

November 12, 2020

MEMORANDUM

To: Florida's Early Learning Coalitions, VPK and School Readiness Providers

From: Shan Goff, Executive Director 
Maggi O'Sullivan Parker, General Counsel 

Subject: Implementation of E-Verify Screening Requirements –2020-033

This memorandum outlines new E-Verify requirements as they impact Early Learning Coalitions (ELCs) and early learning providers with contracts to deliver the School Readiness (SR) or Voluntary Prekindergarten (VPK) Education Program. E-Verify is an Internet-based application that employers use to confirm that a newly hired employee is authorized to work in the United States. E-Verify is operated by the Department of Homeland Security's Citizenship and Immigration Services administration and is provided at no charge.

The 2020 Legislature created [Section 448.095, Florida Statutes](#) to address the use of E-Verify by both private and public employers. Definitions used in the law and its impact on the Office of Early Learning, ELCs and providers with contracts to deliver SR or VPK Programs are listed below.

Definitions

"Private employer" is defined as a "person or entity that transacts business in this state, has a license issued by an agency, and employs persons to perform labor or services in this state in exchange for salary, wages, or other remuneration." Regardless of the number of employees, a private employer must e-verify all new employees hired on or after January 1, 2021, or require the new employee to provide the same documents required for an INS I-9 form.

"Public employer" means an executive, judicial or legislative governmental entity or any public school, community college, or state university that "employs persons who perform labor or services for that employer in exchange for salary, wages, or other remuneration or that enters or attempts to enter into a contract with a contractor."

Impact on OEL, ELCs and Contracted SR and VPK Providers

As a public employer and agency that contracts for goods and services, OEL is required to E-Verify its new hires and contractors, and require its contractors to e-verify their new hires. ELCs do not appear to meet the definition of "public employer" under the law. Instead, they are covered under the law as a contractor. (Note that E-Verify requirements have been in the grant agreement contract between OEL and ELCs for several years). With respect to the relationship between ELCs and providers, the statewide contracts for VPK and the SR program create a contractor-subcontractor relationship.

The law requires that for any contract executed after January 1, 2020, the subcontractor must register and use the E-Verify system and provide the contractor with an "affidavit stating that the subcontractor does not employ, contract with, or subcontract with an unauthorized alien."

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As this language relates to SR and VPK providers, **any new statewide** contract executed for these services after January 1, 2021, will require registration and an affidavit. The law also requires that the contractor (ELC) will need to maintain a copy of the affidavit while the contract is in effect.

OEL has not interpreted the law as requiring execution of a new provider contract, screening of current employees or receipt of an affidavit for **currently-contracted providers**. The primary obligation of these providers will be to E-Verify all new hires after the January 1, 2021, date. Upon execution of a new contract in subsequent fiscal years, an E-verify registration and an affidavit will be required.

Through the rule making process, OEL anticipates amending both the SR and VPK statewide provider contract forms for use in the 2021-22 FY to reflect the new e-verify and affidavit requirements. Additional updates on the rulemaking process will be provided.

Below is a chart summarizing the timing and requirements of the new law, [section 448.095, Florida Statutes](#).

Status	Now – January 1, 2021	January 1, 2021 – June 30, 2021	After June 30, 2021
SR and VPK Providers with a Current 2020-21 Contract	No impact	<ul style="list-style-type: none"> • Provider will E-Verify all new hires. • Contract remains in place – no change • Affidavit not required. 	<ul style="list-style-type: none"> • 2021-2022 contract will include E-Verify requirements. • Provider will E-Verify all new hires • Provider will sign affidavit stating that it does not employ, contract with, or subcontract with an unauthorized alien • ELC will maintain copy of the affidavit
SR and VPK Providers with a New Contract for 2020-21 After January 1, 2021.	n/a	<ul style="list-style-type: none"> • Provider will E-Verify all new hires. • Provider will sign affidavit stating that it does not employ, contract with, or subcontract with an unauthorized alien. • ELC will maintain copy of the affidavit. 	<ul style="list-style-type: none"> • 2021-2022 contract will include E-Verify requirements. • Provider will E-verify all new hires. • Provider will sign affidavit stating that it does not employ, contract with, or subcontract with an unauthorized alien. • ELC will maintain copy of the affidavit

In the next few weeks, we will provide you with a sample template for the affidavit. For any new 2020-21 contracts, providers will be directed to upload the signed affidavit to their document library in a specified folder.

Please let us know if you have any questions.

MP/sg