



# City of New York

## OFFICE OF THE COMPTROLLER

**Scott M. Stringer**  
**COMPTROLLER**



## **MANAGEMENT AUDIT**

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Deputy Comptroller for Audit

Audit Report on the Administration for  
Children's Services' Monitoring of the  
Screening of Personnel by Contracted  
Child Care Centers

ME17-072A

**March 20, 2019**

<http://comptroller.nyc.gov>



THE CITY OF NEW YORK  
OFFICE OF THE COMPTROLLER  
SCOTT M. STRINGER

March 20, 2019

To the Residents of the City of New York:

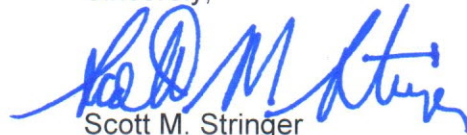
My office has audited the New York City Administration for Children's Services (ACS) to determine whether it effectively monitors its *EarlyLearn NYC* contracted child care centers' screening of personnel. We conduct audits such as this to promote public safety and well-being by determining whether City agencies are appropriately overseeing their contractors' compliance with relevant statutes and regulations.

This audit found that ACS needs to improve the agency's monitoring of its contractors' personnel screening efforts to better ensure that the individuals working in the *EarlyLearn NYC* child care centers have obtained the necessary clearances, received the required child abuse and maltreatment awareness training, and met the standards for the positions to which they have been assigned. ACS also needs to strengthen its system for tracking and reviewing the personnel-related documentation its contractors are required to submit on a monthly basis. In addition, ACS needs to enhance the accuracy and completeness of its site visit reports and the effectiveness of its follow-up efforts to ensure that its contractors promptly address the deficiencies identified during the site visits. Further, ACS needs to develop written policies and procedures to better guide its monitoring efforts in this area as well as its contractors' personnel screening and documentation efforts.

The audit made 13 recommendations to ACS, including that it: (1) develop formal guidelines for its contracted child care centers to follow concerning the qualifications for teacher's aides and substitutes; (2) develop mechanisms, such as checklists, to more effectively track and organize its contractors' submission of documentation on new hires to facilitate ACS' review of these new hires; (3) consistently review the contractor's screening of all new hires (and of a sample of all other staff) during its site visits; and (4) improve the guidance it provides to its own staff and to its contractors by developing written policies and procedures to clarify their responsibilities concerning the screening of child care center personnel.

The results of the audit have been discussed with ACS officials, and their comments have been considered in preparing this report. Their complete written response is attached to this report. If you have any questions concerning this report, please e-mail my Audit Bureau at [audit@comptroller.nyc.gov](mailto:audit@comptroller.nyc.gov).

Sincerely,



Scott M. Stringer

# TABLE OF CONTENTS

<b>EXECUTIVE SUMMARY .....</b>	<b>1</b>
Audit Findings and Conclusions .....	2
Audit Recommendations.....	2
Agency Response .....	3
<b>AUDIT REPORT .....</b>	<b>4</b>
Background .....	4
Objective.....	5
Scope and Methodology Statement.....	5
Discussion of Audit Results with ACS .....	6
<b>FINDINGS AND RECOMMENDATIONS .....</b>	<b>7</b>
Insufficient Compliance with Staff-Qualification, Clearance, and Training Requirements at <i>EarlyLearn NYC</i> Child Care Centers .....	7
More Than One Quarter of Sampled Child Care Staff Lacked Required Qualifications.....	7
DOI Clearance Letters for Certain Staff Were Unavailable or Were Received Late .....	11
Many of the Sampled Child Care Staff Did Not Complete Child Abuse and Maltreatment Awareness Training in a Timely Manner .....	13
Recommendations .....	14
Insufficient Controls over ACS' Monitoring of <i>EarlyLearn NYC</i> Child Care Centers' Personnel Screening .....	16
Weaknesses in the Tracking of the Required Submission of Personnel Documentation .....	16
ACS Site Visit Reports Do Not Adequately Document Contractor Compliance with Personnel Screening Standards .....	18
Lack of Written Policies and Procedures.....	20
Recommendations .....	21
Many Required SCR Clearances Not Obtained Timely and Some Not Obtained at All .....	24
Recommendation .....	26
<b>DETAILED SCOPE AND METHODOLOGY .....</b>	<b>27</b>
<b>ADDENDUM</b>	

# THE CITY OF NEW YORK OFFICE OF THE COMPTROLLER MANAGEMENT AUDIT

## Audit Report on the Administration for Children's Services' Monitoring of the Screening of Personnel by Contracted Child Care Centers

ME17-072A

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### EXECUTIVE SUMMARY

This audit was conducted to determine whether the New York City (City) Administration for Children's Services (ACS) effectively monitors its *EarlyLearn NYC* contracted child care centers' screening of personnel. ACS is responsible for protecting the safety and promoting the well-being of children and their families. To meet this mandate, ACS' responsibilities include investigating allegations of child abuse and neglect, overseeing foster care services, and coordinating affordable child care and early education services for over 100,000 children. Child care centers provide essential services for many City families, including education, recreation, and a safe and structured environment for children while their parents work.

As part of its effort to provide affordable child care and early education services, ACS makes seats available in its *EarlyLearn NYC* program for approximately 30,000 children whose families meet income-eligibility requirements. In that program, ACS contracts with and oversees privately-operated child care centers licensed by the City Department of Health and Mental Hygiene (DOHMH). According to a dataset provided by ACS, there were 144 contractors operating a total of 367 *EarlyLearn NYC* child care centers throughout the 5 boroughs as of August 22, 2017.

ACS' standard *EarlyLearn NYC* contract requires that all contractors comply with City statutes and regulations, including Article 47 of the New York City Health Code. By virtue of the contract and the applicable law, *EarlyLearn NYC* contractors are required to, among other things, verify the qualifications and references of prospective teaching personnel and complete criminal and child abuse and maltreatment screenings prior to the start dates of those and any other prospective personnel who would have the potential for unsupervised contact with children.

Under New York City Administrative Code §21-119, employees and volunteers who provide child care services under contract with the City must be fingerprinted and screened for criminal convictions and pending criminal actions by the City Department of Investigation (DOI). New York City Administrative Code §21-119 further states that all child care programs that are subject to licensing by DOHMH must submit clearance requests for their personnel to the Statewide Central Register of Child Abuse and Maltreatment (SCR). The ACS Division of Early Care and Education

(ECE) is responsible for monitoring *EarlyLearn NYC* child care centers to ensure compliance with their contracts and with the applicable statutes and regulations.

## Audit Findings and Conclusions

ACS needs to improve the agency's monitoring of its contractors' personnel screening efforts to better ensure that the individuals working in the *EarlyLearn NYC* child care centers have obtained the necessary clearances, received the required child abuse and maltreatment awareness training, and met the standards for the positions to which they have been assigned. ACS also needs to strengthen its system for tracking and reviewing the personnel-related documentation its contractors are required to submit on a monthly basis. Further, ACS needs to enhance the accuracy and completeness of its site visit reports and the effectiveness of its follow-up efforts to ensure that its contractors promptly address the deficiencies identified during the site visits. In addition, ACS needs to develop written policies and procedures to better guide its monitoring efforts in this area as well as its contractors' personnel screening and documentation efforts. Effective personnel screening is essential to ensure that the children at child care centers are being taught and cared for by qualified individuals with appropriate background clearances.

## Audit Recommendations

To address these issues, the audit makes a total of 13 recommendations, including the following:

- ACS should develop formal guidelines for its contracted child care centers to follow concerning the qualifications for teacher's aides and substitutes.
- ACS should develop mechanisms, such as checklists, to more effectively track and organize its contractors' submissions of documentation concerning vacancies and new hires to ensure that it is aware of all new hires and that the new hires fulfill the requirements for their new positions.
- ACS should ensure that it reviews the contractor's screening of all new hires (and of a sample of all other staff) during its site visits.
- ACS should enhance its monitoring of site visits to ensure that the information required to be contained in the site visit reports is accurate and complete.
- ACS should ensure that non-compliance issues noted during its site visits are followed up on and resolved in a timely manner and that its files adequately document the resolution of these issues.
- ACS should supplement the guidance provided by the contract by developing written policies and procedures for the *EarlyLearn NYC* contractors to follow in relation to the screening and hiring of personnel and the submission of related documents to ACS.
- ACS should improve the guidance it provides to its own staff by developing written policies and procedures to clarify their responsibility regarding their review of the contractors' monthly staff vacancy and new hire reports (along with the attached supporting documentation) and how this information, along with previous site visit reports, should be used to plan and conduct subsequent site visits.

## Agency Response

In its written response, ACS generally agreed with the audit's 13 recommendations and stated that it has already begun to implement them by taking additional steps to ensure that its contracted child care centers are following personnel screening protocols. Specifically, ACS stated that it has issued additional formal guidance to the centers, scheduled meetings with the centers to make sure that they understand their obligations, and created additional layers of management review to ensure that screening protocols are followed. The full text of ACS' response is included as an addendum to this report, with the exception of an email address that we redacted at the request of ACS.

# AUDIT REPORT

## Background

ACS is responsible for protecting the safety and promoting the well-being of children and their families. To meet these responsibilities, ACS investigates allegations of child abuse and neglect, oversees foster care services, and coordinates affordable child care and early education services for over 100,000 children. Child care centers provide essential services for many City families, including education, recreation, and a safe and structured environment for children while their parents work.

As part of its effort to provide affordable child care and early education services, ACS makes seats available for approximately 30,000 children whose families meet income-eligibility requirements in a program known as *EarlyLearn NYC*.<sup>1</sup> In that program, ACS contracts with and oversees privately-operated child care centers licensed by DOHMH.<sup>2</sup> According to a dataset provided by ACS, there were 144 contractors operating a total of 367 *EarlyLearn NYC* child care centers throughout the 5 boroughs as of August 22, 2017.

ACS' standard *EarlyLearn NYC* contract requires that all contractors comply with City statutes and regulations, including Article 47 of the New York City Health Code.<sup>3</sup> By virtue of the contract and the applicable law, *EarlyLearn NYC* contractors are required to, among other things, verify the qualifications and references of prospective teaching personnel and complete criminal and child abuse and maltreatment screenings prior to the start dates of those and any other prospective personnel who would have the potential for unsupervised contact with children.

Under New York City Administrative Code §21-119, employees and volunteers who provide child care services under contract with the City must be fingerprinted and screened for criminal convictions and pending criminal actions. In accordance with that statute and an Intra-City Agreement signed by DOHMH, ACS, and DOI, City-contracted child care centers must send prospective personnel to DOI for such screening. New York City Administrative Code §21-119 further states that all child care programs that are subject to licensing by DOHMH must submit clearance requests for their personnel to the SCR. New York City Health Code §47.19 further requires that all child care center employees and volunteers undergo this SCR clearance review prior to being appointed and every two years thereafter.

ECE is responsible for monitoring *EarlyLearn NYC* child care centers to ensure compliance with their contracts and with applicable statutes and regulations.<sup>4</sup> ECE monitoring teams conduct site visits to the child care centers, where, among other things, they review personnel files to: (1) verify

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<sup>1</sup> There are three types of *EarlyLearn NYC* centers that provide day care and early educational services: (1) child care centers, which provide services to children who are six weeks to four years of age and are funded by the State and the City; (2) Head Start centers, which provide services to three- and four-year-old children and are primarily funded by the federal government; and (3) Head Start/child care centers, which provide both Head Start and child care services.

<sup>2</sup> ACS also issues child care vouchers that families can use to obtain services from privately-operated child care centers and eligible individuals operating from their homes.

<sup>3</sup> Article 47 of the New York City Health Code applies to a "child care program," defined as "any program providing child care for five (5) or more hours per week, for more than 30 days in a 12-month period, to three (3) or more children under six (6) years of age." Title 24 of the Rules of the City of New York (RCNY), section 47.01(d)(1). Each such program requires a permit from DOHMH. 24 RCNY 47.03.

<sup>4</sup> The key difference between ACS' and DOHMH's oversight roles relative to *EarlyLearn NYC* centers is that ACS monitors them for contract compliance purposes, while DOHMH monitors them for licensing purposes. As a result, while ACS can cite a center's deficiencies that, if serious and not adequately addressed, could lead to the termination of the center's contract, DOHMH can cite violations that, if serious and not adequately addressed, could lead to a center losing its license to operate.

that all teaching staff meet required qualifications; (2) determine whether all current and prospective personnel have the required DOI clearance; and (3) ensure that staff meet training requirements. The results of these visits are recorded on hard-copy ECE Program Reports, from which certain key information is supposed to be entered into ACS' electronic Agency Compliance Tracking System (ACTS). In addition to visiting the child care sites, ACS also monitors the contractors' compliance with the *EarlyLearn NYC* contract requirements for the submission of various documents to ACS. For example, each contractor is required to submit to ECE each month a Staff Vacancy Report (SVR), which identifies the vacant positions and new hires at its sites.

During the period December 1, 2016 through March 10, 2017, we conducted unannounced visits to a sample of seven child care centers that provided *EarlyLearn NYC* services to determine ACS' compliance with applicable rules and regulations. However, in March 2017, the New York State Office of Children and Family Services (OCFS), which is responsible for the operation of the SCR, determined that ACS is not allowed by New York Social Services Law §422(4)(A) to receive or review SCR clearances for child care personnel. Consequently, ACS could no longer effectively monitor its *EarlyLearn NYC* contractors' compliance with SCR clearance requirements. Thus, the results of our reviews of whether personnel working at the seven individual *EarlyLearn NYC* centers had been properly screened through the SCR were reported directly to each of these centers and not to ACS while the reviews were in process. However, we provided ACS with copies of the final versions of the audit reports that we issued to each of the centers based on these reviews. This audit report includes a summary of the SCR clearance findings presented in those seven reports, but focuses primarily on ACS' monitoring of personnel screening in relation to other requirements, including DOI-clearance and applicable training, education, and experience standards.

## Objective

To determine whether ACS effectively monitors its *EarlyLearn NYC* contracted child care centers' screening of personnel.

## Scope and Methodology Statement

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective. This audit was conducted in accordance with the audit responsibilities of the City Comptroller as set forth in Chapter 5, §93, of the City Charter.

The primary scope of this audit covers the period from July 1, 2015, through December 31, 2017. For the audit test of whether employees or volunteers at the seven centers we visited were cleared by DOI prior to their start dates, we reviewed the appointments of personnel on or after January 1, 2013. Please refer to the Detailed Scope and Methodology at the end of this report for the specific procedures followed and tests conducted during this audit.



## Discussion of Audit Results with ACS

The matters covered in this report were discussed with ACS officials during and at the conclusion of this audit. A preliminary draft report was sent to ACS on December 20, 2018, and was discussed at an exit conference held on January 15, 2019. On February 5, 2019, we submitted a draft report to ACS with a request for comments. We received a written response from ACS on February 20, 2019.

In its response, ACS generally agreed with the audit's 13 recommendations and stated that it has already begun to implement them by taking additional steps to ensure that its contracted child care centers are following personnel screening protocols. Specifically, ACS stated that it has issued additional formal guidance to the centers, scheduled meetings with the centers to make sure that they understand their obligations, and created additional layers of management review to ensure that screening protocols are followed. The full text of ACS' response is included as an addendum to this report, with the exception of an email address that we redacted at the request of ACS.

## FINDINGS AND RECOMMENDATIONS

ACS needs to improve the agency's monitoring of its contractors' personnel screening efforts to better ensure that the individuals working in the *EarlyLearn NYC* child care centers have obtained the necessary clearances, received the required child abuse and maltreatment awareness training, and met the standards for the positions to which they have been assigned. ACS also needs to strengthen its system for tracking and reviewing the personnel-related documentation its contractors are required to submit on a monthly basis. Further, ACS needs to enhance the accuracy and completeness of its site visit reports and the effectiveness of its follow-up efforts to ensure that its contractors promptly address the deficiencies identified during the site visits. In addition, ACS needs to develop written policies and procedures to better guide its monitoring efforts in this area as well as its contractors' personnel screening and documentation efforts. Effective personnel screening is essential to ensure that the children at child care centers are being taught and cared for by qualified individuals with appropriate background clearances.

The details of our findings are discussed in the following sections of this report.

### **Insufficient Compliance with Staff-Qualification, Clearance, and Training Requirements at *EarlyLearn NYC* Child Care Centers**

Our review of the documentation for sampled teaching, supervisory, and support staff at seven *EarlyLearn NYC* child care centers revealed that the contractors were not consistently in compliance with their ACS contracts and with applicable statutes and regulations with regard to ensuring that their personnel had obtained required teaching qualifications, DOI clearances, and child abuse and maltreatment awareness training.

#### **More Than One Quarter of Sampled Child Care Staff Lacked Required Qualifications**

Our review revealed that 28 percent of the sampled individuals employed as educational directors, group teachers or assistant teachers at seven *EarlyLearn NYC* child care centers did not meet some of the required qualifications specified in the Health Code, based on the evidence found in their personnel files, which ACS had informed us should contain the relevant supporting documentation. In all of these cases, we informed ACS that the relevant staff members' personnel files lacked such evidence and asked ACS to provide it, if it existed. ACS was unable to provide evidence to show that any of the individuals noted below met the requisite qualifications.

According to the *EarlyLearn NYC* contract, a child care contractor is required to verify the qualifications of prospective teaching personnel in their particular teaching titles prior to their start dates to ensure that they have sufficient knowledge, experience, and competence to fulfill their responsibilities. As found in §47.13 of the New York City Health Code, certain qualifications must be met for persons employed as educational directors, group teachers, and assistant teachers. Of the 92 sampled individuals, 47 of them were employed in 1 of these 3 titles.

Under New York City Health Code §47.13, the qualifications for the titles of educational director, group teacher, and assistant teacher are as follows:

- Educational director (the person responsible for supervising and training the teaching staff and guiding the center’s educational and child development programs): (1) a bachelor’s degree in early childhood education or a related field of study; (2) a valid New York State Education Department (NYSED) teacher certification in early childhood education;<sup>5</sup> and (3) at least two years of experience as a group teacher in a program for children under six years of age.
- Group teacher: (1) a bachelor’s degree in early childhood education and a valid NYSED teacher certification in early childhood education; (2) a bachelor’s degree in early childhood education and five years of supervised experience in a pre-school program; or (3) a study plan approved by an accredited college to obtain a bachelor’s degree in early childhood education within seven years (provided the person has already met certain requirements, such as an associate’s degree in early childhood education, practicum included).
- Assistant teacher: must be at least 18 years of age and have a high school diploma or the equivalent (e.g., a GED). An assistant teacher working in a Head Start or Head Start/child care center must possess additional qualifications, which are outlined in §1302.91 of the federal *Head Start Program Performance Standards*. According to these standards, a Head Start or Head Start/child care center assistant teacher must: (1) be enrolled in a program leading to an associate’s or bachelor’s degree in early childhood education; (2) have a child development associate (CDA) certificate; or (3) be enrolled in a CDA certificate program to be completed within two years of the hiring date.<sup>6</sup>

We reviewed a sample of 92 individuals—88 employees<sup>7</sup> and 4 others (3 volunteers and an itinerant special education teacher)—who collectively were working at 7 *EarlyLearn NYC* child care centers: Hamilton-Madison House (HMH) and Educational Alliance’s Lillian Wald Day Care Center (LWDCC) in Manhattan; Brooklyn Kindergarten Society’s Brevoort Children’s Center (BCC) and All My Children Day Care and Nursery (All My Children) in Brooklyn; The Child Center of New York (TCCNY) in Queens; Staten Island Mental Health Society (SIMHS) in Staten Island; and Brightside Academy in the Bronx.

Of the 92 individuals in the sample, 47 were employed as educational directors, group teachers, or assistant teachers. Our review found that 13 (28 percent) of them were unqualified for their positions. The results of our analysis for the seven *EarlyLearn NYC* child care centers we visited are summarized below in Table I.

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<sup>5</sup> To be eligible to apply for an “initial” teaching certificate, an individual must have earned a bachelor’s degree in education and completed a teacher preparation program at a college or university as part of earning the bachelor’s degree. Holders of “initial” teaching certificates are generally expected to progress to “professional” teaching certificates within five years by completing an appropriate master’s degree and by working as a teacher for three years.

<sup>6</sup> A CDA certificate is issued by the Council for Professional Recognition and is designed for early childhood education professionals. It is based on a core set of competency standards, which guide these professionals as they work toward becoming qualified teachers of young children. An individual who is 18 years of age, has a high school diploma or GED, has completed 120 hours of professional early childhood education, and has 480 hours of experience working with young children, can obtain a CDA certification. A CDA certificate is valid for three years. (Certificates issued prior to June 2013 were valid for five years.)

<sup>7</sup> The 88 employees include 47 educational directors, group teachers and assistant teachers; 11 teacher’s aides and substitutes; and 30 non-teaching staff.

**Table I**

Analysis to Determine Whether Personnel Files Contained Sufficient Evidence That Qualifications for Position Were Met

Child Care Center	Total No. of Selected Staff	Educational Director		Group Teacher		Assistant Teacher		All Selected Staff	
		Yes	No	Yes	No	Yes	No	Yes	No
HMH	3	1	---	1	---	1	---	3	---
BCC	4	---	1	1	1	---	1	1	3
TCCNY	9	1	---	1	3	3	1	5	4
LWDCC	4	1	---	1	---	2	---	4	---
Brightside Academy	11	1	---	2	3	4	1	7	4
All My Children	7	1	---	3	1	2	---	6	1
SIMHS	9	1	---	4	---	3	1	8	1
<b>Totals</b>	<b>47</b>	<b>6</b>	<b>1</b>	<b>13</b>	<b>8</b>	<b>15</b>	<b>4</b>	<b>34</b>	<b>13</b>

As shown in Table I, only two of the seven centers sampled (HMH and LWDCC) maintained evidence in the relevant personnel files that showed that all of the selected staff met the qualifications for the positions they were holding at the time of our visits.

Regarding the seven educational directors in our sample, one—who worked at BCC—did not have a current teacher certificate as required. As of the date of our visit to the center on January 19, 2017, that individual had been working as the educational director for almost five years with an expired certificate. (A center official informed us that as of January 18, 2018, the person no longer serves as the educational director for this center.)

Regarding the 21 group teachers, 3 of them did not have teaching certificates in early childhood education or, alternatively, evidence that they had 5 years of supervised experience in a pre-school program, and 5 of them did not have a bachelor’s degree in early childhood education or, alternatively, a study plan approved by an accredited college to obtain a bachelor’s degree.

Regarding the 19 assistant teachers, the centers could not show that 4 of them were qualified. Specifically:

- One did not have a current CDA certificate; the most recent certificate had expired 5½ months prior to the date of our January 31, 2017 visit to the center;
- One submitted a letter, dated October 20, 2016, which stated that the individual would obtain an associate’s degree in early childhood education by the fall of 2018, but the file had no evidence of enrollment;
- One had no evidence of attaining the required high school diploma or GED; and

- One, who worked at a Head Start center, had no evidence of the high school diploma, associate's degree in early childhood education, or valid CDA certificate that the assistant teacher stated on her resume that she had attained.

It is essential that ACS effectively monitor the child care centers to ensure that the staff working at the centers have sufficient knowledge, experience, and competence to fulfill their responsibilities.

#### *Some Teacher's Aides and Substitutes Lacked ACS-Required Credentials*

Neither the New York City Health Code nor the Head Start standards establish qualifications for teacher's aides or substitutes. ACS also has no formal procedures in this area; however, ACS officials stated that the agency requires teacher's aides and substitutes to meet the same qualifications as assistant teachers.

Our sample of 92 individuals included 5 teacher's aides and 6 substitutes. Our review of the documents the child care centers maintained for these 11 individuals revealed that 2 of the 5 teacher's aides and 3 of the 6 substitutes (5 of 11 in total) did not meet the qualifications as of the dates of our visits. For example, one individual had a bachelor's degree in biology rather than in early childhood education; the center's records for another contained no evidence of a CDA certificate, enrollment in a CDA certificate program, or enrollment in a program leading to an associate's or bachelor's degree in early childhood education.

#### *Administrative Directors Were Hired Without the Required Advance Approval from ACS, and Some Lacked Evidence of Meeting Position Requirements*

According to the *EarlyLearn NYC* contract, a contractor's hiring of an administrative director, the person responsible for overseeing the administrative functions of all of a contractor's child care centers,<sup>8</sup> must be approved by ACS in advance. However, notwithstanding the contract language, ECE's Assistant Commissioner of Program Management informed us that the advance-approval requirement applies only to an administrative director of a Head Start or Head Start/child care center, and it does not apply to an administrative director of an organization that only operates child care centers with no Head Start programs. If that is correct, the *EarlyLearn NYC* contract should be modified to clarify its applicability.

Of the seven *EarlyLearn NYC* child care centers we visited, we determined that four were Head Start or Head Start/child care centers that should have obtained ACS' approval before hiring an administrative director. A total of seven administrative directors requiring such advance approval worked at the four centers during the six months preceding our visits. We reviewed the relevant personnel documentation at ACS to determine whether all required documentation was present and whether ACS approved the hiring of the individuals in advance. We found no evidence that ACS approved the hiring—at any time—of five of the seven administrative directors, and we found that ACS approved the two remaining administrative directors after-the-fact. One of those two directors was hired on November 16, 2015 and approved by ACS 234 days later on July 7, 2016. (That individual was also hired before the agency received the DOI clearance on November 24, 2015.) The second director approved by ACS was promoted to director on August 1, 2014, with no evidence that the contractor even attempted to seek advance approval from ACS. ACS eventually approved the individual's appointment 55 days after-the-fact, on September 25, 2014.

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<sup>8</sup> In contrast, site directors generally only have administrative responsibility for one center.

According to ECE officials, the documentation that a contractor submits to ACS to establish the qualifications of a person that the contractor proposes for an administrative director position should include: a resume; three reference letters; a DOI clearance letter; a bachelor's degree diploma or college transcript, if applicable;<sup>9</sup> an approved Contractor Personnel Tracking (CPT) form (which details the individual's employment background and educational credentials and provides the dates of DOI and SCR clearance results); and a letter from a contractor's board of directors to ECE (known as a "sponsoring board letter") requesting approval of the appointment of a candidate and indicating a candidate's potential start date and salary. Collectively, this documentation is referred to by ECE as the "personnel package" for an administrative director. Five of the seven personnel packages were incomplete. Four of the five packages lacked one or more of the required documents (such as resumes, sponsoring board letters, and reference letters), and ACS informed us that the fifth package was unavailable.

ECE officials acknowledged that contractors do not always seek ACS approval before they hire administrative directors. In fact, ECE officials said that there have been instances where ACS rejected administrative directors whom the contractors had already hired. In those cases, the contractors had to provide proof that the directors had been removed from their positions. Because administrative directors are responsible for overseeing the administrative functions of all of a contractor's child care centers, it is important for ACS to approve the persons selected by its contractors for this key position.

## **DOI Clearance Letters for Certain Staff Were Unavailable or Were Received Late**

According to the *EarlyLearn NYC* contract, a child care contractor is required to arrange for the criminal screening of prospective personnel (both potential employees and volunteers who would have the potential for unsupervised contact with children) prior to their start dates. An ACS contractor operating a child care center must send each prospective employee and volunteer to DOI for such screening. An individual needs to be fingerprinted only once by DOI as long as he or she remains with the same child care center. If an individual transfers to another child care center and was fingerprinted on or after January 1, 1999, the new center is required to request from DOI a copy of the previous fingerprint result that is updated to reflect the individual's new work address. DOI refers to this updated copy as a "Duplicate" clearance letter. However, if an individual transfers to another child care center and was fingerprinted by DOI prior to January 1, 1999, he or she needs to be fingerprinted again for a new DOI clearance letter. In all cases, the center where the person is to work should obtain the DOI clearance letter by the time the individual starts working at that center.

### *Initial Appointments*

We found initial DOI clearances in the files for 90 of the 92 individuals in our sample. Of the two remaining individuals, one had been providing services at a child care center for three months without a DOI clearance as of February 10, 2017, the date of our visit to the center. For the other individual, the center, after our visit, provided a copy of the initial DOI clearance letter, which was dated March 10, 2004 and showed that the employee was convicted of attempted grand larceny in 2000 and sentenced to three years of probation. There was no document in the center's

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<sup>9</sup> According to §1302.91 of the *Head Start Program Performance Standards*, an administrative director of a Head Start or Head Start/child care center hired after November 7, 2016 must possess a bachelor's degree and have experience in the supervision of staff, fiscal management, and administration. If a director was hired prior to this date, the standards only required the individual to possess "skills and abilities in a management capacity relevant to human services program management."

personnel file for this employee that showed that the center was aware of and considered the conviction prior to hiring this individual.

Of the 13 employees who were initially hired on or after January 1, 2013 and were still working at the same centers as of the dates of our visits, we found that one initial DOI clearance letter was dated after the employee's date of hire.<sup>10</sup> This individual—a group teacher at the Brightside Academy—was hired on November 6, 2014, but the initial DOI clearance letter was dated December 11, 2014, 35 days later.

### *Transferred Employees*

Of the 92 sampled individuals, 58 were employees who transferred to the 7 child care centers we visited from positions with other *EarlyLearn NYC* child care centers or other organizations that required DOI clearances. Thus, the centers we visited were required to obtain “Duplicate” DOI clearance letters showing those employees' new work addresses. For 17 of those 58 transferred employees, there was no evidence of such “Duplicate” DOI clearance letters in the personnel files. After we so informed ACS, the centers provided such letters for 2 of the 17 employees. As of the dates of our visits to the centers, the remaining 15 employees had been working at the centers without “Duplicate” clearances for periods ranging from 80 days to more than 19 years and 9 months, and on average for over 2 years and 10 months.

Three other employees for whom there also were no “Duplicate” clearance letters (a group teacher, a teacher's aide, and a head cook at LWDC) had initially been fingerprinted by DOI prior to January 1, 1999. DOI requires child care centers to arrange for such individuals to be re-fingerprinted and re-cleared prior to transfer. However, there was no evidence in the personnel files at this center that these three employees had been re-fingerprinted and re-cleared.

Of the 32 employees who transferred on or after January 1, 2013 (the scope period for this test) and had “Duplicate” DOI clearance letters, the personnel files for 7 indicated that the “Duplicate” DOI clearance letters were obtained late (i.e., each employee's clearance letter was dated after the employee's start date). These letters were, on average, 69 days late, ranging from 1 to 153 days late.

Moreover, although the child care centers we visited had initial DOI clearances for almost all (90 out of 92) of the sampled individuals, we found that the individuals' work addresses on 28 (31 percent) of the individuals' most recent clearance letters were incorrect, including some addressed to other locations operated by the same contractor. It is important that the contractors ensure that the correct worksite addresses are shown on the DOI clearance letters so that any subsequent notifications of pending criminal charges and convictions that DOI receives for a fingerprinted employee or volunteer is sent directly to the center location where the individual works.

To protect the safety of the children, it is essential that ACS effectively monitor the child care centers to ensure that all individuals who are appointed or transferred to work at the centers have been properly screened by DOI prior to their start dates. Furthermore, to ensure that any pending-charge/conviction information that is received by DOI on child care center employees or volunteers is sent directly to their work locations, it is essential that the most recent DOI clearance or “Duplicate” letters at each center accurately reflect the employees' current work addresses.

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<sup>10</sup> The personnel file for an additional employee who was initially cleared in 2013 did not contain a document that clearly indicated the date of hire. Thus, we could not determine whether the clearance was obtained prior to the date of hire for this individual.

ACS and the centers can help to ensure this by examining the accuracy of the work addresses on the DOI clearance letters in the centers' personnel files.

## **Many of the Sampled Child Care Staff Did Not Complete Child Abuse and Maltreatment Awareness Training in a Timely Manner**

Our review of the centers' personnel files revealed that 6 of the 7 child care centers we visited failed to ensure that required child abuse and maltreatment awareness training was completed in a timely manner by 35 percent of their sampled staff members.<sup>11</sup> In addition, ACS was unable to provide any other documentation to show that these sampled staff members had in fact completed this training in a timely manner. We note that although the training was completed in an untimely manner by many of the sampled staff members, all of these individuals had received the required training at least once during the two and one-half years preceding our visits to these centers. Nonetheless, timely refresher training on this important topic is essential.

According to the *EarlyLearn NYC* contract, each child care contractor must comply with New York City Health Code §47.37, which requires that employees and volunteers who have the potential for unsupervised contact with children receive two hours of training (either online or in class) in child abuse and maltreatment awareness. During the audit scope period, personnel were to receive this training within six months of being appointed and every two years thereafter. Certificates of attendance are issued by the authorized training providers as evidence of the credits earned and the dates of the training.

We randomly sampled 62 individuals for evidence of compliance with this training requirement, of whom 60 (consisting of 56 members of the teaching staff and 4 site directors) were required to have received the training as of the date of our visit to their centers. The personnel files showed that all 60 had at least 1 training certificate, indicating that they had received some training. However, based on the records we obtained from the centers, we found that only 42 of the 60 had completed their required child abuse and maltreatment awareness training on time. Of the remaining 18 staff members, we were unable to determine whether 1 person completed the training on time based on the available records,<sup>12</sup> and the personnel files for the remaining 17 employees indicated the following instances of noncompliance:

- One did not complete the initial child abuse and maltreatment awareness training within 6 months of being appointed to the center, as required, but instead completed the training 99 days after this 6-month period.
- Fourteen did not complete their most recent child abuse and maltreatment awareness training within two years of their prior training, as required. For these employees, the training was completed late by periods that ranged from 10 days to over 1 year and 11 months (703 days), and was completed, on average, 152 days late.
- Two had no evidence of having completed the required child abuse and maltreatment awareness training within the two years prior to the date of our visit on January 31, 2017. According to the dates recorded on the latest training certificates in their files, they should

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<sup>11</sup> The training was completed in a timely manner by all 11 of the sampled staff members at the SIMHS child care center.

<sup>12</sup> The personnel file for this employee contained only one child abuse and maltreatment awareness training certificate, which was dated September 30, 2015 and was still valid as of our December 1, 2016 visit. However, because the file for this employee contained no previous child abuse and maltreatment awareness training certificates, we were unable to determine whether the September 30, 2015 training certificate was obtained within two years of the previous training certificate, as required. The employee had been subject to the training requirement for at least 10 years as of the date of our visit.



have repeated this training by no later than August 29, 2016. As of the date of our visit to their center (January 31, 2017), their training was 155 days overdue.

It is essential that ACS effectively monitor the child care centers to ensure that the personnel working at the centers are fully aware of their responsibilities concerning the safety of the children in regard to preventing, identifying, and reporting child abuse and maltreatment. As such, the required child abuse and maltreatment awareness training must be consistently completed in a timely manner.

We believe that the deficiencies identified above are due in large part to weaknesses in ACS' monitoring of the child care centers to ensure that they are properly screening their personnel. These weaknesses are discussed in further detail in the following sections of this report.

## Recommendations

1. ACS should develop formal guidelines for its contracted child care centers to follow concerning the qualifications for teacher's aides and substitutes.

**ACS Response:** "ACS accepts this recommendation and has developed formal, written guidelines.

Article 47 of the NYC Health Code articulates the qualifications required of child care program staff, as do the Federal Head Start Performance Standards. ACS contracted providers are also contractually obligated to follow these requirements. As part of its overall EarlyLearn program support, ACS' Division of Child and Family Well-Being (CFWB) [formerly the Division of Early Care and Education] has always provided support and technical assistance to ensure that programs retain staff with proper qualifications as required by regulation and contract.

Per the audit recommendation, CFWB has developed formal, written guidelines in line with those outlined by the DOHMH and the Head Start Program Performance Standards concerning the qualification of assistant teachers. These were distributed systemwide in January 2019. CFWB has also created a sample template for contract agencies to utilize that will assist them in organizing their individual personnel files. CFWB will discuss both the template and the formal guidelines at the EarlyLearn citywide meeting scheduled for February 15 and the Head Start meeting set for February 28, 2019."

**Auditor Comment:** We commend ACS for recognizing the need to develop formal guidelines for its *EarlyLearn NYC* contractors regarding the hiring of personnel. As a point of clarification, however, our recommendation does not relate to the qualifications of assistant teachers, but rather to the qualifications of teacher's aides and substitutes. The audit found that while neither the New York City Health Code nor the Head Start standards establish qualifications for teacher's aides or substitutes, ACS, nonetheless, requires these two positions to meet the same qualifications as assistant teachers. Therefore, ACS should ensure that the qualifications for teacher's aides and substitutes are clearly outlined in its new formal guidelines.

2. ACS should revise its *EarlyLearn NYC* contracts if the requirements pertaining to administrative directors do not apply to child-care-only centers.

**ACS Response:** “ACS accepts this recommendation in that every EarlyLearn contract includes standard language and an individualized budget; the budget identifies the model (Head Start, Head Start/ Child Care, or Child Care) contracted by ACS and the requirements pertaining to staff. CFWB gives providers appropriate guidance relating to the specified model and its requirements, therefore programs are aware of the requirements for their model type. CFWB will continue to work with programs to ensure that they have abided by the requirements for their model type and remind them that technical assistance is available whenever needed.”

**Auditor Comment:** The standard language in every *EarlyLearn NYC* contract states that the hiring of an administrative director must be approved by ACS in advance. This implies that the requirement pertains to all centers, irrespective of their model type (i.e., whether a center is child-care-only, Head Start, or Head Start/child care). However, the Assistant Commissioner of Program Management informed us that this requirement pertains only to Head Start and Head Start/child care centers, not to child-care-only centers.

In its response, ACS states that every *EarlyLearn NYC* contract includes an individualized budget that identifies the model type of the child care center and the “requirements pertaining to staff,” when in actuality neither the individualized budget nor the standard contract identifies staff requirements. Accordingly, we continue to urge ACS to revise its *EarlyLearn NYC* contracts if the requirements pertaining to administrative directors do not apply to child-care-only centers.

3. ACS should ensure that Head Start and Head Start/child care contractors do not hire administrative directors until they are determined by ACS to be qualified for the position.

**ACS Response:** “ACS accepts this recommendation. CFWB policy for Head Start and Dual [Head Start/child care] program agencies requires that CFWB review and approve candidates for the position of administrative director prior to hire.

Pursuant to the recommendation, CFWB has reissued the policy and is strengthening CFWB review. Effective immediately, the responsibility for review of the hire package will be elevated to a CFWB Team Leader which will strengthen the communication and oversight with their assigned agencies on this matter. In addition, CFWB will dedicate time at the above-referenced February 2019 EarlyLearn directors meeting to review the policy, clarify the steps and respond to questions or concerns. CFWB will further create a *Frequently Asked Questions* resource based on questions raised at the meeting; CFWB will distribute the FAQ information via e-blast in March 2019.”

4. ACS should ensure that the personnel packages it compiles, reviews, and retains for contractors’ administrative directors contain all of the required documentation to support the hiring of these individuals.

**ACS Response:** “ACS accepts this recommendation. CFWB agrees that our processes can be strengthened. CFWB staff manage the personnel packages from EarlyLearn agencies, creating individual files as part of its recordkeeping system and using documents to track missing documentation; CFWB has traditionally used the Contractor Personnel Tracking Form (CPTF) which is an easy-to-use ‘checklist’

for EarlyLearn agencies and CFWB staff to track and organize documents especially for new hires.

To reinforce this requirement, CFWB issued a systemwide reminder on January 10, 2019, reiterating contractor responsibility for submitting the necessary forms, e.g., the CPTF and related documentation, for all new hires immediately as well as the monthly staff vacancy report.

To strengthen tracking at ACS, CFWB developed a new internal checklist, the ‘Contractor HR Submissions Checklist.’ CFWB also held a refresher session for staff which discussed the personnel document process, including reminding staff of the importance of utilizing a checklist and of carefully documenting efforts to collect missing data using email contacts.”

**Auditor Comment:** While we are pleased that ACS has begun to strengthen its oversight of the contractors’ hiring practices and has developed a new internal checklist to track personnel documents submitted by the contractors, its response appears to address only the tracking of personnel documentation submitted by the contractors for newly-hired employees who do not need ACS’ advance approval. Conversely, our recommendation pertains to the personnel packages of administrative directors who do need ACS’ advance approval. As stated in the audit, the personnel packages of five of the seven administrative directors we examined were incomplete. Accordingly, we continue to urge ACS to adopt this recommendation regarding administrative directors.

## **Insufficient Controls over ACS’ Monitoring of *EarlyLearn* NYC Child Care Centers’ Personnel Screening**

As part of its on-going monitoring of *EarlyLearn* NYC child care centers, ECE is responsible for ensuring that all contractors notify it about any vacancies and all newly hired employees at their centers through the timely submission of required monthly Staff Vacancy Reports with attached Contractor Personnel Tracking forms, DOI clearance letters, and hire letters, as applicable.

Our review found that ACS does not have adequate controls over the process of tracking and reviewing personnel documentation submitted by *EarlyLearn* NYC child care centers. As a result, ACS cannot effectively ensure that the contractors are in compliance with their contracts and with applicable statutes and regulations.

### **Weaknesses in the Tracking of the Required Submission of Personnel Documentation**

As detailed below, ACS is currently attempting, unsuccessfully, to track the personnel changes of the *EarlyLearn* NYC contractors and child care centers by using a paper filing system, because the program has outgrown—and ACS has been unable to successfully update—the electronic system the agency had in place.

From the inception of the *EarlyLearn* NYC program, which launched in October 2012, to about August 2017, ECE used the Employee Tracking Application (ETA)<sup>13</sup> computer system to record,

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<sup>13</sup> The Employee Tracking Application had formerly been known as the Head Start Employee Tracking System.

track, and monitor the vacancy and new hire information that *EarlyLearn NYC* contractors are required to submit to ACS on a monthly basis.

Prior to the *EarlyLearn NYC* program, ACS contracted only with Head Start programs for day care services. Once the *EarlyLearn NYC* program began in October 2012, ACS expanded its child care efforts to include contracts with other categories of child care providers. As a result, the ETA system needed to be updated to include information on these contractors and their associated centers.

However, more than four years after the initiation of the *EarlyLearn NYC* program, the update had not been completed. In January 2017, we asked ACS for complete lists of the *EarlyLearn NYC* program's contractors, child care centers, and personnel. However, ACS told us that our request could not be fulfilled in its entirety until the ETA system had been completely updated. ACS was able to provide us with information on only 59 (40 percent) of its 149 contractors operating child care centers as of December 2016.

In August 2017, ACS officials told us that the ETA system was no longer adequately serving their needs and that the agency would instead create a "manual system" to track the documentation submitted by the contractors. The documentation submitted by contractors is maintained in filing cabinets and organized alphabetically by contractor name. However, we found no evidence that ECE has developed a system to track the contractors' submissions to be stored in these cabinets. Without an adequate tracking mechanism, such as the use of checklists, ACS cannot effectively determine whether *EarlyLearn NYC* contractors are submitting required personnel documentation on an ongoing basis.

For the seven sampled contractors we visited, we reviewed ECE's contractor files and determined whether ECE received SVRs that identified the 24 employees hired during the 6 months preceding our visits, along with the required supporting documentation. We initially found that contractors did not report the hiring of 21 (88 percent) of the 24 new hires to ACS on SVRs, as a result of failures to submit the SVRs or to submit complete SVRs.<sup>14</sup> We informed ACS officials about this matter. They subsequently provided us with additional SVRs, but these SVRs only showed the hiring for 2 of the 21 new hires. ACS was still unable to provide SVRs from the contractors that reported the hiring for the remaining 19 new hires. Additionally, we initially found that none of the required supporting documentation was available in ECE's contractor files for 18 (75 percent) of the 24 new hires, and only some of the required documentation was available for 2 of them. All of the required documents were present in the files for only 4 (17 percent) of the new hires. ACS subsequently provided us with all of the required supporting documentation for 2 of the 18 new hires, but was still unable to provide any documentation for the remaining 16 new hires. Even in the few instances in which ACS was able to subsequently provide us with the lacking SVRs or required supporting documentation, this information should have been readily available in the contractors' files in the first place.

To further assess whether ECE had evidence that contractors submitted documentation as required, we randomly selected another 20 contractors and reviewed ECE's contractor files to determine whether required monthly SVRs and supporting documents were submitted during the 6-month period of April through September 2017. For 17 (85 percent) of the 20 contractors, there was no evidence that *any* SVRs had been submitted to ACS during those 6 months. For each of the remaining three contractors, only one of the six required monthly SVRs was present in the

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<sup>14</sup> The SVRs should include, among other things, DOI and SCR clearance dates.

files—that for April 2017. We also found a significant number of instances in which other required documentation (e.g., CPT forms, hire letters) were not present in the contractors' files.

In one case, ACS stated that a contractor had emailed its SVRs and CPT forms to an ECE official who had been on extended leave. As a result, the documentation apparently remained only in her possession without anyone else in ACS being aware that it had been received.

In addition, we found that the paper files were not properly organized. Among other things, we found instances in which documents (such as CPT forms) pertaining to certain contractors were misplaced in other contractors' files, making it even more difficult for ACS to effectively track the required submission of these documents.

## **ACS Site Visit Reports Do Not Adequately Document Contractor Compliance with Personnel Screening Standards**

ECE is responsible for conducting site visits to the *EarlyLearn NYC* child care centers to determine whether: (1) all teaching staff meet the qualifications required by New York City Health Code §47.13; (2) all staff comply with clearance requirements;<sup>15</sup> and (3) all teaching staff meet training requirements.

To carry out this responsibility, ECE has seven monitoring teams, each consisting of a team leader and approximately five program specialists. Each team oversees and conducts site visits to between 50 and 60 *EarlyLearn NYC* child care centers, although ACS has not developed a written policy or guidelines to establish how frequently each center should be visited. The results of these visits are recorded on a paper site visit report called the ECE Program Report. Of relevance to this audit, the report includes a Human Resource File Review checklist, also known as Attachment K. That checklist is a 1-page form that included up to 25 fields corresponding to items that the visiting ECE staff members are supposed to check in the centers' personnel files. Each completed site visit report should be approved by a supervisor (i.e., by a team leader, if a program specialist completed the report, or by the Assistant Commissioner of Program Development, if a team leader completed the report).

We reviewed 151 site visit reports that required Attachment Ks, which were associated with a sample of 42 sites and covered the 18-month period of March 29, 2016 through October 3, 2017.<sup>16</sup> Our review found that only 35 (23 percent) of the 151 reports contained complete and accurate Attachment Ks. Of the remaining 116 reports, the breakdown is as follows:

- 93 Attachment Ks (62 percent) were incomplete.<sup>17</sup> Of this group, on average, about 5 of the 22 fields we reviewed were left blank, including whether the child abuse and maltreatment awareness training was completed in a timely manner and whether

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<sup>15</sup> Despite the OCFS decision discussed in the Background section of this report that effectively ended ACS' direct access to *EarlyLearn NYC* contract staff's SCR clearances, ACS can still obtain information from the centers about whether and when their personnel received them. However, because ACS cannot review the clearance letters themselves, its ability to independently verify the centers' representations has been negated. In contrast, ACS has continuing authority to fully monitor the centers' compliance with other screening requirements, such as those concerning DOI clearances.

<sup>16</sup> Site visits conducted in anticipation of a DOHMH permit renewal inspection do not require the completion of an Attachment K, as was the case for 6 of the 157 site visit reports ECE prepared for the 42 sampled sites during our test period.

<sup>17</sup> For our completeness test, we checked whether ECE provided responses for 22 of the 25 fields, or 21 of 24 fields on earlier versions, of the sampled Attachment Ks. We checked fields that related to areas such as the child care staff's background clearances and training and excluded from our analysis three fields that contained purely administrative information. Where we found a blank field for at least 1 of the 21 or 22 fields we reviewed, we considered the Attachment K incomplete.

employees were hired after they received DOI and SCR clearances. In addition, 30 of the 93 incomplete Attachment Ks were inaccurate.

- 10 site visit reports (7 percent) lacked Attachment Ks. Instead, for 9 of these 10 reports, the program specialists documented their personnel file reviews in narrative form in the Summary of Review section of the report. The narratives noted deficiencies that ECE program specialists found but often did not identify the other areas that were reviewed.
- 13 Attachment Ks (9 percent) were complete, in that the required fields were filled out, but done so inaccurately.<sup>18</sup> For example, an ECE program specialist reported that an individual working at one of the child care centers had received the initial child abuse and maltreatment awareness training more than 11 months after hire, but the specialist also inconsistently—and incorrectly—responded “yes” to the field for indicating whether the individual’s initial training was completed within 6 months of hire.

In addition, although ACS procedures require ECE staff to review the documentation present for all new staff of the child care centers during site visits, we found that the ECE monitoring team had reviewed the records of only 4 (17 percent) of the 24 new staff members that the 7 sampled child care centers had hired during the 6-month periods preceding our visits to those centers. This finding is based on our review of the Attachment Ks and the Summary of Review sections of the site visit reports that ECE staff prepared during the relevant six-month periods preceding our visits and up to seven months after the date of our last visit to the centers.

To help ensure that the staff who are responsible for teaching and taking care of the children at ACS-contracted *EarlyLearn NYC* child care centers are appropriately qualified, it is necessary that ACS staff visiting those centers accurately complete their site visit reports regarding the contractors’ personnel screening efforts.

ACS has also not established any written guidelines regarding how often the monitoring teams should visit *EarlyLearn NYC* child care centers to review their personnel files. As a result, the frequency of visiting the sites has been inconsistent among the ECE teams. During the 18-month period of March 29, 2016 through October 3, 2017, the number of visits ECE conducted to each of the 42 sites ranged from 1 to as many as 8, with an average of 4 visits per site. Three of the sites had been visited only one time, and seven of the sites had been visited only twice. ECE officials stated that the more problematic sites are likely to be visited more often, but ACS provided no evidence to demonstrate that it schedules the site visits based on the number and severity of the deficiencies found at the centers.

Of the 157 reports relating to site visits conducted between March 29, 2016 and October 3, 2017, 82 of them identified 216 non-compliance issues<sup>19</sup> and contained 310 fields (on the Attachment Ks) that were left blank by program specialists. In an August 3, 2018 email, we asked ECE to provide us with evidence that these 526 matters (i.e., the 216 non-compliance issues and the 310 blank fields) had been followed up on or explained. In response, ECE provided us with adequate supporting documentation or explanations addressing 463 (88 percent) of the 526 matters,

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<sup>18</sup> For our accuracy test, we checked three key fields reflecting: (1) whether the hire date was after the DOI clearance; (2) whether the hire date was after the SCR clearance; and (3) whether the child abuse and maltreatment awareness training was completed within six months of the hire date. If we found that ECE’s responses to at least one of these three fields contradicted the corresponding facts ECE recorded on the Attachment K, such as the specific dates of the relevant clearances, training, and hiring, we considered the Attachment K inaccurate.

<sup>19</sup> For purposes of our analysis, we considered a non-compliance issue to be a field on an Attachment K that the program specialist responded to with a “no”. Non-compliance issues indicated in the narrative sections of the reports were also included.

including 58 matters that were addressed shortly after the date of our email request. The breakdown for the remaining 63 matters (526 – 463) is as follows:

- For 7 matters, ECE provided either no evidence or inadequate evidence of follow-up.
- For 17 matters, ECE reported that they were “planned for agency follow up.”
- For 39 matters, ECE stated that there was no need for follow-up because ECE concluded that its program specialists had not cited them as instances of non-compliance. However, we question ECE’s conclusion because in these cases ECE’s program specialists had recorded responses to fields in the Attachment Ks that indicated the child care centers’ non-compliance with specific requirements.

As noted in the background section of this report, ACS procedures call for certain key information that ECE’s program specialists record on the site visit report, including attachments, to be entered into ACS’ electronic compliance-tracking system (ACTS). That key information includes the date of the site visit, the contractor’s name, the ECE official(s) conducting the visit, the files they reviewed, any persons they interviewed at the sites, and their compliance determinations, including the applicable codes when noncompliance was found. ACS designed ACTS to allow management, as well as ECE team leaders and program specialists, to track open findings, monitor progress toward their resolution, and identify the centers’ needs for additional technical assistance and training from ACS. ACTS also has a feature for a higher-level official, specifically, a team leader or the Assistant Commissioner of Program Development, to approve the recording of site visit report information in the system.

We found that 145 (92 percent) of the 157 site visit reports we reviewed were recorded in ACTS, but that *none* of them had been approved in ACTS by a supervisor as required. Although many of the paper versions of the reports were approved by a supervisor, the lack of review of that information in ACTS could limit the usefulness of the electronic recordkeeping system by leaving the reliability of the site-visit information it contains open to question.

In addition, ACS has not established a guideline for how long it should take the responsible staff members to enter site visit information into ACTS. As a result, we found significant variances in lag time between site visit and ACTS-entry, which for the 145 reports in our sample ranged from 1 to 125 days, with 21 reports having been entered more than 30 days after they were prepared. The lack of timely information in ACTS limits ACS’ ability to effectively follow up on the resolution of deficiencies.

## **Lack of Written Policies and Procedures**

ACS has not developed written policies and procedures for the *EarlyLearn NYC* contractors to follow to properly screen their personnel. ACS officials contended that the *EarlyLearn NYC* contracts themselves adequately guide the screening process. They also stated that they periodically send out “email blasts” to the contractors informing them of certain updates relative to the screening of personnel. However, the contracts and emails provide only limited guidance to the contractors. For example, they do not discuss the need for “Duplicate” clearance letters from DOI for staff members who change work locations after their initial clearances, or the need for such staff members whose clearances were based on fingerprints taken before January 1, 1999 to be re-fingerprinted. In addition, the contracts and emails do not identify the documents that contractors must submit in order for ACS to approve the hiring of an administrative director. Comprehensive written policies and procedures that formally identify contractors’ responsibilities

in relation to the screening of personnel would help to ensure that all *EarlyLearn NYC* contractors fully understand their responsibilities in this area.

ACS has also not developed adequate written policies and procedures to guide ECE staff's monitoring of the *EarlyLearn NYC* contractors' personnel screening efforts. Specifically, ACS' policies and procedures do not state how ECE staff should review the monthly SVRs and the attached documentation that contractors are required to submit or how ACS' ECE monitoring teams should use SVR information, along with prior site visit reports, to plan and conduct future site visits.

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In summary, our review of the personnel files at seven *EarlyLearn NYC* child care centers and of SVRs and site visit reports at the ACS office revealed a number of deficiencies that limit ACS' ability to ensure that the individuals teaching, caring for, or working in the presence of young children at the centers are properly qualified, cleared, and trained for that work. Specifically, the child care centers' files and ACS' records contained insufficient evidence to indicate that (1) persons in teaching-related positions at the child care centers consistently met the qualifications for those positions; (2) required ACS approvals were consistently obtained prior to child care organizations' hiring administrative directors; (3) required DOI clearances (including initial and "Duplicate" clearance letters), along with a re-fingerprinting and a re-clearance when applicable, were consistently obtained in a timely manner and showed the correct work addresses; and (4) required child abuse and maltreatment awareness training was consistently completed in a timely manner. We believe that the monitoring weaknesses discussed above limit ACS' ability to ensure that the contractors are in compliance with their contracts and with applicable statutes and regulations. Without an adequate process for collecting, reviewing and storing information from contractors regarding vacancies and new hires, ACS is hindered in its ability to effectively monitor its contractors' screening of personnel. Additionally, without an enhanced effort to ensure the accuracy and completeness of site visit reports and to effectively follow up on the weaknesses identified during the site visits, the risks are increased that some deficiencies will not be identified and those that are will not be addressed promptly.

## Recommendations

5. ACS should develop mechanisms, such as checklists, to more effectively track and organize its contractors' submissions of documentation concerning vacancies and new hires to ensure that it is aware of all new hires and that the new hires fulfill the requirements for their new positions.

**ACS Response:** "ACS accepts this recommendation.

As described above, to further reinforce and strengthen tracking, per the audit recommendation, CFWB added a new checklist for staff use, effective January 2019 -the 'Contractor HR Submissions Checklist.' This checklist is designed to track whether the package submitted was complete or incomplete, completed accurately or had missing information. CFWB staff will use the checklist to follow up with contract agencies that owe documentation.

CFWB has a policy in place regarding contractor responsibility for submitting forms and related vacancy and new hire documentation. CFWB issued a reminder to



contractors on January 10, 2019, reiterating contractor responsibility for immediately submitting the necessary forms, e.g., CPTF and related documentation, to ACS for all new hires, as well as the monthly staff vacancy report.”

6. ACS should require contractors, when submitting personnel documentation, to send the information to a central repository to help ensure that the ECE unit is aware of its receipt and appropriately reviews and files it.

**ACS Response:** “ACS accepts this recommendation. A central repository . . . has been in place for several years with CFWB staff assigned to review documents, and CFWB will increase the number of staff monitoring the mailbox and reviewing the materials, in order to ensure that this happens in a timely fashion.”

**Auditor Comment:** We commend ACS for increasing the number of staff monitoring the central repository. However, our concern is that even if a central repository has been in place for several years, as ACS indicates in its response, we found that contractors were not consistently using it to submit their documentation. Therefore, we urge ACS to reinforce with contractors the need to use the central repository when they submit personnel documentation to ACS.

7. ACS should ensure that it reviews the contractor’s screening of all new hires (and of a sample of all other staff) during its site visits.

**ACS Response:** “ACS accepts this recommendation. CFWB staff who conduct site visits are trained regarding reporting expectations. On January 7, 2019, CFWB reinforced with monitoring staff that personnel file reviews must include review of at least one new staff member on each visit. CFWB has also reinforced that quality checks must be part of the supervisory conferences held with managers.”

**Auditor Comment:** In its response, ACS states that it has reinforced with its monitoring staff the need to review personnel files of “at least one new staff member” during each site visit. However, this contradicts ACS’ own procedures, which require ACS staff to review personnel documentation for all new staff during each site visit. The audit found that the monitoring staff had reviewed the records of only 4 of the 24 new staff members that the 7 sampled child care centers had hired during the 6-month periods preceding our visits to those centers. Therefore, we urge ACS to implement this recommendation and ensure that its monitoring staff review the files of all new hires (and of a sample of all other staff) during its site visits.

8. ACS should enhance its monitoring of site visits to ensure that the information required to be contained in the site visit reports (such as the Attachment Ks) is accurate and complete.

**ACS Response:** “ACS accepts this recommendation. As discussed above in #7, CFWB staff who conduct site visits are trained regarding reporting expectations. On January 7, 2019, CFWB managers were informed that they were to increase their attention to the site visit review process and to ensure that reports were placed in the master file within [a] specified timeframe. In addition, CFWB is reviewing its monitoring documents and revising as needed. On January 7, 2019, CFWB has

reinforced that quality checks must be part of the supervisory conferences held with managers.”

9. ACS should ensure that non-compliance issues noted during its site visits are followed up on and resolved in a timely manner and that its files adequately document the resolution of these issues.

**ACS Response:** “ACS accepts this recommendation. CFWB seeks to ensure robust monitoring and oversight by CFWB staff who will also conduct prompt follow-up of any non-compliance identified. In order to reinforce the importance of timeliness in this regard, CFWB developed a protocol for CFWB staff, ‘Recordkeeping & Ongoing Follow Up’ that includes a policy statement on the expected quality of reports as well as a detailed outline of the recordkeeping process beginning with the program development specialist and ending with quality assurance reviews by supervisory staff. CFWB introduced and issued the notice to staff on January 7, 2019 and followed up with further instructions in February 2019.”

10. ACS should monitor the recording of information in ACTS more closely to ensure that site visit information is recorded in a timely manner and that it is reviewed and approved by the team leaders or the Assistant Commissioner of Program Development.

**ACS Response:** “ACS accepts this recommendation. CFWB has guidance in place regarding recording information in ACTS. To improve the timeliness of this work, CFWB is developing a schedule-protocol to ensure that site visit information is recorded and reviewed in ACTS in a timely manner. CFWB will implement the protocol in February 2019.”

11. ACS should supplement the guidance provided by the contract by developing written policies and procedures for the *EarlyLearn NYC* contractors to follow in relation to the screening and hiring of personnel and the submission of related documents to ACS.

**ACS Response:** “ACS accepts this recommendation. CFWB has policies related to screening and hiring of personnel, as required by NYC DOHMH and Federal Head Start in place. Per the audit recommendation, CFWB developed formal policies and procedures for EarlyLearn NYC contractors regarding screening and hiring of personnel and the submission of required documents to CFWB. These were distributed in January 2019 and will be discussed at the February 28, 2019 EarlyLearn citywide directors meeting.”

12. ACS should improve the guidance it provides to its own staff by developing written policies and procedures to clarify their responsibility regarding their review of monthly SVRs and the attached supporting documentation, how this information, along with previous site visit reports, should be used to plan and conduct subsequent site visits, and how long it should take for site visit information to be entered into ACTS.

**ACS Response:** “ACS accepts this recommendation. Although staff has been trained by CFWB regarding their review of provider documentation, CFWB will also provide a written policy and procedure to staff that will inform and guide their work in February 2019. CFWB has assigned an analyst to review, track and respond to staff vacancy reports from agencies. The analyst will also share the information so that field staff are aware of any issues or concerns.”

## Many Required SCR Clearances Not Obtained Timely and Some Not Obtained at All

Our review of the SCR-clearance status of the 161 individuals (155 employees and 6 volunteers) who were working at the sampled child care centers on the dates of our visits to those centers revealed that the centers had obtained the most recently required SCR clearance in an untimely manner for 56 (35 percent) of them. For an additional seven individuals (three employees and four volunteers), there was no evidence that the most recently required clearance had been obtained at all.

As noted earlier in this report, New York City Health Code §47.19 requires that all child care center employees and volunteers undergo an SCR clearance review prior to being appointed and every two years thereafter.

As also noted earlier, during the period we were conducting this audit, OCFS determined that ACS is not allowed by New York Social Services Law §422(4)(A) to receive or review SCR clearances for child care personnel, notwithstanding ACS' central role in contracting with the child care centers for the provision of services to thousands of children. Thus, we altered our audit scope. Specifically, while we continued this audit of ACS' monitoring of the screening of personnel by contracted child care centers in relation to other requirements, including DOI-clearance and applicable training, education, and experience standards, we decided, given ACS' inability to review the SCR clearances of child care center personnel, to initiate audits of a sample of seven *EarlyLearn NYC* child care centers to determine their compliance with the SCR-clearance requirements. We issued public reports on these seven audits between June 20, 2017, and May 14, 2018, providing copies to the management of the child care centers and to ACS.<sup>20</sup>

As noted above, we found that the centers had obtained the most recently required SCR clearance in an untimely manner for 56 (35 percent) of the staff members who were working at the centers on the dates of our visits. For an additional seven individuals (three employees and four volunteers), there was no evidence that the most recently required clearance had been obtained at all; consisting of four renewal clearances and three initial clearances. The breakdown per center is shown in Table II below.

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<sup>20</sup> The audit reports are as follows: (1) *Audit Report on the Hamilton-Madison House Child Care Center's Screening of Personnel through the Statewide Central Register of Child Abuse and Maltreatment* (ME17-114A, issued June 20, 2017); (2) *Audit Report on the Brooklyn Kindergarten Society's Screening of Personnel through the Statewide Central Register of Child Abuse and Maltreatment* (ME17-115A, issued June 21, 2017); (3) *Audit Report on The Child Center of New York's Screening of Personnel through the Statewide Central Register of Child Abuse and Maltreatment* (ME17-121A, issued June 23, 2017); (4) *Audit Report on the Educational Alliance's Screening of Personnel through the Statewide Central Register of Child Abuse and Maltreatment* (ME17-118A, issued October 3, 2017); (5) *Audit Report on the Brightside Academy's Screening of Personnel through the Statewide Central Register of Child Abuse and Maltreatment* (ME17-119A, issued January 8, 2018); (6) *Audit Report on the All My Children Daycare and Nursery School's Screening of Personnel through the Statewide Central Register of Child Abuse and Maltreatment* (ME17-120A, issued March 20, 2018); and (7) *Audit Report on the Staten Island Mental Health Society's Screening of Personnel through the Statewide Central Register of Child Abuse and Maltreatment* (ME17-122A, issued May 14, 2018).

**Table II****Timeliness of Most Recently Required SCR Clearances for  
Personnel of the Seven Child Care Centers**

Child Care Center	Category	Total Number of Employees and Volunteers	Initial or Renewal SCR Clearance Obtained Timely	Initial or Renewal SCR Clearance Obtained Late	Unable to Determine Whether SCR Clearance Obtained Timely	Initial or Renewal SCR Clearance Not Obtained
All My Children	Began within previous two years	18	17	1	---	---
	Worked/volunteered two or more years	7	6	1	---	---
<b>All My Children Total</b>		<b>25</b>	<b>23</b>	<b>2</b>	<b>---</b>	<b>---</b>
BCC	Began within previous two years	9	7	1	---	1
	Worked/volunteered two or more years	10	6	4	---	---
<b>BCC Total</b>		<b>19</b>	<b>13</b>	<b>5</b>	<b>---</b>	<b>1</b>
Brightside Academy	Began within previous two years	16	16	---	---	---
	Worked/volunteered two or more years	7	3	4	---	---
<b>Brightside Academy Total</b>		<b>23</b>	<b>19</b>	<b>4</b>	<b>---</b>	<b>---</b>
HMH	Began within previous two years	2	1	1	---	---
	Worked/volunteered two or more years	6	1	4	---	1
<b>HMH Total</b>		<b>8</b>	<b>2</b>	<b>5</b>	<b>---</b>	<b>1</b>
LWDCC	Began within previous two years	4	3	1	---	---
	Cannot determine when individual began	1	---	---	---	1
	Worked/volunteered two or more years	9	---	8	---	1
<b>LWDCC Total</b>		<b>14</b>	<b>3</b>	<b>9</b>	<b>---</b>	<b>2</b>
SIMHS	Began within previous two years	5	4	---	---	1
	Cannot determine when individual began	5	2	1	1	1
	Worked/volunteered two or more years	25	15	8	1	1
<b>SIMHS Total</b>		<b>35</b>	<b>21</b>	<b>9</b>	<b>2</b>	<b>3</b>
TCCNY	Began within previous two years	14	14	---	---	---
	Worked/volunteered two or more years	23	1	22	---	---
<b>TCCNY Total</b>		<b>37</b>	<b>15</b>	<b>22</b>	<b>---</b>	<b>---</b>
<b>Grand Total</b>		<b>161</b>	<b>96</b>	<b>56</b>	<b>2</b>	<b>7</b>

As shown in Table II, for the personnel we observed, All My Children and Brightside Academy had obtained the most recently required SCR clearances on time for 23 (92 percent) out of 25 and 19 (83 percent) out of 23 individuals, respectively, who were working on the dates of our visit. Conversely, LWDCC and HMH obtained the most recently required clearance for only 3 (21 percent) out of 14 and 2 (25 percent) out of 8 individuals, respectively, who were working on the dates of our visits.

In addition, HMH did not maintain the SCR clearance letter for an itinerant special education teacher employed by a Department of Education contractor to work at the center. The contractor subsequently provided us with a copy of the required SCR clearance letter.

The audits also found that five of the seven centers did not consistently maintain appointment letters for their personnel. Appointment letters for employees and volunteers are important

because without such documentation clearly stating a date of hire, it is difficult for management or an independent reviewer, such as a DOHMH licensing inspector, to determine whether an employee's or volunteer's start date preceded the SCR clearance date. Finally, the audits found that six of the seven centers did not consistently ensure that the work locations indicated on their personnel's most recent SCR clearance letters were accurate. Doing so is important so that any allegations that are received by the SCR on center employees or volunteers are sent directly to their work locations.

Although DOHMH continues to review child care centers' compliance with SCR requirements for licensing purposes, until shortly after this audit commenced, ACS was also able (prior to the OCFS decision) to identify employees who did not have the required SCR clearances. Considering the SCR compliance issues summarized above, we are concerned that ACS has lost its ability to monitor a key aspect of its child care contracts. While OCFS's recent decision to prohibit ACS from viewing information related to child care employees' SCR clearances was based on OCFS's recent interpretation of State law, the potential harm to children and liability to the City suggests that ACS should advocate for either a change in OCFS's determination or in the governing law that would allow ACS to have the same authority as its contractors to review SCR compliance letters relating to *EarlyLearn NYC* child care center personnel.

## Recommendation

13. ACS should consider either directly, or through the Mayor's Office, requesting that OCFS revisit its determination that ACS is not allowed under New York Social Services law to review SCR clearance letters. If OCFS reaffirms this decision, ACS should consider proposing legislation amending the Social Services Law that would clearly allow ACS to have the same authority as its contractors to review SCR compliance letters relating to *EarlyLearn NYC* child care center personnel.

**ACS Response:** "ACS will request that OCFS revisit its determination that ACS be allowed to review SCR clearances, for as long as these contracted programs are under ACS' jurisdiction as the contracting agency. If OCFS does not approve this, ACS will consider lobbying for an amendment of the Social Services Law in order to permit the wider review of SCR clearance letters."

## DETAILED SCOPE AND METHODOLOGY

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective. This audit was conducted in accordance with the audit responsibilities of the City Comptroller as set forth in Chapter 5, §93, of the City Charter.

The primary scope of this audit covers the period from July 1, 2015 through December 31, 2017. For the audit test of whether employees or volunteers at the seven centers we visited were cleared by DOI prior to their start dates, we reviewed the appointments of personnel on or after January 1, 2013.

To obtain an understanding of ACS' responsibilities and regulations governing the monitoring of *EarlyLearn NYC* child care centers, particularly as it relates to the screening of personnel at the centers, we reviewed and used as our audit criteria the following:

- Title 21, Chapter 1, §21-119, of the New York City Administrative Code, which governs the screening of child care services personnel by entities under contract with the City;
- Article 47 of the New York City Health Code, focusing our review on: §47.13, §47.19, and §47.37;
- The *Intra-City Agreement* between DOHMH, ACS, and DOI, which establishes that City-contracted child care centers must send prospective personnel to DOI for the screening of criminal convictions and pending criminal actions. In addition, we reviewed DOI's website to familiarize ourselves with DOI's Fingerprint Unit;
- The *Intra-City Agreement* between DOHMH and ACS, which establishes the process for sharing information on *EarlyLearn NYC* child care centers;
- The *Head Start Program Performance Standards*, which establishes the education, health, and nutrition requirements for child care services receiving federal Head Start funds, focusing our review on §1302.91;<sup>21</sup> and
- A sample of an *Agreement for the Purchase of EarlyLearn Services* (also known as the *EarlyLearn NYC* contract).

In addition, we reviewed several ACS documents, including the *ACS Division of Early Care & Education* and an ECE organization chart. We also reviewed the following informational and instructional materials available to the general public regarding the *EarlyLearn NYC* services provided by ACS, including Mayor's Management Reports for Fiscal Years 2016 and 2017 and various documents obtained from the ACS website, including the documents entitled, *ACS Divisions*, *ACS Child Care Options*, *Eligibility*, and *Child Care Services for Eligible Families*.

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<sup>21</sup> The *Head Start Program Performance Standards* were revised in September 2016, which was the first comprehensive revision of the standards since they were originally published in 1975. §1302.91 of the revised standards pertains to employees hired after November 7, 2016. As part of our audit criteria, we also reviewed the former standards, focusing our attention on §1304.52, which outlines the human resource requirements.

We also reviewed various guides used by ECE staff while performing their monitoring and technical assistance activities at the child care centers, including ECE's Program Report (site visit report) and ECE's Human Resource File Review checklist (also known as Attachment K).

In addition, we reviewed the following documentation that *EarlyLearn NYC* contractors are required to submit to ACS: SVRs, which are to be submitted on a monthly basis to ACS, and CPT forms, which are to be submitted for each new hire indicated on an SVR.

To familiarize ourselves with the ACS Agency Compliance Tracking System and its various features and functions as they relate to the monitoring of the screening of personnel at contracted child care centers, we reviewed the ACS *Program Report & ACTS* manual dated October 2017. We also observed a demonstration of ACTS by an ECE team leader.

In addition, we observed a demonstration of the Employee Tracking Application system by ECE's Computer System Manager and reviewed a related manual. This system was in place during part of our audit to track and monitor the documents submitted by contractors regarding new hires, including the DOI and SCR clearances, and educational credential documentation. However, in August 2017, ACS informed us that it no longer used ETA.

To gain a general understanding of the responsibilities of ECE officials and the controls in place in relation to the monitoring of the screening of personnel by contracted child care centers, we interviewed ECE's Associate Commissioner of Programs; Assistant Commissioner of Program Management; Assistant Commissioner of Program Development; Computer System Manager; five team leaders; a personnel specialist and a program specialist.

In addition, we interviewed officials from ACS' Division of Child and Family Well-Being, including the Deputy Director and Director of Training, and the Administrative Liaison, to gain an understanding of the ACS training that is provided to directors of child center contractors to assist them in handling their responsibilities.

We also reviewed an ACS dataset provided on October 21, 2016 that contained a total of 155 *EarlyLearn NYC* contractors that operated 400 child care centers throughout the 5 boroughs during Fiscal Year 2016, and an ACS dataset provided on January 10, 2017 that contained information about the 30 family child care networks of home-based (rather than center-based) child care services as of that date. As part of our review of the datasets, we conducted various data reliability tests to check for questionable entries, including duplicates, blank fields, and clearly anomalous information.

We used the October 21, 2016 dataset to randomly select a sample of four *EarlyLearn NYC* child care centers with ACS contracts: (1) HMH located at 253 South Street in Manhattan; (2) BCC located at 250 Ralph Avenue in Brooklyn; (3) TCCNY located at 34-10 108<sup>th</sup> Street in Queens; and (4) LWDCC located at 34 Avenue D in Manhattan. We also judgmentally selected from this dataset (5) SIMHS located at 16 Osgood Avenue in Staten Island and (6) Brightside Academy located at 331 East 150<sup>th</sup> Street in the Bronx. In addition, we used the January 10, 2017 dataset on the 30 family child care networks of home-based child care services to randomly select a 7<sup>th</sup> *EarlyLearn NYC* child care center with an ACS contract: (7) All My Children located at 317 Rogers Avenue in Brooklyn, which provided *EarlyLearn NYC* child care center services and operated a separate family child care network of home-based services under the same contract with ACS.

During the period December 1, 2016 through March 10, 2017, we conducted unannounced visits to each of the seven centers and interviewed center officials, including educational and site directors, to obtain an understanding of their responsibilities as *EarlyLearn NYC* contractors. We

determined that there were a total of 162 individuals who were employed by, volunteering at, or providing itinerant special education services at the 7 centers on the dates of our visits and who had the potential for unsupervised contact with children.<sup>22</sup> At each of the centers, we collected documentation from the personnel files to determine whether contractors were in compliance with their contracts and applicable statutes and regulations.

Specifically, we randomly selected 92 staff (58 teaching staff and 34 non-teaching staff) of the 162 individuals at the 7 centers to review whether their personnel files contained evidence that the individuals received the appropriate DOI clearances before they were hired at the centers. For any individuals who were transferred to the seven centers from other *EarlyLearn NYC* child care centers or from other types of organizations also requiring DOI clearances, we determined whether the centers obtained “Duplicate” DOI clearance letters indicating the new work addresses for the individuals, as required by DOI and ACS procedures. In addition, for any individuals for whom the centers obtained DOI clearances after the dates of hire or “Duplicate” DOI clearances after the dates of transfer, we calculated the lengths of time these individuals had been working at the centers without the clearances.

In addition, for 58 of the 162 individuals, we reviewed their personnel files to determine whether the individuals had obtained the teaching credentials required for their particular titles.

We also reviewed the personnel files for 62 individuals to determine whether the individuals completed 2 hours of training every 2 years in child abuse and maltreatment awareness as required.

On August 22, 2017, ACS provided us with an updated dataset containing *EarlyLearn NYC* contractor and associated child care center information. According to this dataset, there were 144 contractors operating a total of 367 child care sites in the City as of that date. ACS also provided us with another dataset containing the names of the *EarlyLearn NYC* contractors that each ECE team leader was responsible for monitoring as of that date.

As part of our data reliability testing, we determined whether the updated dataset was complete and contained all *EarlyLearn NYC* contractors operating as of August 22, 2017. To do so, we obtained access to the ECE cabinets containing the paper files on these contractors and determined whether all of the contractors for which paper files were maintained were included in the updated dataset. We also ascertained the reason for any exclusion.

Further, we determined whether ECE had adequate controls over its monitoring of *EarlyLearn NYC* contractors to ensure compliance with their contracts and applicable statutes and regulations. To do so, we used the two August 22, 2017 datasets and calculated the number of sites per team leader (referred to as the team leader’s caseload assignment) as of that date.<sup>23</sup> Next, we randomly selected 5 sites from the caseload assignment of each of the 7 team leaders

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<sup>22</sup> The 162 individuals included 9 individuals as of January 17, 2017 at HMH; 19 individuals as of January 19, 2017 at BCC; 37 individuals as of January 31, 2017 at TCCNY; 14 individuals as of February 10, 2017 at LWDC; 23 individuals as of December 1, 2016 at Brightside Academy; 35 individuals as of February 2, 2017 at SIMHS; and 25 individuals as of March 10, 2017 at All My Children.

<sup>23</sup> The following were the caseload assignments for each team:  
Team A—15 contractors operating 52 sites;  
Team B—18 contractors operating 60 sites;  
Team C—12 contractors operating 51 sites;  
Team D— 23 contractors operating 50 sites;  
Team E— 26 contractors operating 51 sites;  
Team F— 28 contractors operating 53 sites; and  
Team G— 22 contractors operating 50 sites.



for a total of 35 sites (associated with 22 contractors). In addition, we included the 7 sites that we visited (associated with 7 contractors, 2 of which also operated 3 of the 35 sites noted in the previous sentence), bringing the total number of sites in our sample to 42 child care centers (associated with a total of 27 contractors).

We reviewed the paper files maintained at ECE for each of the 27 contractors in our sample. We determined whether ECE was monitoring the contractors' required monthly submissions of SVRs. For the group of 20 contractors, we determined whether the contractors submitted the required CPT forms, hire letters, and DOI clearance letters for any new hires indicated on the April through September 2017 SVRs. For the group of 7 contractors associated with the 7 centers we visited, we determined whether the contractors informed ECE on SVRs about the 24 employees hired during the 6 months preceding our visits and whether the contractors provided the required CPT forms, hire letters, and DOI clearance letters.

We also determined how often ECE's program specialists and/or team leaders visited each of the 42 sites in our sample to review the sites' personnel files. We reviewed site visit reports in ECE's paper files on *EarlyLearn NYC* contractors for any evidence (e.g., Attachment Ks) that ECE had reviewed personnel files at any of the 42 sites during the period of March 29, 2016 through October 3, 2017. In total, we obtained 157 site visit reports.<sup>24</sup> As part of our review, we determined whether ECE was following its criteria by reviewing at least two personnel files (including the file of at least one teacher and the files of any new staff) during each site visit. We also assessed whether ECE officials completed the Attachment Ks appropriately in accordance with ECE procedures. In addition, we determined whether any non-compliance issues relating to personnel files were cited either on the Attachment Ks or in the summary sections of the site visit reports and appropriately followed up.

As part of our data reliability testing for the 157 site visit reports, we compared key information in the site visit reports and accompanying Attachment Ks to ACTS data to determine whether the ACTS data was complete, accurate and appropriately approved.

In addition, we obtained from ACS the agendas for the *EarlyLearn NYC* training and meetings it provided to directors of *EarlyLearn NYC* contractors during the period of January 2016 through December 2017. We reviewed the attendance sheets associated with the training and meetings to determine whether directors (or any other representatives) from the 27 contractors in our sample had attended.

Although the results of our sampling tests were not statistically projected to their respective populations, these results, together with the results of our other audit procedures and tests, provide a reasonable basis for us to determine whether ACS has adequate controls in place concerning the monitoring of its contracted child care centers' screening of personnel.

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<sup>24</sup> March 29, 2016 was the implementation date for ECE teams to use Attachment Ks while conducting their personnel file reviews at the centers.



February 20, 2019

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Deputy Comptroller  
City of New York  
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David A. Hansell  
Commissioner  
150 William Street  
New York, NY 10038

Dear Ms. Landa:

Eden Hauslaib  
Chief Accountability Officer

Jennifer Fiellman  
Assistant Commissioner

Thank you for the opportunity to review and respond to the audit report on the *Administration for Children's Services Monitoring of the Screening of Personnel by Contracted Child Care Centers*.

The ACS Division of Child and Family Well-Being (CFWB; formerly the Division of Early Care and Education) provides subsidized child care for approximately 100,000 children through its contracted and voucher systems. EarlyLearn NYC, launched in 2012 to create seamless, best practice, quality child care and early education through the contracted care structure, includes 145 contractors, 360+ sites and over 6,000 staff. CFWB is committed to ongoing, comprehensive and robust program monitoring, provision of guidance, technical assistance and training, with our goal of ensuring that providers are diligent in screening and hiring personnel who are qualified and competent to work with young children and families.

ACS EarlyLearn contracts require that all EarlyLearn providers abide by the overarching rules and regulations of oversight agencies, including but not limited to the NYC Department of Health and Mental Health (DOHMH) as the licensing agency and the Federal HHS/Office of Head Start, if Head Start funding is in the EarlyLearn program budget. All contracted programs are required to be licensed by NYC DOHMH as an Article 47 licensed child care program.

Over the last several years, the de Blasio Administration has made significant investments to strengthen the infrastructure, operations and programming of the early education system (EarlyLearn and Pre-K) to ensure that more children receive high-quality care and education. Over the last two years, under the leadership of ACS Commissioner David Hansell and as a part of broader reforms he has implemented at ACS, we have strengthened our oversight and support of EarlyLearn contracted providers. There are strong policies and protocols in place to ensure that personnel in EarlyLearn centers are qualified – and we're making them even stronger. As a result of your work in preparing this report, we have taken additional steps to ensure that contracted providers are following protocols for personnel screening. Specifically, we have issued additional, formal guidance to contracted providers, we have scheduled meetings with provider staff to make sure that they understand their obligations, and we have put in place additional layers of management review to ensure that screening protocols are followed.

Please see ACS' responses to the audit recommendations below.

**Recommendation 1:** ACS should develop formal guidelines for its contracted child care centers to follow concerning the qualifications for teacher's aides and substitutes.

**ACS Response Recommendation 1**

ACS accepts this recommendation and has developed formal, written guidelines.

Article 47 of the NYC Health Code articulates the qualifications required of child care program staff, as do the Federal Head Start Performance Standards. ACS contracted providers are also contractually obligated to follow these requirements. As part of its overall EarlyLearn program support, ACS' Division of Child and Family Well-Being (CFWB) has always provided support and technical assistance to ensure that programs retain staff with proper qualifications as required by regulation and contract.

Per the audit recommendation, CFWB has developed formal, written guidelines in line with those outlined by the DOHMH and the Head Start Program Performance Standards concerning the qualification of assistant teachers. These were distributed systemwide in January 2019. CFWB has also created a sample template for contract agencies to utilize that will assist them in organizing their individual personnel files. CFWB will discuss both the template and the formal guidelines at the EarlyLearn citywide meeting scheduled for February 15 and the Head Start meeting set for February 28, 2019.

**Recommendation 2:** ACS should revise its EarlyLearn NYC contracts if the requirements pertaining to administrative directors do not apply to child care-only centers.

**ACS Response Recommendation 2**

ACS accepts this recommendation in that every EarlyLearn contract includes standard language and an individualized budget; the budget identifies the model (Head Start, Head Start/ Child Care, or Child Care) contracted by ACS and the requirements pertaining to staff. CFWB gives providers appropriate guidance relating to the specified model and its requirements, therefore programs are aware of the requirements for their model type. CFWB will continue to work with programs to ensure that they have abided by the requirements for their model type and remind them that technical assistance is available whenever needed.

**Recommendation 3:** ACS should ensure that Head Start and Head Start/child care contractors do not hire administrative directors until they are determined by ACS to be qualified for the position.

**ACS Response Recommendation 3**

ACS accepts this recommendation. CFWB policy for Head Start and Dual program agencies requires that CFWB review and approve candidates for the position of administrative director prior to hire.

Pursuant to the recommendation, CFWB has reissued the policy and is strengthening CFWB review. Effective immediately, the responsibility for review of the hire package will be elevated to a CFWB Team Leader which will strengthen the communication and oversight with their assigned agencies on this matter. In addition, CFWB will dedicate time at the above-referenced February 2019 EarlyLearn directors meeting to review the policy, clarify the steps and respond to questions or concerns. CFWB will further create a *Frequently Asked Questions* resource based on questions raised at the meeting; CFWB will distribute the FAQ information via e-blast in March 2019.

**Recommendation 4:** ACS should ensure that the personnel packages it compiles, reviews and retains for contractors' administrator directors contain all of the required documentation to support the hiring of these individuals.

ACS Response Recommendation 4

ACS accepts this recommendation. CFWB agrees that our processes can be strengthened. CFWB staff manage the personnel packages from EarlyLearn agencies, creating individual files as part of its recordkeeping system and using documents to track missing documentation; CFWB has traditionally used the Contractor Personnel Tracking Form (CPTF) which is an easy-to-use "checklist" for EarlyLearn agencies and CFWB staff to track and organize documents especially for new hires.

To reinforce this requirement, CFWB issued a systemwide reminder on January 10, 2019, reiterating contractor responsibility for submitting the necessary forms, e.g., the CPTF and related documentation, for all new hires immediately as well as the monthly staff vacancy report.

To strengthen tracking at ACS, CFWB developed a new internal checklist, the "Contractor HR Submissions Checklist." CFWB also held a refresher session for staff which discussed the personnel document process, including reminding staff of the importance of utilizing a checklist and of carefully documenting efforts to collect missing data using email contacts.

**Recommendation 5:** ACS should develop mechanisms, such as checklists, to more effectively track and organize its contractors' submissions of documentation concerning vacancies and new hires to ensure that it is aware of all new hires and that the new hires fulfill the requirements for their new positions.

ACS Response Recommendation 5

ACS accepts this recommendation.

As described above, to further reinforce and strengthen tracking, per the audit recommendation, CFWB added a new checklist for staff use, effective January 2019 —the "Contractor HR Submissions Checklist." This checklist is designed to track whether the package submitted was complete or incomplete, completed accurately or had missing information. CFWB staff will use the checklist to follow up with contract agencies that owe documentation.

CFWB has a policy in place regarding contractor responsibility for submitting forms and related vacancy and new hire documentation. CFWB issued a reminder to contractors on January 10, 2019, reiterating contractor responsibility for immediately submitting the necessary forms, e.g., CPTF and related documentation, to ACS for all new hires, as well as the monthly staff vacancy report.

**Recommendation 6:** ACS should require contractors, when submitting personnel documentation, to send the information to a central repository to help ensure that the applicable Unit is aware of its receipt and appropriately reviews and files it.

ACS Response Recommendation 6

ACS accepts this recommendation. A central repository (the mailbox address:

██████████) has been in place for several years with CFWB staff assigned to review documents, and CFWB will increase the number of staff monitoring the mailbox and reviewing the materials, in order to ensure that this happens in a timely fashion.

**Recommendation 7:** ACS should ensure that it reviews the contractor's screening of all new hires (and of a sample of all other staff) during its site visits.

ACS Response Recommendation 7

ACS accepts this recommendation. CFWB staff who conduct site visits are trained regarding reporting expectations. On January 7, 2019, CFWB reinforced with monitoring staff that personnel file reviews must include review of at least one new staff member on each visit. CFWB has also reinforced that quality checks must be part of the supervisory conferences held with managers.

**Recommendation 8:** ACS should enhance its monitoring of site visits to ensure that the information required to be contained in the site visit reports (such as the Attachment Ks) is accurate and complete.

ACS Response Recommendation 8

ACS accepts this recommendation. As discussed above in #7, CFWB staff who conduct site visits are trained regarding reporting expectations. On January 7, 2019, CFWB managers were informed that they were to increase their attention to the site visit review process and to ensure that reports were placed in the master file within specified timeframe. In addition, CFWB is reviewing its monitoring documents and revising as needed. On January 7, 2019, CFWB has reinforced that quality checks must be part of the supervisory conferences held with managers.

**Recommendation 9:** ACS should ensure that non-compliance issues are followed up on and resolved in a timely manner and that the files adequately document the resolution of these issues.

ACS Response Recommendation 9

ACS accepts this recommendation. CFWB seeks to ensure robust monitoring and oversight by CFWB staff who will also conduct prompt follow-up of any non-compliance identified. In order to reinforce the importance of timeliness in this regard, CFWB developed a protocol for CFWB staff, "Recordkeeping & Ongoing Follow Up" that includes a policy statement on the expected quality of reports as well as a detailed outline of the recordkeeping process beginning with the program development specialist and ending with quality assurance reviews by supervisory staff. CFWB introduced and issued the notice to staff on January 7, 2019 and followed up with further instructions in February 2019.

**Recommendation 10:** ACS should monitor the recording of information in ACTS more closely to ensure that site visit information is recorded in a timely manner and that it is reviewed and approved by the team leaders or the Assistant Commissioner of Program Development.

ACS Response Recommendation 10

ACS accepts this recommendation. CFWB has guidance in place regarding recording information in ACTS. To improve the timeliness of this work, CFWB is developing a schedule-protocol to ensure that site visit information is recorded and reviewed in ACTS in a timely manner. CFWB will implement the protocol in February 2019.

**Recommendation 11:** ACS should supplement the guidance provided by the contract by developing written policies and procedures for the EarlyLearn NYC contractors to follow in relation to screening and hiring of personnel and the submission of required documents to ACS.

ACS Response Recommendation 11

ACS accepts this recommendation. CFWB has policies related to screening and hiring of personnel, as required by NYC DOHMH and Federal Head Start in place. Per the audit recommendation, CFWB developed formal policies and procedures for EarlyLearn NYC contractors regarding screening and hiring of personnel and the submission of required documents to CFWB. These were distributed in January 2019 and will be discussed at the February 28, 2019 EarlyLearn citywide directors meeting.

**Recommendation 12:** ACS should improve the guidance it provides to its own staff by developing written policies and procedures to clarify their responsibility regarding their review of monthly SVRs and the attached supporting documentation and how this information, along with previous site visit reports, should be used to plan to conduct subsequent site visits and how long it should take for site visit information to be entered into ACTS.

ACS Response Recommendation 12

ACS accepts this recommendation. Although staff has been trained by CFWB regarding their review of provider documentation, CFWB will also provide a written policy and procedure to staff that will inform and guide their work in February 2019. CFWB has assigned an analyst to review, track and respond to staff vacancy reports from agencies. The analyst will also share the information so that field staff are aware of any issues or concerns.

**Recommendation 13:** ACS should consider either directly, or through the Mayor's Office, requesting that OCFS revisit its recent determination that ACS is not allowed under NY Social Services law to review SCR clearance letters. If OCFS reaffirms this decision, ACS should consider proposing legislation amending the Social Services law that would clearly allow ACS to have the same authority as its contractors to review SCR compliance letters relating to EarlyLearn NYC child care center personnel.

ACS Response Recommendation 13

ACS will request that OCFS revisit its determination that ACS be allowed to review SCR clearances, for as long as these contracted programs are under ACS' jurisdiction as the contracting agency. If OCFS does not approve this, ACS will consider lobbying for an amendment of the Social Services Law in order to permit the wider review of SCR clearance letters.

Thank you for your consideration and for your work in support of New York City's children and families.

Sincerely,



Jennifer Fiellman, Esq.