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**Office of Early Learning**

**VPK Education Program**

**Rules Update Guide**

**(updated June 29, 2011)**

# **Table of Contents**

- I. Introduction**
  
- II. Substitute Instructors**
  - A. Conditions for Using a Substitute Instructor**
  
  - B. Background Screening Requirements for a Substitute Instructor**
  
  - C. Required Qualifications for a Substitute Instructor**
  
- III. Advance Payment**
  - A. Coalition Advance**
  
  - B. Provider Advance**
  
  - C. Year – End Reconciliation**
  
- IV. Attendance**
  - A. 80-20 Formula for Calculating Payable Absences**
  
  - B. Reconciliation**
  
  - C. Calendars**
  
  - D. Closures**
  
- V. Reenrollment**
  - A. Good Cause**
  
  - B. Extreme Hardship**
  
- VI. Provider/Class Registration**
  - A. Form AWI-VPK 10 (VPK Statewide Provider Registration Application)**
  
  - B. Form AWI-VPK 11 (VPK Class Registration Application, Parts A & B)**
  
- VII. Provider Agreement**
  - Form AWI-VPK 20 (VPK Statewide Provider Agreement)**

# **I. Introduction**

The Agency for Workforce Innovation's (the Agency) Office of Early Learning (OEL) adopted several revised and new rules that govern the operation of the Voluntary Prekindergarten (VPK) Education program. This guide provides summaries and technical assistance about how these legislative and rule changes impact Early Learning Coalitions and VPK program providers. Most of these changes were necessitated, in part, by changes to Florida Statutes. If you have additional questions not covered in this guide, please contact OEL staff at [OEL.Questions@flaawi.com](mailto:OEL.Questions@flaawi.com).

# **II. Substitute Instructors**

The rule that governs the use of substitute teachers in VPK classrooms (60BB-8.410, F.A.C.) went into effect August 10, 2009. The rule provides the conditions under which VPK providers may use substitute instructors as well as the required qualifications of the substitute instructors.

## **A. Conditions for Using a Substitute Instructor**

- A substitute instructor may not be used for more than 30 percent of a program's hours. Providers may use different substitute instructors on different days, but the combined instructional hours of all substitutes cannot exceed 30 percent of the VPK program hours. [60BB-8.410(4), F.A.C.]
- A provider must assign a new credentialed instructor any time a credentialed instructor of the classroom is absent for more than 30 percent of the provider's scheduled program hours. A substitute instructor may not be assigned to a classroom while the assigned credentialed instructor is offering instruction in another classroom. [60BB-8.410(4), F.A.C.]
- The coalition must receive documentation of a level 2 background screening clearance and applicable credentials before a provider can assign a substitute instructor to a classroom. [60BB-8.410(2), F.A.C.]
- Coalitions may maintain and make available to providers a list of substitute instructors for whom the coalition has received documentation indicating, at a minimum, the name of the substitute instructor and the expiration date of the instructor's level 2 background screening. If a coalition opts to maintain a list, providers will not have to submit documentation for any substitute instructor whose name and level 2 background screening expiration date appear on the list. [60BB-8.410(5), F.A.C.]
- Each school district is required to make a list of all currently eligible substitute teachers within the county available to an early learning coalition serving students within the school district. Child care facilities, as defined by s. 402.302, F.S., may employ any of the individuals on the list as substitute instructors in the school readiness program, VPK program, and all other legally operating child care programs. [s. 411.01(11), F.S.]

## **B. Background Screening Requirements for a Substitute Instructor**

- Substitute instructors must be of good moral character and be screened using the level 2 screening requirements in Section 435.04, F.S., before employment as a VPK substitute instructor. [60BB-8.410(2), F.A.C.]
- To document private provider compliance, coalition staff shall use the background screening clearance letters from the Department of Children and Families (DCF) in conjunction with documentation (a letter or attestation) from the provider that the provider has reviewed the screening results and that each VPK instructor has cleared the level 2 background screening required by statute. [Joint AWI/DCF memo dated June 1, 2010, regarding VPK Background Screening Documentation.]

- To document public school compliance, coalition staff should use the background screening clearance letters from the local school district as documentation that instructors in a school district's VPK program have cleared the level 2 background screening required by statute. [\[Joint AWI/DCF memo dated June 1, 2010, regarding VPK Background Screening Documentation.\]](#)
- Substitute instructors are required to comply with DCF's procedures governing good moral character. Effective August 2010, providers began transitioning to use of the notarized Affidavit of Good Moral Character. The Affidavit of Good Moral Character is valid for as long as the employee remains with the same employer and there is not a break in service of 90 days or more. The Affidavit is no longer required to be completed annually. [\[DCF Management Memo dated August 6, 2010, regarding HB 7069 New BGS Requirements\]](#)

### C. Required Qualifications for a Substitute Instructor

**Summer Program:** In a summer program, the substitute instructor must have one of the following:

- An associate's or higher degree of study in any field;
- A national Child Development Associate (CDA) credential; or
- A credential approved by DCF as being equivalent or greater than a national CDA credential. [\[60BB-8.410\(2\)\(b\)1.a., b., and c., F.A.C.\]](#)

**School-Year Program:** In a school-year program, the substitute instructor must have one of the following:

- Any of the requirements listed above for a summer program;
- A DCF 40-hour Introductory Child Care Training course if the class is offered in a child care facility;
- A DCF 30-clock-hour Family Child Care Home training if the class is offered in a large family child care home;
- A DCF 30-clock-hour Family Child Care Home training if the class is offered in a family day care home; or,
- The local school district's requirements to be employed as a substitute teacher as adopted by each school district.

[\[60BB-8.410\(2\)\(b\)2.a. through e., F.A.C.\]](#)

#### References:

[60BB-8.410, F.A.C., Voluntary Prekindergarten Program Substitute Instructors](#)

[AWI/DCF Joint Memo, VPK Background Screening Documentation](#)

[DCF Affidavit of GMC-Policy.pdf](#)

## III. Advance Payment

The Advance Payment rule (60BB-8.205, F.A.C.) went into effect September 14, 2009. The rule governs advance payment to coalitions and advance payment to providers. An advance payment to a provider was formerly referred to as "prepayment," but the terminology was changed to align with statutory language. [\[60BB-8.205\(2\), F.A.C.\]](#)

### A. Coalition Advance

The rule provides the formula the Agency uses at the beginning of each fiscal year to determine how much VPK funding the Agency may advance to a coalition from its VPK allocation. The coalition advance is to cover advance payments to providers and to offset current year coalition expenditures that have not been invoiced yet.

The formula for determining a coalition's VPK program advance is:

**(Base Student Allocation (BSA) / 12) x highest monthly enrollment from previous year**

#### **B. Provider Advance**

VPK private providers and VPK school district providers should indicate if they wish to receive advance payments at the time they enter into the Statewide Provider Agreement. A revised Form AWI-VPK 20 (Statewide Provider Agreement) is in the process of being approved by rule. When the revised AWI-VPK 20 (dated April 30, 2010) is approved, a provider may indicate if it wants to receive an advance payment by checking the box in item 25. Coalitions should then determine which providers want to receive advance payments when each provider submits its completed VPK provider agreement.

The rule requires that coalitions pay providers who have chosen to receive an advance payment no later than the last day of the month prior to the month for which the advance payment is to be made. Coalitions should note this is the deadline for payments to be made; payments may be made earlier than this date. An exception to this deadline is that payment for July is due by July 10 instead of June 30, as a result of state fiscal procedures which require close-out of fiscal year accounting prior to release of funds for the new state fiscal year which begins on July 1. [\[60BB-8.205\(2\)\(b\), F.A.C.\]](#)

The monthly advance payment will be reconciled after the first of each month using actual attendance data. For example, a program that begins in August will be due an advance payment before July 31 and September advance payment by August 31. The September advance payment will not be reconciled against any data because August attendance data will not be available before the payment is due on August 31. The October advance payment will then be reconciled against the August attendance data.

The reconciliation will compare the amount that was paid versus the amount that was actually due to be paid. If more money is owed to the provider, the additional payment due will be added to the forthcoming advance payment. If too much money had been advanced to the provider, the overpaid amount will be subtracted from the forthcoming advance payment. Because advance payments are based on 95 percent of payment anticipated and reconciliation is based on 100 percent of payment due, in most cases the reconciliation will result in an increased payment adjustment and few instances of collections when programs end. [\[60BB-8.205\(3\) and \(5\), F.A.C.\]](#)

#### **C. Year-End Reconciliation**

A final year-end reconciliation compares the amount of money that a provider should have been paid in total versus the actual payment the provider received throughout the year.

In the case of an overpayment, the rule requires a coalition to take reasonable steps to collect the money, including:

- Informing the provider of the amount owed;
- Making written requests for the overpaid funds;
- Offering to negotiate a repayment schedule; and,
- Offsetting the payments against any future early learning payments.

[\[60BB-8.205\(5\)\(a\), F.A.C.\]](#)

#### **Reference:**

[Rule 60BB-8.205, F.A.C., Advance Payment and Reconciliation for the Voluntary Prekindergarten Education Program](#)

## IV. Attendance

A revised Uniform Attendance Policy for Funding the VPK Program (60BB-8.204, F.A.C.) went into effect September 14, 2009. It replaced an existing rule of the same title and rule number. The revised rule was necessary because during the 2009 Regular Session, the Florida Legislature changed how providers are paid for each student.

The revised attendance rule does not change providers' responsibility to turn in required monthly attendance rosters and to complete and retain the Long or Short Attendance Verification forms containing the parents' signatures. Coalitions will continue entering child attendance data into the EFS system.

Providers are no longer required to obtain or keep notes from parents to document a child's absence. The term "excused absence" was once used in VPK programs, but it is now obsolete. Instead, absences are either paid or unpaid. VPK students do not automatically receive 108 (20 percent of hours) paid absence hours in a school-year program. To receive 108 paid absence hours, the student would have to attend from and including the first day of a provider's VPK program all the way through and including the last day of a provider's VPK program and miss no more than 108 instructional hours.

A provider who dismisses a student from its VPK program because of excessive absences under the provider's attendance policy may find itself in a position where it qualifies for payment for fewer absences than it would if the student is allowed to complete the provider's VPK program. The reason for this is that under the 80/20 formula, any absences not paid for in any given month because they exceed the monthly 80/20 formula calculation may eventually be payable at the end of the program because the total absences do not exceed the 80/20 formula calculation for the entire program.

### **A. 80/20 Formula for Calculating Payable Absences**

This rule states that coalitions are to pay providers for an enrolled child's attendance and explains how coalitions are to pay providers for an enrolled child's absences. The calculation the Agency uses to determine a provider payment based on a child's attendance and absence is referred to as the "80/20 formula."

Providers can elect to receive advance payments that are reconciled against actual attendance hours as described earlier in Section III., B., or they can receive payment monthly based on actual attendance reports. With either method, the 80/20 formula will be applied monthly and at the end of the program. The 80/20 formula will be calculated within the state's statewide information management system to ensure that a minimum of 80 percent of a provider's payment for any enrolled child is for days the child attends the program; a maximum of 20 percent of the provider's payment can be for days the child is absent. The payment is determined through the following calculation of the 80/20 formula:

$$\text{Number of hours child attended} \div 0.8 = \text{Number of payable hours}$$

[60BB-8.204(2)(a), (b), and (c), F.A.C.]

In cases where the number of payable hours is **less than** the total hours for which the child is enrolled (not counting days prior to the first day of attendance or after the last day of attendance), then the child is determined to be have been absent for more than 20 percent of the program. The provider can only receive payment for the number of payable hours.

If the total number of payable hours from the 80/20 calculation **exceeds** the total hours for which the child is enrolled, then the provider is paid for the total number of hours the child is enrolled. Hours prior to the first day of attendance or after the last day of attendance are not counted towards hours enrolled and are not payable.

This formula ensures that the statutory requirement is met and ensures that providers are paid the maximum allowable under the law.

## B. Reconciliation

After a VPK class has concluded, a reconciliation calculation is made using the same 80/20 formula applied to the entire class period. A child's absences during any month might trigger a reduced payment, but it is possible that calculation of the child's attendance for the entire program year will change that child's percentage of program attendance hours overall and, therefore, the provider's payable hours. Providers will be paid for any program hours due after this reconciliation is calculated.

## C. Calendars

Several sections in the new attendance rule involve class calendars and the modification of those calendars. The new attendance policy requires that providers have a class schedule of 540 hours for school-year programs and 300 hours for summer programs. A provider is limited to modifying its class schedule twice. However, exceptions to class schedule modification limits may be made for emergency circumstances.

[60BB-8.204(3) and (4), F.A.C.]

## D. Closures

Emergency circumstances exist when federal, state, or local officials declare a state of emergency for the area in which a provider is located. [60BB-8.204(5), F.A.C.]

- **Temporary Closures Caused by Emergency Circumstances:** In the case of a temporary closure for a declared emergency, a student is considered to be in attendance for the 80/20 formula described above. This is limited to five days total per VPK class. If one or more emergency declarations create closures that exceed five days, then a provider must modify its calendar. Calendar changes under this section are in addition to the two calendar changes contained in rule for non-emergency circumstances.
- **Temporary Closures Caused by Other Circumstances:** In the case of a temporary closure for other than emergency circumstances, providers may not be paid for any time their programs are temporarily closed due to circumstances other than emergency circumstances. A provider or school must revise its VPK class schedule and will receive payment for days it restores according to the provisions of rule 60BB-8.204(4), F.A.C. Calendar changes of this type are limited to two.

### **References:**

[60BB-8.204, F.A.C., Uniform Attendance Policy for Funding the VPK Program](#)

[Attendance FAQ I](#)

[Attendance FAQ II](#)

[Attendance PowerPoint](#)

[Attendance Rule Examples](#)

[Attendance and Advance Summary](#)

## **V. Reenrollment**

Rule 60BB-8.210, F.A.C., Reenrollment for Good Cause or Extreme Hardship was effective December 21, 2010. The new rule defines "reenrollment" and significantly changes reenrollment processes, including replacing the form previously used to request reenrollments with Form AWI VPK-05 (Reenrollment Application) dated April 9, 2010.

“Reenrollment” occurs when a student who meets the criteria below either moves from one VPK program type (school-year or summer) to another VPK program type, or moves from a class at one VPK provider to a class at another VPK provider. As detailed in rule, a VPK student may be reenrolled if he or she:

- has attended a portion of VPK instruction;
- has been enrolled in a VPK class for 70% or less of the program type’s instructional hours;
- has not previously reenrolled for good cause or due to an extreme hardship;
- is subsequently removed or withdrawn from enrollment with a VPK provider; and
- is prevented from attending the VPK program for good cause or because of an extreme hardship.

It is not a reenrollment if a provider transfers a VPK student from one class to another class at the same provider location. Reenrollments are classified as either “good cause reenrollments” or “extreme hardship reenrollments.” VPK students are limited to only one reenrollment of either kind. The differences between good cause and extreme hardship reenrollments are described in rule and below. [\[60BB-8.210, F.A.C.\]](#)

**References:**

[Rule 60BB-8.210](#), F.A.C., Reenrollment for Good Cause or Extreme Hardship in the VPK Program

[Reenrollment for Good Cause & Extreme Hardship FAQs](#)

Form [AWI-VPK 05 Reenrollment Application](#)

**A. Good Cause**

A reenrollment for good cause must occur within the same program type, either school-year or summer. The rule expanded the reasons for requesting a good cause reenrollment from six (6) to ten (10) and simplified the process. A VPK student may obtain a good cause reenrollment if the student meets the bulleted criteria listed above and is prevented from attending the VPK program for good cause. Examples of situations which prevent a student from attending the VPK program for good cause are listed in rule. Parents must also submit a completed Reenrollment Application (Form AWI-VPK 05). Supporting documentation is not required. In the past, a good cause reenrollment allowed for a new full-time equivalent (FTE) allocation for a VPK student. Now, however, a good cause reenrollment only allows the new VPK provider to use the VPK student’s remaining funding from that student’s enrollment with the previous VPK provider. [\[60BB-8.210\(2\), F.A.C.\]](#)

**B. Extreme Hardship**

A student who qualifies for an extreme hardship reenrollment must reenroll in a summer VPK program. The rule reduced the reasons for requesting an extreme hardship reenrollment from fourteen (14) to six (6) and simplified the process by allowing coalitions to decide whether to grant these requests. A VPK student may obtain an extreme hardship reenrollment if the student meets the bulleted criteria listed above and is prevented from attending the VPK program because of an extreme hardship. Examples of situations which prevent a student from attending the VPK program because of an extreme hardship are listed in rule. Parents also need to submit a completed Reenrollment Application (Form AWI-VPK 05) and include the supporting documentation stipulated in rule. The student’s second VPK provider is eligible to receive a new full time equivalent (FTE) for that child. [\[60BB-8.210\(3\), F.A.C.\]](#)



## **VI. Provider/Class Registration**

The Agency amended rule 60BB-8.300, F.A.C., which incorporates by reference two revised VPK forms: Form AWI-VPK 10 (Statewide Provider Registration Application) and Form AWI-VPK 11 (Class Registration Application), Parts A and B. Instructions for Forms 10 and 11, Parts A and B, are also referenced in rule. The former version of rule 8.300, F.A.C., required a provider to submit Form AWI-VPK 10 one time and Form AWI-VPK 11 annually, unless information changed. If information had changed, the provider had to submit an updated form. The amended rule now requires a provider to submit a Form AWI-VPK 10 and AWI-VPK 11, Parts A and B, including supporting documents, every year, regardless of whether the previously submitted information has changed or not. When submitted information changes, a provider must communicate these changes within 14 calendar days of the change to a coalition by submitting written notice of the change. Written notice of the change may be provided by submitting an updated form or any other written document which meets all of the criteria listed in rule. [\[60BB-8.300, F.A.C.\]](#)

### **References:**

[Rule 60BB-8.300, F.A.C.](#), Provider and Class Registration Procedures; Application; Eligibility Determination

[Instructions for Forms AWI-VPK 10, AWI-VPK 11A and AWI-VPK 11B](#)

[FAQs for Forms AWI-VPK 10, 11A, 11B, and 20](#)

### **A. Form AWI-VPK 10 (VPK Statewide Provider Registration Application)**

This form was shortened from three (3) pages to one (1) page to achieve efficiencies. [\[60BB-8.300\(1\), F.A.C.\]](#)

### **Reference:**

[Form AWI-VPK 10 VPK Statewide Provider Registration Application](#)

### **B. Form AWI-VPK 11 (VPK Class Registration Application, Parts A & B)**

This form was separated into two distinct parts to achieve efficiencies. Previously, a provider had to submit a completed Form AWI-VPK 11 for each classroom. The separation of instructor information allowed for reformatting of the information so the Form AWI-VPK 11A can now accommodate up to ten (10) classrooms on one page. Class calendar information has been similarly separated and reformatted so the Form AWI-VPK 11B can accommodate up to four (4) distinct calendars on one page. [\[60BB-8.300\(2\), F.A.C.\]](#)

### **References:**

[Form AWI-VPK 11A VPK Class Registration Application - Instructors](#)

[Form AWI-VPK 11B VPK Class Registration Application - Calendars](#)

## **VII. Provider Agreement**

The Agency amended rule 60BB-8.301, F.A.C., which incorporates by reference revised Form AWI-VPK 20 (Statewide Provider Agreement). The revised rule makes clearer the pre-existing requirement that coalitions annually submit to the Office of Early Learning (OEL) any attachment, exhibit, or addendum to the Statewide Provider Agreement for OEL review and approval prior to its use. Similarly, a coalition is to submit for OEL review and approval prior to its use any amendment or revision of the Statewide Provider Agreement. Coalitions are to submit these documents electronically for OEL review to [OELPolicy@flaawi.com](mailto:OELPolicy@flaawi.com). The revised

rule further clarifies that a VPK provider must register on AWI-prescribed forms, that the coalition must determine the VPK provider's eligibility through review of the submitted forms, and that the coalition must notify the VPK provider of its eligibility by returning a fully executed Form AWI-VPK 20 to the provider. Efficiencies include incorporating all revised statutory and amended or new rule requirements into the revised Statewide Provider Agreement, eliminating the need to execute multiple OEL-developed addenda, and permitting the owner or manager of multiple private VPK providers to sign a single provider agreement on behalf of all of his or her private VPK providers within a coalition's geographic area. [60BB-8.301, F.A.C.]

**References:**

[Rule 60BB-8.301, F.A.C.](#), Statewide Provider Agreement for the VPK Program

[FAQs for Forms AWI-VPK 10, 11A, 11B, and 20](#)

**Form AWI-VPK 20 (VPK Statewide Provider Agreement)**

This form was shortened from nine (9) pages to six (6) pages and the number of clauses was reduced from 63 to 47. The previous Form AWI-VPK 20 often restated statutory or rule requirements while the new form often simply references the statutory or rule citation. [60BB-8.301, F.A.C.]

**References:**

[Form AWI-VPK 20 Statewide Provider Agreement](#)