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STATE OF NEW YORK  
OFFICE OF THE STATE COMPTROLLER

March 5, 2018

Ms. MaryEllen Elia  
Commissioner  
State Education Department  
State Education Building - Room 125  
89 Washington Avenue  
Albany, NY 12234

Re: Universal Pre-Kindergarten Program:  
Monitoring of Health and Safety  
Requirements  
Report 2017-F-30

Dear Commissioner Elia:

Pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution and Article II, Section 8 of the State Finance Law, we have followed up on the actions taken by officials of the State Education Department (Department) to implement the recommendations contained in our audit report, *Universal Pre-Kindergarten Program: Monitoring of Health and Safety Requirements* (Report 2016-S-10).

**Background, Scope, and Objective**

The Universal Pre-Kindergarten (UPK) program was established through Chapter 436 of the Laws of 1997 to provide all four-year-olds in the State with the opportunity for an early childhood education. UPK provides four-year-old children access, at no charge, to comprehensive early childhood education experiences that promote their social-emotional, creative expressive/aesthetic, physical, cognitive, linguistic, and cultural development. The early childhood agencies (eligible agencies) collaborating with school districts comprise a wide range of early child care and education providers, including: day care centers, nursery schools, Head Start programs, group family or family day care providers, preschool special education providers, Boards of Cooperative Educational Services (BOCES), and private schools.

The UPK program is administered by the Department, and oversight is conducted primarily through the Office of Early Learning for program functions and the Facilities Planning Office for safety and fire inspections. Department regulations require buildings and classrooms used for UPK to be safe and to comply with applicable fire safety, health, and building codes, and for equipment and furnishings to be safe and suitable for children and maintained in a state of good repair and sanitation.

For the 2016-17 school year, there were 1,360 UPK providers operating outside of New York City that reported serving 42,964 children. All of these UPK programs are subject to oversight from the Department. The school districts operating the UPK programs are also responsible for overseeing the operations of the UPK providers within their districts. In addition, 489 (or 36 percent) of these providers are monitored for health and safety compliance by the Office of Children and Family Services (OCFS), which licenses them to provide day care and nursery school services. OCFS performs routine announced and unannounced inspections to evaluate compliance with regulations and review records and facilities' health and safety conditions.

Our initial audit report, issued December 20, 2016, determined whether the Department sufficiently monitored the UPK providers' compliance with applicable health and safety regulations. We found the Department did not directly monitor UPK providers for health and safety. Instead, the Department relied on the school district operating the UPK program, or OCFS, to ensure that UPK providers were complying with health and safety requirements. In addition, we found a wide disparity in the way UPK providers were being monitored for health and safety. Some providers were being inspected regularly for health and safety, while others were reviewed mainly for program curriculum. We also found there was a lack of consistency in how school districts were inspecting their UPK provider locations for health and safety compliance.

The objective of our follow-up was to assess the extent of implementation, as of January 25, 2018, of the two recommendations included in the initial report.

### **Summary Conclusions and Status of Audit Recommendations**

We found the Department made progress in implementing the recommendations identified in the prior audit report. Of the two prior audit recommendations, one had been implemented and one had been partially implemented.

### **Follow-Up Observations**

#### **Recommendation 1**

*Develop requirements and issue formal guidance for school districts to follow when performing health and safety inspections of UPK facilities.*

Status – Implemented

Agency Action – The Department has developed a Prekindergarten (Pre-K) Health & Safety Checklist (Checklist) as well as an accompanying guidance memo. The Checklist contains sections for records and permits, indoor facility, outdoor facility, and items in need of action. The guidance memo encourages school districts to complete the Checklist for each of its Pre-K sites annually, at a minimum. These documents were most recently revised on October 31, 2016 and are available on the Department's website. In addition, districts are also encouraged to develop plans to ensure that identified deficiencies are corrected and documented.

In January 2017, the Department issued its *Planning for High-Quality Prekindergarten Programs* guide to provide instruction to those responsible for planning and implementing Pre-K programs for three- and four-year-old children. The guide contains seven essential elements of a high-quality Pre-K program. The first essential element is Facilities, which specifies that indoor and outdoor spaces must be designed to protect the safety, health, and well-being of children and adults. It also states that the first measure of quality for any facility is that it meets basic health and safety criteria. The guide also contains an appendix with the Checklist, which may be used by teachers, administrators, and program planners to assess existing and potential sites.

According to Department officials, the guide, which includes a focused discussion on the Checklist, was sent to every program in the State on August 1, 2017, and has been shared with the Department's Special Education Quality Assurance office. Additionally, as of January 25, 2018, the Department had provided 11 presentations on the guide at conferences and school districts.

### **Recommendation 2**

*Implement a structured system to monitor school districts' oversight and inspections of health and safety compliance of all UPK providers. The system should include procedures to ensure that deficiencies identified during inspections are corrected in a timely manner.*

Status – Partially Implemented

Agency Action – In addition to the Checklist and guidance memo cited in the Agency Action for Recommendation 1, Department officials conduct inspections of the overall program quality, including health and safety. For 2017-18, Department officials adjusted their program compliance protocols used for inspections to include requirements contained in the Checklist. In addition, Department officials have increased their communication with OCFS. Department officials provided examples showing they were notified by OCFS of providers that were being closed as well as providers that either have been or will be suspended. In each suspension case, the Department followed up on the situation to determine if re-inspections were completed and violations corrected.

Department officials stated they plan to modify the required electronic report that school districts submit annually to include a new section in which school districts will list all Pre-K program providers, their respective locations, and any deficiencies noted during their site visits to ensure health and safety compliance. The report will include when the deficiencies were identified and corrected and any other subsequent actions by the district. The Department intends to review the report and follow up as necessary (e.g., communicate with licensor, conduct a site visit, or perform a desk audit). However, as of the end of January 2018, this change had not yet been implemented.

Finally, as part of its funding request for the 2017-18 State budget, the Department included a request for \$2 million to establish Early Learning Regional Technical Assistance

Centers to provide support to early care and educational settings including mental health consultation, training, and professional development on implementing high-quality early childhood education (including information found in the guide).

Major contributors to this report were Ed Durocher, Amanda Eveleth, Vicki Wilkins, and Matthew Conway. We would appreciate your response to this report within 30 days, indicating any actions planned to address the unresolved issues discussed in this report. We thank the management and staff of the Department for the courtesies and cooperation extended to our auditors during this review.

Very truly yours,

Stephen J. Goss, CIA, CGFM  
Audit Director

cc: Thalia Melendez, Director of the Office of Audit Services  
Division of Budget