Testimony of United Neighborhood Houses
Before the New York City Council Committees on Youth Services and Health
Council Member Althea Stevens, Chair
Council Member Lynn Schulman, Chair

Oversight: Addressing the DOHMH Childcare Clearance Backlog

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Thank you to Chairs Stevens and Schulman and members of the New York City Council for the opportunity to testify on this important issue. United Neighborhood Houses UNH. UNH is a policy and social change organization representing 45 neighborhood settlement houses, 40 in New York City, that reach 765,000 New Yorkers from all walks of life.

A progressive leader for more than 100 years, UNH is stewarding a new era for New York's settlement house movement. We mobilize our members and their communities to advocate for good public policies and promote strong organizations and practices that keep neighborhoods resilient and thriving for all New Yorkers. UNH leads advocacy and partners with our members on a broad range of issues including civic and community engagement, neighborhood affordability, healthy aging, early childhood education, adult literacy, and youth development. We also provide customized professional development and peer learning to build the skills and leadership capabilities of settlement house staff at all levels.

Settlement houses operate a wide variety of child care and youth programs, all of which require background checks for staff and volunteers to be able to work in those programs. Background checks are a necessary component of all programs, and play a vital role in the hiring process. Settlement houses support having them in place, and they rely on their partners in government to process those checks efficiently. However, due to changes at the federal level, New York State had to overhaul how it administered background checks for child care and youth staff in 2019. This change, which New York State and City were largely unprepared for, caused serious delays in staff clearances and hiring, delays which the system is still recovering from to this day. This testimony discusses these challenges and shares recommendations for improving the system moving forward.

Background

Since September 25th, 2019, New York State Office of Children and Family Services (OCFS) has required NYC DOHMH to perform Comprehensive Background Checks (CBC), new extensive background checks for staff and volunteers in after-school and early childhood education that are listed below:

- A NYS criminal history record check with the Division of Criminal Justice Services; (new)
- A national criminal record check with the Federal Bureau of Investigation; (new)
- A search of the NYS sex offender registry; (new)
- A database check of the NYS Statewide Central Register of Child Abuse and Maltreatment (SCR) in accordance with 424-1 of the Social Services Law;
- A search of the national sex offender registry using the National Crime and Information Center ***Required at a later time (new)

If the individual being cleared has lived outside of New York State in the last five years, they will also have to undergo background checks in every other State where they have lived. This includes:

- Each state(s) criminal history repository;
- Each state's sex offender registry or repository;
- Each state's child abuse or neglect registry.

When this new CBC process was rolled out in fall 2019, DOHMH was not able to complete the background checks in a timely manner. The new packets that staff had to complete were long, and had to be emailed to a DOHMH email account for processing. The volume of staff that needed to be cleared was significant; there are thousands of people working and volunteering in child care and youth programs in New York City, and this was implemented at the start of the school year when organizations are still hiring and onboarding staff. We suspect that the volume of packets submitted was too high for DOHMH to handle, leading to packets getting lost and an inability of DOHMH to work with providers to understand the new system, correct technical errors, etc.

At the time, many prospective staff members in after-school and early childhood education programs were unable to work due to pending clearances. On February 7, 2020, the backlog led the New York State Office of Children and Family Services to provide some relief through a temporary rule change that allows staff members to work provisionally if they have been cleared through the State Central Register of Child Abuse and Maltreatment (SCR) and if they are supervised for 100% of the time that they are in contact with children by a staff member who has been cleared. This measure did help significantly, even though it was a temporary fix and not the best practice for running a program.

Shortly after this change, the COVID-19 pandemic began. Even though many programs were not operating at all, or were operating remotely, the process for clearing staff was not improved during this time and clearance delays were still significant throughout the COVID-19 pandemic. Furthermore, vacancies at City agencies over the past few years have fueled these delays and extended the time that it took DOHMH to implement an online, automated process. This online process was finally rolled out almost four years after the CBC process was first implemented.

It is difficult to quantify precisely the impact of the Comprehensive Background Check backlog, as data about the issue has been difficult to come by and hiring situations at provider organizations can be fluid. Below is a list of some of the impacts of the delays that we have heard from settlement houses over the last several years:

- Long wait times for prospective staff to get cleared, leading them to take jobs in other industries rather than wait for their clearances to come through;
- Hiring challenges because of these long clearance wait times, causing providers to close programs or open at a reduced capacity. This ultimately caused challenges for parents who could not find reliable child care;
- Complicated and confusing forms for the CBC process, causing human resources/compliance staff at settlement houses to spend significant amounts of time helping prospective and current staff complete forms, and following up with DOHMH to understand where these staff are in the clearance process; and
- Penalties for providers who do not have cleared staff on site. Providers have reported being penalized by DOHMH staff during inspections, even when they show their paper trail of clearance submissions and follow up to DOHMH. This is particularly frustrating because it's the same City agency carrying out the inspections and managing the background check process, but providers are paying the price for DOHMH delays.

Current Process

On May 14, 2023, DOHMH launched a new online, automated process for clearing staff. Feedback on the interface and usability system has been generally positive, though at this point it is difficult to tell whether DOHMH is able to comply with the 45 day timeline for processing clearances that the federal government requires.

At the time of the rollout, this online automated process was only for new and prospective staff; any existing staff who had submitted a packet under the paper/email system were told to wait for DOHMH to process those packets. There are settlement house staff who were waiting for clearances from as long ago as 2019 and 2020. Eventually, on September 15, 2023, DOHMH instructed providers to resubmit clearance applications for existing staff. While it is good to have every staff member using the same, uniform process regardless of whether they are a new hire or are being re-cleared, we fear that this change will only increase the backlog and extend wait times for clearances. We do not know how many staff submitted clearance packets between 9/25/19 and 5/13/23 that were not processed, but we estimate that the number is quite high.

In light of these challenges, UNH recommends that DOHMH's Bureau of Child Care be given additional staff resources to clear the backlog of staff who have not been cleared under the new CBC process to date. We also recommend that our partners in the City work with the provider community to ensure proper practices and resources from NYS OCFS and the federal government when necessary to ensure quick processing of checks.

Intro 1159

This bill would require DOHMH to consult with the Department of Education (DOE) when completing background checks for current or prospective child care providers, employees, and volunteers. If it complies with state and federal law and does not violate any privacy issues for DOHMH to utilize information from the DOE PETS system, we generally support this type of information sharing if it makes the background check process more efficient.

However, it would be helpful to address the duplicative sets of prints that prospective staff members must get. For example, youth providers who operate school-based afterschool

programs under a DYCD contract have shared that their staff have to be cleared via the DOE PETS system (since they are in a DOE building running the service) and the Comprehensive Background Check process (since DYCD requires that they have a School Aged Child Care license as well, which requires the CBC process). IdentiGO is the vendor that processes both checks. A prospective afterschool staffer needs to get two sets of fingerprints from IdentiGO—one for PETS and one for CBC. This is duplicative, and it would be better if IdentiGO could just use one set of fingerprints to run all required checks. It also causes headaches when a prospective staffer accidentally only gets one set of prints and has to go back, or uses the wrong service code when going to IdentiGO to get printed. This might be a policy of the vendor, but is a small change that could ease some of the headaches that can come along with the background check process. Overall, we stress that the most important thing to help the background check process is that all relevant City agencies are staffed appropriately to ensure that checks are processed in a timely manner and that providers have support from DOHMH and DOE to troubleshoot during the process when needed.

Intro 1160

This bill would require DOHMH to complete a request for a background check for current and prospective child care providers, employees, and volunteers within 14 days from the date a request is received. UNH generally supports this concept, as long as DOHMH has the right resources to process these checks under the 14 day timeframe. We do not want a situation where DOHMH is rushing background checks to meet this timeframe, so we encourage a careful examination of exactly why checks take so long, and that DOHMH be given the necessary tools to speed the process up safely.

Thank you for your time. If you have any follow up questions, I can be reached at nmoran@unhny.org.