



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

# **Canarsie Childhood Center, Inc. – Compliance With the Reimbursable Cost Manual**

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State Education Department

Report 2021-S-2 | February 2022

Spotlight on Education



# Audit Highlights

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## Objective

To determine whether the costs reported by Canarsie Childhood Center (CCC) on its Consolidated Fiscal Reports (CFRs) were reasonable, necessary, directly related to the special education program, 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 CCC's CFR for the fiscal year ended June 30, 2018 and certain expenses claimed on its CFRs for the 2 fiscal years ended June 30, 2017.

## About the Program

CCC is a New York City-based proprietary organization authorized by SED to provide preschool special education services to children with disabilities who are 3 and 4 years of age. During the 2017-18 school year, CCC served approximately 90 students in its cost-based Preschool Full-Day Special Class Program. For purposes of this report, this program is referred to as the cost-based program. Payments for services under this program come from the New York City Department of Education (DOE).

In addition to the cost-based program, CCC also performs preschool multidisciplinary evaluations and provides 1:1 Aide services to children enrolled in the cost-based program. However, payments for services under these programs are based on fixed fees.

The DOE refers students to CCC and pays for its services using rates established by SED. The rates are based on the financial information CCC reports to SED on its annual CFRs. For the 3 fiscal years ended June 30, 2018, CCC reported approximately \$8 million in reimbursable costs for the program.

## Key Findings

For the 3 fiscal years ended June 30, 2018, we identified \$193,420 in reported costs that did not comply with the requirements in the RCM. These ineligible costs included \$168,648 in personal service costs and \$24,772 in other than personal service costs, as follows:

- \$98,344 in personal service costs, including \$78,497 in salaries and \$19,847 in fringe benefits related to compensation in excess of the regional average.
- \$50,052 in non-mandated fringe benefits that were not proportionately similar to other classes or groups of employees.
- \$24,772 in unsupported other than personal service costs, including \$20,232 in accounting fees and \$4,540 in computer consulting fees.
- \$15,293 in 1:1 Aide costs allocated to the cost-based program.
- \$4,455 in unsupported compensation, including \$3,757 in salaries and \$698 in fringe benefits claimed by the Executive Director and Principal.
- \$504 in unsupported compensation, including \$433 in salary and \$71 in fringe benefits for a Teacher Assistant.

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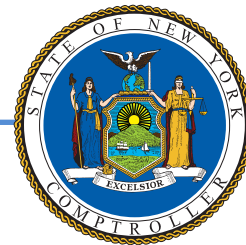
## Key Recommendations

### To SED:

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

### To CCC:

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



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

February 1, 2022

Betty A. Rosa, Ed.D.  
Commissioner  
State Education Department  
State Education Building - Room 125  
89 Washington Avenue  
Albany, NY 12234

Eliot Kirschenbaum, M.D.  
Executive Director  
Canarsie Childhood Center, Inc.  
650 East 77th Street  
Brooklyn, NY 11236

Dear Dr. Rosa and Dr. Kirschenbaum:

The Office of the State Comptroller is committed to helping State agencies, public authorities, and local government agencies manage their resources efficiently and effectively. By so doing, it provides accountability for the 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 Canarsie Childhood Center, Inc. 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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Abbreviation	Description	Identifier
CCC	Canarsie Childhood Center, Inc.	<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>
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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Canarsie Childhood Center, Inc. (CCC) is a New York City-based proprietary organization approved by the State Education Department (SED) to provide preschool special education services to children with disabilities who are 3 and 4 years of age. During the 2017-18 school year, CCC served approximately 90 students in its Preschool Full-Day Special Class Program. For purposes of this report, this program is referred to as the cost-based program. Payment for services under this program comes from the New York City Department of Education (DOE). In addition to the cost-based program, CCC also performs preschool multidisciplinary evaluations and provides 1:1 Aide services to children enrolled in the cost-based program. However, payments for services under these programs are based on fixed fees.

The DOE refers students to CCC based on clinical evaluations and pays for its services using rates established by SED. These rates are based on the financial information CCC reports to SED on its annual Consolidated Fiscal Reports (CFRs). To qualify for reimbursement, CCC's expenses must comply with the criteria set forth 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. SED reimburses the DOE 59.5% of the statutory rate it pays to CCC.

For the 3 fiscal years ended June 30, 2018, CCC reported approximately \$8 million in reimbursable costs for the preschool cost-based program. This audit focused primarily on expenses claimed on CCC's CFR for the fiscal year ended June 30, 2018 and certain expenses claimed on its CFRs for the 2 fiscal years ended June 30, 2017.

# 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 3 fiscal years ended June 30, 2018, we identified \$193,420 in reported costs that did not comply with SED's requirements for reimbursement. These ineligible costs included \$168,648 in personal service costs and \$24,772 in other than personal service (OTPS) costs (see Exhibit).

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 disallowances detailed in this report to weaknesses in CCC's internal controls over its compliance with SED's requirements.

## 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 3 fiscal years ended June 30, 2018, CCC reported \$6,536,240 in personal service costs for the preschool cost-based program. We identified \$168,648 in personal service costs that did not comply with the RCM's requirements for reimbursement.

## Salary Expenses

According to the RCM, costs will be considered for reimbursement provided such costs are reasonable, necessary, directly related to the special education program, and sufficiently documented. In addition, costs will not be reimbursable on field audit without appropriate written documentation of costs. Compensation for personal services includes all salaries and wages, as well as fringe benefits (such as health insurance). Compensation to all individuals who have a financial interest in the program, including shareholders, trustees, board members, officers, family members, or others, and who are also program employees must be commensurate to actual services provided as appropriately qualified program employees or consultants. Compensation shall not exceed the average regional levels paid by similar private providers to comparably qualified and appropriately certified personnel for similar work and hours of employment.

In addition, the RCM states that compensation must be supported by time reports that account for each employee's total activities. Compensation costs must be based on approved, documented payrolls. Finally, compensation paid to an employee for their lunch period is not reimbursable.

We calculated the annualized salaries of related parties reported by CCC in fiscal years 2015-16 through 2017-18 and compared them with the average regional salaries for the same position titles.



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The Principal's (a related party as a co-owner of CCC) annualized salary exceeded the regional average. We recommend that SED disallow \$98,344 in excess compensation, including \$78,497 in salaries and \$19,847 in associated fringe benefits that were above the regional average.

In response to our finding, CCC officials provided emails that demonstrated SED reduced the Principal's salary as a "median salary and fringe adjustment" when establishing the 2011-12 tuition rate for the program. CCC requested the adjustment be reversed, which SED did. We contend that the adjustment should be upheld and is an appropriate application of the RCM provision.

We compared the hours the Executive Director and the Principal were paid as reported on the CFR to the hours per their contracts, CCC's Staff Manual, and sign-in sheets during fiscal year 2017-18. This resulted in 34 and 24.5 overstated hours for the Executive Director and the Principal, respectively. This equates to non-reimbursable salaries of \$2,251 and \$1,506 and fringe benefits of \$372 and \$326, respectively. CCC responded that the Executive Director and Principal routinely work through lunch and the disallowances should be reduced to reflect this practice. No documentation was provided to support this practice, and the Executive Director's and Principal's contracts state that the hours they are to work each week are exclusive of a daily 30-minute lunch.

We also reconciled salaries claimed in fiscal year 2017-18 to the payroll register for that period and found that the total salaries reported for one employee exceeded the actual salary paid per the payroll register by \$433. The combined total of excess salaries plus fringe benefits for this employee is \$504.

We recommend SED disallow \$103,303 in excess salaries and fringe benefits claimed on the CFR for the program that are not in compliance with the RCM, as follows:

- \$98,344, including \$78,497 in salaries and \$19,847 in fringe benefits paid to the Principal during the 3 years ended June 30, 2018. Fringe benefits were adjusted by the 40% recommended disallowance for health insurance premiums (see discussion in the next section).
- \$4,455, including \$3,757 in salaries and \$698 in fringe benefits claimed by the Executive Director and Principal, CCC owners, for not working all the hours they were paid, particularly during lunch.
- \$504, including \$433 in unsupported salary and \$71 in fringe benefits for a Teacher Assistant.

## Health Insurance Expenses

The RCM states reimbursement of fringe benefit expenses is allowed if the benefits for individual employees or officers/directors are proportionately similar to those received by other classes or groups of employees.

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During the 3 fiscal years ended June 30, 2018, CCC claimed \$423,333 in reimbursable health insurance premiums. According to CCC's Staff Manual, the employer covers 60% of the premium and the remaining 40% is paid through payroll deductions by the participating employee.

Although each participating employee is supposed to pay for 40% of the health insurance premiums, the Executive Director told us that he and the Principal do not contribute toward their health insurance premiums. We verified this assertion by reviewing the employees' contributions in the payroll register, which confirmed that the Executive Director and Principal had no deductions taken for health insurance premiums during the fiscal year ended June 30, 2018. The combined total health insurance premiums paid by CCC for the Executive Director and Principal during the 3 fiscal years ended June 30, 2018 was \$128,222. The Executive Director and Principal should have paid 40% of that amount, or a total of \$51,289.

Since the Executive Director and Principal did not contribute 40% toward their health insurance premiums, their fringe benefits were not proportionately similar to those of the other employees. We therefore recommend that SED disallow \$50,052 (portion allocated to the program) in non-mandated fringe benefits for the 3 fiscal years ended June 30, 2018. CCC officials agreed with our findings.

## 1:1 Aides

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. Such reimbursable costs will be included in the calculation of tuition rates up to any limits or cost parameters approved annually in the rate-setting methodology. According to the CFR Manual, all 1:1 Aide costs (salaries, fringe benefits of the aide, and allocated direct and indirect costs) should be reported in a separate cost center on the provider's financial reports.

CCC reported approximately \$8 million in reimbursable costs on its CFRs, including approximately \$7 million in program and program administrative personal service costs. For the 3 fiscal years ended June 30, 2018, we found that CCC inappropriately reported \$15,293 (\$12,896 in salaries and \$2,397 in fringe benefits) associated with the partial compensation of seven staff working as 1:1 aides. These individuals were charged to the cost-based program although reimbursement was also received under the 1:1 Aide Program.

In its response to our findings, CCC asserted that the identified costs were appropriately charged, as employee time sheets separately document the allocated time to the cost-based program rather than the 1:1 Aide Program. CCC further asserted that when the students to whom the 1:1 aides are assigned are absent, the decision to redeploy those aides to the cost-based program as substitutes was based on SED's verbal guidance. We maintain that, because the 1:1 aides were funded under the 1:1 Aide Program, their costs are to be reported under the 1:1 Aide Program in accordance with RCM requirements.

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## Other Than Personal Services Costs

CCC claimed a total of \$461,673 in OTPS costs for the fiscal year ended June 30, 2018. We selected and reviewed a judgmental sample of OTPS expenses totaling \$117,555. We selected additional expenses for review in the preceding 2 fiscal years. For the 3 fiscal years ended June 30, 2018, CCC reported \$1,414,266 in OTPS expenses for the cost-based program. We identified \$24,772 of these expenses that did not comply with SED's reimbursement requirements.

According to the RCM, costs will be considered for reimbursement provided such costs are reasonable, necessary, directly related to the special education program, and sufficiently documented. Additionally, costs will not be reimbursable on field audit without appropriate written documentation. Adequate documentation includes, but is not limited to, the consultant's résumé and a written contract that includes the nature of the services to be provided, the charge per day, and service dates. All payments must be supported by itemized invoices that indicate the specific services actually provided and, for each service, the date(s), number of hours provided, fee per hour, and total amount charged.

## Accounting Expenses

The RCM 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 (prior to the beginning of the fiscal period being audited or after the date of the audit report issued for the audit period) are not reimbursable. Such non-audit services include bookkeeping, financial information, systems design, and actuarial services.

We identified \$21,300 in OTPS accounting expenses, of which \$20,232 was allocated to the cost-based program, that did not comply with SED's reimbursement requirements, as follows:

- \$20,000 in unsupported accounting costs. The invoice did not specify the services provided, date(s) of service, and number of hours.
- \$1,300 for unallowable non-audit tax preparation services provided within 365 days of audit work by the same public accountant who audited CCC's fiscal year 2017-18 financial statements. Furthermore, the invoice did not specify the services provided, date(s) of service, and number of hours.

We recommend that SED disallow \$20,232 in OTPS costs allocated to the preschool cost-based program on CCC's fiscal year 2017-18 CFR that did not comply with the RCM. In response to our findings, CCC officials provided additional documentation in support of the \$20,000 in accounting costs that included an invoice showing broad descriptions of work and total hours worked for two of the CPAs and staff. However, the documentation lacked the specific activities, related dates, and hours worked. We therefore maintain that the documentation does not meet the RCM requirements.

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## Computer Service Consultant Expense

CCC contracted with a consulting firm for computer services covering the period February 2016 through December 2018, across consecutive contracts. CCC disclosed, in schedules CFR-5 for fiscal years 2016-17 and 2017-18, that this consultant is a related organization (a close relative of CCC's Principal is an executive of the firm).

During fiscal years 2015-16 through 2017-18, CCC claimed \$7,014 in computer consulting services for the cost-based program. CCC also claimed \$12,053 in computer equipment expenses. CCC officials did not provide support or sufficient support for all the consulting-related costs. The documentation is necessary to identify whether costs claimed are reasonable, necessary, directly related to the special education program, and sufficiently documented. We recommend SED disallow the following \$4,540 in inadequately supported and unsupported costs that were claimed under the cost-based program, as follows:

- \$3,888 in claimed consulting-related costs that did not adequately itemize the specific services provided and/or the date(s), number of hours, and hourly fee for each specific service, as required by the RCM.
- \$652 for consulting services provided by a vendor. CCC did not provide any contracts with the vendor's name.

## Recommendations

### To SED:

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

### To CCC:

3. Ensure that 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

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The objective of our audit was to determine whether the costs reported by CCC on its CFRs were reasonable, necessary, directly related to the special education program, and sufficiently documented, pursuant to SED guidelines. The audit focused primarily on expenses claimed on CCC's CFR for the fiscal year ended June 30, 2018 and certain expenses claimed on its CFRs for the 2 fiscal years ended June 30, 2017.

To accomplish our objective, we reviewed the RCM, the CFR Manual, the Regulations of the Commissioner of Education, CCC'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 visited CCC's campus. We also interviewed CCC officials and staff to obtain an understanding of CCC's financial and business practices. Additionally, we selected a judgmental sample 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 related-party salaries and fringe benefit expenses and OTPS expenses, such as those with related parties. 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.

# 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. These 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 during our audit 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. These duties may be considered management functions for purposes of evaluating organizational independence under generally accepted government auditing standards. In our professional judgment, these duties do not affect our ability to conduct this independent performance audit of SED's oversight and administration of CCC's compliance with the RCM.

## Reporting Requirements

We provided a draft copy of this report to SED and CCC officials for their review and formal comment. Their comments were considered in preparing this final report and are attached in their entirety at the end of the report. In their response, SED officials generally agreed with the audit recommendations and indicated that certain actions have been and will be taken to address them. In their response, CCC officials generally disagreed with most of our conclusions. Our responses to certain CCC comments are included in the report's State Comptroller's Comments.

Within 180 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 where the recommendations were not implemented, the reasons why.

# Exhibit

## Canarsie Childhood Center, Inc. Summary of Submitted and Disallowed Program Costs for the 2015-16, 2016-17, and 2017-18 Fiscal Years

Program Costs	Amount Claimed on CFR	Amount Disallowed	Amount Remaining	Notes to Exhibit
Personal Services				
Direct Care	\$5,839,384	\$145,457*	\$5,693,927	A-G, J, L
Agency Administration	696,856	23,191	673,665	
<b>Total Personal Services</b>	<b>\$6,536,240</b>	<b>\$168,648</b>	<b>\$6,367,592</b>	
Other Than Personal Services				
Direct Care	1,143,768	4,540	1,139,228	A, C, H, I, K
Agency Administration	270,498	20,232	250,266	
<b>Total Other Than Personal Services</b>	<b>\$1,414,266</b>	<b>\$24,772</b>	<b>\$1,389,494</b>	
<b>Total Program Costs</b>	<b>\$7,950,506</b>	<b>\$193,420*</b>	<b>\$7,757,086</b>	

\* The \$145,457 includes a disallowance of \$98,344 because the principal's compensation did not comply with the guidelines in the RCM. However, SED approved the principal's compensation in the 2011-12 school year at the request of CCC and will address as appropriate.



# 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. Although we looked at 3 years, the section numbers and requirements did not change from year to year. We summarized the applicable sections to explain the basis for each disallowance. We provided the details supporting our recommended disallowances to SED and CCC officials during the course of our audit.

- A. RCM Section I.4.A – In general, a less-than-arm's-length (LTAL) relationship exists when there are related parties and one of the parties can exercise control or significant influence over the management or operating policies of another party, to the extent that one of the parties is or may be prevented from fully pursuing its own separate interests.
- B. RCM Section I.4.E.1 – Related parties consists of all entity affiliates, including its management, principal owners, and their immediate families.
- C. RCM Section II – Costs will be considered for reimbursement provided such costs are reasonable, necessary, directly related to the special education program, and sufficiently documented.
- D. RCM Section II.13 – Compensation for personal services includes all salaries and wages, as well as fringe benefits and pension plan costs.
- E. RCM Section II.13.A.5 – Compensation to all individuals who have a financial interest in the program, including shareholders, trustees, board members, officers, family members, or others, and who are also program employees must be commensurate to actual services provided as appropriately qualified program employees or consultants and shall not include any distribution of earnings in excess of reimbursable compensation. Compensation shall not exceed the average regional levels paid by similar private providers to comparably qualified and appropriately certified personnel for similar work and hours of employment. Any compensation determined to be excessive will not be reimbursed in the tuition rate.
- F. RCM Section II.13.B.1 – Fringe benefits may include paid time off, such as vacation leave, sick leave, military leave, holidays, training, and educational costs, provided the benefit is established by written school policy. Payments into specific employee benefit packages, such as teachers' retirement, employees' retirement and pension plans, Social Security, health insurance, life insurance (to the extent the Internal Revenue Service does not require payment of such premiums to be included in the employee's income), unemployment insurance, disability insurance, union welfare funds, or pension plan termination insurance premiums paid pursuant to the Employee Retirement Income Security Act of 1974, may also be included.
- G. RCM Section II.13.B.2.(c) – Reimbursement of fringe benefit expenses shall be subject to the following principles: Benefits including pensions, life insurance and tax-sheltered annuities for individual employees or officers/directors are proportionately similar to those received by other classes or groups of employees.
- H. RCM Section II.14.E – 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 of the audit report issued for the audit period) are not reimbursable. Such non-audit services include bookkeeping, financial information systems design, and actuarial services.



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- I. RCM Section III.1 – Costs will not be reimbursable on field audit without appropriate written documentation of costs.
  - J. RCM Section III.1.A – Compensation costs must be based on approved, documented payrolls.
  - K. RCM Section III.1.C.2 – Adequate documentation for consultants includes, but is not limited to, the consultant's résumé, a written contract that includes the nature of the services to be provided, the charge per day, and service dates. All payments must be supported by itemized invoices that indicate the specific services actually provided and, for each service, the date(s), number of hours provided, fee per hour, and total amount charged.
  - L. CFR Manual (page 8.5) – Expenses and revenues and full-time equivalent enrollment for approved 1:1 teacher aides must be reported as a separate column (i.e., program code).

# Agency Comments - State Education Department

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

EXECUTIVE DEPUTY COMMISSIONER  
(518) 473-8381  
E-mail: Sharon.Cates-Williams@nysed.gov

January 6, 2022

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, 2021-S-2, *Canarsie Childhood Center (CCC) - Compliance with the Reimbursable Cost Manual*.

Recommendation 1:

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

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. NYSED will further review the \$20,000 accounting fees and Principal's salary and benefit recommendations to determine if the adjustments are appropriate.

Recommendation 2:

"Remind CCC officials of the pertinent SED requirements 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 CCC's 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, Regulations, and the Reimbursable Cost Manual (RCM). Furthermore, SED will alert CCC 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,

A handwritten signature in dark ink, reading "Sharon Cates-Williams". The signature is fluid and cursive, with the first name "Sharon" being the most prominent.

Sharon Cates-Williams

c: Phyllis Morris  
Christopher Suriano  
Suzanne Bolling  
Brian Zawistowski  
James Kampf  
Jerry Nestleroad  
Jeanne Day

# Agency Comments - Canarsie Childhood Center, Inc.

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

December 29, 2021

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

Re: State Education Department  
Compliance with the Reimbursable Cost Manual  
Canarsie Childhood Center, Inc.  
Audit Report 2021-S-002  
Draft Report

Dear Mr. Sifontes:

We have reviewed the above-referenced Draft Report relative to costs and expenses reported by Canarsie Childhood Center, Inc. (CCC) on its Consolidated Fiscal Report (CFR) for the fiscal year ending June 30, 2018 and certain expenses claimed on its CFR's for the 2 fiscal years ending June 30, 2017, and determinizations as to whether such costs were reasonable, necessary, directly related to the special education program, and sufficiently documented pursuant to the State Education Department's (SED's) Reimbursable Cost Manual (RCM) and the CFR Claiming Manual (CFR Manual). We appreciate the opportunity to provide context and comment to the Draft Report findings.

## **Audit Findings and Recommendations // General Comments**

CCC shares the auditors' assessment that strong internal controls are critical to the overall health of an organization through the safeguarding of assets and the strengthening of reliable financial reporting and compliance with applicable reporting requirements. CCC welcomes the opportunity presented by the audit to strengthen its internal controls in furtherance of existing self-evaluation and assessment efforts.

## **Personal Service Costs**

### **Salary Expenses**

#### *Average Regional / Principal*

CCC must challenge the auditors' determination that the annualized salary of the school principal exceeded the regional average, in part, because there were no other employees in the same position against whose salaries the principal's salary could be compared and found to have approximated.

As the auditors acknowledge, the State Education Department had, in fact, reviewed the school principal's salary within the context of establishing the 2011-12 tuition rate for the program and while

GREENBERG TRAURIG, LLP • ATTORNEYS AT LAW • WWW.GTLAW.COM  
54 State Street • 6th Floor • Albany, NY 12207 • Tel 518.689.1400 • Fax 518.689.1499

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Kenrick Sifontes  
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initially adjusting the salary, had, upon review of additional information, revised the adjustment, determining the salary appropriate, reasonable and reimbursable in full compliance with the Reimbursable Cost Manual. We believe strongly that it is wholly inappropriate for the auditors to substitute their own judgement for that of the State Education Department especially, where as here, Canarsie conformed its salaries to the levels authorized by the Department. To penalize the Agency who actively sought clarification from the Department and awarded salaries consistent with that specific guidance and deliberate determination, is a grave injustice to the Agency and is contrary to one of the guiding principles outlined in the auditors' own audit protocols – the prevention of fraud and abuse through identification of operational deficiency. Here, the Agency sought and received Department guidance and comported themselves accordingly. If the auditors' challenge the "appropriateness (of the Department's) application of the RCM provision", as stated, there exist less punitive methods by which to communicate that challenge to the Department, perhaps a simple statement of challenge without an associated fiscal disallowance finding against the Agency.

We respectfully request the auditors reconsider the presentation of their concerns around the Department's wholly appropriate analysis and determination of the Principal's salary.

[Comment 1](#)

*Hours Worked / Principal / Executive Director*

We must also specifically challenge the auditors' assessments of hours worked by certain high management personnel. As related to the auditors' findings relating to the Principal's hours worked, we must again clarify that there were several occasions in which the time records clearly reflect that no lunch break was taken (as indicated on the provided analysis), certain weekend days were worked, and the available number of personal days were observed – all of which support the conclusion that the auditors' calculations do not accurately reflect the number of hours worked. As the auditors are quite aware, sign-in sheets are but a single set of documents in support of claimed hours worked for salaried employees.

To further clarify, for example, the final July/August certification date is 9/1/2017. However, the actual signature date of 9/5/2017 indicates the first day return to the office. We had also provided timesheets for 2/23/2018 and 3/1/2018 which may not have been previously reviewed and reflect staff development/superintendent conference days which are included in the calculable mandated session days. We also highlight days in November (2017), February (2018) and March (2018) which appear not to have been included in the auditors' calculations. Additional days outside the standard work week are also reflected (6/26/2018) (6/28/2018).

We respectfully challenge the auditors' statement, then, that no documentation was provided in support of the practice of working through lunch periods. We respectfully request reconsideration of the auditors' calculations based upon these additional data points previously shared with the auditors. We respectfully request the auditors' provide a full review of the documentation provided.

As relates to the hours worked by the Executive Director, we note that the timesheets accurately reflect the lack of a lunch break, as it is the ED's standard practice to "work through lunch". Accordingly, the daily 30-minute reduction calculated by the auditors should be reconsidered. Lunch breaks are available to be taken as "stipulated in their contracts", but are not mandated. We would argue that the auditors may be applying too narrow a strict construction of the wording of the employment contract – the provisions of which, again, allow but do not require the lunch break at designated hours. Clearly, the work day may include a lunch break at the traditional mid-day time, or reservation of that time and application at the "end of the day", thus allowing for an earlier departure.

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Accordingly, hours worked by both the Principal and the Executive Director are not “overstated” as the auditors allege but are supported by time records which provide greater detail than the more general sign-in sheets and reflect the flexibility provided in the employment contracts.

[Comment 2](#)

#### *Teacher Assistant*

CCC does not challenge the auditors’ finding that \$504 in salary and fringe associated with an individual Teacher Assistant had been miscalculated.

#### **Health Insurance Expenses**

We do not challenge the auditors’ finding that there had not been appropriate payroll deductions made for the health insurance premium charges during the audit years for certain employees in the amount of \$50,052.

#### **1:1 Aides**

We appreciate the auditors’ observation that specific costs associated with certain individuals assigned as 1:1 aides were reported in both the designated 1:1 cost center, as well as the designated classroom cost centers. We challenge the auditors’ conclusion, however, that this approach does not comply with RCM criteria. As we have shared with the auditors in other contexts, programs often redeploy into individual classrooms certain 1:1 personnel upon the absence of the student to whom the aide is assigned. This redeployment assures the continued productivity of the aide, while redirecting staff to act as substitutes or additional classroom support. It is wholly appropriate that these isolated costs associated with these redeployments should be reflected in the operational costs of the classroom to assure all operational costs are captured and recognized for purposes of assuring adequate reimbursement.

Point of fact, NYSED has advised programs on a number of occasions that such redeployment costs should be reported as classroom costs and would be appropriately reimbursed, upon proper documentation. Moreover, we believe that the recent proposed revisions to the RCM reinforce our challenge that current provisions relating to the reporting of such costs do not direct reporting of costs exclusively to the 1:1 aide cost center. Clearly the proposed revisions seek to clarify an exclusivity of reporting – an approach otherwise unnecessary if the intent of the existing provisions were as clear as the auditors would suggest.

Accordingly, we respectfully request reconsideration of the proposed disallowance based upon our compliance with NYSED program guidance.

[Comment 3](#)

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

#### **Accounting Expenses**

We challenge the auditors’ determinization that certain accounting costs lacked supporting documentation. CC had shared with the auditors volumes of documentation in support of \$20,000 in accounting costs. The invoice specifically details work performed, number of hours and correlating fee rates, all consistent with the scope of the engagement as set out in the provided engagement agreement, contrary to the auditors’ claim to the contrary. We respectfully request a fuller review of the documentation attached to the September 20<sup>th</sup> correspondence.

GREENBERG TRAURIG, LLP • ATTORNEYS AT LAW • WWW.GTLAW.COM  
54 State Street • 6th Floor • Albany, NY 12207 • Tel 518.689.1400 • Fax 518.689.1499

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Audit Director  
Office of the State Comptroller  
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We do not, however, challenge the auditors' finding that the reporting of \$1,300 in costs associated with non-audit tax preparation did not comply with the Reimbursable Cost Manual parameters.

[Comment 4](#)

**Computer Service Consultant Expenses**

We respectfully request reconsideration of the wording of the narrative's opening paragraph, as we believe there is little value in identifying the specific nature of the related party relationship. It is sufficient, we believe, that the transaction be recognized as related party, without further detail, as set out in prior OSC reports.


As to the adequacy of the supporting documentation, CCC had attempted to obtain more detailed invoices and documentation in support of the reported computer services costs, including itemization of invoices for \$4,288 in consulting-related costs, contracts in support of \$652 for consulting services, and invoices for \$202 in additional claimed costs and has shared with the auditors the documentation retrieved from our files and from our vendors. We believe the documentation supports the costs, as reported, when taken together.

[Comment 5](#)

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We appreciate the opportunity to provide comment on the Draft Report described above.

Very truly yours,

  
GREENBERG TRAURIG, LLP

PAM/maf  
Enclosures  
ACTIVE 62029395v3

cc: James Kampf (SED)  
Brian Zawistowski (SED)  
Jerry Nestleroad (SED)

# State Comptroller's Comments

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1. The RCM guidance is clear that salaries for related parties are to align with the regional averages. Our finding is based on CCC's non-compliance with guidelines in the RCM that we consistently apply. We determined that compensation for the Principal, who co-owns CCC, is substantially higher than the regional average for other principals based upon the regional salary data provided by SED. Moreover, CCC did not seek clarification from SED on an appropriate compensation level for the Principal. Instead, SED determined that the Principal's compensation was not in compliance with the RCM and adjusted the 2011-12 costs accordingly. Upon CCC's request, SED reversed the adjustment (disallowance) but did not justify in accordance with the RCM the basis for determining the Principal's compensation reflected the regional average.
2. Compensation paid to employees for their lunch period are not reimbursable. Moreover, contracts stipulate the hours the Principal and Executive Director are to work each week exclusive of a 30-minute lunch. CCC provided job duties and sign-in sheets as evidence of the Principal's and Executive Director's work efforts. However, according to the sign-in sheets, the hours worked were less than required by their employment contracts. Lastly, our findings are inclusive of the dates and times listed.
3. One-to-one aides are funded at a daily regional rate that is paid based on the aide's student enrollment and not their actual attendance. Consequently, redeploying the 1:1 aide when the student is absent and reporting the costs under the cost-based tuition rate results in these costs being funded twice. Furthermore, all versions of the CFR Manual issued during our audit scope clearly state that the costs of 1:1 aides are to be reported under its own program code.
4. The RCM clearly states that all payments for legal and accounting services must be supported by itemized invoices indicating the specific services and/or deliverables provided and, for each service and/or deliverable, the date services were provided and the total amount charged. Invoices provided by CCC did not include the detail required by the RCM.
5. We reviewed the additional documentation provided in response to our preliminary report and reduced the recommended disallowance by approximately \$600. However, documentation to support the remainder of the consultant's work is inadequate and/or insufficient.



# Contributors to Report

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## Executive Team

**Andrea C. Miller** - *Executive Deputy Comptroller*

**Tina Kim** - *Deputy Comptroller*

**Ken Shulman** - *Assistant Comptroller*

## Audit Team

**Kenrick Sifontes** - *Audit Director*

**David Schaeffer** - *Audit Manager*

**Ann Marsh** - *Audit Supervisor*

**Jeremy Mack** - *Examiner-in-Charge*

**Urszula Boczon** - *Senior Examiner*

**Jaleesa J. Carter** - *Senior Examiner*

## 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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