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The Council of the City of New York
REPORT OF THE HUMAN SERVICES DIVISION

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COMMITTEE ON GENERAL WELFARE
Honorable Annabel Palma, Chair

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Oversight: Implementation of EarlyLearn NYC

On October 28th 2013, the Committee on General Welfare, chaired by Council Member Annabel Palma and the Committee on Women's Issues, chaired by Council Member Julissa Ferreras, will hold a hearing on the Administration for Children's Services' ("ACS") implementation of EarlyLearn NYC. Ronald Richter, the Commissioner of ACS, and other concerned members of the community are expected to testify.

Background

Concept

Child care is an important component in the lives of working families. Studies have shown that it is the single greatest expense for low-income families with children in New York City.¹ Not only does it enable parents to participate in the workforce, quality child care can foster positive development in children. Research has long shown that early childhood education is an essential component in learning and development. Additionally, it is known that families' inability or ability to access quality child care can create disparities in development of children. A study of low-income three- and four-year-olds found that those who participated in high-quality early-education programs graduated from high school at higher rates (77%, compared with 60% of nonparticipants), were more likely to be employed (76%, as opposed to 62%), and had higher median annual earnings (\$20,800 versus \$15,300) at age 40.²

With the goal of improving the quality of subsidized child care, the New York City Administration for Children's Services ("ACS") created EarlyLearn NYC. According to the ACS website, EarlyLearn NYC is a unique, groundbreaking education model that merges ACS subsidized child care, Head Start, and Universal Pre-K into a single, seamless system which provides quality early education services to eligible children ages 6 weeks to 4 years old in center and family child care settings.³

On April 2, 2010, ACS issued the "Concept Paper for EarlyLearn NYC: New York City's Early Child Care and Education Services" as a first step in the process of restructuring the

¹ Institute for Children, Poverty & Homelessness, Little Room to Play: How Changes in Child Care Policies Reduce Opportunities for Working Families, (July 2012) at 1.

² *Id.* at 2 (citing Steven Barnett, Long-term Effects of Early Childhood Programs on Cognitive and School Outcomes, *The Future of Children* 5, no. 3 (1995) at 25–50; Lawrence J. Schweinhart, et al., Lifetime Effects: The High/Scope Perry Preschool Study Through Age 40 (2005)).

³ NYC Administration for Children's Services, Concept Paper for EarlyLearn NYC: Early Care and Education, (April 2, 2010) available at <http://www.nyc.gov/html/acs/downloads/childcare/EarlyLearnConceptPaper.pdf>.

City's publicly-funded early care and education ("ECE") system as it applies to ACS contracted care. Some of the key aims of the plan as outlined in testimony given by former ACS Commissioner Mattingly at an April 28, 2010 City Council hearing on the Concept paper included:

- 1) Expansion of infant and toddler care to meet the needs of underserved populations;
- 2) Increased child and family supports to build a holistic approach to early childhood development and better support the entire family;
- 3) Uniform program and child assessments for higher quality services and more positive outcomes for children; and
- 4) Integrated Early Care settings for a more accessible and sustainable system.⁴

ACS allowed for comments to be submitted on the plan in preparation for the release of a request for proposal ("RFP"). Several Council Members submitted joint comments on the plan prior to the RFP's release.⁵ While they supported several aspects of the plan, including creating an economically integrated system, improving quality standards, enhancing professional development, and providing full day care, the comments also raised several concerns.⁶ More specifically, the Council Members expressed concerns that the plan would potentially cause the loss of both capacity and jobs, present difficulties for smaller, non-profit providers with raising private funding and their ability to effectively compete in the RFP process.⁷ The RFP was released in May 2011. Implementation of EarlyLearn NYC started in October 2012.

⁴ Testimony of John B. Mattingly, Commissioner of the Administration for Children's Services, Oversight: ACS's Early Learn, Hearing of the New York City Council Committees on General Welfare and Women's Issues, (April 28, 2010) at 17.

⁵ Comments on ACS' Early Learn NYC, (May 21, 2010)(on file with Committee).

⁶ Id.

⁷ Id.

Request for Proposal

According to ACS, the purpose of the RFP was to seek appropriately qualified vendors to provide quality early care and education services within all five of New York City's boroughs.⁸ Additionally, EarlyLearn NYC contractors were expected to meet the following criteria in operating EarlyLearn NYC programs:

- 1) Implement High Quality Early Childhood Education Services;
- 2) Emphasize positive educational and social outcomes for children and provide families with comprehensive supports;
- 3) Align early care resources with high need communities;
- 4) Maximize resources from all early care and education funding sources that are available for young children; and
- 5) Ensure financial accountability and sustainability.⁹

Providers could be either center-based or home-based as long as the requirements outlined above were met. ACS stated that its goal through the RFP was to serve approximately 42,000 children.¹⁰

Implementation of EarlyLearn NYC

On October 1, 2012, ACS rolled out the EarlyLearn NYC program with the intention to serve approximately 42,000 children in New York City in 422 EarlyLearn NYC centers, along with a vast family child care network. EarlyLearn NYC providers were determined based on the following scoring methodology:¹¹

- Demonstrated Quantity and Quality of Successful Relevant Experience (20%)
- Demonstrated Level of Organizational Capability (40%)
- Demonstrated Quantity and Quality of Proposed Approach (40%)

⁸The City of New York City Administration for Children's Services, Early Learn NYC: New York City's Early Care and Education Services Request for Proposals, PIN: 06811P0012, (released May 23, 2011) (on file with Committee) at 2.

⁹ *Id.* at 2-3.

¹⁰ *Id.* at 2.

¹¹ NYC Administration for Children's Services, Presentation on the Division of Child Care and Head Start. Early Learn NYC, (May 10, 2010).

Award priorities were given to: proposals serving areas of high need (by zip code); proposers qualified to serve dually-eligible children (those eligible for both Head Start and ACS subsidized child care); proposers with both center based and Family Child Care ("FCC") Network components.¹²

Impact on Providers, Employees, and Communities

EarlyLearn NYC blends federal, State, City tax levy, and private funding streams in an effort to create a seamless model. Under EarlyLearn NYC, providers are no longer paid based on their capacity, but instead all providers are paid a daily rate in connection with children's enrollment or attendance.¹³ For center-based services, providers are paid based on the number of days a child is enrolled during a given time period and FCC Network providers are paid based on the number of days a child attends the program during a given time period.¹⁴ Although pay for enrollment was scheduled to begin in October 2012, due to provider concerns about enrollment it did not begin until January 2013.¹⁵ According to ACS, pay for enrollment makes it critical for providers to ensure that their classrooms are filled.¹⁶ Because providers will only be receiving a portion of their expected funding, pay for enrollment presents difficulties for providers' ability to run their programs if the site is not fully enrolled. In order to deal with this difficulty, in addition to ACS' general efforts to increase enrollment, ACS' early care and education program development and operation staff provided significant individualized training to under enrolled programs.¹⁷

¹² Id.

¹³ Supra, note 8 at 6.

¹⁴ Id.

¹⁵ Testimony of Ronald Richter, Commissioner, Administration for Children's Services, Preliminary Budget Hearing of the New York City Council Committee on General Welfare, (March 18, 2013) at 204-205.

¹⁶ Id.

¹⁷ Id. at 205.

Additionally, as part of EarlyLearn NYC, all providers are required to contribute to the cost of care – a total of 6.7 percent of the total annual operating costs.¹⁸ In the 2010 hearing on the EarlyLearn NYC Concept Paper, then Commissioner Mattingly explained that provider contributions were not a new concept for many providers, and the goal was to ensure a diverse set of revenue streams in order to improve quality and stabilize programs.¹⁹ The provider contribution can consist of in-kind contributions, monetary contributions or a combination of both.²⁰ Examples of contributions include supplies and equipment for the program, volunteers, private funds, or other public dollars.²¹ The 6.7 percent match was suspended in Fiscal Year 2013 because of the challenges providers faced with the transition into EarlyLearn NYC and reaching enrollment goals. However, in Fiscal Year 2014 ACS reinstated the 6.7 percent match for EarlyLearn NYC providers. The Committees are interested in hearing today how the 6.7 percent provider match has affected EarlyLearn NYC providers, particularly smaller providers that may not have the capacity to raise private funds. The Committees would also like to find out from ACS what percentage of providers have been able to raise the 6.7 percent contribution, what has happened to providers who have not been successful in doing so, and if ACS is providing those centers with technical assistance.

Implementation of EarlyLearn NYC also resulted in significant job loss of union members. Many of the providers not recommended for awards have Local 1707 members, and according to the executive director of District Council 1707, it is estimated that several hundred workers lost their jobs.²² Some have been hired by other providers, while others were not

¹⁸ Supra, note 8 at 6.

¹⁹ Supra, note 4 at 66-67.

²⁰ Supra, note 8 at 6.

²¹ Id.

²² Testimony of Raglan George, Jr., District 1707, Executive Director, Preliminary Budget Hearing of the New York City Council Committee on General Welfare, (March 18, 2013) at 327.

qualified for positions as required by the RFP. In addition, as a result of the transition to EarlyLearn NYC, there were, and currently still are, former child care employees who have not received vacation pay owed under previous contracts. When providers were not awarded an EarlyLearn NYC contract, their centers quickly closed. Subsequently, ACS did not receive the necessary audits from providers, leaving former employees without pay of accrued vacation time.

Under EarlyLearn NYC, the City's Central Insurance Plan no longer covers health insurance for child care employees and the City is in the process of shifting the responsibility of insurance coverage for liability, disability, and worker's compensation to providers. While the EarlyLearn NYC rate accounted for health insurance, some providers and advocates have expressed concerns that the rate is not sufficient and would force smaller organizations to struggle with their ability to ascertain insurance.

The implementation of EarlyLearn NYC has also raised several concerns regarding its impact on communities across New York City. Under EarlyLearn NYC, the City lost subsidized child care capacity, in particular in neighborhoods that were labeled high income. The reduction in capacity in these neighborhoods raises concerns because, according to some Council Members, there are often "pockets of poverty" and New York City Housing Authority ("NYCHA") buildings located in non-targeted zip codes that serve some of the most vulnerable children and families.²³

In addition, the RFP process did not account for the lack of continuity in child care services provided in NYCHA buildings. Prior to the implementation of EarlyLearn NYC, several child care centers were based in NYCHA facilities, however, the RFP process did not give

²³ Testimony of Council Member Leticia James, Preliminary Budget Hearing of the New York City Council Committee on General Welfare, (March 29, 2012) at 304-305.

priority to applicants who applied in a NYCHA facility. The potential for service gaps, combined with the decrease in child care capacity, provided the need and demand for a discretionary restoration to the child care system.

In response to the reduction in capacity, the Council worked closely with the Administration to restore \$85 million in the Fiscal Year 2013 Adopted Budget to provide comprehensive child care to both EarlyLearn NYC centers and to discretionary child care programs (63 center-based child care service programs and 5 FCC network programs) in designated communities for nine months. The \$85 million restoration also provided a health insurance rate increase for child care providers in the EarlyLearn NYC system. In addition, the Council designated \$1 million to CUNY PDI for technical assistance, and \$100,000 for the Day Care Council's job training and placement program for displaced child care workers.²⁴ The Council also worked closely with the Administration to baseline an additional \$26 million for child care capacity under EarlyLearn NYC as well as \$16 million for health insurance rates, for a total of \$42 million in Fiscal 2014 and in the outyears. A total of \$58.7 million was restored in the Fiscal 2014 Adopted Budget to serve nearly 4,500 children and to maintain the support from CUNY PDI and the Day Care Council.²⁵

Given the structure of the discretionary child care centers, which is similar to the former system, CUNY PDI's technical assistance is important in creating comparable standards and measures of success for the discretionary child care centers. The Council worked with ACS and CUNY PDI to determine which sites would receive technical assistance from CUNY PDI in Fiscal Year 2013, and in Fiscal Year 2014 all parties agreed all discretionary child care centers

²⁴ New York City Fiscal Year 2013 Adopted Expense Budget Schedule C, (June 28, 2012), page 4.

²⁵ New York City Fiscal Year 2014 Adopted Expense Budget Schedule C, (June 26, 2013), page 5.

will receive technical assistance from CUNY PDI to varying degrees, to ensure support across the discretionary child care system.

One Year Later

Has Early Learn Improved the Quality of Child Care?

According to testimony of then Commissioner John Mattingly at the April 28, 2010 General Welfare and Women's Issues Committee hearing, "with Early Learn there will be higher program standards to ensure high quality services leading to better child outcomes."²⁶ The EarlyLearn NYC model aims to create a higher level of service provision in several areas. For example, ACS designates resources to improve teacher to child ratios, establishes "developmentally-appropriate, research-validated curricula," enhances professional development, and provides support services for families.²⁷ The new system also "utilizes holistic and developmentally-appropriate screening and child assessment systems that inform teachers' professional development and instructional practices to best support children's development."²⁸

EarlyLearn NYC was also designed to measure performance and to ensure consistent quality across all programs. According to Commissioner Mattingly's testimony at the April 28, 2010 hearing, ACS will "work with our partners at the City and State to create the nation's first performance measurement standards and tools for all early childhood development and education programs."²⁹ According to Commissioner Mattingly, the tools will not only be used to assess performance but will also help identify areas where programs need additional support.³⁰ Additionally, according to the RFP, a Unified Performance Standards and Assessment System was to be developed jointly by ACS, the Department of Education, and the Department of Health

²⁶ Supra, note 4 at 16.

²⁷ Supra, note 8 at 2-3.

²⁸ Id. at 2-3.

²⁹ Supra, note 4 at 20.

³⁰ Id.

and Mental Hygiene.³¹ The Unified Performance Standards and Assessment System consists of a set of program standards and an assessment protocol for evaluating programs. The intent of this assessment system is to identify programs' strengths and weaknesses and to ensure that all programs are reaching the same high quality standards. The RFP states that the results of these annual assessments will be used by ACS to tailor training and technical assistance in order to improve program quality.³²

Today, the Committees are interested in hearing if the performance measurement standards and assessments have been developed and implemented in programs. Furthermore, the Committees would like to hear the results of the annual assessment to determine if EarlyLearn NYC has raised the quality of early childhood services, and if there are outcome measurements that can show gains from the former system to EarlyLearn NYC.

Additionally, the EarlyLearn NYC RFP required contractors to have a plan for ongoing staff professional development. Plans were required to be specific to the needs of the staff, children, and families being served, as well as reflect the programs' self-assessment. Plans were expected to create "a process that provides an environment that promotes leadership development to ensure a continuum of high quality provision of services to the community being served."³³ Additionally, contractors were expected to schedule professional development days throughout the year in order to ensure that all staff are properly trained. It is expected that staff "receive training specific to the provision of early care and education and development services, including mental health, for the selected modality of service and level of care being provided."³⁴ Today, the Committees would like to hear if staff and program quality have increased as a result

³¹ Supra, note 8 at 23.

³² Id.

³³ Id. at 22.

³⁴ Id.

of professional development. Commissioner Mattingly also testified that “centers will have more qualified teachers,”³⁵ and today the Committees are interested in learning if EarlyLearn NYC programs do in fact have more certified teachers compared to the previous child care system.

According to Commissioner Mattingly, it was expected that through EarlyLearn NYC “children will transition to Kindergarten better prepared for success.”³⁶ Under the RFP, providers were expected to create “transitional planning procedures aimed at preparing children from one learning activity to another or one environment setting to another.”³⁷ In order to address the transition to Kindergarten, providers must incorporate school readiness goals and align activities at EarlyLearn NYC programs with New York State Education Department Standards. Commissioner Mattingly stated that, “our primary goal through EarlyLearn NYC is to better prepare children in our centers for success in school, both in Kindergarten and beyond. We believe that by setting the bar high for quality in our programs and making sure that programs have the resources and support to meet standards we will achieve this goal.”³⁸ Today, the Committees are interested in learning if children are better prepared for Kindergarten as a result of attending an EarlyLearn NYC program.

Enrollment and Outreach

Although the Council restored several child care slots, there was still a great concern that capacity was not being maintained at the EarlyLearn NYC centers due to severe under-enrollment. The contracted capacity for EarlyLearn NYC programs was 43,661; as Early Learn was implemented, enrollment for Fiscal 2013 was 30,096.³⁹ Of the 30,096 children enrolled in EarlyLearn NYC contract programs in Fiscal 2013, on average 25,548 (85 percent) were in

³⁵ *Supra*, note 4 at 15.

³⁶ *Id.*

³⁷ *Supra*, note 8 at 13.

³⁸ *Supra*, note 4 at 21.

³⁹ City of New York Mayor’s Management Report, Fiscal Year 2013, page 104.

center-based programs and 4,549 (15 percent) were in family child care.⁴⁰ As of September 1, 2013, there were 29,734 children enrolled in EarlyLearn NYC.⁴¹ ACS created a three-pronged approach to address the under-enrollment: encourage families currently utilizing vouchers and that are eligible for contracted care, to transition into the EarlyLearn NYC system; work with the Human Resources Administration (“HRA”) to inform families of contracted care options; and work closely with EarlyLearn NYC providers to perform targeted outreach in neighboring communities.⁴² ACS also attributes much of the low-enrollment numbers to Hurricane Sandy since ACS lost providers and administrative offices for several weeks.⁴³ ACS projects enrollment will increase in Fiscal 2014 and will be on par with previous fiscal years.

Vouchers

Through ACS, New York City provides subsidized child care to eligible children between 2 months and 12 years of age in low-income families. As part of the system of subsidized child care, ACS administers child care vouchers, which pay some amount toward child care in a setting that the parent chooses. Under New York State law, vouchers must be provided to families with children under 13 while on public assistance, and for an additional twelve consecutive months after the family’s public assistance ends.⁴⁴ State law additionally mandates that parents must be provided with the choice of where to use their vouchers.⁴⁵ Vouchers are typically used at contracted child care centers, family child care centers, and with informal or “legally exempt” providers, who are usually friends, neighbors, or relatives who care for one or two children in the provider’s home or the family’s home, and are not required to be

⁴⁰ *Id.*

⁴¹ NYC Administration for Children’s Services, Flash, (Sept. 2013) *available at* http://www.nyc.gov/html/acs/downloads/pdf/statistics/Flash_Sep_2013.pdf

⁴² *Supra*, note 15 at. 201.

⁴³ *Id.*

⁴⁴ 18 NYCRR § 415.2(a)(1).

⁴⁵ 18 NYCRR § 415.4(c)(1).

licensed or registered. Although not mandated by state law, ACS provides vouchers to low income families who are not on public assistance if additional funds are available.⁴⁶

Early care and education in New York City is a \$1.09 billion system serving approximately 110,400 children.⁴⁷ Funding for EarlyLearn NYC contracted care was intended to provide funding for 46,000 children.⁴⁸ Additionally, the voucher system had scheduled funding for over 60,000 children and the City Council funded discretionary child care system provides for over 4,400 children.⁴⁹ According to the Mayor's Management Report for Fiscal Year 2013, while the EarlyLearn NYC contracted providers are under-enrolled with a total of 30,096 children,⁵⁰ the average child care voucher enrollment was a total of 71,756 children, (56,649 of which are mandated vouchers and 15,107 are other eligible vouchers).⁵¹ Of those children being served with vouchers, 27,552 are at contracted centers, 21,503 are at family child care centers, and 22,700 are in legally exempt (informal) child care.⁵² As of September 1, 2013, EarlyLearn NYC programs continue to be under-enrolled with 29,734 children being served, and 68,964 children using vouchers for child care.⁵³

Due to the "more than anticipated" increase in the amount of state-mandated vouchers, and the under-enrollment at EarlyLearn NYC centers, ACS is actively encouraging parents to

⁴⁶ Although these vouchers traditionally went to families at the end of their time on the 12 month transitional vouchers, ACS recently changed this policy and families will no longer automatically receive a low-income, "post-transitional" voucher at the end of the state-mandated time in order to provide low-income families who are not on public assistance and on the waiting list access to these vouchers. Due to under-enrollment at EarlyLearn NYC centers, these families can still choose a contracted seat, although they are no longer automatically eligible for a voucher. See *supra*, note 15 at 216-217.

⁴⁷ NYC Administration for Children's Services, Administration for Children's Services Early Care and Education *Early Learn NYC* Update, (March 13, 2013) (on file with Committee).

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ City of New York, Mayor's Management Report, (Sept. 2013), p. 104.

⁵¹ *Id.*

⁵² *Id.*

⁵³ *Supra*, note 41.

make use of their vouchers at EarlyLearn NYC centers.⁵⁴ At the 2013 Preliminary Budget hearing of the Committee on General Welfare, ACS Commissioner Ronald Richter explained that the agency had been actively working with HRA to allow providers access to HRA job centers in order to speak with parents about using their vouchers at an EarlyLearn NYC center and explain the benefits of the EarlyLearn NYC program.⁵⁵ ACS also worked on an extensive campaign with providers to explain to parents the value of EarlyLearn NYC centers, and to gain a better understanding of how parents make their childcare decisions.⁵⁶ The campaign additionally includes public awareness and recruitment through outreach and direct mailing to targeted families, including NYCHA residents, and ACS encourages providers to hold open houses, community forums, and parent meetings.⁵⁷

Today, the Committees are interested in learning how the increased use of vouchers, under-enrollment of EarlyLearn NYC centers, and the resulting funding shift from EarlyLearn NYC to state-mandated vouchers has affected the EarlyLearn NYC program. The Committees are also interested in learning whether ACS is continuing to actively work with HRA and providers to encourage parents to use EarlyLearn NYC centers, and which, if any, of these efforts has been successful.

Family Child Care ("FCC") Centers

In addition to center-based care, FCC Network centers were included in the transition to the EarlyLearn NYC model. ACS requires that programs should "promote a continuity of care between home-based settings and center-based settings."⁵⁸ Although providers are able to provide services only in center-based settings, the RFP encouraged providers to utilize both

⁵⁴ *Supra*, note 15 at 212.

⁵⁵ *Id.* at 219-220.

⁵⁶ *Id.* at 280.

⁵⁷ *Id.* at 281.

⁵⁸ *Supra*, note 8 at 29.

settings in what is referred to as a “cluster model” through direct operation or sub-contracts with FCC Networks.⁵⁹ ACS gave greater consideration to proposals that incorporated family child care services within center-based programs.⁶⁰ The EarlyLearn NYC RFP additionally only provided for contracting with FCC Networks, and not individual providers. The RFP suggests, but does not require, that FCC Networks should have a written and signed agreement with each FCC home provider which should delineate the FCC Network contractor’s and home provider’s rights and responsibilities.⁶¹ Today the Committees are interested in learning more about how EarlyLearn NYC has impacted FCCs.

Conclusion

Today, the Committees’ primary goal is to determine whether families and children are receiving better services now under Early Learn NYC than they were before the program’s implementation. The Committees additionally expect to learn what ACS’ plan is to increase enrollment at these centers, how the providers are managing with pay for enrollment, and if providers have been able to raise the 6.7 percent contribution. Finally, the Committees will examine what ACS expects to gain from Early Learn NYC in the years ahead.

⁵⁹ Id.

⁶⁰ Id.

⁶¹ Id. at 30.

