#1

To: NYC Dept of Health

From Jeanette Rosado

Re: Proposed Amendment

Date: April 16, 2012

Your proposed amendment has not demonstrated that there are enough changes to implement quality care for infants.

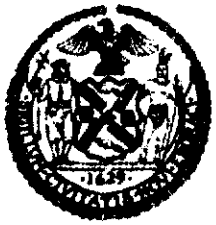
Kiddie Academy recently repeated the same mistake that killed my son, 2/27/12: Child Care Service failed to provide constant and competent supervision for children within its care. DOH has not set the bar high enough for the daycare industry to provide Quality Care.

What's the point of Correction Action Plans if you allow Kiddie Academy to repeat their mistakes?

You mention in your letter that the suspension of program's permits is not **discretionary**. Closing Kiddie Academy should not be based on opinions, but facts. The facts indicate that there are grounds for closure. Kiddie Academy failed to check on Jeremy and ignored his signs of distress.

Jeremy did not get a second chance in life so why should Kiddie Academy? Close this daycare on the consistent Critical and Public Hazard violations.

#(2)



THE COUNCIL
OF
THE CITY OF NEW YORK

April 19, 2012

Commissioner Thomas Farley
City of New York
Department of Health and Mental Hygiene
42-09 28th Street
Long Island City, New York, 11101

Dear Commissioner Farley:

We have reviewed the proposed amendments to Article 47 of the Health Code of the City of New York, and have the following comments and requests for further information. We have included the relevant sections of the Health Code for clarity.

§47.01 Imminent or public health hazard

Under the proposed rule, the "failure to maintain constant and competent line of sight supervision at all times" would be included as an imminent or public health hazard. While we agree with this addition, we are concerned that this language is vague and should specify exactly what "constant and competent" means. It is unclear what would constitute a violation of this requirement. Additionally, the notes on page five of the draft rules suggest that the failure "to report an incident of a lost child" should be included as an imminent health hazard in the actual text of the rules, but it does not appear to be. We therefore request that the language appear in the text of the rules.

§47.11 Written safety plan

First, we believe DOHMH should ensure that the written safety plan is made available in multiple languages if the agency does not already do so.

Additionally, while we support additional training for staff, as included in §47.11(b)(8), we believe that the rules should provide more detailed standards for how staff will be trained. For example, how often will the training take place? Will it be annually? What will the training consist of and how will it differ from the current mandatory training for staff? How will the training address staff response in emergency

situations? Will each center have its own training curricula to be approved by DOHMH or are there minimum standards that every center must meet?

§47.19 Criminal justice and child abuse screening of current and prospective personnel; reports to the Department

The proposed rule requires that day care centers notify DOHMH within 24 hours when a child attending a permitted care service has died, or has been seriously injured, unaccounted for, left behind, or inappropriately supervised in accordance with code. Again, while we strongly support the inclusion of this requirement, we believe the rule should also include a requirement that parents of the child (and of other children) be notified by DOHMH of any incidents of this sort at the day care center.

§47.21 Corrective action plan

Under the proposed rule, corrective action plans will be submitted to DOHMH within 5 business days for review and approval. We have several questions about the review and approval process, including: What will the approval process be? Who will be involved in the approval process? How many times can a corrective action plan be resubmitted for approval? What is the status of the center while the plan is being approved? What happens to the center if the corrective action plan is not approved? Will the center be automatically closed?

§47.67 Child development policies, program, rest periods and clothing

Under §47.67(d)(2), parents must be given information about the center's policies and procedures for supervision, attendance, admission, discharge, emergency and illness management and a copy of DOHMH's brochure regarding how to obtain information about child care programs in NYC. We support this change, but would like to know whether information will be distributed in a written form and in multiple languages and whether there will be an in person/oral presentation required as part of the orientation process, which we believe would be beneficial. Additionally, please clarify whether updated information be given out on an annual basis, when the policies and procedures are updated, as they are required to be under §47.11(a) of the Code.

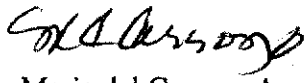
We also have questions about two other items that we raised in previous correspondence to you that were not addressed in these rules:

1. How will parents be informed when there is an incident at a day care center and/or the center is closed? What information will they be given and how will it be communicated?
2. You mentioned in your letter to us dated February 15, 2012 that there would be a closure notification letter that will be distributed on site at the time of a closure. Has this letter been developed? Has it been distributed? Why was this not included as part of the rules?

We look forward to your response to our comments and questions, and appreciate your consideration as you promulgate final rules.

Sincerely,

Annabel Palma
Chair, General Welfare Committee
Council Member
District 18, Bronx



Maria del Carmen Arroyo
Chair, Health Committee
Council Member
District 17, Bronx

#3

Ronald E. Richter
Commissioner

Myung J. Lee
Deputy Commissioner
Division of Child Care & Head Start

Ayleen Guzman
Assistant Commissioner
Program Management
Division of Child Care & Head Start

66 John Street, 8th floor
New York, NY 10038

Email:
ChildCare-HeadStart@dfa.state.ny.us

May 2, 2012

Frank Cresciullo
Assistant Commissioner
Bureau of Child Care
NYC Department of Health and Mental Hygiene
22 Cortlandt Street
New York, NY 10007

Dear Mr. Cresciullo:

Thank you for the opportunity to provide comments concerning the proposed changes to Article 47. Our suggestions below are based upon conversation with both Child Care and Head Start and Child Protection staff in addition to early care and education programs.

Written Safety Plan
ACS would suggest that the DoHMH template for the written safety plan be updated to reflect the proposed new requirements concerning infant sleep safety.

Infant Sleep Safety
ACS recommends that providers be given a range of 15 to 20 minutes to actively observe and evaluate infants in order to provide sufficient time to complete tasks common to infant care (e.g., changing a diaper).

Additionally, the form developed by DoHMH for the provider to document staff-infant observations should be a succinct check off list to be completed every 15 to 20 minutes. A narrative or more complex form would distract from time with the children given the frequency it must be completed. ACS recommends that the term "actively observing" should be amended to "logging" to reflect that the observations should not upset the child's rest and reflect a user friendly non-narrative form. ACS advocates that infant/toddler education directors review and approve observation forms weekly in accordance with NAEYC guidelines.

Corrective action plan
In order for programs to comply with the proposed five day timeline for submission of the corrective action plan (CAPs), ACS strongly recommends providing programs with an inter-active online submission form to submit a CAPS. Based upon our experience working with programs on CAPs submissions, we would recommend a form that could include open ended questions for programs to respond to in order to shorten the period of time it takes for a program to submit a completed CAPs and obtain approval from DoHMH.

Training
Due to high staff turnover, ACS recommends close monitoring for compliance with the mandated training.

Child development policies, program, rest periods and clothing
Unrestricted access.
ACS suggests providing caretakers or legal guardians with unrestricted access in addition to parents. Additionally, the statement that on unrestricted access should be qualified as "parents shall have unrestricted access to their children at all times provided there is no court order in place prohibiting or limiting such access."

Enrollment and orientation.
ACS recommends that discipline, escort and trip policies and procedures be added to the information provided to parents.

If you have any questions or concerns regarding the suggestions made by ACS, please let me or my staff know.

Thank you.

Sincerely,

Ayleen Guzman

cc: Pamela Lee