

June 16, 2020

The Honorable Andrew M. Cuomo  
Governor of New York State  
New York State Capitol Building  
Albany, NY 12224

Dear Governor Cuomo:

On behalf of organizations working to support children and families in New York State, we are writing to urge you to extend the deadline for children to receive Early Intervention (EI) services when they have been unable to receive preschool special education evaluations due to the COVID-19 pandemic. Unless the State acts quickly, we are deeply concerned that young children with developmental delays and disabilities across the State will experience a gap in services in violation of their legal rights.

As you know, federal law requires that the State “ensure a smooth and effective transition” from Early Intervention to preschool special education services. In New York State, typically, a child’s EI services end when the child turns three, unless the child is found eligible for preschool special education services prior to the child’s third birthday, in which case the parent has the option of extending the child’s EI services beyond the child’s third birthday. For children turning three between January and August, parents have the option to extend EI services through August 31<sup>st</sup>, but only if their child is evaluated and found eligible for preschool special education services prior to the child’s third birthday.

Recognizing that many children would experience delays in getting evaluated for preschool special education services as a result of the pandemic, the New York State Department of Health extended EI services through June 30<sup>th</sup> for children who were unable to get preschool special education evaluations and eligibility determinations prior to their third birthday. This extension has helped ensure that children with developmental delays and disabilities do not lose all services on their third birthday.

However, as June 30<sup>th</sup> approaches, we are very concerned that services will end abruptly for children who recently turned three but who have not yet had preschool special education evaluations and eligibility determinations. Given the uncertainty of this pandemic, this deadline risks cutting children off from services for months and months during one of the most critical periods of their development.

When a child is referred for preschool special education evaluations, it is the school district’s obligation to evaluate that child. However, the pandemic and school closures have led to significant delays in these evaluations. Many school districts around the State did not begin authorizing remote evaluations until after the New York State Education Department (NYSED) issued guidance on April 27<sup>th</sup>, creating a backlog in evaluations; some districts are still not conducting remote evaluations. Furthermore, the NYSED guidance states that “the determination as to whether a specific evaluation may be conducted remotely for a particular student must be made on a case-by-case basis” and that, if an evaluation requires a face-to-face in-person assessment or observation, “the evaluation would need to be delayed until school

reopens.” As a result, children are not being evaluated in the timely manner necessary to ensure they do not lose services by the June 30<sup>th</sup> deadline.

We appreciate the hard work of the State’s Bureau of Early Intervention to transition to remote EI services for children during the pandemic. Now, we need to make sure that the efforts of the EI program and the progress children have made are not undone due to a gap in services. During this public health emergency, the State must continue extending EI services for children unable to get preschool special education evaluations by June 30<sup>th</sup> and must ensure that no child has services cut off due to their school district’s inability to evaluate them for preschool special education services.

Sincerely,

ACDS

ACTS

Adirondack Foundation - Birth to Three Alliance

Advocates for Children of New York

Alcott School

All Good

Alliance for Quality Education

Association to Benefit Children

Brightside Up, Inc

Brooklyn Defender Services

Capital Region Alliance for Children with Special Needs

Catholic Family Center

Center for Children's Initiatives

Child Care Council, Inc.

Child Care Council of Dutchess and Putnam, Inc.

Child Care Council of Orange County, Inc.

Child Care Council of Suffolk

Child Care Resources of Rockland, Inc.

Child Care Solutions, Inc.

Children's Aid

Children's Defense Fund - New York

Chinese-American Planning Council (CPC)

Citizens' Committee for Children of New York

Cyn's Heavenly Angels Quality Child Care

Day Care Council of New York

Disability Rights New York

Docs for Tots

Early Care & Learning Council

Early Childhood Alliance Onondaga

ECE on the Move

Erie Niagara Birth to 8 Coalition

Generations Child Care, Inc.

Healthi Kids, an initiative of Common Ground Health

Hudson Alliance for Children with Special Needs

INCLUDEnyc

InterAgency Council of Developmental Disabilities Agencies, Inc

Kennedy Children's Center

Kids Can't Wait Campaign

Leeway School

Liftoff Western New York

Long Island Coalition for Children with Special Needs

Mental Health Advocates of WNY

Neighborhood Health Center

New Alternatives for Children (NAC)

New York Center for Child Development

New York Center for Infants and Toddlers

New York City Coalition for Children with Special Needs

New York Immigration Coalition

New York State Alliance for Children with Special Needs

New York State Association of County Health Officials

New York University School of Law Education Advocacy Clinic

New York Zero-to-Three Network

North Country Kids

NY Association for the Education of Young Children

Parents Helping Parents Coalition of Monroe County

Power of Two

Prevent Child Abuse New York

QSAC, Inc.

Rising Ground, Inc.

Rochester Chapter NYAEYC

Schuyler Center for Analysis and Advocacy

Seneca Babcock Early Childhood Academy

Sinergia Inc

Southern tier Pediatrics practice pc Jamestown NY

St Mary's Healthcare System for Children

Step by Step Developmental Services

The Children's Agenda

The Children's Law Center

The Education Trust–New York

The Guidance Center of Westchester

The Jewish Board of Family & Children's Services

The Right to Read Project

Therapeutic Link for Children

United Way of the Southern Tier

United We Stand of New York

Westchester Children's Association

Western Central Coalition for Children with Special Needs

Western New York Speech-Language Pathology, OT and PT Consultants

Winning Beginning New York

WNY Women's Foundation