



New York State Comptroller
THOMAS P. DiNAPOLI

Williamsburg Infant & Early Childhood Development Center, Inc. – Compliance With the Reimbursable Cost Manual

State Education Department

Report 2021-S-22 | March 2023

Spotlight on Education



Audit Highlights

Objective

To determine whether the costs reported by Williamsburg Infant & Early Childhood Development Center, Inc. (Williamsburg) 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 Williamsburg's CFR for the fiscal year ended June 30, 2019 and certain expenses claimed on its CFRs for the 2 fiscal years ended June 30, 2018.

About the Program

Williamsburg is a New York City-based not-for-profit organization authorized by SED to provide full-day Special Class education services to children with disabilities who are between the ages of 3 and 5 years. For the purpose of this report, this program is referred to as the SED preschool cost-based program. Williamsburg also operated other SED-approved preschool special education programs: Evaluations, Related Services, 1:1 Aides, and a Department of Health Early Intervention program. However, payments for services under these programs are based on fixed fees. Williamsburg also operated private-pay programs for preschool and school-age children. During the 2018-19 school year, Williamsburg served 114 students.

The New York City Department of Education (DOE) refers students to Williamsburg and pays for its services using rates established by SED. The rates are based on the financial information Williamsburg reports to SED on its annual CFRs. For the 3 fiscal years ended June 30, 2019, Williamsburg reported approximately \$11 million in reimbursable costs for the SED preschool cost-based program.

Key Findings

For the 3 fiscal years ended June 30, 2019, we identified \$822,224 in reported costs that did not comply with the requirements in the RCM and the CFR Manual, as follows:

- \$424,478 in ineligible property and rental expenses related to additional spaces/locations that were not approved by SED.
- \$267,868 in compensation expenses that did not comply with the RCM's requirements. Williamsburg officials did not provide us with sufficient documentation to show that the employees provided services to the SED preschool cost-based program.
- \$69,345 in unallowable expenses, including \$55,371 paid to transport teachers to work (commuting), \$4,833 in costs not related to the SED preschool cost-based program, \$3,831 in legal costs related to violations and political activities, \$2,955 in accrued interest expenses related to interest-free loans, \$1,588 in non-audit services that were provided within 365 days of required audit work, and \$767 in other ineligible expenses.
- \$42,813 in expenses that were not sufficiently documented, including \$16,900 in repairs and maintenance costs, \$9,959 in lice/nit inspection costs, \$8,360 in computer technical support costs, \$5,373 in accounting services costs, and \$2,221 in various other costs that were not sufficiently documented or were unsupported.
- \$17,720 in contractor expenses where services were not sufficiently documented. We could not determine whether the contractors provided services to the SED preschool cost-based program.

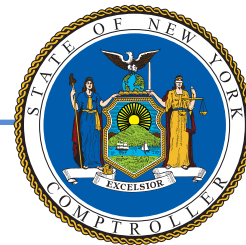
Key Recommendations

To SED:

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

To Williamsburg:

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



Office of the New York State Comptroller Division of State Government Accountability

March 1, 2023

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

Aaron Kohn
Executive Director
Williamsburg Infant & Early Childhood
Development Center, Inc.
22 Middleton Street
Brooklyn, NY 11206

Dear Dr. Rosa and Mr. Kohn:

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 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 costs submitted by Williamsburg Infant & Early Childhood Development Center, Inc. to the State Education Department for the purpose of establishing the preschool special education tuition reimbursement rates used to bill public funding sources that are supported by State aid payments. This 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

Term	Description	Identifier
SED	State Education Department	<i>Auditee</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>
Williamsburg	Williamsburg Infant & Early Childhood Development Center, Inc.	<i>Service Provider</i>

Background

Williamsburg Infant & Early Childhood Center, Inc. (Williamsburg) is a New York City-based not-for-profit organization approved by the State Education Department (SED) to provide full-day Special Class education services to children with disabilities who are between the ages of 3 and 5 years. For the purpose of this report, this program is referred to as the SED preschool cost-based program. During the fiscal year ended June 30, 2019, Williamsburg served 114 students with disabilities.

In addition to the SED preschool cost-based program, Williamsburg operated other SED-approved programs such as Evaluations, 1:1 Aides, Related Services, and a Department of Health Early Intervention program. However, payment for services under these programs is based on fixed fees, as opposed to the cost-based rates established through financial information reported on Consolidated Fiscal Reports (CFRs). Williamsburg also operated private-pay programs for preschool and school-age children.

The New York City Department of Education (DOE) refers students to Williamsburg based on clinical evaluations and pays for Williamsburg's services using rates established by SED. The rates are based on the financial information that Williamsburg reports to SED on its annual CFRs. To qualify for reimbursement, Williamsburg'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 related to multiple programs and entities. SED reimburses DOE 59.5% of the statutory rate, which DOE pays Williamsburg.

For the 3 fiscal years ended June 30, 2019, Williamsburg reported approximately \$11 million in reimbursable costs for the SED preschool cost-based program. This audit focused primarily on expenses that Williamsburg claimed on its CFR for fiscal year ended June 30, 2019, but also included certain expenses that Williamsburg claimed on its CFRs for the 2 fiscal years ended June 30, 2018.

Audit Findings and Recommendations

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, 2019, we identified \$822,224 in reported costs that did not comply with SED's requirements for reimbursement. These ineligible costs include \$267,868 in personal service costs and \$554,356 in other than personal service (OTPS) costs (see Exhibit at the end of the 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 disallowances detailed in this report to weaknesses in Williamsburg's internal controls over its compliance with SED's guidelines.

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, 2019, Williamsburg reported approximately \$8.1 million in personal service costs for the SED preschool cost-based program. We identified \$267,868 in personal service costs that did not comply with the RCM's requirements for reimbursement.

Insufficiently Documented Personal Service Costs

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. Costs will not be reimbursable on field audit without appropriate written documentation of costs. Compensation for personal service costs includes all salaries and wages as well as fringe benefits. In addition, compensation costs must be based on approved, documented payrolls. For the 3 fiscal years ended June 30, 2019, we identified \$267,868 in compensation costs that did not comply with the RCM's requirements, as follows:

- \$200,403 in compensation for 12 employees (Teachers and Teacher Assistants) whose names simultaneously appeared on the class rosters of both the SED preschool cost-based program and the Early Intervention program. Williamsburg officials did not maintain documentation, including employee contracts, indicating which program the employee was hired for and worked for. Williamsburg also did not maintain position transfer documents, which would indicate that an employee was transferred from one program to another. Therefore, we have no assurances that these employees provided services to the SED preschool cost-based program.
- \$44,994 in compensation for an administrative employee who worked remotely. According to Williamsburg's Executive Director, this employee performed quality assurance duties. However, Williamsburg officials did not provide us

with sufficient documentation such as an employment contract or evidence of work product to show that this employee provided services to the SED preschool cost-based program.

- \$22,471 in compensation for eight employees (Teachers and Teacher Assistants) who, according to class rosters, were not assigned to a classroom. Williamsburg officials did not provide any supporting documentation indicating that these employees provided services to the SED preschool cost-based program.

Consequently, we recommend that SED disallow \$267,868 charged to the SED preschool cost-based program for the 3 fiscal years ended June 30, 2019.

Other Than Personal Service Costs

According to the RCM, costs must be reasonable, necessary, directly related to the special education program, and sufficiently documented. For the 3 fiscal years ended June 30, 2019, Williamsburg reported approximately \$2.9 million in OTPS expenses for its SED preschool cost-based program. To determine whether these expenses complied with SED's requirements for reimbursement, we judgmentally selected a sample totaling approximately \$2.6 million in OTPS expenses. We identified \$554,356 of these expenses that did not comply with SED's reimbursement requirements.

Ineligible Property and Related Expenses

The RCM states that costs will be considered for reimbursement provided such costs are reasonable, necessary, directly related to the special education programs, and sufficiently documented. Further, all rental agreements, including renewals, must be in writing, dated and signed by the lessee and the lessor. Both program and fiscal designee written approval are required.

Additionally, according to the RCM, providers are required to obtain prior written approval of the Commissioner of Education's designees for an education program expansion requiring additional staff, variations from staffing ratios, property-related costs, classroom equipment, and the like when the cost is expected to be reimbursed fully or partially through the tuition rate. We identified \$424,478 in expenses that did not meet the requirements of the RCM.

22 Middleton Street Location

Williamsburg was approved to operate its SED preschool cost-based program at 22 Middleton Street in Brooklyn. However, we found that Williamsburg rented additional space at this same location that was not approved by the Commissioner's fiscal designee, as required. For the 3 fiscal years ended June 30, 2019, Williamsburg claimed \$799,257 in rental charges; however, we determined it should have only claimed \$404,301 in rental charges – a difference of \$394,956. Williamsburg officials stated they needed additional space; however, they did not obtain written SED approval to acquire the additional space. Consequently, we recommend that SED

disallow \$394,956 in rental costs charged to the SED cost-based program that did not comply with RCM requirements.

Unapproved Locations

We also found that Williamsburg rented space at three other unapproved locations: one at 210 Wallabout Street in Brooklyn as well as two in upstate New York (Orange County). Williamsburg officials advised us the additional space at 210 Wallabout Street was used as a satellite administrative office and shared with the Early Intervention program. Officials also advised us the Orange County locations were used by staff who worked remotely performing quality assurance duties and other tasks. However, Williamsburg did not obtain written SED approval to rent this additional space. Moreover, Williamsburg officials did not provide a lease agreement for the office spaces in Orange County. For the 3 fiscal years ended June 30, 2019, we found that Williamsburg charged \$29,522 to the SED preschool cost-based program for expenses related to the three unapproved locations, as follows:

- \$29,088 in rent expenses related to all three unapproved locations;
- \$270 in car service expenses related to the Orange County office spaces; and
- \$164 in computer technical support expenses related to the Orange County office locations.

Consequently, we recommend that SED disallow \$29,522 in costs related to unapproved sites that were not in compliance with the RCM.

Unallowable OTPS Costs

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, the costs of vehicles used by program officials, employees, or board members to commute to and from their homes and travel expenses of spouses, family members, or any non-employee are not reimbursable. The RCM states that political and charitable contributions and donations made by the program are not reimbursable. The RCM also states that costs of food provided to any staff are not reimbursable. Further, all personal expenses, such as gift certificates to staff and vendors, are not reimbursable. Additionally, 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. Lastly, costs resulting from violations of or failure by the entity to comply with federal, State, and/or local laws and regulations are not reimbursable. According to the CFR Manual, agency administration costs include all the administrative costs that are not directly related to specific programs/sites but are attributable to the overall operation of the agency. Additionally, only expenses for the proper CFR reporting period should be included on the CFR. CFRs submitted with expenses for a different reporting period will not be accepted. We identified \$69,345 in reported costs that

were ineligible for reimbursement because they did not comply with the requirements in the RCM and CFR Manual, as follows:

- \$55,371 in staff commuting costs. Williamsburg paid the expenses related to transporting teachers to work.
- \$4,833 in costs not related to the SED preschool cost-based program, including \$4,674 in legal costs and \$111 in banking fees related to Williamsburg's Early Intervention program and/or its private-pay-funded day care and \$48 in car rental costs. According to the invoice, the car was rented by an individual who was not employed by Williamsburg.
- \$3,831 in ineligible legal fees, including \$3,754 related to violations (e.g., New York City Department of Health and Mental Hygiene) and \$77 related to political activities.
- \$2,955 in ineligible accrued interest expense. Williamsburg charged interest expense on the CFR relating to interest-free loans made to the school from Board members and other individuals.
- \$1,588 for non-audit services that were provided within 365 days of required audit work.
- \$767 in other ineligible expenses, including \$428 in food for staff and \$339 in costs claimed in the incorrect reporting period.

Consequently, we recommend that SED disallow \$69,345 in expenses that were not in compliance with the RCM and CFR Manual.

Insufficiently Documented/Unsupported OTPS Costs

According to the RCM, costs will not be reimbursable on field audit without appropriate written documentation of costs. Adequate documentation for consultants 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. Additionally, the RCM states that requests for proposals or other bidding documentation must be kept on file by the entity operating the program. The entity needs to justify that the consultant hired was the most economical and/or appropriate available for a particular service. For the 3 fiscal years ending June 30, 2019, we identified \$42,813 in reported costs that did not comply with the RCM requirements, as follows:

- \$16,900 in repairs and maintenance costs. The payments were not supported by itemized invoices indicating the specific services provided and, for each service, the date(s), number of hours provided, and fee per hour. Moreover, the invoices indicated the costs were for consulting services and not for repairs and maintenance.
- \$9,959 in lice/nit inspection costs. The payments were not supported by itemized invoices indicating the dates of service, number of hours provided,

and names of students who were inspected. Additionally, Williamsburg officials did not provide the consultant's résumé and written contract.

- \$8,360 in computer technical support costs. The payments were not supported by itemized invoices indicating the dates of service, number of hours provided, and fee per hour. Additionally, Williamsburg officials did not provide a written contract, request for proposals, or other required bidding documentation.
- \$5,373 in accounting services costs. The payments were not supported by itemized invoices indicating a description of actual services provided and the dates for each service. Additionally, Williamsburg officials did not provide the consultant's résumé and written contract.
- \$1,189 in other costs that were not sufficiently documented, including \$481 in advertising costs, \$376 in legal fees, \$196 in postage and delivery costs, and \$136 in transportation costs.
- \$1,032 in unsupported miscellaneous costs, including \$396 in postage costs, \$386 in Internet service costs, and \$250 in natural gas and electricity costs.

Consequently, we recommend that SED disallow \$42,813 in costs that were not in compliance with the RCM.

Contracted Services Costs

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 without appropriate written documentation.

Consultants include independent accountants, lawyers, and other independent contractors. The RCM states that adequate documentation for consultants 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. In addition, when direct care services are provided, the documentation must indicate the names of students served, actual dates of service, and number of hours of service provided to each child on each date. For the 3 fiscal years ended June 30, 2019, Williamsburg charged \$17,720 for services that did not meet the requirements of the RCM.

We requested the contracts and supporting documentation for 59 individuals who were reported as contractors on Williamsburg's CFRs. However, Williamsburg did not provide the required contracts, which include the nature of the services to be provided. Additionally, they did not provide us with the contractors' invoices. Instead, Williamsburg officials advised us they maintained internal documents named "Record of Substitutes." We reviewed a sample of these documents and determined they did not meet the requirements of the RCM because they did not contain detailed information such as the hourly rate and the total amount charged. Further, the

documents did not indicate the name of the person whom the contractor substituted for or which program the contractor provided services to. We recommend that SED disallow \$17,720 in contractor expenses that did not comply with RCM requirements.

Recommendations

To SED:

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

To Williamsburg:

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

The objective of our audit was to determine whether the costs reported by Williamsburg on its CFRs were reasonable, necessary, directly related to the special education program, and sufficiently documented pursuant to SED guidelines, including the RCM. The audit focused primarily on expenses claimed on Williamsburg's CFR for the fiscal year ended June 30, 2019 and certain expenses claimed on its CFRs for the 2 fiscal years ended June 30, 2018.

To accomplish our objective, we reviewed the RCM, the CFR Manual, the Regulations of the Commissioner of Education, Williamsburg'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 determined that the data was sufficiently reliable for our use in accomplishing our audit objective. We also interviewed Williamsburg officials and staff to obtain an understanding of Williamsburg'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 salaries and fringe benefit expenses, cost allocation, and OTPS expenses. 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

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. 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 Williamsburg's compliance with the RCM.

Reporting Requirements

We provided a draft copy of this report to both SED and Williamsburg 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. In their response, Williamsburg officials disagreed with our conclusions. Our responses to certain Williamsburg comments are included in the report's State Comptroller's Comments.

Within 180 days after 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 recommendations were not implemented, the reasons why.

Exhibit

**Williamsburg Infant & Early Childhood Development Center, Inc.
Summary of Reported and Disallowed Program Costs
for the 2016-17, 2017-18, and 2018-19 Fiscal Years**

Program Costs	Amount Reported on CFR	Amount Disallowed	Amount Remaining	Notes to Exhibit
Personal Services				
Direct Care	\$7,604,420	\$222,874	\$7,381,546	B, C, L, M
Agency Administration	511,309	44,994	466,315	
Total Personal Services	\$8,115,729	\$267,868	\$7,847,861	
Other Than Personal Services				
Direct Care	\$2,583,780	\$492,212	\$2,091,568	A, B, D-L, N-R
Agency Administration	351,572	62,144	289,428	
Total Other Than Personal Services	\$2,935,352	\$554,356	\$2,380,996	
Total Program Costs	\$11,051,081	\$822,224	\$10,228,857	

Notes to Exhibit

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 Williamsburg officials during the course of our audit.

- A. RCM Section I.1.B.(1) – Providers must obtain prior written approval of the Commissioner's designees for an education program expansion requiring additional staff, variations from staffing ratios, property-related costs, classroom equipment, etc. when the cost is expected to be reimbursed fully or partially through the tuition rate.
- B. 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.
- C. RCM Section II.13 – Compensation for personal service costs includes all salaries and wages as well as fringe benefits.
- D. 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.
- E. RCM Section II.16 – Political and charitable contributions and donations made by the program are not reimbursable.
- F. RCM Section II.20.B – All personal expenses, such as personal travel expenses, laundry charges, beverage charges, gift certificates to staff and vendors, flowers or parties for staff, holiday parties, repairs on a personal vehicle, and rental expenses for personal apartments, are not reimbursable unless specified otherwise in the RCM.
- G. RCM Section II.21 – 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.
- H. RCM Section II.22.C – Costs of food provided to any staff are not reimbursable.
- I. RCM Section II.41.A – All rental agreements, including renewals, must be in writing, dated and signed by the lessee and the lessor.
- J. RCM Section II.59.D.(1) – Costs of personal use of a program-owned or -leased automobile are not reimbursable. The costs of vehicles used by program officials, employees, or board members to commute to and from their homes are not reimbursable.
- K. RCM Section II.59.F – Travel expenses of spouses, family members, or any non-employee are not reimbursable.
- L. RCM Section III.1 – Costs will not be reimbursable on field audit without appropriate written documentation of costs.
- M. RCM Section III.1.A – Compensation costs must be based on approved, documented payrolls.
- N. RCM Section III.1.C.(2) – Adequate documentation for consultants 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. In addition, when direct care

services are provided, the documentation must indicate the names of students served, actual dates of service, and number of hours of service to each child on each date.

- O. 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.
- P. CFR Manual (page 3.2) – Only expenses and revenues for the proper CFR reporting period should be included in the CFR. CFRs submitted with expenses and revenues for a different reporting period will not be accepted.
- Q. CFR Manual Appendix I (pages 42.1, 42.2) – Agency administration costs include all the administrative costs that are not directly related to specific programs/sites but are attributable to the overall operation of the agency such as costs for the overall direction of the organization, costs for general record keeping, budget and fiscal management, costs for governing board activities, costs for public relations (excluding fundraising and special events), and costs for parent agency expenses. Agency administration costs do not include program/site-specific costs or program administration costs.
- R. CFR Manual Appendix I (page 42.2) – Service providers should note that all attempts should be made to directly charge an expense to the appropriate cost center (agency administration or program/site and program administration).

Agency Comments - State Education Department



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

February 7, 2023

Mr. Kenrick Sifontes
Audit Director
Office of the State Comptroller
Division of State Government Accountability
59 Maiden Lane, 21st 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-22, *Williamsburg Infant & Early Childhood Development Center, Inc. (Williamsburg) - Compliance With the Reimbursable Cost Manual*.

Recommendation 1:

“Review the recommended disallowances identified by our audit and make the necessary adjustments to the costs reported on Williamsburg’s CFR and to Williamsburg’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 staffing recommendations, as well as the audit/accounting, lice/nit, and technical support charges to determine if the adjustments are appropriate.

Recommendation 2:

“Remind Williamsburg 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 Williamsburg’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 Williamsburg of online CFR training that is available on SED’s webpage. SED recommends that all individuals signing the CFR certification statements, namely the Executive Director and Certified Public Accountant, complete this

training. This training is a requirement for preschool special education providers upon approval and reapproval.

If you have any questions regarding this response, please contact Nell Brady, Director of the Rate Setting Unit, at (518) 474-1298.

Sincerely,



Sharon Cates-Williams

cc: Christopher Suriano
Suzanne Bolling
James Kampf
Nell Brady
Jennifer Finucan
Jerry Nestleroad
Jeanne Day

Agency Comments - Williamsburg



February 16, 2023

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

Re: Audit Report 2021-S-22

Dear Mr. Sifontes,

Background:

Williamsburg Infant & Early Childhood Development Center, Inc. (WIECDC), was founded in 1988 by a parent of a child with cerebral palsy with the support of the Yiddish speaking community. Prior to that there had been no preschool special education services for children in this community. Our Board of Directors and the Executive Director are parents of children who graduated from WIECDC. WIECDC's sole mission is to provide quality education and therapeutic care to preschoolers with disabilities.

WIECDC respects governmental oversight and appreciates the support and cooperation provided to our organization by our oversight organizations; New York State Education Department and the NYC Department of Education. They have always acted professionally and in the interest of the children being served. Their commitment to the provision of quality special education services has enabled us to provide these crucial services to children with significant needs.

We did not find the same commitment to professionalism or interest in the children served by the Office of the New York State Comptroller (OSC). To the contrary, the OSC seems to be only interested in putting findings in a report to the point of ignoring facts and circumstances. They also purport to "audit" providers but instead examine almost every transaction with the purpose of fishing for findings. This unto itself is a waste of tax dollars.

[Comment 1](#)

Response to the OSC report:

We would like to start by saying that all costs reported on WIECDC's CFRs are reasonable, necessary, and directly related to the special education program. Therefore, we disagree with all the findings stated in the audit report.

[Comment 2](#)

During this OSC audit, we came to realize that any rationalization and documentation provided to OSC in regards to these finding were ignored. We believe that the auditors were not open to understanding any of our explanations or documentation presented. The auditors seemed to be either intentionally or unintentionally obtuse. Instead they chose to move forward with findings we specifically disproved to them. Because of that we feel obligated to respond here to demonstrate the inaccuracy of these findings.

[Comment 3](#)

OSC Finding on Personal Service Cost: \$200,403 in compensation for 12 employees (Teachers and Teacher Assistants) whose names simultaneously appeared on the class rosters of both the SED preschool cost-based program and the Early Intervention program. Williamsburg officials did not maintain documentation, including employee contracts, indicating which program the employee was hired for and worked for. Williamsburg also did not maintain position transfer documents, which would indicate that an employee was transferred from one program to another. Therefore, we have no assurances that these employees provided services to the SED preschool cost-based program.

WIECDC Response: OSC is misinterpreting the class rosters that were provided to them during the audit. To clarify the following should be noted,

[Comment 4](#)

- a) The rosters presented to the auditors were duplicate rosters maintained for the same preschool classroom that had the unique circumstance of having both students that were Preschool and Early Intervention students. This happens when a child is in the process of transitioning to Preschool from Early Intervention but that transition has not been completed. In these rare circumstances the children were included in the preschool class where they would be served once their transition to preschool was completed. To account for this accurately, separate duplicate rosters were maintained to account for the EI students that were in these preschool classes. However, these rosters were in fact for the same classrooms which can be seen by noting that the classroom name/period and staff assignments are exactly the same on both program rosters that are being questioned.
- b) These were in fact preschool classes which is reflected by the fact that the preschool rosters contain many children while the Early Intervention rosters only contain one or two students who were in the process of transitioning.
- c) Most of the rosters being questioned (3 out of 4) are for the summer school when this kind of transitional usually occurs. The rarity of this is reflected by the fact that there are only 4 individual classroom rosters being questioned over the 3 years being audited. This included 1 class in the Summer of 2016, 1 in Winter 2017, 1 class in the Summer of 2017, and 1 class in the Summer of 2018.
- d) Two out of the four classroom roster being questioned has only a single child listed on the Early Intervention roster, and this child appears on the preschool roster as well reflecting that the student fully transitioned to preschool during that period of time.
- e) There are no other teaching staff being charged to the preschool program for the classrooms being questioned, because those were in fact the teachers for those classes.

Based on the documentation provided to the auditors, it is obvious that these classrooms are the same classrooms and that they were in fact Preschool classes not Early Intervention. Therefore, those teaching staff were preschool staff and were correctly reported as such. This was further demonstrated based on the number of FTEs reported for teaching staff and number of preschool classrooms we operated as they match which corroborates the fact that these staff worked in the preschool program. Therefore, since the staff listed on the preschool rosters worked for the preschool program they were appropriately charged on the CFR to the preschool program. Consequently, disallowing the teaching staff for these preschool classrooms is incorrect and inappropriate.

[Comment 5](#)

OSC Finding on Personal Service Cost: *\$44,994 in compensation for an administrative employee who worked remotely. According to Williamsburg’s Executive Director, this employee performed quality assurance duties. However, Williamsburg officials did not provide us with sufficient documentation such as an employment contract or evidence of work product to show that this employee provided services to the SED preschool cost-based program.*

WIECDC Response: WIECDC previously provided to OSC the job description and signed timesheets of the Quality Assurance employee. Based on the job responsibilities, it is clear that this employee holds an organization-wide administration position, and is properly charged as an organization-wide agency administration title on CFR-3 of the CFR. Through Ratio Value this cost is then allocated to all programs benefitting and therefore is correctly accounted for. Therefore, since the Quality Assurance employee was appropriately reported on the CFR it should not be disallowed.

[Comment 6](#)

The reason this employee was working remotely had to do with her importance to the program services being provided at WIECDC. She had been working at WIECDC since 2001 and has developed significant skills in all programs we operate. In 2010 she moved from NYC to Orange County and we were at risk of losing her and her extensive knowledge and skills. We decided that she could accomplish her job function working remotely and since she was too important to the services being provided to lose, we requested that she continue in her position and allowing her to work remotely.

OSC Finding on Personal Service Cost: *\$22,471 in compensation for eight employees (Teachers and Teacher Assistants) who, according to class rosters, were not assigned to a classroom. Williamsburg officials did not provide any supporting documentation indicating that these employees provided services to the SED preschool cost-based program.*

WIECDC Response: The eight Teachers and Teacher Assistants that were not listed on the class rosters were either substitutes or left employment in the middle of school year prior to the completion of the roster. Therefore, they were not reflected on those class rosters. The staff that are included on the class rosters, are only the full-time staff assigned to the classroom and do not include substitutes. However, substitutes are a necessary and allowable cost for the preschool program. The classroom teaching staff who left employment in middle of school year, are not listed on the class rosters which instead reflects their replacement staff. This is because the roster reflects staffing at a given point in time and does not reflect staff that were

[Comment 7](#)

previously in that class but subsequently replaced. On July 27, 2022 WIECDC provided OSC with details on all the staff questioned. This included specifying which staff listed on the rosters that the staff substituted for or who they were replaced by. Based on FTE reported on the CFR for teaching staff and number of classrooms operated, it is obvious that these staff worked in the SED preschool program and were appropriately reported. Therefore, disallowing these necessary substitute staff and the previously employed teaching staff is incorrect and inappropriate.

OSC Finding on Other Than Personal Service Cost: *Williamsburg was approved to operate its SED preschool cost-based program at 22 Middleton Street in Brooklyn. However, we found that Williamsburg rented additional space at this same location that was not approved by SED, as required. For the 3 fiscal years ended June 30, 2019, Williamsburg claimed \$799,257 in rental charges; however, we determined they should have only claimed \$404,301 in rental charges – a difference of \$394,956. Williamsburg officials stated they needed additional space; however, they did not obtain written SED approval to acquire the additional space.*

WIECDC Response: These new classrooms were in fact approved by SED. The following is a chart of SED classroom approval history. Each time we added a classroom we had requested and obtained programmatic approval for the additional classroom. We are at a loss to understand how anyone would think we were going to operate these newly approved classrooms if we weren't renting additional space at our approved location. It is incongruous for anyone to think that the program approval of an additional classroom is not approval to rent more space for that classroom. Since the cost of the additional space was funded by the new children being served there was no need for a tuition rate waiver from SED's Rate Setting Unit.

Comment 8

These new programmatically approved classes were all subsequent to the initial lease dated December 1, 2004. Those additional classrooms are documented on the riders to the lease that was provided to OSC. These riders explicitly stipulate increases in rental cost for the additional spaces rented correlating to the opening of the new classes approved by SED. It is also clear, and is uncontested by OSC, that the space was used for these newly approved classroom serving preschool children. Therefore, it is absurd to disallow the cost of these new classrooms at our existing location that were approved by SED.

Approval Date	Approval Description	Additional Classroom Approved	Total Classrooms Approved
04/02/10	Approved 2 initial 6:1:2 Classrooms	2	6
01/12/11	Approved 1 additional 9:1:2 Classroom	1	7
04/22/13	Approved 1 additional 9:1:2 Classroom	1	8
09/13/13	Approved 1 additional 6:1:2 Classroom	1	9
09/25/14	Approved 1 additional 9:1:2 Classroom	1	10
09/05/18	Approved 3 ratio change from 6:1:2 to 9:1:2	0	10

OSC Finding on Other Than Personal Service Cost: *We also found that Williamsburg rented space at three other unapproved locations: one at 210 Wallabout Street in Brooklyn as well as two in upstate New York (Orange County) – one being a private residence and the other being office space. Williamsburg officials advised us the additional space at 210 Wallabout Street was used as a satellite administrative office and shared with the Early Intervention program. Officials also advised us the Orange County locations were used by staff who worked remotely performing quality assurance duties and other tasks. However, Williamsburg did not obtain written SED approval to rent this additional space. Moreover, Williamsburg officials did not provide a lease agreement for the office space in Orange County. For the 3 fiscal years ended June 30, 2019, we found that Williamsburg charged \$29,522 to the SED preschool cost-based program for expenses related to the three unapproved locations*

WIECDC Response: As we have previously communicated to the auditors, these locations are not used by students or program staff that require SED approval. These locations are strictly used by WIECDC administrative staff and are only charged to the school program being audited through Ratio Value allocation. RCM 41(B)(1), quotes “A move to a new location must be approved by the Department’s **program** staff and such costs of move are subject to review and approval by DOB prior to the **program's** move”. These were not locations where the **program** was located. To clarify, the “two” locations in Orange County were not rented concurrently, we only had one location which was relocated during this period of time. The auditor’s assertion that this is a private residence is also incorrect, this was office space within a residential building which had a separate direct external entrance.

[Comment 9](#)

OSC Finding on Other Than Personal Service Cost: *\$28,548 in auditing costs. The invoices did not have the required details such as number of hours provided and fee per hour.*

WIECDC Response: The stated reason for the disallowance is based on the fact that the invoices didn’t contain the number of hours provided and the fee per hour. This is a misunderstanding of how this type of engagement is contracted for. The payment for an audit is not done on an hourly basis. It is a purchase of a product. We pay a fee to the audit firm for them to perform an audit and render an opinion on our financial statements and CFR. The number of hours that the accounting firm requires to do the audit is based on their professional judgement and is outside of our control. And the number of hours can change based on findings during their audit. However, since we are not paying for their hours of service, additional hours dedicated to the audit does not impact the fee we pay. We do have an engagement letter from the auditors which states the price for the audit of the financial statements and CFR which we have shared with the auditors. Therefore, since an audit fee would never include hours of service, we disagree with this disallowance and it should be removed.

[Comment 10](#)

OSC Finding on Other Than Personal Service Cost: *\$16,900 in repairs and maintenance costs. The payments were not supported by itemized invoices indicating the specific services provided and, for each service, the date(s), number of hours provided, and fee per hour. Moreover, the invoices indicated the costs were for consulting services and not for repairs and maintenance.*

WIECDC Response: This again is a misunderstanding of how this engagement was contracted for. The payment for this engagement was not done on an hourly basis. This consultant was hired by WIECDC to ensure that our pre-school facility was in compliance with all DOB, FDNY and DOH code. We paid a fixed fee to the Consultant to perform a review and ensure that all necessary corrections were implemented. However, since we are paying for a completed project and not for hours of service, any additional hours performed by the consultant did not impact the fee we paid, Therefore, since we were not paying them for hours of service the hours paid would not be included in the invoice. Therefore, we disagree with this disallowance and it should be removed.

[Comment 11](#)

OSC Finding on Other Than Personal Service Cost: *\$55,371 in staff commuting costs. Williamsburg paid the expenses related to transporting teachers to work.*

WIECDC Response: This cost was incurred by WIECDC due to the fact that there are very few special education teachers with the necessary NYSED certified bilingual extension in Yiddish that are living within the vicinity of our school at 22 Middleton Street in Williamsburg, Brooklyn. Our only option to attract and retain certified Yiddish speaking teachers was to look outside of own area to the teachers residing in the Borough Park area of Brooklyn. However, in order for those staff to agree to commute to Williamsburg and to ensure their timely arrival, WIECDC decided to arrange for group transportation from Borough Park. This proved to be a very effective method for the recruitment of these difficult to get staff positions. It also was very effective at preventing tardiness of staff and ensuring that our school was fully ready when the children arrived. Therefore, these costs were reasonable, necessary, directly related to the special education program and this finding should be removed.

[Comment 12](#)

We again ask that you eliminate the findings in your draft report since these costs were reasonable, necessary and directly related to the preschool education program.

Sincerely yours,



Aaron Kohn
Executive Director

Cc: Betty A. Rosa, Ed.D., Commissioner NYSED
James Kampf
Nell Brady

State Comptroller's Comments

1. 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 operations. This fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving operations. The audit work is conducted under applicable government audit standards requiring independence and objectivity. Quite simply, Williamsburg reported costs that did not comply with the RCM and the CFR Manual. Refer to Comment 2.
2. We stand by our conclusions. The costs we recommend disallowing were either not reasonable, not necessary, not directly related to the special education program, or not sufficiently documented, as required by the RCM and the CFR Manual.
3. We strongly disagree. We considered and evaluated all supporting records and explanations provided to us by Williamsburg officials. Further, as stated in Comment 1, our work is conducted with the highest level of independence and professionalism.
4. We did not misinterpret the class rosters. Both the SED preschool cost-based program and the Early Intervention (EI) program class rosters clearly indicate the Teachers and Teacher Assistants were assigned to both programs during the same time period. Additionally, Williamsburg officials did not provide us with additional records to support that the 12 employees provided services for the SED preschool cost-based program. Refer to Comment 5.
5. We disagree. It is not “obvious” that these classrooms were SED preschool cost-based program classes. According to Williamsburg’s class rosters, the classrooms included both SED preschool cost-based and EI teaching staff and students. Refer to Comment 4.
6. We stand by our findings. Williamsburg officials did not provide sufficient records, including evidence of work product, to give us reasonable assurance that the employee provided services to the SED preschool cost-based program.
7. Williamsburg officials did not provide documentation to dispute our conclusion.
8. The RCM clearly states that prior written approval be obtained from both the program and the fiscal designee of the Commissioner of Education. Williamsburg officials did not provide us with written documentation from the Commissioner’s fiscal designee. We revised our report to clarify that Williamsburg did not obtain written approval from the Commissioner’s fiscal designee.
9. The section of the RCM quoted by Williamsburg officials discusses “moving” to a new location. Williamsburg did not move to a new location; rather, it rented additional space at three other locations. According to RCM Section I.1.B.(1), prior written approval from both the program and the fiscal designee is required for additional staff, variations from staffing ratios, property-related costs, classroom equipment, etc. when the cost is expected to be reimbursed fully or partially through the tuition rate. Williamsburg officials did not provide us with written approval from the fiscal designee.
10. We agree and revised our report.
11. We stand by our conclusions. The RCM explicitly states that 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. Williamsburg officials did not provide such documentation.

- 12.** The RCM is explicit and states that the costs of vehicles used by program officials, employees, or board members to commute to and from their homes are not reimbursable.

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