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Pre-K Teachers' Employment Rights and Benefits

March 2009

STATE OF TENNESSEE

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Comptroller

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March 26, 2009

The Honorable Ron Ramsey
Speaker of the Senate
The Honorable Kent Williams
Speaker of the House of Representatives
and
Members of the General Assembly
State Capitol
Nashville, Tennessee 37243

Ladies and Gentlemen:

House Joint Resolution 811 (2008) directs the Comptroller's Office of Education Accountability to study employment rights and benefits for pre-kindergarten teachers and survey each local education agency that conducts a pre-K program. Accordingly, this report documents the various employment rights and benefits available to pre-K teachers who teach in the state's two pre-K programs – the Tennessee Voluntary Pre-K program and the Early Childhood Education pilot program. The report provides information that may be useful to policymakers in considering whether pre-K teachers not employed by a school district should be provided the same employment rights and benefits as K-12 teachers.

Sincerely,

Justin P. Wilson
Comptroller of the Treasury

Pre-K Teachers' Employment Rights and Benefits

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EXECUTIVE SUMMARY

House Joint Resolution 811 (2008) directs the Comptroller's Office of Education Accountability (OEA) to determine if all employment rights and benefits available to K-12 teachers are also available to pre-kindergarten (pre-K) teachers. The impetus of the legislative request was concern that pre-K teachers, especially those not employed by local education agencies (LEAs), may not receive the same rights and benefits as K-12 teachers.

Pre-K programs analyzed in this report fall into two administrative categories:

1. Voluntary Pre-K (VPK) Classrooms – Created through legislation passed in 2005, there are currently 912 VPK classrooms across 133 of the state's 136 school districts. Pre-K teachers in most school districts with VPK classrooms (125 out of 133) are employed by the LEA. Eight school districts have contracted with a non-LEA entity (e.g., Head Start) for employment of one or more of their pre-K teachers. There are currently 69 VPK teachers across the state who are not employed by an LEA.
2. Non-LEA Pilot Classrooms – There are currently 22 non-LEA pilot classrooms across the state, holdovers from the original pre-K pilot programs created through legislation passed in 1996. The majority of Tennessee's non-LEA pilot teachers are not employed by an LEA (19 out of 22); they are instead employed by non-LEA entities (e.g., Head Start, private child care providers, and higher education institutions) that contract directly with the Tennessee Department of Education.

Collaborative partnerships are a fundamental element of Tennessee's pre-K program, and all school districts have the authority to collaborate with community partners to provide pre-K. School districts enter into collaborative arrangements for different reasons (e.g., physical space to house pre-K classrooms). Eight school districts have entered into a collaborative partnership with a non-LEA entity (e.g., Head Start) for their VPK classrooms where one or more of their pre-K teachers are employed by the collaborative partner.

State dollars partially fund all of Tennessee's VPK and non-LEA pilot classrooms, and all pre-K teachers in these classrooms are required to possess the same qualifications and meet the same employment standards. However, the employment rights and benefits afforded to pre-K teachers vary based on the entity – LEA or non-LEA – that employs them.

Analysis and Conclusions

The conclusions in this report are based on responses to a 2008 OEA survey of VPK district coordinators and non-LEA pilot agency coordinators for the state's pre-K classes. This report's conclusions are divided into two sections: Section 1 focuses on differences in the rights and benefits between pre-K and K-12 teachers in the same district. Section 2 focuses on differences in pre-K teachers' rights and benefits across districts.

Section 1: Differences in rights and benefits between pre-K and K-12 teachers in the same district.

Employment rights and benefits for pre-K teachers who are employed by LEAs appear equal to the K-12 teachers in their district. Information from the Tennessee Department of Education and Governor's Office of Policy and Planning indicate that employment rights and benefits for LEA-employed pre-K teachers are

equivalent to the K-12 teachers in their district. In addition, over 90 percent of school districts that responded to a 2008 OEA survey reported their VPK teachers possess the same employment rights and benefits as the K-12 teachers in their district. This high percentage is not surprising since most pre-K teachers are LEA employees and are guaranteed, as are all LEA-employed teachers, certain minimum employment rights and benefits by state law. In addition, the Tennessee Department of Education (DOE) recently amended its policies to require LEAs to make available to their pre-K teachers the same employment rights and benefits available to their K-12 teachers. Officials in DOE's Office of Early Learning (OEL) indicated the inclusion of this equity language stemmed from passage of HJR 811, which required this report, and not in response to pre-K stakeholder complaints filed with DOE.[1]

Employment rights and benefits for pre-K teachers who are *not* employed by LEAs may differ from the K-12 teachers in their districts. Eight school districts[2] have chosen to contract with a non-LEA entity for employment of one or more of their VPK teachers. Employment rights and benefits for these pre-K teachers are determined by their employer (e.g., Head Start) and not the LEA. It is in these cases where divergence between the employment rights and benefits for K-12 teachers and pre-K teachers exists. One OEA survey respondent, representing one of the eight districts that contract for employment of their pre-K teachers, indicated pre-K teachers not employed by the LEA are not receiving equal benefits or credit for their years of service compared to the K-12 teachers in their district.

Most of the pre-K teachers in the other administrative category – the non-LEA pilot classrooms – are in a situation similar to these VPK teachers. Most of these teachers are also not LEA employees (19 out of 22), and their employment rights and benefits are determined by their employer, not the LEA. A few non-LEA pilot coordinators indicated differences in the length of the school day, the number of paid holidays, health insurance provisions, and various other benefits when compared with LEA-employed teachers.[3]

Recruitment and retention of pre-K teachers not employed by an LEA appears to be an issue for some pre-K programs. A majority (62 percent) of non-LEA pilot respondents reported difficulty competing with local school districts' compensation (including salary and benefits) packages. Several non-LEA pilot respondents noted pre-K teachers eventually move to the public school setting, preferring the higher salary and additional benefits that LEAs offer.

Section 2: Differences in pre-K teachers' rights and benefits across districts.

Pre-K teachers' employment rights and benefits differ from district to district and across non-LEA pilot program sites.
Minimum rights and benefits for teachers are outlined in statute. However, the specifics (e.g., contribution levels for insurance plans and types and number of paid leave days) are largely determined at the local level, which explains differences in both pre-K and K-12 teachers' rights and benefits among districts. Pre-K teachers' rights and benefits also vary across the state's non-LEA pilot program sites.

OEA survey results include information about how specific employment rights and benefits differ across the state in VPK district and non-LEA pilot program settings in the areas of employment, compensation, and working conditions. Details for each of these categories can be found in the full report.

- Employment
- Salary

- Insurance
- Pension and Retirement Benefits
- Paid Leave
- Additional Benefits
- Work Calendar
- Collective Bargaining
- Duty-Free Lunch
- Planning Time
- Professional Development
- Staffing and Class Size Requirements
- Teacher Evaluations

Tennessee's laws, rules, and regulations pertaining to education do not always make reference to pre-K or to pre-K teachers. Currently, statute defines public education in Tennessee to include kindergarten through grade 12 (K-12). Many of the state's laws, rules, and regulations regarding teachers and major education programs were written prior to the development of the state's pre-K programs. Consequently, many laws, as well as State Board of Education rules and regulations, do not specifically refer to pre-K programs, teachers, or staff (e.g., regarding requirements for duty-free lunch and planning time).

Policy Considerations

Note: Policymakers should keep in mind that the number of pre-K teachers in Tennessee not employed by an LEA accounts for approximately nine percent of the total (approximately 88 out of 934).

Policymakers at the state and local level may wish to consider whether pre-K teachers not employed by an LEA should be provided the same employment rights and benefits as K-12 teachers.

OEA has listed some of the pros and cons associated with ensuring equal rights and benefits for all pre-K teachers in Exhibit 1.

Consideration should be given to the two separate levels of government – state and local – at which this issue could be addressed. OEA has outlined two options for state and local policymakers to consider: requiring that all pre-K teachers be employed by the LEA or including equal rights and benefits language in local contracts.

Option 1: Require LEA employment

The General Assembly could require that all pre-K teachers be employed by the LEA. This option would ensure that all pre-K teachers receive rights and benefits equal to K-12 teachers. This option would curtail local flexibility in staffing collaborative pre-K classrooms, however, since all pre-K teachers would be school district employees. Staffing costs would also likely rise because compensation packages, in general, are higher for school district employees than for community

Exhibit 1: Pros and Cons of Ensuring Equal Rights and Benefits for Pre-K Teachers Across All Program Settings

Pros

- Pre-K teachers would receive comparable rights and benefits across all program settings
- Pre-K teachers would receive rights and benefits consistent with their respective district K-12 counterparts
- Recruitment and retention for some pre-K teachers would improve in collaborative settings

Cons

- Staffing costs for some pre-K programs could increase to cover higher compensation and benefit costs
- Number of state-funded pre-K classes in certain districts could decrease due to increased salary obligations
- Mandatory state policy would reduce local flexibility

agencies such as Head Start. The number of state-funded pre-K classes in certain districts could decrease due to affected districts' increased salary obligations.

The resulting increase in the staffing costs of affected districts could result in reduced expenditures in other operational areas. A requirement that all pre-K teachers be employed by the LEA would reduce local flexibility in managing expenditures associated with employing teachers. However, an LEA could still collaborate with a partnership agency for space and/or programmatic needs, for example.

Option 2: Include equal rights and benefits language in local contracts

LEAs that contract with collaborating agencies for employment of pre-K teachers could include contract provisions requiring that pre-K teachers receive rights and benefits equal to the other pre-K and K-12 teachers in their districts. This option would preserve local flexibility to outsource employment of pre-K teachers to collaborative partners. However, staffing costs would rise for reasons described in Option 1. The number of state-funded pre-K classes could decrease in affected districts due to increased salary obligations.

The General Assembly may wish to consider a review of relevant statutes, rules, and regulations to determine the appropriateness of standardizing references to pre-K programs, teachers, and/or staff.

Explicit reference to pre-K, where appropriate, would clarify state policy regarding the inclusion of pre-K teachers in the state's teaching corps.

Administrative Recommendation

The Department of Education's Office of Early Learning should examine this report's survey results in reference to their oversight of the state's pre-K programs. Survey information was self-reported by school districts and non-LEA pilot agencies. Survey results are presented as reported without further review of the specific policies or observations of practices by OEA. DOE officials may recognize in the survey responses a need among the state's pre-K coordinators for guidance on and improved understanding of pre-K teachers' rights and benefits.

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[1] Connie Casha, Director of Voluntary Pre-K, Early Childhood Programs, Tennessee Department of Education, "Re: Comptroller's Office Request," e-mail to the author, July 17, 2008.

[2] Bradley County, Cleveland City, Dickson County, Greene County, Loudon County, McMinn County, Memphis City, and Roane County.

[3] Survey information was self-reported by school districts and non-LEA pilot agencies. Survey results are presented as reported without further review of the specific policies or observations of practices by OEA. OEA also surveyed directors/principals of all state-funded pre-K collaboration classrooms. Results from this survey were not included because of the low response rate. However, it is important to note that several of the issues with rights and benefits identified by directors/principals (particularly those where the teacher is not employed by the LEA) were similar to those highlighted by the non-LEA pilot program survey responses.

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INTRODUCTION

Directive and Scope

House Joint Resolution 811 (2008) directs the Comptroller's Office of Education Accountability (OEA) to study employment rights and benefits for pre-kindergarten (pre-K) teachers, and to survey each local education agency (LEA) that conducts a pre-K program. The impetus of the legislative request was concern that pre-K teachers may not be receiving the same rights and benefits afforded to the state's K-12 teachers. (See Appendix A.) Interviews with key stakeholders, such as the Department of Education (DOE), State Board of Education, and Tennessee Education Association, revealed a particular concern for those pre-K teachers not employed by an LEA.

This report documents the various employment rights and benefits available to pre-K teachers who teach in one of the two state-funded pre-K programs – either Tennessee Voluntary Pre-K (VPK) program classrooms or one of the 14 non-LEA pilot programs (22 classrooms).[1] This report considers the following questions:

1. What employment rights and benefits (including, but not limited to, duty-free lunch, planning time, and class size requirements) are available to pre-K teachers compared to K-12 teachers?
2. How do pre-K teachers' employment rights and benefits vary in public school settings and community and/or private settings (including Head Start, private child care, faith-based child care, institutions of higher education, public housing authorities, Even Start, and children's hospitals)?
3. How do pre-K teachers' employment rights and benefits vary among LEAs across the state?
4. What is the impact of pre-K teachers' employment rights and benefits on recruitment and retention of pre-K teachers?

The report's directive and scope did not include teacher assistants.

Methodology

Information, analysis, conclusions, and policy considerations in the report are based on:

- A review of relevant federal, state, and local statutes, policies, rules, and regulations regarding workers' employment rights and benefits, particularly teacher-specific provisions, and the scope of services of Tennessee's pre-K programs.
- A literature review of research and data concerning teachers' employment rights and benefits and early childhood education workforce issues.
- Interviews with and information from key staff of state and local agencies and organizations (see Appendix B), including:
  - Tennessee Department of Education;
  - Tennessee State Board of Education;
  - Tennessee Department of Human Services;
  - Governor's Office of Policy and Planning;
  - Tennessee Education Association;
  - The Center for Early Learning;
  - Tennessee Stand for Children; and
  - VPK program district coordinators and non-LEA pilot agency coordinators.
- Survey results from (see Appendices C and D for list of survey respondents):[2]
  - LEAs with at least one state VPK classroom in the 2007-08 school year (OEA received responses from 127 out of 133 LEAs, a 95.5 percent response rate); and

- Non-LEA pilot agencies (13 out of 14 pilot coordinators responded, representing 21 of the 22 non-LEA pilot agency classrooms, a 92.9 percent response rate).

- A review of various LEA contracts and memoranda of agreement with pre-K program collaboration partners.

Survey information was self-reported by the districts and non-LEA pilot agencies. The responses are presented as reported by the districts and pilot agencies without further review of the specific policies or observations of their practices.

BACKGROUND

Tennessee Pre-K Program and Structure

Early Childhood Education (ECE) Pilot Project
Since the mid-1990s, Tennessee has been funding early childhood education for a portion of the state's most at-risk students. Legislation enacted in 1996 established the Early Childhood Education (ECE) Pilot Project for economically disadvantaged three- and four-year-olds.[3] By the 1998-99 school year, 30 pilot pre-K classrooms had been created, serving approximately 600 students across the state.

ECE pilot pre-K program sites were not required to affiliate with a local education agency (LEA), although most were located in schools. The state awarded competitive grants directly to public schools and various community agencies.[4] Currently, there are 148 ECE pilot classrooms, 126 of which are located within the public school setting, and most of the ECE classrooms have been transitioned into the VPK program (see Voluntary Pre-K (VPK) Program heading below). The other 22 classrooms, the non-LEA pilot programs, are administered by 14 private providers and contract directly with the Tennessee Department of Education's Office of Early Learning (OEL).[5] These classes serve both three- and four-year olds.

In fiscal years 2002 and 2003, funding of the pilot sites was supplemented by federal Temporary Assistance for Needy Families (TANF) funds. After 2003, when the TANF funding ended, the state became the program's sole funding source and each classroom's funding was reduced by $30,000. In 2005-06, each classroom received $65,000 in state funds. A local match has never been required for pilot programs; however, most pilot sites have supplemented the state allocation with local funds.[6]

Voluntary Pre-K (VPK) Program
In May 2005, the 104th Tennessee General Assembly passed the Voluntary Pre-K for Tennessee Act allocating $25 million from the excess net education lottery proceeds to fund approximately 300 new pre-K classrooms for at-risk four-year-olds.[7] Since 2005, state contributions for pre-K have substantially increased. In 2007-08, the state funded the program at $80 million.

According to the National Institute for Early Education Research, in 2007 Tennessee ranked 13th in the nation for state pre-K spending per child enrolled.[8] However, due to budgetary constraints, the state was unable to provide additional funds for continued expansion of the VPK program for the 2008-09 school year. Currently, there are 934 state-funded pre-K classrooms serving over 18,000 students.[9] There are state-supported pre-K programs in 94 of Tennessee's 95 counties, and in 133 of 136 local education agencies.[10,11]

ECE and VPK Programs

The expansion of the state's pre-K program in 2005 resulted in two systems of pre-kindergarten administration: the ECE pilot programs that began in 1998 and VPK programs funded through the lottery/general fund created in 2005. Although the two systems are alike in their classroom requirements regarding teacher credentials, class size, curricular focus, and funding amounts,[12] they differ in their affiliations with public school systems.[13]

Collaborations

Collaboration is one of the cornerstones of Tennessee's pre-K program. According to the Tennessee Alliance for Early Education's 2008 report, *Voluntary Pre-K in Tennessee: Understanding the Collaboration Model*, strong partnerships among various organizations allow communities "to accomplish several important steps toward delivering high-quality pre-K to more Tennessee four-year-olds." According to the Tennessee Alliance for Early Education, collaboration is important because it:

- Secures the local funding match for classrooms;
- Minimizes duplication of services and delivers pre-K education through a diverse delivery system (e.g., for-profit and nonprofit child care centers, local Head Start programs, school-based classrooms, and higher education settings);
- Obtains broader access to pre-K and faster start-up time; and
- Improves quality across all settings[14]

Under the VPK program, LEAs choose whether to collaborate with other agencies primarily based on funding, programmatic, or space needs. Pre-K programs are administered by a variety of agencies, including Head Start, private child care, faith-based child care, institutions of higher education, Even Start, and public housing authorities, in addition to those in the public school setting.[15] For the 2007-08 school year, there were approximately 212 collaboration classrooms in at least 40 districts across the state. Collaboration classrooms represent approximately 23 percent of the state-funded pre-K programs' classrooms. The majority of collaborations are with Head Start agencies.

DOE officials noted that there are two general types of collaboration contracts in Tennessee – one is based on providing staff or programmatic needs, while the other is based on providing classroom or facility space. Some school systems choose to administer their own programs, but lease space from a community agency, local church, or child care provider to meet their classroom needs.[16]

Most pre-K teachers who work in a collaborative setting are employed by the LEA. For example, in most Head Start collaborations, the LEA provides the teacher and Head Start supplies the teacher assistant. However, there are eight districts where some pre-K teachers (approximately 69) are employed by the collaborating agency. (See Exhibit 4.) Additionally, there are 14 non-LEA pilot programs that contract directly with the state. Nineteen of the 22 pre-K teachers in non-LEA pilot programs are non-LEA employees. (See Exhibit 3.)

Key Program Elements

Educators who teach in Tennessee's VPK and non-LEA pilot programs are required to hold a bachelor's degree, as well as have an endorsement in pre-K. Teachers must complete a minimum of 18 professional development hours annually. Tennessee also has strict class size limits and staff-child ratios. Classrooms for three-year-olds are limited to 16 students with one staff person for every eight children. Classrooms for four-year-olds are limited to 20 students, with one staff person for every ten children.

In 2006 and 2007 Tennessee was recognized by the National Institute for Early Education Research (NIEER), an early childhood education research and advocacy group. Tennessee is one of only six states to meet or exceed nine of NIEER's 10 quality standards. (See Exhibit 1.)

Teacher Rights and Benefits in Tennessee

According to Tennessee state law, rules, and regulations, teachers employed by LEAs are guaranteed certain minimum employment rights and benefits. (See Exhibit 2.) However, teachers not employed by LEAs are subject to the rules and regulations of their employing collaborative agency. Any rights and benefits should be outlined in the contract or memorandum of agreement/ understanding that the LEA has with the partnership agency, and/or the pre-K teacher's employment contract.

Pre-K Teacher-Specific Rights and Benefits in Tennessee

Funding for pre-K classrooms is distributed to school systems through a competitive grant process. LEAs apply to the DOE for funding and approval of pre-K programs. According to the DOE's "Scope of Services for 2008-09 Voluntary and Pilot Pre-K for Tennessee Programs," the grantee [LEA, agency] shall:

- Ensure pre-K teachers hired by the LEA are provided the same employment rights and benefits available to K-12 teachers. (Due to shortened instructional day, planning time and duty free lunch may occur outside the scheduled 5.5 hour instructional day. There is a minimum 5.5 hours of instructional time required for the state's pre-K program classrooms.)
- Ensure all staff (teachers, teacher assistants, and direct supervisor of the ECE program) obtain annually the minimum number of hours (as specified by

Exhibit 1: Comparison of Tennessee's Pre-K Requirements to the National Institute for Early Education Research's (NIEER) Quality Standards

NIEER's 10 Quality Standards	State Pre-K Requirements
Comprehensive curriculum standards	Curriculum addresses physical, social-emotional, and cognitive skills
Teacher required to hold BA	Teacher required to hold BA
Teacher must have specialized training in early childhood education	Teacher required to hold Pre-K endorsement
Teaching assistant required to hold Child Development Associate (CDA) certificate	Teaching assistant recommended to hold CDA certificate
Staff must have 15 hours of professional development a year	Staff must have 18 hours of professional development a year
Class size does not exceed 20 students	Class limit 16 for age 3 and 20 for age 4
Staff-child ratio must be 1:10 or better	Staff-child ratio 1:8 for age 3; 1:10 for age 4
Must provide vision, hearing, and health screenings and one support service	Required vision, hearing, health, and developmental screenings; and support services [a]
Must provide one meal	Children fed breakfast, lunch, and snack
Must conduct site visits	Site visits required

[a] Dental screening and referrals are locally determined. Support services include two annual parenting conferences or home visits, parenting support or training, parent involvement activities, referral for social services, and transition to pre-K and kindergarten activities. Some other comprehensive services are required, but specific services are determined locally.

Source: National Institute of Early Education Research, *State Preschool Yearbook, The State of Preschool 2007*.

health and safety standards) of appropriate staff development relating to the education of young children.

- Ensure all teachers are evaluated by personnel trained in the use of the *Frameworks for Evaluation* so that licensure advancement can occur, pursuant to the Tennessee State Board of Education rules.

In addition, the "Scope of Services" includes the following provisions relevant to pre-K teachers' salary and work calendar:

- The salary of a licensed educator is determined by a combination of the applicant's experience and academic training as per Tennessee State School Board rules and regulations. The grantor shall recognize experience teaching in state-approved early childhood education programs not located in LEAs for purposes of calculating years of experience that apply when determining salary.
- Pre-school calendar must include 200 working days of 7.5 hours per day.

Exhibit 2: Tennessee Teacher-Specific Rights and Benefits

Uniform Salary Schedule	Pay according to uniform statewide schedule of salaries[17]
Duty-Free Lunch	Duty-free lunch equivalent to students' lunch[18]
Planning Time	At least 2 ½ hours per week of duty-free planning time[19]
Class Size Restrictions	Class size limits based on grade level[20]
Insurance	Group insurance (basic plan) as an employee of an LEA (minimum contribution by LEA)[21]
Pension or Retirement Benefits	Provisions for pension or retirement benefits, such as participation in the Tennessee Consolidated Retirement System (TCRS)
Sick Leave	Accumulate sick leave[22]
Evaluations	Evaluations using the Tennessee Framework for Evaluation and Professional Growth[23]
Professional Leave	Professional leave to serve on boards or commissions related to job[24]
Collective Bargaining	Collective bargaining provisions[25]
Religious Liberties	Outlines certain religious liberties[26]
Due Process	Due process in dismissal cases (if teacher has been granted tenure after three probationary years of teaching)[27]

Source: *Tennessee Code Annotated*, Tennessee State Board Rules and Regulations, Tennessee Department of Education Scope of Services for Voluntary and Pilot Pre-K Programs (2008-09).

ANALYSIS AND CONCLUSIONS

OEA conducted online surveys of VPK district coordinators and non-LEA pilot agency coordinators regarding pre-K teachers' employment rights and benefits in Tennessee. Surveys were sent to the 133 LEAs with at least one state VPK classroom for the 2007-08 school year. Responses were received from 127 LEAs, a 95.5 percent response rate. In addition, 13 of the 14 non-LEA pilot agency coordinators responded, which yielded a 92.9 percent response rate. (See Appendices C and D for a list of participating LEAs and non-LEA pilot agencies.) **Analysis is based on survey responses. While summaries of the survey responses are not representative of every VPK and non-LEA pilot program, they provide a general indication of issues involved in ensuring equal employment rights and benefits for pre-K teachers across pre-K program settings.**

Note: Currently, there are 148 ECE pilot classrooms, 126 of which are located within the public school setting. The other 22 classrooms are administered by 14 private providers, and contract directly with the Tennessee Department of Education's Office of Early Learning (OEL).[28] This report refers to the non-LEA ECE pilot programs as non-LEA pilot programs or non-LEA pilot agencies.[29]

This report's conclusions are divided into two sections: Section 1 focuses on differences in the rights and benefits between pre-K and K-12 teachers in the same district. Section 2 focuses on differences in pre-K teachers' rights and benefits across districts.

Section 1: Differences in rights and benefits between pre-K and K-12 teachers in the same district.

Employment rights and benefits for pre-K teachers who are employed by LEAs appear equal to the K-12 teachers in their district.

Over 95 percent of LEAs responding to the survey asserted that pre-K teachers in their districts received the same rights and benefits as their K-12 counterparts. This high percentage is not surprising since most pre-K teachers are LEA employees and are guaranteed, as are all LEA-employed teachers, certain minimum employment rights and benefits by state law. At least half of the VPK district respondents wrote a statement about how their pre-K teachers received the same rights and benefits and are treated the same as the K-12 teachers in their district. Initial interviews with key stakeholders, such as the DOE and State Board of Education, and information from the Governor's Office of Policy and Planning, support the VPK district survey results in this regard as well.

According to the latest staffing provisions of the DOE's "Scope of Services for 2008-09 Voluntary Pre-K for Tennessee Programs," each program grantee shall: "Ensure Pre-K teachers hired by the LEA are provided the same employment rights and benefits available to K-12 teachers. (Due to shortened instructional day, planning time and duty free lunch may occur outside the scheduled 5.5 hour instructional day)."[30]

However, this language was a recent addition to the "Scope of Services," first appearing in 2008-

09.[31] DOE OEL officials indicated the inclusion of this equity language stemmed from passage of HJR 811, which required this report, and not in response to pre-K stakeholder complaints filed with DOE.[32] The survey results contained in this report focused on the 2007-08 school year.

Employment rights and benefits for pre-K teachers who are *not* employed by LEAs may differ from the K-12 teachers in their district.

According to Tennessee state law, rules, and regulations, teachers employed by local education agencies are guaranteed certain minimum employment rights and benefits. (See Exhibit 2.) However, teachers not employed by LEAs are subject to the rules and regulations of their employing partnership agency. Any rights and benefits should be outlined in the contract or memorandum of agreement/understanding between the LEA and the partnership agency, and/or the pre-K teacher's employment contract.

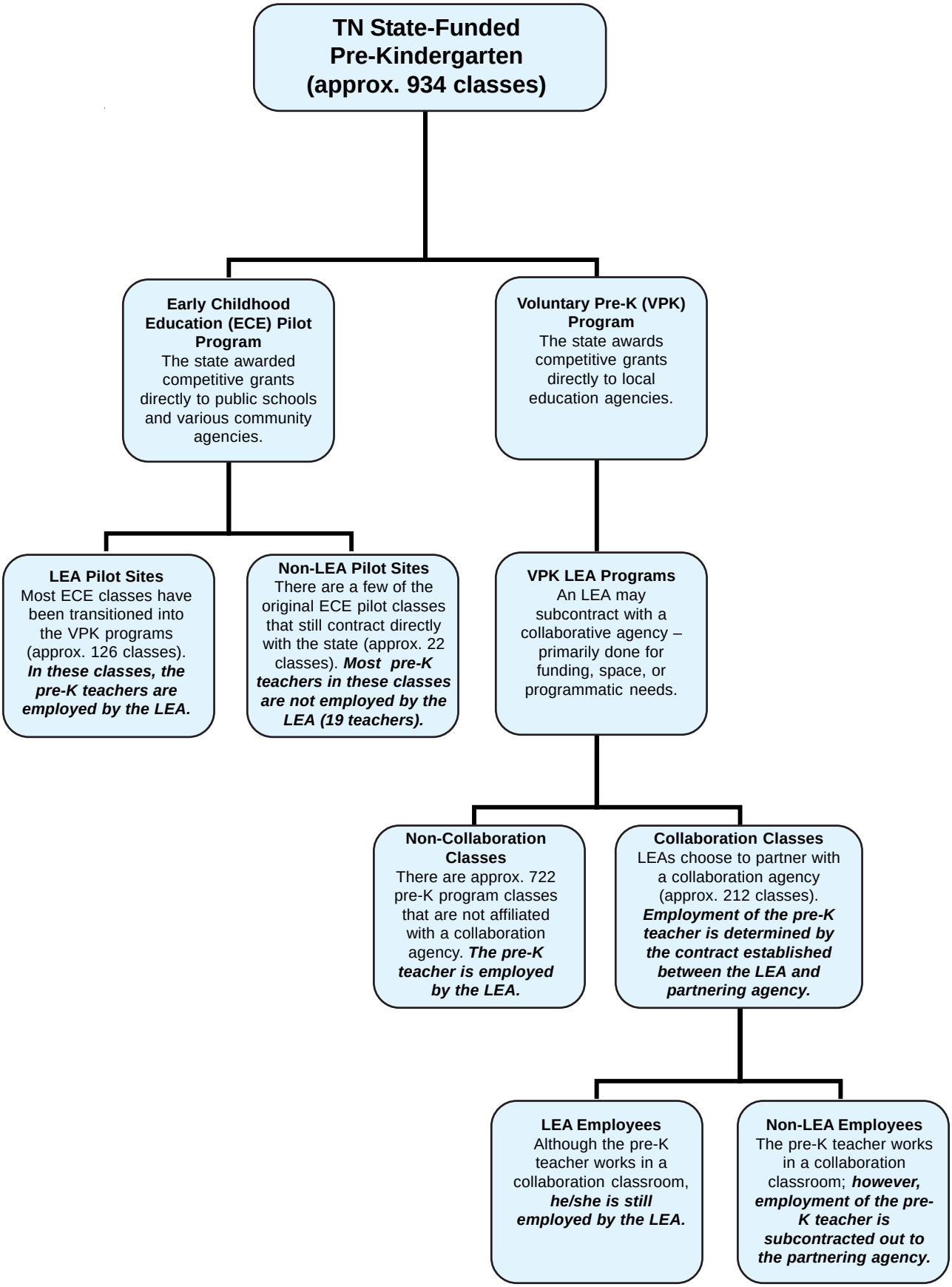
The vast majority of Tennessee school districts with pre-K programs employ all their pre-K teachers (125 out of 133). OEA survey results and information from DOE officials indicate pre-K teachers' rights and benefits in these systems are equal to K-12 teachers. Over 95 percent of LEA survey respondents asserted that their pre-K teachers received the same rights and benefits as their K-12 counterparts. Six districts indicated that they were aware of differences in pre-K teachers' rights and benefits.[33] One district noted difficulties with their pre-K teachers in Head Start buildings receiving credit for years of service, and wrote that teachers hired by Head Start did not receive equal benefits.[34]

Collaborative partnerships are a fundamental element of Tennessee's pre-K program, and all school districts have the authority to collaborate with community partners to provide pre-K. School districts enter into collaborative arrangements for different reasons (e.g., physical space to house pre-K classrooms). Eight school districts have entered into a collaborative partnership with a non-LEA entity (e.g., Head Start) for VPK classrooms where at least one pre-K teacher is employed by the collaborative partner.

Most pre-K teachers who work in a collaborative setting are employed by the LEA. For example, in most Head Start collaborations, the LEA provides the teacher and Head Start supplies the teacher assistant. However, in eight districts some pre-K teachers (approximately 69) are employed by the collaborating agency. (See Exhibit 4.) Additionally, 14 non-LEA pilot program providers contract directly with the state. With the exception of one program, all teachers (19) in the non-LEA pilot programs are non-LEA employees. The 19 non-LEA employed pre-K teachers in the non-LEA pilot programs and the 69 pre-K teachers in the VPK classes that do not employ the pre-K teacher are in similar situations. (See Exhibit 3.) While they teach in state-funded pre-K classrooms and have to meet the same qualifications, their employment rights and benefits may differ from the K-12 teachers in their districts.

Approximately 10 percent of survey respondents (VPK and non-LEA pilot combined) either reported differences in rights or benefits or identified recruitment or retention issues related to compensation (including salary and benefits). Most non-LEA pilot agencies either were not aware of or were unsure of any differences in the rights and benefits afforded their pre-K teachers compared with K-12 teachers in their respective districts. Since the non-LEA pilot programs are not a part of the district, the pilot program coordinators may not be as familiar with the employment rights and benefits offered to K-12 teachers in the respective district. A few indicated that they were aware of

Exhibit 3: Tennessee Pre-K Teacher Employment Possibilities in ECE and VPK Program Settings



some differences, however. Some pilot coordinators indicated differences in the length of the school day, the number of paid holidays, health insurance provisions, and various other benefits to their respective LEAs. One pilot coordinator reported that their agency has a defined pension program and pays more towards the employee's health coverage than the school system.

OEA also surveyed directors/principals of all state-funded pre-K collaboration classes. Survey responses from directors/principals were not included in this report because of the low response rate. However, it is important to note that several directors and principals of VPK collaboration classrooms (particularly those where the teacher is not employed by the LEA) shared many of the same issues that are highlighted by the non-LEA pilot program survey responses.

Recruitment and retention of pre-K teachers not employed by an LEA appear to be issues for some pre-K programs.

More than 90 percent of district respondents did not consider the recruitment and/or retention of pre-K teachers in their system to be problematic. In the case of non-LEA pilot respondents, a majority (62 percent) reported difficulty competing with local school districts' compensation packages.

The districts (about nine percent) that view recruitment of pre-K teachers as an issue expressed difficulty finding teachers with the proper pre-K endorsement, noting that finding teachers with a K-3 certification was much more common. The pre-K endorsement was originally approved in 1995 by the State Board of Education. Revisions to the endorsement became effective September 1, 2008 (PreK-4 endorsement 497).[35] Veteran teachers, with an older K-3 endorsement, for example, must obtain an additional endorsement to be eligible to teach pre-K.

While many of the non-LEA pilot agency coordinators shared similar concerns regarding pre-K certification, many also noted difficulty competing with local school districts' compensation packages. In the opinion of several pilot agency coordinators, pre-K teachers eventually move to the public school setting, preferring the higher salary and additional benefits that LEAs offer.

One particular indicator highlights potential recruitment and retention issues: the number of days between a teacher leaving and a permanent teacher being hired. Districts reported an average of seven instructional days that students were without a permanent teacher.[36] Four VPK coordinators indicated as many as 180 instructional days of pre-K classes not having a permanent teacher. However, non-LEA pilot agencies reported a much higher average of 16 instructional days with no permanent teacher in the classroom.[37] One pilot agency coordinator reported as many as 160 instructional days without a permanent teacher being hired.

National Context:
A national pre-K classroom staffing and stability report found greater teaching staff stability in publicly-operated pre-K programs than in privately-operated programs. In the opinion of DOE officials, turnover is a serious issue for many pre-K classes if the school system does not employ the teacher.[38] High turnover of teachers and teacher assistants negatively affects children's learning and development.[39]

Section 2: Differences in pre-K teachers' rights and benefits across districts.

Note: Conclusions prior to this point have focused on differences in the rights and benefits between pre-K and K-12 teachers under the following two scenarios:

1. All pre-K teachers employed by the LEA – Under this scenario, the rights and benefits for pre-K teachers appear equal to the K-12 teachers in their district.
2. Some pre-K teachers not employed by the LEA – Under this scenario, the rights and benefits for pre-K teachers may differ from the K-12 teachers in their district. In the case of the VPK program, eight districts in Tennessee have chosen to contract with a non-LEA entity for employment of one or more of their VPK teachers. It is in these cases where divergence between the employment rights and benefits for K-12 teachers and pre-K teachers exists. In the case of non-LEA pilot programs, 19 out of 22 pre-K teachers in these classrooms are not LEA employees, and their employment rights and benefits can differ from the K-12 teachers in their district.

Teachers' rights and benefits (beyond the minimums outlined in state law) differ from school system to school system in Tennessee for both pre-K and K-12 teachers. This report's remaining sections consider how specific employment rights and benefits for pre-K teachers differ from district to district and across non-LEA pilot sites in the areas of employment, compensation, and working conditions. The end of each conclusion provides policymakers with relevant laws, rules, and regulations and/or the national research context.

While summaries of the survey responses are not representative of every VPK and non-LEA pilot program, they provide a general indication of issues involved in ensuring equal employment rights and benefits for pre-K teachers across pre-K program settings. Analysis is based on survey responses.

Pre-K teachers' employment rights and benefits differ from district to district and across non-LEA pilot program sites.

Employment

While more than 90 percent of districts hire, employ, and pay their pre-K teachers directly, a few districts allow pre-K teachers to be hired, employed, and paid by their pre-K collaboration partnering agencies. All 14 non-LEA pilot agencies contract directly with the state (rather than with an LEA), and 13 of the 14 pilot agencies are responsible for the employment of their pre-K teachers.[40]

From 1998 to 2005, the state awarded grants from the Early Childhood Education Pilot Project directly to public schools and various community agencies. However, when the state instituted the VPK program in 2005, only school systems were allowed to compete for VPK grants. The VPK program allows LEAs to subcontract with private child care agencies, Head Start agencies, public housing authorities, and institutes of higher education.[41]

Of the 133 LEAs with VPK classrooms, 40 have at least one collaboration classroom. In eight of those districts, at least one of the pre-K teachers working in a collaboration classroom is not an LEA employee. In some districts, none of the pre-K teachers in collaboration classes are employees of the LEA. (See Exhibit 4.)

Salary

District respondents indicated VPK teachers' annual salaries range from $26,076 to $66,000, for a weighted average of $43,026 a year (based on 122 district responses). Most districts (96 percent) determined the salary schedule for the pre-K teachers. The other four percent of districts indicated that their local Head Start agency, local child care providers, or their local community pre-K advisory council was responsible, at least in part, for determining pre-K teachers' salary schedules. Most (69 percent) pre-K teachers are paid on a monthly basis; the other 31 percent are paid biweekly.

Non-LEA pilot coordinators reported that non-LEA pilot teachers are paid significantly less than their VPK counterparts, at $33,058 a year based on the weighted average salary (12 pilot coordinators responded). Reported average annual salaries ranged from $26,512 to $45,000. Eighty-five percent of salary schedules for pre-K teachers in the pilot programs are determined by their respective community partnership agencies, or by their community pre-K advisory council. Their teachers are paid either on a monthly (33 percent) or biweekly (67 percent) basis.

According to the DOE's *2006-07 Annual Statistical Report*, the average salary for a classroom teacher in the state is $43,815 (district range is from $36,812 to $55,095).[42] In addition, according to the latest data available for Tennessee's early childhood educators:

- Average annual child care worker salary (May 2006) = $16,190
- Average salary for Head Start teachers with bachelor's degrees (2006-2007) = $25,775
- Average salary for Head Start teachers with graduate degrees (2006-2007) = $32,872[43]

National Context:

A 2002 Center for the Child Care Workforce national study found that teaching staff in publicly-operated pre-K programs received higher pay and benefits than teaching staff in privately operated programs. The study, a project of the American Federation of Teachers' Educational Foundation, emphasized the importance of setting equal standards, operating principles, and ground rules for both private and public settings within states' mixed pre-K delivery systems.[44]

Exhibit 4: Tennessee School Districts Where at Least One Pre-K Teacher is Not an Employee of the LEA in a Collaboration Class

School District	# of pre-K collaboration classes	# of VPK classrooms where pre-K teacher is not an LEA employee
Bradley County	12	12
Cleveland City	11	11
Dickson County	1	1
Greene County	10	1
Loudon County	1	1
McMinn County	4	1
Memphis City	38	38
Roane County	4	4

Source: Tennessee Department of Education, Pre-K Collaboration Classrooms (2007-08); OEA District Coordinator Survey, September 2008.

According to the 2007-08 and 2008-09 Scope of Services agreements for the Voluntary and Pilot Pre-K Programs for Tennessee: "The salary of a licensed educator is determined by a combination of the applicant's experience and academic training as per Tennessee State School Board rules and regulations. The grantor shall recognize experience teaching in State approved early childhood education programs not located in LEAs for purposes of calculating years of experience that apply when determining salary." The state requires state-funded pre-K programs to factor in a pre-K teacher's service in early childhood education settings outside of the LEA when establishing a pre-K teacher's salary.

Insurance

The majority of districts reported that they offer health, dental, life, disability, and vision insurance to their pre-K teachers. (See Exhibit 5.) Most district coordinators (96 percent) indicated that insurance programs offered to pre-K teachers are determined by the LEA.

The majority of non-LEA pilot coordinators replied that they offer health, dental, life, and disability insurance to their pre-K teachers. Insurance plans for most pilot programs (83 percent) are determined by their respective partnership agency, according to non-LEA pilot coordinators' responses.

National Context:

A 2001 SREB report contends that:

> Salaries alone are only part of the cost of paying teachers. Employee benefits, including Social Security, retirement, and major medical plans, add to a teacher's salary in ways that are not visible. These benefits also can add thousands of dollars to the cost of paying each teacher. Additional benefits offered by the states and school districts such as dental and optical insurance, disability coverage and life insurance, can further add to the cost.[45]

Exhibit 5: Types of Insurance Offered to Pre-K Teachers, as Reported by Tennessee School Districts and non-LEA Pilot Programs

Type of Insurance	Districts (VPK) reporting they offer that type of insurance	Non-LEA pilot programs reporting they offer that type of insurance
Health	98%	92%
Dental	84%	67%
Life	81%	67%
Disability	61%	50%
Vision	57%	33%
Other	3%	0%

Source: OEA District Coordinator and DOE Pilot Agency Coordinator Surveys, September 2008.

National survey statistics for pre-K teachers reveal that the majority receive fully or partially paid health (93 percent) and dental insurance (69 percent).[46] Through the Basic Education Program (BEP), Tennessee funds 45 percent of the premium cost of single or family coverage medical insurance for teachers.[47] On average, Tennessee teachers contribute approximately three percent (for single coverage) and approximately eight percent (for family coverage) of their salaries toward medical insurance.[48] However, teacher contributions vary significantly from district to district.

Pension and Retirement Benefits

Most VPK district coordinators (94 percent) indicated their LEAs offer pension and/or retirement benefits for pre-K teachers. Most districts (78 percent) reported that their pre-K teachers participate in the Tennessee Consolidated Retirement System (TCRS-Group 1 Contributory).[49] In most cases, teachers employed by a collaborating agency would not be eligible for TCRS since they are not employees of the public school system.[50]

Most non-LEA pilot program respondents (81 percent) reported they offer pension and/or retirement benefits for pre-K teachers. Two non-LEA pilot coordinators specifically noted that their pre-K teachers participate in the TCRS. These two pre-K teachers are employed by higher education institutions, explaining their TCRS eligibility.

National Context:

Tennessee is one of seven SREB states where teachers participate in the state retirement system rather than a separate teacher retirement

system.[51] Full-time teachers are covered by Group I of the retirement system as a condition of employment, and they are required to contribute five percent of their salary to TCRS.[52] The current Tennessee teacher retirement formula produces an annual benefit that is approximately 48 percent of the teacher's average final compensation (an average of the five highest consecutive years).[53]

In a 2005 preliminary report of two major studies focused on pre-K and early education conducted by the National Center for Early Development and Learning (NCEDL), 89 percent of lead pre-K teachers surveyed indicated that their program offered a retirement plan.[54]

Paid Leave

The majority of VPK teachers earn at least two days of sick, holiday, and personal leave each year, according to district respondents. (See Exhibit 6.) Most district respondents (97 percent) indicated that VPK teachers employed by the school district earn 10 days of sick leave each year, while 59 percent of VPK teachers reportedly earn 10 paid holidays.

According to the non-LEA pilot coordinators, their pre-K teachers earn an average of:

- Holiday leave: 9.5 days per year, with eight pilot agencies allowing at least 10 days
- Sick leave: 7.2 days per year, with six pilot agencies allowing at least 10 days
- Vacation leave: 7.0 days per year, with five pilot agencies allowing at least 10 days
- Personal leave: 3.9 days per year, with three pilot agencies indicating zero days allowed
- Family leave: 3.3 days per year, with three pilot agencies indicating zero days allowed[55]
- Bereavement leave: 3.0 days

Survey responses reveal the majority of LEAs (79 percent) and non-LEA pilot agencies (67 percent) allow their pre-K teachers to take professional leave to serve on boards and/or commissions relevant to their position. Tennessee state law provides that "Under policies adopted by the local board of education, a teacher shall be allowed personal and professional leave earned at the rate of one (1) day for each one-half (½) year employed."[56]

The Tennessee Department of Education "Scope of Services for 2007-08 Voluntary and Pilot Pre-K for Tennessee Programs" prescribes that each program "provide a preschool calendar that includes 200 working days of seven and one half hours for teaching staff with a maximum of 10 holidays as a part of the 200 day calendar."

Exhibit 6: Number and Percent of Districts that Report Offering a Specific Type of Leave, by Number of Days of Leave Offered

Number of Days	Holiday		Sick		Vacation		Personal		Family		Bereavement	
0	9	8.11%	0	0%	55	59.78%	0	0%	54	77.14%	28	29.17%
1-3	9	8.11%	2	1.64%	2	2.17%	115	92.00%	4	5.71%	48	50.00%
4-6	22	19.82%	2	1.64%	3	3.26%	8	6.40%	2	2.86%	19	19.79%
7-9	6	5.41%	0	0%	1	1.09%	0	0%	0	0%	0	0%
10	65	58.56%	118	96.72%	31	33.70%	2	1.60%	10	14.29%	1	1.04%
Total Districts	111	100%	122	100%	92	100%	125	100%	70	100%	96	100%

Source: OEA District Coordinator Survey, September 2008.

Exhibit 7: Additional Benefits Offered to Pre-K Teachers

Type of Benefit	District respondents (VPK) that offer benefit	Non-LEA pilot program respondents that offer benefit
Reduced fee to staff for child care services	10%	42%
Retirement fund (e.g., 401k)	22%	75%
Flextime	11%	50%
Differential shift pay	1%	8%
Payment of individual professional membership or association fees	30%	50%
Money or cash equivalent bonuses (e.g., gift cards)*	5%	50%
Tuition for academic education	12%	67%

*Note: Money or cash equivalent bonuses ranged from $200 to $1,000 for VPK district respondents, and from $10 to $600 according to non-LEA pilot coordinator responses. Survey respondents did not specify the basis for bonuses.
Source: OEA District Coordinator and DOE Pilot Agency Coordinator Surveys, September 2008.

Additional Benefits

According to survey respondents, some districts and non-LEA pilot agencies offer benefits such as tuition for academic education, reduced fees for child care services, and payment of professional organization dues. (See Exhibit 7.)

Work Calendar

According to district respondents, VPK teachers work an average of 195 days for approximately 7.5 hours a day. Pilot coordinators reported that pre-K teachers in the non-LEA pilot programs work 7.8 hours a day for 195 days on average. On average, VPK teachers work 7.5 hours per day in the majority of districts (70 percent). However, 18 percent of districts' pre-K teachers are scheduled to work less than 7.5 hours a day (as few as six hours reported), and 12 percent are scheduled to work for more than 7.5 hours (up to 8.5 hours a day). Pre-K teachers working in the non-LEA pilot agencies tend to work slightly longer per day. Slightly more than half of non-LEA pilot agencies (58 percent) reported that their pre-K teachers work between eight and nine hours daily, and the other 42 percent work between seven and 7.5 hours per day. DOE officials noted that some the pre-K teachers not employed by the LEA may be contracted for services beyond the scope of the state pre-K program (i.e., before and after care). This may account for why the non-LEA pilot coordinators reported slightly longer work hours per day.

According to district coordinators, pre-K teachers are scheduled to work between 180 and 210 days a year. In the non-LEA pilot agencies, pre-K teachers are scheduled to work from 180 days to 251 days per year.

Collective Bargaining

Many districts (62 percent) indicated that their VPK teachers engage in collective bargaining. Almost 22 percent of districts do not allow collective bargaining for pre-K teachers, and approximately 16 percent of district coordinators were not sure whether pre-K teachers in their districts were allowed to participate. According to the Tennessee Education Association, 93 of 136 LEAs (68 percent) participate in collective bargaining; 91 of the bargaining districts have a state-funded pre-K program.[57]

Collective bargaining occurs at the school district level. Tennessee state law recognizes the rights of professional employees of boards of education to form, join, and assist professional employee organizations to meet, confer, consult, and negotiate with boards of education over matters relating to terms and conditions of professional service.[58,59]
Note: In Tennessee, the scope of bargaining includes wages, working conditions, insurance benefits, grievance procedure, student discipline, payroll deductions, leave, and fringe benefits.

None of the non-LEA pilot agency coordinators replied that their pre-K teachers engage in collective bargaining. Many of the non-LEA pilot agency coordinators (73 percent) reported that their agency's pre-K teachers were not allowed to engage in collective bargaining. However, 27 percent of the pilot coordinators were not sure if their teachers engaged in collective bargaining.

Duty-Free Lunch

Most VPK teachers (85 percent) receive 30 minutes a day for duty-free lunch according to district respondents. One district noted that its pre-K teachers do not receive any time for a duty-free lunch, while another district reported that its teachers receive an average of 75 minutes a day. District coordinators indicated that VPK teachers typically take lunch at one of three times:

- During students' nap time (42 percent)
- At the end of the instructional day/once students leave (29 percent)
- During students' lunch time (19 percent)

Non-LEA pilot coordinators reported that 64 percent of non-LEA pilot program teachers receive an hour for a duty-free lunch, while 36 percent receive 30 minutes. Most non-LEA pilot coordinators reported that the pre-K teachers in their agencies typically receive a duty-free lunch during students' nap time (73 percent).

Planning Time

Pre-K teachers typically receive 4.5 hours of planning time per week in LEAs, and 3.8 hours of planning time per week in non-LEA pilot programs, according to survey respondents. District coordinators reported VPK teachers' planning time ranged from zero to 20 hours per week. Non-LEA pilot coordinators indicated that their pre-K teachers are given between 30 minutes and 8.75 hours of planning time per week.

National Context:

Time for teachers to plan lessons, prepare materials, and collaborate with colleagues is an important component of job quality. Adequate planning time provides opportunities for communication and articulation across classes on such key matters as curriculum implementation, student diagnosis, and assessment. Nationally, most pre-K teachers reported fewer than four hours each week of paid planning time (69 percent) and between two and four hours of unpaid planning time (54 percent).[61] In a previous survey of public school teachers, NEA reported that teachers spend an average of 10 uncompensated hours per week on instruction-related planning in addition to time provided in their local contract.[62]

Tennessee State Board of Education Rules and Regulations Chapter 0520-1-3-.03(5) states: "In schools providing a lunch period for students, all teachers shall be provided each day with a lunch period during which they shall not have assigned duties. The lunch period for each teacher shall be at least the same amount of time as that allowed for students."

State Board of Education Rules and Regulations Chapter 0520-1-3-.03(5) outlines the following provisions for a duty-free planning time for K-12 teachers:

- Local boards of education shall provide full-time classroom teachers in grades kindergarten through 12 with duty-free planning periods during the established instructional day.
- Planning time shall consist of 2½ hours each week during which teachers have no other assigned duties or responsibilities other than planning for instruction. The 2½ hours may be divided on a daily or other basis.
- Duty-free planning time shall not occur during any period that teachers are entitled to duty-free lunch.

DOE and State Board officials noted that pre-K teachers are not explicitly included in this provision, since it was drafted prior to the 2005 establishment of Tennessee's Voluntary Pre-K program. However, State Board officials asserted that pre-K teachers likely received more planning time than their K-12 counterparts because of shorter instructional time requirements.[60]

Professional Development

The majority of districts and non-LEA pilot agencies provide at least the minimum required hours of paid professional development for their pre-K teachers, according to survey respondents. VPK survey respondents indicate that most districts (99 percent) provide paid professional development for their pre-K teachers. Only one indicated that it did not. Pre-K teachers receive an average of 31 paid professional development hours annually; responses to the survey indicated a range of zero to 84 hours per year.

The majority of non-LEA pilot agencies (82 percent) provide paid professional development as well; however, 18 percent of coordinators were not sure whether their agency provided paid professional development for pre-K teachers. Non-LEA pilot programs provide an average of 23 hours of paid professional development annually for pre-K teachers; responses to the survey indicated a range of 12 to 56 hours per year.

A commitment to high-quality, sustained professional development is essential to improving teacher quality. Strong professional development can influence teachers' classroom practices significantly. It can lead to improved student achievement. Professional development is most effective when it focuses on strengthening teachers' knowledge of specific subject-matter content and on instructional practices that are specifically related to the subject matter and how students understand it.[64]

According to DOE officials, professional development offerings are checked by their agency

The Tennessee Department of Education "Scope of Services for 2007-08 Voluntary and Pilot Pre-K for Tennessee Programs" states that each grantee shall "[e]nsure all staff (teachers, teacher assistants, and direct supervisor of the ECE program) obtain annually the minimum number of hours (as specified by health and safety standards) of appropriate staff development relating to the education of young children." Note: According to the National Institute for Early Education Research, Tennessee requires 18 hours of annual professional development for its pre-K teachers and staff.[63]

According to the 2007-08 and 2008-09 Scope of Services Agreements for Voluntary Pre-K and Pilot Programs, Tennessee's class size restrictions and adult-to-student ratio include:

- having a lead teacher for each group of children with a maximum of 20 children per teacher, except for scheduled nap times; and
- sufficient educational assistants to maintain an adult-to-child ratio of 1:10 or 1:8 if more than half of the children are three-year-olds.

to ensure that they meet the health and safety standards regarding the education of young students.[65] The department's Pre-K Monitor Report helps identify which conferences or other professional development pre-K staff attended.[66]

Staffing and Class Size Requirements

Pre-K classes meet staffing and size requirements, according to survey respondents. VPK teachers have an average class size of 19 students based on district coordinators' responses, and non-LEA pilot coordinators responses indicate that pilots have a class size average of 18 students. No districts or pilot programs reported a maximum class size of more than 20 students.

Additionally, district coordinators reported that pre-K teachers have an approximate ratio of two adults for every 16 students. Non-LEA pilot responses indicate a slightly lower ratio, with approximately two adults for every 15 students. While this report does not focus on pre-K teachers' assistants, all district and pilot agency respondents reported that every pre-K teacher has a teacher assistant during instructional time.

Teacher Evaluations

All LEAs and non-LEA pilot agencies (100 percent) indicated that they evaluate their pre-K teachers. Additionally, most respondents reported using the Tennessee Framework for Evaluation and Professional Growth.

Districts reported that over half of the VPK teachers are evaluated on an annual basis, at a minimum. Several VPK coordinators noted that their teacher evaluations depend on years of service, and that they follow the state's guidelines. Most pre-K teachers are evaluated by their school principal or some other school administrator (at least 94 percent) and their pre-K district coordinator (67 percent), according to district respondents.

The majority of non-LEA pilot agencies (73 percent) evaluate all pre-K teachers annually. However, two non-LEA pilot program coordinators indicated that their pre-K teachers are evaluated every two years (18 percent). At least 73 percent of pre-K teachers in the non-LEA pilot agencies are evaluated by the agency director.

The Tennessee Framework for Evaluation and Professional Growth is the statewide teacher evaluation process originally adopted by the State

According to the 2007-08 and 2008-09 Scope of Services Agreements for Voluntary Pre-K and Pilot Programs, each pre-K program is required to "ensure all teachers are evaluated by personnel trained in the use of the Frameworks for Evaluation so that licensure advancement can occur, pursuant to the Tennessee State Board of Education rules." In addition, each program is required to "perform and retain on file appropriate teacher evaluations and teacher assistant evaluations."

Board in 1997. To improve evaluation rigor and structure, and to increase alignment with No Child Left Behind's highly qualified provision, the State Board revised the framework in 2004. All classroom teachers are supposed to be evaluated using the Tennessee Framework for Evaluation and Professional Growth. A teacher with an Apprentice License must be evaluated every year, and a teacher with a Professional License must be evaluated once every five years.[67]

Tennessee's laws, rules, and regulations pertaining to education do not always make reference to pre-kindergarten or to pre-kindergarten teachers.

Currently, statute defines public education in Tennessee to include kindergarten through grade 12 (K-12).[68] Many of the state's laws, rules, and regulations regarding teachers and major education programs were written prior to the development of the state's ECE pilot and VPK programs. Consequently, many laws, as well as State Board of Education rules and regulations, do not specifically refer to pre-kindergarten programs, teachers, or staff (e.g., regarding requirements for duty-free lunch and planning time). State Board officials said that although these provisions are not in statute, most local boards do not make a distinction between pre-K and K-12 teachers.[69]

Policy Considerations

Note: Policymakers should keep in mind that the number of pre-K teachers in Tennessee not employed by an LEA accounts for approximately nine percent of the total (approximately 88 out of 934).

Policymakers at the state and local level may wish to consider whether pre-K teachers not employed by an LEA should be provided the same employment rights and benefits as K-12 teachers. OEA has listed some of the pros and cons associated with ensuring equal rights and benefits for all pre-K teachers in Exhibit 8.

Consideration should be given to the two separate levels of government – state and local – at which this issue could be addressed. OEA has outlined two options for state and local policymakers to consider: requiring that all pre-K teachers be employed by the LEA or including equal rights and benefits language in local contracts.

Option 1: Require LEA employment

The General Assembly could require that all pre-K teachers be employed by the LEA. This option would ensure that all pre-K teachers receive rights and benefits equal to K-12 teachers. However, this option would curtail local flexibility in staffing collaborative pre-K classrooms, since all pre-K teachers would be school district employees. Staffing costs would also likely rise because compensation packages, in general, are higher for school district employees than for community agencies such as Head Start. The number of state-funded pre-K classes in certain districts could decrease due to affected districts' increased salary obligations.

The resulting increase in the staffing costs of affected districts could result in reduced expenditures in other operational areas. A requirement that all pre-K teachers be employed by the LEA would reduce local flexibility in managing

expenditures associated with employing teachers. However, an LEA could still collaborate with a partnership agency for space and/or programmatic needs, for example.

Option 2: Include equal rights and benefits language in local contracts

LEAs that contract with collaborating agencies for employment of pre-K teachers could include contract provisions requiring that pre-K teachers receive rights and benefits equal to the other pre-K and K-12 teachers in their district. This option would preserve local flexibility to outsource employment of pre-K teachers to collaborative partners. However, staffing costs would rise for reasons described in Option 1. The number of state-funded pre-K classes could decrease in affected districts due to increased salary obligations.

The General Assembly may wish to consider a review of relevant statutes, rules, and regulations to determine the appropriateness of standardizing references to pre-K programs, teachers and/or staff. Explicit reference to pre-kindergarten, where appropriate, would clarify state policy regarding the inclusion of pre-K teachers in the state's teaching corps.

Exhibit 8: Pros and Cons of Ensuring Equal Rights and Benefits for Pre-K Teachers Across All Program Settings

Pros

- Pre-K teachers would receive comparable rights and benefits across all program settings
- Pre-K teachers would receive rights and benefits consistent with their respective district K-12 counterparts
- Recruitment and retention for some pre-K teachers would improve in collaborative settings

Cons

- Staffing costs for some pre-K programs could increase to cover higher compensation and benefit costs
- Number of state-funded pre-K classes in certain districts could decrease due to increased salary obligations
- Mandatory state policy would reduce local flexibility

ADMINISTRATIVE RECOMMENDATION

The Department of Education's Office of Early Learning should examine this report's survey results in reference to their oversight of the state's pre-K programs. Survey information was self-reported by school districts and non-LEA pilot agencies. Survey results are presented as reported without further review of the specific policies or observations of practices by OEA. DOE officials may recognize in the survey responses a need among the state's pre-K coordinators for guidance on and improved understanding of pre-K teachers' rights and benefits.

ENDNOTES

[1] The author has removed one of the 14 non-LEA pilot programs for analysis purposes. Pre-K teachers in this non-LEA pilot program's three classrooms are LEA employees and are entitled to the same rights and benefits as the K-12 teachers in their district. Pre-K teachers in all the other non-LEA pilot programs are employees of a non-LEA entity.

[2] OEA also surveyed pre-K program directors/principals of the collaboration classrooms. However, due to the low response rate, OEA could not responsibly include or report the results of the survey in this report.

[3] Tennessee Public Acts and Resolutions, 99th General Assembly, Chapter No. 954 (1996).

[4] National Institute for Early Education Research, *The State of Preschool 2007*, (NIEER: New Jersey, 2007). Accessed April 17, 2008, at http://nieer.org.

[5] Bobbi Lussier, Executive Director, Office of Early Learning, Tennessee Department of Education, "List of Pre-K Contacts," e-mail to the author, August 1, 2008.

[6] National Institute for Early Education Research, *The State of Preschool 2007*.

[7] Tennessee Department of Education, Office of Early Learning, "2007-2008 Tennessee Pre-Kindergarten Fact Sheet." Accessed May 21, 2008, at http://state.tn.us/education/prek.

[8] National Institute for Early Education Research, *The State of Preschool 2007*.

[9] Tennessee Department of Education, Office of Early Learning, "2008-2009 Tennessee Pre-Kindergarten Fact Sheet." Accessed December 3, 2008, at http://state.tn.us/education/prek.

[10] Tennessee Department of Education, Office of Early Learning, "2007-2008 Tennessee Pre-Kindergarten Fact Sheet."

[11] Three LEAs did not have a state-funded pre-K program classroom for the 2007-08 school year: Carroll County, Sumner County, and Washington County Schools.

[12] All ECE and VPK classrooms are now funded at the same level based on the BEP formula, which calculates the state share and local match. However, the state-funded pre-K is not a part of the BEP.

[13] Interview with Bobbi Lussier, Executive Director, Office of Early Learning; Connie Casha, Director of Voluntary Pre-K, Early Childhood Programs; Janet Coscarelli, Director, Head Start Collaboration Office; Jan Bushing, Director of School-Based Support Services, Office of Early Learning; and Christy Ballard, General Counsel, Legal Services, Tennessee Department of Education, June 6, 2008.

[14] Betty Holcomb, Child Care, Inc., "A Diverse System Delivers for Pre-K: Lessons Learned in New York State," (Washington, DC: PreK Now, 2006) p. 5, quoted in Tennessee Alliance for Early Education, *Voluntary Pre-K in Tennessee: Understanding the Collaboration Model*, (Nashville, TN: October 2007) p. 4. Accessed May 8, 2008, at http://www.prekfortn.com.

[15] National Institute for Early Education Research, *The State of Preschool 2007*.

[16] Interview, Bobbi Lussier and others from the Tennessee Department of Education, June 6, 2008.

[17] Tenn. Code Ann. §49-3-306; State Board of Education Rules and Regulations Chapter 0520-1-3-.03.

[18] State Board of Education Rules and Regulations Chapter 0520-1-3-.03(5).

[19] State Board of Education Rules and Regulations Chapter 0520-1-3-.03(4).

[20] Tenn. Code Ann. §49-1-104; State Board of Education Rules and Regulations Chapter 0520-1-3-.03.

[21] Tenn. Code Ann. §49-2-209.

[22] Tenn. Code Ann. §49-5-710.

[23] State Board of Education Rules and Regulations Chapter 0520-2-1-.01.

[24] Tenn. Code Ann. §49-5-711.

[25] Tenn. Code Ann. §49-5-603.

[26] Tenn. Code Ann. §49-6-8004.

[27] Tenn. Code Ann. §49-5-501.

[28] Bobbi Lussier, Executive Director, Office of Early Learning, Tennessee Department of Education, "List of Pre-K Contacts," e-mail to the author, August 1,2008.

[29] The author has removed one of the 14 non-LEA pilot programs for analysis purposes. Pre-K teachers in this non-LEA pilot program's three classrooms are LEA employees and are entitled to the same rights and benefits as the K-12 teachers in their district. Pre-K teachers in all the other non-LEA pilot programs are employees of a non-LEA entity.

[30] Tennessee Department of Education, Office of Early Learning, Appendix A, "Scope of Services for 2008-09 Voluntary Pre-K for Tennessee Programs." Accessed September 12, 2008, at http://state.tn.us/education/prek.

[31] Tennessee Department of Education, Office of Early Learning, "Scope of Services for 2007-08 Voluntary Pre-K for Tennessee Programs." Accessed May 27, 2008, at http://state.tn.us/education/prek.

[32] Connie Casha, Director of Voluntary Pre-K, Early Childhood Programs, Tennessee Department of Education, "Re: Comptroller's Office Request," e-mail to the author, July 17, 2008.

[33] One district coordinator indicated that they were aware that some pre-K teachers in Head Start settings are not paid according to the level of experience and degree as LEA teachers, but that this was not the case in their particular district.

[34] Department of Education officials noted that the Head Start teacher may not have been evaluated using the "Tennessee Framework for Evaluation and Professional Growth" at the appropriate time to receive credit for their prior years of service. Credit for prior years of service is not awarded retroactively.

[35] Bobbie Lussier, Executive Director, Office of Early Learning, Tennessee Department of Education, "Responses," e-mail to Russell Moore, December 19, 2008.

[36] The district average would be slightly more than one instructional day without a permanent teacher if the four districts with responses between 180 and 200 days are not included.

[37] The average in non-LEA pilot classrooms would be 26 instructional days without a permanent teacher if the agency response of 160 days is included.

[38] Interview, Bobbi Lussier and others from the Tennessee Department of Education, June 6, 2008.

[39] National Institute for Early Education Research, Policy Brief, "Low Wages = Low Quality: Solving the Real Preschool Teacher Crisis," (NIEER: New Jersey, March 2003). Accessed June 5, 2008, at http://nieer.org.

[40] Interview, Bobbi Lussier and others from the Tennessee Department of Education, June 6, 2008.

[41] National Institute for Early Education Research, *The State of Preschool 2007*.

[42] Tennessee Department of Education, "2007 Annual Statistical Report, Table 5, Average Salary." Accessed September 19, 2008, at http://tn.gov/education/. Note: The calculation for classroom teacher average salary includes: vocational teachers, home/hospital instruction, special education, and grades K-12 teachers.

[43] Department of Education officials noted that while many of these early childhood educators have a bachelor's degree, most do not have a valid teaching license or certification in early childhood education – both of which are required by the state to teach in a state-funded pre-K classroom. National Institute for Early Education Research, *The State of Preschool 2007*.

[44] Center for the Child Care Workforce, *Inside the Pre-K Classroom: A Study of Staffing and Stability in State-Funded Prekindergarten Programs*, (Washington, D.C., 2002). Accessed June 18, 2008, at http://www.ccw.org.

[45] Southern Regional Education Board, *Beyond Salaries: Employee Benefits for Teachers in SREB States*, (SREB: Atlanta, GA, March 2001) p. 3. Accessed July 14, 2008, at http://www.sreb.org.

[46] National Center for Early Development and Learning (NCEDL), Working Paper, "Pre-Kindergarten in Eleven States: NCEDL's Multi-State Study of Pre-Kindergarten & Study of State-Wide Early Education Programs (SWEEP), Preliminary Descriptive Report," (May 24, 2005), p. 15, Accessed June 5, 2008, at http://www.fpg.unc.edu/ncedl/.

[47] Tennessee Education Association, Legislative Report, Final Report, (Volume 19, No. 28). Accessed October 17, 2008, at http://www.teateachers.org.

[48] Southern Regional Education Board, *Beyond Salaries*, p. 9.

[49] The TCRS is a trust fund established by the General Assembly for the purpose of administering a retirement program for public employees. The fund provides retirement coverage to state employees, higher education employees, teachers, and employees of political subdivisions that have elected to participate in the plan.

[50] Interview, Bobbi Lussier and others from the Tennessee Department of Education, June 6, 2008.

[51] Delaware, Florida, Mississippi, North Carolina, South Carolina, and Virginia are the other six states where teachers participate in the state retirement system.

[52] Tennessee Consolidated Retirement System, "Introduction to Your Retirement System, Group 1 Teachers," (July 1, 2008). Accessed October 17, 2008, at www.treasury.state.tn.us/tcrs.

[53] Tennessee Education Association, Legislative Report.

[54] NCEDL, "Pre-Kindergarten in Eleven States."

[55] This average is based on six ECE pilot agency respondents.

[56] Tenn. Code Ann. §49-5-711.

[57] Jerry Winters, Government Relations Manager, Tennessee Education Association, "Bargaining Locals," Fax to the author, December 8, 2008.

[58] Carl Kreuger, ECS National Center on Governing America's School, State Collective Bargaining Policies for Teachers, (ECS: Denver, CO, June 2002). Accessed Feb. 24, 2009, at http://www.ecs.org.

[59] Tennessee Code Annotated 49-5-603.

[60] Interview with Gary Nixon, Executive Director, Tennessee State Board of Education, June 4, 2008.

[61] NCEDL, "Pre-Kindergarten in Eleven States."

[62] National Education Association, "Collective Bargaining for PK-3 Success," (November 2006), accessed October 3, 2008, http://www.nea.org.

[63] The National Institute for Early Education Research, *The State of Preschool 2007*.

[64] American Educational Research Association, "Teaching Teachers: Professional Development to Improve Student Achievement," (Summer 2005, Volume 3, Issue 1). Accessed September 19, 2008, at http://www.aera.net.

[65] Interview, Bobbi Lussier and others from the Tennessee Department of Education, June 6, 2008.

[66] Tennessee Department of Education, "TN Voluntary Pre-K Standard Forms 2008-09: Monitoring Report." accessed December 18, 2008, at http://www.tennessee.gov/education/prek.

[67] Tennessee Department of Education, Office of Professional Development, "Framework for Evaluation and Professional Growth," accessed November 14, 2008, http://tennessee.gov/education/tpd/.

[68] Tenn. Code Ann. §49-1-102.

[69] Interview, Gary Nixon, June 4, 2008.

APPENDIX A: HOUSE JOINT RESOLUTION 811 (2008)

HOUSE JOINT RESOLUTION 811

By Winningham

A RESOLUTION to direct a study of employment benefits for pre-kindergarten teachers.

WHEREAS, pre-kindergarten has a proven record of positively impacting early childhood development and student achievement; and

WHEREAS, Tennessee has a nationally recognized pre-kindergarten program which currently serves over seventeen thousand (17,000) children; and

WHEREAS, the classroom teacher has been shown to be the key component in impacting student achievement; and

WHEREAS, Tennessee's pre-kindergarten program properly requires that all pre-kindergarten teachers be licensed teachers; and

WHEREAS, the attraction and retention of highly qualified licensed teachers is essential in maintaining a quality pre-kindergarten program in Tennessee; now, therefore,

BE IT RESOLVED BY THE HOUSE OF THE ONE HUNDRED FIFTH GENERAL ASSEMBLY, AND THE SENATE CONCURRING, that the office of education accountability is directed to survey each local education agency which conducts a pre-kindergarten program to determine if all employment rights and benefits available to K-12 teachers also accrue to teachers of pre-kindergarten. Such survey shall include, but not be limited to, provisions for duty-free lunch, planning time, and class size requirements.

BE IT FURTHER RESOLVED, that the results of this survey shall be provided to the chairpersons of the house and senate education committees prior to January 15, 2009.

BE IT FURTHER RESOLVED, that an enrolled copy of this resolution be transmitted to the director of the office of education accountability.

APPENDIX B: PERSONS CONSULTED

Tennessee Department of Education

- Bobbie Lussier, Executive Director, Office of Early Learning
- Connie Casha, Director of Voluntary Pre-K, Early Childhood Programs
- Janet Coscarelli, Director, Head Start Collaboration Office
- Jan Bushing, Director of School-Based Support Services, Office of Early Learning
- Christy Ballard, General Counsel, Legal Services

Tennessee State Board of Education

- Gary Nixon, Executive Director
- Rich Haglund, General Counsel

Tennessee Department of Human Services

- Barbara Wall, Director, Child Care, Adult and Community Programs
- Lois Barrett Luke, Director of Licensing

Tennessee Education Association

- Earl Wiman, President
- Jerry Winters, Manager, Government Relations
- Terrance Gibson, Manager, Instruction and Professional Development

Other

- Charles (Chuck) Cagle, Attorney, Lewis, King, Krieg and Waldrop, P.C.
- Andy Spears, Director of Policy and Outreach, Tennessee Stand for Children
- Michelle Cochran, Executive Director, The Center for Early Education

Appendix C: Tennessee School District Respondents

Alamo City Schools
Alcoa City Schools
Anderson County Schools
Athens City Schools
Bedford County Schools
Bells City Schools
Benton County Schools
Bledsoe County Schools
Blount County Schools
Bradford Special School District
Bradley County Schools
Bristol City Schools
Campbell County Schools
Cannon County Schools
Carter County Schools
Cheatham County Schools
Chester County School
Claiborne County Schools
Clarksville-Montgomery County Schools
Clay County Schools
Cleveland City Schools
Clinton City Schools
Cocke County Schools
Coffee County Schools
Crockett County Schools
Cumberland County Schools
Davidson County Schools
Dayton City Schools
Decatur County Schools
DeKalb County Schools
Dickson County Schools
Dyersburg City Schools
Elizabethton City Schools
Etowah City Schools
Fayette County Schools
Fayetteville City Schools
Fentress County Schools
Franklin County Schools
Franklin Special School District
GIbson County Special School District
Giles County Schools
Grainger County Schools
Greene County Schools
Greeneville City Schools
Grundy County Schools
Hamblen County Schools
Hamilton County Schools
Hancock County Schools
Hardeman County Schools
Hardin County Schools
Hawkins County Schools
Henderson County Schools
Henry County Schools
Hickman County Schools
Hollow Rock-Bruceton Special School District
Houston County Schools
Humboldt City Schools
Humphreys County
Huntingdon County Special School District
Jackson County Schools
Jackson-Madison County Schools
Jefferson County Schools
Johnson City Schools
Johnson County Schools
Kingsport City Schools
Knox County Schools
Lake County Schools
Lauderdale County Schools
Lawrence County Schools
Lebanon County Special School DIstrict
Lenoir City Schools
Lewis County Schools
Lexington City Schools
Lincoln County Schools
Loudon County Schools
Macon County Schools
Manchester City Schools
Marion County Schools
Marshall County Schools
Maryville City Schools
Maury County Schools
McKenzie County Special School District
McMinn County Schools
McNairy County Schools
Meigs County School
Memphis City Schools
Milan County Special School District
Monroe County Schools
Moore County Schools
Morgan County Schools
Murfreesboro City Schools
Newport City Schools
Oak Ridge Schools
Obion County Schools
Overton County Schools
Paris County Special School District
Perry County Schools
Pickett County Schools
Polk County Schools
Putnam County Schools
Rhea County Schools
Richard Hardy Special School District
Roane County Schools

Robertson County Schools
Rutherford County Schools
Sequatchie County Schools
Sevier County Schools
Shelby County Schools
Smith County Schools
South Carroll County Special School District
Stewart County Schools
Sullivan County Schools
Sweetwater City Schools
Tipton County Schools
Trenton County Special School District
Trousdale County Schools
Tullahoma City Schools
Unicoi County Schools
Union City Schools
Van Buren County Schools
Warren County Schools
Wayne County Schools
Weakley County Schools
West Carroll Special School District
White County Schools
Williamson County Schools
Wilson County Schools

* Carroll County, Sumner County, and Washington County Schools did not have a VPK classroom for the 2007-08 school year.

* OEA staff did not receive responses from: Dyer County, Haywood County, Oneida Special School District, Rogersville City, Scott County, or Union County Schools.

* To view the survey questionnaire, visit the OREA website at www.tn.gov/comptroller/orea.

Appendix D: Non-LEA Pilot Agency Respondents

Douglas Cherokee Economic Authority
East Tennessee State University
Family Resource Agency
Highland Rim Economic Corporation
Holston United Methodist Homes for Children
LeBonheur Early Intervention Development Center
Martha O'Bryan Center
Montgomery Village Child Development Center, Inc.
New Beginnings Center
Primary Prep, Inc.
Southwest TN Community College
Tennessee Technological University
Wayne Reed Christian Child Care Center

* OEA staff did not receive a response from: Metro Action Commission (Davidson County).

* To view the survey questionnaire, visit the OREA website at www.tn.gov/comptroller/orea.

Appendix E: Response Letter from the Commissioner of Education

STATE OF TENNESSEE
DEPARTMENT OF EDUCATION
OFFICE OF EARLY LEARNING
9th FLOOR, ANDREW JOHNSON TOWER
710 JAMES ROBERTSON PARKWAY
NASHVILLE, TN 37243-0375

PHIL BREDESEN
GOVERNOR

TIMOTHY K. WEBB, Ed.D.
COMMISSIONER

March 9, 2009

Russell Moore, Assistant Director
Office of Education Accountability
Comptroller of the Treasury
505 Deadrick Street, Suite 1700
Nashville, Tennessee 37243-0268

Dear Mr. Moore:

Thank you for providing the TN Department of Education the opportunity to review and respond to the Office of Education Accountability (OEA) report on Pre-K Teachers' Rights and Benefits.

With the passing of legislation in 2005, creating the TN Voluntary Pre-K Program, the stated intent was to encourage LEAs to form collaborative partnerships with non-school system entities for the establishment and expansion of pre-k education classes to meet the needs of communities across Tennessee.

> **T.C.A. § 49-6-105**
>
> **(a)** LEAs may apply to the department of education for funding and approval of one (1) or more pre-kindergarten programs. LEAs may contract and enter into collaborative agreements for operation of these programs with non-school system entities in the geographical area served by the LEA, including, but not limited to, nonprofit and for-profit child care providers and Head Start programs. LEAs shall not contract or collaborate with any child care provider licensed by the department of human services, unless that provider has attained the highest designation under the rated licensing system administered by the department of human services, pursuant to title 71, chapter, 3, part 5.
>
> **(b)** LEAs are encouraged to collaborate with non-school system entities where such collaboration provides an efficient means for expansion of pre-kindergarten classrooms authorized under §§ 49-6-103 — 49-6-110.

The statute does not address the employment of teachers by non-school system entities. However, employment of teachers by the LEA is addressed in state statute in the Education Professional Negotiations Act found in Title 49, Chapter 5, Part 6 and State Board of Education rules 0520-02-03 and 0520-02-04.

The Department of Education concurs with the OEA report which states Pre-K teachers employed by the LEA are receiving full rights and benefits as all K-12 teachers.

Less than 10% of all state pre-k teachers are employed by non-school system entities. This is due to: 1.) the 2005 Voluntary Pre-K program which permits the LEA to contract with a non-school entity and the teacher is employed by the partner agency, 2.) the original pilot programs permitted non-school system entities to contract directly with the State Department of Education (not the LEA) to provide pre-k services.

Contract negotiations with non-school system entities are the authority of the local school board. Current statute does not grant the State Department of Education the authority to interject into this process. Therefore, we do not have the authority to require the LEA to employ the teacher when contracting with a non-school system entity.

The non-school system entities, who contract with the State Department of Education to provide a pilot Pre-K program, at the present time, must employ the teacher as they have no other option. Currently, legislative bills, House Bill 2293 and Senate Bill 2328, have been filed with the general assembly which would require Pre-K pilot programs to be administered the same as Voluntary Pre-K programs. If this legislation is enacted, these programs would contract with the LEA in their geographic location, not the State Department of Education.

The Department of Education concurs with the OEA report which states employment rights and benefits of teachers employed by non-school system entities may differ from the K-12 teachers in their LEA district.

Due to collective bargaining by employees with the local school board, the salary, rights and benefits will differ from district to district. Additionally, since there are no congruent salary scales, rights and benefits among non-school system entities for employees, there will be variances among these providers.

While Options 1 and 2 would eliminate the differences in rights and benefits of Pre-K teachers in LEAs and partner agencies, it potentially could limit the number of collaborative partnerships between the LEA and community agencies due to increased costs in salary and benefits. However, the total number of classes statewide would not be decreased, as any funds for classes not utilized in one LEA could be reallocated to other LEAs.

Option 1, *Require LEA Employment* and Option 2, *Include Equal Rights and Benefits Language in Local Contracts,* would require legislative amendments. Currently, the local school boards are charged with the authority to employ teachers and negotiate contract terms with partner agencies.

The report addresses the issue of Pre-K teachers in non-public school settings receiving the proper credit for years of service. This is in regard to the response of one district which reported difficulty with their Head Start teachers receiving credit for years of service. There is a process in place by which non-school system Pre-K teachers may receive credit for years of service.

Any non-school system Pre-K teacher may receive credit for years of service provided they successfully complete the same TN Framework for Teacher Evaluation as school system employed teachers. This provision was approved by the State Board of Education in August, 2005.

The survey focused on Pre-K teachers' employment rights and benefits, which would require knowledge not only of pre-k employment standards, but knowledge of general employment issues as well. There are many issues, such as paid holidays, length of contract, sick leave, personal leave, and insurance benefits, which the LEA Pre-K staff would have very limited knowledge. These issues are typically managed by the human resources staff in the LEA. However, the surveys were completed by the LEA Pre-K personnel without input from the LEA Human Resource personnel, resulting in unintentional, inaccurate responses. The discrepancies between what was reported and what actually occurs at the LEA will be identified and reviewed by the Office of Early Learning.

The Department of Education concurs with the OEA recommendation which states the Office of Early Learning will review the responses to the survey in order to identify areas of need for technical assistance and guidance concerning understanding of Pre-K teachers' rights and benefits.

Respectfully,

Timothy K. Webb

Timothy K. Webb
Commissioner of Education

APPENDIX F: RESPONSE LETTER FROM THE STATE BOARD OF EDUCATION

STATE OF TENNESSEE
STATE BOARD OF EDUCATION
9th FLOOR, ANDREW JOHNSON TOWER
710 JAMES ROBERTSON PARKWAY
NASHVILLE, TN 37243-1050
615-741-2966
www.state.tn.us/sbe

PHIL BREDESEN
GOVERNOR

GARY L. NIXON
EXECUTIVE DIRECTOR

March 6, 2009

Russell Moore, Assistant Director
Office of Education Accountability
Comptroller of the Treasury
505 Deaderick Street, Suite 1700
Nashville, Tennessee 37243-0268

Dear Mr. Moore:

Thank you for providing the State Board of Education the opportunity to respond to your report regarding employment standards for teachers in state-funded pre-Kindergarten programs.

Statutes, SBE rules and SBE policies that govern teachers do in fact, explicitly refer to pre-Kindergarten teachers. The State Board of Education does not employ those teachers, so its regulations are limited to licensing requirements.

- T.C.A. § 49-6-104 requires "at least one (1) licensed teacher per classroom certified in early childhood education."
- SBE Rule 0520-01-03 reflects this requirement (see p. 14 of http://state.tn.us/sos/rules/0520/0520-01/0520-01-03.20081028.pdf).
- SBE Rule 0520-02-03 notes the requirements for specific endorsements, and these, along with other SBE rules on teachers have been updated to include pre-K as part of the grade levels covered by specific endorsements (even for support personnel such as speech language pathologists) (see, e.g., p. 8 of http://state.tn.us/sos/rules/0520/0520-02/0520-02-03.20081128.pdf).
- SBE Rule 0520-02-04 (http://state.tn.us/sos/rules/0520/0520-02/0520-02-04.20090128.pdf) includes the requirements for licensure as a pre-K teacher, and what PRAXIS scores are required.
- SBE policy governing licensure standards have included pre-K teachers since at least 2004. See, for example, the Teacher Licensure Standards,

Mr. Russell Moore
Mar. 6, 2009
Page 2

- for Early Development and Learning Education (page 23 of http://www.tennessee.gov/education/lic/doc/accttchlicstds.pdf).

In summary, State Board of Education rules and policy governing licensure of teachers cover the licensing of pre-K teachers. However, the State Board of Education has no authority over salary and working conditions for teachers employed outside a public school system.

Mandating that pre-K teachers in all approved programs receive the same benefits regardless of whether their employer is a public or private entity is likely to lead to a decrease in the number of high quality pre-K options available to Tennessee children.

T.C.A. § 49-6-105 allows LEAs to collaborate with "non-school system entities in the geographical area served by the LEA." State law does not require LEAs to employ or guarantee employment benefits to the many "non-school system entities" they contract with to provide a variety of services to students.

Teachers at non-LEA pre-K programs lobbying for the same employment rights and benefits as teachers in LEAs is like teachers at private elementary, middle or high schools lobbying for the same employment rights and benefits as teachers in public schools. Just as public funds go directly to approved pre-K programs at private providers, public funds go directly to private schools providing services under many State and Federal laws, including the Individuals with Disabilities Education Act (IDEA). Teachers in those programs are not, however, given the same rights and benefits of public school teachers.

Employees have the choice to work for public or private employers, and each employment situation offers pros and cons to prospective employees.

Respectfully,

Gary Nixon

Gary Nixon

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♦indicates staff who assisted with this project

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Tennessee Comptroller of the Treasury