

New York

Background

New York offers two state-funded pre-K programs: Universal Prekindergarten (UPK) and Statewide Universal Full-Day Prekindergarten (SUFPP). The New York State Education Department (NYSED) administers both programs.

Statewide Universal Full-Day Prekindergarten (SUFPP)

In the 2014 legislative session, the state allocated \$340 million to fund SUFPP, a competitive grant program.¹ SUFPP awards competitive grants to school districts to provide full-day pre-K to four-year-olds who live within the school district boundaries. Districts may submit a consolidated application that includes programs offered by schools, nonprofit organizations, community-based organizations, charter schools, libraries, and museums. All of those groups (except traditional public schools) may apply directly to the state if a district denies them inclusion in its consolidated application.²

Universal Prekindergarten (UPK)

The UPK program was created to offer half-day preschool for all four-year-olds in New York. Funding limitations, however, have restricted the number of available slots. School districts that receive more eligible applicants than can be served must select students on a random basis.³

School districts are the only entities eligible to receive UPK funding, but they are required to set aside a minimum of 10 percent of UPK funds to collaborate with community-based preschool programs to deliver UPK. Community-based programs can include child care, early education, and day care providers; approved preschool special education programs; Head Start centers; nursery schools; libraries; or museums.⁴ Charter schools can only contract with a district to provide UPK services if they offer pre-K through an affiliated program.⁵

UPK funding is allocated to school districts through the state school funding formula.

Charter schools in New York

New York allows start-up and conversion charter schools. Eligible authorizers include local school districts, the Education Department, and the State University of New York (SUNY) Charter School Institute. The New York City Department of Education was originally an authorizer but is no longer, though schools it approved remain under its oversight. SUNY authorizes just under half of the charter schools in the state, and the Education Department authorizes about 21 percent. All other schools were authorized by local school districts.⁶



TOTAL SCORE

36/50

New York's climate for charter schools to offer pre-K is **somewhat hospitable***

- + There are no state statutory or regulatory barriers to charter schools accessing state funding for pre-K.
- Compared to K-12 funding levels, low pre-K program funding makes offering pre-K less attractive to charters.
- + The size of the pre-K program does not limit charter access to funding.
- + The funding, application, and approval processes do not create barriers to charter access.
- + Automatic enrollment from charter pre-K to kindergarten is not prohibited in legislation or practice.

** New York's score is based on its Statewide Universal Full-Day Pre-Kindergarten Program (SUFPP) rather than its Universal Pre-Kindergarten Program (UPK) because the former is the program through which charter schools are eligible to offer state-funded pre-K.*



Process for Accessing Pre-K Funds

There are two paths through which a charter may access SUFP funding. Charter schools may receive funding if a district that applies successfully for SUFP funds includes the charter school in its application to the state. All New York City charter schools that currently receive SUFP funds do so through this pathway. A second pathway is available, however, for charter schools that are not included in district applications. If a district declines to include a charter school in its application, the charter school may apply directly to the state for funding. This pathway is also available to community-based organizations excluded from district-consolidated applications. SUFP grantees must reapply annually for funding.

To receive UPK funding, districts must submit the required application to the NYSED. District eligibility and funding allocation is determined by a state aid formula, outlined in legislation.⁷ UPK districts must reapply for funding annually. Charter schools can only access UPK funding if they operate an affiliated pre-K program and contract with a participating district.

Barriers

There are two state-funded pre-K programs in New York. The barriers section addresses both SUFP and UPK because charters access funding through both programs, whether directly or through an affiliated pre-K program.

Are there any statutory or regulatory barriers to charter schools accessing state funding for pre-K?

+ **SUFP: No.** New York's charter law states that charter schools may serve kindergarten through twelfth grade.⁸ Until recently, the state interpreted this legislation to mean that charter schools could not offer pre-K except through an affiliated program. The SUFP legislation, however, explicitly included charter schools as entities that may receive pre-K funding.⁹ Additionally, the state added a new section to the Education Law in April 2014, which explicitly says that charter schools are eligible to participate in SUFP.¹⁰ At least nine charter schools in New York currently offer pre-K.¹¹ None of these schools receive SUFP funding directly from the state, but several of them receive SUFP funding through a joint application submitted with the New York City Department of Education.¹²

- **UPK: Yes.** Charter schools cannot access state funding through UPK; they may only do so by operating an

affiliated pre-K program and contracting with a district that receives UPK funding.

Before SUFP, some charter schools served preschoolers through a separate but affiliated nonprofit. This approach allowed charter schools to work around the state's prohibition on charter pre-K programs and access UPK funds, but created barriers to enrolling students from the pre-K program directly in the charter school. State agencies and authorizers do not collect data on the numbers of charter-affiliated pre-K programs that exist in the state. At least one of the nine charter schools that offer pre-K does so by accessing UPK funds through an affiliated program.

Is the funding level of the state pre-K program a barrier to charter access?

- **SUFP: Yes.** Low pre-K program funding, compared to K-12 funding levels, makes pre-K less attractive to charters. SUFP funding is low, particularly for a full-day program. Charter schools that offer SUFP receive between 44 and 63 percent of the per-pupil funding amount that charters receive to serve full-day K-12 students.

- **UPK: Yes.** Low pre-K program funding, compared to K-12 funding levels, makes pre-K less attractive to charters. For some providers, UPK funding is low, even for a part-day program. Charter schools that contract with districts to offer UPK can receive as little as 10 percent of the per-pupil funding amount that charters receive to serve full-day K-12 students.

Is the size of the state pre-K program a barrier to charter access?

+ **SUFP: No.** The size of the program is not a barrier to charters accessing state pre-K funds. The program serves about 15 percent of all four-year-olds in the state.

+ **UPK: No.** The size of the program is not a barrier to charters accessing state pre-K funds. The program serves about 45 percent of all four-year-olds in the state.

Is the application, approval, and/or funding process a barrier to charter access?

+ **SUFP: No.** The law offers charter schools two pathways to access SUFP funding: as part of a district's consolidated application or, if denied by the district, through a direct application to the state. The district must deny the charter before the charter can apply directly to the state.



− UPK: Yes. The approval process is a barrier to charter access. Charter schools can access UPK funds only by operating an affiliated pre-K program and contracting with a participating district.

Is automatic enrollment from pre-K to kindergarten prohibited in legislation or practice?

+ SUFP: No. New York’s charter legislation does not address enrollment preferences for pre-K students, but the state’s major charter school authorizers allow charter schools that offer pre-K through SUFP to directly enroll children in kindergarten following completion of the pre-K program.

− UPK: Yes. Charter schools that serve preschoolers through an affiliated pre-K program, such as through UPK, cannot automatically enroll pre-K students into their kindergarten program.

Are there any other barriers to charter access?

− SUFP: Yes. Potential threats to charter autonomy may make offering SUFP less attractive to charters. The SUFP law includes quality and monitoring requirements for funded preschool programs that are more prescriptive than the quality and oversight requirements that typically apply to charter schools. Further, there is some uncertainty about whether or not charter schools that receive SUFP funds through New York City’s consolidated application should be considered vendors to

the district, which would require them to comply with burdensome contracting and vendor requirements of the district’s procurement process.

− SUFP AND UPK: Charter schools face significant obstacles to securing facilities for both pre-K programs—particularly in New York City. Although both district and charter schools face challenges in finding space for preschool programs, inequitable per-pupil funding exacerbates these challenges for charter schools.

Recommendations

To address these barriers to charter access, New York should:

- Clarify that charter schools and other community-based providers that offer pre-K as a part of the district’s consolidated SUFP application need not be considered vendors or required to meet district vendor requirements.
- Release guidance or modify state statute to explicitly allow children who attend a pre-K program operated by a charter school to automatically enroll in the school’s kindergarten.
- Amend state law to explicitly allow charters to offer pre-K and access UPK funding, either directly through the funding formula or by contracting with a participating district.

	Statewide Universal Full-Day Prekindergarten (SUFP)	Universal Prekindergarten (UPK)	Charter schools in New York
Year created	Launched in 2014 ¹³	Launched in 1998 ¹⁴	Charter law enacted in 1998 ¹⁵
Children in state	467,518 three- and four-year-olds in New York ¹⁶		3,606,804 school-age children in New York ¹⁷
Children served	35,338 children served 15.4 percent of four-year-olds ¹⁸	103,347 children served 45 percent of four-year-olds ¹⁹	91,813 students served 2.5 percent of school-age population 233 charter schools ²⁰
Charters offering pre-K	At least nine charter schools in New York offer pre-K, directly or through affiliated pre-K programs; the state does not track data on charter schools with affiliated pre-K programs. ²¹		161 charter schools in New York offer elementary school programs. ²²
Funding	Providers receive between \$7,000 and \$10,000 per pupil to offer SUFP.	Districts receive between \$1,534 and \$12,064 per pupil to offer UPK. ²³	Charter schools receive \$15,920 per pupil to serve K–12 students. ²⁴



Endnotes

- 1 “Governor Cuomo Announces Recipients of \$340 Million in Pre-Kindergarten Funding,” New York State Education Department, 2014, <http://www.p12.nysed.gov/funding/2014-15-statewide-universal-full-day-prekindergarten/nysupk-2014-15-awardee-list.html>.
- 2 “Preliminary Awardee List Announced,” New York State Education Department, 2014, <http://www.p12.nysed.gov/funding/currentapps.html#statewide-upk-14-15>.
- 3 “Grants administered by the New York State Education Department,” New York State Education Department, 2015, <http://www.p12.nysed.gov/funding/currentapps.html#statewideupk-14-15>.
- 4 New York State Codes, Rules, and Regulations, 8 CRR-NY 151-1.2, [https://govt.westlaw.com/nycrr/Document/I36610ef2c22211ddb29d8bee567fca9f?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=\(sc.Default\)](https://govt.westlaw.com/nycrr/Document/I36610ef2c22211ddb29d8bee567fca9f?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=(sc.Default)).
- 5 An affiliated pre-K program is one that a charter school operates through a separate, but affiliated, entity or organization.
- 6 “New York Charter Authorizers,” National Association of Charter School Authorizers, 2014, <http://www.qualitycharters.org/authorizer-comparison/state-by-state-overviews-new-york.html>.
- 7 New York State Codes, Rules, and Regulations, 8 CRR-NY 151-1.2, [https://govt.westlaw.com/nycrr/Document/I36610ef2c22211ddb29d8bee567fca9f?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=\(sc.Default\)](https://govt.westlaw.com/nycrr/Document/I36610ef2c22211ddb29d8bee567fca9f?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=(sc.Default)).
- 8 “NY Code – Section 2854: General Requirements,” FindLaw, 2015, <http://codes.lp.findlaw.com/nycode/EDN/II/56/2854>.
- 9 “Announcement of Funding Opportunity 2014-2015,” New York State Education Department, <http://www.p12.nysed.gov/funding/2014-15-statewide-universal-full-day-prekindergarten/nysupk-grant-application-2014-15.pdf>.
- 10 “Statewide Universal Full-Day Pre-Kindergarten Program,” New York City Charter School Center, http://www.nyccharterschools.org/sites/default/files/resources/UPK_S3602Final.pdf.
- 11 “New York Charter Schools,” Northeast Charter Schools Network, 2014, http://www.necharters.org/ny_charter_schools.
- 12 “Governor Cuomo Announces Recipients of \$340 Million in Pre-Kindergarten Funding,” New York State Education Department, 2014, <http://www.p12.nysed.gov/funding/2014-15-statewide-universal-full-day-prekindergarten/nysupk-2014-15-awardee-list.html>.
- 13 Ibid.
- 14 W. Steven Barnett et al., “The State of Preschool 2013: State Preschool Yearbook” (New Brunswick, NJ: National Institute for Early Education Research, 2013), <http://nieer.org/sites/nieer/files/yearbook2013.pdf>.
- 15 National Alliance for Public Charter Schools (NAPCS), “Measuring Up: New York,” <http://www.publiccharters.org/get-the-facts/law-database/states/NY/>.
- 16 State population data calculated using ACS 2012 five-year estimates; U.S. Census Bureau, “American Community Survey,” www.census.gov/acs.
- 17 Ibid., all children in households, three to seventeen years old.
- 18 An SED representative provided the number of children served. Percentage of four-year-olds calculated using NIEER 2013 estimate of 229,660 four-year-olds in the state.
- 19 W. Steven Barnett et al., “The State of Preschool 2013.”
- 20 NAPCS, “Measuring Up: New York.”
- 21 “New York Charter Schools,” Northeast Charter Schools Network, 2014, http://www.necharters.org/ny_charter_schools.
- 22 Ibid.
- 23 “2014-2015 Universal Prekindergarten Program Allocations,” New York State Education Department, 2014, http://www.p12.nysed.gov/upk/documents/2014-15_UPK_Allocationspostedversion.pdf.
- 24 Larry Maloney et al., “Charter School Funding: Inequality Expands,” New York section (Fayetteville, AR: University of Arkansas Department of Education Reform, School Choice Demonstration Project, April 2014), <http://www.uaedreform.org/wp-content/uploads/2014/charter-funding-inequity-expands-dc.pdf>.