

State Education Department

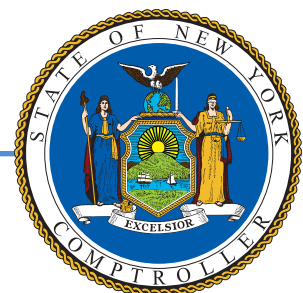
NYSARC, Inc. - Rockland County Chapter – Compliance With the Reimbursable Cost Manual

Report 2022-S-50 | April 2024

OFFICE OF THE NEW YORK STATE COMPTROLLER

Thomas P. DiNapoli, State Comptroller

Division of State Government Accountability



Audit Highlights

Objective

To determine whether the costs reported by NYSARC, Inc. - Rockland County Chapter (NYSARC Rockland) 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 covered expenses reported on NYSARC Rockland's 2020 and 2021 CFRs for the fiscal year ended June 30, 2021.

About the Program

NYSARC Rockland is a not-for-profit special education provider located in Valley Cottage and serves students from Rockland and Orange counties. NYSARC Rockland is authorized by SED to provide Preschool Non-Integrated education services to children with disabilities between the ages of 3 and 5 years at one location. For the purpose of this report, this program is referred to as the SED preschool cost-based program. NYSARC Rockland also operated other SED-approved preschool special education programs, including Evaluations, Related Services, and 1:1 Aides. However, payments for services under these programs are based on fixed fees, as opposed to the cost-based rates established financial information reported on CFRs. During the fiscal year ended June 30, 2021, NYSARC Rockland served 104 students with disabilities.

The counties that use NYSARC Rockland's preschool special education services pay tuition to NYSARC Rockland using reimbursement rates set by SED. The State, in turn, reimburses the counties for a portion of the tuition paid. SED sets the special education rates based on financial information, including costs, that NYSARC Rockland reports to SED on its annual CFR. For the fiscal year ended June 30, 2021, NYSARC Rockland reported more than \$2.3 million in reimbursable costs for the SED preschool cost-based program.

Key Findings

For the fiscal year ended June 30, 2021, we identified \$189,182 in reported costs that did not comply with the requirements in the RCM and CFR Manual, as follows:

- \$79,153 in expenses that were reported in the incorrect CFR reporting period;
- \$53,817 in non-program-related (\$51,435) and unsupported (\$2,382) compensation expenses charged to the SED preschool cost-based program;
- \$41,616 in unsupported expenses related to depreciation, leasehold improvements, and cleaning services;
- \$7,881 in unsupported related-party expenses;
- \$3,532 in employee bonuses that were not in compliance with the RCM's guidelines; and
- \$3,183 in ineligible expenses, including \$3,120 in interest payments and \$63 in non-program-related expenses.

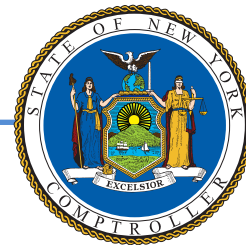
Key Recommendations

To SED:

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

To NYSARC Rockland:

- 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

April 10, 2024

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

Jane Zemon
Chief Executive Officer
The Arc Rockland
210 NY-303
Valley Cottage, NY 10989

Dear Dr. Rosa and Ms. Zemon:

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 NYSARC, Inc. - Rockland County Chapter 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>
NYSARC Rockland	NYSARC, Inc. - Rockland County Chapter	<i>Service Provider</i>
OTPS	Other than personal service	<i>Key Term</i>
RCM	Reimbursable Cost Manual	<i>Policy</i>

Background

NYSARC, Inc. - Rockland County Chapter (NYSARC Rockland) is a not-for-profit special education provider located in Valley Cottage, serving students from Rockland and Orange counties. NYSARC Rockland is authorized by the State Education Department (SED) to provide Preschool Non-Integrated education services to children with disabilities between the ages of 3 and 5 years at one location. 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, 2021, NYSARC Rockland served 104 students with disabilities.

In addition to the SED preschool cost-based program, NYSARC Rockland also operated other SED-approved preschool special education programs, including Evaluations, Related Services, and 1:1 Aides. However, payments for services under these programs are based on fixed fees, as opposed to the cost-based rates established through financial information reported on Consolidated Fiscal Reports (CFRs).

The counties that use the NYSARC Rockland preschool special education services pay tuition to NYSARC Rockland using reimbursement rates set by SED. The State, in turn, reimburses the counties for a portion of the tuition paid. SED sets the special education rates based on financial information, including costs, that NYSARC Rockland reports to SED on its annual CFR. 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, 2021, NYSARC Rockland reported more than \$2.3 million in reimbursable costs for the SED preschool cost-based program.

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 fiscal year ended June 30, 2021, we identified \$189,182 in costs that NYSARC Rockland reported on its CFR that did not comply with SED's requirements for reimbursement. These ineligible costs include \$136,502 in personal service costs and \$52,680 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 NYSARC Rockland'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 fiscal year ended June 30, 2021, NYSARC Rockland reported approximately \$2 million in personal service costs for the SED preschool cost-based program. We identified \$136,502 in personal service costs that did not comply with RCM and CFR Manual requirements for reimbursement.

Incorrect Reporting Period Costs

According to the RCM, entities operating programs must maintain accounts in accordance with generally accepted accounting principles. This includes utilizing a system of accounting with an accrual basis. According to the CFR Manual, only expenses and revenues for the proper CFR reporting period should be included on the CFR.

For the fiscal year ended June 30, 2021, NYSARC Rockland allocated \$55,728 in salaries that should have been allocated to the following fiscal year. We also found \$2,856 in salary payments that should have been reversed during the fiscal year but were instead reversed in the following fiscal year. Additionally, we identified \$42,467 in fringe benefit payments related to a prior year's adjustment, of which \$2,830 was allocated to the SED preschool cost-based program.

We recommend that SED disallow \$79,153 (\$58,584 in salary and \$20,569 in fringe benefits, inclusive of the \$2,830 fringe benefit payment) in expenses that were not reported in the correct CFR reporting period.

Non-Program-Related Compensation

According to the RCM, costs must be necessary and directly related to the special education programs. We found that NYSARC Rockland allocated \$40,028 in salary

costs for nine employees that either were not directly related to the SED preschool cost-based program or were overcharged to the program given the support provided.

We recommend that SED disallow \$51,435 (\$40,028 in salary and \$11,407 in fringe benefits) in unrelated program compensation charged to the SED preschool cost-based program.

Administrative Bonus Payments

According to the RCM, bonus compensation is a non-recurring lump sum payment in excess of regularly scheduled salary, which is not directly related to hours worked and restricted to direct care employees.

During the fiscal year ended June 30, 2021, NYSARC Rockland reported \$2,717 in bonus payments to five administrative staff that were allocated to the SED preschool cost-based program. Since agency administrative staff are not direct care employees, bonus payments made to these employees are ineligible for reimbursement in accordance with the RCM.

We recommend that SED disallow \$3,532 (\$2,717 in salary and \$815 in fringe benefits) in bonus payment compensation that did not comply with SED's reimbursement requirements.

Unsupported Compensation Payments

According to the RCM, compensation costs must be based on approved, documented payrolls. Payroll must be supported by employee time records prepared during, not after, the time period for which the employee was paid.

For the fiscal year ended June 30, 2021, NYSARC Rockland reported \$64,973 in salary costs for 23 employees that were not supported by time sheet documentation, of which \$1,873 was allocated to the SED cost-based program on its CFRs. These costs exceeded the regular earnings on the employees' paychecks and were categorized as "Other Earnings." Included in this amount were payments totaling \$470 to the prior Chief Executive Officer for a company vehicle. However, no further support was provided to determine reasonableness and appropriateness.

We recommend that SED disallow \$2,382 (\$1,873 in salary and \$509 in fringe benefits) in unsupported compensation costs that were charged to the SED preschool cost-based program.

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 fiscal year ended June 30, 2021, NYSARC Rockland reported \$321,265 in OTPS expenses charged to the SED preschool cost-based program. To determine whether these expenses complied with SED's requirements for reimbursement, we judgmentally selected and

reviewed a sample of OTPS expenses totaling \$126,951. We identified \$52,680 in costs that were ineligible for reimbursement per RCM guidelines.

Unsupported Costs

According to the RCM, costs will be considered for reimbursement provided such costs are sufficiently documented. All purchases must be supported with canceled checks and invoices listing the items purchased, date of purchase, and date of payment. All pertinent allocation records supporting reported data must also be retained.

We identified \$38,652 in depreciation and leasehold improvement costs for which no supporting documentation was provided. We also identified \$2,214 in cleaning service and equipment costs for which adequate allocation documentation was not provided. Further, an additional \$750 was charged to the CFR for contracted direct care; however, it did not have a corresponding general ledger transaction charge supporting the expense.

We recommend that SED disallow \$41,616 ($\$38,652 + \$2,214 + \750) in costs that were not in compliance with the RCM.

Related-Party Transactions

According to the RCM, a related party includes any party transacting or dealing with a program operator where the party has ownership of, control over, or significant influence on the management or operating policies of the program operator to the extent that an arm's-length transaction may not be achieved. Furthermore, transactions with related parties can only be reimbursed using actual documented costs of the owner or vendor. Invoices presented to the approved special education provider by the related party do not constitute "actual costs." Actual costs are those the related party incurs and it is expected upon audit that the related party will produce evidence of its costs.

As a related party to NYSARC Rockland, NYSARC, Inc., the parent organization of NYSARC Rockland and the pass-through entity through which the national-level Arc organization (The Arc of the United States) also charges fees, is required to provide evidence of its costs. NYSARC Rockland did not provide documentation to support the expenses. NYSARC Rockland officials disagreed with our findings, stating they provided support for the calculation of annual fees; however, this documentation did not detail any of the actual costs.

The CFR Manual directs providers to report parent agency administration allocation expenses on Line 38 of the CFR's Agency Administration Schedule. Furthermore, it states that NYSARC provider chapters do not have to submit the supporting documentation because their parent agency, NYSARC, Inc., submits the supporting documentation for all its chapter members directly to the applicable State agencies. However, the supporting documentation provided to SED was not sufficient to determine whether the expenses charged to the program were reasonable and

appropriate for reimbursement. We also noted the parent agency administration allocation expenses were inappropriately charged on Line 17 as an “Other” expense.

We identified \$7,881 in related-party costs that were unsupported and included costs charged directly to NYSARC Rockland from NYSARC, Inc. and indirectly to NYSARC Rockland from The Arc of the United States. We recommend that SED disallow \$7,881 in related-party expenses that were not supported.

Ineligible Costs

According to the RCM, costs must be necessary and directly related to the special education programs. Furthermore, interest expenses are reimbursable only when there are no notes receivable from related parties at any time during the entity’s loan repayment period.

We found that NYSARC Rockland reported \$3,120 in costs for interest payments despite having outstanding receivables from affiliates, including amounts noted as non-interest-bearing with no stated repayment terms. We also identified \$63 for expenses unrelated to the SED preschool cost-based program (e.g., expenses for a residential facility window).

We recommend that SED disallow \$3,183 in costs that are not in compliance with the RCM.

Recommendations

To SED:

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

To NYSARC Rockland:

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 NYSARC Rockland on its CFRs were reasonable, necessary, directly related to the special education program, and sufficiently documented pursuant to SED guidelines, including the RCM and the CFR Manual. The audit covered expenses reported on NYSARC Rockland's 2020 and 2021 CFRs for the fiscal year ended June 30, 2021.

To accomplish our objective, we reviewed the RCM, the CFR Manual, the Regulations of the Commissioner of Education, NYSARC Rockland's CFRs, and relevant financial and program records for the audited period. We also interviewed NYSARC Rockland officials to obtain an understanding of NYSARC Rockland's financial and business practices. 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 used a non-statistical sampling approach to provide conclusions on our audit objective, as well as test internal controls and compliance. 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. We looked at salary, fringe benefit, and administrative bonus, depreciation, interest, and related-party expenses in an effort to determine if such expenses were relevant to the program, supported, expensed in the correct reporting period, and allocated fairly. Our samples were based on the relative materiality of the various categories of costs, not the materiality of the individual transactions, and their associated levels of risk. However, because we used a non-statistical sampling approach for our tests, we cannot project the results to the respective populations. Our sample results are further discussed in the body of our report.

We obtained data from NYSARC Rockland's general ledger and other financial systems and assessed the reliability of that data by interviewing officials knowledgeable about the system and tracing to and from source data. We determined that the data from these systems was sufficiently reliable for the purposes of this report.

Statutory Requirements

Authority

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 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 NYSARC Rockland's compliance with the RCM and the CFR Manual.

Reporting Requirements

We provided a draft copy of this report to SED and NYSARC Rockland 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. In SED's response, officials agreed with the audit recommendations and indicated the actions they will take to address them. However, in their response, NYSARC Rockland officials disagreed with most of the proposed disallowances. Our responses to NYSARC Rockland's 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 the State Education Department 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

**NYSARC - Rockland Chapter
Schedule of Submitted and Disallowed Program Costs
for the Fiscal Year Ended June 30, 2021**

Program Costs	Amount Reported on CFR	Amount Disallowed	Amount Remaining	Notes to Exhibit
Personal Services				
Direct Care	\$1,790,936	\$135,714	\$1,655,222	B, C, E, G-I
Agency Administration	206,649	788	205,861	
Total Personal Services	\$1,997,585	\$136,502	\$1,861,083	
Other Than Personal Service				
Direct Care	\$256,033	\$35,090	\$220,943	A, B, D-F, H-J
Agency Administration	65,232	17,590	47,642	
Total Other Than Personal Services	\$321,265	\$52,680	\$268,585	
Total Program Costs	\$2,318,850	\$189,182	\$2,129,668	

Notes to Exhibit

The following Notes refer to specific sections of the RCM and CFR Manual that we 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 NYSARC Rockland's officials during the course of our audit.

- A. RCM Section I.4.EF – Related parties include any party transacting or dealing with a program operator where the party has ownership of, control over, or significant influence on the management or operating policies of the program operator to the extent that an arm's-length transaction may not be achieved. All transactions with related parties can only be reimbursed using actual documented costs of the owner or vendor. Invoices presented to the approved special education provider by the related party do not constitute "actual costs." Actual costs are those the related party incurs and it is expected upon audit that the related party will produce evidence of its costs.
- 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.A.10.a – Merit awards are restricted to direct care titles/employees as defined by the RCM's Appendix A-1 and those in the 100 position title code series and position title code 505 and 605 as defined by the CFR Manual's Appendix R.
- D. RCM Section II.28.C–D – Interest expenses are reimbursable only when there are no notes receivable from related parties at any time during the entity's loan repayment period.
- E. RCM Section III.1 – All pertinent allocation records supporting reported data must be retained. Costs will not be reimbursable on field audit without appropriate written documentation of costs.
- F. RCM Section III.1.D – All purchases must be supported with canceled checks and invoices listing the items purchased, date of purchase, and date of payment. Costs must be charged directly to specific programs whenever possible. The particular program(s) must be identified on invoices or associated documents.
- G. RCM Section III.1.M – Salaries of employees who perform tasks for more than one program and/or entity must be allocated among all programs and/or entities for which they work.
- H. RCM Section III.2.A–B – Entities operating programs must maintain accounts in accordance with generally accepted accounting principles. This includes utilizing a system of accounting with an accrual basis.
- I. CFR Manual Section 3.0 – 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.
- J. CFR Manual Section 15.6.38 – NYSARC provider chapters do not have to submit the supporting documentation because their parent agency, NYSARC, Inc., submits the supporting documentation for all its chapter members directly to the applicable State agencies.

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 23, 2024

Heather Pratt
Audit Director
Office of the State Comptroller
Division of State Government Accountability
110 State Street, 11th Floor
Albany, NY 12236

Dear Ms Pratt:

The following is the New York State Education Department's (SED) response to the draft audit report, 2022-S-50, NYSARC, Inc-Rockland County Chapter (NYSARC Rockland) - 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 NYSARC Rockland's CFRs and to NYSARC Rockland'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.

Recommendation 2:

"Remind NYSARC Rockland's 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 NYSARC Rockland'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 NYSARC Rockland 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: Christina Coughlin
Christopher Suriano
Suzanne Bolling
James Kampf
Jeanne Day
Nell Brady
Jennifer Finucan
William Meissner
Rebecca Jones
Mary Moore

Agency Comments - NYSARC Rockland

BARCLAY DAMON^{LLP}

Margaret M. Surowka
Partner

March 15, 2024

VIA ELECTRONIC MAIL

stategovernmentaccountability@osc.ny.gov

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

Re: Compliance with the Reimbursable Cost Manual
NYSARC, Inc. Rockland County Chapter
Response to Draft Audit Report
Report 2022-S-50

Dear OSC Audit Team:

We represent NYSARC, Inc. Rockland County Chapter (“NYSARC Rockland”) and submit on its behalf this response to the Draft Audit Report dated February 2024 (“DAR”).¹ This audit reviewed costs reported by NYSARC Rockland on its Consolidated Fiscal Reports (“CFRs”) for its SED-approved preschool special education programs for the fiscal year ended June 30, 2021. NYSARC Rockland submits the following responses to each of the findings within the DAR, with specific reasons for its dissent where it disputes the New York Office of the State Comptroller (“OSC”) findings. We respectfully request that the auditors review these findings and reduce them further. Rockland ARC reserves all of its rights and interests in this matter and nothing in this response shall operate or be construed as a waiver of any of NYSARC Rockland’s rights or interests to further challenge findings issued by OSC, rate adjustments made by the New York State Department of Education pursuant to OSC’s findings or to otherwise exercise its legal and equitable rights.

¹ It was agreed to provide an extension until March 15, 2024 to submit the response to the DAR.

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I. BACKGROUND: NYSARC ROCKLAND

NYSARC Rockland² was founded in 1954 as the first not-for-profit organization in Rockland County. Today, NYSARC Rockland provides supports and services to nearly 800 individuals with intellectual and developmental disabilities. As part of its services, NYSARC Rockland provides educational services to children with intellectual and other developmental disabilities including preschool special education services for students from Rockland and Orange counties. NYSARC Rockland is authorized by SED to provide Preschool Non-Integrated education services for children between three and five years of age. During the fiscal year of this audit period, NYSARC Rockland served 104 students with disabilities. **KEY FINDINGS AND RECOMMENDATIONS**

The OSC Audit team identified \$189,182 in reported costs that allegedly did not comply with the requirements in the RCM and CFR Manual, as follows:

- \$79,153 - expenses that were reported in the incorrect reporting period.
- \$53,817 - non-program-related/unsupported compensation expenses charged to the SED pre-school cost-based program.
- \$41,616 - unsupported expenses related to depreciation, leasehold improvements, and cleaning services.
- \$7,881 - unsupported related party transactions.
- \$3,532 - employee bonuses that were not in compliance with the RCM's guidance.
- \$3,183 - ineligible expenses

The recommendations include, to SED:

- Review the recommended disallowance identified by the audit and make necessary adjustment to the costs reported on NYSARC Rockland's CFRs and tuition reimbursement rates, as warranted.
- Remind NYSARC Rockland officials of the pertinent SED requirements that relate to the deficiencies identified.

And to NYSARC Rockland:

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

² Formally known as NYSARC, Inc., Rockland County Chapter. For ease of reference, we are referring to the provider with the name used by the OSC auditors in the DAR.

As to each findings, NYSARC Rockland responds specifically below. As to the recommendations, we submit that NYSARC Rockland is in substantial compliance and continually reviews and audits its costs reported on its annual CFR for full compliance with SED's requirements. We submit that the costs that are allegedly are not in full compliance should not result in any change in NYSARC Rockland's tuition reimbursement rates.

II. NYSARC ROCKLAND'S RESPONSES TO SPECIFIC FINDINGS

Personal Service Costs

The DAR identifies \$136,502 in personal service costs that allegedly did not comply with RCM and CFR Manual requirements for reimbursement. Of those findings, the majority (\$79,153) relate to expenses that were purported reported in the incorrect reporting period. As to the additional findings, NYSARC Rockland disputes OSC's findings as noted below.

Incorrect Reporting Period Costs

The DAR alleges that \$79,153 of salary and fringe benefit expenses that were reported in the incorrect reporting period. NYSARC Rockland understands the basis for the finding related to \$76,323.36 reported in the incorrect school year and submits that these were proper and reasonable costs. If SED choses to disallow this cost, we respectfully request SED allow NYSARC Rockland to report this in the correct school year by filing an amended 2021 CFR.

The remaining \$2,829.67 relates to a reconciliation conducted by NYSARC Rockland's workers compensation benefit provider. It is normal course of business that periods are reconciled after the fact, as in the case resulting in the NYSARC Rockland being charged in 2021 for the period 2018/2019. The OSC's expectation that this could have been reported in 2018/2019 when NYSARC Rockland was not aware of the charged adjustment or that it would be expected to refile the CFR and audited Financial Statements to restate prior periods does not seem reasonable or a prudent use of the Agency funds. As such, we submit that these expenses were not incorrect and should be removed.

[Comment 1](#)

In any event, these costs should not result in any material change that should impact NYSARC Rockland's tuition rate.

Non-Program-Related Compensation

The DAR alleged that there were non-program-related/unsupported compensation expenses charged to the SED pre-school cost-based program. This includes \$40,028 in salary costs that OSC submits were not related to the SED preschool cost-based program or were overcharged. NYSARC Rockland disagrees with this finding.

The disallowance of the school nurse as being unrelated to the SED pre-school cost-based program is unwarranted. It should not be categorized as Unrelated Program Salaries, total \$37,016.26 as it is directly related to and fully in support of the SED program. Similar to the school nurse, NYSARC Rockland disagrees with the disallowance of the Nursing Supervisor charged with supervising the school nurse, total \$736.54. The RCM does not identify what specifically are the position that are program related but the Nurse and Nursing Supervisor are directly related to the preschool and it is nonsensical to find otherwise. These disallowances are arbitrary and capricious and should be removed.

[Comment 2](#)

In addition, the disallowance of program billers as Unrelated Program Salaries, total \$9,342.88, is also unwarranted and contrary to the RCM. It is directly related to the program. These allowances should be removed. They are consistent with the RCM.

[Comment 3](#)

NYSARC Rockland is not contesting the finding related to the cost of the Accounts Payable Coordinator who transferred from a program biller, paperwork was not timely, total \$155.70 and the cost of a school staff that transferred to a non-school program and paperwork was not timely, total \$21.33. It also is not contesting the finding related to the cost of a teacher in program code 9115 that was inadvertently reported in program code 9100, total \$ \$4,162.21. These minor inadvertent errors were not material and should not impact rates.

Other Than Personal Service Costs

The DAR alleges that \$52,680 in costs were ineligible for reimbursement per the RCM guidelines. NYSARC Rockland disputes OSC's findings as noted below.

Unsupported Expenses

The DAR alleges \$41,616 in supposed unsupported expenses related to depreciation, leasehold improvements, and cleaning services. As an initial matter, generally supporting documentation was provided to the extent practical.

NYSARC Rockland advised the auditors that the original documentation for many of the items related to unsupported depreciation is maintained off-site. In order to retrieve a document, it would be cost prohibitive and time consuming to pull perhaps hundreds of boxes to retrieve original purchase documents of 'old' assets. If NYSARC Rockland were to do this, the cost of retrieval would be reported as a program expense, and documented staff time to go through the boxes would be reported as a program expense. Considering the costs, the Agency notified the auditors that it would not be reasonable and economical. NYSARC Rockland does not consider this a prudent use of Agency funds or staff time, and would further delay this audit, total \$38,651.80. Having said that, NYSARC Rockland states for the record that its policy is to require

documentation for all purchases and to retain those records. NYSARC Rockland also provided supporting documentation for the finding related to the phone system, totaling \$729.05.

[Comment 4](#)

NYSARC Rockland is not contesting the finding for cleaning supplies finding, total \$1,485.42.

Related-Party Transaction

The DAR alleges that certain costs relating to NYSARC, Inc., the Agency's parent organization should be disallowed as unsupported and did not detail the actual costs. The total costs of \$7,881 was disallowed. NYSARC Rockland disagrees with this finding and notes that it is inconsistent with what the OSC has accepted in other similar audits with other chapters of NYSARC.³ This is an allowable expense for OPWDD. This finding should also be removed in this audit and the failure to do so is arbitrary and capricious. NYSARC Rockland has, in fact, provided detailed information for NYSARC and we submit the attached Response of Cyndi Borozny dated February 21, 2024.

As noted in the attached, the CFR Manual at 38 (Parent Agency Administration Allocation), NYSARC Chapters are not required to submit the supporting documentation because it is submitted by the parent agency, the Arc of New York, directly to the applicable state agencies. Nevertheless, the supporting information was obtained from the parent organization and NYSARC Rockland provided that to the auditors. We reference and incorporate that information. The information provided was to support the administrative charge and the national organization membership dues. This same information had been provided in previous audits and was accepted by the OSC as appropriate support and did not result in costs being classified as unsupported related-party expenses. This is the first audit out of five NYSARC Chapter audits where these costs are being classified as unsupported related-party expenses. Such inconsistent treatment, that is contrary to the CFR, is improper. We submit that the documentation provided is sufficient and as in the other audits of NYSARC chapters, this should not be noted as an unsupported expense.

[Comment 5](#)

Ineligible Costs

The DAR alleges that there is \$3,183 in ineligible costs relating to interest payments. NYSARC Rockland disagrees with the finding and states that it should be removed. It is a normal course of business to finance projects, this is regardless of cash on hand and status of funds due to the Agency. It is not contesting the non-program related expense of \$63.

[Comment 6](#)

³ NYSARC Rockland does note that the costs were inadvertently reported on Line 17 instead of Line 38 and should be moved but this does not relate in any change to the CFR overall.

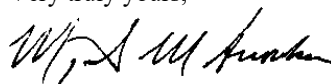
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III. CONCLUSION

NYSARC Rockland respectfully submits that upon your review of this documentation and analysis of the issues, many of the OSC's findings should be removed. We submit that these findings should not impact its tuition rate and that any disallowances were inadvertent and non-material.

We thank you for your attention to the evidence and positions set forth herein.

Very truly yours,



Margaret M. Surowka

MMS:nlm

NYSARC, Inc. has seventeen Chapters that currently operate 4410 preschools.

The Arc Rockland is the fifth NYSARC, Inc. Chapter that has undergone an Office of the New York State Comptroller audit. Three of the previous audits commenced in March of 2020, and one in the summer of 2017. During The Arc Rockland audit, information was provided to support the NYSARC administrative charge and Arc US membership dues, which was consistent with the information requested and provided for two of the other NYSARC Chapters out of the other four that have been previously audited by Office of the New York State Comptroller. In both of those audits, the same information that was provided for The Arc Rockland was accepted as appropriate support and did not result in the costs being classified as unsupported related-party expenses. The Arc Rockland is the first out of the five NYSARC, Inc. Chapter audited where these costs are being classified as unsupported related-party expenses.

Comment 5

As noted in the Consolidated Fiscal Reporting and Claiming Manual, NYSARC chapters are not required to submit the supporting documentation because that is submitted by the parent agency directly to the applicable NYS Agencies.

We do recognize the costs for these items were inadvertently reported on Line 17 - Other Expense instead of Line 38 – Parent Agency Administration Allocation, and management agrees those costs should be moved to the appropriate line, but management does not agree with these costs being classified as unsupported related-party expenses.

Directly from the CFR Manual

38. Parent Agency Administration Allocation: Report the administration costs allocated by a parent organization to the Provider Agency.

The following supporting documentation for the Parent Agency Administration Allocation must be submitted to the NYS Agency(ies) that required the Provider to submit the CFR:

1. total parent agency administration costs;
2. a breakdown of the total parent agency administration costs that were allocated to subsidiaries, affiliates and/or members; and
3. the methodology used to allocate the total parent agency administration costs to subsidiaries, affiliates and/or members.

If the complete supporting documentation is not submitted by the Provider Agency, the NYS Agency that required the Provider to submit the CFR, may require the Provider to report the Parent Agency Administration Allocation, as a non-allowable cost and upload a revised CFR.

Note: NYSARC Provider chapters do not have to submit the supporting documentation because their parent agency, New York State Association for Retarded Children, Inc., submits the supporting documentation for all its chapter members, directly to the applicable NYS Agencies.

State Comptroller's Comments

1. The CFR Manual clearly states that 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.
2. We stand by our findings. According to the CFR Manual, only program/site expenses directly associated with the provision of services and program administration costs that are directly attributable to a specific program/site should be reported on Schedule CFR-1. The nurse and the nursing supervisor costs were not directly related to the SED preschool cost-based program and, therefore, should not have been reported as a direct care cost on Schedule CFR-1. The nurse's job description stated the nurse was intended to work at NYSARC's Day Hab program and to provide assistance to the SED preschool cost-based program on an as-needed basis. Further, the employee's performance evaluation discussed their work with adult residential and day programs. Likewise, the nursing supervisor's job description details services that are provided to each individual within residential and day services – with no direct references to the SED preschool cost-based program. These costs should have been reported on the Agency Administration Schedule CFR-3 because some duties likely benefited the SED preschool cost-based program. Our report recommends the disallowance of the difference between the costs directly charged to the SED preschool cost-based program (Schedule CFR-1) and the costs that should have been allocated (Schedule CFR-3).
3. The medical billers' job description focused on OPWDD and Medicaid activities – with little relating to the SED preschool cost-based program. Documentation to support otherwise was not provided by NYSARC Rockland. Similarly, these costs should not have been reported as a direct care cost on Schedule CFR-1. Our report recommends the disallowance of the difference between the costs directly charged to the SED preschool cost-based program (Schedule CFR-1) and the costs that should have been allocated (Schedule CFR-3). Refer to State Comptroller's Comment 2.
4. We disagree. While NYSARC Rockland provided some supporting documentation for the phone system, it did not support the allocation of expenses for the phone system.
5. We stand by our findings. We agree that, as noted on page 9 of our audit report, the CFR Manual does not require NYSARC provider chapters to submit supporting documentation when they submit their CFR, with the assumption that the NYSARC parent agency submits such documentation directly to the applicable regulatory agency. We requested this documentation from SED in September 2023; however, SED was in the process of requesting the documentation from the NYSARC parent agency. After the documentation was provided to SED, we reviewed the documentation, which showed the total amounts being charged to various NYSARC chapters by the parent agency. To determine whether the costs were allowable per the RCM,

we requested documentation to support the underlying expenses, which NYSARC Rockland officials failed to provide to us.

6. The RCM clearly states that interest expenses are reimbursable only if there are no loans/notes receivable from related parties at any time during the entity's loan repayment period. As stated in the audit report, NYSARC Rockland had outstanding receivables from affiliates, including amounts noted as non-interest-bearing with no stated repayment terms.

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