

City of New York

OFFICE OF THE COMPTROLLER

Scott M. Stringer
COMPTROLLER



MANAGEMENT AUDIT

Marjorie Landa

Deputy Comptroller for Audit

Audit Report on the Department of
Health and Mental Hygiene's Oversight
of Universal Pre-Kindergarten Group
Child Care Centers

MG18-071A

December 19, 2018

<http://comptroller.nyc.gov>



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OFFICE OF THE COMPTROLLER
SCOTT M. STRINGER

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To the Residents of the City of New York:

My office has audited the New York City Department of Health and Mental Hygiene's (DOHMH's) oversight of Universal Pre-Kindergarten (UPK) group child care (GCC) centers. We audit City entities such as DOHMH as a means of increasing accountability and ensuring that City programs operate as intended and in the best interest of the public.

The audit found that DOHMH needs to strengthen its controls to ensure that initial inspections at UPK GCC centers are conducted in accordance with DOHMH protocols. DOHMH records reflect that the agency failed to ensure that *any* initial inspections were conducted in 73 of the 1,035 UPK GCC centers in operation during Fiscal Year 2017 and further failed to ensure that *both* of the annual inspections—one by an Early Childhood Education Consultant (ECEC) and one by a Public Health Sanitarian (PHS)—required by DOHMH protocols were conducted for 531 of the 1,035 centers. Further, DOHMH inspection records for Fiscal Years 2015 through 2017 indicate that the percentage of UPK GCC centers for which DOHMH failed to perform at least one of the two required inspections ranged from 48 to 60 percent. In addition, DOHMH had no evidence that it monitors the adequacy of its staffing levels in relation to its oversight responsibility for the City's UPK child care centers and has not developed a uniform process for any ongoing training for its staff and supervisors to better help them carry out their day-to-day responsibilities.

The audit makes five recommendations to DOHMH, including that DOHMH should ensure that PHS and ECEC inspectors immediately inspect those centers that have not received an initial inspection within the last three years; review and modify (as needed) its inspection tracking tools to better ensure that all required initial inspections are performed; conduct a study to determine the adequacy of its staffing and adjust staffing levels as warranted; and solicit feedback from its staff regarding the training curriculum.

The results of the audit have been discussed with DOHMH 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.

Sincerely,

A handwritten signature in blue ink that reads "Scott M. Stringer".

Scott M. Stringer

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THE CITY OF NEW YORK OFFICE OF THE COMPTROLLER MANAGEMENT AUDIT

Audit Report on the Department of Health and Mental Hygiene's Oversight of Universal Pre-Kindergarten Group Child Care Centers

MG18-071A

EXECUTIVE SUMMARY

The Department of Health and Mental Hygiene (DOHMH) is responsible for protecting and promoting the health and well-being of all New Yorkers. Among the agency's many varied responsibilities, DOHMH licenses and regulates child care facilities in New York City (City). As part of that function, DOHMH inspects certain child care facilities on a regular basis to ensure that they are in compliance with applicable health and safety-related rules and regulations. The Bureau of Child Care oversees inspections and permitting of City-regulated child care centers. The majority of these child care centers operate group child care (GCC) programs, which provide child care to three or more children under six years of age. GCC programs can include Universal Pre-Kindergarten (UPK) programs, which provide access to preschool education to children ages three and four in a fashion similar to the way that kindergarten is available to all children ages five and six.¹

Inspections of all child care centers, regardless of whether or not they offer a UPK program, are conducted by DOHMH's Public Health Sanitarians (PHSs) and Early Childhood Education Consultants (ECECs). According to DOHMH's Field Activity Protocol (DOHMH protocols), both the PHS and the ECEC inspections, referred to as initial inspections, are required to be conducted annually by PHS and ECEC inspectors, respectively.² If a violation is cited during an initial inspection, a compliance inspection is required within 45 days of the initial inspection to ensure that the cited condition has been corrected and to assess whether the center is in compliance with the health codes. The inspectors are also required to conduct monitoring inspections following a program's involuntary closure and suspension or revocation of its operating permit, to ensure the center is in compliance with the order of the closure. In addition to conducting initial inspections, PHS and ECEC inspectors also conduct preliminary inspections of new child care centers prior to DOHMH issuing permits that will allow them to operate. This audit focused on

¹ In September 2015, the City expanded its UPK program to include all pre-kindergarten students who wished to attend a UPK program, making it a UPK program available to all four-year olds. The City is currently expanding its UPK program to include three-year olds, with the possibility that more child care centers may open up to accommodate this expansion.

² GCC centers must be inspected by both PHS and ECEC inspectors once a year. However, school-based child care centers are required to be inspected by the PHS inspectors only. As of January 2018, the inspections began to be conducted on a calendar year basis; prior to that time they had been conducted on a fiscal year basis.

the initial inspections undertaken by DOHMH at GCC facilities that offered UPK programs (UPK GCC centers).³

DOHMH reported that during Fiscal Year 2017 through April 30, 2018, it was responsible for overseeing 1,035 UPK GCC centers, which were among a total of 2,250 GCC centers open during that same period. As of April 30, 2018, DOHMH reported that it employed 18 PHSs, 18 ECECs, and 7 supervisors in the Bureau of Child Care for this function.

The objective of this audit was to determine whether DOHMH has adequate controls to ensure that initial inspections at UPK GCC centers are conducted in accordance with the agency's policies and procedures.

Audit Findings and Conclusions

The audit found that DOHMH needs to strengthen its controls to ensure that initial inspections at UPK GCC centers are conducted in accordance with DOHMH protocols. During the scope of our audit, DOHMH management did not provide a mechanism that effectively enabled its supervisors to track the UPK GCC centers that had received an initial inspection, the status of those inspections, and the centers for which initial inspections were due. Although subsequent to our commencing this audit, DOHMH made some procedural changes in an attempt to remedy this deficiency, additional improvements are still needed to enable supervisors to efficiently track the inspection status of the UPK GCC centers.

During Fiscal Year 2017, DOHMH records reflect that it failed to ensure that *any* initial inspections were conducted in 73 of the 1,035 UPK GCC centers in operation that fiscal year and further failed to ensure that *both* of the initial inspections (one by an ECEC and one by a PHS) required as per DOHMH protocols were conducted for 531 of the 1,035 centers.⁴ Further, a review of DOHMH inspection records for Fiscal Years 2015 through 2017 reveal that the percentage of UPK GCC centers for which DOHMH failed to perform at least one of the two required inspections ranged from 48 to 60 percent.

Based on our audit findings, we question whether DOHMH has applied sufficient resources to support the UPK GCC center inspection function and to handle the number of child care centers that the agency is responsible for overseeing. We found that DOHMH had no evidence that it monitors the adequacy of its staffing levels. Further, we found that DOHMH has not developed a uniform process for any ongoing training for its staff and supervisors to better help them carry out their day-to-day responsibilities. These combined deficiencies weaken DOHMH's ability to ensure that inspections are conducted in accordance with agency guidelines. DOHMH's failure to undertake all of the initial inspections required under its protocols and to ensure consistent training for its inspectional staff increased the risk that centers with non-compliant, potentially hazardous, conditions were allowed to operate without those conditions being corrected.

Audit Recommendations

To address the issues raised by this audit, we make the following five recommendations:

³ The City's expansion of the UPK program to three-year old children may increase the number of inspections.

⁴ DOHMH created the Compliance Promotion Unit (CPU) on November 30, 2016 to oversee child care programs that require additional assistance to become compliant with applicable health codes and regulations. According to DOHMH officials, inspections conducted by CPU inspectors include the areas covered by both PHS and ECEC initial inspections. Accordingly, for the purposes of this audit, CPU inspections were considered as substitutes for the required initial PHS and ECEC inspections.

- DOHMH should ensure that PHS and ECEC inspectors immediately inspect those centers that have not received an initial inspection within the last three years.
- DOHMH should review its inspection tracking tools, including management reports, and make any necessary changes to those tools, reports and oversight processes in general to better ensure that all initial inspections required as per DOHMH protocols are performed.
- DOHMH should evaluate the needs and concerns of the supervisors with regards to management reports and should include supervisors' input in designing management reports.
- DOHMH should conduct a study to determine the adequacy of its staffing, as well as its structure in relation to the number of child care centers it oversees and adjust staffing levels as warranted.
- DOHMH should conduct periodic surveys of its staff and solicit feedback regarding the training curriculum so that it can provide relevant training to its staff as the agency deem appropriate.

Agency Response

DOHMH stated that it agreed with two of the audit's five recommendations and disagreed with the remaining three recommendations, claiming that the recommendations were not needed because they reflected the agency's current practices.

In its response, DOHMH strongly objects to the audit findings, claiming that the auditors misinterpreted agency protocols and did not adequately consider DOHMH's approach to carrying out its inspectional mandate. The agency asserts that the audit, which focused on DOHMH's initial inspections of UPK GCC centers, should have also included additional types of DOHMH inspections. However, while DOHMH may have preferred a different audit scope that did not so clearly reveal its weaknesses, this audit, as explicitly stated in the audit objective, sought "to determine whether DOHMH has adequate controls to ensure that *initial inspections* at UPK GCC centers are conducted *in accordance with the agency's policies and procedures.*" (Emphasis added.) As such, the audit was based on DOHMH's own protocols which establish an oversight structure that includes annual comprehensive initial inspections. It is precisely because this audit focused on those initial inspections that the weaknesses in DOHMH's systems and oversight were so clearly apparent.

DOHMH attempts to support its argument that different types of inspections should have been included in the audit scope by blurring the differences between each type of inspection, going so far as to say "[n]o matter the type of inspection, the inspector always assesses the same core health and safety requirements set out in the Health Code." However, this statement obscures the fact that while every inspection concerns some aspect of compliance with Health Code requirements, each type of inspection has a distinct scope and purpose. As presented in DOHMH's protocols and explained to auditors by DOHMH personnel, initial inspections are complete program reviews intended to ascertain whether child care centers are in compliance with the City Health Code. They are more comprehensive than compliance inspections, which DOHMH acknowledges in its audit response, are conducted to follow up on specific deficiencies identified in prior inspections. Similarly, monitoring inspections are performed in conjunction with a complaint or other administrative action and are focused on the subjects of those complaints or administrative actions.

While DOHMH argues that the auditors “misunderstand the Department’s protocol and mandate,” its focus on what it refers to as its “mandate” is an apparent reference to the City Charter requirement that the agency make at least one unannounced visit annually. However, as noted in this report, DOHMH’s stated position is that a complete inspection as required by the Charter “must consist of both ECEC and PHS components.” Consequently, we audited to assess whether both types of initial inspections were conducted in accordance with DOHMH’s written protocols and as understood by the agency’s staff.

We note that notwithstanding its disagreement with our audit findings, DOHMH has agreed to implement our recommendation to improve its inspection-tracking system, which would help alert the agency’s inspectional supervisors to GCC centers that are due or past-due for those comprehensive initial inspections.

After carefully reviewing all of DOHMH’s arguments, we find no basis to alter any of the findings of this report.

AUDIT REPORT

Background

DOHMH is responsible for protecting and promoting the health and well-being of all New Yorkers. Among the agency's many varied responsibilities, DOHMH licenses and regulates child care facilities in the City. As part of that function, DOHMH inspects certain child care facilities on a regular basis to ensure that they are in compliance with applicable health and safety-related rules and regulations.

DOHMH's Bureau of Child Care oversees inspections and permitting of City-regulated child care centers. The majority of these child care centers operate GCC programs, which provide child care to three or more children under six years of age. This is the manner in which most institutionally-based day care services are provided in the City.⁵ These programs primarily operate in non-residential spaces for five or more hours per week and for more than 30 days in a 12-month period. GCC programs can include UPK programs, which provide access to preschool education to children ages three and four in a fashion similar to the way that that kindergarten is available to all children ages five and six. However, not all child care centers offer UPK programs. The operation of GCC centers, including those that provide UPK services, are governed by Article 47 of the Health Code.

Inspections of all child care centers, regardless of whether or not they offer a UPK program, are conducted by DOHMH's PHSs and ECECs.

- PHS inspections primarily focus on the physical conditions of a center, which include environmental health and safety, facility maintenance, food protection, pest control, and injury and hazard prevention.
- ECEC inspections focus mainly on curriculum implementation, staff clearances and credentials, child supervision, and program administration.

According to DOHMH protocols, both the PHS and the ECEC inspections, referred to as initial inspections, are required to be conducted annually.⁶ If a violation is cited during an initial inspection, a compliance inspection is required within 45 days of the initial inspection to ensure that the cited condition has been corrected and to assess whether the center is in compliance with the health codes. The inspectors are also required to conduct monitoring inspections following a program's involuntary closure and suspension or revocation of its operating permit, to ensure the center is in compliance with the order of the closure. In addition, PHS and ECEC inspectors also conduct preliminary inspections of new child care centers prior to DOHMH issuing permits that will allow them to operate.⁷ The preliminary PHS inspections focus on site viability, while the preliminary ECEC inspections focus on staffing. DOHMH uses the Child Care Activity Tracking System (CCATS) to keep track of the issuance and renewal of permits, as well as any

⁵ Other types of child care programs include: school-based programs—provide instruction in a group setting to more than six children ages 3 through 5 who are located within a school or are part of a school; summer camps, which during summer months provide child care for children younger than 16; school-age child care (after-school programs), which consists of non-residential child care programs for a group of seven or more school age children; and family day care and group family day care (home-based) programs, which are located in individual homes and provide child care on a regular basis for more than three hours per day per child.

⁶ GCC centers must be inspected by both PHS and ECEC inspectors once a year. However, school-based child care centers are required to be inspected by the PHS inspectors only. As of January 2018, the inspections began to be conducted on a calendar year basis; prior to that time they had been conducted on a fiscal year basis.

⁷ See *Audit Report on the Department of Health and Mental Hygiene's Permitting of Child Care Centers*, (MJ15-054A), June 24, 2016.

inspection activities. In addition to conducting regular inspections, inspectors are also required to investigate complaints.⁸

This audit focused on the initial inspections undertaken by DOHMH at GCC center facilities that offered UPK programs. A prior audit issued by the Comptroller's Office, *Audit Report on the New York City Department of Health and Mental Hygiene's Follow-up on Violations Found at Group Child Care Centers* (Audit # MH17-056A), issued June 28, 2018, focused on DOHMH's follow-up on violations found at GCC centers during inspections. That audit did not, however, assess whether all GCC centers received all of the required initial inspections.

DOHMH reported that during Fiscal Year 2017 through April 30, 2018, it was responsible for overseeing 1,035 UPK GCC centers, which were among the 2,250 GCC centers open during that same period. As of April 30, 2018, DOHMH reported that it employed 18 PHSs, 18 ECECs, and 7 supervisors in the Bureau of Child Care for this function. These staff members are responsible for inspections of all 2,250 GCC centers, including the 1,035 UPK GCC centers that are the focus of this audit, as well as other tasks described in this report.

Objective

The objective of this audit was to determine whether DOHMH has adequate controls to ensure that initial inspections at UPK GCC centers are conducted in accordance with the agency's policies and procedures.

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 New York City Charter.

The scope of this audit was July 1, 2014 through April 30, 2018. This audit focused on the inspections of UPK GCC centers, which comprised 46 percent of all GCC centers during the scope period. Please refer to the Detailed Scope and Methodology at the end of this report for the specific procedures and tests that were conducted.

Discussion of Audit Results with DOHMH

The matters covered in this report were discussed with DOHMH officials during and at the conclusion of this audit. A preliminary draft report was sent to DOHMH and discussed at an exit conference held on September 5, 2018. On October 1, 2018, we submitted a draft report to DOHMH with a request for comments. We received a written response from DOHMH on October 16, 2018. In its response, DOHMH stated that it agreed with two of the audit's five recommendations relating to improving its management tools and reports and conducting periodic surveys of its staff and soliciting feedback regarding the training curriculum. DOHMH disagreed

⁸ A unit in DOHMH's central office takes in all the complaints received by the agency and forwards child care complaints to the Bureau of Child Care. The types of complaints received vary and include inappropriate discipline or allegations of abuse by center's staff, unqualified staff, and the failure to maintain facilities.

with the remaining three recommendations that it conduct initial inspections of centers that have not received one within the last three years, include supervisors' input in designing management reports, and conduct a study to determine the adequacy of its staffing, claiming that the recommendations were not needed because they reflected the agency's current practices.

In its response, DOHMH strongly objects to the audit findings, claiming throughout the report that the audit misinterpreted agency protocols and did not adequately consider DOHMH's approach to carrying out its inspectional mandate. As a result, DOHMH argues, the audit has underestimated the number of centers inspected by the agency, stating,

The auditors' reached this conclusion because they failed to consider the positive impact of the different inspections the Department conducts on the health and safety of the children. Further, the auditors disregarded the Department's requirement to perform "at least one unannounced visit of a GCC annually"; a requirement that was communicated to the auditors during the entrance conference, throughout the audit and at the exit conference. These errors led the auditors to significantly undercount the number of inspections performed each year.

However, rather than responding directly to the audit findings concerning DOHMH's oversight over mandatory initial inspections, DOHMH presents arguments that focus attention away from the reported initial inspection program weaknesses and attempts to recast the audit as one that would result in more positive conclusions. While DOHMH may have preferred a different audit scope that did not reveal its weaknesses in conducting initial inspections, it is precisely because the audit focused on the initial inspections that the weaknesses in DOHMH's systems and oversight were so clearly apparent.

DOHMH specifically claims that the number of inspections was undercounted because the audit did not include compliance and monitoring inspections in its analysis. However, as the audit clearly states its objective and as is repeated throughout the report, the audit's focus was on *initial inspections only*. DOHMH downplays the distinction between initial inspections and the other types of inspections, classifying them merely as "labels" for "system scheduling algorithm" purposes. However, as reflected in DOHMH's protocols, and as understood by DOHMH personnel, each type of inspection has a distinct scope and purpose. An initial inspection is a complete program review intended to ascertain whether a child care center is in compliance with the City Health Code and is more comprehensive than a compliance inspection. As DOHMH acknowledges in its audit response, compliance inspections are conducted to follow up on specific deficiencies identified in prior inspections. Similarly, monitoring inspections are performed in conjunction with a complaint or other administrative action and are focused on the subjects of those complaints or administrative actions.

DOHMH argues that the auditors "misunderstand the Department's protocol and mandate" and supports this argument by disregarding its own protocols that require two initial inspections every year, one by a PHS and one by an ECEC. Instead, DOHMH focuses only on what it refers to as its "mandate," an apparent reference to the City Charter requirement that the agency make at least one unannounced visit annually. However, as noted in this report, DOHMH's stated position is that a complete inspection as required by the Charter "must consist of both ECEC and PHS components." DOHMH itself acknowledges in its response that the focus of an ECEC inspection is different than the focus of a PHS inspection, with the ECEC focus being on "staffing and programming aspects" and the PHS focus being on "facilities physical aspects." In addition, in its response to this audit, DOHMH notes that CPU inspectors are "cross-trained" so that they can conduct both PHS and ECEC inspections, a statement of fact that further reinforces the existence

of differences between the two types of inspections, each of which is required to be conducted annually. Consequently, we audited to assess whether both types of initial inspections were conducted in accordance with DOHMH's written protocols and as understood by the agency's staff.

Further, we note that contrary to its audit response, DOHMH has acknowledged the significance of initial inspections and the need for both PHS and ECEC inspections in a link it has posted on the agency's website to a webinar that describes a new initiative beginning Calendar Year 2018 to issue performance summary cards to centers. In that webinar, DOHMH states that the violations recorded in the performance summary cards "will be based on *initial* inspection data" and that "all programs receive at least two initial inspections each year – one from a health [PHS] inspector and another from an Early Childhood Education Consultant." (Emphasis added.) See Appendix II for a screenshot of the webinar posted on DOHMH's website.

Finally, in its response, DOHMH clarified certain information it provided to us after the exit conference relating to the number of GCC centers assigned to CPU for monitoring and this final report was modified accordingly. DOHMH claims that 98 of the 314 GCC centers on the list it provided to us did not have UPK contracts. Our review of DOHMH's records revealed the correct number to be 94. This clarification does not impact the audit's findings and results in a slight *increase*, noted in the audit report, in the percentage of centers that DOHMH failed to ensure received both types of initial inspections required as per DOHMH protocols.

After carefully reviewing all of DOHMH's arguments, we find no basis to alter any of the findings of this report.

The full text of DOHMH's response is included as an addendum to this report.

FINDINGS AND RECOMMENDATIONS

DOHMH needs to strengthen its controls to ensure that initial inspections at UPK GCC centers are conducted in accordance with DOHMH protocols. During the scope of our audit, DOHMH management did not provide a mechanism that enabled its supervisors to effectively track the UPK GCC centers that had received an initial inspection, the status of those inspections, and the centers for which initial inspections were due. Although subsequently to our commencing this audit, DOHMH made some procedural changes in an attempt to remedy this deficiency, additional improvements are still needed to enable supervisors to efficiently track the inspection status of the UPK GCC centers.

During Fiscal Year 2017, DOHMH records reflect that it failed to ensure that *any* initial inspections were conducted in 73 of the 1,035 UPK GCC centers in operation that fiscal year and further failed to ensure that *both* of the initial inspections (one by an ECEC and one by a PHS) required as per DOHMH protocols were conducted for 531 (51 percent) of the 1,035 centers. Further, DOHMH inspection records for Fiscal Years 2015 through 2017 indicate that the percentage of UPK GCC centers for which DOHMH failed to perform at least one of the two required inspections ranged from 48 to 60 percent.

In addition, based on our audit findings, we question whether DOHMH has applied sufficient resources to support the UPK GCC center inspection function and to handle the number of child care centers that the agency is responsible for overseeing. We found that DOHMH had no evidence that it monitors the adequacy of its staffing levels. Further, we found that DOHMH has not developed a uniform process for any ongoing training for its staff and supervisors to better help them carry out their day-to-day responsibilities. These combined deficiencies weaken DOHMH's ability to ensure that inspections are conducted in accordance with agency guidelines. DOHMH's failure to undertake all of the initial inspections required under its protocols and to ensure consistent training for its inspectional staff increased the risk that centers with non-compliant, potentially hazardous, conditions were allowed to operate without those conditions being corrected.

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

Weaknesses in DOHMH's Monitoring and Oversight of UPK GCC Centers

DOHMH Lacked Evidence of Required Inspections of the UPK GCC Centers

DOHMH Records Reflect That 73 UPK GCC Centers Did Not Receive an Initial Inspection in Fiscal Year 2017

Our audit of DOHMH's inspection records revealed that for 73 UPK GCC centers operating in Fiscal Year 2017, DOHMH lacked evidence that the centers received either an initial ECEC or PHS inspection during the year. In connection with our analysis, we determined the total number of UPK GCC centers in operation during Fiscal Year 2017 and identified those that had not received an initial inspection (ECEC and/or PHS) in that year by comparing two separate lists provided by DOHMH. This was necessary because DOHMH does not maintain a separate list of UPK GCCs from all other GCCs. DOHMH officials explained that because its protocols for

inspections are the same for both UPK and non-UPK GCC centers it has no operational need to do so. Accordingly, for the purposes of this audit, we asked DOHMH to compile a list of the UPK GCC centers in operation during Fiscal Year 2017. In response, DOHMH provided us with a list of 890 UPK GCC centers. We also requested the Fiscal Year 2017 inspection records for the UPK GCC centers. In response, DOHMH provided records indicating that 958 UPK GCC centers received an initial inspection.

DOHMH Response: “In describing how they developed the number of UPK GCC centers, the auditors imply that DOHMH was not able to provide records it should have produced. . . . The auditors . . . faulted the Department for not having information the auditors wanted to conduct their analysis, ignoring that the requested information falls outside DOHMH’s purview. The auditor’s critique is misplaced”

Auditor Comment: DOHMH is finding fault with a criticism that the report does not make. As stated in the text, we acknowledge DOHMH’s position that it has no operational need to maintain separate lists of both UPK and non-UPK GCC centers. This information is presented to inform the reader as to how we arrived at the number of centers that DOHMH was responsible for overseeing during Fiscal Year 2017 and to explain why we were unable to recreate those same numbers for Fiscal Years 2015 and 2016.

Our analysis of the two sets of records revealed that 73 UPK GCC centers included in the list of UPK GCC centers provided by DOHMH were not among the GCC centers identified on the list of initial inspections conducted by DOHMH. Subsequent to the exit conference for this audit, DOHMH also provided us with a list of 145 UPK GCC centers that had been assigned to CPU for monitoring and for which the CPU inspections conducted could serve as a substitute for the initial PHS and ECEC inspections. After reconciling the three lists, we identified 1,035 UPK GCC centers that were reportedly in operation during Fiscal Year 2017 and that should have received an initial inspection.⁹

With regard to the 73 centers with no record of receiving an initial inspection during Fiscal Year 2017, our analysis excluded those centers that were assigned to the CPU for monitoring at any point during the year and focused only those centers that had no evidence of either an initial inspection or a CPU inspection. In doing so, we found that DOHMH had previously issued a total of 324 violations to 53 of the centers during the prior year (Fiscal Year 2016), ranging from 1 to 21 violations per center. The 324 violations issued in Fiscal Year 2016 consisted of 41 classified as public health hazards (imminent threat to health and safety, needing immediate attention); 116 classified as critical (serious violations needing correction within 14 days); 151 violations classified as general (needing correction within 30 days); and 16 violations lacking any classification.

In addition, we found that, DOHMH received a total of 158 complaints pertaining to 49 of these 73 centers during Fiscal Year 2016 and Fiscal Year 2017. These complaints related to issues such as abuse allegations, a lost child, inadequate supervision, and lack of facility maintenance. As discussed in a later section of the report, DOHMH considers complaints a top priority, and requires all complaints to be addressed within 24 hours. Generally, PHS and ECEC inspectors are responsible for addressing complaints; however, according to inspectors, an inspection conducted in response to a complaint is not considered a substitute for the required initial inspection. (See Appendix I for a list of the 73 centers.)

⁹ According to DOHMH, the number of child care centers noted on the lists was an approximation and so discrepancies amongst the lists are to be expected, especially in light of the fact that DOHMH does not maintain a separate list of UPK GCC centers.

The lack of inspections is all the more concerning when taking into account the existing complaints and prior violations associated with those centers that were not inspected. DOHMH's inspection process does not appear to take such complaints and violations into account so as to increase the likelihood that these centers would be inspected. The failure to conduct inspections increases the likelihood that any existing health and safety risks to the children served by uninspected centers may go unaddressed.

DOHMH Response: “Contrary to these assertions, DOHMH conducted a compliance or monitoring inspection, as appropriate, at all of these sites in response to either violations cited or complaint received.” (Emphasis in original.)

Auditor Comment: The audit report does not argue or imply that appropriate follow-up inspections were not conducted where violations have been found. To the contrary, we expressly state in the Background section of this report that the Comptroller has previously conducted an audit of just that issue. *Audit Report on the New York City Department of Health and Mental Hygiene’s Follow-up on Violations Found at Group Child Care Centers* (Audit # MH17-056A), issued June 28, 2018. That review is not the subject of this audit, but rather, this audit is focused on DOHMH's compliance with its requirements to conduct initial inspections, only. Accordingly, we refer to the violations and complaints that DOHMH had previously identified at UPK GCC centers because those problems could be an indication of management and operational weaknesses at these centers, which in turn could indicate a heightened need to ensure that each of these centers gets both of its required PHS and ECEC initial inspections. DOHMH does not directly address this point in its audit response and instead argues about points the audit does not make. As a result, DOHMH fails to provide evidence to dispute our finding that it does not give priority to GCC centers that received complaints and violations in prior years when it schedules GCC centers for initial inspections.

DOHMH Records Reflect That 51 Percent of the UPK GCC Centers Lacked at Least One of the Two Required Inspections in Fiscal Year 2017

Our review of the Fiscal Year 2017 inspection records revealed that 531 (51 percent) of the 1,035 UPK centers lacked evidence of having received at least one of the two required inspections for that year. As discussed above, for 73 UPK GCC centers, DOHMH lacked evidence that the centers received either an ECEC or a PHS inspection during the year. For the remaining 958 UPK GCC centers:

- 312 centers received a PHS inspection only; and
- 146 centers received an ECEC inspection only.

It should be noted that the above centers had not been assigned to the CPU for additional monitoring during Fiscal Year 2017.

DOHMH Records Reflect That from Fiscal Year 2015 through Fiscal Year 2017, between 48 Percent and 60 Percent of All UPK GCC Centers Lacked at Least One of the Two Inspections Required as per DOHMH Protocols

Our further review of the inspection records pertaining to UPK GCC centers in operation during Fiscal Years 2015 through 2017 revealed that DOHMH failed to ensure that between 48 percent

and 60 percent of the centers received an initial PHS or ECEC inspection as required by DOHMH protocols.¹⁰ The results of our analysis are shown in Table I below.

Table I
Number of Initial Inspections
Conducted for GCC Centers during
Fiscal Year 15 – Fiscal Year 17¹¹

Number of UPK GCC Centers with Initial Inspections Conducted					
		Centers Lacking Either a PHS or an ECEC Inspection		Breakdown of the Centers Lacking One of the Required Inspections	
Fiscal Year (FY)	Number of Total Centers Inspected	Number of Centers	Percent of Total Centers Lacking Either a PHS or an ECEC Inspection	The Number of Centers that Lacked a PHS Inspection	The Number of Centers that Lacked an ECEC Inspection
FY17	958	458	48%	146 (32%)	312 (68%)
FY16	927	496	54%	114 (23%)	382 (77 %)
FY15	933	561	60%	36 (6%)	525 (94%)

The inspection deficiencies reflected in Table I indicate inadequate oversight by DOHMH management and reflect a failure to establish an effective monitoring mechanism to help ensure that all child care centers received an initial inspection by a PHS and ECEC inspector in accordance with the agency’s protocols. According to a written statement provided to us on June 4, 2018 by DOHMH’s Director of Field Operations and Regulatory Enforcement, “the Charter requires one inspection annually. It is our position that a complete inspection must consist of both ECEC and PHS components.” According to DOHMH protocols, these components are addressed in the ECEC and PHS inspections, respectively.

By not conducting all required initial inspections, DOHMH has increased the likelihood that non-compliant conditions and violations at the child care centers that would be identified during such inspections may go undetected. Some or all of such unobserved conditions and violations could have placed children at risk and may have warranted temporary closure of a child care center. DOHMH’s monitoring weaknesses create an environment in which DOHMH has no assurance that every UPK child care center receives the initial inspections mandated by the agency.

During the exit conference, DOHMH officials asserted that other types of inspections, such as monitoring, compliance, and complaint driven inspections were sufficient to meet the requirement of an initial inspection. However, this argument is contradicted by DOHMH’s own protocols, which define the purposes of the initial inspections as being distinct from the purposes of the other inspection types, and is inconsistent with the process that is understood by DOHMH’s own staff.

¹⁰ For Fiscal Years 2015 and 2016, we were not able to determine if there were any UPK GCC centers that had no record of any inspections because DOHMH was unable to provide an accurate count of the total number of UPK GCC centers in operation during these years. It should be noted that maintaining a separate list of UPK GCC centers was irrelevant to DOHMH’s operational need.

¹¹ For our analysis of centers lacking either a PHS or ECEC inspection during Fiscal 2017, we gave credit to those centers that were inspected by staff from DOHMH’s CPU. Inspections conducted by the CPU were not relevant to our analysis for Fiscal Years 2015 and 2016, since the unit was not established at that time.

Deficiencies with DOHMH's Tracking of Inspections

During the scope of our audit, DOHMH did not provide its staff with a mechanism that enabled supervisors to effectively track the centers that have been inspected, the status of those inspections, or the inspections that were pending. Further, although DOHMH asserted that upper management routinely contacts the Bureau of Child Care borough supervisors to request explanations of individual inspectional deficiencies, such as failures to conduct individual initial inspections, and overall year-to-date completion rates not being met, DOHMH did not provide any evidence of such monitoring efforts.

DOHMH Response: "DOHMH strongly disagrees with this conclusion. In fact, DOHMH provides multiple ways for supervisors to track this work.

Supervisors have access to Pending Initial reports, but may not routinely use them. In addition, two sources of reports are available to supervisors for tracking inspections. First the Child Care Activity Tracking System (CCATS) maintains detailed information on all active child care programs, including individual inspection histories...CCATS data feeds into a Data Warehouse that, in turn, generates canned reports providing a variety of information...The information in CCATS and from the Data Warehouse standard reports is available to central management staff and borough office managers, who use this information to ensure adequate and timely inspection of GCC centers."

Auditor Comment: As described in detail below, despite DOHMH's assertion that the supervisors have multiple ways to track work, the audit found that supervisors encountered various obstacles to using CCATS and with using the canned reports, which created a need for supervisors to develop their own tracking mechanisms. Regarding these CCATS reports, DOHMH itself acknowledges in its response that supervisors "may not routinely use them," an indication that the canned reports may not be as useful as DOHMH management attempts to portray. Finally, DOHMH's assertion that the information in CCATS and the Data Warehouse is used by central management staff and by borough office managers is irrelevant since the findings and recommendations in this section are addressed to the needs of supervisors.

DOHMH uses CCATS to keep track of certain activities pertaining to child care centers, such as the application, issuance, and renewals of permits, as well as the results of the inspections conducted, including the violations that have been issued. However, supervisors informed auditors that they were not aware that CCATS was able to provide aggregate reports of year-to-date information, such as a list of the centers that require initial inspections or the centers that have already been inspected. Instead, supervisors stated that users could only review a center's detailed activity, by looking up one center at a time. In response to questions about CCATS' functionality, DOHMH upper management stressed that it is a record retention database and is not meant to be used as an inspection management system.

When we specifically called the lack of aggregate management-level reporting to the attention of DOHMH officials, DOHMH management informed us that there were, in fact, management reports derived from the CCATS system that could be accessed by Bureau of Child Care supervisors for monitoring inspections. According to DOHMH officials, these reports were designed to be accessed outside of the system through a link that would take the user to a list of management reports generated by CCATS. We were provided with a list of over 60 different reports, some of which were outdated and no longer applicable to current programs. DOMHH officials explained

that supervisors were expected to utilize the management reports by accessing the links and extracting the information they specifically needed themselves.

However, when we asked individual supervisors about their familiarity with and use of these DOHMH management reports, we were told by five supervisors that they were not familiar with how to navigate the system once they were in it and two of the five supervisors informed us that they were not even familiar with how to access the reports. All seven supervisors interviewed stated that information within the management reports was not easily accessible and expressed an overall concern that as the primary users of the reports, they were not consulted about what specific information they would find helpful to be included in a report. Supervisors informed auditors that as a result of the deficiencies in both CCATS and the management reports that were generated from it, they instead relied on Excel spreadsheets that they created themselves to monitor the inspection status of their assigned centers.

After we discussed these matters with both supervisors and with DOHMH officials, we were informed that the DOHMH central office had begun to provide supervisors with copies of a report titled "Pending Initial Inspections GCC SBCC" (Pending Inspections), a report that we were told was generated to enable supervisors to review inspectional activity in the aggregate. Officials stated that, unlike a previous version of the report, this report was sorted by borough and sent directly to each supervisor. The report includes critical information that the supervisors had identified to auditors as missing from the previous management reports, including the date that the last inspection had been completed, the type of inspection conducted, and the name of the individual who conducted the inspection.

However, notwithstanding the improvements described above, the supervisors stated that they still needed to use their own Excel spreadsheets for management purposes because the Pending Inspections report does not provide all of the information they need to oversee inspections, such as re-inspection due dates. DOHMH acknowledged that supervisors do not use the report routinely. Further, while, the supervisors we interviewed confirmed that they had recently been provided with access to a link to the list of all management reports generated by CCATS, some claimed that they either did not know which reports they had access to or that they received an error message when they tried to retrieve certain reports.

DOHMH management acknowledged that CCATS has inherent weaknesses and stated that the system is currently being redesigned. Officials said that they anticipate that the new functionality in CCATS will be available by the fall of 2018, and that technical issues associated with the hand-held devices will be addressed at the same time.¹² The fact that DOHMH has begun submitting a management report to supervisors evidences DOHMH's awareness of some of the deficiencies noted in this report and the agency's intent to correct those deficiencies.

DOHMH Does Not Monitor the Adequacy of Its Staffing, Training and Ongoing Staff Support

Lack of Adequate Assessment of Staffing and Staff Needs

¹² We were informed that technical issues with the hand-held devices presented another obstacle to ensuring that all required inspections were conducted. Eleven of the 16 inspectors we interviewed stated that they often encountered technical issues (e.g., poor server connections, unable to synchronize information with CCATS) with their hand-held devices when conducting inspections at the centers that often times requiring manual entries upon return to the office. The inspectors considered this to be an obstacle in being able to complete their assignments. The bureau's supervisors echoed those same sentiments.

DOHMH does not monitor the adequacy of its own staffing in relation to the quantity of work required to properly administer the agency's oversight responsibility for the City's UPK child care centers. This management weakness increased the likelihood of inadequate staffing and may have likely contributed to the agency's failure to conduct all of the mandated inspections of UPK GCCs.

According to Comptroller's Directive #1,

Management, throughout the organization, should be comparing actual functional or activity level performance data to planned or expected results, analyzing significant variances and introducing corrective action as appropriate. Key indicator tracking and self-assessment checklists are important tools in measuring the control posture of various functional activities.

When we asked DOHMH management whether sufficient resources were assigned to monitor the UPK centers, we were told that the current caseloads are adequate and do not impede inspectors' ability to perform thorough inspections. DOHMH management also emphasized that the current staffing levels allow supervisors to engage in adequate oversight. DOHMH's Director of Field Operations and Regulatory Enforcement stated that he has anecdotally looked at past performance regarding the length of time it takes to conduct an inspection, but acknowledged that he does not have a formal study looking at staffing and caseload. In the absence of such an analysis, neither we nor DOHMH can be assured that current staffing levels are sufficient to perform thorough inspections, follow-up visits, and other relevant tasks.

As noted above, as of April 30, 2018, DOHMH employed 18 PHS and 18 ECEC staff who were responsible for overseeing 2,749 child care centers, which includes conducting their initial inspections. These 2,749 child care centers included GCC centers (with and without UPK programs), school-based centers, and infant and toddler programs. Table II below illustrates, by borough, the number of child care centers, the PHS and ECEC staffing levels, and the resulting average caseload per PHS and ECEC.

Table II

Child Care Center Caseload by Borough as of April 30, 2018¹³

Borough	Number of GCC Centers*	Number of School-based Child Care Centers (SBCC)	Number of PHSs	Number of ECECs	Caseload Per PHS (Includes GCCs & SBCCs)	Caseload Per ECEC (GCCs Only)
Brooklyn	816	224	6	5	173	163
Manhattan and Staten Island	628	123	5	4	150	157
Queens	494	91	4	5	146	99
Bronx	312	61	3	4	124	78
Total	2,250	499	18	18	-	-

*This also includes the GCC centers that do not offer UPK programs.

It should be noted that Table II does not include additional responsibilities that the ECECs and PHSs have, such as inspecting the approximately 170 summer camps and 380 afterschool programs operating during the scope period. If those were included, the number of assigned inspections per inspector would increase significantly.

DOHMH Response: “The auditors’ assessment of case load per inspector and per borough is overstated because the auditors failed to consider the information provided on May 1, 2018 that reflects 13 inspectors in the Compliance Promotion Unit (CPU). Through cross-training, CPU staff conducts both ECEC and PHS inspections; thereby reducing the workload of ECECs and PHSs conducting routine inspections in each borough.”

Auditor Comment: We did not include CPU inspectors in these calculations because their workload is not comparable to the workload of other child care center inspectors. CPU inspectors are assigned to centers on a temporary basis, by design. There is no time frame as to how long centers remain with the CPU; a center can resume normal operations after only a few months of oversight by the CPU.

As indicated in Table II above, the Bronx had 62 percent fewer GCC centers than Brooklyn (312 to 816). Nevertheless, the Bronx had only one fewer ECEC inspector than Brooklyn (4 in the Bronx versus 5 in Brooklyn). As a result, the average caseload for Brooklyn’s ECEC inspectors was more than half the average case load of the Bronx ECEC inspectors (163 versus 78). Overall, both the PHS and ECEC inspectors have a wide range of responsibilities and conducting inspections of UPK centers is just one of those responsibilities.

A PHS inspector’s day-to-day responsibilities include: (1) conducting preliminary visits of GCC centers and summer camp providers; (2) conducting initial, compliance and monitoring inspections of GCC centers, school-based child care programs, summer camps, and co-located after-school programs; (3) providing technical assistance to programs; (4) responding to inquiries from child care providers; and (5) investigating complaints. As noted above, PHS inspections

¹³ As of April 30, 2018, DOHMH employed 13 inspectors within its CPU, who were responsible for overseeing 229 centers. However, centers are assigned to the CPU on a temporary basis and upon “graduating” from the CPU, the centers are re-assigned to the original borough offices—PHS and ECEC inspectors within those borough offices continue to be responsible for those centers.

primarily focus on physical conditions in centers, including environmental health and safety, facility maintenance, food protection, pest control, injury and hazard prevention.

An ECEC inspector's day-to-day responsibilities include: (1) conducting preliminary visits of GCC centers prior to issuing licenses; (2) conducting initial, compliance and monitoring inspections of GCC centers and family day care programs; (3) renewals of permits for child care providers, which includes the review of documents related to permit renewal and uploading documents related to the renewal into CCATS if not successfully uploaded by child care providers; (4) providing technical assistance to programs; and responding to inquiries from child care providers; (5) Investigating complaint; and (6) providing training to child care providers, upon request. As noted above, ECEC inspections focus mainly on child supervision, staff clearances and credentials, curriculum implementation, and program administration.

As stated previously, as of April 30, 2018, DOHMH also employed seven supervisors in its Bureau of Child Care who are responsible for overseeing the PHS and ECEC inspectors. Table III below illustrates the number of child care centers assigned per supervisor in each borough.

Table III
Caseload for Supervisor by Borough
as of April 30, 2018

Borough	Number of GCC Centers *	Number of School-based Child Care Centers (SBCC)	Number of PHS Supervisors	Number of ECEC Supervisors	Caseload Per PHS Supervisor (includes GCCs & SBCCs)	Caseload Per ECEC Supervisor (GCC Only)
Brooklyn	816	224	2	1	520	816
Manhattan and Staten Island	628	123	1	1	751	628
Queens	494	91	1		585	
Bronx	312	61	1		373	
Total	2,250	499	7		-	-

*This also includes the GCC centers that do not offer UPK programs.

As indicated in Table III, there is only one supervisor overseeing both the PHS and ECEC inspectors in Queens and the Bronx. Supervisors' responsibilities include: assigning caseloads to staff; reviewing inspection reports; keeping track of violations; rendering technical assistance to staff and providers; and reviewing permit application and renewals.

Auditors interviewed 16 PHS and ECEC inspectors regarding the adequacy of staffing resources. In those interviews, only two of the inspectors stated that they believed staffing levels to be sufficient to enable them to efficiently cover the needs of the child care centers and only seven of the inspectors interviewed stated that they felt that their caseloads were manageable. However, more than half of those who expressed a positive opinion of their workloads qualified their responses by stating either that their workloads were manageable—primarily due to their extensive years of experience—or that they managed their inspections at the expense of other assignments. The seven supervisors who we interviewed expressed similar views as those expressed by the inspectors; only three of the supervisors we interviewed felt that their caseloads were manageable and only two supervisors felt that the staffing level was sufficient.

Moreover, a number of ECECs stated that they would like to spend more time providing technical support to the centers, a function that they considered of paramount importance. However, they stated that, due to their caseloads and the current staffing levels, they had little time to spend on this type of activity. The sentiment of the ECECs was echoed by the supervisors we interviewed, who expressed the significance of periodic random field visits to assess the inspection of their staff, but stated that given their current workloads and responsibilities, they were unable to do so. However, not only did these inspectors indicate they had insufficient time to provide technical assistance to UPK GCC centers, as noted above, the failure to conduct ECEC inspections of UPK GCC centers occurred at a greater number of centers (68 through 94 percent for the three-year period), as indicated in Table I of this report.

As noted above, PHSs and ECECs are also responsible for investigating complaints. DOHMH considers complaints a top priority and requires all complaints to be addressed within 24 hours. Significantly, 14 of the 16 inspectors we interviewed stated that investigating complaints took up a significant amount of time and impeded their ability to conduct inspections. During Fiscal Year 2017, DOHMH received a total of 597 complaints, broken down by borough as follows: the Bronx—163; Brooklyn—207; Manhattan and Staten Island—123; and Queens—104. At the time of our audit, as of April 30, 2018, only Brooklyn and Queens had a complaint investigator assigned to handle complaints. (When the investigators' caseloads grew too large, PHS and ECEC inspectors were expected to assist in addressing the complaints.) The Bronx, Manhattan, and Staten Island, by contrast, relied exclusively on the PHS and ECEC inspectors to investigate complaints on top of their other inspectional duties. In response to our question of how long it takes, on average, to address a complaint, DOHMH responded that it is on a case by case basis and that the agency does not track that information.

At the exit conference, DOHMH stated that they currently employ five additional staff to address complaints, illegal detection investigations and inspections, as needed.

Lack of Adequate Training

DOHMH does not provide adequate training for its inspection staff to assist them in carrying out their responsibilities. This is of particular concern given this audit's findings, which indicate that DOHMH may not have dedicated sufficient staff to inspecting child care centers.

According to Comptroller's Directive #1,

Effective management of an organization's workforce is essential to achieving desired results and an important part of internal control. Only when the proper personnel are on the job and are provided with the appropriate training, tools, structure, incentives, and responsibilities is . . . operational success attainable. Management should ensure that skill needs are continuously assessed and that the organization is able to obtain a workforce that has the skills necessary to achieve organizational . . . goals.

Newly hired staff are provided with three to four months of on-the-job training only, with no classroom training and no written manual. This training consists of having new staff observe an experienced inspector in the field. After new employees have observed an experienced inspector for a period of time, they are provided with their own caseloads. Staff we interviewed stated that they believed certain aspects of this training to be insufficient, particularly because DOHMH provides no additional training beyond the new employee training. Only half (8 out of 16) of the staff we interviewed felt that the training for new employees was sufficient, while the rest of the staff we interviewed stated that the training did not adequately focus on inspections. At the same

time, nearly all staff, including those who were satisfied with the training that they received as new employees, believed that a standardized training curriculum for new employees, as well as a future ongoing training curriculum, would improve the inspection process.

DOHMH's upper management acknowledged that currently there is no systematic ongoing operational training provided to staff. Instead, the agency relies on the quarterly meetings to inform staff of any changes to the health code and to discuss issues that staff encountered in the field. However, not only is there no systematic training component to these quarterly meetings, they were not even consistently conducted until 2017. DOHMH officials stated that as of 2016, they hired a training coordinator to develop and provide professional training programs for the Bureau of Child Care and the agency expected that such training would be provided by the end of 2018.

It is essential for all DOHMH employees to not only receive adequate training as new employees, but to also receive training on an ongoing basis. Training is an integral part to the success of an organization and ensures that employees are obtaining the knowledge and skills relating directly to the performance of their responsibilities.

Recommendations

1. DOHMH should ensure that PHS and ECEC inspectors immediately inspect those centers that have not received an initial inspection within the last three years.

DOHMH Response: DOHMH disagreed with this recommendation, stating, "This recommendation is not needed. There is no GCC currently operating that has not been inspected in the last 3 years."

Auditor Comment: As discussed in this report, DOHMH's argument that compliance and monitoring inspections can be considered a replacement for initial inspections is contradicted by its own protocols, by DOHMH officials, and even by the Department's response to this audit. We also noted in the report that DOHMH inspection records for Fiscal Year 2015 through 2017 indicated that the percentage of UPK GCC centers for which DOHMH failed to perform at least one of the two required inspections ranged from 48 to 60 percent. Accordingly, we urge DOHMH to reconsider its response and ensure that it conduct an initial ECEC or PHS inspection of any centers that are missing one.

2. DOHMH should review its inspection tracking tools, including management reports, and make any necessary changes to those tools, reports and oversight processes in general to better ensure that all initial inspections required as per DOHMH protocols are performed.

DOHMH Response: DOHMH agreed to implement this recommendation, stating, "While the Department disagrees with the auditors' assessment regarding tracking tools and management reports, we continue to improve CCATS and further refine canned reports to support enforcement objectives."

3. DOHMH should evaluate the needs and concerns of the supervisors with regards to management reports and should include supervisors' input in designing management reports.

DOHMH Response: DOHMH disagreed with the recommendation, stating, "This recommendation is not necessary as we already consider the Child Care Program reporting needs, including those reports to be used by supervisors."

Auditor Comment: As stated earlier in this report, DOHMH’s acknowledgement in its response that supervisors may not routinely use these reports is an indication that these reports may have some deficiencies. Further, it corresponds with the results of our interviews with the supervisors, who indicated that they had very little input in the design of these management reports. In order to maximize the utility of these reports, DOHMH should solicit the feedback of the end-users who are the intended recipients.

4. DOHMH should conduct a study to determine the adequacy of its staffing, as well as its structure in relation to the number of child care centers it oversees and adjust staffing levels as warranted.

DOHMH Response: DOHMH disagreed with the recommendation, stating, “This recommendation is not needed. DOHMH has assessed its staffing needs and determined that it has the level of staff to perform its work [F]ollowing the exit conference, we provided the auditors with 2 examples of staff productivity analysis reports which were used to determine staffing level such as to support the increase in GCC centers under the UPK initiative. It appears that these reports have not been considered or reflected in the audit report.”

Auditor Comment: An “anecdotal review” of past performance regarding the length of time it takes to conduct an inspection, as indicated by DOHMH’s Director of Field Operations and Regulatory Enforcement, is not a replacement for a study that examines staffing and caseloads.

In addition, the two analysis reports that DOHMH refers to do not contain any analyses regarding the adequacy of its staffing levels. As such, we urge DOHMH to conduct a study so as to determine the adequacy of its staffing and its structure in relation to the number of child care centers.

5. DOHMH should conduct periodic surveys of its staff and solicit feedback regarding the training curriculum so that it can provide relevant training to its staff as the agency deem appropriate.

DOHMH Response: DOHMH agreed with this recommendation, stating, “DOHMH of course agrees that staff feedback on training is important, and does seek this feedback. . . . DOHMH will continue to solicit feedback regarding this and any other training issues.”

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 New York City Charter.

The scope of this audit was July 1, 2014 through April 30, 2018. This audit focused on the inspections of UPK centers, which comprised 46 percent of all GCC centers.

To gain an understanding of DOHMH's monitoring process of the child care centers, we met with the Assistant Commissioner, Senior Advisor of Early Childhood Education, the Director of Field Operations and Regulatory Enforcement, and the Brooklyn Borough Manager from DOHMH's Bureau of Child Care. To gain insight into how inspections are conducted, we observed one PHS and one ECEC during their initial inspection process. We also interviewed eight PHSs, eight ECECs, and seven supervisors covering all five boroughs to learn about their respective responsibilities in relation to their oversight of the child care centers.¹⁴ In addition, we met with the Director of Early Childhood Development from DOHMH's Compliance Promotion Unit to better understand the functions and responsibilities of that unit with regards to monitoring of the underperforming child care centers.

We attended a CCATS demonstration to understand how DOHMH uses the system to keep track of the inspection activities related to child care centers. To further assess the adequacy of CCATS' functionalities, we observed users with different access levels within CCATS (one PHS, one ECEC, two supervisors, one borough manager, and one member from upper management) as they navigated the system. We reviewed DOHMH's Field Activity Protocol, Health Code Article 3 and Article 47, and Comptroller's Directive #1, *Principles of Internal Control*, to assess guidelines and standards for DOHMH to follow. We also reviewed a prior audit issued by the Comptroller's office on June 24, 2016, *Audit Report on the Department of Health and Mental Hygiene's Permitting of Child Care Centers* (Audit #MJ15-054A) and met with the audit staff who worked on *Audit Report on the New York City Department of Health and Mental Hygiene's Follow-up on Violations Found at Group Child Care Centers* (Audit MH17-056A), issued June 28, 2018.

To determine the number of centers that DOHMH was responsible for overseeing and to assess whether they conducted the required initial inspection of the UPK GCC centers, we reviewed a list generated from CCATS of 25,710 records pertaining to initial, compliance and monitoring inspections performed by DOHMH inspectors during Fiscal Years 2015 through 2017, and sorted the data to only focus on the initial inspections related to the GCC centers. In doing so, we identified that there were 958 GCC centers with an initial inspection during Fiscal Year 2015, 927 centers with an inspection during Fiscal Year 2016, and 933 centers with an inspection during Fiscal Year 2017.

To determine whether DOHMH inspectors conducted the required initial inspections of all of the UPK GCC centers that the agency was responsible for overseeing, we reviewed a list of 1,059 child care centers for Fiscal Year 2017, which included 890 GCC centers and 169 school-based

¹⁴ As of April 30, 2018, DOHMH employed 18 PHSs, 18 ECECs, and seven supervisors. At the time of our interviews (from January 29, 2018 through March 1, 2018), DOHMH employed 17 PHS and 15 ECEC staff.

child care centers. We then compared the list of 890 GCC centers for Fiscal Year 2017, and the list of 958 GCC centers where an initial inspection had been conducted during the same scope period to identify the number of child care centers that were on one list but not the other. Our analysis of the two sets of records revealed that 73 UPK GCC centers included in the list of UPK GCC centers provided by DOHMH were not among the GCC centers identified on the list of initial inspections conducted by DOHMH.

DOHMH also provided us with a list of 314 centers that had been assigned to its CPU for monitoring during Fiscal Year 2017, of which 248 were preschool GCC centers. Of these 248 centers, 150 were included in the list of 958 centers that also received a PHS and/or ECEC inspection prior to being assigned to the CPU and 98 centers were not included in the list of 958 centers—94 of the 98 centers did not have UPK contracts. After reconciling the three lists, we identified 1,035 UPK GCC centers that were reportedly in operation during Fiscal Year 2017 and that should have received an initial inspection (958+73+4).

It should be noted that DOHMH's operations focus on the child care center per se, regardless of the programs that a center offers (i.e., UPK or non-UPK), the agency does not keep track of the child care centers at the program level, hence, the number of child care centers on the lists are approximate and there will be discrepancies amongst the lists. In addition, because DOHMH does not keep track of the centers at the program level, the agency was unable to provide us with the historical number of UPK centers for Fiscal Years 2015 and 2016, hence, we were unable to perform the same comparison for these two fiscal years.

To assess the history of the 73 centers that were not inspected during Fiscal Year 2017, we reviewed the prior violations issued during Fiscal Year 2016, as well as the complaints that were made during the same period. We also reviewed the inspection records from Fiscal Year 2015 through Fiscal Year 2017 to determine whether DOHMH ensured that initial inspections were consistently conducted by both the PHS and the ECEC inspectors.

To determine the reliability of the data generated from CCATS, we reviewed the above mentioned list of 25,710 inspection records and performed logical and sequential comparisons among the inspection date, the violation issue date, and the violation correction date in order to find out whether the dates were entered in correct and logical order (i.e. whether the violation issue date is later than the inspection date, the violation correction date is later than the violation issue date, and the violation correction date is later than the inspection date).

To determine the sufficiency of staffing, we interviewed relevant staff and also calculated the number of child care centers that DOHMH was responsible for overseeing, which included GCC centers, school-based centers, infant and toddler programs, those that offer UPK, as well as those that do not offer UPK programs, and the number of inspectors, consultants and supervisors DOHMH employed as of April 30, 2018 at each borough. To assess whether or not the complaint investigation had an impact on inspectors' workloads, we reviewed the complaints records that the Bureau of Child Care investigated during Fiscal Years 2015 through 2017, for a total of 1,557 complaints.

The results of the above test, while not statistically projected to their respective populations, provided a reasonable basis for us to assess whether DOHMH adequately monitors the child care centers to ensure that initial inspections are conducted in accordance with the agency's policies and procedures.

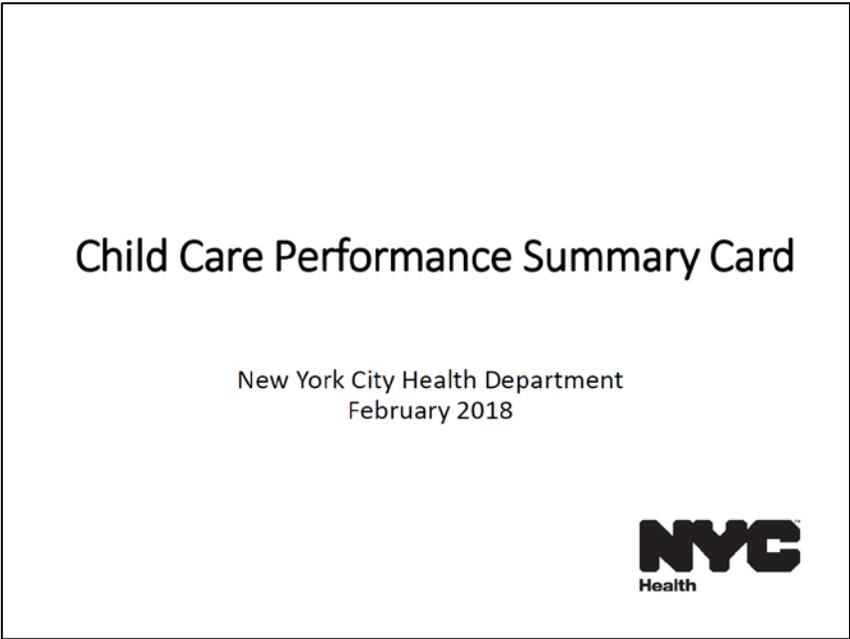
APPENDIX I

73 UPK GCC Centers That Did Not Receive an Initial Inspection in Fiscal Year 2017

#	DCID	Name of Child Care Center That Was Not Inspected	Borough	Received Violation in FY16	Received Complaints between FY16 and FY17
1	DC331	1332 FULTON AVENUE DAY CARE,INC.	BRONX	X	X
2	DC2840	A CHILD'S PLACE TOO, INC	QUEENS	X	X
3	DC10481	ABC KIDDIELAND, INC	QUEENS		
4	DC24552	ALL MY CHILDREN DAY CARE AND NURSERY SCHOOL	BROOKLYN		X
5	DC2452	ALPHA KAPPA ALPHA SORORITY EPSILON PI OMEGA CHAPTER DAY CARE CENTER, INC	QUEENS	X	X
6	DC25380	BETHEL EMANUEL TEMPLE, INC.	QUEENS	X	X
7	DC2000	BIRCH FAMILY SERVICES,INC.	BRONX	X	X
8	DC10875	BLOCK INSTITUTE SCHOOL	BROOKLYN		
9	DC17499	BLUE SKY DAY CARE, INC.	BROOKLYN	X	
10	DC390	BNOS ZION OF BOVOV, INC	BROOKLYN	X	
11	DC23108	BRIGHT STAR STRATFORD INC.	BRONX	X	X
12	DC22025	BRIGHTSIDE ACADEMY INC.	BRONX		X
13	DC18400	BRIGHTSIDE ACADEMY, INC.	BRONX	X	X
14	DC26083	BRIGHTSTAR DAYCARE AT ROCHAMBEAU INC	BRONX	X	X
15	DC25280	BROOKLYN TREEHOUSE PRESCHOOL,INC	BROOKLYN	X	X
16	DC371	BUSHWICK IMPROVEMENT SOCIETY, INC.	BROOKLYN	X	X
17	DC32447	BUSHWICK UNITED HOUSING DEVELOPMENT FUND CORPORATION	BROOKLYN	X	
18	DC25859	CARDINAL MCCLOSKEY SCHOOL AND HOME FOR CHILDREN	BRONX	X	X
19	DC15570	CHILD DEVELOPMENT CENTER OF THE MOSHOLU MONTEFIORE COMMUNITY CENTER INC.	BRONX	X	
20	DC11686	CHILD PRODIGY LEARNING CENTER, INC.	BROOKLYN		X
21	DC17811	CONCOURSE HOUSE HOUSING DEVELOPMENT FUND COMPANY, INC.	BRONX	X	X
22	DC24845	FABIANA DAY CARE ACADEMY INC.	BRONX	X	
23	DC11813	FOOTSTEPS CHILDCARE INC.	BROOKLYN	X	X
24	DC22585	FUNDAY DAYCARE CENTER INC.	QUEENS		X
25	DC14497	GENERATION 21, NY INC.	BROOKLYN	X	X
26	DC20623	HAPPY DRAGON OF NEW YORK, INC.	BROOKLYN	X	X
27	DC2034	HIGHBRIDGE ADVISORY COUNCIL FAMILY SERVICES INC.	BRONX	X	X
28	DC844	HIGHBRIDGE ADVISORY COUNCIL FAMILY SERVICES INC.	BRONX		
29	DC19733	INNER FORCE TOTS, INC	BROOKLYN	X	X
30	DC10985	INTERDISCIPLINARY CENTER FOR CHILD DEVELOPMENT INC.	QUEENS		
31	DC17412	JACKSON HEIGHTS EARLY LEARNING CENTER ANNEX, INC	QUEENS	X	
32	DC10529	KENNEDY CHILD STUDY CENTER	BRONX	X	X
33	DC188	LA PENINSULA COMMUNITY ORGANIZATION, INC.	BRONX	X	
34	DC21038	LITTLE HANDS AND FEET DAYCARE, LLC.	BROOKLYN		X
35	DC21141	LITTLE SCHOLARS EARLY DEVELOPMENT CENTER, LLC	BRONX	X	X
36	DC1711	LITTLE STARS DAY CARE CENTER INC.	BROOKLYN	X	X
37	DC22683	LITTLE STARS THREE, INC.	BRONX	X	X
38	DC2867	LYNBO,INC.	QUEENS	X	X
39	DC14284	MARC ACADEMY AND FAMILY CENTER,INC.	BRONX	X	X
40	DC433	MARTHA GALASINAO/NURSERY SCHOOL DIRECTOR	BROOKLYN	X	X
41	DC23087	MID BRONX CCRP EARLY CHILDHOOD CENTER, INC.	BRONX	X	X
42	DC316	MID-BRONX CCRP EARLY CHILDHOOD CENTER, INC.	BRONX	X	X
43	DC10897	MONTESSORI PROGRESSIVE LEARNING CENTER INC	QUEENS	X	X
44	DC10856	MOSHOLU MONTEFIORE COMMUNITY CENTER, INC.	BRONX	X	X

#	DCID	Name of Child Care Center That Was Not Inspected	Borough	Received Violation in FY16	Received Complaints between FY16 and FY17
45	DC23175	NORTHEAST BRONX DAY CARE CENTER, INC.	BRONX	X	X
46	DC32959	ONE WORLD PROJECT - BROOKLYN, INC.	BROOKLYN	X	X
47	DC18391	OUR CHILDREN-THE LEADERS OF TOMORROW, INC.	BROOKLYN	X	X
48	DC32750	PHIPPS NEIGHBORHOODS, INC.	BRONX		X
49	DC15607	PLAY AND LEARN DAY CARE, INC.	QUEENS	X	X
50	DC1327	POLICE ATHLETIC LEAGUE, INC.	QUEENS	X	
51	DC1263	QUEENS COUNTY EDUCATORS FOR TOMORROW, INC.	QUEENS		
52	DC1907	RING AROUND THE ROSIE PRESCHOOL, INC.	BROOKLYN		
53	DC26062	RONOMOZA INC.	BROOKLYN		X
54	DC15287	SHARON BAPTIST BOARD OF DIRECTORS, INC.	BRONX	X	X
55	DC343	SHELTERING ARMS CHILDREN AND FAMILY SERVICES	BROOKLYN	X	
56	DC14455	SHIRA ASSOCIATION, INC.	BROOKLYN		
57	DC14394	SHOREFRONT YM-YWHA OF BRIGHTON-MANHATTAN BEACH, INC.	BROOKLYN		X
58	DC2029	SOUTH EAST BRONX NEIGHBORHOOD CENTER, INC.	BRONX	X	
59	DC82	STAR AMERICA, INC.	BROOKLYN		
60	DC2200	STATEN ISLAND MENTAL HEALTH SOCIETY, INC.	STATEN ISLAND	X	
61	DC32482	SUNNY SKIES DC CORP	BROOKLYN		X
62	DC25205	SUNNYSIDE COMMUNITY SERVICES, INC.	QUEENS	X	X
63	DC24680	SUNSHINE LC OF 3RD AVE LLC	MANHATTAN		X
64	DC21703	TENDER TOTS DECATUR LLC	BRONX		X
65	DC2090	THE CHILDREN'S AID SOCIETY	BRONX		X
66	DC2695	THE CHILDREN'S AID SOCIETY	MANHATTAN	X	X
67	DC32131	THE CHILDREN'S AID SOCIETY	BRONX	X	X
68	DC546	THE NEW YORK LEAGUE FOR EARLY LEARNING, INC.	BROOKLYN	X	
69	DC88	THE YOUNG WOMEN'S CHRISTIAN ASSOCIATION OF THE CITY OF NEW YORK	BROOKLYN	X	X
70	DC22438	TINY BUMBLEBEES, INC.	BROOKLYN		
71	DC14362	YELED V' YALDA EARLY CHILDHOOD CENTER, INC.	BROOKLYN	X	
72	DC14359	YELED V' YALDA EARLY CHILDHOOD CENTER, INC.	BROOKLYN	X	
73	DC22211	YELED V' YALDA EARLY CHILDHOOD CENTER, INC.	BROOKLYN	X	

Excerpt from Webinar Presentation about Child Care Performance Summary Card



2019 Card Details

The violation information on the card:

- Will be based on *post-adjudication* data
 - Programs have the opportunity to be heard at the Office of Administrative Trials and Hearings (OATH) for any violation issued by the Health Department.
 - Only violations upheld by the OATH hearing officer – *post-adjudication violations* – will be included in the card.
- Will be based on initial inspection data
 - All programs receive at least two initial inspections each year – one from a health inspector and another from an Early Childhood Educational Consultant.

NYC
Health

Source: <https://www1.nyc.gov/assets/doh/downloads/pdf/dc/childcare-psc-webinar-presentation.pdf>



NEW YORK CITY DEPARTMENT OF
HEALTH AND MENTAL HYGIENE

Oxiris Barbot, MD

Acting Commissioner

Oxiris Barbot, M.D
Acting Commissioner
obarbot@health.nyc.gov

October 16, 2018

Gotham Center
42-09 28th Street
CN-28c, WS 8-46
Queens, NY 11101-4132
347.396.4005 tel

Marjorie Landa
Deputy Comptroller for Audit
Office of the New York City Comptroller
1 Centre Street, Room 1100
New York, NY 10007-2341

Re: Audit Report on the Department of Health and Mental Hygiene's Oversight of Universal Pre-Kindergarten Group Child Care Centers, Audit Number MG18-071A

Dear Deputy Comptroller Landa:

The Department of Health and Mental Hygiene (DOHMH) reviewed the draft audit report on its oversight of Universal Pre-Kindergarten (UPK) Group Child Care Centers (GCC). The stated objective of the audit was to determine whether DOHMH has adequate controls to ensure that initial inspections at UPK GCC centers are conducted in accordance with the agency's policies and procedures.

The attached response details DOHMH's position in regards to the auditors' findings and recommendations.

We appreciate the efforts and professionalism of your staff during the audits. If you have any question, please contact Sara Packman, Assistant Commissioner for Audit Services at (347) 396-6679.

Sincerely,

Oxiris Barbot, M.D.
Acting Commissioner

Cc:

Corinne Schiff, Deputy Commissioner, Environmental Health, DOHMH
Simone Hawkins, Assistant Commissioner, Bureau of Child Care, DOHMH
Sara Packman, Assistant Commissioner, Audit Services, DOHMH
George Davis, Director, Mayor's Office of Operations

Attachments:

DOHMH'S RESPONSE TO THE AUDITORS'

DRAFT AUDIT REPORT ON

DOHMH'S OVERSIGHT OF UNIVERSAL PRE-KINDERGARTEN GROUP CHILD CARE CENTERS

MG18-071A

The Department of Health and Mental Hygiene (DOHMH or the Department) reviewed the draft audit report on its oversight of universal pre-kindergarten (UPK) group child care centers (GCC centers). The stated objective of the audit was to determine whether DOHMH has adequate controls to ensure that initial inspections at UPK GCC centers are conducted in accordance with the agency's policies and procedures. We thank the auditors for the opportunity to respond to the draft audit report.

The Department strongly disagrees with the audit's conclusions and implications that are based on the auditors' misinterpretation of the scope of the Department's inspection activities and their failure to include in their analyses the different inspections the Department conducts. The Department has a robust inspection program that involves conducting nearly 12,500 inspections annually of the approximately 2,250 GCC programs in New York City to monitor the GCC centers' compliance with the New York City Health Code, in order to promote safe and high quality childcare for New York City families. The Department inspects all GCC programs in the same way irrespective of their funding source, that is, it is irrelevant to Department operations that a GCC center has a contract with the New York City Department of Education (DOE) to provide programming under the City's Universal Pre-Kindergarten initiative.

The Department uses a risk-based approach to conduct its inspections, with a first inspection called an "initial inspection"; a follow-up inspection to check whether any deficiencies identified on a prior inspection have been corrected, called a "compliance inspection"; and a "monitoring inspection" conducted in conjunction with a complaint or other administrative action.

The Department strongly disagrees with the auditors' conclusion that DOHMH needs to strengthen its controls to ensure that initial inspections at the UPK GCC centers are conducted in accordance with DOHMH protocols. The auditors' reached this conclusion because they failed to consider the positive impact of the different inspections the Department conducts on the health and safety of the children. Further, the auditors disregarded the Department's requirement to perform "at least one unannounced visit of a GCC annually"; a requirement that was communicated to the auditors during the entrance conference, throughout the audit and at the exit conference. These errors led the auditors to significantly undercount the number of inspections performed each year.

The Department's inspections have different labels ("initial," "compliance," "monitoring") so that its system scheduling algorithm triggers the inspection. Inspections are conducted by staff with different titles—Public Health Sanitarian's (PHS) focus is on facilities' physical aspects, and Early Childhood Education Consultant's (ECEC) focus is on staffing and programing aspects. No matter the type of inspection, the inspector always assesses the same core health and safety requirements set out in the

Health Code. In fiscal year 2017, 99 percent of the UPK GCC programs received at least one visit from either a PHS or ECEC.

The auditors acknowledge that the Department conducts inspections with labels besides “initial” inspections. However, in their analysis of inspection data, they failed to consider “compliance” and “monitoring” inspections conducted at the affected programs, thus reaching an inaccurate assessment of the Department’s inspection process.

The following is DOHMH’s detailed response to the issues and recommendations.

Auditors’ Misrepresentations That Should be Corrected

Before responding to the specific findings, the Department will address the auditors’ misrepresentations of DOHMH’s ability to provide UPK GCC system data. Specifically, on pages 6 and 7 of the draft audit report, the auditors make statements regarding a list of UPK sites and their related inspection activities data that DOHMH provided. These statements contradict what is presented in the Detailed Scope and Methodology section on page 15. For instance, on page 7, the auditors state: “we asked DOHMH to compile a list of the UPK GCC centers in operation during Fiscal Year 2017. In response, DOHMH provided us with a list of 890 UPK GCC centers.”

DOHMH Response: DOHMH did not provide the auditors with a fiscal year 2017 list of 890 UPK GCC centers. Rather, the auditors manipulated the data DOHMH provided in order to arrive at the population of UPK GCC centers that they included in their analysis. This manipulation is described in the Scope and Methodology section of the audit report.

In describing how they developed the number of UPK GCC centers, the auditors imply that DOHMH was not able to provide records it should have produced. This is not correct. DOHMH provided the auditors with three sets of data in response to their requests: a list of UPK GCC centers that DOHMH is responsible for inspecting; a list of all inspection activities—25,710 records—for the UPK sites for fiscal years 2015 through 2017; and a list of all child care centers, with and without UPK contracts, assigned to the Department’s Compliance Promotion Unit (CPU), which conducts intensive monitoring of poorer-performing GCC centers to promote rapid improvement.

Before providing the data, at the outset of the audit, DOHMH informed the auditors that it does not track GCC center’s status as a UPK program because it does not need that information. The Department oversees all GCC centers in the same way regardless of whether the program has a UPK contract with the DOE. The Department explained that it has an approximate list of UPK programs, created for other purposes, and it would provide it, but recommended that the auditors obtain accurate lists of UPK programs from DOE for the three years of interest.

The auditors did not obtain the accurate UPK lists from DOE, as DOHMH advised, and furthermore faulted the Department for not having information the auditors wanted to conduct their analysis, ignoring that the requested information falls outside DOHMH’s purview. The auditors’ critique is misplaced, and the

auditors should amend the misleading statements on pages 6 and 7, as well as delete Footnote 10¹ on page 8.

Note also that the third set of data was provided following the exit conference. At the auditors' request, DOHMH provided a list of all child care centers, with and without UPK contracts that were assigned in Fiscal Year 2017 to CPU, and all related inspection activities. DOHMH provided the requested line list of CPU inspection activities for 314 centers, including preschool sites that did not have UPK contracts according to DOHMH records. In the draft audit report, it appears that the auditors included 98 preschool centers from this CPU list without confirming their UPK status.

Issue 1: DOHMH Lacked Evidence of Required Inspections of the UPK GCC Centers

The audit report states that DOHMH lacked evidence of required inspections of UPK GCC centers, based on findings that (a) in FY17, 73 UPK GCC centers did not have an initial inspection, including 53 that had received violations in FY16 and 49 of the 73 that had complaints filed against them with the Department in FY16 and FY17; and (b) in FY2015 through FY2017, 48 to 60 percent of UPK GCC centers received an inspection by either a PHS or an ECEC but not by both, including 47 percent in FY17.

DOHMH's Response: DOHMH strongly disagrees with the auditors' inaccurate assessments for the following reasons:

a) In fact, DOHMH inspected nearly 99² percent of UPK GCC centers in FY17 when initial, compliance and monitoring inspections are taken into account. The auditors failed to present an accurate assessment because they considered only one inspection label—"initial" inspection.

Of the 73 UPK GCC centers identified by the auditors as missing an "initial" inspection, the Department conducted compliance and monitoring inspections at 55 centers. In fact, the Department conducted 169 inspections at these 55 GCC centers in FY17. Each of these inspections – as in every inspection – is a health and safety inspection. Health and safety inspections are what DOHMH does. When the Department is inspecting a GCC center repeatedly over the course of the year, it may not have an inspection labeled "initial," but it is still performing a health and safety inspection. This was explained to the auditors verbally and in writing.

The auditors further state that 324 violations were issued to 53 of the above mentioned 73 UPK GCC centers during FY16 and that DOHMH received 158 complaints pertaining to 49 of the 73 centers during FY16 and FY17. The auditors then state that "DOHMH's inspection process does not appear to take such complaints and violations into account so as to increase the likelihood that these centers would be

¹ Footnote 10 states "For Fiscal Years 2015 and 2016, we were not able to determine if there were any UPK GCC centers that had no record of any inspections because DOHMH was unable to provide an accurate count of the total number of UPK GCC centers in operation during these years."

² 18 programs were not inspected in FY17. However, 17 of these were inspected within four months following the end of fiscal year. Six attempts were made to inspect the remaining center during FY17 and on November 1, 2017, DOHMH was informed that the center was out of business.

inspected.” **Contrary to these assertions, DOHMH conducted a compliance or monitoring inspection, as appropriate, at all of these sites in response to either violations cited or complaint received.** In FY 16 and FY17, 96 compliance inspections were conducted in response to violations and 174 monitoring inspections were conducted in FY16 and FY17 in response to complaints.

By failing to consider all inspection labels—“initial,” “compliance” and “monitoring”—the auditors incorrectly concluded that the Department does not inspect the UPK GCC center when required. As explained above, core health and safety conditions at the centers are assessed during initial, compliance and monitoring inspections.

(b) The auditors assert that required inspections were not conducted because not all UPK GCC centers were inspected by both a PHS and an ECEC and instead were inspected by only one of these inspectors. The auditors again misunderstand the Department’s protocol and mandate. Two types of inspectors conduct GCC inspections: the PHS focuses on facility conditions, and the ECEC focuses on staffing and programming aspects and provides technical assistance to improve program curricular quality; but both inspector titles inspect for the same core health and safety requirements of the Health Code.

The auditors state:

“Our review of the Fiscal Year 2017 inspection records revealed that 531 (47 percent) of the 1,129 UPK centers lacked evidence of having received at least one of the two required inspections for that year. . .

312 centers received a PHS inspection only; and 146 centers received an ECEC inspection only.”

This statement is incorrect. In fact, only 6 percent (73 of the 1,129) did not receive an “initial” inspection in FY17. The difference of 458 (312 plus 146) of the 531 centers cited by the auditors did receive at least one of the two required inspections. As we told the auditors throughout the audit and at the exit conference, the Department’s mandate is to perform at least one unannounced visit at every GCC at least annually. Thus, we comply with our mandate when an initial inspection is performed by either PHS or ECEC annually. Therefore, statements on pages 7 and 8 related to this issue along with Table 1 should be revised.

The following chart presents the number of UPK GCC that received any inspection during the audit period and those that received an initial inspection. We note that during FY17, 94 percent (1,056 of 1,128) of UPK GCC centers received an initial inspection.

Response To Table 1 Number of Initial Inspections Conducted at UPK GCC Centers during FY 2015 - 2017						
Fiscal Year	Number of Centers in the Auditors' Analysis	Number of Centers Active During the Entire Year or Part of the Year	Number of Centers with An Inspection	Percent of Centers with An Inspection	Number of Centers with An Initial Inspection	Percent of Centers with An Initial Inspection
2017	1,129	1,128	1,111	99%	1,056	94%
2016	*	1,110	1,053	95%	1,011	91%
2015	*	1,059	1,038	96%	1,019	96%

* The auditors did not provide numbers for the fiscal year.

Auditors' Recommendation:

1. "DOHMH should ensure that PHS and ECEC inspectors immediately inspect those centers that have not been inspected within the last three years."

DOHMH's Response: This recommendation is not needed. There is no GCC currently operating that has not been inspected in the last 3 years.

Issue 2: Deficiencies with DOHMH's Tracking of Inspections

The auditors allege that "DOHMH did not provide its staff with a mechanism that would provide supervisors with the ability to track the number of centers that have been inspected, the status of those inspections, or the number of inspections that are pending."

DOHMH's Response: DOHMH strongly disagrees with this conclusion. In fact, DOHMH provides multiple ways for supervisors to track this work.

Supervisors have access to Pending Initial reports, but may not routinely use them. In addition, two sources of reports are available to supervisors for tracking inspections. First, the Child Care Activity Tracking System (CCATS) maintains detailed information on all active child care programs, including individual inspection histories. Supervisors can use CCATS to determine when a site is due for an inspection, schedule a site for inspection and track whether it was done in real time and historically. CCATS also generates, weekly, a recommended list of sites for inspection based on a preprogramed priority algorithm, and provides a dashboard with daily updates on inspector assignments and critical activities conducted in the last five days. As DOHMH officials informed the auditors, CCATS data feeds into a Data Warehouse that, in turn, generates canned reports providing a variety of information, including aggregate year-to-date inspection activity for oversight, monitoring and reporting purposes. The information in CCATS and from the Data Warehouse standard reports is available to central management staff and borough office managers, who use this information to ensure adequate and timely inspection of GCC

centers. Additionally, central office staff regularly discusses year-to-date inspection progress with borough office managers.

Auditors' Recommendations:

2. "DOHMH should review its inspection tracking tools, including management reports, and make any necessary changes to those tools, reports, and oversight processes in general to better ensure that all required inspections are performed."

DOHMH's Response: While the Department disagrees with the auditors' assessment regarding tracking tools and management reports, we continue to improve CCATS and further refine canned reports to support enforcement objectives.

3. "DOHMH should evaluate the needs and concerns of the supervisors with regards to management reports and should include supervisor's input in designing management reports."

DOHMH's Response: This recommendation is not necessary as we already consider the Child Care Program reporting needs, including those reports to be used by supervisors.

Issue 3: DOHMH Does Not Monitor the Adequacy of Its Staffing, Training and Ongoing Staff Support

The auditors allege that DOHMH does not monitor the adequacy of its staffing, training and ongoing staff support.

Staffing

The auditors contend that "DOHMH does not monitor the adequacy of its own staffing in relation to the quantity of work required to properly administer the agency's oversight responsibility for the City's UPK child care centers." The auditors also state that in the absence of a formal study looking at caseload, neither they nor the DOHMH can be assured that current staffing levels are sufficient to perform thorough inspections, follow-up visits, and other relevant tasks, and present staffing levels as of April 30, 2018 by borough and workload by inspector type (PHS, ECEC). With regard to supervisors, the auditors note that there is "only one supervisor overseeing both the PHS and ECEC inspectors in Queens and the Bronx," unlike Brooklyn and Manhattan, where there are separate supervisors for PHS and ECEC inspectors.

DOHMH's Response: DOHMH strongly disagrees with the auditors' conclusion that it does not monitor the adequacy of its staffing levels.

The auditors' conclusion regarding staffing levels seems to follow from its misunderstanding about inspections. The auditors hypothesize that "inadequate staffing ... may have likely contributed to the agency's failure to conduct all mandated inspections." As discussed with the auditors, however, the Department is mandated under the New York City Charter to conduct at least one inspection each year, as possible, and in practice conducts many more inspections as part of its risk-based monitoring of GCC centers.

The Department has conducted staffing analyses to determine staffing needs. Using CCATS data of actual duration of inspections, as well as, duration by inspection results, the Department assessed that a PHS spends about 55 minutes conducting an inspection while an ECEC spends about 155 minutes. Taking into account travel and lunch time, DOHMH established a case load for of 4-5 inspections per full day for a PHS and 2-3 inspections for an ECEC. Following the exit conference we provided the auditors with 2 examples of staff productivity analysis reports. These analyses were used to add staff to support the increase in GCC centers under the UPK initiative.

The caseload presented by the auditors in Table III *Child Care Center Case Load by Borough as of April 30, 2018* is incorrect. The auditors' assessment of case load per inspector and per borough is overstated because the auditors failed to consider the information provided on May 1, 2018 that reflects 13 inspectors in the Compliance Promotion Unit (CPU). Through cross-training, CPU staff conducts both ECEC and PHS inspections; thereby reducing the workload of ECECs and PHSs conducting routine inspections in each borough. See attached revised Table II.

In any event, as for supervisors, DOHMH hired 2 new ECEC supervisors—one for Queens and one for the Bronx—and 4 staff in light of new initiatives since the close of the audit scope.

Auditors' Recommendation:

4. "DOHMH should conduct a study to determine the adequacy of its staffing as well as its structure in relation to the number of child care centers it oversees and adjust staffing levels as warranted."

Department's Response: This recommendation is not needed. DOHMH has assessed its staffing needs and determined that it has the level of staff to perform its work. As previously mentioned, following the exit conference we provided the auditors with 2 examples of staff productivity analysis reports which were used to determine staffing level such as to support the increase in GCC centers under the UPK initiative. It appears that these reports have not been considered or reflected in the audit report.

Training

The auditors assess that "DOHMH does not provide adequate training for its inspection staff to assist them in carrying out their responsibilities."

DOHMH's Response: DOHMH disagrees with the auditors' assessment. While our training practices may not be formally documented, we believe that they are effective. DOHMH provided the auditors with a list of the types and dates of training that was provided. However, in the interest of continuous quality improvement, we have already begun a review of our training protocol to identify areas for additional training.

New inspectors are introduced to the relevant Health Code sections, inspection protocols and to using CCATS. They also begin rigorous on-the-job training. For up to six months, and before they are permitted to conduct inspections on their own, an inspector-trainee accompanies a seasoned inspector on all their assignments to learn inspection techniques, how to apply the Health Code, and on properly recording violations. Gradually, the trainee assumes more responsibility for conducting the inspection and writing

the report, still under the supervision of the seasoned inspector. Progress is monitored by the inspector's supervisor on a weekly basis. Trainees are also sent to various borough offices to experience the variations in child care programs throughout the city. When the trainee has demonstrated that they are capable of conducting inspections on their own, the supervisor will accompany the trainee on multiple inspections to assess their competence. Supervisors must certify an inspector's competence before the inspector can work on their own. Staff not meeting an acceptable competency level will continue on-the-job training with a new seasoned inspector and are re-evaluated.

The bureau holds quarterly full-day trainings with all staff to ensure that everyone is up-to-date on the latest regulations, protocols and practices. Throughout the year, staff from the Division of Environmental Health's legal office provide inspectors with trainings on various topics, including understanding new rules, writing summonses, reviewing documentation, as well as other topics that ensure the quality and completeness of an inspection. There are non-routine trainings as well. For example, in 2017 ECECs and supervisors attended a training facilitated by the Bank Street College of Education on best practices in the field of early childhood education.

Auditors' Recommendation:

5. "DOHMH should conduct periodic surveys of its staff and solicit feedback regarding the training curriculum so that it can provide relevant training to its staff as the agency deem appropriate."

DOHMH's Response: DOHMH of course agrees that staff feedback on training is important, and does seek this feedback. Prior to this audit, in response to staff requests, DOHMH has enhanced its ongoing training of inspectors and supervisors with regularly scheduled Borough Office training sessions provided by DOHMH Environmental Division attorneys and Child Care Field Operations management. Topics include code review, regulation interpretation, observational documentation, report writing, and emerging issues. DOHMH will continue to solicit feedback regarding this and any other training issues. In preparation for our quarterly staff meetings we disseminate surveys to staff so that they may contribute talking points for discussion with management on operational issues.

ATTACHMENT

DOHMH'S RESPONSE TO THE AUDITORS' DRAFT AUDIT REPORT ON
DOHMH'S OVERSIGHT OF UNIVERSAL PRE-KINDERGARTEN GROUP CHILD CARE CENTERS

Revised Table II
Child Care Center Caseload by Borough
As of April 30, 2018

	A	B	C	D	E	F= (A+B-H/C)	G= (A-H/D)	H	I	J	K= (H/(I+J))
Borough	Number of GCC Centers	Number of School-based Child Care Centers (SBCC)	Number of PHSs	Number of ECECs	Number of Investigators (complaints and Inspections as needed)	Caseload Per PHS (Includes GCC & SBCC)	Caseload Per ECECs (GCCs Only)	Number of GCC Centers & SBCCs Handled by CPU Unit	Number of CPU Inspectors-PHS	Number of CPU Inspectors-ECEC	Caseload Per CPU Inspector
Brooklyn	816	224	6	5	1	157	144	95	3	0	32
Manhattan and Staten Island	628	123	5	4	3	138	142	58	3	1	15
Queens	494	91	4	5	1	136	90	43	2	1	14
Bronx	312	61	3	4		113	70	33	2	1	11
Total	2250	499	18	18	5			229	10	3	