

THOMAS P. DiNAPOLI  
STATE COMPTROLLER



110 STATE STREET  
ALBANY, NEW YORK 12236

STATE OF NEW YORK  
OFFICE OF THE STATE COMPTROLLER

December 6, 2022

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

Douglas DiGesare  
Chief Executive Officer  
The Arc Erie County New York  
30 Wilson Road  
Williamsville, NY 14221

Re: Compliance With the Reimbursable  
Cost Manual  
Report 2022-S-10

Dear Dr. Rosa and Mr. DiGesare:

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

**Background**

Arc Erie is an SED-approved, not-for-profit special education provider located in Williamsville. Arc Erie provides preschool special education services to children with disabilities who are between 3 and 4 years of age. For the fiscal year ended June 30, 2019, Arc Erie operated two rate-based preschool special education programs: Preschool Special Class – over 2.5 hours per day and Preschool Integrated Special Class – over 2.5 hours per day (collectively referred to as the Programs) to 94 children with special needs from Erie and Niagara counties.

Erie and Niagara counties pay tuition to Arc Erie using reimbursement rates set by SED. The State, in turn, reimburses the counties 59.5% of the tuition paid. SED sets the special education tuition rates based on school year financial information, including costs, reported by Arc Erie on the annual Consolidated Fiscal Report (CFR) that it submits to SED. Costs reported on the CFR must comply fully with the guidelines in SED's Reimbursable Cost Manual (RCM) regarding eligibility and documentation requirements and must meet the reporting requirements prescribed in the Consolidated Fiscal Reporting and Claiming Manual (CFR Manual). For the fiscal year ended June 30, 2019, Arc Erie reported approximately \$3.6 million in reimbursable costs for the Programs.

## **Results of the Audit**

For the fiscal year ended June 30, 2019, Arc Erie reported \$598,536 in other than personal service (OTPS) costs allocated to the Programs. Our review determined that \$8,724 did not comply with RCM requirements. The ineligible costs included:

- \$6,178 in non-reimbursable costs, including \$1,715 in promotional items, \$1,707 in food for staff, \$955 in undocumented expenses, \$813 in gifts for staff, \$701 for parties, \$160 in overreported CFR costs, and \$127 in donations. The RCM states that costs will be considered for reimbursement provided such costs are reasonable, necessary, directly related to the special education program, and sufficiently documented. Additionally, costs incurred for promotional items, food for staff, gifts, entertainment, and donations are not reimbursable.
- \$1,632 for non-audit services (tax services) performed by the accounting firm during the same 365-day period of the CFR and financial statement audit. According to the RCM, costs associated with non-audit services provided by a registered public accounting firm, or any person associated with that firm, during or within 365 days of required audit work (prior to the beginning of the fiscal period being audited or after the date of the audit report issued for the audit period) are not reimbursable.
- \$914 for non-reimbursable investment fees. According to the RCM, costs for investment counsel and staff and similar expenses incurred solely to enhance income from investments are not reimbursable.

## **Recommendations**

### **To SED:**

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

### **To Arc Erie:**

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 Arc Erie on its CFRs were properly calculated, adequately documented, and allowable under SED guidelines, including the RCM and the CFR Manual. The audit covered the expenses reported on Arc Erie's 2018 and 2019 CFRs for the fiscal year ended June 30, 2019.

To accomplish our objective and assess internal controls related to our objective, we reviewed the RCM, the CFR Manual, and related appendices that applied to the years we examined. We also evaluated Arc Erie's internal controls over the costs claimed on and the

schedules prepared in support of the CFR submitted to SED. We reviewed Arc Erie's CFRs for the two calendar years ended December 31, 2019, with a focus on costs for the fiscal year ended June 30, 2019, as well as relevant financial records for the audit period. We determined the data was sufficiently reliable for our use in accomplishing our audit objective. We interviewed Arc Erie personnel and reviewed policies, procedures, and handbooks (internal to Arc Erie) to obtain an understanding of their financial practices for reporting costs on the CFR. For personal service costs, we reviewed time records and support for a judgmental sample of 25 of 232 employees to verify hours and dollars charged to the Programs. We selected this judgmental sample to include the highest-paid employees reported on CFR-1 and -3. We found all personal service costs for employees in our sample were fully supported. Additionally, we selected a judgmental sample of \$269,132 of \$763,805 OTPS costs reported by Arc Erie on its CFRs that were considered high risk (e.g., food, promotional items, and gifts that appeared to be not relevant to the Programs), and reviewed supporting documentation to determine if expenses were allowable per the RCM and the CFR Manual. The results of our judgmental samples cannot be projected to the population.

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 Arc Erie's compliance with the RCM and the CFR Manual.

### **Reporting Requirements**

We provided a draft copy of this report to SED and Arc Erie officials for their review and formal comment. We considered their comments in preparing this report and have included them in their entirety at the end of the report. Both SED and Arc Erie officials agreed with the audit recommendations and indicated the actions they will take to address them.

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 if the recommendations were not implemented, the reasons why.

Major contributors to this report were Theresa Podagrosi, Andrea LaBarge, Don Cosgrove, Innocentia Freeman, and James Rappaport.

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

Sincerely,

Theresa Podagrosi  
Audit Manager

cc: Nell Brady, SED  
Lori Brien, Arc Erie  
Sharon Cates-Williams, SED  
Jeanne Day, SED  
James Kampf, SED  
Phyllis Morris, SED  
Jerry Nestlerod, SED

# 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

November 8, 2022

Mr. Brian Reilly  
Audit Director  
Office of the State Comptroller  
Division of State Government Accountability  
110 State St, 11<sup>th</sup> Floor  
Albany, NY 12236

Dear Mr. Reilly:

The following is the New York State Education Department's (SED) response to the draft audit report, 2022-S-10, *The Arc Erie County New York (Arc Erie) - Compliance With the Reimbursable Cost Manual*.

Recommendation 1:

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

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

Recommendation 2:

**"Remind Arc Erie 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 Arc Erie 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 Arc Erie 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,

A handwritten signature in cursive script that reads "Sharon Cates-Williams".

Sharon Cates-Williams

cc: Phyllis Morris  
Christopher Suriano  
Suzanne Bolling  
James Kampf  
Jerry Nestleroad  
Jeanne Day  
Nell Brady

# Agency Comments - Arc Erie



**The Arc Erie County New York**  
30 Wilson Road  
Williamsville, NY 14221

833-Arc-Erie  
ArcErieCounty.org

November 21, 2022

Brian Reilly  
Office of the State Comptroller  
Division of State Government Accountability  
110 State Street - 11<sup>th</sup> Floor  
Albany, NY 12236-0001

Re: Compliance With the Reimbursable Cost Manual  
Report 2022-S-10  
Response and Corrective Action Plan

Dear Mr. Reilly:

We are writing in response to your letter dated October 24, 2022 regarding The Arc Erie County New York's Compliance With the Reimbursable Cost Manual (RCM) Report 2022-S-10. We acknowledge the findings and recommendations presented following the audit of our Consolidated Fiscal Reports covering the school year ending June 30, 2019. We offer the following corrective actions in response.

The findings include \$8,724 in Other Than Personal Services expenses that did not comply with RCM requirements. We are in agreement with these findings. We noted that much of the disallowed amount was not directly charged to the school program; it was charged via the ratio value allocation of Agency Administration. Our current procedure for allocating costs to the school does include review to ensure compliance with the RCM. We need to be more diligent in scrutinizing administration costs as they relate to the RCM and CFR manual.

We will be adding to our procedure an annual review of the RCM when published. The Chief Financial Officer, or an appropriate designee, will review the RCM with the Principals at the schools and with the finance team within thirty days of its issuance. This will ensure the information stays top of mind and that any new personnel are trained appropriately.

In addition, the Financial Analyst and Director of Finance will be charged with reviewing all program and administrative expenses to ensure non-reimbursable costs are reported

*Achieve with us.®*

Day Programs · Career & Employment · Home & Community Based Supports  
Residential · Clinical · Preschool & School Age Education · Business Solutions

as Unallowable on the Consolidated Fiscal Report. This includes non-audit fees and non-allowable investment fees. This will be covered by the CFO during the annual review of the RCM. This new written procedure will be finalized by December 31, 2022.

We appreciate the audit team including Don Cosgrove, Innocentia Freeman, and James Rappaport. The team was professional, accommodating, and communicative during the entire process.

Sincerely,

*Douglas DiGesare*

Douglas DiGesare (Nov 22, 2022 12:16 EST)

Doug DiGesare  
Chief Executive Officer

*Lori Brien* *Loribrien*

Lori Brien  
Chief Financial Officer