

Making Prekindergarten Truly Universal in New York

A STATEWIDE ROADMAP



This report was written by Michael A. Rebell and Jessica R. Wolff, Campaign for Educational Equity, and Nancy Kolben and Betty Holcomb, Center for Children's Initiatives. Additional research assistance was provided by Nikki Nielsen, Samuel Milder, and Gilana Keller.

Many thanks to the Rauch Foundation, the Child Care and Early Education Fund, and the Catherine and Joseph Aresty Foundation for their support of this project.

CCI and CEE are also grateful to the many national and New York State early childhood and education experts who read earlier drafts of this report, participated in our statewide forums, and gave us their input and recommendations.

Making Prekindergarten Truly Universal in New York

A STATEWIDE ROADMAP

EXECUTIVE SUMMARY	2
INTRODUCTION	7
THE FINANCING STRATEGY	10
FORMULA FUNDING AND PREKINDERGARTEN PROGRAMS	10
Current Prekindergarten Funding System	10
Funding Methodologies in Other States	16
A COST-BASED FORMULA MODEL FOR NEW YORK STATE	19
Guaranteed Access for All Children	19
Eight-Year Phase-in with Priority for High Need Districts	21
Inclusion of Pre-K Funding in State Education Finance System	22
Funding for All Necessary Costs of High-Quality Programs	25
THE QUALITY FRAMEWORK	27
ESSENTIAL REGULATIONS FOR HIGH-QUALITY PRE-K PROGRAMS	27
SYSTEMS SUPPORT AND INFRASTRUCTURE INVESTMENTS.....	32
CONCLUSION	36
APPENDIX. SUMMARY OF RECENT RESEARCH ON THE EFFECTS OF PRE-K PROGRAMS	37

EXECUTIVE SUMMARY

The research is conclusive: Providing a high-quality early childhood education is crucial if we are to reach our state and national goals of educational equity and excellence, preparing children for college and career. The federal government, states throughout the country, and the courts are increasingly recognizing this reality. This report provides a detailed roadmap for making high-quality, full-day prekindergarten available for all three and four year old children in New York State over an eight-year period.

The Campaign for Educational Equity and the Center for Children’s Initiatives drafted this roadmap in consultation with more than 100 public education and early childhood experts, advocates, teachers, and administrators across the state. It draws as well on lessons learned in other states and recommendations from leading national researchers in the field. Our report offers a new financing strategy that recognizes prekindergarten as an essential educational service.

In 1997, Assembly Speaker Sheldon Silver proposed and the New York State legislature adopted Universal Prekindergarten (UPK) legislation, a bold new approach to early childhood education. This plan builds on the significant investment, experience and expertise gained in state’s UPK program, which now serves more than 100,000 children. It also expands on Governor Cuomo’s new competitive grant program, which adds high-quality full-day pre-K services for several thousand more children. Our plan offers a roadmap for the urgently-needed next steps. Too many New York children still do not receive the benefits of

pre-K. Nearly 40% of the state’s school districts are not even eligible to apply for state pre-K funding. At least 30,000 high-need four year olds are not served. And 75% of our pre-K students are in half-day programs, which research shows to be insufficient to meet the needs of children and their families.

Governor Cuomo’s New NY Education Reform Commission has already called for a “seamless pipeline” of educational services starting at birth, with full-day prekindergarten as the next strategic step in New York State. The commission recognized the potential for prekindergarten to narrow the achievement gap, with long-term benefits for children, schools, taxpayers, and communities, noting the “benefits outweigh its costs.” The governor’s commission should now recommend and the state should recognize both the need and the right of every child to early education and adopt a definitive implementation plan, based on this roadmap, for making pre-K truly universal in New York State.

THE FINANCING STRATEGY

For truly universal prekindergarten, New York must **increase** and **regularize** state aid for pre-K services. To accomplish this, the increased investment must be **incorporated into the general state education finance system that now covers K-12 education**. The new strategy will assure that pre-K funding is **equitable, adequate, stable, and transparent**. It assumes the continuation of the requirement that services be offered in both public schools and early childhood programs in the community, with the goal of leveraging existing public investments, capacity, and resources in early education and creating a full range of options to meet family needs. The eight-year roadmap is based on four key recommendations and includes the essential quality elements.

FOUR KEY RECOMMENDATIONS

TARGET GROUP

All three and four year olds in New York State must be guaranteed access to high-quality full-day prekindergarten programs in public schools and early childhood programs in the community. All five year olds must be guaranteed access to full-day kindergarten programs.

PHASE-IN SCHEDULE

The reform is designed to be phased in over an eight-year period. Guaranteed access for children to high-quality pre-K programs must be provided according to the following schedule:

Years 1-3: All four year olds in districts with high concentrations of low-income households.

Years 4-5: All four year olds in all districts.

Years 6-7: All three year olds in districts with high concentrations of low-income households.

Year 8: All three year olds in all districts.

Note: Until a district enters the phase-in process, it will continue to receive its current level of state support for pre-K.

FINANCING FRAMEWORK

Initially, the state should pay the full cost of the pre-K program, but as K-12 funding is brought up to a constitutionally adequate level on a sustained basis, local districts should contribute a local share in accordance with the district's relative wealth, as they do currently under the K-12 state education finance system. Once funding for pre-K is fully merged into the K-12 system, each district's foundation aid for prekindergarten services will be calculated in accordance with an actual cost-based percentage of per pupil allocations for students in K-12.

FUNDING LEVELS

Full funding for prekindergarten programs should encompass all necessary costs for high-quality programs and should include transportation, social services, health, and parent/family engagement services, as well as related services and support services for students with disabilities enrolled in inclusion programs. The state should also ensure sufficient funding for the systems supports and infrastructure investments necessary to build out high-quality programs.

THE QUALITY FRAMEWORK

ESSENTIAL ELEMENTS

Researchers have identified the essential elements of early childhood programs associated with better educational outcomes for children. This roadmap includes a strong regulatory framework, with pre-K requirements that incorporate these elements, to establish appropriate funding levels for programs with the goal of promoting cognitive, social, emotional, and physical development in all settings. Programs must include strategies to fully engage families in all aspects of their children’s learning.

These regulations also align with the state’s efforts to implement a quality rating and improvement system for early childhood programs and complement current efforts to build a systemic, statewide approach to early education.

Specifically, the state must ensure that each school district has sufficient funding to offer full school day services for 180 days per year. In addition, each district should adopt strategies to effectively meet the needs of working families by leveraging other funding sources to offer extended hours and days of services. In addition, all programs must adhere to the following requirements:

- ✓ APPROPRIATE CLASS SIZES
- ✓ WELL-QUALIFIED, HIGHLY EFFECTIVE TEACHERS
- ✓ WELL-QUALIFIED SUPERVISORS AND ADMINISTRATORS
- ✓ APPROPRIATE, EVIDENCE-BASED CURRICULA
- ✓ COMPREHENSIVE SERVICES AND SUPPORTS
- ✓ APPROPRIATE SERVICES FOR STUDENTS WITH DISABILITIES
- ✓ SUPPORT FOR ENGLISH LANGUAGE LEARNERS
- ✓ QUALITY, ACCESSIBLE LEARNING ENVIRONMENTS



SYSTEMS SUPPORT AND INFRASTRUCTURE

Early childhood is still a relative newcomer to public education and, as such, lacks the essential system supports and infrastructure available to other grades funded in the traditional K-12 system. New York does not have a funding strategy for pre-K that covers critical elements such as workforce development, transportation aid, and facilities. Our roadmap includes these and the other infrastructure elements that have been identified by policymakers, practitioners, and researchers as vital to ensuring effective use of resources and promote positive outcomes for children. Specifically, the state must ensure:

- ✓ THE RECRUITMENT AND RETENTION OF HIGHLY EFFECTIVE TEACHERS
- ✓ FACILITIES EXPANSION PLANNING
- ✓ TRANSPORTATION AID
- ✓ DATA INFRASTRUCTURE
- ✓ EFFECTIVE COMMUNITY PARTNERSHIPS
- ✓ QUALITY ASSURANCE
- ✓ ONGOING PROGRAM EVALUATION

New York can and should move to close the achievement gap, improve high school graduation, and have every student college and career ready. An appropriate system of pre-K services is an essential component of a seamless pipeline of education. This proposal provides the roadmap to meet this important milestone.





Making Prekindergarten Truly Universal in New York

A STATEWIDE ROADMAP

INTRODUCTION

More than 15 years ago, in response to the compelling research on the link between prekindergarten and school success, Assembly Speaker Sheldon Silver proposed a bold new initiative: the state would provide access to a quality prekindergarten program for all four year olds within five years.² Since that time, evidence on the importance of early childhood education to child outcomes has continued to mount.³ In 2006, the Board of Regents expanded the state's vision for early childhood education, calling for a full continuum of early learning services and supports, from the prenatal period to third grade, with prekindergarten for three and four year olds as a key anchor and strategic next step. Substantial progress has been made toward attaining this vision of universal prekindergarten opportunities, with more than 100,000 four year olds now enrolled in pre-K, and two-thirds of the state's school districts participating in the effort. However, the program has never reached its anticipated enrollment and funding levels, many districts have never participated, and the program's focus has been on half-day programs, which research and

family needs have now shown to be insufficient.⁴ Funding constraints since the 2008 recession have in recent years actually reduced the number of districts participating and the number of children supported by state pre-K aid.⁵

The research is dispositive: high-quality prekindergarten programs can make a tremendous difference in preparing children for success in school. Investment in early education for disadvantaged children during this critical period can benefit student achievement, reduce the need for special education, promote healthier lifestyles, and lower overall social costs, including by decreasing the crime rate. Participation in high-quality preschool programs results in short-and long-term positive outcomes for children, including increased high school graduation and high rates for college attendance and completion.¹

– National Commission on Equity and Excellence

¹ National Commission on Equity and Excellence, *For Each and Every Child: A Strategy for Education Equity and Excellence* (2013), p. 28.

² L. 1997, ch. 436, section 3602-e: N.Y.S. Board of Regents, Regents Policy on Early Education for Student Achievement in a Global Community (2006), available at www.p12nysed.gov/upk/policypaperjanuary2006.htm Even earlier, the New York State Board of Regents had recommended that "the State adopt a long-term plan leading to the establishment of free public education for all 3- and 4-year olds whose parents wish them to attend school." N.Y.S. Bd. of Regents' Statement of Policy and Proposed Action (December, 1967), quoted in Anne Mitchell, *The State with Two Prekindergarten Programs: A Look at Prekindergarten Education in New York State (1928-2003)*, p. 6. This Regents' position led to the establishment of the "experimental program" discussed at n. 15 below. The Regents' position was reiterated and amplified in 2006.

³ Because of the vast amount of research supporting the effectiveness of early childhood education, we provide an appendix to this report setting forth an annotated bibliography of some of the major recent studies, rather than detailing the research at the outset of our report.

⁴ See Appendix.

⁵ Despite its early leadership in establishing the UPK program, New York currently is ranked 9th in the country in regard to enrollment of four year olds, and 26th in enrollment of three year olds, and 21st in state spending. National Institute for Early Education Research, *The State of Preschool 2012* (2012), pp. 102-103 (hereafter, *NIEER 2012 Report*).

Recognizing that “our nation has lagged in its commitment to ensuring the provision of high-quality public preschool in our children’s earliest years,” President Barack Obama recently proposed a dramatic new \$75 billion program that would, within ten years, provide all low- and moderate-income four year old children with high-quality preschool; the program, which puts a priority on full-day programs, would also seek eventually to reach additional children from middle-class families.⁶ In New York State, Governor Andrew Cuomo’s New NY Education Reform Commission earlier this year recommended that “New York provide high quality full-day prekindergarten for highest need students in order to close the achievement gap and ensure that New York’s children are ready for college and careers.”⁷ Governor Cuomo has taken an initial step toward implementing that recommendation by establishing a \$25 million competitive grant for high-quality full-day prekindergarten services.⁸

These dramatic recommendations culminate a rising tide of understanding that the nation’s priority goal of overcoming achievement gaps and providing all children meaningful opportunities to achieve proficiency on challenging state standards cannot be met unless all children are properly equipped for success when they first enter elementary school.

The growing understanding of the critical importance of prekindergarten to educational opportunity and school success has also led state courts in New Jersey⁹ and a number of other states explicitly to recognize a right to preschool education for children from low-income households.¹⁰

In *Campaign for Fiscal Equity (CFE) v. State of New York*, Justice Leland DeGrasse also implicitly adopted this stance, holding that prekindergarten programs should be part of the “expanded platform of services” to which at-risk students are entitled.¹¹ He noted that “[t]he State has mandated that universal prekindergarten be made available to all eligible children by 2004,” but lamented the fact that funding for the UPK program “has lagged behind the amount necessary to ensure that New York City meets the deadline.”¹² A right of access to quality prekindergarten programs for low-income children is also implicit in the statutory scheme of the federal No Child Left Behind Act and in New York’s requirement that all students master the New York State Learning Standards in order to graduate from high school.¹³

In short, in order to implement the vision and the promise of universal pre-K fully and finally, and to provide all students a meaningful opportunity for a sound basic education, New York needs now to recognize explicitly the right of every three and

⁶ *Fact Sheet: President Obama’s Plan for Early Education for All Americans* (Feb. 2013), available at <http://www.whitehouse.gov/the-press-office/2013/02/13/fact-sheet-president-obama-s-plan-early-education-all-americans>

⁷ New NY Education Reform Commission, *Putting Students First: Education Action Plan* (2013), p. 37.

⁸ L. 2013, ch. 57.

⁹ *Abbott v. Burke*, 693 A.2d 417,436 (N.J. 1997). The court later directed the state’s education commissioner to require the 31 “Abbott” districts to provide preschool programs for their three and four year olds and ordered the state to provide adequate funding to support these programs. *Abbott v. Burke*, 710 A.2d 450, 463-64,508 (N.J. 1998).

¹⁰ For example, South Carolina state circuit court Judge Thomas W. Cooper, Jr., held that poverty directly causes lower student achievement and that the state constitution imposes an obligation on the state “to create an educational system that overcomes...the effects of poverty.” *Abbeville County Sch. Dist. v. State*, No. 31-0169 (S.C. Ct. Comm. Pl. Dec. 29, 2005) at 157. See also, *Hoke County Bd. of Educ. v. State*, 599 S.E. 2d 365, 392 (N.C. 2004) (holding that the state was ultimately responsible “to meet the needs of ‘at-risk’ students in order for such students to avail themselves of their right to the opportunity to obtain a sound basic education.”) In 2002, Florida voters added a clause to their state constitution that “Every four-year old child in Florida shall be provided by the State a high quality pre-kindergarten learning opportunity in the form of an early childhood development and education program which shall be voluntary, high quality, free, and delivered according to professionally accepted standards.” F.S.A. Const., Art. 9 § 1 (West, 2012).

¹¹ *CFE v. State of New York*, 187 Misc. 2d 1, 76 (Sup. Ct. N.Y. Co, 2001), aff’d. 100 N.Y. 2d 893 (2003).

¹² *Id.* at 79. By including prekindergarten programs among the priority areas to be funded by the increased state aid appropriations for New York City that were promised (but not yet delivered) as a result of the *CFE* litigation, the legislature sought to remedy this deficiency.

¹³ See, Michael A. Rebell, “The Right to Comprehensive Educational Opportunity,” *Harvard Civil Rights-Civil Liberties Law Review* 47 (2012): 47.

four year old child to a high-quality, full-day prekindergarten program. A definitive phase-in plan for implementing this right should be recommended by the governor's education reform commission and enacted into law by the governor

and the legislature during the 2014 legislative session. To accomplish these ends, the existing pre-K funding system should be revised by incorporating the following major changes:

FOUR KEY RECOMMENDATIONS

TARGET GROUP

All three and four year olds in New York State must be guaranteed access to high-quality full-day prekindergarten programs in public schools and early childhood programs in the community. All five year olds must be guaranteed access to full-day kindergarten programs.

PHASE-IN SCHEDULE

The reform is designed to be phased in over an eight-year period. Guaranteed access for children to high-quality pre-K programs must be provided according to the following schedule:

Years 1-3: All four year olds in districts with high concentrations of low-income households.

Years 4-5: All four year olds in all districts.

Years 6-7: All three year olds in districts with high concentrations of low-income households.

Year 8: All three year olds in all districts.

Note: Until a district enters the phase-in process, it will continue to receive its current level of state support for pre-K.

FINANCING FRAMEWORK

Initially, the state should pay the full cost of the pre-K program, but as K-12 funding is brought

up to a constitutionally adequate level on a sustained basis, funding for pre-K should be merged into the K-12 funding system. At that time, local districts should contribute a local share in accordance with the district's relative wealth, as they do currently under the K-12 state education finance system. Once funding for pre-K is fully merged into the K-12 system, each district's foundation aid for prekindergarten services will be calculated in accordance with an actual cost-based percentage of per pupil allocations for students in K-12.

FUNDING LEVELS

Full funding for prekindergarten programs should encompass all necessary costs for high-quality programs and should include transportation, social services, health, and parent/family engagement services, as well as related services and support services for students with disabilities enrolled in inclusion programs. The state should also ensure sufficient funding for the systems supports and infrastructure investments necessary to build out high-quality programs.

THE FINANCING STRATEGY

The first part of this document will describe the shortcomings of New York's current pre-K funding system, review formula funding approaches in other states, and then explain in detail the reforms

that are appropriate and necessary for a financing strategy that will truly achieve universal pre-K. The second part will set forth the framework for creating high-quality programs in all settings.

FORMULA FUNDING AND PREKINDERGARTEN PROGRAMS

Current Prekindergarten Funding System

UPK was originally enacted in 1997 as part of the State Assembly's "LADDER" education reform initiative.¹⁴ The legislation authorizes the establishment and support of prekindergarten programs for four year olds, five days per week, on a 180-day per year schedule. (A separate "experimental program" initiated in 1966 also provided funding for disadvantaged three and four year olds in a limited number of districts.¹⁵) This state funding supports a partial day of two and a half hours, but districts can offer a longer day by providing additional local funding.¹⁶ School districts must collaborate with community partners for no less than 10% of the funding allocation in order to leverage the capacity and expertise of existing programs.¹⁷ School districts remain responsible for the curriculum,

which must be aligned with their kindergarten through grade four Common Core curriculum.¹⁸ Children are eligible for UPK if they are residents of a district offering the program and are four years old by December 1st of the year enrolled.¹⁹

The original UPK statute was a grant program that anticipated, by the end of a five-year phase-in period, that each school district would receive a grant providing a minimum of \$2,000 and a maximum of \$4,000 per student, based on district-wealth and need factors; the initial grants were to begin at a minimum of \$260 per student level, and ramp up each year over the five-year period.²⁰ Five years after the law's enactment, however, the state was far from reaching the full funding level that had originally been contemplated: for 2003-04, only \$204 million was appropriated for the program,

¹⁴ S.B. 5788, Ch. 436, 220th Leg., Reg. Sess. (N.Y. 1997). The LADDER program, which was a major reform initiative of Assembly Speaker Sheldon Silver, included funding for reduced class sizes in grades K-3, incentives for full-day kindergarten, and a five-year commitment to fund "universal" prekindergarten for four year olds. The phase-in began with the neediest districts. Mitchell, *The State with Two Prekindergarten Programs*, p. 10.

¹⁵ *Id.* at pp. 6-9.

¹⁶ 8 NYCRR § 151-1.4(a). Summer-only programs are permissible. 8 NYCRR § 151-1.4(b).

¹⁷ 8 NYCRR §§ 151-1.2(b), 151-1.4(c) Community organizations may be day care providers, early childhood education centers, Head Start, nursery schools, libraries or museums. This requirement is waivable, and about one-third of participating districts have obtained waivers because of a lack of qualified community providers in their area. Winning Beginning NY, *Strengthening the Pre-K Investment* (2012). In 2009, 54% of UPK in New York State was community based, Memorandum from Johanna Duncan-Poitier to Regents State Aid Committee, *2010-2011 Regents State Aid Proposal: Support for UPK and Benefits of High Performance School Buildings* (September 1, 2009), Attachment A, p. 4, available at www.regents.nysed.gov/meetings/2009Meetings/September2009/0909sad1.htm. The community participation requirement may be most challenging in rural areas due to structural and geographic issues. See Lisa McCabe and John W. Sipple, NYS Center for Rural Schools, *Universal Pre-Kindergarten, Early Care and Education in Rural New York: Research Findings and Policy Implications* (Mar. 2009), pp. 4-5. See also, Winnie Hu, "A Promise Of Pre-K for All Is Still Far Off In New York," *New York Times*, Aug. 23, 2008 (noting the necessity of community-based programs given existing building overcrowding and facility constraints for some districts who have elected not to participate in UPK).

¹⁸ 8 NYCRR § 100.3. Current New York State standards and policies for curriculum alignment are set forth in New York State Department of Education, *New York State Prekindergarten Foundation for the Common Core* (2012), available at http://www.p12.nysed.gov/ciai/common_core_standards/pdfdocs/nyslsprek.pdf. All programs are to be based on an inclusion model, with programmatic design to meet the needs of children with disabilities and those with limited English proficiency. 8 NYCRR §§ 151-1.4(e)-(f).

¹⁹ 8 NYCRR § 151-1.2(c).

²⁰ L. 1997, ch. 436, § 58.

less than half of the \$500 million originally projected for that year,²¹ and only about a third of the districts in the state were participating.²²

In 2007, as part of his program to provide all students the opportunity for a sound basic education in the wake of the *CFE* litigation,²³ Governor Eliot Spitzer proposed a new, more equitable state-aid approach to UPK financing. His program would allow all districts to be eligible for the program, and called for a doubling of expenditures for UPK over four years, leading to guaranteed access to full-day programs by 2010-11 for students in high-need, low-achieving school districts.²⁴ In response, the legislature increased funding by \$146 million and substantially revised the UPK statute.²⁵ At that time, the state also folded the “experimental prekindergarten program” that was providing about \$50 million per year into the UPK program. The new funding formula would provide school districts per-child allocations based on 50% of the district’s K-12 foundation funding amount or the amount it had received during the 2006-07 school year, whichever was larger. All districts, however, would continue to be guaranteed a minimum per-child allocation, which by 2007 had been increased to \$2,700.

After the new system had been implemented for the two years, state fiscal constraints from the 2008 recession caused the state, starting in 2010, to essentially freeze further increases and to reduce the total amount available for pre-K in line with reductions to the K-12 foundation formula to which it was tied.²⁶ The distinctions between pre- and

post-2007 funding amounts, the freezing of the continued phase-in of the new formula-based approach, and various caps that have been imposed on aspects of the funding scheme in recent years have greatly complicated the actual methods for determining the specific amount to which a district is entitled.²⁷

School districts are required to maintain their commitment to the program from year to year by serving in the current year at least the number of students they had served in the previous year.²⁸ Failure to serve that number of students can result in a decrease in the allocated aid,²⁹ which, in recent years, has meant reducing the total amount of UPK aid that a district can receive in the future, even if enrollment and the cost of services grows in subsequent years. Conversely, a school district that has “fully implemented” UPK by serving the full number of students for whom funding had been authorized in its application maintains its total funding amount, but it is required to provide UPK services to any additional eligible children who wish to enroll, at any time during the school year, without receiving any additional state aid.³⁰

The maximum available for state funding today for UPK is \$385 million,³¹ less than it was in 2007-08 when the maximum allocated amount of UPK funding statewide was \$451 million and all 672 school districts were eligible to participate.³² In 2013-14, the funding is lower because only districts that had enrolled by 2008-09 now receive funding, some of those districts have reduced the number of students they serve or have dropped out of the

²¹ Mitchell, *The State with Two Prekindergarten Programs*, p.12.

²² Winning Beginning NY, *Strengthening the Pre-K Investment* (2012), p. 6.

²³ *Campaign for Fiscal Equity (“CFE”) v. State of New York*, 100 N.Y. 2d 893 (2003); *CFE v. State of New York*, 8 N.Y. 3d 14 (2006).

²⁴ *Governor’s Executive Budget Proposal* (January 31, 2007).

²⁵ See, N.Y. EDUC. L §3602-E (McKinney’s 2012).

²⁶ N.Y. Educ. L. § 3602(1)(h) (McKinney 2012) (inherent in this structure is competition between prekindergarten and K-12 programs for limited funds).

²⁷ See, New York State Education Department, *State Formula Aids and Entitlements for Schools in New York State as Amended by Chapters of Laws 2012* (Sept. 2012), stateaid.nysed.gov/publications/handbooks/handbook_2012.pdf (explaining the formula).

²⁸ New York State Education Department, *Universal Prekindergarten Program Q & A on Fully Implemented Programs*, www.p12.nysed.gov/upk/fullyimpprogramsqa.html.

²⁹ N.Y. Educ. L § 3602-e (11) (McKinney 2012).

³⁰ NYSED, *Universal Prekindergarten Program Q & A*, www.p12.nysed.gov/upk/fullyimpprogramsqa.html.

³¹ See New York State Education Department, *2013-2014 Universal Prekindergarten Allocation Chart*, www.p12.nysed.gov/upk/

³² Memorandum from Johanna Duncan-Poitier to Regents State Aid Committee, *2010-2011 Regents State Aid Proposal: Support for UPK and Benefits of High Performance School Buildings* (September 1, 2009), attachment A, p. 15, available at www.regents.nysed.gov/meetings/2009Meetings/September2009/0909sad1.htm.

program, and no additional districts are allowed to join the program.³³ As of 2012-13, only 441 of the state's 697 districts were eligible to participate.³⁴ In 2013-14, the maximum number of children eligible for UPK state aid in New York State was about 99,000,³⁵ a decline from the 121,000 student maximum in 2008-09.³⁶ Overall, as of 2012-13, approximately 46% of four year old children (88,883) were not enrolled in UPK programs; of those not enrolled, 30,047 are in New York City and other "high needs" districts.³⁷

This brief overview demonstrates that, despite its original clear vision, at the present time, New York State's system of pre-K funding is plagued with multiple shortcomings: it is, in essence, inadequate, inequitable, unstable, and inscrutable.

Adequacy of Funding

The current level of pre-K funding is insufficient. The program can no longer truly be called universal because only 63% of the state's school districts are even eligible to apply, and at least 30,000 high-need four year old children are not being served. Furthermore, of those who are being served, 75% are in half-day programs.³⁸ It has become clear at this time, as evidenced by the relevant research,³⁹ the stands of President Obama, Governor Cuomo, the Regents, and the recommendations of the governor's education reform commission, as well as the decision of many school districts not to

participate in a program based on part-time funding, that high-quality prekindergarten programs generally must operate on a full-day basis.⁴⁰

Even if the current pre-K funding system covered full-day programs and if it were not frozen, capped, and otherwise distorted,⁴¹ it would be inadequate for other reasons. First, limiting pre-K funding to a percentage of each district's foundation funding allocation omits major cost areas like transportation, building aid, and BOCES services. Second, the foundation aid amount provides only a portion of actual school-district expenditures for K-12 services; that formula assumes local school districts will expend substantial additional sums on their local schools — on average equaling or exceeding the amount of state aid. Although some school districts do supplement their UPK state aid allocations, they are not required or expected to do so, and many districts limit their pre-K expenditures to the amounts provided by the state. Finally, there is no guaranteed funding level for community programs; local school districts negotiate funding amounts for these programs, which in some cases are below the state aid levels that the district itself receives. These community programs then operate on minimal budgets, impeding their ability to hire qualified teachers and other staff.

Insufficient funding of UPK services creates

³³ Those districts that had elected not to participate did so because of, among other things, "insufficient per-pupil funding, a lack of developmentally appropriate transportation, and the caveat that the state does not provide funding to support full-day programs." Alliance for Quality Education, et al., *Early Childhood Education: Frozen Funding Leads to Cracks in the Foundation* (2012), p. 4, <http://www.aqeny.org/ny/wp-content/uploads/2012/02/Frozen-Funding-Leads-to-Cracks-in-the-Foundation-2.8.12.pdf>.

³⁴ *Ibid.*

³⁵ New York State Education Department, *2013-2014 Universal Prekindergarten Allocation Chart*, www.p12.nysed.gov/upk/. It should be noted that many of those not enrolled in UPK may be enrolled in other programs such as Head Start, day care centers, and nursery schools of varying quality. *Id.* See also Al Baker, "City to Add Pre-K Efforts in Poor Areas Next Year," *New York Times*, Sept. 24, 2012 (New York City will "convert 4,000 half-day prekindergarten seats into full-day seats, mostly in poor neighborhoods, next fall." The cost of the full-day seat conversion is \$20 million.)

³⁶ Memorandum from Johanna Duncan-Poitier to Regents State Aid Committee, *2010-2011 Regents State Aid Proposal: Support for UPK and Benefits of High Performance School Buildings* (September 1, 2009), attachment A, p. 15, www.regents.nysed.gov/meetings/2009Meetings/September2009/0909sad1.htm

³⁷ Memorandum from Ken Slentz to P-12 Educ. Comm. 3 (Oct. 1, 2012), www.regents.nysed.gov/meetings/2012Meetings/October2012/1012p12d5.pdf

³⁸ *NIEER 2012 Report*, p. 102.

³⁹ See Appendix.

⁴⁰ In addition to the important school-readiness benefits of full-day pre-K for children, they are also critically important because most mothers now work out of the house. In 2012, 67% of mothers with no spouse in the home and 59% of married mothers worked out of the home. U.S. Bureau of Labor Statistics, *Employment Characteristics of Families Summary* (April, 26, 2013), <http://www.bls.gov/news.release/famee.nr0.htm>.

⁴¹ For example, currently, once a district has served all of the children covered by its original allocation, it is required to also serve unlimited numbers of additional eligible children who may seek service, even though no additional state aid will be forthcoming. This means, in essence, that its average per-capita state UPK allocation will be reduced to levels substantially below the stated formula amount.

many challenges for districts seeking to meet UPK’s high-quality standards which include certified teachers and reasonable class sizes. It is difficult to operate within the current state funding parameters,⁴² and/or to limit access to full-day or even half-day programs because many school districts have no interest in mounting or expanding programs if they do not receive adequate state support for doing so.

Equitable Funding

Under the UPK funding reforms adopted in 2007, in theory, each district’s per-student allocation would, over time, be primarily based on 50% of its K-12 foundation aid amount. If that were, in fact, how the system actually operated, UPK allocations would largely be related to need, since the foundation-funding formula is based to a great extent on district wealth, percentage of low-income children, and cost-of-living factors.⁴³ However, actual allocations under the current system vary

significantly from the theoretical model because (1) allocations for the numbers of students the district served in 2006-07 continue to be funded at the rates in effect for that year; (2) the phase-in of the new, more equitable funding system has been frozen for the past several years, meaning that most students continue to be funded at the more inequitable, pre-2006-07 rates; (3) the current \$2,700 per-student minimum funding amount, especially in the absence of adequate funding for all districts, substantially exacerbates the inequities of the current system; and (4) a maintenance-of-effort factor and enrollment-growth caps further limit total district allocations and reduce per-capita funding under certain circumstances. In short, the current UPK methodology falls far short of the legal requirement to “align funding with need.”⁴⁴

The following chart sets forth relevant current UPK funding information for six illustrative districts and demonstrates the inequities in the way the current system operates.

School district	Average UPK per-pupil allocations 2013-14 ⁴⁵	Number of eligible pre-K students	Foundation aid per-pupil K-12, 2013-14 ⁴⁶
Great Neck	\$3,390	193	\$605
Amherst	\$2,719	139	\$1,760
Utica	\$3,864	540	\$7,232
Roosevelt	\$6,844	143	\$10,312
Rochester	\$5,675	1,905	\$10,998
New York City	\$3,881	57,969	\$5,661

⁴² Many school districts and community agencies do currently operate high-quality programs, but to do so they generally must supplement state aid allocations with local tax levy funds or private contributions.

⁴³ The K-12 foundation formula itself is not fully equitable, however, since it contains a number of distorting factors such as a minimum funding factor of approximately \$800 per student, but that is much lower than the \$2,700 minimum built into the UPK formula.

⁴⁴ *CFE v. State of New York*, *supra*, 100 N.Y. 2d at 929 (2003).

⁴⁵ Figures are calculated from data in the New York State Education Department, *2013-2014 Universal Prekindergarten Allocation Chart*, available at www.p12.nysed.gov/upk/.

⁴⁶ Calculations are based on total foundation aid less gap elimination adjustment for each district as set forth in the State of New York 2013-14 state aid runs, March 22, 2013, divided by the district’s total K-12 enrollment for 2011-2012 as set forth in the state report card for each district. The state report cards, except for New York City, are available at <https://reportcards.nysed.gov/counties.php?year=2012>; total public school population for 2011-12 was obtained from <http://schools.nyc.gov/AboutUs/data/stats/default.htm>.

Great Neck, an affluent district in Nassau County with a 10% low-income student population⁴⁷ and a minimal \$605 per-pupil foundation amount, receives an average of \$3,390 per pupil in UPK funding. Amherst, an affluent suburb of Buffalo, which has a 28% low-income student population and a \$1,760 per-pupil foundation allocation, receives an average \$2,719 per-pupil payment. By way of contrast, Utica, a high-poverty small-city school district in Oneida County with an 80% low-income population, and a \$7,232 per-pupil foundation-funding level, receives \$3,864, only \$1,145 more than Amherst and \$474 more than Great Neck, even though its foundation funding level, which represents relative wealth and need, is more than four times that of Amherst and more than ten times that of Great Neck. New York City, a close to average wealth district, where over 72% of the students are from low-income households,⁴⁸ receives \$3,881 on average per child only \$281 more per child than the affluent Great Neck district.

Although per-capita funding for the small Roosevelt district in Nassau County, with a 56% low-income population, and Rochester, where 88% of the students are low income, are substantially higher than the affluent districts because of their relatively high foundation amounts, those high foundation figures reflect extremely low local taxing ability; this means that neither district is well positioned to add any significant local funding to the state-aid allocation, even if high-quality programming would call for higher total expenditures. Moreover, from an equity perspective, there is no reason that Rochester,

which has a higher poverty rate and a higher foundation rate, receives a lower average per-capita funding level than Roosevelt.

Stability of Funding

While state aid for UPK programs is to a certain extent calculated in relation to K-12 foundation-funding amounts, UPK is still technically a grant program. As such, its funding requires a separate appropriation, and unlike grant programs in many other states, this appropriation is not supported by a dedicated funding stream like a lottery or a tobacco tax.⁴⁹ Even before the current cap on participation by new school districts was put into place, districts seeking state funds needed to apply to the commissioner of education, and the numbers of eligible children that the commissioner could approve was limited by the UPK appropriation that the legislature chose to enact each year.

Under the original LADDER statute enacted in 1997, funding for UPK was supposed to be phased in over a five-year period and reach a funding level of \$500 million per year by 2002.⁵⁰ The state has never reached that \$500 million figure: funding in 2012, a decade after the full phase-in amount was supposed to be achieved, was only \$384 million, and the highest level ever reached was \$451 million in 2008-09⁵¹; in inflation-adjusted terms, both of these amounts are substantially below the promised \$500 million figure. Even before the 2008 recession, UPK funding fluctuated widely from year to year. In 2003-04, for example, UPK was funded at only \$204 million.⁵²

⁴⁷ Low-income calculations for Great Neck and the other districts (except New York City) discussed in this paragraph are based on total percentage of students eligible for free and reduced priced lunches, as reported on the state report cards for 2011-2012, available at <https://reportcards.nysed.gov/counties.php?year=2012>

⁴⁸ See, New York City Independent Budget Office, *New York City Public School Indicators: Demographics, Resources, Outcomes* p.8, <http://www.ibo.nyc.ny.us/iboreports/2011edindicatorsreport.pdf>.

⁴⁹ Diana Stone, *Funding the Future: States' Approaches to Pre-K Financing* (2006), <http://www.pewtrusts.org/uploadedFiles/Fundingthefuture.pdf> (setting forth pros and cons on different ways to raise state revenues for preschool grant programs.)

⁵⁰ Mitchell, *The State with Two Prekindergarten Programs*, p.10.

⁵¹ Memorandum from Johanna Duncan-Poitier to Regents State Aid Committee, *2010-2011 Regents State Aid Proposal: Support for UPK and Benefits of High Performance School Buildings* (September 1, 2009), attachment A, p. 15, www.regents.nysed.gov/meetings/2009Meetings/September2009/0909sad1.htm. The \$451 million figure was the maximum total amount for which districts could apply. Since some districts did not apply or use their full allocation, in light of the fiscal constraints on overall school operations imposed by the 2008 recession, the actual amount expended in 2008-09 was less than this figure.

⁵² Mitchell, *The State with Two Prekindergarten Programs*, 12.

This funding instability has major consequences for pre-K. The reason that many school districts chose not to participate in the program during the brief period when all districts in the state were eligible was that the uncertainty of the state-aid level from year to year undermined sound program planning. When state aid fell short of expectations, school districts would have to cut back or eliminate programs that had been initiated, or they would need to burden local taxpayers with unanticipated tax increases. In the post-recession years, some districts that were eligible for continued state funding withdrew from the program because, with limited education dollars, they considered maintenance of K-12 programming levels a higher priority for their available local funds than maintenance or expansion of pre-K programs.

Transparency

The current pre-K funding system has grown complicated over time, heightened by the fact that the methodology for calculating UPK state aid has changed in the context of each new expansion of the program. At the present time, each district essentially has two separate UPK funding rates, one that was in effect in 2006-07 before the 2007 reforms were enacted and one that is based on the new funding method. The former rate applies to the number of students funded in 2006 and the other rate to the number of students added since that time. Both of these rates are, however, sometimes adjusted because of maintenance of

effort (MOE) or full enrollment factors (If a district fails to meet its MOE number in one year, its total allocation is capped, meaning that if it increases its enrollment in a subsequent year, the effective per-capita rate will be lower; a district that reaches its full UPK enrollment target figure is then obligated to accept all additional children who seek to enter the program, without any additional state funding, again lowering their effective per-capita rate.) The post-2007 rate is further complicated by the effect of the \$2,700 minimum allocation. Finally, the actual amount that any community program receives is subject to a contractual relationship with its local school district, and the amount that the community program will have available for its programs may be more or less than the state aid amount the district receives for each child. This system clearly is not transparent as far as the public is concerned. The methodology for calculating UPK aid takes up over three dense pages in the statute books, and one seeking to understand its meaning must navigate layer upon layer of complex calculations that have been built up over the years.⁵³ No layperson, and very few fiscal policy experts, can make any sense of this highly complex, multifaceted verbiage. In practice, school districts and knowledgeable members of the public must rely on "data on file for the school aid computer listing produced by the commissioner," which lists two sets of rates for each district, without really understanding how the amounts listed in that file were actually calculated.

⁵³ For example, one of the 12 paragraphs that constitute this methodology reads as follows: Universal prekindergarten aid. Notwithstanding any provision of law to the contrary, for aid payable in the two thousand eight-two thousand nine school year, the grant to each eligible school district for universal prekindergarten aid shall be computed pursuant to this subdivision, and for the two thousand nine-two thousand ten and two thousand ten-two thousand eleven school years, each school district shall be eligible for a maximum grant equal to the amount computed for such school district for the base year in the electronic data file produced by the commissioner in support of the two thousand nine-two thousand ten education, labor and family assistance budget, provided, however, that in the case of a district implementing programs for the first time or implementing expansion programs in the two thousand eight-two thousand nine school year where such programs operate for a minimum of ninety days in any one school year as provided in section 151-1.4 of the regulations of the commissioner, for the two thousand nine-two thousand ten and two thousand ten-two thousand eleven school years, such school district shall be eligible for a maximum grant equal to the amount computed pursuant to paragraph a of subdivision nine of this section in the two thousand eight-two thousand nine school year, and for the two thousand eleven-two thousand twelve school year each school district shall be eligible for a maximum grant equal to the amount set forth for such school district as "UNIVERSAL PREKINDERGARTEN" under the heading "2011-12 ESTIMATED AIDS" in the school aid computer listing produced by the commissioner in support of the enacted budget for the 2011-12 school year and entitled "SA111-2", and for two thousand twelve-two thousand thirteen and two thousand thirteen-two thousand fourteen school years each school district shall be eligible for a maximum grant equal to the greater of (i) the amount set forth for such school district as "UNIVERSAL PREKINDERGARTEN" under the heading "2010-11 BASE YEAR AIDS" in the school aid computer listing produced by the commissioner in support of the enacted budget for the 2011-12 school year and entitled "SA111-2", or (ii) the amount set forth for such school district as "UNIVERSAL PREKINDERGARTEN" under the heading "2010-11 BASE YEAR AIDS" in the school aid computer listing produced by the commissioner on May fifteenth, two thousand eleven pursuant to paragraph b of subdivision twenty-one of section three hundred five of this chapter, and provided further that the maximum grant shall not exceed the total actual grant expenditures incurred by the school district in the current school year as approved by the commissioner.

N.Y. EDUC. L. §3602-e(10) (McKinney 2012).

Funding Methodologies in Other States

Forty states and the District of Columbia now support prekindergarten programs for three and four year olds.⁵⁴ State funding generally takes one of three forms: grant funding that is subject to annual legislative appropriations, supplements to the federal Head Start programs and child care programs, and formula funding tied to the overall public education budget.⁵⁵ The inequities, inadequacies, and instability of grant funding, which is subject to annual legislative appropriations and does not guarantee universal access, were discussed in regard to New York State's current UPK grant program in the previous section. The federal Head Start program, serves broader purposes, operates separately from the public education system, and has strict eligibility requirements. While many districts collaborate with Head Start in their pre-K programs, supplementing the federal Head Start program by itself cannot provide an appropriate direction for building a viable universal prekindergarten program. For these reasons, both the Pew Center on the States and the National Institute for Early Education Research (NIEER), the organizations that have researched this question more extensively, strongly recommend a formula-based approach.

According to the PEW researchers, "Tying pre-K and K-12 funding together in a single formula more firmly embeds early learning in the larger education system, which generally enjoys strong fiscal, political and public support and is less vulnerable to budget cuts than programs supported by grants."⁵⁶ A recent NIEER report also noted other advantages of formula funding:

Including pre-K initiatives in the statewide school funding formula for public

schooling is a particularly effective way of providing consistently adequate funding. This approach places no limits on enrollment of the eligible population, and is particularly useful for preschool programs that are open to all children regardless of income.⁵⁷

At the present time, about one-third of the states that support prekindergarten programs do so through a formula approach.⁵⁸ The specifics of these formula approaches vary widely, however. Some of these funding systems have unrestricted eligibility, while others limit eligibility in a variety of ways; the proportion of per-pupil K-12 funding allocated for each prekindergarten child differs substantially; some systems cap total the number of prekindergarten students they will fund, while others do not; some serve only four year olds, while others also include three year olds.⁵⁹ The following examples of these differing formula funding approaches will illustrate this wide range of difference.

Oklahoma allows school districts simply to include all four year olds attending prekindergarten programs in its weighted membership count for the school-aid formula; prekindergarten students attending half-day programs receive a 0.7 weighting, while those attending full-day programs get a 1.3 weight.⁶⁰ All four year olds are entitled (but not required) to attend either half-day or full-day programs in their district of residence free of charge — "so long as the district has the physical facilities and teaching personnel to accommodate the child."⁶¹ In other words, districts are entitled to substantial state aid for all students they enroll in prekindergarten programs they chose to establish,

⁵⁴ NIEER 2012 Report, p.13.

⁵⁵ Ellen Boylan and Shad White, *Formula for Success: Adding High-Quality Pre-K to State School Funding Formulas* (PEW Center on the States, 2010), p.10. In most states, early childhood funding is treated as a distinct budget category. New York is one of a few states that include pre-K in its education budget, thus acknowledging its close tie to the K-12 system.

⁵⁶ *Ibid.*, 6.

⁵⁷ W. Steven Barnett and Jason T. Husted, *Improving Public Financing for Early Learning Programs* (NIEER, 2011), p.14.

⁵⁸ Boylan and Shade, above, n. 55.

⁵⁹ *Ibid.*, 4.

⁶⁰ Okla. Stat. Anno, Title 70, §18-201.1

⁶¹ Okla. Stat. Anno, Title 70, § 1-114.

but students do not have guaranteed access to a pre-K program if the district has chosen not to provide one. Nevertheless, 93% of school districts in Oklahoma participate in the program, and its enrollment, 70% of all four year olds, is the highest in the nation.⁶²

Maryland, by way of contrast, provides an absolute right of every four year old from an “economically disadvantaged background” to attend a publicly funded preschool program free of charge.⁶³ Each county board of education was required to establish sufficient prekindergarten programs operating for a minimum of 2.5 hours a day, five days per week by 2007-08 as part of the comprehensive plans called for by the state’s Bridge to Excellence Act of 2002,⁶⁴ but no dedicated budget line or extra per pupil funding was provided for these programs. The state took the position that the Act’s \$1.3 billion increase in annual funding for schools took into account costs for prekindergarten programs for disadvantaged students. In Colorado, “at-risk” three and four year old children attending half-day prekindergarten programs generate a 0.5 weighting in the school finance formula. The number of children that school districts may accommodate is, however, limited by an annual number of “slots” that are approved by the legislature. In essence, although the amount of state aid to each district is calculated in accordance with school finance formula figures, the program operates in large part as a grant program that depends on annual legislative “slot” determinations. The statute also permits full (1.00) FTE funding for full-day programs, but only up to 5% of the total allocated prekindergarten

population.⁶⁵ Vermont similarly used to cap the number of prekindergarten children that a school district could claim as part of its average daily membership for the state’s education fund appropriations, but in 2011 the cap was lifted. School districts in Vermont are now permitted, but not required, to operate state-funded programs for which they receive aid under the state education finance formula based on a 0.46 weighting.⁶⁶ About 80% of the state’s school districts currently operate such programs.⁶⁷

State funding for prekindergarten programs in Wisconsin originated in the mid-19th century, as the state’s constitution of 1848 included four year olds in the category of students entitled to attend the tuition-free common schools.⁶⁸ Under the current laws, school districts that choose to establish prekindergarten programs for four year olds are entitled to 0.5 FTE weighting for each such child. The state funding scheme has two additional interesting features. Districts can obtain a 0.6 FTE weighting if the prekindergarten program annually provides at least 87.5 additional hours of outreach activities,⁶⁹ and a district’s right to funding does not kick in until the third year the program is operation. (The law does, however, also offer “start-up grants” of up to \$1,500 per student for districts establishing new programs.⁷⁰)

The strongest and most successful formula-based funding program is that operated by the State of New Jersey. The program originated as part of a court-ordered remedy in the Abbott litigation. The initial court order required the state to implement universal half-day prekindergarten programs for all three and four year old children in

⁶² Diana Stone, *Funding the Future: States’ Approaches to Pre-K Financing* (2008), <http://www.ncsl.org/print/educ/Pre-ConStone.pdf>.

⁶³ Md. Anno Code § 7-1001.1. Kansas similarly entitles all at-risk students to prekindergarten services, but funds them at 0.5 FTE weighting. KSA 72-6407. Although the statute provides a right to funding for all at-risk students enrolled in approved at-risk programs, budget cuts in recent years have apparently led the state to limit the number of children it will actually allow to enroll in approved programs. *NIEER 2012 Report*, p. 62.

⁶⁴ Code of Md. Regulations 13A.06.02.05.

⁶⁵ Colorado Preschool Program Handbook (2011-2012), p. 12, http://www.cde.state.co.us/cpp/download/CPPODocs/PPP_Handbook.pdf.

⁶⁶ 16 Vt. Stat. Anno §§ 829, 4010.

⁶⁷ *NIEER 2012 Report*, p. 134.

⁶⁸ Wisconsin Council on Children and Families, *The Unique History of Four-Year-Old Kindergarten in Wisconsin* (2010), p.4.

⁶⁹ W.S.A. 121.004.

⁷⁰ Wisconsin Department of Public Instruction, *Four Year-Old Kindergarten Grants*, http://ec.dpi.wi.gov/ec_ec4yr-old-kind-grants.

the 31 low-income urban school districts covered by the case within 18 months.⁷¹ When the state did not meet the deadline, the court, after considering a large body of expert testimony, issued a further ruling that articulated specific high-quality standards that included early-childhood certification for all prekindergarten teachers, a maximum class size of 15, use of a developmentally appropriate preschool curriculum, and comprehensive services.⁷²

Based on an explicit legislative finding that the Abbott prekindergarten programs were effective, in 2008, the state's School Funding Reform Act (SFRA) called for expansion of Abbott prekindergarten programs to districts throughout the state by the 2013-14 school year.⁷³ The law requires full-day programming, and each school district must plan to enroll at least 90% of the eligible children in the district. Under SFRA, districts with a concentration of more than 40% of students eligible for the federal free-and-reduced-price lunch program must provide free, full-day pre-K for all three and four year olds.⁷⁴ Districts with less than a 40% concentration of students eligible for free-and-reduced-price lunch must provide pre-K for all three and four year olds who are characterized as "at-risk" because their families qualify for the free-and-reduced-price lunch program.⁷⁵ This expansion beyond the Abbott districts essentially has not yet been effectuated, however, because of state budget fiscal constraints.⁷⁶

State aid for all three and four year olds in the

Abbott districts (and under SFRA, if and when it is fully implemented, for all eligible students in all other districts) covers 100% of the actual costs of providing high-quality full-day programs in these districts. No other state guarantees 100% full state funding in this manner. In all other states that utilize a formula funding approach, prekindergarten funding is tied to some proportion of K-12 per-pupil funding based on some rough understanding of the costs of running a prekindergarten program or on a politically determined amount based on how much legislators are willing to expend on prekindergarten services.

New Jersey took advantage of the history of the court-ordered full-funding requirement in the Abbott districts to undertake detailed cost analyses of what high-quality full-day programs for at risk students actually cost in the State of New Jersey and used the resulting figures as the statutory basis for determining the amount of approved per pupil preschool education aid.⁷⁷ For the 2013-14 school year, the state-aid amounts in the governor's proposed budget are \$12,788 for in-district programs, \$14,375 for community-based programs, and \$7,934 as a supplement to federal funding for Head Start programs.⁷⁸ The statute requires these amounts to be updated annually in accordance with a cost-of-living index, and, every three years, the governor, after consulting with the commissioner of education, must issue an educational adequacy report that, among other things, reconsiders the per-pupil amounts for full-day preschool.

⁷¹ *Abbott v. Burke*, 710 A.2d 450, 464 (NJ 1998) ("Abbott V"). The court stated that the half-day program would be an "initial reform." In response, "Governor Whitman decided to move to full day, under pressure from providers, districts and advocates, who argued successfully that parents and families in poor communities needed full day — both for kids and to support families. Full day then became an accepted and established program component, both by the court in Abbott VI and VIII, in the SFRA formula and in DOE regulations." Statement of David Sciarra, counsel for Abbott plaintiffs, e-mail correspondence with Michael A. Rebell, May 6, 2013.

⁷² *Abbott v. Burke* 748 A.2d 82 (NJ 2000) ("Abbott VI"). As Sara Mead recounts in *Education Reform Starts Early: Lessons from New Jersey's PreK-3rd Reform Efforts* (2009), the Whitman administration pressed for maximum use of existing private and nonprofit child care centers to provide Abbott prekindergarten services both because the public schools lacked sufficient space to accommodate the large numbers of children who would now need to be served and because they saw the use of community-based providers as a "way to lower the bill for new pre-k programs." *Id.* at p. 5. "The court's decision upheld the use of community-based providers to deliver pre-K, but required that all pre-K providers — whether in community-based programs or public schools — meet the same high standards required by Abbott VI." *Id.* at 6. Ironically, based on actual program costs, the legislature eventually approved rates for community-based programs that were about 10% higher than for public school programs. N.J.S.A. 18A:7F-54.d.

⁷³ N.J. STAT. ANN. § 18A: 7F-54 (West 2008).

⁷⁴ *Id.*

⁷⁵ *Id.*

⁷⁶ *NIEER 2012 Report*, p. 95.

⁷⁷ David Sciarra, Executive Director, Education Law Center, telephone conference with Michael A. Rebell, May 3, 2013. See also, Clive Belfield and Heather Schwartz, *The Cost of High-Quality Pre-School Education in New Jersey* (2007) (illustrating a methodology for determining the actual costs of pre-school programs in New Jersey).

⁷⁸ *2013 Governor's Education Adequacy Report*, submitted pursuant to N.J.S.A. 18A:7F-54. These numbers will be adjusted up or down based on each school district's geographic cost factors.

A COST-BASED FORMULA MODEL FOR NEW YORK STATE

Of the various state formula funding models, New Jersey's *Abbott* preschool experience plainly provides the most relevant prototype for building a rights-based prekindergarten funding model for New York State. Because of the constitutional context from which it emerged, preschool funding in New Jersey was rights based from the start, and its operating premise was that all three and four year old children in the *Abbott* districts must be fully funded. The New Jersey program also required the state to adopt and enforce high-quality standards, to provide full-day programs for all four year olds, and later for all three year olds, and to provide supplementary after-school social service, and health services as necessary.⁷⁹ In addition, in order to ensure maximum enrollment, school districts were responsible for affirmative outreach efforts, with an expectation that 90% of eligible children would ultimately enroll. All of these elements are critical components of an effective, high-quality rights-based universal prekindergarten program.

Accordingly, like the New Jersey program, a rights-based approach to prekindergarten in New York's should include (a) guaranteed full funding; (b) access to full-day programming for all three and four year olds; (c) comprehensive services for at-risk students; (d) vigorous outreach to promote maximum enrollment; (e) adoption and enforcement of high quality standards and requirements; and (f) systems supports and infrastructure investments.

Of course, New York is not New Jersey. The differing constitutional context, pre-K implementation history, and political and statutory setting in New York mean that even though the main elements of the New Jersey approach need to be incorporated in a revised rights-based universal pre-K program in New York, the manner in which this can be done necessarily will differ. Among other things, rights-based UPK in New York must cover all children in all districts, and not just at-risk children in 31 urban districts, and, in the

absence of a judicial mandate, full state funding is not a plausible approach to financing an extensive universal program in New York.

The reform recommendations set forth in this paper are, therefore, heavily influenced by New Jersey's experience, but molded to reflect New York's particular needs and circumstances. This section will discuss how the first four elements of a rights-based UPK program, guaranteed full funding, full-day programming for all three and four year olds, comprehensive services, and affirmative outreach to eligible children can practically be implemented in the State of New York. The second part of this paper will consider the adoption, phase-in, and enforcement of high-quality standards and requirements and systems supports and infrastructure investments.

In order to correct the shortcomings of the current pre-K funding system and provide funding for prekindergarten services in New York State that is equitable, adequate, stable, and transparent, the system should be revised to contain the following major components: (a) guaranteed access for all three and four year olds; (b) an eight-year phase-in process that prioritizes the highest need districts; (c) incorporation of pre-K funding into the K-12 state education finance system; and (d) inclusion of transportation, social services, and services for students with disabilities in the pre-K cost structure. Each of these components will be discussed in turn.

Guaranteed Access for All Children

All three and four year olds in New York State must be guaranteed access to high-quality full-day prekindergarten either in an early childhood program in the community or in a public school. All five year olds must be guaranteed access to full-day kindergarten programs.

As discussed above, the overwhelming weight of the research, fidelity to the original vision of New

⁷⁹ *Abbott V*, 710 A.2d at 512-13.

York's UPK program, and developing legal and policy trends indicate that New York should at this time acknowledge and affirmatively act on the right of all three and four year olds to attend a publicly funded, high-quality prekindergarten either in an early childhood program in the community or in a public school. Access to such programs should be guaranteed, and information about the availability and advantages of the program should be affirmatively disseminated and promoted, but parents should still retain the discretion to decide whether their children should actually take advantage of these programs.

Although parents should also be free to choose a half-day option if that better fits their family's particular needs, the basic right should be defined in terms of access to full-day programs, and attendance in full-day programs should be generally assumed and encouraged. As the New Jersey Supreme Court put it, half-day programs provide a suitable "initial reform," but the full long-term benefits of early education can only be achieved by providing universal access to full-day services. That is why the governor's New NY Education Reform Commission strongly endorsed "high-quality full-day programs for highest needs students" as the next strategic step in building a "seamless pipeline" of high-quality educational services, starting in the early years.⁸⁰

Access to full-day programs should be provided first to districts with high concentrations of children with the highest needs, and at full phase-in the benefits of full-day programs should be made available to all children in the state. Obviously, increased state expenditures (which may be substantially reduced if President Obama's program is adopted by Congress) will be required to support this right of access, but this investment will be more than repaid over time by the increased lifetime income beneficiaries of these programs will earn and the increased taxes they will pay, as well

the reduced expenditures that schools and society at large will need to pay for special education, remedial academic, and social and health costs.⁸¹

A necessary corollary of guaranteed full-day prekindergarten programs is guaranteed access to full-day kindergarten for the graduates of these programs. The Regents have called for reducing the compulsory schooling age to five to ensure that all children attend full-day kindergartens because "In a standards-based environment, it is important that students receive purposeful and explicit instruction, beginning in the early years."⁸²

The argument for universal access to full-day kindergarten programs for five year olds becomes even more compelling if the right of all three and four year olds to attend full day pre-K programs is recognized and implemented. Clearly, it makes no sense for young children to gain the advantages of full-day programming as three and four year olds, but then be placed in half-day kindergarten and thereby regress in their academic and social development. Half-day kindergarten programs will ill prepare them for elementary education and beyond. The superintendent of a school district in western New York that in the past had offered only half-day kindergarten programs described these consequences:

[W]e administer [five subtests] to kindergarten students three times a year. The fall test shows our students scoring at and above the national norm. By the spring administration of the test, our students are below the national norm in each of our seven elementary schools. We know that students who fall behind in kindergarten have to work twice as hard to accelerate to grade level expectations in first grade. This is particularly tough on at risk students and in essence makes their entry into school very difficult.⁸³

⁸⁰ New NY Education Reform Commission, *Putting Students First* (2013), p. 37.

⁸¹ See research on economic and social dividends cited in the appendix.

⁸² *Regents Policy Statement on Early Education for Student Achievement in a Global Community* (2006), p. 6.

⁸³ Correspondence from Adele Bovard, Superintendent of Schools, Webster Central School District, to Michael A. Rebell, August 16, 2012. Despite continuing financial constraints, the Webster Board of Education has voted to adopt a full-day kindergarten program beginning in 2013-14.

New Jersey recognized this reality and included in its early childhood regulations a specific requirement that “Each district board of education with a high concentration of low-income students shall, in addition to implementing preschool, maintain full-day kindergarten for all five-year-olds...”⁸⁴ As of 2010-11, 652 of the state’s 697 school districts operated full-day kindergarten programs, and three districts now mandate it. The substantial budget cuts of recent years have caused a few districts with large numbers of students to cut back from full-day to half-day kindergarten programs. Further erosion of full-day kindergarten programming should be deemed unacceptable. The state should prohibit any school districts currently operating full-day kindergarten programs from cutting back their hours, and, as part of the pre-K funding reforms discussed below, and consistent with the Regents’ policy position, should require those few districts currently operating half-day programs to convert them to full-day programs within a year of their full phase-in of the pre-K program for four year olds.

Eight-Year Phase-In with Priority for High Need Districts

This reform should be phased in over an eight-year period. In the first three years of the phase-in, guaranteed access should be made available to all four year olds in the 345 highest need school districts and then the program should be extended universally to cover all four year olds in all districts in the state during the next two years. During years six and seven, all three year olds in highest need districts should be accommodated and then during the next and final year, the program should be extended to cover all three year olds in all districts.

As the history of the *Abbott* reforms in New

Jersey has demonstrated, implementation of a large scale, high-quality full-day prekindergarten program is a complex undertaking that requires careful planning, and extensive oversight. Providing high-quality prekindergarten programs for all children in the 31 *Abbott* districts was a seven-year process.⁸⁵ This entailed, among other things, phasing in rigorous certification requirements for teachers and other personnel both in district public schools and community programs, working with higher education institutions to create new certification programs, developing new regulatory codes and uniform curriculum requirements, and building district capacity in the following ways:

The Department of Education provided extensive professional development for district personnel responsible for implementing *Abbott* pre-K: district early childhood directors and specialists, who oversaw all early childhood programs in a district; fiscal specialists, charged with implementing pre-K provider contracts and monitoring their expenditures of public funding; and Master Teachers, experienced educators who worked with teachers in *Abbott* pre-K classrooms to help them improve the quality of instruction.⁸⁶

From one perspective, implementation may be somewhat easier to accomplish in New York because, despite its shortcomings, the current UPK program has already raised certification and regulatory standards, and many districts have become experienced in contracting with community providers. On the other hand, although legislation is on the books, New Jersey has not yet actually expanded its program beyond the 31 urban districts covered by the *Abbott* decree, and the program envisioned for New York State is statewide and truly universal.

⁸⁴ NJ ADC 6A:13A-3.1(c) 11.

⁸⁵ Sara Mead, *Education Reform Starts Early: Lessons from New Jersey's PreK-3rd Reform Efforts* (2009).

⁸⁶ *Ibid.*, p. 9.

Thus, in order to promote effective statewide implementation and to allow a reasonable time period to develop the necessary funding capacity, we believe that an eight-year phase-in period — approximately the same implementation period as proved necessary in New Jersey — should be provided for this major program expansion.

Full-day prekindergarten is important for all children, but it is absolutely essential for socioeconomically disadvantaged children if they are to overcome achievement gaps and become ready for school success. This is why both the president’s program and the governor’s commission’s recommendations prioritize access to full-day prekindergarten services for at-risk children. Accordingly, we would propose that guaranteed access to full-day pre-K services be provided first to all children in the 345 highest need school districts as defined in Governor Cuomo’s new Priority Full Day and Expanded Half Day Prekindergarten Grant Program for High Need Students. Once a school district enters the program, all of their children should be eligible to participate, whether or not they come from a low-income household. Such universal access will encourage economic and ethnic integration and will facilitate sound planning. The first phase-in stage, which should be completed within the first three years, should provide guaranteed access to all four year olds in the 345 highest need districts; during the next two years, the program should expand to include four year olds in all school districts.

The second stage would expand the program to include three year olds and should be completed within no more than three years, since the basic program models would have been established. This stage should proceed like the first, with funding provided during years six and seven to cover all three year olds in 345 highest school districts and then extending the program during year eight to cover all three year olds in all districts.

Districts will be eligible to be enrolled during each stage in the program as soon as they have developed satisfactory implementation plans that

provide assurances that, as the program is implemented, sufficient numbers of qualified teachers, adequate facilities, and other components of a quality program will be in place. Until they are phased into the first stage of the implementation process, school districts currently participating in the UPK program should be guaranteed their current level of state UPK funding.

Inclusion of Pre-K Funding in State Education Finance System

Initially, the state should pay the full cost of the pre-K program, but as K-12 funding is brought up to a constitutionally adequate level on a sustained basis, funding for pre-K should be merged into the K-12 funding system and local districts should contribute a local share in accordance with the district’s relative wealth, as they do currently under the K-12 state education finance system. Once funding for pre-K is fully merged into the K-12 system, each district’s foundation aid for prekindergarten services will be calculated in accordance with an actual cost-based percentage of per pupil allocations for students in K-12.

Including funding for prekindergarten programs as an integral part of the state’s K-12 system is the most equitable, most cost-effective, and most stable way to implement a truly universal, high-quality prekindergarten program. Since 2007, New York State’s UPK funding has been loosely related to K-12 foundation funding, but UPK funding has not been fully anchored and pre-K programs have not received any of the increases provided for K-12 programs in the last two years. A revised system that fully integrates UPK into the existing K-12 foundation funding will correct these shortcomings. Such a system will promote more equitable funding and allow guaranteed access to high-quality publicly funded programs to all children, since funding levels for each school district will be largely correlated with district wealth, and all districts will

be expected to contribute a local share, based on their local property and tax wealth. This approach will foster efficient planning for high-quality programming, because school districts will be able to plan programs on the basis of known, stable and adequate funding levels.

The core of New York State's K-12 state-aid system is a foundation-funding appropriation that, combined with an expected local contribution, is intended to provide all students the opportunity for a sound basic education. Under New York's foundation system and that of most other states, the amount that each school district receives for its K-12 students is based on the number of full-time equivalent (FTE) students enrolled in schools in the district. Each child in a full-time program counts as one FTE, but, in New York, as in most states, extra weighting is provided for certain categories of students such as students who are at risk, students with disabilities, and English language learners. Most of the states that use formula funding approaches for pre-K funding assign an FTE weight to each pre-K student. Generally, these FTE weightings are based on undocumented assumptions that prekindergarten should cost less, the same, or more than K-12 services.

New Jersey is the only state that has based its preschool funding on an in-depth analysis of the actual costs of operating high-quality full-day programs for at-risk students. Because the court had ordered the state to pay the full costs of the Abbott programs and had specified the quality that these programs must achieve, the state education department gathered detailed information from all of the Abbott districts on their actual expenditures over a number of years. This historical data then became the basis for determining an actual cost-based figure that was then used as the per-pupil preschool aid amount in the state funding formula.⁸⁷

Use of a Valid Cost-Analysis Methodology

In order to ensure that adequate resources are provided on a stable basis to support high-quality programs, New York should also base its funding system for prekindergarten students on a valid cost analysis — as it did with the original foundation formula — rather than abstract assumptions about what these programs might or should cost. Unlike New Jersey, though, New York does not have an historical database of actual cost experiences statewide of pre-K programs operating in accordance with consistent high-quality standards and requirements. For that reason, the state should conduct a professional-judgment study of the full costs of operating a cost-effective, high-quality prekindergarten program.⁸⁸ The panels of geographically diverse educators and business administrators who undertake these analyses should consider, among other things, whatever relevant evidence is available of the actual costs of various public school, community, and Head Start programs in different parts of New York State, and also comparative cost-study data from New Jersey.

In order to allow prompt implementation of the first phase of the program in 2014-15, for the first two years, state aid for the new pre-K program should be based on the New Jersey rates for public school programs, community-based programs, and supplements to Head Start programs, adjusted for poverty rates, cost differentials, and other specific New York State factors. Rates for succeeding years should then be based on an actual cost-based professional judgment methodology like the following. In the initial rate-setting round, costs should be determined for operating a public-school pre-K program for students in general, as well as extra weights for students from low-income households, English language learners, and students with disabilities. The panel should also determine

⁸⁷ School districts in New Jersey are required to maintain their preschool education aid in a special revenue fund. In the event that the district has fully implemented an approved full-day preschool program for three and four year olds and funds remain in the special revenue fund, those funds may then be used, with the approval of the commissioner of education, to support the district's general K-12 budget or to provide preschool services to students who are not in the at risk category covered by the law. NJSA 18A 7f-54. e and f.

⁸⁸ "Professional judgment" is one of several methodologies that are used to estimate the actual cost of an educational program. (See National Education Access Network, *Costing Out Primer*, available at http://www.schoolfunding.info/resource_center/costingoutprimer.php3.) The "successful schools" methodology is the costing out approach favored by current New York State law, Educ. Law § 3602.4 (a) (1). It would not be appropriate to use this methodology for determining initial prekindergarten rates, however, because there is no established data base for determining which specific existing programs have been "successful."

whether or not the extra weightings for these categories of students in the current K-12 foundation formula are appropriate, whether there should be an extra weighting for rural-sparsity factors and whether community programs should be compensated at the same level as school district programs or whether, as in New Jersey, there is a justification for providing them at a different rate. A separate supplemental aid figure should be developed to reflect the extra costs these federally funded programs would incur to meet all of the state's quality standards for universal pre-K. These initial rates should be used, with appropriate regional cost-of-living adjustments, for a three-year period, with annual inflation adjustments after each year. After three years, a further cost study to refine the cost analysis should be undertaken, based on the cost experience of actual operations during this period.

The Local Share

Currently, state aid provides approximately 40% of total K-12 education costs in New York State, federal aid 8%, and local school districts contribute 52%.⁸⁹ This means that the state-aid system is premised on the assumption that local school districts, in accordance with their relative wealth means, will contribute additional funding, on top of state aid, to support their schools. Specifically, the current foundation funding allocations were calculated on an expectation that each school district will supplement its state-aid appropriation with sufficient local revenues to provide the total level of resources that is necessary to provide all of their students an opportunity for a sound basic education.⁹⁰ To make a high quality, truly universal pre-K system viable, a similar local share should be contributed by each local school district according

to its district's relative wealth. All local districts would contribute some amount of local revenues to support high-quality pre-K programs, and more affluent districts would need to provide a high proportion of total foundation costs for their pre-K students from local revenues, as they do now for all of their K-12 students. (The local shares under the K-12 foundation formula range from 10% to 92%, depending on the district's means.)

The state currently imposes a cap on the amounts by which local school districts can raise local tax rates each year.⁹¹ (This provision does not apply to New York City and the other fiscally dependent Big Five school districts.) Since this cap would preclude many school districts from having sufficient resources to fund the new full-day prekindergarten programs properly, the state must make the costs of expanding pre-K services an explicit exemption from the property tax cap or provide additional state aid to ensure constitutionally compliant levels of funding for school districts that cannot provide their local shares for pre-K funding without reducing funding for K-12 services.⁹²

The New York Court of Appeals in the *CFE* litigation ordered the State of New York to ensure that schools in New York City were provided sufficient funds to cover the "actual costs" of providing all of their students the opportunity for a "sound basic education," and legislation was enacted in 2007 to guarantee sound basic education funding to all school districts in the state. State aid to education in New York, however, has been significantly reduced in recent years, and many schools and school districts currently lack sufficient funding to meet sound basic education requirements for their K-12 students.⁹³

⁸⁹ New York State Education Department, *2012-2013 State Aid Handbook*, p. 4, https://stateaid.nysed.gov/publications/handbooks/handbook_2012.pdf

⁹⁰ Educ. Law §3602.4(a).

⁹¹ Educ. Law §2023-a

⁹² See, in Michael A. Rebell, "Safeguarding the Right to a Sound Basic Education in Times of Fiscal Constraint," *Albany Law Review* 75 (2012): 1855 at pp. 1902-1905.

⁹³ A description of the current system for funding K-12 public education in New York State, a discussion of the recent budget cuts and proposals for how constitutional requirements for full funding of a sound basic education can be achieved under current economic conditions in a cost-effective manner are set forth in Rebell, "Safeguarding the Right to a Sound Basic Education in Times of Fiscal Constraint."

Implementation of an effective, truly universal pre-K program in New York State must necessarily be premised on an understanding that the current freeze on foundation aid, the failure to provide aid for increased enrollment,⁹⁴ the “gap elimination adjustment” (GEA), and the overall cap on state aid — all of which are, in fact, unconstitutional — must be phased out and eliminated. Obviously, in order for graduates of high-quality prekindergarten programs to maintain and improve their academic gains, the elementary and secondary schools they eventually attend must also have adequate resources.

Although current levels of state aid are still well below requisite sound basic education levels, for the past two years, the state has begun to increase its aid to school districts, and for 2013-14 the legislature even set aside — at least temporarily — the arbitrary cap on state aid it had written into the state education law. We expect the state to continue to reduce the GEA and eliminate the other unconstitutional distortions to the state aid system over the next few years. However, because adequate funding for K-12 education is not currently in place, we do not think that local school districts can or should be expected to contribute their expected local shares of the additional costs of providing full universal pre-K at this time. Thus, for the first two years of implementation, 100% of what would be the additional local shares under the foundation formula should be borne by the state. Thereafter, as the state increases K-12 funding to reach a constitutionally adequate level on a sustained basis, this extra state payment to cover the local shares should decline proportionately.

Funding for All Necessary Costs of High-Quality Programs

Full funding for prekindergarten programs should encompass all necessary costs for high-quality programs and should include transportation, social service, health, and family engagement services, as well as related services and support services for students with disabilities enrolled in inclusion programs. The state should also ensure sufficient funding for the systems supports and infrastructure investments necessary to build out high-quality programs.

In addition to their foundation allocations, K-12 programs also receive substantial state funding based on formulas for reimbursement of actual costs for particular cost categories such as transportation, building aid, and textbooks and computers. Currently, UPK programs do not receive any financial support for transportation from the state. As the Regents have noted, lack of funding for transportation has substantially hampered enrollment in UPK programs and/or imposed substantial additional costs on local school districts:

Districts which do provide transportation typically absorb the costs at the local level. Those which do not provide transportation can only serve students whose parents or guardians are able to provide transportation. This means that children in districts with fewer local resources available to support the cost of transportation, or those with parents or guardians who are unable to transport them, will be less likely to attend UPK programs. These may be the same children expected to benefit the most.⁹⁵

⁹⁴ Current state fiscal constraints have discouraged some school districts from expanding to full-day kindergarten programs. Students in half-day programs count as 0.5 FTE in the pupil count for foundation funding, while those in full-day kindergarten earn a full 1.00 FTE. Educ. Law §3602.2. However, because current foundation aid levels are largely frozen, districts are not given credit for additional enrollment and in most cases this means that a district moving from half-day to full-day kindergarten will not receive the extra resources they need to operate a viable program. Conversely, several school districts have reduced their kindergarten services from full day to half day because in weighing their options for responding to the extensive budget cuts of recent years, they determined that full day kindergarten, being a “non-mandated” service was, despite its obvious benefits, more expendable for cost-saving purposes than other options.

⁹⁵ Memorandum from Johanna Duncan-Poitier to Regents State Aid Committee, *2010-2011 Regents State Aid Proposal: Support for UPK and Benefits of High Performance School Buildings* (September 1, 2009), attachment A, p.10, <http://www.regents.nysed.gov/meetings/2009Meetings/September2009/0909sad1.htm>.

Consistent with the premise that quality prekindergarten programs should receive a cost-based FTE allocation correlated with the per-pupil funding provided for K-12 students, these formula-based aids for transportation, building aid, textbooks and computers, and other needs should also be extended to cover pre-K students as an integral part of the revised state-aid system.⁹⁶

The actual cost calculations for determining the FTE amount for prekindergarten programs should include access to necessary social service, and basic health (including mental health) services, for programs having large number of at-risk students. Because many children from low-income households need extra social-service and health supports in order to be able to take advantage of educational opportunities, both federal Head Start regulations and the *Abbott* court require that such services be provided to all students who need them.⁹⁷ Although cooperative arrangements with governmental and community agencies providing these services should be sought in order to optimize services and minimize costs, additional funding reasonably necessary to provide these services and/or to ensure proper coordination between community providers and the educational programs must be part of the basic foundation funding.⁹⁸

New York State has a growing number of preschool students with disabilities receiving publicly funded prekindergarten services, and costs are rapidly escalating in this area. Total

expenditures for preschool special education services rose from about \$818 million⁹⁹ to almost \$2 billion between 2005 and 2012.¹⁰⁰ Almost 90% of the students receiving preschool special education services are served fully or partially by not-for-profit or profit-making private providers,¹⁰¹ and this vast nonpublic sector is largely unmonitored. Currently, preschool students with disabilities are not proportionately represented in UPK programs. While 9% of all three and four year old children in New York State receive preschool special education services based on their delays or disabilities,¹⁰² only approximately 5% of the students in UPK programs receive such services.¹⁰³

By ensuring access to full-day programs for all three and four year old children, and including in the weighted FTE calculation the projected costs of providing related services and support services for children with disabilities, New York's rights-based universal prekindergarten program will encourage greater enrollment of children with disabilities in public school and community programs. This should result in more integrated and inclusive experiences with the general school population for students with disabilities, allowing them to receive appropriate services on site while learning alongside students who do not have disabilities. Substantial savings should also accrue to state and local governments, as an appropriately weighted, transparent foundation funding system replaces the complex and costly reimbursement system currently used to pay private providers.

⁹⁶ A shift to full-day programming will lessen the additional costs of state aid for pre-K transportation, since in many cases, school districts will be able to accommodate pre-K students on existing buses and existing runs. Transportation services for three year old children may, however, incur additional costs for car seats and extra bus matrons, and some extra transportation expenditures will be incurred in some cases for providing buses to child-care centers and after-school providers for children requiring extended-day programming.

⁹⁷ 45 C.F.R. §§1304, 1306, *Abbott v. Burke* 748 A.2d 82 (NJ 2000).

⁹⁸ Many of these children and their families also need extended-day programs; these services should also be provided as necessary, and their costs should continue to be paid through Head Start and child-care funding.

⁹⁹ New York Governor's Preschool Special Education Task Force, On Line Survey Results for Preschool special Education Task Force, Table 2 (2007), available at <http://www.p12.nysed.gov/specialed/preschool/taskforce/onlineresults.htm>

¹⁰⁰ New York Association of Counties, *A Roadmap to Mandate Relief: Improving Preschool Special Education in NYS* (Nov. 2012).

¹⁰¹ In 2007, 87% of such services were provided through private contractors, 5% through BOCES, and only 8% local education agencies (LEAs). New York State Governor's Preschool Education Task Force, n above, Table 5A.

¹⁰² Individuals with Disabilities Education Act Data, Office of Special Education, U.S. Department of Education, (2012), available at <https://www.ideadata.org/TABLES35TH/B1-16.pdf>.

¹⁰³ Regents Subcommittee on State Aid Memorandum, in Attachment A at n. 95.

THE QUALITY FRAMEWORK

New York State has recognized the need for an effective, coherent, and integrated system of services for our youngest learners and their families. The state has taken some important steps in this direction, including establishing the Early Childhood Advisory Council. A truly universal, high-quality pre-K program is a cornerstone component of such a system.

For New York to realize its vision for a truly universal prekindergarten, it will need more than adequate funding and a sound financing strategy. State leaders must also create a strong regulatory framework and a solid implementation plan. And that plan must include the investment in the infrastructure necessary to build out and support a high-quality program in all settings.¹⁰⁴ The financing strategy developed in the first part of this paper, therefore, calls for pre-K funding rates that will cover our recommendations for the essential elements of, and infrastructure investment for, high-quality pre-K programs that we lay out in the following sections. These are essential to providing

the resources and supports necessary to create effective classroom practice that fosters children's learning and development. The regulatory system and infrastructure we propose align with and support QUALITYstarsNY, New York's quality rating and improvement system for early childhood programs from birth to kindergarten.

Having studied successful pre-K programs in a number of states around the country and consulted with national experts, we have drawn primarily from three sources for our recommendations: (1) the National Institute for Early Education Research (NIEER), (2) New York's former experimental/targeted pre-K program and current UPK regulations, and (3) regulations and implementation mechanisms that were adopted in New Jersey and have been vital to achieving quality programs in that state. We also made use of the framework for the essential resources of a sound basic education from the *Campaign for Fiscal Equity* decision to provide alignment with K-12 constitutional requirements.

ESSENTIAL REGULATIONS FOR HIGH-QUALITY PRE-K PROGRAMS

To ensure that all children have access to high-quality prekindergarten as part of the opportunity for a sound basic education, the state must strengthen its current prekindergarten regulations to provide the following essential elements of high-quality prekindergarten programs in all settings, including both programs housed in public school buildings and community programs. The cost-based FTE funding level for prekindergarten services in the recommended foundation formula must provide each school district with sufficient

funding to ensure all of these elements in all pre-K settings. In the following discussion, we set forth what is currently required by state regulations and the changes we believe are necessary to ensure high-quality pre-K programming for all children.

Sufficient Classroom Hours

The state currently allows school districts to provide either half-day (2.5 hours) or full-day (six hours and 20 minutes) pre-K and kindergarten programs.

¹⁰⁴ Sara Mead, *Education Reform Starts Early: Lessons from New Jersey's PreK-3rd Reform Efforts* (New America Foundation, 2009). See also, W. S. Barnett, *The State of Preschool Yearbook 2012* at www.NIEER.org and Barnett et al., *Abbott Preschool Program Longitudinal Effects Study: Fifth Grade Follow-Up* (March, 2013) for detailed analysis of factors that make a difference in child outcomes in state pre-K efforts. *Strengthening the Pre-K Investment* at www.winningbeginningny.org takes a look at New York State's universal prekindergarten effort and includes 11 recommendations, including investment in infrastructure to improve quality and strengthen the state's mixed delivery system.

Recommendation: State regulations should be revised to ensure that, on a phase-in basis, all districts provide access for all children to full-day (at least five hours) pre-K and kindergarten programs, operating five days a week, on a 180-day schedule. Where needed, extended hours should be provided to meet the needs of students and of working families, primarily by leveraging Head Start and other available funding sources.

Appropriate Class Sizes

The state currently allows a maximum class size of 18 students with one teacher and one teaching assistant, with an option of up to 20 with one teacher and two teaching assistants.

Recommendation: State regulations should be revised to cap classes with substantial numbers of students needing more intensive support, including English language learners, and students with disabilities, at a maximum of 15 students with one teacher and one teaching assistant. All other classes should have no more than 18 students with one teacher and one teaching assistant.

Sufficient, Well-Qualified Teachers, Administrators, and Other Personnel Instructional Staff

New York currently requires all prekindergarten teachers working in public schools to meet the same qualifications as teachers in K-12, with certification for birth–grade 2 (B–2) or certification for students with disabilities valid for service in early childhood grades. Pre-K teachers in community settings are not required to be certified; they are required to meet the licensing standards and have an education plan that will lead to obtaining New York State teacher certification for B-2 within five years after commencing employment or by June 30, 2017, whichever is later. This deadline has, however, repeatedly been extended in the past.

Recommendation: All pre-K teachers in all settings should have a B-2 instructional certificate

or certification for teaching students with disabilities or English language learners valid for service in the early childhood grades within five years. The state should ensure sufficient financial support, including scholarships and loan forgiveness, to help uncertified teachers become certified, but there should be no further extension of the deadline for certification for all teachers.

Teaching Assistants

The state currently requires pre-K teaching assistants in community-based settings to have a high school diploma. In public school settings, assistants must also have nine college credits of coursework in early childhood education and Level 1 teaching assistant certification.

Recommendation: Within five years, all teaching assistants should be required to have at least Level 1 teaching assistant certification. New York should move toward requiring a child development associate (CDA) degree or the equivalent for teaching assistants. The requirement should include a minimum of 12 college credits in early childhood, as well as classroom experience.

Master Teachers

Currently New York has no requirement that pre-K programs have master teachers to provide coaching and professional development support for classroom teachers and administrators.

Recommendation: To create and maintain program quality by supporting classroom teachers and administrators, the state should require that school districts provide programs in all settings a sufficient number of certified, experienced, and appropriately compensated master teachers, including, as appropriate, bilingual and inclusion specialists. The maximum ratio should be one full-time master teacher who supports the work in a maximum of 15 pre-K classrooms.

The state should require that master teachers have the following qualifications:

- A master’s degree and B–2 certification;
- Three to five years’ experience teaching in general education pre-K programs;
- Experience providing professional development to classroom teachers;
- Experience in implementing developmentally appropriate curricula;
- Experience with performance-based assessments; and
- Master teachers with a specialization in bilingual education should possess bilingual or English as a second language certification and either possess or pursue early childhood certification.
- Master teachers with a specialization in inclusion should possess special education certification and either possess or pursue early childhood certification.

Administrative Staff

Though a New York State licensed principal must supervise pre-K programs in public schools, there is no requirement that the principal have any experience or expertise in early childhood education. For community programs, the only supervisory requirement is that, until all teachers at a site possess a teaching license or certificate valid for services in the early childhood grades, such programs shall employ an on-site education director with an early childhood teaching certificate during the hours that the prekindergarten program is in operation, and that this individual will be responsible for program implementation.

Further, New York has no requirement that there be qualified district-level supervision of prekindergarten or that pre-K programs have sufficient administrative support personnel, such as secretaries and data clerks, though these are essential to the daily operations of any program and to ensure that other staff members can devote themselves to their core administrative or instructional duties.

Recommendation: The state should revise its regulations to ensure a sufficient number of well-qualified district-level supervisors and administrators, school and center administrators, and administrative support personnel to coordinate a high-quality pre-K program in all settings.

Professional Development

New York State certified teachers are required to complete 175 hours of professional development every five years to maintain their teaching certificates; some licensed teaching assistants also have a requirement of 75 hours/five years. There is no requirement that administrators or other pre-K teachers and staff receive regular or sufficient professional development.

Recommendation: The state should revise its regulations to ensure professional development and training specific to prekindergarten education for all early childhood education administrators, school principals, master teachers, classroom teachers, and teaching assistants in all settings. Professional development should be provided through multiple pathways and designed in accordance with an individualized staff development plan built on the identified needs of program staff and the developmental needs of children and to align practice with the K-12 education system. Such development should focus on topics such as the implementation of high-quality curricula, effective use of child observation and assessment, culturally competent classroom practices, recognition of developmental milestones, identification of possible developmental delays, and effective practices for English language learners and children with disabilities. There should be a sufficient number of substitute teachers to allow full participation of classroom teachers with the goal of ensuring that each staff member can receive a minimum of 40 clock hours of professional development each year.

A Suitable Developmentally Appropriate, Evidence-Based Curriculum

New York State currently requires that each school and school district operating a prekindergarten program adopt curricula aligned with the state pre-K standards, including Common Core standards in English language arts and math. In addition, each program must provide an early literacy and emergent reading program based on effective, evidence-based instructional practices. The state has other requirements to ensure that activities are learner-centered and developmentally appropriate and that the instructional program is based on the ages, interests, strengths, and needs of the children. The curriculum must include standards-based teaching and learning in English language arts, math, science, social studies and the arts; have inquiry-based activities and projects; use a wide variety of information in print and electronic mediums; fine and gross motor activities; and instruction in health and nutrition.

Recommendation: The state should provide a set of state-recommended curricula, based on a transparent approval process, that meet all state curriculum requirements and are aligned with the New York State Prekindergarten Foundation for the Common Core to ensure consistency of curriculum and assessment across all settings. These recommended curricula should be reviewed every two years, and professional development should be designed to support effective use of the approved curricula.

An Expanded Platform of Services to Meet the Needs of “At-Risk” Students

Currently New York State has a handful of requirements for providing social services to pre-K students but no comprehensive platform of services or funding designed to combat potential barriers to participation and learning in pre-K. The state has regulations to ensure that students are

appropriately immunized and disease free; to screen for giftedness, disability, and/or ELL status; to ensure that children’s nutritional needs are met; and to require school districts to provide, either directly or through referral, services to children and their families necessary to support participation in pre-K. In addition, the state requires each school operating a prekindergarten program to develop procedures to ensure the active engagement of parents and/or guardians in the education of their children. Such procedures must include support to children and their families for a successful transition into prekindergarten or kindergarten and into the early elementary grades.

Recommendation: The state should strengthen these regulations and provide sufficient funding to ensure access for all at-risk students in all settings to comprehensive services, including but not limited to social services, health, mental health, early intervention and response to intervention (RTI) services, nutritional support, and parent/family engagement and support. These services should be tailored to individual child and family needs, with recognition that pre-K programs that serve high-needs communities will need to provide a richer mix of services to meet family and children needs than other districts. To the maximum extent possible, these services should be obtained through coordination with appropriate governmental and community agencies.

Appropriate Services for Students with Special Needs

Students with Disabilities

Though the state now requires the environment and learning activities of the prekindergarten program to be designed to promote and increase inclusion and integration of children with disabilities. Far too many are being served in segregated settings and not enough are participating in inclusion programs with general education students.

Recommendation: The state must ensure that sufficient and appropriate personnel, materials, and equipment, including specialized master teacher support and access to high quality related and support services, are in place to meet the needs of children with disabilities and to promote enrollment in inclusion programs in public school and community settings.

English Language Learners

The state currently requires that pre-K programs be designed to ensure that participating English language learners are provided equal access to the program and opportunities to achieve the same program goals and standards as other participating children.

Recommendation: The state should strengthen this requirement to ensure that pre-K programs in all settings have sufficient and appropriate personnel and materials to meet the needs of English language learner children by providing bilingual or English as a second language opportunities as appropriate, including certified bilingual teachers, master teachers, and teacher assistants, appropriate curriculum and assessments, and coordination with all other relevant school district programs.

Appropriate Instrumentalities of Learning

The state currently requires that pre-K programs have materials and equipment that allow for active and quiet play in indoor and outdoor environments, and opportunities to use a wide variety of information in print and electronic mediums for language development. The regulations also specify that instructional materials and equipment must be arranged in learning centers that promote a balance of individual and small group activities. While these regulations are sufficient to provide appropriate instrumentalities

of learning for pre-K students, programs lack sufficient funding and/or appropriate facilities to implement them.

A Safe and Supportive Environment for Teaching and Learning

The state currently has no requirements to ensure that pre-K programs in all settings have access to the student support personnel and expertise necessary to provide all children with a safe and supportive learning environment.

Recommendation: Regulations should ensure sufficient and appropriate personnel to provide all children a safe and supportive learning environment, including a sufficient number of social workers, family workers, and master teachers to support teachers in addressing the needs of children with challenging behaviors or learning difficulties, engage families in support of teaching and learning, and create an environment that is free from discrimination and bullying and supportive of all children.

Adequate and Accessible Facilities

New York State currently requires that all buildings, premises, equipment and furnishings used for UPK be safe and suitable for the comfort and care of the children, comply with all applicable requirements of the Americans with Disabilities Act, and be maintained in a state of good repair and sanitation. It also requires that facilities meet the appropriate fire safety and building codes.

Recommendation: The state should strengthen its regulations to ensure pre-K facilities have sufficient space to provide suitable developmentally appropriate learning environments for all children, including adequate barrier-free indoor and outdoor play space to accommodate a variety of gross motor activities that encourage the physical and social development of children.

Appropriate Assessment of Student Progress

New York State currently requires school districts to establish a process for assessing, with valid and reliable instruments, the developmental baseline and progress of all children participating in pre-K programs that at minimum assesses the development of language, cognitive and social skills and uses valid and reliable instruments. The state currently requires this information to be used to inform classroom instruction and professional development. In addition, school districts are to use the results of such assessments to monitor and track program effectiveness and must report annually on the percentage of pre-K children making significant gains in language, cognitive,

and social skills. School districts are also required to monitor the compliance of all community-based pre-K programs with all fiscal and program requirements, to assess student progress in the pre-K program, and to correct any identified deficiencies.

Recommendation: The state must ensure sufficient and appropriate personnel and technology to provide and sustain the data systems, the ongoing training, and the technical support necessary to use valid and reliable instruments to assess the progress of students and to use this information for continuous improvement of program quality in all settings.

SYSTEMS SUPPORT AND INFRASTRUCTURE INVESTMENTS

To build and sustain a truly universal pre-K system, New York State will also need to invest in the infrastructure necessary to support such a system.¹⁰⁵ This will require the state to make primary investments in the following areas: (a) teacher preparation and support, (b) facilities expansion and improvement, (c) transportation expansion, (d) data systems expansion, (e) technical assistance to promote effective school district collaboration with community-based programs, (f) quality assurance, and (g) ongoing program evaluation, as we set forth below.

Teacher Preparation and Support

In its 15 years of implementation, UPK has already created the need for at least 3,000 teachers certified in early childhood education.¹⁰⁶ The truly universal pre-K described in this report will require many more. In 2004, the state took an initial, important step to support teacher preparation with

the creation of a birth to second grade (B–2) certification annotation. This certification puts a strong emphasis on the specific skills needed by pre-K teachers, including child development, child-centered learning, and developmentally appropriate practice. Some of the state’s colleges and universities added the courses necessary for a B–2 certification, but most teacher education programs have yet to make these courses a priority.¹⁰⁷

The UPK program requires teachers to have B–2 certification. When the program began, the state allowed community-based pre-K programs five years during which they could have uncertified teachers, provided those teachers had an education plan for attaining certification in place. However, because many teachers in community programs lack the support to complete the academic requirements to be certified and because of the challenge in hiring and retaining certified

¹⁰⁵ See Sara Mead, *Education Reform Starts Early* for a review of infrastructure supports in New Jersey as part of a larger reform effort.

¹⁰⁶ This figure is based on an assumption that currently about half the community-based classrooms already have qualified teachers, with about 500 in study plans. The estimate is based on current enrollment of about 100,000 four year olds and assumes that these students are spread evenly across classes and that half the enrollment is in community settings.

¹⁰⁷ The public school system still prefers teachers with elementary school certification, rather than B-2. While teachers with elementary school certification often lack expertise in child development, they can be moved more flexibly between the primary school grades as needed.

teachers in these programs, the state has continually extended the deadline ending this exception. As a result, many teachers in classrooms outside public-school settings continue to work without certification. In order to enforce properly this requirement, the state will need to make additional investments in teacher preparation and support.

To expand and strengthen its early childhood workforce, New Jersey not only created a new certification for early childhood teachers, but it also offered scholarships, professional development opportunities, and improved compensation to those in community-based settings. The requirement for comparable pay for comparably credentialed teachers, regardless of setting, helped stabilize the workforce in community settings and create equal access to well-qualified teachers in community based settings as well as public schools. New York State would be well advised to follow the precedents established in New Jersey.

Recommendation: The state should undertake an analysis to identify the number of teachers that will need to be supported in becoming certified, and it should then develop and implement a five-year plan to prepare an early childhood workforce with appropriate credentials and field experience. The plan should include:

- funding levels that will support equitable compensation for equally credentialed professionals, regardless of the setting;
- incentives, such as scholarships and loan forgiveness, to help current teachers to upgrade their credentials and to attract new teachers to the field;
- multiple pathways to certification, as with K-12 certification, including intensive summer and weekend classes, articulation between two-year and four-year academic programs, and providing credit for work experience in early

childhood classrooms, to enable people from diverse backgrounds to obtain appropriate credentials;

- financial support to higher education institutions to motivate them to establish new credentialing, coaching and mentoring programs; and
- investment to develop and support, a network of master teachers to provide professional development to classroom teachers, including supporting currently credentialed teachers to improve the classroom environment and respond to the individual developmental needs of children.

In addition, the state must ensure that teachers have appropriate training to work with students with special needs, including English language learners and students with disabilities. For English language learners, this requires recruiting administrative and instructional staff who are linguistically and culturally competent and providing training in bilingual and English-as-a-second-language methodologies.¹⁰⁸ For students with disabilities, this requires recruiting and training more administrative and instructional staff who have expertise and experience with inclusion settings.

Facilities Improvement and Expansion

To date, the state has relied on communities to cobble together pre-K slots in local public schools and community programs, which often has resulted in children being taught in substandard facilities. Many classrooms, in both public schools and community settings, need renovation and repair. Some are not age-appropriate or conducive to high-quality instruction.

Recommendation: The truly universal pre-K described in this report will require the state to expand the number of classrooms designed

¹⁰⁸ Committee for Hispanic Children and Families, *Latino Coalition for Early Care and Education Report: Building on Latino Children's Language and Culture*. Prepared by Luis Reyes, Krystal Reyes, Vanessa Ramos and Ursulina Ramirez (2008), www.chcfinc.org/policy/BuildingOnLatinoChildrensLanguageAndCultureReport.pdf

appropriately to serve three and four year old children. In some communities, this will require new facilities as well as renovation of existing ones. The state must require school districts to undertake or work with partners to undertake a facilities needs analysis to implement truly universal pre-K. Planning should take into account the availability of current capacity in both schools and community based settings, and incorporate plans for building pre-K capacity both in public school and community settings as a core part of its facilities planning and maintenance.

Transportation Aid

To implement truly universal pre-K, New York must expand its system of pupil transportation to include three and four year old children to ensure regular access to pre-K programs and to extended-day programs, comparable to that provided to K-12 students. As discussed in the preceding section, lack of funding for transportation has substantially hampered enrollment across the state.

Recommendation: Buses and other vehicles must meet the current federal safety standards for three and four year olds. This will require amendments to the education law to establish appropriate rules, standards, and specifications, as well as funding to ensure appropriate number of monitors, safety seats, and other child restraints.

Data Systems Expansion

A basic data infrastructure capturing information on children's progress, access to services, response to teaching strategies and interventions, and so on, is essential to producing better outcomes for children. The data can be used to inform instruction, address delays and problems, and keep individual children on track for success. Data can also guide effective policy, providing evidence to support best practices. New York State is in the

process of developing a statewide longitudinal data system to track and monitor student progress from entry into pre-K through entry into the workforce. However, early learning data has not yet been fully incorporated into this system.

Recommendation: The state must fully implement a pre-K-through-workforce-entry data infrastructure to support instruction, track children's progress, and identify effective strategies for promoting better learning outcomes. The Early Childhood Advisory Council (ECAC) has completed a detailed analysis of data currently available and needed in the early years, which can inform the process and be aligned with the K-12 data system.¹⁰⁹

Technical Assistance to Promote Effective School District Collaboration with Community-Based Programs

The original UPK legislation required local school districts to convene advisory boards to plan and launch pre-K services in their communities as part of a larger early education strategy. These partnerships offered important opportunities to identify local assets and needs and to expand pre-K services in a way that enhanced local early-learning opportunities and leveraged resources including federal and state funds for child care, Head Start, and other essential supportive services. However, unlike other states, New York provided no special funding for planning or start-up costs, leaving this to local leaders in the public school and early childhood community. Nonprofit groups, child-care resource and referral agencies, and advocacy coalitions worked to fill the funding and planning gap. With money from local and state foundations, they created handbooks, offered technical assistance, hosted forums, and produced reports and policy briefs to support UPK implementation.

¹⁰⁹ Early Childhood Advisory Council, *Building an Early Childhood Education Data System: A Proposal by the Data Development Work Group* (May 2013).

In 2007, state lawmakers eliminated the requirement that districts convene UPK advisory boards. The disappearance of these boards was a setback, leaving districts new to the pre-K effort with fewer opportunities for community engagement. Two recent reports have cited the lack of funding and technical assistance during the planning stage as barriers to further UPK expansion.¹¹⁰

Recommendation: The state must create, and ensure sufficient funding to implement, a technical assistance strategy to promote effective partnerships and local collaborations between school districts and community providers. The strategy should include resources for providing district personnel technical assistance on funding and contractual requirements, assisting districts in providing community programs with fiscal and management support and in promoting collaborative relationships and activities to promote a smooth transition for children and their families between the preschool and the K-12 systems. In addition, the state and school districts must develop coherent strategies for ensuring that extended-day options are available for working families.

The new effort could work through a variety of mechanisms, including BOCES. It might, for example,

- create a team of coordinators to assist districts in promoting effective partnerships, professional development, and best practices;
- sponsor annual statewide meetings on collaboration across systems; and
- establish incentives to spur more effective collaborations between public schools and community programs.

Quality Assurance

Effective education practice calls for a continuous quality improvement and assurance strategy that links standards and classroom practice. New York State has taken a number of steps in this direction. It has adopted pre-K standards linked to the Common Core and Early Learning Guidelines and worked with experts across the state to develop a research-based quality rating and improvement system that sets statewide standards for program quality in all early childhood settings for programs serving children from birth to kindergarten. In addition, UPK programs are expected to assess individual children's progress throughout the year.

Recommendation: The state must fully implement and ensure sufficient funding for an intentional, uniform approach to quality assurance for all early education settings. Specifically, the state should take the next steps in implementing a quality rating and improvement system statewide.¹¹¹ For pre-K programs, the master teacher system should be a part of this continuous improvement effort.

Ongoing Program Evaluation

Though some local districts, including New York City, have undertaken local program assessments, there have been no formal, statewide evaluations of the nearly 16-year-old UPK program. New York State can benefit from research strategies developed to determine the effectiveness of pre-K programs in New Jersey, Oklahoma, Maryland, and other states.

Recommendation: The state should develop and implement a multi-dimensional strategy for ongoing evaluation of the effectiveness of its pre-K program. Along with ongoing program review that can assess best practices and provide recommendations for continuous quality improvement, the evaluation strategy should include longitudinal studies of child outcomes.

¹¹⁰ See McCabe et al, *Universal Pre-Kindergarten, Early Care and Education in Rural New York*, <http://www.ny ruralschools.org/downloads/REAC%20Policy%20Brief.pdf> and Early Years Institute report, *Windows of Opportunity*, www.eyi.org/data/prekreport2009.pdf See also Winning Beginnings, New York, *Strengthening the Pre-K Investment*, p. 21.

¹¹¹ For more information, see www.qualitystarsny.org

CONCLUSION

Providing a high-quality early childhood education is vital if we are to reach our state and national goals of educational equity and excellence, overcome achievement gaps and guarantee our nation's continued economic competitiveness and the viability of our democratic system. The federal government, policy leaders in states throughout the country, and the courts are increasingly recognizing this reality. New York State is poised to be a national leader in implementing a truly

universal pre-K system for all of our state's three and four year olds, the longstanding vision of Regents and the legislature. To make the vision a reality, however, will require a rights-based approach that integrates prekindergarten into the system for financing K-12 education and provides sufficient investment in the infrastructure needed to ensure a high-quality programs in all prekindergarten settings.

APPENDIX

SUMMARY OF RECENT RESEARCH ON THE BENEFITS OF PRE-K PROGRAMS

I. EFFECTS ON CHILD OUTCOMES

Bagnato, Stephen J., Jennifer Salaway, and Hoi Suen. *Pre-K Counts in Pennsylvania for Youngsters' Early School Success: Authentic Outcomes for an Innovative Prevention and Promotion Initiative*. Pittsburgh, PA: Early Childhood Partnerships, 2009. http://www.earlychildhoodpartnerships.org/Attachments_NEWS/SPECS%20fo%20PKC%20EXSUM--Single%20Page%20Print%20Version--FINAL1.pdf

The Pennsylvania Pre-K Counts program serves 10,000 children across the state through the development of a network of schools and support infrastructure. This evaluation of its effects found a 20% reduction in number of children classified as developmentally delayed and at-risk. Participating children were also found to be better academically prepared than the national norms and showed drastically reduced rates of assignment to special education.

Barnett, W. Steven, Kwanghee Jung, Min-Jong Youn, and Ellen C. Frede. *Abbott Preschool Program Longitudinal Effects Study: Fifth Grade Follow-Up*. NIEER, 2013. <http://www.first5kids.org/sites/default/files/2129.pdf>

This study of the prekindergarten program established in New Jersey's disadvantaged "Abbott" districts finds benefits in all 31 served communities. In addition to lowering the rate of referral to special education and grade retention, participation in one year of prekindergarten reduced the achievement gap by 10-20%, 20-40% for two-year participants. These gains are persistent up to the fifth grade, the most recent year measured. These gains can be expected to continue to grow because program quality has continued to improve in the years since the participation of the study cohort.

Belfield, Clive R., and Henry M. Levin. "Educational Interventions to Raise High School Graduation Rates." In *The Price We Pay: Economic and Social Consequences of Inadequate Education*, edited by Clive Belfield and Henry M. Levin, 177-199. Brookings Institution Press, 2007.

In this chapter of their book on educational inadequacy, the authors undertake a comparative analysis of multiple types of interventions to raise high school graduation rates. They find that prekindergarten intervention programs show a notable and consistent capacity to raise graduation rates for children growing up in poverty. In an area where most interventions fail to deliver measurable results, prekindergarten is among the most powerful and cost-effective ways to accomplish this goal.

Camilli, Gregory, Sadako Vargas, Sharon Ryan, and W. Steven Barnett. "Meta-Analysis of the Effects of Early Education Interventions on Cognitive and Social Development." *The Teachers College Record* 112, no. 3 (2010). http://spot.colorado.edu/~camillig/Papers/38_15440.pdf

In a meta-analysis of five decades' worth of research on the impact of prekindergarten programs, this study finds significant effects on cognitive outcomes, social skills and school progress in children who attend preschool before entering kindergarten. This analysis included 120 high-quality experimental and quasi-experimental studies, making it one of the most comprehensive studies to date. The consistent findings across these studies add considerable weight to the conclusion that preschool interventions yield real and enduring benefits to children.

Gormley Jr, William T., Ted Gayer, Deborah Phillips, and Brittany Dawson. "The Effects of Universal Pre-K on Cognitive Development." *Developmental Psychology* 41, no. 6 (2005): 872. <http://www.crocus.georgetown.edu/reports/oklahoma9z.pdf>

Oklahoma is one of a small number of states with an existing prekindergarten program that can reasonably be described as approaching universal access. The universality of the program complicates measurement of its impact, due to the difficulty of finding a comparable control group. To overcome this problem, this study uses a regression discontinuity design and finds significant improvements in prereading, prewriting, and prenumeracy skills for a diverse population of enrolled students.

Heckman, James J. "Skill Formation and the Economics of Investing in Disadvantaged Children." *Science* 312, no. 5782 (2006): 1900-1902.

Citing evidence from the fields of neuroscience and developmental psychology, this paper describes the foundational importance of early childhood experience on later development. Not only are development and learning hierarchical, with later learning dependent on the neural pathways created by prior experience, but cognitive, linguistic, social, and emotional competencies are interrelated. Consequently, programs that invest in creating these foundational competencies are the best way of preventing the deleterious social consequences of low educational attainment.

Henry, Gary T., Laura W. Henderson, Bentley D. Ponder, Craig S. Gordon, Andrew J. Mashburn, and Dana K. Rickman. Report of the Findings from the Early Childhood Study: 2001-02. Atlanta, GA: Andrew Young School of Policy Studies, Georgia State University, 2003. <http://131.96.2.68/publications/2003/earlychildhood.pdf>

A comparison of Head Start, private, and public prekindergarten programs in Georgia found that students of the universal public program outperformed their counterparts from private preschools and Head Start in several of the measured categories of academic readiness and in ratings by kindergarten teachers. These competitive, and in places superior, outcomes occur in spite of the socioeconomic advantages enjoyed by many students at private preschools.

HighScope Educational Research Foundation. *Lifetime Effects: The HighScope Perry Preschool Study Through Age 40*. HighScope Press, 2005.

The HighScope/Perry Preschool Study is one of the earliest and most authoritative studies of the long-lasting positive effects of quality preschool programs. Starting in 1962, this longitudinal study follows 123 children from poor families who participated in a high-quality preschool program. It finds large long-term academic, social, and societal benefits resulting from participation in the model program. Most notable are a 17% increase in high school graduation rates, increased lifetime earnings, and a 50% reduction in arrests.

New York State Education Department. *Evaluation of the New York State Experimental Prekindergarten Program*. Albany: The University of the State of New York, 1982.

This randomized study of New York State's own Experimental Pre-K program, the forerunner to Universal Pre-K, shows that children in full-day prekindergarten programs are more likely to meet reading and math standards and less likely to repeat a grade or be referred to special education than children in half-day programs.

Ramey, Craig T., and Sharon L. Ramey. "Early Learning and School Readiness: Can Early Intervention Make a Difference?" *Merrill-Palmer Quarterly* 50, no. 4 (2004): 471-491. <http://www.psy.cmu.edu/~sieglar/423-ramey04.pdf>

In a review of the many randomized controlled trials modeled after the influential Abecedarian Project (1972-1975) this article compiles the evidence of the impact that quality preschool and other early interventions can have on high-risk children from low-income families. Significant educational benefits are found in participants in Abecedarian and its imitators. These findings and their replication in many different locations show that the benefits of quality preschool to low-income children is not a statistical anomaly, but a reliable outcome of this kind of early intervention.

Reynolds, Arthur. *Success in Early Intervention: The Chicago Child-Parent Centers*. University of Nebraska Press, 2000.

This volume presents a longitudinal analysis of the Chicago Child-Parent Center Early Education Program, a large-scale intervention that targets children in poor neighborhoods for quality early childhood services at a reasonable cost. Starting in 1967, it provides two years of prekindergarten services to at-risk families and children in the form of preschool, parental support, extended time, and school-age support services. The long-term effects of the program include a reduction in remediation and assignment to special education, an increase in high school graduation rates, higher rates of employment, and lower instances of crime. This is accomplished in a publicly-run program that serves over 2000 children each year, for per-child cost that is a fraction of the cost of small-scale model programs.

Yoskikawa, Hirokazu, Christina Weiland, Jeanne Brooks-Gunn, Margaret R. Burchinal, Linda M. Espinosa, Jens Ludwig, Katherine A. Magnuson, Deborah Phillips, and Martha J. Zaslow. *Investing in Our Future: The Evidence Base on Preschool Education*. Society for Research in Child Development, 2013. <http://fcd-us.org/sites/default/files/Evidence%20Base%20on%20Preschool%20Education%20FINAL.pdf>

This comprehensive review of the evidence base for preschool education synthesizes the best available research on the subject. It concludes, among other things, that quality preschool programs are beneficial and cost-effective for both disadvantaged and middle-class children, that there are significant positive effects to a second year, that effects remain despite test-score convergence in early elementary school, and that there are measurable benefits from targeted comprehensive support services to disadvantaged children.

II. IMPORTANCE OF FULL-DAY PROGRAMS

Cryan, John R., Robert Sheehan, Jane Wiechel, Irene G. Bandy-Hedden. "Success Outcomes of Full-Day Kindergarten: More Positive Behavior and Increased Achievement in the Years After." *Early Childhood Research Quarterly* 7 no. 2 (1992): 187-203.

This retrospective look at children who attended prekindergarten programs of different durations finds that those who attended full-day prekindergarten were better prepared both academically and behaviorally than those who attended half-day programs. While reports from kindergarten teachers establish that all children who attended prekindergarten had levels of academic and behavioral preparedness in the acceptable range, they concluded that who attended full-day prekindergarten were noticeably better prepared than their half-day counterparts.

DeSiato, Donna J. Gilberti, *Does Prekindergarten Experience Influence Children's Subsequent Educational Development? A Study of Kindergarten Teachers' Perceptions and Students' Performance*. Teaching and Leadership – Dissertations. Paper 46, 2004. http://surface.syr.edu/tl_etd/46

This recent study of prekindergarten effects on school readiness from Syracuse showed that twice as many children who attend full-day prekindergarten enter kindergarten at the appropriate academic level compared with peers with half-day or no preschool experience. These findings were consistent across measures of educational readiness, subsequent development, and literacy.

Robin, Kenneth B., Ellen C. Frede, and William S. Barnett. *Is More Better? The Effects of Full-Day vs. Half Day Preschool on Early School Achievement*. NIEER, 2006. <http://nieer.org/resources/research/IsMoreBetter.pdf>

This research by the National Institute for Early Education Research (NIEER) indicates that, by the spring kindergarten assessment, children in the extended duration (full-day) prekindergarten program improve 11 to 12 standard points on vocabulary and math skills, in contrast with six to seven point gains for children in the half-day control group programs. It finds that the magnitude of difference is consistent with findings in other studies that measure differences between types of prekindergarten programs.

III. BENEFITS OF UNIVERSAL VERSUS TARGETED PREKINDERGARTEN

Barnett, W. Steven, and Donald J. Yarosz. *Who Goes to Preschool and Why Does It Matter?* National Institute for Early Education Research, Rutgers University, 2007. <http://www.nieer.org/resources/factsheets/18.pdf>

According to this summary of analysis of the 2005 National Household Education Survey, in spite of nearly half a century of targeted preschool programs for the poor, this approach has failed to come close to enrolling all poor children. Less than half of three and four year old children living in poverty are enrolled in preschool. The numbers for four year olds alone, at whom a majority of targeted preschool efforts are aimed, is just 60%.

Barnett, W. Steven, Megan E. Carolan, Jen Fitzgerald, and James H. Squires. *The State of Preschool 2012: State Preschool Yearbook*. National Institute for Early Education Research, Rutgers University, 2012. <http://nieer.org/sites/nieer/files/yearbook2012.pdf>

Existing programs that offer universal access to preschool to all children, such as those of Oklahoma and the District of Columbia, have managed to achieve enrollment rates that approach and exceed 90% of four year olds when counting public prekindergarten and Head Start. Other public preschool programs in Vermont, Wisconsin, West Virginia, and Texas have improved rates of enrollment by expanding program eligibility beyond poverty targeting.

Lamy, Cynthia, W. Steven Barnett, and Kwangee Jung. *The Effects of Oklahoma's Early Childhood Four-Year-Old Program on Young Children's School Readiness*. National Institute for Early Education Research, Rutgers University, 2005. <http://nieer.org/resources/research/multistate/ok.pdf>

This large-scale study of Oklahoma's universal Early Childhood Four-Year-Old Program used a regression discontinuity design to measure the impact of the program on the academic readiness of 838 children from across the state. It finds that children enrolled in the public prekindergarten program showed significantly more growth in vocabulary, math skills and pre-reading skills. Enrolled children were found to experience 28%, 44% and 88% more growth in each of the respective categories over the course of the year.

Weiland, Christina, and Hirokazu Yoshikawa. "Impacts of a Prekindergarten Program on Children's Mathematics, Language, Literacy, Executive Function, and Emotional Skills." *Child Development* (2013); DOI: 10.1111/cdev. 12099.

This recent study of Boston Public Schools' universal preschool program showed gains for all children regardless of income group or ethnicity. Moderate to large gains in math, language, and literacy were seen, in addition to improvements in noncognitive areas such as behavioral regulation and emotional development. The regression discontinuity measures gains above and beyond out-of-school growth for students of the same age.

IV. ECONOMIC RETURN ON INVESTMENT

Belfield, Clive R. *Early Childhood Education: How Important Are the Cost Savings to the School System?* New York: Columbia University, Teachers College, 2004. <http://www.plan4preschool.org/documents/ny-cost-saving.pdf>

This study calculates the cost savings to the State of New York from early childhood education. Using conservative estimates, the savings to the K-12 system alone are predicted to offset 41-62% of the initial investment in early childhood education. The total medium-term savings to the state are predicted to be in the range of \$2,591–\$9,547 per child.

Heckman, James J., and Dimitriy V. Masterov. *The Productivity Argument for Investing in Young Children*. NBER Working Paper No. 13016, 2007. http://jenni.uchicago.edu/human-inequality/papers/Heckman_final_all_wp_2007-0322c_jsb.pdf

This paper analyzes potential for prekindergarten interventions to reduce inequality and increase productivity without tradeoffs in economic efficiency. It finds that the disproportionate benefits experienced by disadvantaged groups, particularly African-American males, make for a compelling argument in favor of investment in preschool programs.

Heckman, James J., Soeng H. Moon, Rodrigo Pinto, Peter A. Savelyev, and Adam Yavitz. *The Rate of Return to the HighScope Perry Preschool Program*. NBER Working Paper, 2010. http://www.nber.org/papers/w15471.pdf?new_window=1

In this study of the return on investment of the High/Scope Perry Preschool Project, a more conservative methodology is used to account for imperfections in the random assignment process and assumptions made regarding the calculation of returns. This “worst-case” estimation still finds annual societal returns of 7-10%, which are larger than those of the vast majority of interventions.

HighScope Educational Research Foundation. *Benefits, Costs, and Explanation of the High/Scope Perry Preschool Program*. Paper presented at the Meeting of the Society for Research in Child Development, Tampa, Florida, 2003. http://www.highscope.org/file/Research/PerryProject/Perry SRCD_2003.pdf

Taking advantage of the exceptionally complete data available on participants in the High/Scope Perry Preschool Project, this study has concluded that the total benefits to society are seven times larger than the cost of the program. These estimates solely measure societal benefits, and do not include the numerous benefits to the individual, such as increased educational attainment, earnings, family stability, and reduced likelihood of criminality.

Lynch, Rogert G. *Exceptional Returns: Economic, Fiscal, and Social Benefits of Investment in Early Childhood Development*. Washington DC: The Economic Policy Institute, 2004.

This book provides a comprehensive look at the returns on investments in universal access to high quality preschool at the national level. It finds that despite the significant upfront costs of such a large-scale investment, the medium and long-term returns to government budgets and society at-large would create a net-positive fiscal impact of hundreds of billions of dollars.

Reynolds, Arthur J., Judy A. Temple, Barry A.B. White, Suh-Ruu Ou, and Dylan L. Robertson. “Age 26 Cost-Benefit Analysis of the Child-Parent Center Early Education Program.” *Childhood Development* 82 no.1 (2001): 379-404.

According to this economic analysis of the Chicago Child-Parent Early Education Program, the combined benefits and savings generated by participation are substantial, generating over ten dollars for every dollar spent on preschool by the age of 26. These benefits take the form of increased individual earnings, increased tax revenue, and reduced costs to the criminal justice system.

Schweinhart, Lawrence J., Zongping Xiang, Marijata Daniel-Echols, Kimberly Browning, and Tomoko Wakabayashi. *Michigan Great Start Readiness Program Evaluation 2012: High School Graduation and Grade Retention Findings*. State of Michigan Department of Education, 2012. <http://bridgemi.com/wp-content/uploads/2012/06/GSRP-evaluation-may-21-12.pdf>

Among its many other effects on cognitive development, behavior, and academic achievement, Michigan’s Great Start Readiness Program has virtually eliminated the difference in grade retention between the high-poverty children served by its prekindergarten and the general population. This difference alone yields savings that are equivalent to 43% of the cost of this targeted prekindergarten program.



To download a copy of the full report, *Making Prekindergarten Truly Universal in New York: A Statewide Roadmap*,

visit: www.equitycampaign.org or www.ccinyc.org.
Or contact wolff@tc.edu or bholcomb@ccinyc.org.

A separate cost analysis of this plan has been commissioned and is available upon request.



The Center for Children's Initiatives (CCI) champions the right of all children to start life with the best possible foundation of care, health and learning. Realizing the long term benefits – for children, for families and for our society – CCI works to ensure investments in quality and supports for working families to give all of our children the opportunity for a bright future.



TEACHERS COLLEGE COLUMBIA UNIVERSITY
525 W. 120th St. Box 219 New York, N.Y. 10027
www.equitycampaign.org
(646) 745-8282

The Campaign for Educational Equity (CEE) is a nonprofit research and policy center at Teachers College, Columbia University, which seeks to advance the right of all children to meaningful educational opportunity. CEE works to define and secure the full range of resources, supports, and services necessary to provide this opportunity to disadvantaged children.