.

005.03A2 Foster attachments for all children by ensuring they have consistent teachers and paraeducators daily.

005.03A3 Develop social skills in each child.

005.03A4 Encourage each child to think, reason, question, and experiment.

005.03A5 Foster both receptive and expressive language development and provide early literacy experiences.

005.03A6 Incorporate family literacy experiences.

005.03A7 Develop an understanding of quantities of things, of time, and of space.

005.03A8 Enhance each child's physical development and skills.

005.03A9 Encourage sound safety, health, and nutritional practices, including avoidance of controlled substances.

005.03A10 Stimulate each child in creative expression and appreciation of the arts.

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005.03A11 Include exploratory play in a language and literacy-rich environment during a majority of the daily schedule.

005.03A12 Reflect and respect the diversity of races, national origins, gender, and physical and mental abilities in the larger society and with particular emphasis on the cultural and ethnic backgrounds of the children enrolled through planned activities, use of materials, and use of equipment.

005.03A13 Use positive, age-appropriate techniques of child guidance including redirection, anticipation, and elimination of potential problems, and encouragement.

005.03A14 Use child assessment (evaluation) practices based on documentation gathered through an established system of ongoing observation and assessment to provide objective measures of each child's performance and progress in development and learning. The assessment data is used to plan activities to meet the individual needs of children. Any formal assessment tools used shall meet accepted standards of reliability and validity.

005.03A15 Link the prekindergarten to the district's kindergarten/primary program through a written transition plan insuring continuity, identification, and implementation of processes necessary to facilitate the transition of children. The prekindergarten program shall be included in the district school improvement plan.

005.03A16 Include a well-defined language development and early literacy emphasis, including the involvement of parents in family literacy activities.

005.03A17 Provide at least one outdoor play period (weather permitting) daily.

005.04 Evaluation and Quality Assurance. The program shall participate in periodic program evaluations to assure program quality and positive child outcomes. The evaluation process will be designed by the Department and will include, but not be limited to the following: (MOVED FROM 004.12)

005.04A An assessment of program quality.

005.04B A report of child outcomes including at least one objective measure of child performance and progress.

005.04C A written plan for dissemination of the results of the evaluation.

005.05 Program Staff. The prekindergarten program shall use qualified staff as set forth below. (MOVED FROM 004.08)

005.05A Teacher. Any teacher in a prekindergarten program shall hold a valid Nebraska Teaching Certificate with an endorsement in Early Childhood Education (age 3 through Grade 3), Early Childhood Special Education (Birth through Kindergarten), or Early Childhood Inclusive (Birth through Grade 3). A program may employ a teacher without

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such an endorsement if the teacher files with the Department a plan developed by the teacher and the cooperating college or university to complete the endorsement as part of the annual Early Childhood Program Report. The plan will require the teacher to receive at least six (6) semester hours of credit annually toward completion of the endorsement. When fifty percent (50%) of the required courses have been completed, the teacher is eligible for a provisional endorsement pursuant to 92 NAC 24.

005.05B Paraeducator. A paraeducator assigned to work as a member of a team in a classroom setting shall have received at least twelve (12) semester hours of undergraduate or graduate credit in child development/early childhood education, or the equivalent in prior training or experience as determined by the Commissioner or his or her designee. Equivalencies include, but are not limited to the following:

005.05B1 Holding a current Child Development Associate Credential issued by the Council for Early Childhood Professional Recognition in Washington, D.C. shall be an equivalent for the twelve (12) semester hour requirement.

005.05B2 Holding a current Nebraska teaching certificate with a K-6 elementary endorsement shall be an equivalent for the twelve (12) semester hour requirement.

005.05B3 Each two (2) years of employment in a program serving children birth through second grade shall be an equivalency for three (3) credit hours of the twelve (12) semester hour requirement. This experience may count for a maximum of six (6) of the twelve (12) semester hour requirement.

005.05B4 Early childhood training hours (including web-based training) provided by or sponsored by the Nebraska Department of Education Office of Early Childhood shall count toward the twelve (12) semester hour requirement. Fifteen (15) clock hours constitute one (1) semester hour.

005.05B5 The program may employ a paraeducator who does not meet the twelve (12) semester hour requirement as long as the paraeducator completes a minimum of six (6) semester hours or the equivalent in training or experience within the first year of employment and meets the full twelve (12) semester hour requirement before the end of the second year of employment.

005.05C The prekindergarten program may employ a home visitor in a center- based program who provides family development and support services under the direction of a teacher. The home visitor shall have at least twelve (12) semester hours of undergraduate or graduate credit in one or a combination of the following areas:

005.05C1 Early Childhood Education or Early Childhood Special Education;

005.05C2 Nursing, including at least twelve (12) graduate or undergraduate hours in any combination of family centered practices or child and youth development;

005.05C3 Child Development;

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005.05C4 Sociology or Psychology, including coursework in the area of family centered practices or child and youth development; or

005.05C5 Social Work, including coursework in the area of family centered practices or child and youth development.

005.05D Orientation. All staff working in the prekindergarten program shall be provided with an orientation prior to having direct responsibility for the care and teaching of children or for providing family and development services. The orientation shall include job duties and responsibilities, building safety procedures, information about the state law regarding reporting suspected cases of child abuse and neglect, child assessment information, and daily routines and schedules.

005.05E Language Resource. If the majority of children enrolled in the program use a common language other than spoken English, at least one staff member who uses such language shall be available as an active participant to communicate with such children in classroom and group experiences. Where less than a majority of the children enrolled in the program speak a language different from the rest, one staff member or a community resource person or parent shall be identified to serve as a resource to the program.
(MOVED FROM 004.08C)

005.05F Staff Development Plan. There shall be a written plan detailing staff development opportunities for all staff working in the program who have regular contact with children and their families. *(MOVED FROM 004.08D)*

005.05G Staff Development Hours. Teachers and paraeducators who have regular contact with children in early childhood programs shall participate in at least twelve (12) clock hours annually of staff development related to prekindergarten or child development. *(MOVED FROM 004.08E)*

005.05H Background checks. Program staff who are not required to hold a Nebraska Teaching Certificate and who have contact with children shall be checked by program administration against the Nebraska Central Registry of Child Abuse and Neglect, and the Nebraska Adult Protective Services Registry before being hired. *(MOVED FROM 004.08F)*

005.06 Child/Staff Ratio and Group Size. Child/staff ratios and group sizes shall be maintained as indicated below with staff assigned who meet the qualifications described in Section 005.06. When age groups are mixed, the lower ratio shall prevail. *(MOVED FROM 004.09)*

005.06A If the program serves infants, one (1) staff member in the classroom setting shall hold a valid Nebraska Teaching Certificate. A paraeducator or an additional teacher shall be assigned to assure a ratio of at least one (1) adult for each four (4) children with a maximum group size of eight (8).

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005.06B If the program serves toddlers, one (1) staff member in the classroom setting shall hold a valid Nebraska Teaching Certificate. A paraeducator or an additional teacher shall be assigned to assure a ratio of at least one (1) adult for each six (6) children with a maximum group size of twelve (12).

005.06C If the program serves preschoolers, one (1) staff member in the classroom setting shall hold a valid Nebraska Teaching Certificate for each group of twenty (20) children. A paraeducator or additional teacher shall be assigned to assure a ratio of at least one (1) adult for each ten (10) children with a maximum group size of twenty (20).

005.06D In full- day programs where children nap, the certified teacher may be out of the classroom during the nap period as long as the children are adequately supervised by other staff and the teacher is readily available.

005.07 Facilities, Equipment, Health and Safety

005.07A Classroom settings shall provide at least thirty-five (35) square feet per child of space usable by the children.

005.07B An outdoor play area that is protected by fences or physical barriers shall be available which provides at least seventy-five (75) square feet per child of play space.

005.07B1 The fence or physical barrier shall be of a type of structure that is a continuous barrier and is at least 36 inches in height, flush with the ground, and without any gaps that would allow a child to exit the protected area.

005.07C Each classroom setting and outdoor play area shall be equipped with safe, durable, age-appropriate equipment and materials for indoor and outdoor activities.

005.07D If needed, modifications of the equipment, materials, and activities shall be made to assure maximum participation in the ongoing activities of the program for children with disabilities attending the program.

005.07E Equipment and materials shall be organized into clearly defined areas of interest that are arranged to encourage independent choice; cooperative activity; and alteration between quiet and active exploration and teacher-and child-initiated activities.

005.07F Each prekindergarten program shall maintain safe, healthful, and sanitary conditions within the facilities used for the program and on the outdoor playground and meet applicable fire, safety, and health codes.

005.07G At least one (1) staff member per class who has received first aid and CPR training specifically designed for children shall be on duty at all times. Written verification of current training shall be available.

005.08 Meals and/or Snacks. The program shall provide each class at least one meal and/or snack that meets USDA Child Nutrition Program guidelines each day. All tables used for meals and snack shall be properly sanitized. *(MOVED FROM 004.07)*

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005.09 Immunizations. The school district shall comply with all state statutes and regulations regarding the immunization status of all enrolled children.

005.10 Supervision. Adequate and appropriate supervision shall be provided at all times children are in attendance, including during outdoor play and field trips. Adequate and appropriate supervision includes, but is not limited to, knowing the whereabouts and being within sight or sound of children at all times.

005.11 Toileting. The program shall ensure the toileting needs of all children are met immediately. The program shall ensure wet and/or soiled clothing is changed immediately.

005.12 Infants and Toddlers. Programs serving children birth to age 3 shall meet the following requirements:

005.12A The physical, emotional and social needs of infants and toddlers shall be met consistently and promptly;

005.12B Formula and feeding schedules shall be obtained from parents;

005.12C Infants shall not sleep with bottles;

005.12D Bottles shall not be propped;

005.12E If formula is used, it shall be a commercially made product;

005.12F All breast milk and prepared formula shall be refrigerated and clearly labeled with the child's name; and unused prepared formula shall be discarded as indicated by the label;

005.12G Unfrozen breast milk shall be discarded after 48 hours; and frozen breastmilk shall be discarded after three months;

005.12H Only highchairs with three point safety straps shall be used;

005.12I Infants shall be placed on their backs to sleep except in cases where there is a medical reason the child shall not sleep on its back; and written verification of the medical reason from the child's physician shall be available;

005.12J Wet or soiled diapers shall be changed immediately and disposed of in a sanitary manner;

005.12K Individual cleaning cloths shall be used for diapering;

005.12L Diaper changing surfaces shall be cleaned and disinfected after each use and staff shall use proper hand washing techniques after each diaper change;

005.12M Toileting shall be done in a manner agreed upon with the parent;

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005.12N Potty chairs shall be cleaned, disinfected, and properly stored away from play areas;

005.12O All cribs and playpens shall meet federal safety standards as indicated by the Consumer Product Safety Commission; and

005.12P All cribs and playpens shall not contain any soft objects, bumper pads, toys or loose bedding.

005.13 Sixpence Programs. School districts that receive Early Childhood Endowment birth to three grants, also referred to as Sixpence programs, may be required to meet additional grant-related program requirements established by the Endowment Board of Trustees.

006 — Appeals and Provisions for Notice and Hearing

~~006.01 Recommendations from the Commissioner to the Board to either end or deny program approval pursuant to Sections 004, or to end grant funding pursuant to Section 005 may be appealed under 92 NAC 61. All hearings arising under this Chapter shall be conducted in accordance with the hearing procedures of 92 NAC 61, including provisions of that Chapter relating to evidence.~~

~~006.02 When the Commissioner makes a recommendation to the Board to end or deny program approval or end grant funding, notice of the recommendation and of the right to request a hearing shall be given by certified mail sent at least thirty (30) calendar days prior to the date of the Board meeting at which the recommendation is to be considered. Copies will be sent to the head administrator of the school district educational service unit and to the presiding officer of the governing body, if known. The notice shall specify the basis for the recommendation.~~

~~006.03 Upon review of the Commissioner's recommendation and following any hearing, the Board shall make a determination regarding the program's approval or grant funding and shall inform the head administrator of the school district or educational service unit and the presiding officer of the governing body, if known, of the Board's decision. Notice shall be given in writing by certified mail. (MOVED TO 008)~~

006 Additional Program and Staff Requirements for Prekindergarten Programs Serving Children Birth to Kindergarten Eligibility Age in a Home -Based Program

006.01 Contact Hours in Home-Based Programs. Program staff shall have contact with each enrolled family at least three (3) times each month for a minimum total of 180 minutes. A minimum of 120 minutes shall be face- to- face contact with the family. Contact may be completed by the home visiting specialist or the home visitor. If a school district or educational service unit contracts with another organization to provide early childhood services, the district or ESU shall ensure the adequate number of hours are provided as required in this Subsection.

006.02 Family Development and Support. Each home-base prekindergarten program shall include the following, as a minimum:

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006.02A Written information for families about the program's philosophy, policies, and procedures;

006.02B An orientation to the program for families; and

006.02C Delivery of services that are based on family needs and interests and that focus on the child's development and positive family outcomes. Services shall be provided year round following a curriculum that meets the requirements of Subsection 006.05 of this Chapter.

006.03 Developmentally and Culturally Appropriate Curriculum, Practices, and Assessment in Home-Based Prekindergarten Programs. Each home-based prekindergarten program shall provide curricula that are researched-based and designed to work with families that facilitate the optimal growth and development of children and that are culturally appropriate for all families served. The program shall also include a well-defined language development and early literacy emphasis, including the involvement of families in literacy activities.

006.03A Each program shall have a written program plan that shall include a description of program curriculum, practices and assessments used. This plan must be provided to all parents and be available to the Department upon request.

006.04 Evaluation and Quality Assurance. Each home-based program shall participate in periodic program evaluations to assure program quality and positive child outcomes. The evaluation process will be designed by the Department's Office of Early Childhood and will include, but not be limited to the following:

006.04A An assessment of program quality;

006.04B A report of child outcomes including at least one objective measure of child performance and progress; and

006.04C A written plan for dissemination of the results of the evaluation.

006.05 Program Staff. In order to provide home-based services, each home-based program shall use one or more home visitor specialists and may in addition use one or more home visitors who meet the qualifications below:

006.05A Home Visiting Specialist. Any home visitor specialist in a home-based program shall have a bachelor's degree or higher in one of the following areas:

006.05A1 Early Childhood Education or Early Childhood Special Education,

006.05A2 Nursing including at least twelve (12) graduate or undergraduate hours in any combination of family centered practices or child and youth development,

006.05A3 Child Development,

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006.05A4 Sociology or Psychology including at least twelve (12) graduate or undergraduate hours in any area of family- centered practices or child and youth development, or

006.05A5 Social Work including at least twelve (12) graduate or undergraduate hours in any combination of family- centered practices or child and youth development.

006.05B Home Visitor. Any home visitor assigned to work as a member of the program team shall have received at least twelve (12) semester hours of undergraduate or graduate credit in one or a combination of the following areas, or the equivalent in prior training or experience as determined by the Commissioner or his or her designee:

006.05B1 Early Childhood Education or Early Childhood Special Education,

006.05B2 Nursing with additional coursework in Sociology/Psychology and in the area of family centered practices or child and youth development,

006.05B3 Child Development,

006.05B4 Sociology or Psychology with additional coursework in the area of family-centered practices or child and youth development, or

006.05B5 Social Work with additional coursework in the area of family-centered practices or child and youth development.

006.05C The program may employ a home visitor who does not meet the twelve (12) semester hour requirement as long as the paraeducator completes a minimum of six (6) semester hours or the equivalent in training or experience within the first year of employment and meets a full twelve (12) semester hour requirement before the end of the second year of employment.

007 Early Childhood Education Grants for Prekindergarten Programs for Children Ages Three to Kindergarten Entrance Age. Any school district, individually or in cooperation with other school districts or educational service units, working in cooperation with existing nonpublic programs meeting the requirements for approval in this Chapter may submit an application for an Early Childhood Education Grant for a prekindergarten program for children ages three (3) to kindergarten entrance age that is established by the district and is approved by the Department pursuant to this Chapter. Administrative authority for Early Childhood Education Grants for prekindergarten programs for children from birth to age three (3) (Sixpence Grants) resides with the Early Childhood Education Endowment Board of Trustees.

007.01 Children Who May Be Served With Grant Funds.

007.01A All prekindergarten-age children, ages three (3) to kindergarten entrance age, regardless of their abilities, disabilities, or the social, linguistic, or economic diversity of the children's families are eligible to be served with grant funds awarded pursuant to this Chapter.

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007.01B Grant funds shall be distributed using the priorities specified in Neb. Rev. Stat. §79-1103(1)(b), (c), and (d).

007.01C Up to thirty percent of the funds granted for each prekindergarten program under this Chapter may be used to offset program costs for children who are not identified in the priorities specified in Neb. Rev. Stat. 79-1103(1)(b),(c),and (d) or who are not supported through any of the funding sources listed in Subsection 004.04 of this Chapter, in order to maximize the participation of children from diverse groups.

007.01D Early Childhood Education Grant funds shall not be used to support the participation of children who are below age three or who are eligible by age to enroll in kindergarten (those who reach age five by July 31 of the current year).

007.02 Grant Application Process.

007.02A Request For Proposals. For years in which grant funds are available, the Department shall issue a Request for Proposals (RFP) for grants for programs for children ages three to kindergarten entrance age.

007.02B Forms. Each school district applying for grant funding under this Chapter, individually or in cooperation with other school districts or educational service units, shall submit an applications on forms supplied by the Department. The application form for new, expansion, and continuation grants is established online and requires electronic submission of information identified in Appendix C of this Chapter.

007.02C Applications. Applications shall be rated on the basis of conformance with the requirements of this Chapter.

007.02D Panel. The Commissioner or his or her designee shall appoint a panel of persons knowledgeable in early childhood education to evaluate the applications and to recommend proposals for funding to the Commissioner.

007.02E Commissioner's Recommendation. Application funding recommendations by the Commissioner shall be made at a meeting of the State Board of Education. Upon action by the Board, all applicants shall be notified of the outcome.

007.02F Funding Distribution. The Department shall make an effort to fund programs across the state in both rural and urban areas.

007.03 Grant Funding.

007.03A Each prekindergarten program approved under the provisions of this Chapter shall be eligible for grant funding of up to fifty percent of the total approved budget of the program, subject to the following:

007.03A1 Appropriation of the funds by the Legislature.

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007.03A2 An annual review of compliance with the requirements of this Chapter.

008. Violations, Probation, or Loss of Program Approval and/or Loss of Grant Funds

008.01 Violations. When the Commissioner or his or her designee determines that the prekindergarten program is in violation of any requirement specified in this Chapter, written notice shall be given to the school district or educational service unit. Any prekindergarten program in violation of any requirements specified in this Chapter shall submit a written plan to the Commissioner or his or her designee describing how violations will be corrected prior to the beginning of the next school year.

008.02 Continued violation of any requirements indicated in this Chapter result in probation, loss of approval and/or loss of grant funding as described in this Chapter. The Commissioner may, at his or her discretion, make recommendations to the State Board to end or deny program approval and/or grant funding or place a program on probation.

008.03 Recommendations from the Commissioner to the Board to either end or deny program approval pursuant to Sections 004, 005 and 006 or to end grant funding pursuant to Section 007 may be appealed by filing a petition and request for hearing with the State Board of Education pursuant to 92 NAC 61 no later than 15 calendar days after the date of receipt of written notice from the Commissioner or his or her designee. All hearings arising under this Chapter shall be conducted in accordance with the hearing procedures of 92 NAC 61, including provisions of that Chapter relating to evidence.

008.04 When the Commissioner makes a recommendation to the Board to end or deny program approval or end grant funding, notice of the recommendation and of the right to request a hearing shall be given by certified mail returned receipt requested sent at least thirty (30) calendar days prior to the date of the Board meeting at which the recommendation is to be considered. The notice will be sent to the superintendent of the school district or head administrator of the educational service unit responsible for the program. The notice shall specify the basis for the recommendation.

008.05 Upon review of the Commissioner's recommendation and following any hearing, the Board shall make a determination regarding the program's approval or grant funding and shall inform the superintendent of the school district or the head administrator of the educational service unit of the Board's decision in writing by certified mail.