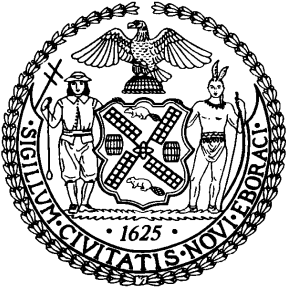


AUDIT REPORT

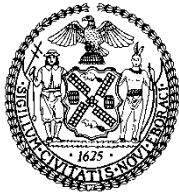


CITY OF NEW YORK
OFFICE OF THE COMPTROLLER
BUREAU OF MANAGEMENT AUDIT
WILLIAM C. THOMPSON, JR., COMPTROLLER

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

MJ09-073A

June 30, 2009



THE CITY OF NEW YORK
OFFICE OF THE COMPTROLLER
1 CENTRE STREET
NEW YORK, N.Y. 10007-2341

WILLIAM C. THOMPSON, JR.
COMPTROLLER

To the Citizens of the City of New York

Ladies and Gentlemen:

In accordance with the Comptroller's responsibilities contained in Chapter 5, §93, of the New York City Charter, my office has examined the adequacy of the Administration for Children's Services (ACS) oversight and monitoring of the compliance of contracted child care centers with contract provisions and City and State regulations pertaining to the screening of their personnel for past or pending criminal actions and reports of child abuse and maltreatment.

ACS's Division of Child Care and Head Start (DCCHS) administers and oversees child care services and Head Start programs provided by private, non-profit, and community-based organizations under contract with ACS. Audits such as this provide a means of making certain that ACS adequately monitors child care centers to ensure that their employees are appropriately screened.

The results of the audit, which are presented in this report, have been discussed with ACS officials, and their comments were considered in the preparation of this report.

I trust that this report contains information that is of interest to you. If you have any questions concerning this report, please e-mail my audit bureau at audit@comptroller.nyc.gov or telephone my office at 212-669-3747.

Very truly yours,

A handwritten signature in cursive script that reads "William C. Thompson, Jr.".

William C. Thompson, Jr.
WCT/ec

Report: MJ09-073A
Filed: June 30, 2009

Table of Contents

AUDIT REPORT IN BRIEF	1
Audit Findings and Conclusions.....	1
Audit Recommendations.....	2
Agency Response.....	2
INTRODUCTION.....	3
Background.....	3
Objective.....	4
Scope and Methodology	5
Discussion of Audit Results.....	7
FINDINGS AND RECOMMENDATIONS	8
Some Centers Lacked Evidence of Personnel Screenings	8
Employees Missing SCR Clearances.....	8
Employees Lacking DOI Clearances	9
Weaknesses in Monitoring Activities	11
Program Assessment Unit.....	11
Borough Area Resource Offices	12
Recommendations.....	13
Lack of Formal Agreement for Sharing Information with Other Agencies.....	13
Recommendations.....	15
Lack of Formal Operating Procedures	16
Recommendation	17

APPENDIX

ADDENDUM: ACS Response

*The City of New York
Office of the Comptroller
Bureau of Management Audit*

**Audit Report on
Administration for Children's Services
Oversight and Monitoring of the Screening of Personnel
By Contracted Child Care Centers**

MJ09-073A

AUDIT REPORT IN BRIEF

This audit assessed the adequacy of Administration for Children's Services (ACS) oversight and monitoring of the compliance of contracted child care centers with contract provisions and City and State regulations pertaining to the screening of their personnel for past or pending criminal actions and reports of child abuse and maltreatment.

ACS has an overarching mission to protect the City's children from abuse and neglect. ACS's Division of Child Care and Head Start (DCCHS) administers and oversees child care services and Head Start programs provided by private, non-profit, and community-based organizations under contract with ACS. As of January 2009, there were 282 group child care centers, under contract with ACS, responsible for serving 19,772 children under the age of six.

Audit Findings and Conclusions

ACS contract monitoring activities include evaluating contracted child care program compliance with requirements for background screening of personnel. These activities include annual program assessments by the ACS Program Assessment Unit and follow-up visits by Borough Office personnel. However, these activities do not provide for sufficient ongoing monitoring to ensure that *all* personnel at contracted child care centers are appropriately screened for past or pending criminal actions and reports of child abuse and maltreatment, as required by contract and statute. Our examination of 236 personnel files at 15 sampled child care centers and review of operational practices disclosed certain weaknesses that provide opportunities for the lack of screening to go undetected or for unscreened personnel to have unsupervised contact with children.

The results of our observations at 15 ACS-contracted child care centers disclosed that seven (47%) of the centers lacked either DOI or SCR screening clearances for one or more of their personnel. Overall, we cited 21 employees (15%) of the 138 employee folders reviewed at these seven centers as lacking either child abuse and/or criminal history clearances. However, at no time during our visits to the child care centers did we observe any unscreened personnel

working with children without being supervised. Further, we observed that there were at least two staff members working with the children in all areas. After additional follow-up by ACS, there remained nine employees at four centers that lacked child abuse and/or criminal history clearances.

In addition to monitoring weaknesses, we noted that ACS does not have a formal agreement with either DOI or DOHMH specifying the responsibilities of each agency regarding ongoing communication and sharing of information between the agencies, particularly with respect to criminal and child abuse and maltreatment screenings of child care center personnel.

Audit Recommendations

To address these issues, we make 8 recommendations, among them that ACS should:

- Increase the testing of child care center personnel files to the maximum of 100 percent to ensure that clearances for all required personnel, paid and unpaid, are appropriately screened. If 100 percent testing is not possible, require that an acceptable level of existing personnel be checked and that all clearances be checked for all new personnel (paid and unpaid) who joined the child care center since the date of the last assessment visit.
- Require Technical Consultants to follow-up cited screening deficiencies to ensure that all required clearances are obtained by the child care program.
- Require supervisor review of the site visit reports.
- Enter into a formal agreement (i.e., memorandum of understanding) with DOI, DOHMH, and OCFS to establish the roles, responsibilities, and procedures for the timely sharing of information between the agencies about the names of child care personnel for whom criminal and child abuse and maltreatment have been performed.
- Require that child care centers immediately follow up on all individuals cited in this report for lacking either child abuse or criminal history clearances to ensure that clearances are obtained in a timely manner.

Agency Response

ACS officials generally agreed with the audit's eight recommendations.

INTRODUCTION

Background

The Administration for Children's Services (ACS) has an overarching mission to protect the City's children from abuse and neglect. ACS provides for the safety and well being of children and their families by investigating reports of abuse and neglect, overseeing foster care services, and coordinating affordable child care services and Head Start programs.

ACS's Division of Child Care and Head Start (DCCHS) administers and oversees child care services and Head Start programs provided by private, non-profit, and community-based organizations under contract with ACS. As of January 2009, exclusive of Head Start programs¹, there were 282 group child care centers under contract with ACS responsible for serving 19,772 children under the age of six.² The child care centers are essential for many working families. They contribute to the overall development of children, providing education, recreation, and a safe and structured environment for children while their parents work.

Each child care center that operates in New York City, including those under contract with ACS, must be licensed by the City's Department of Health and Mental Hygiene (DOHMH) and comply with various State and City statutes and regulations regarding operation of the center, including screening requirements for current and prospective personnel (paid and unpaid). According to the New York City Administrative Code (Title 21, §21-119) and the New York City Health Code (Article §47.19),³ individuals who work or volunteer for entities that provide child care services must be fingerprinted and screened for criminal convictions and pending criminal actions. A child care program is responsible for sending prospective personnel for fingerprinting and criminal background screening to the New York City Department of Investigation (DOI), the agency responsible for performing criminal history record checks of child care program personnel in the City. Also, the program must submit the names of the individuals to the Statewide Central Register (SCR) of Child Abuse and Maltreatment maintained by the New York State Office of Children and Family Services (OCFS)⁴ to determine whether the individuals are the subjects of reports of child abuse or maltreatment.

¹ Head Start is a separate, federally-subsidized grant program that offers educational programs and a wide variety of services for 3- and 4-year old children and their families. Some child care programs offer Head Start services, which are referred to as collaborative programs. Head Start programs and collaborative programs were excluded from audit consideration since they are overseen by a separate DCCHS unit and are subject to different or additional performance and evaluation standards than non-Head Start child care programs under contract with ACS.

² Based on ACS statistics pertaining to the total enrollment capacity at 282 child care centers.

³ Adopted by resolution on March 6, 2008, Article 47 of the New York City Health Code was repealed and reenacted in revised form, effective September 1, 2008. The requirements of the revised article have been expanded and set forth in greater detail and are closely aligned with OCFS regulations for State regulated child care programs.

⁴ The State Central Register, also known as the "Hotline," receives telephone calls alleging child abuse or maltreatment within New York State. The Central Register relays information from the calls to the local child protective service for investigation, monitors their response, and identifies any prior child abuse or maltreatment reports.

In general, the statutes require each child care center to (1) have current and prospective personnel complete fingerprinting applications and SCR clearance requests and obtain their authorization for performing required criminal record review and SCR screenings, (2) submit the required documentation to the appropriate agencies to initiate the reviews, and (3) retain appropriate documentation indicating compliance with the screening requirements.

ACS monitoring activities include an annual assessment to evaluate contract compliance and program performance, as required by the Procurement Policy Board rules and the Administrative Code. These activities also include monitoring and follow-up activities provided by ACS Borough Resource Area Offices (Borough Offices). The DCCHS Performance Compliance and Program Assessment Unit (Unit) is responsible for overseeing the annual contract performance assessments of ACS-contracted child care centers. The Unit is staffed with a director, two supervisors, and five Early Childhood Education Consultants who, as Program Assessors, perform the annual assessments of child care program quality and contract compliance. In addition to administrative and quality of services reviews, the annual assessments include the review of child care center personnel files to determine whether the centers appropriately screen personnel and maintain records of such screenings.

If during an annual assessment a Program Assessor finds a center to be deficient in obtaining required DOI or SCR clearances, a Corrective Action Plan (CAP) listing such deficiencies should be provided to the center, which must subsequently complete the form detailing the actions taken or planned to be taken to correct the deficiencies.

The Unit forwards a copy of the CAP to the Borough Office that oversees the center. The Borough Offices are staffed with a director and at least two Early Childhood Education Consultants who, as Technical Consultants, are responsible for monitoring their assigned child care programs through visits to program centers at least once each year, or as needed, to provide technical assistance and to follow up the correction of deficiencies cited in an annual assessment.

A child care center may not hire or retain any person who refuses to grant authorization for fingerprinting and criminal record review and SCR screening. A person who has not been cleared is prohibited from unsupervised access to children. The failure to appropriately screen *any* person who has, or will have, the potential for unsupervised contact with children at a child care center is considered an imminent health hazard,⁵ and for ACS-contracted centers, a material breach of contract and cause for contract termination.

Objective

The objective of this audit was to determine the adequacy of ACS oversight and monitoring of the compliance of ACS-contracted child care centers with contract provisions and City and State regulations pertaining to the screening of their personnel for past or pending criminal actions and reports of child abuse and maltreatment.

⁵ Article 47 of the Health Code defines an imminent health hazard as any violation, condition, or combination thereof occurring in child care service making it probable that illness, physical injury, or death could occur or that the continued operation of the child care service could result in injury or be otherwise detrimental to the health and safety of a child.

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 objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions, based on our audit objectives. 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 audit scope covered August 1, 2008, through February 28, 2009, which represents the period of audit fieldwork. This audit focused on internal ACS procedures and practices for monitoring contracted child care center screening of personnel for past or pending criminal action and SCR reports of child abuse and maltreatment. Since the child care program compliance with personnel screening activities is part of ACS's overall monitoring activities, we needed to gain an overview of ACS monitoring processes. However, testing was limited to DOI and SCR screening issues and did not assess the quality or effectiveness of overall child care program monitoring by ACS. Further, the audit did not assess the overall operations and compliance of ACS-contracted child care centers. To accomplish our objective, we carried out the following procedures.

To familiarize ourselves with ACS's responsibilities for contracted child care centers, we reviewed the New York City Charter, the Mayor's Management Reports for Fiscal Years 2007 and 2008, and other relevant information obtained from the ACS Web site and other sources.

To determine the contractual, statutory, and regulatory requirements of child care centers, particularly as they pertain to personnel screenings for criminal convictions and SCR reports, we reviewed the terms and provisions of ACS's contract with child care centers. We also reviewed the New York City Administrative Code (Title 21, §21-119) and the New York City Health Code (§47.19). These regulations, in conjunction with applicable ACS policies and procedures and child care service contract provisions, were used as audit criteria. Additionally, where applicable, Comptroller's Directive #1, "Principles of Internal Control," and Procurement Policy Board (PPB) rules, Chapter 4, "Contract Administration," were used as audit criteria.

Review of Controls

To gain an understanding of and to evaluate the processes and controls involved in ACS oversight and monitoring of contracted child care centers, particularly those associated with the screening of child care center personnel, we reviewed organization charts and interviewed various officials and staff. We reviewed the ACS self-assessment of its internal controls covering calendar years 2005, 2006, and 2007, performed in compliance with New York City Comptroller's Directive #1 and submitted to the Comptroller's Office. We also requested formal operating procedures pertaining to ACS monitoring and oversight of contracted centers, particularly those followed by Unit Program Assessors and Borough Office Technical Consultants.

In the absence of comprehensive operating procedures for either area, we reviewed full and abridged versions of the Program Assessment Instruments used by Program Assessors to perform annual assessments. We also reviewed site visit report forms used by Borough Office Technical Consultants at the time of their visits to their assigned child care programs. To supplement our understanding, we interviewed ACS officials and personnel and conducted walkthroughs of program assessment and Borough Office monitoring activities. We then determined the adequacy of these policies and procedures as they pertain to criminal and child abuse screenings. Further, we ascertained whether there was adequate segregation of duties and supervisory oversight.

Evaluation of ACS's Monitoring Efforts

To evaluate the adequacy of ACS's monitoring efforts, we selected a random sample of 30 child care centers from a population of 282 centers under contract with ACS. These 30 centers were distributed throughout Brooklyn, Queens, Bronx, and Manhattan, the boroughs with the largest number of ACS-contracted child care centers.

We obtained and reviewed an electronic printout of the section of ACS's Fiscal Year 2008 annual program assessment scoring report concerning personnel screenings for each of the 30 sampled centers. To ascertain the reliability of the reports generated from ACS's ACDNET computer system, we compared the electronic record for each sampled center to the hardcopy assessment reports for the same assessment period for completeness and accuracy. Since we did not rely on the ACDNET system for audit purposes, data reliability and integrity testing of application data was neither required nor performed.

We identified 8 of the 30 sampled centers that were cited in their Fiscal Year 2008 annual evaluation as having deficiencies in personnel screenings or clearances. We reviewed the CAP forms for each of the eight centers and, where available, traced them through to supporting documentation at the Borough Area offices.

To corroborate the ACS program evaluations for Fiscal Year 2008 as they pertained to the screening of child care center personnel for criminal history review and SCR reports, we visited 15 of the 30 sampled ACS contracted child-care centers between November 13, 2008, and December 15, 2008, including three of the eight centers cited for deficiencies in their Fiscal 2008 assessments. These 15 centers (shown in the Appendix) were judgmentally selected for review of personnel files to provide a reasonable basis to determine whether DOI and SCR clearances were obtained by the centers and were on file, as required.

At the time of each visit, we obtained a copy of the personnel roster and, accompanied by the center's director or other representative assigned to assist us, we toured the center to observe the facility, identify and account for all personnel on the roster who were present, and ascertain whether any of the personnel, especially new hires, had unsupervised access to the children. We judgmentally selected 10 staff members⁶ of various titles (e.g., teacher, custodian, bookkeeper,

⁶ During an annual assessment, ACS Program Assessors test a maximum of 10 child care center employee files for compliance with screening requirements.

and clerical staff) from the roster and reviewed their personnel files to determine whether the center maintained the required DOI and SCR clearances or other evidence to show that the required screenings were applied for. If a deficiency was found in even one of the 10 personnel files tested, we expanded our review to 20 personnel files. If a center did not have a staff of 20, we tested all files. Any noted deficiencies were followed up with the child care centers' directors or representatives to give them a reasonable opportunity to provide us with the necessary evidence of screenings. Overall, we observed personnel files for 236 (74%) of the total 318 active individuals on staff at the 15 child care centers. Based on our observations, we also determined whether any individuals without clearances had unsupervised access to children at the centers at the time of our visits.

We reviewed the Family Watchdog Web site (<http://www.familywatchdog.us/>)—a national database of registered sex offender information from all states—to determine whether any of the child care employees, for which we found no clearances, were listed on the site.

The sampling methodologies used to select child care centers for audit testing purposes were not designed to enable the results of such tests to be projected to the population of 282 child care centers under contract with ACS. Nevertheless, the results of our observations and analysis provided a reasonable basis for us to determine the adequacy of ACS monitoring of contracted child care center screening of personnel.

Discussion of Audit Results

The matters covered in this report were discussed with ACS officials during and at the conclusion of this audit. A preliminary draft report was sent to ACS officials and discussed at an exit conference held on May 7, 2009. On June 3, 2009, we submitted a draft report to ACS officials with a request for comments. We received a written response from ACS officials on June 17, 2009. In their response, ACS officials generally agreed with the audit's eight recommendations. The full text of the ACS response is included as an addendum to this report.

FINDINGS AND RECOMMENDATIONS

ACS contract monitoring activities include evaluating contracted child care program compliance with requirements for background screening of personnel. However, those activities do not provide sufficient assurance that *all* personnel at contracted child care centers are appropriately screened for past or pending criminal actions and reports of child abuse and maltreatment, as required by contract and statute. Our examination of personnel files at sampled child care centers and review of operational practices disclosed certain weaknesses that provide opportunities for the lack of screening to go undetected or for unscreened personnel to have unsupervised contact with children. These matters are discussed in the following sections of this report.

Some Centers Lacked Evidence of Personnel Screenings

The results of our observations at 15 ACS-contracted child care centers disclosed that seven (47%) of the centers lacked either DOI or SCR screening clearances for one or more of their personnel.

Article 47.19 of the Health Code, Article 21-119 of the Administrative Code, and ACS contract provisions require that all child care program personnel must be screened for past and pending criminal actions and reports of child abuse and maltreatment. Any person at a child care center who has not been screened is prohibited from working in any area of the facility unless under the direct supervision and within the line of sight of a screened employee of the center.

At no time during our visits to the child care centers did we observe any unscreened personnel working with children without being supervised. Further, we observed that there were at least two staff members working with the children in all areas. Nevertheless, as discussed below, our review of 236 personnel files for active individuals on staff at the 15 sampled child care centers disclosed that while the centers had DOI or SCR clearance letters for at least 92 percent of 236 personnel files reviewed, 7 (47%) of the 15 centers initially lacked required DOI or SCR clearances for 21 (15%) of the 138 employees at these seven centers. Based on additional follow-up by ACS, we determined that, collectively, four of the 15 sampled centers lacked SCR and/or DOI clearances for nine employees at those centers.

Employees Missing SCR Clearances

Initially, we found that 6 (40%) of the 15 child care centers did not have SCR clearance letters in the employee folders for 19 (16%) of the 118 individuals reviewed at those 6 centers. However, four of these six centers had evidence that applications for SCR screenings were submitted for 10 staff members. Four of the six centers had no evidence that SCR screenings were performed, or were applied for and submitted, by the centers for the remaining nine individuals.

We shared these results with ACS officials, who followed up and provided us copies of clearance letters for 12 individuals (five dated prior to our audit visits⁷ and seven dated after our audit visits) and/or SCR applications for six others (only one of the six applications were new and considered in our updated analysis). Upon considering this additional information, we determined that four centers lacked SCR clearance letters for seven (7) employees at those centers. However, ACS provided copies of the SCR applications for these employees.

Using the population of 19 individuals originally cited with missing SCR clearances, as shown in Table I below, we measured the time elapsed between the employee hire dates and either the SCR clearance letter dates (subsequently provided by ACS) or audit visit dates (when no clearances were obtained) to determine how long these 19 employees had worked without an SCR clearance.

Table I

Time Period Employees Worked without SCR Clearances

Range of Time	Number of Employees
0–3 months	8 (42%)
4–6 months	5 (26%)
7–12 months	1 (5%)
1–2 years	2 (11%)
More than 2 years	3 (16%)
Total	19 (100%)

While there is no mandated timeframe within which SCR clearances should be processed, the general consensus among ACS officials and child care center personnel is that SCR screenings take a long time (possibly several months) to be completed. We learned that greater delays can occur with SCR screenings when applications are rejected because of incomplete or incorrect information. In part, this was indicated by our test results, which showed a higher rate of personnel without SCR clearances than with DOI clearances (discussed later). The delay with SCR clearances was further confirmed by staff members at some of the centers. For example, at one center we observed that some applications were rejected, which, according to the center’s administrator, had been rejected because of a problem with the agency code used on the initial applications. In addition, we observed applications that were rejected because of incomplete information provided by the applicants.

Employees Lacking DOI Clearances

With respect to DOI screenings, we initially found that 3 (20%) of the 15 child care centers did not have DOI clearance letters in the employee files for 8 (3%) of the 64 individuals reviewed at those three centers. Two of these centers had evidence that fingerprinting

⁷ The six SCR clearance letter provided by ACS that were dated prior to our audit visits may have been the result of poor recordkeeping on part of the child care centers.

applications were submitted to DOI to initiate the criminal history review for three (3) individuals. Also, two of the centers had no evidence that DOI screenings were either performed or requested by the center for the remaining five (5) individuals. (One of these centers had two employees, one for which an application was on file and one for which there was no proof of clearance or application.)

We shared these results with ACS officials, who followed up and provided us copies of DOI clearance letters (all dated after the audit visits) for four of the eight individuals initially lacking a DOI clearance, and DOI fingerprinting screening applications for the other four individuals. After considering this additional information, overall, we determined that one center lacked DOI screening letters for four of its employees, although there were fingerprinting applications submitted to DOI after our audit visits for these employees. We determined that none of the four applications were signed by the applicant or dated and stamped by DOI. Therefore, there was no proof that the employees cited for DOI clearance deficiencies had indeed been fingerprinted to initiate the criminal background review for these four employees.

Using the population of eight individuals originally cited with missing DOI screening clearances, as shown in Table II below, we measured the time elapsed between the employee hire dates and either the DOI screening letter dates (subsequently provided by ACS) or audit visit dates (when no clearances were obtained) to determine how long these eight employees had worked without a DOI clearance.

Table II

Time Period Employees Worked without DOI Clearances

Range of Time	Number of Employees
0–3 months	3 (38%)
4–6 months	2 (25%)
7–12 months	0 (0%)
1– 2 years	0 (0%)
More than 2 years	3 (37%)
Total	8 (100%)

Even though most of the 15 centers we visited had DOI and SCR clearances for most of the employee files we reviewed, a child care program’s “failure to screen *any* person who has or will have the potential for unsupervised contact with children” is classified as an imminent health hazard by the Article 47 of the Health Code as well as a material breach and cause for contract termination, according to the contract. Therefore, the results of our tests strongly indicated that ACS’s monitoring activities need to be improved to ensure that *all* personnel at contracted child care centers are appropriately screened in compliance with regulations and statues. Even though we did not observe any unscreened personnel working with children without being supervised during our visits to the child care centers, based on the potential risk of harm to children, it is unacceptable to allow even one child care center worker, employee or volunteer, to go unscreened. These matters are discussed in the following sections of this report.

Weaknesses in Monitoring Activities

In accordance with Comptroller's Directive #1, agencies "must perform continual monitoring activities and programs." Additionally, PPB rules, §4-01(b) states, "A performance evaluation shall be done no less than once annually." However, it also requires that agencies monitor vendor performance against standards and indicators "on an ongoing basis."

ACS employs contract monitoring activities, including annual program assessments by the Unit and follow-up visits by Borough Office personnel. However, our review determined that these activities do not provide for sufficient ongoing monitoring to ensure that all personnel at contracted child care programs are appropriately screened. This finding is supported by our observation that nearly half (7 out of 15) of the centers visited lacked screening clearances or evidence thereof for five percent of the personnel sampled at the time of our visits.

Program Assessment Unit

Unit Program Assessors perform an annual assessment of contracted child care centers to evaluate the programs' overall compliance with and performance under the contract. The assessors evaluate various contract issues, including the physical conditions and safety of the facilities, programs and activities, children's immunization and health records, staff qualifications, training, and development. The assessors also are required to review personnel files to determine whether required employee screenings have been applied for and clearances have been obtained and maintained by the child care programs.

Even though the annual assessment is performed in compliance with the PPB rules, only one or two days are allocated for the Program Assessors to complete an assessment at each of their assigned child care programs. According to Unit management, the time spent at centers to perform the annual reviews is based on the number of Program Assessors available. Further, in accordance with the Program Assessment Instrument used to carry out the evaluation, the Program Assessors review only a limited number of employee files (e.g., 5 files for a one-day visit or 10 files for a two-day visit) during a program's annual assessment. Limited testing may be sufficient for long-standing personnel. However, clearances should be checked for all new personnel (paid and unpaid) who joined the child care center since the date of the last assessment visit. Based on this inherent weakness, the annual program assessment is not sufficient for continuous monitoring that would ensure that all child care center personnel are appropriately screened.

If during an annual assessment a Program Assessor finds a center to be deficient in obtaining required DOI or SCR clearances, a Corrective Action Plan (CAP) listing such deficiencies is provided to the center, which must subsequently complete the form detailing the actions taken or planned to be taken to correct the deficiencies. The Unit forwards a copy of the CAP to the Borough Office that oversees the center for follow-up.

Borough Area Resource Offices

Borough Technical Consultants are responsible for following up with their assigned child care programs to determine whether corrective action was taken to address deficiencies cited in an annual assessment. The follow-up visit appears to address solely those matters identified in the CAP forwarded by the Unit. Upon receiving a CAP, the Technical Consultant will transcribe the deficiencies identified in the CAP onto a Performance Review Field Visit Follow-up Assessment Report (follow-up report), which is used to record the Consultant's observations of the corrective action taken by the program to address each deficiency and to recommend whether or not additional follow-up is required.

Upon reviewing samples of CAP forms and related follow-up reports pertaining to employee screening deficiencies, we observed some inconsistencies in the Technical Consultants' follow-up resolutions and recommendations. For example, on one form the consultant noted that the center had taken corrective action by requesting duplicate DOI clearance letters and resubmitting an SCR application, and recommended additional follow-up. On another form the corrective action reportedly taken by the center was to submit a new fingerprinting application to DOI, but no additional follow-up was required. The matter was deemed resolved by the consultant even though the center had not obtained the DOI clearance. These inconsistencies indicate that Borough Office follow-up activities do not ensure that when a child care program is cited for employee screening deficiencies, appropriate action will be taken to verify that the cited personnel are cleared for working with children.

In addition to follow-up activities, based on interviews with Borough Office personnel, Technical Consultants monitor program performance through center visits at least once each year, or as needed, to provide technical assistance. During such visits, the Technical Consultants use a site visit report to record the critical issues reviewed. The form has a section entitled "Child Abuse Maltreatment." However, based on reviewing a limited sample of reports of completed visits, we noted that there were no notations to evidence that Technical Consultants address screening issues during their technical visits. While some Technical Consultants told us that they may review employee files during a site visit, there was no evidence available to us to determine whether they are required to address employee screening as part of their regular duties.

We also noted that site visit reports are signed by the child care program director and the Technical Consultant in space provided on the form. The form does not provide a space for a supervisory signature, and none of the completed reports we reviewed were signed by supervisory personnel to attest to the review of the reports. Therefore, there was no evidence to reflect supervisory review of the Technical Consultants' site visits.

Without adequate ongoing monitoring to ensure that all child care personnel are appropriately screened and cleared to work with children at ACS-contracted child care centers, there is a greater likelihood that a person could remain unscreened for a long period. Since the risk to a child's safety is of utmost concern, it is unacceptable to allow opportunities for a single child care worker or volunteer to work while unscreened.

Recommendations

ACS should:

1. Increase the testing of child care center personnel files to the maximum of 100 percent to ensure that clearances for all required personnel, paid and unpaid, are appropriately screened. If 100 percent testing is not possible, require that an acceptable level of existing personnel be checked and that all clearances be checked for all new personnel (paid and unpaid) who joined the child care center since the date of the last assessment visit.

ACS Response: ACS generally agreed, stating: “Beginning with the FY2010 assessment cycle, current rosters will be compared to previous rosters for new hires. New hire personnel records will be included in reviewed sample. Assessment sampling protocol will be revised to reflect reviewing new hires. Corresponding monitoring reports will reflect necessary follow-up actions.”

2. Require Technical Consultants to follow-up cited screening deficiencies to ensure that all required clearances are obtained by the child care program.

ACS Response: ACS generally agreed, stating: “CCHS Early Childhood Education consultants currently follow-up on screening deficiencies. As part of the overall strengthening of performance standards and assessment, follow-up activities regarding findings of screening deficiencies will be included.”

3. Update the site visit reports used by Technical Consultants to identify DOI and SCR screenings as a critical issue that should be considered and recorded when site visits are made.

ACS Response: ACS generally agreed, stating: “Forms and reports will be revised as necessary. [The] Manual currently in development will include such protocol.”

4. Require supervisor review of the site visit reports.

ACS Response: ACS generally agreed, stating: “Site visit report forms will be modified to include supervisor signature and contain a section for review comments.”

Lack of Formal Agreement for Sharing Information with Other Agencies

ACS does not have a formal agreement with either DOI or DOHMH specifying the responsibilities of each agency regarding ongoing communication and sharing of information between the agencies, particularly with respect to criminal and child abuse and maltreatment screenings of child care center personnel.

Comptroller’s Directive #1, “Principles of Internal Control,” §4.4, states that an agency “must have a reliable and timely communication system . . . structured to provide the pertinent information relating to internal as well as external events that can affect the unit’s overall performance.”

ACS requires its contractors to screen all personnel necessary to run the program. The contract states that a child care program’s failure to appropriately screen any personnel member is a material breach of the agreement sufficient to cause termination. Each program must directly submit applications for criminal justice and child abuse and maltreatment screenings for all required personnel to DOI and OCFS, respectively, which will perform the screenings and subsequently report their findings to the programs. The child care programs must apply to DOHMH for a license, which requires that each program submit clearances or documentation showing that all necessary forms and requests have been obtained or submitted for all persons requiring DOI fingerprinting and criminal background review and SCR screenings.

Despite these contract requirements, ACS relies primarily on DOHMH licensing process to ensure that all child care personnel are screened in accordance with Article 47.19 of the Health Code. ACS annual assessments provide only limited compliance testing for DOI and SCR screenings. ACS does not obtain from DOHMH a list of all personnel named on a contracted program’s licensing application, nor does ACS specifically require that a contracted child care program submit a list of all program personnel along with proof of DOI and SCR screening clearances or applications for each at the time the contract is executed or thereafter.

While DOI and DOHMH share information with ACS on a myriad of topics, including monitoring of child care centers, the collaboration does not provide complete information about all personnel at child care programs that have been and are submitted for screening. For example, according to ACS officials, “as a courtesy,” DOI will notify ACS whenever it obtains a “hit”—when a prospective child care worker is found having a criminal conviction record. For persons already fingerprinted, DOI will also notify ACS for any subsequent arrests or convictions that are flagged by criminal justice databases. However, ACS has not collaborated with DOI to periodically obtain a listing of all personnel at each ACS-contracted center that has been fingerprinted and screened.

Further, ACS officials asserted that “as a professional courtesy and to promote best practices, DOHMH and ACS staff shares information on specific programs on a regular and ‘as needed basis.’ . . . Both ACS and DOHMH include compliance to fingerprinting and SCR clearance regulations within their program assessments and monitoring.

Even though there is certain communication between the agencies, it is not structured to provide ACS with a strong monitoring mechanism to ensure independently that *all* personnel at its contracted child care centers undergo appropriate background screenings. Further, it does not provide an independent means to identify child care program personnel for whom screening applications were submitted whose clearances remain outstanding or were never completed.

While the contracted child care centers are responsible for effectively communicating with ACS and maintaining all required screening and clearances for its personnel, ACS

monitoring activities are not adequate to ensure that all employees and volunteers are appropriately screened. ACS needs to share information with other oversight agencies to corroborate information provided by the child care centers. By sharing and comparing information of employee screenings, ACS could provide a basis of continuous monitoring of center compliance with screening requirements. Having even one unscreened person working at a child care center is unacceptable, since it admits the potential for a child predator being in a position to do harm to a child.

Additionally, ACS must ensure that child care centers follow up on pending SCR and DOI clearances after a certain period of time has elapsed. An OCFS contact number is available to organizations to check on the status of SCR applications. Organizations must provide to OCFS the applicant's first and last name and date of birth, along with the name of the agency the organization is affiliated with in order to obtain information on the application status. Child care centers should also contact DOI to check on the status of criminal history clearances for its employees.

Child care centers must assume responsibility for failing to comply with contractual requirements with regard to these clearances. Once they hire the employees, they are responsible for obtaining and maintaining all required documents, including SCR and DOI clearances, in the personnel files. Child care centers must also be held responsible for failing to follow up with either DOI or OCFS after a period of time has elapsed with a response to the applications that were sent out.

Recommendations

ACS should:

5. Enter into a formal agreement (i.e., memorandum of understanding) with DOI, DOHMH, and OCFS to establish the roles, responsibilities, and procedures for the timely sharing of information between the agencies about the names of child care personnel for whom criminal and child abuse and maltreatment have been performed.

ACS Response: ACS generally agreed with the recommendation, stating: "A memorandum of understanding is not necessary to establish the roles and responsibilities. . . . [However,] . . . Information sharing processes will be included on regularly scheduled meetings among the various agencies. Should it be deemed necessary, a sub-group may be formed to develop recommendations to strengthen such processes."

6. Require that child care centers immediately follow up on all individuals cited in this report for lacking either SCR or DOI clearances to ensure that clearances are obtained in a timely manner.

ACS Response: ACS agreed with the recommendation, stating: "CCHS has already required immediate follow-up on the individuals cited in this report. Follow-up work and reporting of results is underway."

7. Require that contracted child care centers periodically (e.g., semi-annually or annually) provide DCCHS with a list of all active personnel (employees and volunteers) and supplement this list with the names of new hires. DCCHS could then use this information to compare the names of child care personnel with DOI and SCR databases to ensure that all personnel are screened. This information could also be used to supplement ACS's annual program assessments

ACS Response: ACS agreed with the recommendation, stating: "Beginning with the FY2010 assessment cycle, current rosters will be compared to previous rosters for new hires. New hire personnel records will be included in reviewed sample."

Lack of Formal Operating Procedures

In the agency's self-assessment of its internal controls for calendar years 2005, 2006, and 2007 (performed and submitted to the Comptroller's Office, as required by Comptroller's Directive #1), ACS affirmed that agency programs were conducted in accordance with clearly defined management policies and procedures that were reflected in a formal written operating procedures. However, our review disclosed that ACS DCCHS lacks formal operating procedures that comprehensively address and establish standards for and spell out responsibilities of and job duties carried out by the Unit and Borough Offices.

Comptroller's Directive #1 states: "Internal control activities . . . are, basically, the policies, procedures, techniques, and mechanisms used to enforce management's direction. They must be an integral part of an agency's planning, implementing, review and accountability for stewardship of its resources is vital to its achieving the desired results." The directive also states that internal controls should be documented in management administrative policies or operating manuals that are communicated to appropriate personnel.

In response to our requests to review relevant operational procedures, certain ACS personnel asserted that Article 47 of the New York City Health Code is used in place of formal procedures, since the Article spells out the requirements that child care centers must follow and comply with. We disagree with this practice, since the Article does not establish the procedures to be followed by ACS personnel regarding the oversight and monitoring of contracted child care centers, nor does it establish or describe the internal tasks, mechanisms, or processes to be followed by ACS personnel in performing their jobs, especially those involved in the monitoring and oversight of child care programs under contract with ACS.

Formal, written operating procedures can provide an organization with assurance that every person involved in a process understands the tasks that are to be accomplished and the acceptable methods to be used in performing those tasks. They also provide an effective mechanism for training and evaluating the performance of staff in their duties. By not maintaining comprehensive, written policies and procedures, ACS management has no assurance that policies and procedures are properly communicated and consistently followed. Also, there is no assurance that new personnel have adequate guidance in carrying out their assigned duties.

Recommendation

ACS should:

8. Develop a comprehensive policies and procedures manual that addresses all internal processes and functions carried out by the Unit Borough Offices and distribute the manual to appropriate personnel. The manual should be updated periodically to address newly implemented or revised procedures.

ACS Response: ACS agreed with the recommendation, stating: “CCHS will expedite the revision of the procedures manual to include policy and administrative directives. [The] Manual will be distributed to staff and made available through standard staff training and information distribution points.”

**ACS-Contracted Child Care Centers Visited
And Files Reviewed during the Audit**

ACS-Contracted Child Care Centers Visited	Borough	Total Number of Personnel at the Center	Number of Personnel Files Reviewed	Percent (%) of Total Personnel Files Reviewed
H.A.C. Stevens	Bronx	31	30	97%
As the Twig is Bent	Bronx	13	13	100%
N. Bronx National Negro	Bronx	38	24	63%
196 Albany Ave Day Care	Brooklyn	22	10	45%
Friends of Crown Heights	Brooklyn	23	20	87%
Strong Place Day Care	Brooklyn	15	10	67%
Helen Owen Carey	Brooklyn	38	10	26%
Amico Court St Children	Brooklyn	15	15	100%
Omega Psy Phi Fraternity	Queens	21	20	95%
Rockaway Child Care	Queens	15	14	93%
Hammels Arverne	Queens	16	10	63%
Sheltering Arms/Virginia Day Nursery	Manhattan	19	10	53%
Emmanuel Day Care	Manhattan	14	14	100%
Brownstone School	Manhattan	22	20	91%
Neighbor Children's Center	Manhattan	16	16	100%
Total		318	236	74%



NEW YORK CITY CHILDREN'S SERVICES
150 William Street, 10th Floor
New York, NY 10038

JOHN B. MATTINGLY Ph.D., M.S.W.
Commissioner

SUSAN NUCCIO
Deputy Commissioner
Financial Services

June 17, 2009

Mr. John Graham
Deputy Comptroller
Policy, Audits, Accountancy & Contracts
The City of New York Office of the Comptroller
Executive Offices
1 Centre Street, Room 500
New York, New York 10007-2341

Re: NYC Comptroller's Draft Report MJ09-073A
Audit on Administration for Children's Services
Oversight and Monitoring of the Screening of Personnel by
Contracted Child Care Centers

Dear Mr. Graham:

Thank you for sharing with us the Draft Report for the above captioned audit.

Understanding the constraints of time and resources of the Comptroller's Office's Audit team, ACS still has issue regarding the small sample size. We believe that it is not reflective of the whole center-based child care system. Further, while we concur that screening oversight can be strengthened, our ability to retrieve clearance information almost immediately upon notification, leads us to believe that the screening policy is followed by the majority of the contracted providers, yet indicates that record keeping needs to be improved. Additionally, it should be noted again that the timeliness of the screening process is not totally within ACS's purview. We are encouraged by the improvements planned for the State Central Register notification process and the revisions to the City's Health Code regarding screenings and believe that the overall process will be improved by these changes. ACS looks forward to continue working with your office to improve the delivery of services to the children of the City of New York.

Attached is our response to your recommendations and appropriate Audit Implementation Plans (AIP's).

If you have any questions, please do not hesitate to contact me at (212) 676-8855.

Thank you,

A handwritten signature in cursive script, appearing to read "Tom Welsh".

Tom Welsh
Assistant Commissioner
Audit Services

**ADMINISTRATION FOR CHILDREN'S SERVICES AUDIT IMPLEMENTATION PLAN
NEW YORK CITY COMPTROLLER'S AUDIT REPORT ON OVERSIGHT AND MONITORING OF THE
SCREENING OF PERSONNEL BY CONTRACTED CHILD CARE CENTERS
AUDIT NUMBER: MJ09-073A**

RECOMMENDATION # 1 ACS should increase the testing of child care center personnel files to the maximum of 100 percent to ensure that clearances for all required personnel, paid and unpaid, are appropriately screened. If 100 percent testing is not possible, require that an acceptable level of existing personnel be checked and that all clearances be checked for all new personnel (paid and unpaid) who joined the child care center since the date of the last assessment visit.

RESPONSIBLE MANAGERS' NAME: MARIA BENEJAN, ASSOCIATE COMMISSIONER, ACS CHILD CARE HEADSTART

CORRECTIVE ACTIONS TO BE TAKEN	RESPONSIBLE PERSON	DATES START END		DOCUMENTATION	COMMENTS
<p>Beginning with the FY2010 assessment cycle, current rosters will be compared to previous rosters for new hires. New hire personnel records will be included in reviewed sample.</p> <p>Assessment sampling protocol will be revised to reflect reviewing new hires. Corresponding monitoring reports also will reflect necessary follow-up actions.</p>	<p>Assessment Unit Director</p> <p>Training Unit Director</p>	<p>September 2009</p> <p>July 2009</p>	<p>On-going</p> <p>September 2009</p>	<p>Assessment protocol and tools</p> <p>Assessment protocol</p>	<p>The resources are not available to test 100% of all records, yet 100% of new hires will be reviewed.</p> <p>DOHMH re-licensing policy requires review of the majority of employees and 100% of all new hires.</p>

**ADMINISTRATION FOR CHILDREN'S SERVICES AUDIT IMPLEMENTATION PLAN
NEW YORK CITY COMPTROLLER'S AUDIT REPORT ON OVERSIGHT AND MONITORING OF THE
SCREENING OF PERSONNEL BY CONTRACTED CHILD CARE CENTERS
AUDIT NUMBER: MJ09-073A**

RECOMMENDATION # 2 ACS should require Technical Consultants to follow-up cited screening deficiencies to ensure that all required clearances are obtained by the child care program.

RESPONSIBLE MANAGERS' NAME: MARIA BENEJAN, ASSOCIATE COMMISSIONER, ACS CHILD CARE HEADSTART

CORRECTIVE ACTIONS TO BE TAKEN	RESPONSIBLE PERSON	DATES		DOCUMENTATION	COMMENTS
		START	END		
CCHS Early Childhood Education consultants currently follow-up on screening deficiencies. As part of the overall strengthening of performance standards and assessment, follow-up activities regarding findings of screening deficiencies will be included.	Training Unit Director	June 2009	December 2009	Protocol and practice guides	Forms and protocols will be revised as necessary. New processes and procedures will be included in scheduled staff trainings.

**ADMINISTRATION FOR CHILDREN'S SERVICES AUDIT IMPLEMENTATION PLAN
NEW YORK CITY COMPTROLLER'S AUDIT REPORT ON OVERSIGHT AND MONITORING OF THE
SCREENING OF PERSONNEL BY CONTRACTED CHILD CARE CENTERS
AUDIT NUMBER: MJ09-073A**

RECOMMENDATION # 3 ACS should update the site visit reports used by the Technical Consultants to identify DOI and SCR screenings as a critical issue that should be considered and recorded when site visits are made.

RESPONSIBLE MANAGERS' NAME: MARIA BENEJAN, ASSOCIATE COMMISSIONER, ACS CHILD CARE HEADSTART

CORRECTIVE ACTIONS TO BE TAKEN	RESPONSIBLE PERSON	DATES START END	DOCUMENT ATION	COMMENTS
Forms and reports will be revised as necessary. Manual currently in development will include such protocol.	CCHS Assistant Commissioners and Resource Area Directors	August 2009 December 2009	Revised site visit report	

ADMINISTRATION FOR CHILDREN'S SERVICES AUDIT IMPLEMENTATION PLAN
NEW YORK CITY COMPTROLLER'S AUDIT REPORT ON OVERSIGHT AND MONITORING OF THE
SCREENING OF PERSONNEL BY CONTRACTED CHILD CARE CENTERS
AUDIT NUMBER: MJ09-073A

RECOMMENDATION # 4 ACS should require supervisor review of the site visit reports.

RESPONSIBLE MANAGERS' NAME: MARIA BENEJAN, ASSOCIATE COMMISSIONER, ACS CHILD CARE HEADSTART

CORRECTIVE ACTIONS TO BE TAKEN	RESPONSIBLE PERSON	DATES START END	DOCUMENTATION	COMMENTS
Site visit report forms will be modified to include supervisor signature and contain a section for review comments.	CCHS Assistant Commissioners and Resource Area Directors	July 2009 August 2009	Site visit report form	Current practice includes Supervisory review and discussion with consultants regarding their site visits.

**ADMINISTRATION FOR CHILDREN'S SERVICES AUDIT IMPLEMENTATION PLAN
NEW YORK CITY COMPTROLLER'S AUDIT REPORT ON OVERSIGHT AND MONITORING OF THE
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RECOMMENDATION # 5 ACS should enter into a memorandum of understanding with DOI, DOHMH, and OCFS to establish the roles, responsibilities, and procedures for the sharing of information between the agencies about the names of child care personnel for whom criminal abuse and maltreatment have been performed.

RESPONSIBLE MANAGERS' NAME: MARIA BENEJAN, ASSOCIATE COMMISSIONER, ACS CHILD CARE HEADSTART

CORRECTIVE ACTIONS TO BE TAKEN	RESPONSIBLE PERSON	DATES START END	DOCUMENTATION	COMMENTS
Information sharing processes will be included on regularly scheduled meetings among the various agencies. Should it be deemed necessary, a sub-group may be formed to develop recommendations to strengthen such processes.	Policy and Planning Staff	On-going On-going	Minutes from meetings	Each agency's roles and responsibilities are delineated within City and State regulations. The type of information that can and cannot be shared is governed by City, State and Federal regulation. A memorandum of understanding is not necessary to establish the roles and responsibilities.

**ADMINISTRATION FOR CHILDREN'S SERVICES AUDIT IMPLEMENTATION PLAN
NEW YORK CITY COMPTROLLER'S AUDIT REPORT ON OVERSIGHT AND MONITORING OF THE
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RECOMMENDATION # 6 ACS should require that child care centers immediately follow up on all individuals cited in this report for lacking either SCR or DOI clearances to ensure that clearances are obtained in a timely manner.

RESPONSIBLE MANAGERS' NAME: MARIA BENEJAN, ASSOCIATE COMMISSIONER, ACS CHILD CARE HEADSTART

CORRECTIVE ACTIONS TO BE TAKEN	RESPONSIBLE PERSON	DATES START END	DOCUMENTATION	COMMENTS
CCHS has already required immediate follow-up on the individuals cited in this report. Follow-up work and reporting of results is underway.	Resource Area Directors/ ECE Specialists	June 2009 July 2009	Copies of SCR and DOI clearance reports.	

**ADMINISTRATION FOR CHILDREN'S SERVICES AUDIT IMPLEMENTATION PLAN
NEW YORK CITY COMPTROLLER'S AUDIT REPORT ON OVERSIGHT AND MONITORING OF THE
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RECOMMENDATION # 7 ACS should require that contracted child care centers (e.g., semi-annually or annually) provide DCCHS with a list of all active personnel (employees and volunteers) and supplement this list with names of new hires, DCCHS could then use this information to compare the names of child care personnel with DOI and SCR databases to ensure that all personnel are screened. This information could also be used to supplement ACS's annual program assessments.

RESPONSIBLE MANAGERS' NAME: MARIA BENEJAN, ASSOCIATE COMMISSIONER, ACS CHILD CARE HEADSTART

CORRECTIVE ACTIONS TO BE TAKEN	RESPONSIBLE PERSON	DATES START	DATES END	DOCUMENTATION	COMMENTS
Beginning with the FY2010 assessment cycle, current rosters will be compared to previous rosters for new hires. New hire personnel records will be included in reviewed sample.	Assessment Unit Director	July 2009	On-going	Assessment protocol and tools	Active personnel rosters are made available to assessors and newly hired personnel is included in the reviewed sample during annual assessment. CCHS does not have access to DOI and SCR databases due to confidentiality restrictions.

**ADMINISTRATION FOR CHILDREN'S SERVICES AUDIT IMPLEMENTATION PLAN
NEW YORK CITY COMPTROLLER'S AUDIT REPORT ON OVERSIGHT AND MONITORING OF THE
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RECOMMENDATION # 8 ACS should develop a comprehensive policies and procedures manual that addresses all internal processes and functions carried out by the unit borough offices and distribute the manual to appropriate personnel. The manual should be updated periodically to address newly implemented functions.

RESPONSIBLE MANAGERS' NAME: MARIA BENEJAN, ASSOCIATE COMMISSIONER, ACS CHILD CARE HEADSTART

CORRECTIVE ACTIONS TO BE TAKEN	RESPONSIBLE PERSON	DATES START END	DOCUMENTATION	COMMENTS
CCHS will expedite the revision of the procedures manual to include policy and administrative directives. Manual will be distributed to staff and made available through standard staff training and information distribution points.	Training Unit Director	July 2009 December 2009	Procedures manual	CCHS has been compiling and formalizing a procedures manual. These activities will be expedited.