



## Office of Children and Family Services

KATHY HOCHUL  
Governor

DAMIA HARRISMADDEN, Ed.D., MBA, M.S.  
Commissioner

May 5, 2025

Thomas DiNapoli, State Comptroller  
Office of the State Comptroller  
110 State Street  
Albany, N.Y. 12236  
Re: Audit 2022-S-44 – 180 Response to the Report

Dear Comptroller DiNapoli:

On behalf of the New York State Office of Children and Family Services (OCFS) and pursuant to Executive Law Section 170, please find the 180-day update pertaining to OCFS' response to the Office of the State Comptroller's (OSC) key recommendations detailed in audit report 2022-S-44 entitled "Child Care Stabilization Grants." OSC's stated objective was to determine whether OCFS has established and maintained adequate internal controls to enable it to oversee and monitor child care stabilization grantees to ensure proper use of child care stabilization grant funds; and to determine whether the grants met their intended purpose to stabilize child care operations to maintain care. The audit period covered the period from January 2020 through November 2023. The report contained key findings and resulting recommendations.

**OSC Key Recommendation #1:** Develop and implement enhanced controls and monitoring practices for child care grants administered by OCFS. This may include, but not be limited to, reviewing supporting documentation for grant expenditures using a risk-based approach.

**OCFS Response:** OCFS released an Invitation for Bids (IFB) to locate a contractor to perform a grant compliance review of child care providers' expenditures for funds the providers received from the Child Care Stabilization Grants. A contractor was selected in August 2024 and began outreach to providers in December 2024. Once completed, approximately 750 providers will have received a grant compliance review. The purpose of performing these reviews is to monitor providers' use of the Stabilization 1.0 funds. The compliance review process will include both a random sample and a risk-based sample. The risk-based sample will focus on vendors who received Stabilization 1.0 funds, have not submitted expense reports, and meet a specified dollar threshold. Using these risk factors, OCFS aims to ensure that compliance risks are accurately identified, thereby improving oversight and promoting a stronger monitoring environment.

**OSC Key Recommendation #2:** Continue efforts to identify and recover unspent or inappropriately spent grant funds from providers.

**OCFS Response:** OCFS has identified grant recipients that should return unspent funds and implemented a recoupment process for those funds. Approximately \$9,900,000 has been returned to date. For providers OSC visited, OCFS has initiated recoupment of funds, where appropriate. For any programs that have not yet completed their expense reports, OCFS sent notifications via email on 12/14/2023, 1/24/2024, and again on 1/31/2024 alerting these programs they have not completed their final expense report. The notifications further stated that the expense report is a requirement of

the grant(s) and programs must complete them by 1/31/2024. Each notification reminded programs that they agreed, as part of the grant requirements, to report the use of funds and that to date they had failed to do so. The letters also stated that continued failure to report would result in a recoupment of those unreported funds and that they will not be eligible for the additional grant funding until reporting requirements have been satisfied.

After the 1/31/2024 deadline, OCFS sent a recoupment letter to notify each program with an outstanding expense report that they must either return the unreported funds or complete the report within 30 calendar days. The letters stated that failure to submit payment will result in the program being placed on a Fiscal Sanction list preventing any future business between OCFS and the child care program. The placement on this list also means the provider will not be eligible to participate in future New York State financial grant programs until they have either completed the final expense report or repaid funds. In addition, OCFS has begun the referral process with the NYS Attorney General's Office, prioritizing the programs that have the highest dollar value outstanding.

OSC Key Recommendation #3: Align providers' grant awards to best meet the goals of the program, which may include, but not be limited to:

- Obtaining additional information and increasing communication with providers.
- Coordinating and sharing information with SED regarding special education providers.
- Evaluating whether additional factors should be considered when awarding grants.

OCFS Response: OCFS aligned the grant awards to best meet the goals of providing stabilizing funding to the child care sector, to assist with both operations and workforce supports. We appreciate OSC's recommendation to work with providers to obtain more precise information on current operations and enrollment. As previously provided to OSC, OCFS maintains child care data for licensed, registered, and enrolled legal exempt providers. The NYC Department of Mental Hygiene (DOHMH) maintains child care data for permitted child care centers located in NYC. OCFS strives to continuously improve our data and reporting systems and will take this recommendation into consideration for future grant opportunities.

OCFS coordinated with SED regarding grant eligibility for special education providers. As previously mentioned, approved NYS preschool special education programs that are licensed/registered by OCFS or day care centers permitted by the NYC DOHMH under Article 47 (Child Care Services) of the New York City Health Code were eligible to apply for the grant. OSC stated in its draft report that "although special education providers were eligible to receive stabilization grants, and they provide valuable educational services to children, unique circumstances regarding these providers cause us to question whether allocating day care stabilization grants to them was in line with the primary purpose of these grants: to stabilize the child care sector and workforce" and discussed whether the funds were used appropriately by the programs.

OCFS asserts that allowing grants to child care programs which were also special education providers was an appropriate and necessary use of grant funds. As SED identified in their guidance, SED's approved preschool special education programs (also known as "4410 programs"), are part of the mixed service delivery framework of early learning opportunities in NYS serving students with and without identified special education needs. As such, these programs are required to have a child care license and are subject to the child care regulations; exempting them from grant eligibility would not be appropriate as it could be considered discrimination based on disability of the population served.

OCFS worked closely with SED to clearly communicate the grant applicability to child care programs that were also approved NYS preschool special education programs and to ensure that the funds were properly used by the programs. OCFS and SED apprised programs of the guidelines and proper expenses. SED issued a memo in November 2021 that clearly stated that the Child Care Stabilization Grant was not intended to cover expenses funded either through authorized tuition rates or other third-party revenue sources. Rather, the grant was intended to cover expenses that revenue from authorized tuition rates do not fully fund, provided that the expense is eligible under the Child Care Stabilization Grant requirements. OCFS provided OSC with a copy of SED's guidance Child Care Stabilization Grant Memo ([nysed.gov](https://nysed.gov)) as part of OSC's information requests.

**State Comptroller's Comment** – Our report did not question the expenses submitted by the special education providers, but rather the methodology of the grant awards. We maintain that better coordination and information sharing with SED regarding these providers would have given OCFS information more aligned with the operations for establishing grant awards. As noted in our report, SED's preschool per-student square footage requirements are about 43% higher than OCFS' requirements. If there was better coordination and information sharing regarding these providers and SED's capacity had been used to establish grant awards, 45 of the 73 grants we reviewed would have been awarded \$1.09 million less. Further, while the grants' goals were to stabilize the child care sector and workforce, as our report noted, a significant number of these providers did not provide day care services and were already receiving continued revenues from SED.

OCFS appreciates the opportunity to provide an update regarding our continued efforts in these areas. Please contact me or Chris Schall, Director of the Office of Audit and Quality Control, with any questions or concerns regarding this response.

Sincerely,



Dr. DaMia Harris-Madden, MBA, M.S.

Commissioner

New York State Office of Children and Family Services

cc: Hon. Kathy Hochul, Governor of New York State  
Hon. Andrea Stewart-Cousins, President Pro Tempore of the Senate & Majority Leader  
Hon. Robert G. Ort, Senate Minority Leader  
Hon. Carl E. Heastie, Speaker of the Assembly  
Hon. Crystal D. Peoples-Stokes, Assembly Majority Leader  
Hon. William A. Barclay, Assembly Minority Leader  
Hon. Liz Krueger, Chair, Senate Finance Committee  
Hon. Thomas F. O'Mara, Ranking Member, Senate Finance Committee  
Hon. J. Gary Pretlow, Chair, Assembly Ways and Means Committee  
Hon. Edward P. Ra, Ranking Member, Assembly Ways and Means Committee  
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Nora Yates, Deputy Commissioner-Division of Child Care Services