

THOMAS P. DINAPOLI
COMPTROLLER



110 STATE STREET
ALBANY, NEW YORK 12236

STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

July 29, 2019

Ms. MaryEllen Elia
Commissioner
State Education Department
State Education Building
89 Washington Avenue
Albany, NY 12234

Ms. Kathleen Federico
Executive Director
Early Childhood Learning Center of Greene County
P.O. Box 399
2395 Route 23B
South Cairo, NY 12482

Re: Compliance With the Reimbursable
Cost Manual
Report 2018-S-67

Dear Ms. Elia and Ms. Federico:

Pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution; Article II, Section 8 of the State Finance Law; and Section 4410-c of the State Education Law, we conducted an audit of the expenses submitted by Early Childhood Learning Center of Greene County (ECLC) to the State Education Department (SED) for purposes of establishing the preschool special education tuition reimbursement rates used to bill public funding sources that are supported by State aid payments.

Background

ECLC is an SED-approved, not-for-profit private school located in Greene County. ECLC provides preschool special education services to children with disabilities who are between three and five years of age. For the fiscal year ended June 30, 2015, ECLC operated two rate-based preschool special education programs: Preschool Special Education Itinerant Teacher Services and Preschool Integrated Special Class – over 2.5 hours per day (collectively referred to as the Programs). During the 2014-15 school year, ECLC provided special education program services to 77 children with developmental disabilities from six school districts located in Greene County. ECLC also offers Head Start program services.

Greene County pays tuition to ECLC for special education services rendered using reimbursement rates set by SED. The State, in turn, reimburses the county 59.5 percent of the tuition paid. SED sets the special education tuition rates based on financial information, including costs, reported by ECLC on the annual Consolidated Fiscal Report (CFR) that it submits to SED. Costs reported on the CFR must comply fully with the guidelines in SED's Reimbursable Cost Manual (RCM) regarding the eligibility of costs

and documentation requirements, and must meet the reporting requirements prescribed by the Consolidated Fiscal Reporting and Claiming Manual (CFR Manual). For the fiscal year ended June 30, 2015, ECLC reported \$547,761 in reimbursable costs for the Programs on its CFR.

Results of Audit

According to the RCM, costs reported on the CFR are considered for reimbursement if they are reasonable, necessary, directly related to the special education program, and adequately documented. For the fiscal year ended June 30, 2015, we identified \$12,843 in other than personal service costs that did not comply with the RCM's requirements for reimbursement.

Undocumented Services

According to the RCM, costs associated with retainers for legal, accounting, or consulting services are not reimbursable unless the fee represents payments for actual documented reimbursable services rendered. For the fiscal year ended June 30, 2015, we identified \$12,198 in costs reported by ECLC on the CFR that were ineligible for reimbursement because they were not in compliance with these requirements. The undocumented costs included:

- \$6,773 in consulting fees paid to the former ECLC Executive Director that did not have supporting documentation identifying the services provided; and
- \$5,425 in legal fees that did not have supporting documentation identifying the services provided.

Other Ineligible Costs

According to the RCM, costs associated with non-audit services provided by a registered public accounting firm or any person associated with that firm, during or within 365 days of required audit work (prior to the beginning of the fiscal period being audited or after the date the audit report was issued for the audit period), are not reimbursable. Second, the cost of building construction, acquisition, renovation, or equipment funded by a government grant or other public funding cannot be reimbursed again through depreciation of these costs. Finally, costs for advertising for the purpose of recruiting students into programs that would mislead parents to believe their children can receive – at no cost to them – day care services or any and all services the agency has to offer, are not reimbursable. We identified \$645 in costs that were ineligible for reimbursement because they were not in compliance with these RCM requirements, as follows:

- \$333 for preparation of Internal Revenue Service tax forms;
- \$288 in depreciation expenses related to assets previously funded by Head Start; and
- \$24 for advertisements that did not meet the guidelines for preschool program advertising.

Recommendations

To SED:

1. Review the disallowances identified by our audit and, if warranted, make the necessary adjustments to the costs reported on ECLC's CFR and to ECLC's tuition reimbursement rates.
2. Remind ECLC officials of the pertinent SED guidelines that relate to the deficiencies we identified.

To ECLC:

3. Ensure that all costs reported on annual CFRs fully comply with SED's requirements, and communicate with SED to obtain clarification as needed.

Audit Scope, Objective, and Methodology

The objective of our audit was to determine whether costs reported on the CFR were allowable, properly calculated, and adequately documented in accordance with applicable SED requirements. We audited the costs that ECLC reported on its CFR for the fiscal year ended June 30, 2015.

To accomplish our objective and assess internal controls related to our objective, we reviewed the RCM that applied to the year we examined as well as the CFR Manual and related appendices. We interviewed ECLC officials to obtain an understanding of their practices for reporting costs on the CFR. We evaluated ECLC's internal controls as they related to costs it reported on the CFR. We reviewed ECLC's CFR for the year ended June 30, 2015 as well as relevant financial records for the audit period. In addition, we selected a judgmental sample of reported costs to determine whether they were supported and reimbursable. Specifically, we reviewed costs that were considered high risk (based on prior audit report findings) and/or were higher dollar value transactions, such as employee's time allocated between programs. Our samples were based on the relative materiality of the various categories of costs reported and their associated levels of risk. Our samples were not designed to be projected to the entire population of reported costs.

We conducted our performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

In addition to being the State Auditor, the Comptroller performs certain other constitutionally and statutorily mandated duties as the chief fiscal officer of New York State. These include operating the State's accounting system; preparing the State's financial statements; and approving State contracts, refunds, and other payments. In addition, the Comptroller appoints members to certain boards, commissions, and public

authorities, some of whom have minority voting rights. These duties may be considered management functions for purposes of evaluating organizational independence under generally accepted government auditing standards. In our opinion, these functions do not affect our ability to conduct independent audits of program performance.

Reporting Requirements

We provided a draft copy of this report to SED and ECLC officials for their review and formal comment. We considered their comments in preparing this report and have included them in their entirety at the end of this report. In SED's response, officials agreed with the audit recommendations and indicated the actions they would take to address them. In ECLC's response, officials acknowledged that the depreciation and advertising expenses were improperly reported on the CFR, but disagreed with the audit's other findings. Our responses to those ECLC comments are included in the report's State Comptroller's Comments.

Within 90 days of the final release of this report, as required by Section 170 of the Executive Law, the Commissioner of Education shall report to the Governor, the State Comptroller, and the leaders of the Legislature and fiscal committees, advising what steps were taken to implement the recommendations contained herein, and if the recommendations were not implemented, the reasons why.

Major contributors to this report were Ed Durocher, Laurie Burns, Michele Turmel, Zachary Barach, and Anthony Calabrese.

We would like to thank the management and staff of SED and ECLC for the courtesies and cooperation extended to our auditors during this review.

Sincerely,

Andrea Inman
Audit Director

cc: David Sears, State Education Department
James Kampf, State Education Department
Phyllis Morris, State Education Department
Traci Coleman, State Education Department
Brian Zawistowski, State Education Department

Agency Comments – State Education Department



THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK / ALBANY, NY 12234

David Sears
Director, Office of Audit Services
Tel. (518) 473-4516
E-mail: David.Sears@nysed.gov

July 17, 2017

Ms. Andrea Inman
Audit Director
Office of the State Comptroller
Division of State Government Accountability
110 State Street – 11th Floor
Albany, NY 12236

Dear Ms. Inman:

The following is the New York State Education Department's (SED) response to the draft audit report, 2018-S-67, Compliance With the Reimbursable Cost Manual - Early Childhood Learning Center of Greene County (ECLC).

Recommendation 1:

"Review the disallowances identified by our audit and, if warranted, make the necessary adjustments to the costs reported on ECLC's CFR and to ECLC's tuition reimbursement rates."

We agree with this recommendation. SED will review the recommended disallowances as noted in the report and make adjustments to the reported costs to recover any overpayments, as appropriate, by recalculating tuition rates.

Recommendation 2:

"Remind ECLC officials of the pertinent SED guidelines that relate to the deficiencies we identified."

We agree with this recommendation. SED will continue to provide technical assistance whenever requested and will strongly recommend the ECLC officials avail themselves of our assistance to help them better understand the rules for cost reporting and criteria for cost reimbursement as presented in the CFR, Regulation and the Reimbursable Cost Manual (RCM). Furthermore, SED will alert ECLC of online CFR training that is available on SED's webpage. SED recommends that all individuals signing the CFR certification statements, namely the Executive Director and Certified Public Accountant, complete this training. This training is a requirement for preschool special education providers upon approval and reapproval.

If you have any questions regarding this response, please contact James Kampf, Supervising Accountant, at (518) 474-3227.

Sincerely,

A handwritten signature in cursive script that reads "David Sears". The signature is written in black ink and is positioned to the right of the word "Sincerely,".

David Sears
Director, Office of Audit Services

c: Phyllis Morris
Christopher Suriano
David Sears
Suzanne Bolling
Traci Coleman
Brian Zawistowski
James Kampf

Agency Comments – Early Childhood Learning Center of Greene County

PO Box 399
South Cairo, NY 12482



(518) 622-8382
(Fax) 622-2531

July 9, 2019

Andrea Inman
Office of the State Comptroller
Division of State Government Accountability
110 State Street – 11th Floor
Albany, NY 12236-0001

**RE: Compliance with the Reimbursable Cost Manual
Report 2018-S-67**

Dear Ms. Inman:

This letter represents Early Childhood Learning Center of Greene County (ECLC) response to Report 2018-S-67 for the audit conducted by the Office of the State Comptroller on Compliance with the Reimbursable Cost Manual. The audit period covered July 1, 2014 through July 30, 2015.

\$6,773 Undocumented Services:

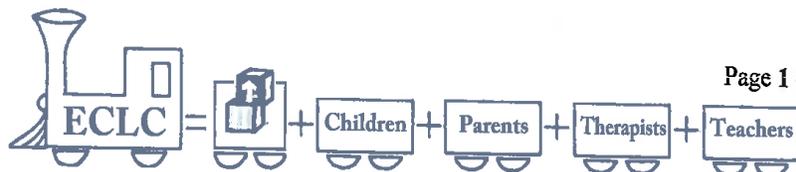
ECLC disagrees with the finding for the amount charged for consulting services that did not have supporting documentation. The consulting services for the former Executive Director were for actual and appropriate documented services as required by the Reimbursable Cost Manual (RCM).

The 2014-15 RCM, Section III. 1.C. Consultants (pages 49-50) states that adequate documentation includes a written contract that includes the nature of service to be provided, the charge per day and the service dates. All payments must be supported by itemized invoices which indicated the specific services actually provided and for each service, the dates, number of hours provided, the fee per hour and the total amount charged.

The contract that was provided which was titled "Supervision of Special Education Services" included the nature of the service provided (six items), the charge per day, the effective date of the contract as required by the RCM.

The invoices provided by the former Executive Director, included that she provided "Supervision of Special Education services" referencing the services stated in her contracted titled "Supervision of Special Education Services, which did indicate the services that were provide. These invoices also included the dates of services and the

[Comment 1](#)



Page 1 of 3

daily charge, as spelled out in her contract. Since the contract, as required by the RCM, had a daily rate the invoices also included a daily rate instead of hours and hourly rate.

In the example that was provided by the auditor at our closing phone call, she mentioned that the former Executive Director did not have time summaries to document her work product like our "other contractors". The "other contractors" that she referenced in her comment were "Direct Care Consultant" which included time summaries by child which is required by the RCM page 50 as well as our county to actually bill these services. The former Executive Director's contract was for "Supervision of Special Education Services" not Direct Care services to children, so the time summaries were not required with her invoices.

ECLC believes that the services provided by the former Executive Director and the documentation provided are in compliance with the RCM. ECLC provided to the Auditor's a written contract, which stated the nature of service and invoices stating that she provided "Supervision of Special Education Services", and the dates when those services were provided at the daily rate, which agreed to her contract. The invoices were also approved by the ECLC director.

\$5,425 Undocumented Services:

ECLC disagree with the finding that \$5,425.00 in legal fees did not have appropriate documentation. The Early Childhood Learning Center has a flat fee engagement arrangement for legal services that is much more cost effective than paying for those same legal services on an hourly-rated basis. The legal services rendered are for labor-related legal issues, including collective bargaining with Local 200 United, handling of grievances filed by Local 200 United, disciplinary matters, impact bargaining over the scheduling of hours of work, evaluations, health and safety issues, and health insurance benefits. The flat fee engagement also includes review of personnel policies and procedures, as well as compliance with labor-related statutory requirements, including but not limited to, the requirements of the New York State Not-for-Profit Revitalization Act. If the same legal services were billed on an hourly-rated basis, the cost to the Early Childhood Learning Center would have been far in excess of the flat fee engagement.

[Comment 1](#)

Other Ineligible Costs: We disagree with the finding, please see response below.

\$333 for preparation of Internal Revenue service tax forms

Page 25 of the 2014-15 Reimbursable Cost Manual Letter F, talks about non-auditing services and provides a list of services that are not reimbursable. These services are a list of services that are interpreted as services that can result in the audit firm not being independent and therefore unable to perform the audit of the financial statements or perform the attest service relating the CFR. The list does not specifically include preparation of the 990. However, the last item on the list is "any other service that the Board of the provider does not approve as reasonable and necessary, consistent with

[Comment 2](#)

applicable requirements and this manual. When you review "Section 14 Consultants" in its entirety, you see that Consultants can include independent accountants. Cost of consultants' services are reimbursable provided that they meet the requirements outlined in this section. When this section is reviewed it would appear that ECLC evaluated the services, approved the services, and included them in the RFP process as required. In addition, when you review Section III. 1. C. consultants- it is clear that ECLC maintained the required records relating to these services.

As part of our audit process, we are required to evaluate all non audit services to determine if they create significant threats to independence requiring the application of safeguards that reduce the threat to an acceptable level. Included in our assessment is whether the preparation of the tax return resulted in a significant threat. We have evaluated this and concluded that there are safeguards in place to reduce the threat to an acceptable level.

It is standard for audit firms to prepare the tax returns for their clients from information provided by management. The reason for this is varied but includes, efficiency of having same firm who is familiar with the organization providing this service, employees not having the expertise to fill out all of the form, clients not having the software to prepare the 990 for electronic filing.

\$288 for depreciation expense:

We agree to the finding in depreciation, it was reported in error.

\$24 for advertising:

We agree to the finding; it was a mis posting.

Thank you for providing ECLC the opportunity to review and respond to Report 2018-S-67. If you have any questions, please feel free to contact me at (518) 622-8382.

Very truly yours,



Kathleen Federico
ECLC Director

KF/dp

State Comptroller's Comments

1. Contrary to ECLC's assertions, officials failed to provide sufficient detail for the services provided by the former Executive Director (\$6,773) or for the legal services (\$5,425) in question. The RCM specifies that "all payments must be supported by itemized invoices which indicate the specific services actually provided; and for each service, the date(s), number of hours provided, the fee per hour; and the total amount charged." While the contract with the former Executive Director outlined various services to be performed, the invoices did not outline the specific services provided or number of hours. For instance, the invoices generally stated, "Supervision of Special Education Services" and provided dates of service and daily charges. With regard to the legal services, we do not dispute that a flat-fee arrangement may be more cost effective for legal services; however, invoices provided indicated only that those services were for labor relations for the year, payable monthly. Absent details of specific services actually provided, we maintain that the costs were not properly supported and, therefore, were not reimbursable under the provisions of the RCM.
2. The RCM clearly states that costs associated with non-audit services provided by a registered public accounting firm or any person associated with that firm, during or within 365 days of required audit work, are not reimbursable. We maintain that preparation of ECLC's IRS Form 990 was a non-audit-related service that was performed within 365 days of audit work and was performed by the same firm, and, as such, was not reimbursable under the provisions of the RCM.