



New York State Comptroller  
**THOMAS P. DiNAPOLI**

# **Block Institute School – Compliance With the Reimbursable Cost Manual**

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State Education Department

Report 2018-S-69 | December 2019

Spotlight on Education



# Audit Highlights

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## Objective

To determine whether the costs reported by Block Institute School (Block) on its Consolidated Fiscal Reports (CFRs) were reasonable, necessary, directly related to the special education programs, and sufficiently documented pursuant to the State Education Department's (SED) Reimbursable Cost Manual (RCM) and the Consolidated Fiscal Reporting and Claiming Manual (CFR Manual). The audit focused primarily on expenses claimed on Block's CFR for the fiscal year ended June 30, 2017 and certain expenses claimed on its CFRs for the two fiscal years ended June 30, 2016.

## About the Program

Block is a New York City-based not-for-profit organization authorized by SED to provide preschool Special Class and preschool Special Class in an Integrated Setting programs to children with disabilities who are between the ages of three and five years. For purposes of this report, these programs are collectively referred to as the SED preschool cost-based programs. Block also operated two other SED-approved preschool special education programs: Evaluations and 1:1 Aides. However, payments for services under these programs are based on fixed fees. Block operated several other programs, including SED's School Age Special Class; Adult Day, Clinical, and Residential Services funded by the Office for People With Developmental Disabilities; and a federal grant program, Pals with Paws. Block and its affiliates<sup>1</sup> operate from three locations in Brooklyn and share the same executive management and board of directors. During the 2016-17 school year, Block served approximately 287 students in its SED preschool cost-based programs.

The New York City Department of Education (DOE) refers students to Block and pays for its services using rates established by SED. The rates are based on the financial information Block reports to SED on its annual CFRs. SED reimburses DOE 59.5 percent of the statutory rate it pays Block. For the three fiscal years ended June 30, 2017, Block reported approximately \$22.4 million in reimbursable costs for its SED preschool cost-based programs. To be eligible for reimbursement, reported costs must comply with the requirements in the RCM and the CFR Manual.

## Key Findings

For the three fiscal years ended June 30, 2017, we identified \$1,761,867 in reported costs that did not comply with the requirements in the RCM and the CFR Manual, as follows:

- \$922,765 in inadequately documented compensation costs for teaching staff. Block officials did not provide documentation to show that these employees worked the hours Block reported for them for the SED preschool cost-based programs.
- \$588,874 in inadequately documented other than personal service costs, including

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<sup>1</sup> Block Institute, Inc.; Brooklyn Community Mental Retardation Services Company, Inc.; and the Brooklyn Hebrew School for Retarded Children.

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\$32,682 for legal expenses that were not supported by invoices.

- \$198,689 in other ineligible costs, including \$98,347 in excess executive compensation and \$38,283 in expenses that were not related to the SED preschool cost-based programs.
- \$51,539 in overallocated nurse compensation costs.

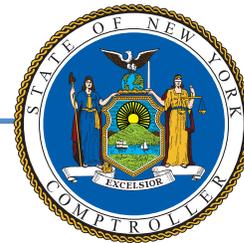
## Key Recommendations

### To SED:

- Review the recommended disallowances identified by our audit and make the appropriate adjustments to Block's CFRs and tuition reimbursement rates, as warranted.
- Remind Block officials of the pertinent SED requirements that relate to the deficiencies we identified.

### To Block:

- Ensure that all costs reported on annual CFRs fully comply with SED's reimbursement requirements.



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## Office of the State Comptroller Division of State Government Accountability

December 31, 2019

Ms. Shannon Tahoe  
Interim Commissioner  
State Education Department  
State Education Building  
89 Washington Avenue  
Albany, NY 12234

Dr. Scott Barkin  
Executive Director  
Block Institute School  
376 Bay 44th Street  
Brooklyn, NY 11214

Dear Ms. Tahoe and Dr. Barkin:

The Office of the State Comptroller is committed to helping State agencies, public authorities, and local government agencies manage government resources efficiently and effectively and, by so doing, providing accountability for tax dollars spent to support government-funded services and operations. The Comptroller oversees the fiscal affairs of State agencies, public authorities, and local government agencies, as well as their compliance with relevant statutes and their observance of good business practices. This fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving operations. Audits can also identify strategies for reducing costs and strengthening controls that are intended to safeguard assets.

Following is a report, entitled *Compliance With the Reimbursable Cost Manual*, of our audit of the expenses submitted by Block Institute School to the State Education Department for the purposes of establishing tuition reimbursement rates. The audit was performed 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.

This audit's results and recommendations are resources for you to use in effectively managing your operations and in meeting the expectations of taxpayers. If you have any questions about this report, please feel free to contact us.

Respectfully submitted,

*Division of State Government Accountability*

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# Glossary of Terms

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<b>Term</b>	<b>Description</b>	<b>Identifier</b>
Block	Block Institute School	<i>Service Provider</i>
CFR	Consolidated Fiscal Report	<i>Key Term</i>
CFR Manual	Consolidated Fiscal Reporting and Claiming Manual	<i>Policy</i>
DOE	New York City Department of Education	<i>Agency</i>
IDEA	Individuals with Disabilities Act	<i>Law</i>
IEP	Individualized Education Program	<i>Key Term</i>
OPWDD	Office for People With Developmental Disabilities	<i>Agency</i>
OTPS	Other than personal service	<i>Key Term</i>
RCM	Reimbursable Cost Manual	<i>Policy</i>
SED	State Education Department	<i>Auditee</i>

# Background

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Block Institute School (Block) is a New York City-based not-for-profit organization authorized by the State Education Department (SED) to provide preschool Special Class and preschool Special Class in an Integrated Setting programs to children with disabilities who are between the ages of three and five years. For purposes of this report, these programs are collectively referred to as the SED preschool cost-based programs. Block and its affiliates<sup>1</sup> operate from three locations in Brooklyn and share the same executive management and board of directors. During the 2016-17 school year, Block served approximately 287 students in its SED preschool cost-based programs.

In addition to the SED preschool cost-based programs, Block operated two other SED-approved preschool special education programs: Evaluations and 1:1 Aides. However, payments for services under these programs are based on fixed fees. Block also operated several other programs, including SED's School Age Special Class; Adult Day, Clinical, and Residential Services funded by the Office for People With Developmental Disabilities (OPWDD); and a federal grant program, Pals with Paws.

The New York City Department of Education (DOE) refers students to Block based on clinical evaluations and pays for its services using rates established by SED. These rates are based on the financial information Block reports to SED on its annual Consolidated Fiscal Reports (CFRs). To qualify for reimbursement, Block's expenses must comply with the criteria in SED's Reimbursable Cost Manual (RCM) and the Consolidated Fiscal Reporting and Claiming Manual (CFR Manual), which provide guidance to special education providers on the eligibility of reimbursable costs, the documentation necessary to support these costs, and cost allocation requirements for expenses relating to multiple programs and entities. The State reimburses DOE 59.5 percent of the statutory rate it pays to Block.

For the three fiscal years ended June 30, 2017, Block reported approximately \$22.4 million in reimbursable costs for the SED preschool cost-based programs. This audit focused primarily on expenses claimed on Block's CFR for the fiscal year ended June 30, 2017 and certain expenses claimed on its CFRs for the two fiscal years ended June 30, 2016.

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<sup>1</sup> Block Institute, Inc.; Brooklyn Community Mental Retardation Services Company, Inc.; and the Brooklyn Hebrew School for Retarded Children.

# Audit Findings and Recommendations

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According to the RCM, costs will be considered for reimbursement provided they are reasonable, necessary, directly related to the special education program, and sufficiently documented. For the three fiscal years ended June 30, 2017, we identified \$1,761,867 in reported costs that did not comply with SED's requirements for reimbursement. These ineligible costs included \$1,129,688 in personal service costs and \$632,179 in other than personal service (OTPS) costs (see Exhibit at the end of this report).

Strong internal controls are critical to the overall health of an organization. These controls help to safeguard assets and ensure reliable financial reporting and compliance with regulatory requirements. We attributed the significant number of disallowances detailed in this report to weaknesses in Block's internal controls over its compliance with SED's requirements. Block officials advised that its operations had experienced management changes in the past, including certain employees involved in their fiscal operations. As a result, certain documents could not be found and the reasons for certain prior actions could not be explained.

## Personal Service Costs

Personal service costs, which include all salaries and fringe benefits paid or accrued to employees on the service provider's payroll, must be reported on the CFR as either direct care costs (e.g., teachers' salaries) or non-direct care costs (e.g., administrators' salaries). For the three fiscal years ended June 30, 2017, Block reported \$17,627,899 in personal service costs for the SED preschool cost-based programs. We identified \$1,129,688 in personal service costs that did not comply with RCM and CFR Manual requirements. SED, pursuant to a desk review, previously disallowed some of these costs.

## Executive Compensation

According to the RCM, compensation (salaries and fringe benefits) for an entity's staff whose function is that of Executive Director will be directly compared with the regional median compensation for comparable administrative job titles of public school districts. Reimbursement shall not exceed the median compensation paid to comparable personnel in public schools for similar work and hours of employment in the region in which the entity is located.

For the three fiscal years ended June 30, 2017, compensation costs for the Executive Director exceeded the regional median by \$419,518, as follows:

- Block officials reported \$1,340,894 (\$510,877 in 2014-15, \$413,326 in 2015-16, and \$416,691 in 2016-17) in compensation costs for the

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Executive Director position. The total regional median reimbursement limit for the three years for an Executive Director with comparable employment hours was \$921,376. Thus, the total compensation exceeded the regional limit by \$419,518 (\$1,340,894 - \$921,376). Of the \$419,518 in excess compensation, Block allocated \$98,347 to the SED preschool cost-based programs.

We recommend that SED disallow the \$98,347. (SED previously identified these costs as a disallowance.)

## Staff Compensation

The RCM states expenditures that cannot be directly charged to a specific program must be allocated, using fair and reasonable allocation methods, across all programs and/or entities that benefited from the expenditure. Moreover, actual hours of service are the preferred statistical basis upon which to allocate salaries and fringe benefits for shared staff who work on multiple programs. Entities must maintain appropriate documentation, such as payroll records or time studies, to reflect the hours used in this allocation. The allocation methods, as well as the statistical basis used to calculate allocation percentages, must be documented and retained for a minimum of seven years. Further, the RCM states that fines and penalties resulting from violations of or failure by the entity to comply with federal, State, and/or local laws and regulations are not reimbursable. We identified \$974,304 as not being reimbursable, as follows:

### Teaching Staff

We compared the names of teaching staff on Block's class rosters for the three fiscal years with the names of teaching staff whose compensation was charged to the SED preschool cost-based programs on Block's CFRs. We found that the class rosters did not support the hours that Block reported for the SED preschool cost-based programs. Block officials provided additional documentation, such as hiring and termination records, to support the reported hours. However, these documents did not substantiate that these employees worked the hours reported for the SED preschool cost-based programs. Further, the documentation showed that certain employees worked for other programs, such as SED's School Age Special Class and 1:1 Aides programs. In total, Block claimed \$922,765 in inadequately documented teaching staff compensation costs that were charged to the SED preschool cost-based programs. This included \$16,007 paid in settlement to a terminated teacher assistant that was not based on work performed. We recommend that SED disallow the \$922,765.

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## Nurses

For the three fiscal years ended June 30, 2017, Block reported \$389,639 in compensation costs for a registered nurse and charged \$160,225 of the \$389,639 to the SED preschool cost-based programs. Although the registered nurse worked for multiple SED and OPWDD programs, Block officials did not use actual hours of service or perform time studies to allocate the registered nurse's compensation. In addition, Block officials did not support the percentages used to allocate the registered nurse's compensation. We reallocated the registered nurse's compensation and determined that \$51,539 was overallocated to the SED preschool cost-based programs. Consequently, we recommend that SED disallow the \$51,539.

## Fundraising

According to the RCM, the costs of fundraising to raise capital or to obtain contributions are not reimbursable. However, reasonable and necessary costs associated with the procurement and retention of donated services used for Individualized Education Program (IEP) mandated services, either directly or indirectly, may be reimbursable as long as the program can demonstrate that cost savings exist and that there is a direct benefit to the students in the program.

During the two fiscal years ended June 30, 2017, Block claimed \$57,037 in staff compensation for performing fundraising activities. Block officials stated that the \$57,037 was the allocated compensation for one employee whose primary function was to raise funds for Block and its affiliates. However, Block officials did not demonstrate that the fundraising activities resulted in cost savings for the SED preschool cost-based programs. We recommend that SED disallow the \$57,037.

## Other Than Personal Service Costs

For the three fiscal years ended June 30, 2017, Block reported \$4,729,796 in OTPS expenses for the SED preschool cost-based programs. We identified \$632,179 of these expenses that did not comply with SED's reimbursement requirements, as follows.

## Inadequately Documented Costs

The RCM states that the Regulations of the Commissioner of Education require entities operating approved programs to retain all pertinent accounting, allocation, and enrollment/attendance records related to the establishment of tuition rates for seven years following the end of each reporting period.

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The RCM also states that costs will not be reimbursable on field audit without appropriate written documentation of costs. For legal and accounting services, the RCM requires that all payments must be supported by itemized invoices that indicate the specific services and/or deliverable actually provided and, for each service and/or deliverable, the date provided and total amount charged. For all other consultant services, payments must be supported by itemized invoices that indicate the specific services and/or deliverable actually provided and, for each service and/or deliverable, the date, number of hours provided, fee per hour, and total amount charged.

When direct care services are provided, the documentation must indicate the names of students served, the actual dates of service, and the number of hours of service to each child on each date. Further, costs associated with retainers for legal, accounting, or consulting services are not reimbursable unless the fee represents payment for actual documented reimbursable services rendered, provided the services are not for lobbying efforts. The RCM also requires that vehicle use be documented with individual vehicle logs that include, at a minimum: the date, time of travel, to and from destinations, mileage between each, purpose of travel, and name of traveler.

For the three fiscal years ended June 30, 2017, we identified \$588,874 in unsupported costs, as follows:

- \$436,155 for contracted teaching services. The supporting invoices did not indicate the specific services actually provided, names of students served, actual dates of service, and/or number of hours of service to each child on each date, as required.
- \$85,096 for legal and consulting expenses. These expenses included \$52,414 in retainer fees that did not represent payment for actual documented reimbursable services rendered and \$32,682 for which no invoices were provided.
- \$38,087 for contracted nursing services. Block did not provide documentation detailing the specific services actually provided, names of students served, actual dates of service, and/or number of hours of service to each child on each date, as required.
- \$20,178 in expenses for which no supporting documentation was provided.
- \$9,358 for other inadequately documented expenses, including \$3,781 in fundraising expenses, \$1,357 in repair and maintenance expenses for an unapproved building, and \$600 in vehicle expenses for which usage logs were not provided.

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We recommend the SED disallow the \$588,874 in unsupported costs.

## Other Ineligible OTPS Costs

According to the RCM, costs must be charged directly to specific programs whenever possible. Any expenditures that cannot be charged to a specific program must be allocated across all programs and/or entities benefited by the expenditure. In addition, Individuals with Disabilities Education Act (IDEA) expenses must be reported in separate and discrete columns. Further, costs of food provided to staff are not reimbursable.

We identified \$43,305 in OTPS costs that were ineligible for reimbursement:

- \$38,283 in expenses not related to the SED preschool cost-based programs, including \$34,675 in legal fees for services such as negotiations to participate in a housing development finance corporation and \$3,608 in utilities for an unapproved program.
- \$2,627 for food provided to staff, including \$1,156 for food delivered to an unapproved location. Block officials asserted that the \$1,156 was for snacks for students in the SED preschool cost-based programs. However, officials did not provide documentation to support this assertion.
- \$2,395 for furniture and equipment. These expenses should have been paid for with IDEA grants.

We recommend that SED disallow the \$43,305 because the expenses did not comply with the requirements.

## Recommendations

### To SED:

1. Review the recommended disallowances identified by our audit and make the appropriate adjustments to Block's CFRs and tuition reimbursement rates, as warranted.
2. Remind Block officials of the pertinent SED requirements that relate to the deficiencies we identified.

### To Block:

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

# Audit Scope, Objective, and Methodology

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The objective of our audit was to determine whether the costs reported by Block on its CFRs were reasonable, necessary, directly related to the SED preschool cost-based programs, and sufficiently documented pursuant to SED guidelines. The audit focused primarily on expenses claimed on Block's CFR for the fiscal year ended June 30, 2017, and certain expenses claimed on its CFRs for the two fiscal years ended June 30, 2016.

To accomplish our objective, we reviewed the RCM, the CFR Manual, Block's CFRs, and relevant financial and program records for the audited period. In addition, we evaluated the internal controls over the costs claimed on, and the schedules prepared in support of, the CFRs submitted to SED. We also interviewed Block officials to obtain an understanding of their financial and business practices and their practices for reporting costs on the CFR. In addition, we selected judgmental samples of reported costs to determine whether they were supported, program related, and reimbursable. Specifically, we reviewed costs that were considered high risk and reimbursable in limited circumstances based on prior audit report findings, such as salaries, fringe benefits, rent expenses, and other OTPS expenses. Our sample selection was based on the relative materiality of the various categories of costs reported and their associated levels of risk. Our sample was not designed to be projected to the entire population of reported costs.

# Statutory Requirements

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## Authority

The audit was performed 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 Education Law.

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 management functions do not affect our ability to conduct independent audits of program performance.

## Reporting Requirements

We provided draft copies of this report to SED and Block officials for their review and formal comment. Their comments were considered in preparing this final report and are included at the end of it.

In their response, SED officials agreed with our recommendations and indicated that they will take steps to address them. Block officials generally agreed with our disallowances regarding OTPS costs. However, they disagreed with our disallowances regarding teaching staff salary costs, indicating they believed these costs were sufficiently documented and advising they have strengthened internal protocols to ensure reliable verification and record keeping of teaching staff. Block officials included certain attachments with their response. Those attachments are not included in this report. However, they have been retained on file at the Office of the State Comptroller.

Within 180 days after final release of this report, as required by Section 170 of the Executive Law, the Commissioner of the State Education Department

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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 where recommendations were not implemented, the reasons why.

# Exhibit

## Block Institute School Summary of Submitted and Disallowed Program Costs for the 2014-15, 2015-16, and 2016-17 Fiscal Years

Program Costs	Amount Claimed on CFR	Amount Disallowed	Amount Remaining	Notes to Exhibit
<b>Personal Services</b>				
Direct Care	\$15,826,753	\$974,304	\$14,852,449	A, B, D, F, H, I, M, N
Agency Administration	1,801,146	155,384*	1,645,762	
<b>Total Personal Services</b>	<b>\$17,627,899</b>	<b>\$1,129,688*</b>	<b>\$16,498,211</b>	
<b>Other Than Personal Services</b>				
Direct Care	\$3,978,349	\$533,026	\$3,445,323	A, C, E-H, J-N
Agency Administration	751,447	99,153	652,294	
<b>Total Other Than Personal Services</b>	<b>\$4,729,796</b>	<b>\$632,179</b>	<b>\$4,097,617</b>	
<b>Total Program Costs</b>	<b>\$22,357,695</b>	<b>\$1,761,867*</b>	<b>\$20,595,828</b>	

\*SED, pursuant to a desk review, previously disallowed some of these costs.

# Notes to Exhibit

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The following Notes refer to specific sections of SED's RCM and the CFR Manual used to develop our recommended disallowances. We summarized the applicable sections to explain the basis for each disallowance. We provided the details supporting our recommended disallowances to SED and Block officials during the course of our audit.

- A. RCM Section II – Costs will be considered for reimbursement provided they are reasonable, necessary, directly related to the special education program, and sufficiently documented.
- B. RCM Section II.13.A.4.(a) – Compensation (i.e., salaries plus fringe benefits) for an entity's staff whose function is that of Executive Director, Assistant Executive Director, or Chief Financial Officer will be directly compared to the regional median compensation for comparable administration job titles of public school districts, as determined and published annually by SED's Basic Educational Data Systems. Reimbursement of employee compensation for these job titles shall not exceed the median compensation paid to comparable personnel in public schools for similar work and hours of employment in the region in which the entity is located. Compensation for an Executive Director providing services to an Article 81- and/or Article 89-funded program will be compared to the median Superintendent-Independent compensation for the region in which the entity is located and compensation for an Assistant Executive Director and Chief Financial Officer will be compared to the median compensation for Assistant Superintendent.
- C. RCM Section II.14.B – Costs associated with retainers for legal, accounting, or consulting services are not reimbursable unless the fee represents payment for actual documented reimbursable services rendered, provided the services are not for lobbying efforts.
- D. RCM Section II.21 – Fines and penalties resulting from violations or failure by the entity to comply with federal, State, and/or local laws and regulations are not reimbursable.
- E. RCM Section II.22.C – Costs of food provided to any staff, including lunchroom monitors, are not reimbursable.
- F. RCM Section II.23 – Costs of organized fundraising (i.e., financial campaigns, endowment drives, or solicitation of gifts and bequests) to raise capital or to obtain contributions are not reimbursable. However, reasonable and necessary costs associated with the procurement and retention of donated services used for IEP-mandated services, either directly or indirectly, may be reimbursable as long as the program can demonstrate that cost savings exist and that there is a direct benefit to the students in the program through the use of such donated services.
- G. RCM Section II.26.C – Effective July 1, 2005, Chapter 437 of the Laws of 2005 requires that revenues and expenditures awarded by local education agencies pursuant to Section 611 (g)(1) and Section 619 (g)(1) of IDEA be reported in separate and discrete cost columns.

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- H. RCM Section III.1 – Section 200.9(d) of the Commissioner’s Regulations requires entities operating approved programs to retain all pertinent accounting, allocation, and enrollment/attendance records supporting reported data directly or indirectly related to the establishment of tuition rates for seven years following the end of each reporting year. Costs will not be reimbursable on field audit without appropriate written documentation of costs.
  - I. RCM Section III.1.B – Actual hours of service are the preferred statistical basis upon which to allocate salaries and fringe benefits for shared staff who work on multiple programs. Entities must maintain appropriate documentation reflecting the hours used in this allocation. Acceptable documentation may include payroll records or time studies.
  - J. RCM Section III.1.C.2 – In the case of legal and accounting services, all payments must be supported by itemized invoices that indicate the specific services and/or deliverable actually provided and, for each service and/or deliverable, the date provided and the total amount charged. For all other consultant services, all payments must be supported by itemized invoices that indicate the specific services and/or deliverable actually provided and, for each service and/or deliverable, the date(s), number of hours provided, fee per hour, and total amount charged. In addition, when direct care services are provided, the documentation must indicate the names of students served, the actual dates of service, and the number of hours of service to each child on each date.
  - K. RCM Section III.1.D – All purchases must be supported with canceled checks and invoices listing the items purchased, date of purchase, and date of payment. Costs must be charged directly to specific programs whenever possible.
  - L. RCM Section III.1.J.2 – Vehicle use must be documented with individual vehicle logs that include, at a minimum: the date, time of travel, to and from destinations, mileage between each destination, purpose of travel, and name of traveler.
  - M. RCM Section III.1.M.1 – Any expenditures that cannot be charged directly to a specific program must be allocated across all programs and/or entities benefited by the expenditure.
  - N. RCM Section III.1.M.2 – Entities operating programs must use allocation methods that are fair and reasonable, as determined by the Commissioner’s fiscal representatives. Such allocation methods, as well as the statistical basis used to calculate allocation percentages, must be documented and retained for each fiscal year for review upon audit for a minimum of seven years. Allocation percentages should be reviewed on an annual basis and adjusted, as necessary.

# Agency Comments - State Education Department

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

DEPUTY COMMISSIONER  
Office of Performance Improvement and Management Services  
O: 518.473-4706  
F: 518.474-5392

December 26, 2019

Mr. Kenrick Sifontes  
Audit Director  
Office of the State Comptroller  
Division of State Government Accountability  
59 Maiden Lane - 21<sup>st</sup> Floor  
New York, NY 10038

Dear Mr. Sifontes:

The following is the New York State Education Department's (SED) response to the draft audit report, 2018-S-69, Block Institute School (Block) - Compliance With the Reimbursable Cost Manual.

Recommendation 1:

"Review the recommended disallowances resulting from our audit and make the appropriate adjustments to Block's CFRs and tuition reimbursement rates, as warranted."

We agree with this recommendation; provided that SED will further review the recommended disallowances regarding nursing staff and direct care teaching staff to determine if the amount of the disallowance is warranted. In consideration of the aforementioned, 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:

"Work with Block officials to help ensure compliance with the provisions in the RCM and the CFR Manual."

We agree with this recommendation. SED will continue to provide technical assistance whenever requested and will strongly recommend the Block 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 Block 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.

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If you have any questions regarding this response, please contact Brian Zawistowski, Assistant Director of the Rate Setting Unit, at (518) 474-3227.

Sincerely,

  
Deputy Commissioner  
Sharon Gates-Williams

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

# Agency Comments - Block Institute School

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Pamela A. Madeiros  
518-689-1412  
madeirosp@gtlaw.com

December 30, 2019

Kenrick Sifontes  
Audit Director  
Office of the State Comptroller  
Division of State Government Accountability  
59 Main Lane – 21<sup>st</sup> Floor  
New York, NY 10038

Re: State Education Department  
Compliance with the Reimbursement Cost Manual  
Block Institute School  
Draft Report 2018-5-69

Dear Mr. Sifontes:

We have reviewed the above- referenced Draft Report relating to expenses reported by Block Institute School (BIS) on its Consolidated Fiscal Reports (CFRs) for the fiscal year ending June 30, 2017 and certain expenses claimed on its CFRs for the two fiscal years ending June 30, 2016. We appreciate the opportunity to provide additional clarification and comment on select findings beyond that shared during the field audit and exit conference. We believe strongly that this additional information is necessary to inform the auditors' final determination and trust that the comments offered here will receive the same consideration as comments provided during the field work and throughout the audit process. Accordingly, we offer the following:

## **Background**

As shared with the audit team through the audit process, BIS has recently experienced dramatic changes in its management team, including the CFO, Controller and Program Director. These new appointments to critical title positions presented certain challenges during the audit process including pronounced interruption in institutional operational knowledge and a lack of familiarity with prior operational processes or protocols. The newly constituted management team was, unfortunately, often unable to immediately retrieve from agency files the documentation necessary to support certain costs or expenses challenged by the audit team, nor able to provide verification of general operations. Accordingly, BIS simply lacked the ability to access certain documentation necessary to challenge many of the auditors' findings during the field review. Subsequent to the field review, BIS worked tirelessly to retrieve archived documentation to assist the auditors in more fully understanding program operations. BIS appreciates the team's continued efforts. BIS must, however, still challenge the following findings and determinations:

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## **Personal Service Costs**

### **Executive Compensation**

BIS does not challenge the auditors' findings that a portion of Executive compensation costs should have been reported on the CFR as "non-reimbursable."

### **Staff Compensation**

#### **Teaching Staff**

We challenge the auditors' proposed disallowance of approximately \$746,179 related to teaching staff salary cost which, the auditors assert, were insufficiently documented. While we acknowledge that class rosters are often a preferred source of substantiation, classroom costs including teaching staff costs, are easily validated and substantiated through alternative sources. For example, Block had shared with the auditors a comprehensive set of payroll records identifying teaching staff. An equally comprehensive staff Absenteeism Report confirmed the title/position of teaching staff through verification of their absences. (See: Previous Submissions) Documents entitled "enroll trackers" were also shared with the audit team which specifically identified staff assignments per room (See: Previous Submissions). The documents provided tied tracker entries to specific lines on the auditors' spreadsheet--effectively confirming physical presence and assignment of teaching responsibilities in support of reported costs. In addition, Block provided a number of school documents—brochures, event materials including graduation ceremony pamphlets—each of which identified individuals who assumed teaching staff titles and functions. Taken together, these documents verify staff assignments and the performance of 4410 teaching duties. (See: Previous Submissions)

[Comment 1](#)

Block has also provided student session notes and related student documentation which identify classroom assignments and the provision of teaching staff services sufficient to substantiate the reported expenses. Block likewise provided documentation reflecting termination of employment of certain individual, again reflecting the title / position and services provided. (See: Previous Submissions) The provided documents contained certain reference numbers which cross walked to the auditors' spreadsheets.

In addition, Block challenges the auditors' assertion that the School exceeded approved teaching staff-to- student ratios. As the auditors are fully aware, staff absences require substitute personnel, the correlating FTE of which (with associated costs) will appear to inflate the total FTEs above approved ratio levels. However, each of these substitute staff were necessary and reasonable in the event of a teacher absence which is easily verified by review of the already provided "absentee" report. We believe the auditors' conclusions may have been based on a misinterpretation of reported expenses. For example, the cessation of operations of a SCIS classroom as of September 1, 2017 at one location effected the presentation of costs on the CFR, although, we would note, reported salaries represented a percentage of the annualized salary.

[Comment 2](#)

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Block recognizes and appreciates the thoughtful consideration by the auditors of previously submitted substantiating documentation but is compelled to reassert its challenge of the remaining disallowance based upon our firm understanding that each of the salaried personnel provided services exclusively to the preschool special education program. Block has, however, strengthened its internal protocols to assure reliable verification and record keeping of teaching staff.

[Comment 3](#)

#### **Nurses**

Block appreciates the auditor's reconsideration of \$394,450 in reported nursing costs which the auditors asserted were unsupported or otherwise unapproved expenses. We appreciate the auditors' review of substantial documentation in support of the general health care nursing services provided, together with the necessary supervisory personnel.

Accordingly, we appreciate the auditors' reconsideration of the proposed disallowance in nursing services costs based, in part, upon a request for nursing service expenses. These costs were appropriate – as recognized by a SED granted waiver -- as general nursing services costs unrelated to IEP mandates and substantiated by student records, incident reports and general health records.

[Comment 4](#)

#### **Fundraising**

Block challenges the auditors' assertion that certain salary expenses associated with grant writing / fund raising activities did not benefit the students of the SED preschool cost-based programs. As the attached job description reflects, personnel were engaged to identify potential funding sources. Internal memos, also attached, reflect the concerted effort to identify potential funding sources for classroom equipment including smart boards and iPads – the acquisition of which is reflected in the inventory records with room assignments. Internal memos also reflect specific categories of prospective funding sources dedicated to the SED programs. The attached "Grant List" highlights the funding sources identified through these grant writing efforts which benefitted the SED programs, contrary to the auditors' claim. (See: Attachment)

[Comment 5](#)

#### **Other Than Personal Service Costs**

##### **Rent**

We appreciate the auditors' reconsideration of certain rental costs and the associated proposed disallowance of \$300,403 which, we believe, was based on a mischaracterization of the use of certain space. BIS had shared with the auditors' color-coded floor plans of each location for which rental expenses had been reported. Each floor plan clearly identified classrooms, therapy rooms, and certain administrative offices. Where "shared space" existed – where the benefit of the space inured to programs other than the cost-based education program – costs associated with such space was allocated to agency administration or program administration as directed by the RCM. Space which the auditors mischaracterize as "common space," was, in fact, used exclusively by the education program as reflected in documentation provided. We also believe the auditor team mistook discrete therapy rooms for either "unused" space or storage space, when, as the student session records and therapist notes reflect, together with inventory logs of therapy equipment, the

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space was utilized for therapeutic services to the exclusive benefit of the educational program. We appreciate the recognition of these costs as allowable.

**Comment 6**

**Inadequately Documented Costs**

We do not challenge the auditors’ claim that the documents maintained in support of certain expenses may have been inadequate. In each of the expense areas identified, however, the costs were unequivocally program related, necessary and reasonable including:

- \$436,155 in contracted teaching services reflected in maintained invoices which, however, may have lacked the required level of detail;
- \$85,096 in legal expenses reflected in retainer fee invoices which, while standard legal practice, does not meet the requirements set out in the RCM;
- \$38,087 in contracted nursing services reflected in maintained invoices which may have lacked the requisite level of detail;
- \$20,178 in expenses lacking supporting documentation; and
- \$9,715 in expenses lacking adequate documentation including building maintenance expenses and vehicle expenses which were nonetheless program related.

**Other Ineligible OTPS Costs**

We do not challenge the auditors’ claim that certain costs and expenses were more appropriately reported to other cost centers, including:

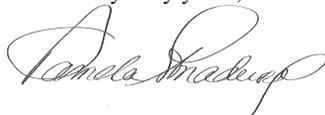
- certain legal fees associated with a housing program (\$38,283);
- \$2,627 in food expenses for student snacks and other program related costs for which a more detailed invoice was not readily obtained; and
- \$2,395 in furniture and equipment costs which should have been reported in the federal grant cost center.

\* \* \* \* \*

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We appreciate the auditors' thoughtful consideration of these select challenges.

Very truly yours,



GREENBERG TRAUERIG, LLP

PAM/jmb

Enclosures

cc: Scott Barkin  
Shannon Tahoe, SED  
Traci Coleman, SED  
Hardat Singh, OSC  
Michael Solomon, OSC

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# State Comptroller's Comments

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1. We reviewed the additional documentation provided by Block officials and modified our report, where appropriate. In addition, SED, in its response to the draft report, indicated the recommended disallowance will be reviewed to determine if the amount is warranted.
2. We did not misinterpret reported expenses. We modified our report, where appropriate, based on the additional information provided by Block officials.
3. Absent adequate supporting documentation, the disallowance remains. However, we compliment Block officials for strengthening their internal protocols over the verification and record keeping of teaching staff.
4. We reviewed the additional documentation provided by Block officials and revised our report, where appropriate. In addition, SED, in its response to the draft report, indicated the recommended disallowance will be reviewed to determine if the amount is warranted.
5. The additional documentation provided by Block officials was insufficient to show that the fundraising costs complied with the RCM.
6. We reviewed the additional documentation provided by Block officials and removed this finding and the associated disallowance from the report.

# Contributors to Report

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## Executive Team

**Tina Kim** - *Deputy Comptroller*  
**Ken Shulman** - *Assistant Comptroller*

## Audit Team

**Kenrick Sifontes** - *Audit Director*  
**Michael Solomon, CPA** - *Audit Manager*  
**Joseph Gillooly** - *Audit Supervisor*  
**Hardat Singh** - *Examiner-in-Charge*  
**Hugh Zhang** - *Senior Examiner*  
**Jaleesa Carter** - *Staff Examiner*  
**Yahaya Kallam** - *Staff Examiner*  
**Ilan Sasson** - *Student Assistant*

## Contact Information

(518) 474-3271

[StateGovernmentAccountability@osc.ny.gov](mailto:StateGovernmentAccountability@osc.ny.gov)

Office of the New York State Comptroller  
Division of State Government Accountability  
110 State Street, 11th Floor  
Albany, NY 12236



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