State Education Department

Jackson Child Development Center, Inc.: Compliance With the Reimbursable Cost Manual

Report 2022-S-21 | May 2025

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 Jackson Child Development Center, Inc. (JCDC) on its Consolidated Fiscal Reports (CFRs) were reasonable, necessary, directly related to the special education programs, and sufficiently documented pursuant to the State Education Department's (SED) Reimbursable Cost Manual (RCM) and the Consolidated Fiscal Reporting and Claiming Manual (CFR Manual). The audit focused primarily on expenses claimed on JCDC's CFR for the fiscal year ended June 30, 2020, and certain expenses claimed on its CFRs for the 2 fiscal years ended June 30, 2019.

About the Program

JCDC is a New York City-based not-for-profit organization approved by SED to provide preschool special education services to children with disabilities ages 3 to 5. During the 3 fiscal years ended June 30, 2020, JCDC operated full-day and half-day Special Class programs. In the fiscal year ended June 30, 2018, JCDC also provided full-day Special Class in an Integrated Setting. For the purposes of this report, these programs are collectively referred to as the SED preschool cost-based programs. In addition to the SED preschool cost-based programs, JCDC operated two other SED-approved programs: 1:1 Aides and Evaluations. 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 CFRs. During the fiscal year ended June 30, 2020, JCDC served 341 students in the SED preschool cost-based programs.

During the fiscal year ended June 30, 2018, JCDC's full-day Special Class in an Integrated Setting program was operated in collaboration with an affiliated entity's Universal Pre-K (UPK) program. This affiliate—Jackson Children Services (JCS), a for-profit related-party entity owned by JCDC's Executive Director—utilized JCDC's resources in operating JCS' Early Intervention and UPK services during the 3 fiscal years ended June 30, 2020.

The New York City Public Schools refers students to JCDC and pays for its services using rates established by SED. The rates are based on the financial information JCDC reports to SED on its annual CFRs. For the 3 fiscal years ended June 30, 2020, JCDC reported approximately $24 million in reimbursable costs for its SED preschool cost-based programs.

Key Findings

For the 3 fiscal years ended June 30, 2020, we identified $3,020,800 in reported costs that did not comply with the requirements in the RCM and the CFR Manual, as follows:

- $1,060,159 in overallocated personal service costs, including $815,797 in salaries and $244,362 in fringe benefits.
- $507,256 in unsupported personal service costs, consisting of $393,536 in salaries and $113,720 in fringe benefits reported for two family members of JCDC's Executive Director.
- $370,007 in insufficiently supported, non-program, or prior period contracted direct care expenses.
- $352,551 in insufficiently supported other than personal service costs, such as duplicative expenses, penalties and fines for violations, gifts, and miscellaneous expenses for which JCDC did not provide the required supporting records.

- $304,996 in non-reimbursable fringe benefits. This includes non-mandated fringe benefits that were not sufficiently documented, not necessary, not directly related to the SED preschool cost-based programs, not proportionately similar to benefits provided to other classes or groups of employees, or that were incurred outside of the reporting period.
- $169,440 in overallocated rental costs. This includes $106,029 in overallocated costs from JCDC's use of a related-party-owned building and an additional $63,411 in overallocated costs of the amount charged to JCDC for the rental, utilities, and maintenance costs of buildings JCDC shared with an affiliate (i.e., JCS).
- $73,150 in unsupported personal service costs, including $55,745 in salaries and $17,405 in fringe benefits.
- $69,127 in costs incurred in excess of approved grant funds charged to the SED preschool cost-based programs.
- $61,570 in overallocated and unapproved non-facility costs. This includes an insufficiently supported allocation of office, telephone, and postage expenses for costs incurred by related parties.
- $18,554 in non-program compensation costs ($14,006 in salaries and $4,548 in fringe benefits) reported under both the SED preschool cost-based programs and the 1:1 Aides program in fiscal years 2018-19 and 2019-20.
- $17,167 in miscellaneous costs, including $14,089 in insufficiently supported bonus expenses and $3,078 in disability payment distributions made by JCDC's insurance provider.
- $16,823 in ineligible CPA non-audit service costs.

Key Recommendations

To SED:

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

To JCDC:

- 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

May 7, 2025

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

Vivian Gelman
Executive Director
Jackson Child Development Center, Inc.
31–36 88th Street
East Elmhurst, NY 11369

Dear Dr. Rosa and Ms. Gelman:

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

Following is a report, entitled *Compliance With the Reimbursable Cost Manual*, of our audit of the expenses submitted by Jackson Child Development Center, Inc. to the State Education Department for the purposes of establishing tuition reimbursement rates used to bill public funding sources that are supported by State aid payments. The audit was performed pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution; Article II, Section 8 of the State Finance Law; and Section 4410-c of the State Education Law.

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

Respectfully submitted,

Division of State Government Accountability

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Glossary of Terms

Term	Description	Identifier
SED	State Education Department	*Auditee*
CFR	Consolidated Fiscal Report	*Key Term*
CFR Manual	Consolidated Fiscal Reporting and Claiming Manual	*Policy*
FTE	Full-time equivalent	*Key Term*
IDEA	Individuals with Disabilities Education Act	*Law*
JCDC	Jackson Child Development Center, Inc.	*Service Provider*
JCS	Jackson Children Services	*Entity*
OTPS	Other than personal service	*Key Term*
PTC	Position Title Code	*Key Term*
RCM	Reimbursable Cost Manual	*Policy*

Background

Jackson Child Development Center, Inc. (JCDC) is a New York City-based not-for-profit organization approved by the State Education Department (SED) to provide preschool special education services to children with disabilities ages 3 to 5. During the 3 fiscal years ended June 30, 2020, JCDC operated full-day and half-day Special Class programs. In the fiscal year ended June 30, 2018, JCDC also provided a full-day Special Class in an Integrated Setting program. For the purposes of this report, we refer to JCDC's Special Class and Special Class in an Integrated Setting as SED preschool cost-based programs. During the fiscal year ended June 30, 2020, JCDC served 341 students in the SED preschool cost-based programs. In addition to the SED preschool cost-based programs, JCDC operated two other SED-approved programs: 1:1 Aides and Evaluations. 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 the annual CFRs.

During the fiscal year ended June 30, 2018, JCDC's full-day Special Class in an Integrated Setting program was operated in collaboration with an affiliated entity's Universal Pre-K (UPK) program. This affiliate—Jackson Children Services (JCS), a for-profit related-party entity owned by JCDC's Executive Director—utilized JCDC's resources in operating JCS' Early Intervention and UPK services during the 3 fiscal years ended June 30, 2020.

The New York City Public Schools refers students to JCDC based on clinical evaluations and pays for JCDC's services using rates established by SED. The rates are based on the financial information JCDC reports to SED on its annual CFRs. For the 3 fiscal years ended June 30, 2020, JCDC reported approximately $24 million in reimbursable costs for the SED preschool cost-based programs.

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, 2020, we identified $3,020,800 in reported costs that did not comply with SED's requirements for reimbursement. These ineligible costs include $2,050,409 in personal service costs and $970,391 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 JCDC's internal controls over its compliance with SED's guidelines.

We also found JCDC did not ensure that staff involved in its reimbursable cost-reporting processes received adequate training or had sufficient information applicable to their function. According to JCDC officials, upon the advice of a consulting CPA, they did not take SED's CFR preparation training. However, we found that, in preparing JCDC's CFRs, the CPA had to rely on his estimate of the SED preschool cost-based programs' usage of a JCDC site, due to JCDC officials not providing him with adequate actual usage information. If JCDC officials had attended SED's CFR training, they may have been aware of the requirements.

Personal Service Costs

Personal service costs, which include all salaries and fringe benefits paid or accrued to employees on the service provider's payroll, must be reported on the CFR as either direct care costs (e.g., teachers' salaries) or non-direct care costs (e.g., administrators' salaries). For the 3 fiscal years ended June 30, 2020, JCDC reported approximately $20 million in personal service costs for the SED preschool cost-based programs. We identified $2,050,409 in personal service costs that did not comply with the RCM's requirements for reimbursement.

Overallocated Staff

According to the RCM, generally, costs will be considered for reimbursement provided such costs are reasonable, necessary, directly related to the special education program, and sufficiently documented. In addition, the RCM states compensation costs must be based on approved, documented payrolls supported by employee time records prepared during, not after, the time period for which the employee was paid. The RCM also states that any expenditures that cannot be charged directly to a specific program must be allocated across all programs and/or entities benefited by the expenditure. 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. Finally, entities operating programs must use allocation methods that are fair and reasonable, as determined by the Commissioner of Education's fiscal representatives. Such allocation methods, as well as the statistical basis used to calculate the allocation percentages, must be documented and retained for a minimum of 7 years.

JCDC officials could not provide required supporting records (e.g., approved time records, allocation methods and their basis) for payroll costs JCDC reported for reimbursement. Rather, officials explained that their time record data for the audit scope period became corrupted and, as a result, they do not have the time records supporting the payroll costs claimed for reimbursement. Likewise, officials advised us that JCDC did not maintain required records in support of cost allocation (such as time studies) for its shared staff.

We reviewed the available records (e.g., JCDC's and JCS' payroll records and personnel records) for 14 sampled staff. We also interviewed officials about the roles of the sampled staff and determined that JCDC overallocated $1,060,159 in compensation costs to the SED preschool cost-based programs.

In their response to our preliminary audit findings, JCDC officials suggested we adjust the recommended disallowance using alternative allocation methods (JCDC and JCS Classroom Utilization, Cost by Program, or Full-Time Equivalent [FTE]) and provided spreadsheets for the figures to be used in each of the alternative allocation methods. However, JCDC did not provide us with sufficient and reliable records to support its figures. For example, although JCDC provided records identifying one shared staff as an Educational Supervisor for two of JCS' Early Intervention classes in the summer of 2017, JCDC officials did not track the actual time this individual spent serving the SED preschool cost-based programs. Instead, JCDC stated that the amount of time spent by this employee on JCS-related work was negligible, but officials did not provide adequate records in support of this claim.

In another example, although a Facilities Director (who facilitates housekeeping and maintenance services across JCDC's and JCS' various sites, in addition to supervising the maintenance staff) provided services to the benefit of both entities' programs, JCDC did not allocate this individual's cost to JCS. Instead, officials incorrectly attributed this individual's entire compensation to JCDC. Likewise, in response to our preliminary audit findings, JCDC officials suggested that this individual spent about 11% of his time on JCS tasks but did not provide adequate records in support of this claim. As a result, in the absence of the required records, JCDC provided no assurance that the cost JCDC reported for reimbursement was reasonable, necessary, or directly related to the SED preschool cost-based programs.

As such, we allocated the shared costs based on the number of benefiting agencies and/or the square footage utilized by each entity. We recommend SED disallow $1,060,159 ($815,797 in salaries and $244,362 in related fringe benefits) in overallocated staffing costs.

Unsupported Related-Party Compensation

According to the RCM, compensation costs must be based on approved, documented payrolls supported by employee time records prepared during, not after, the time period for which the employee was paid. Compensation to all individuals who have a financial interest in the program, including shareholders, trustees, board members, officers, family members, or others, and who are also program employees must be commensurate to actual services provided as appropriately qualified program employees or consultants, and shall not include any distribution of earnings in excess of reimbursable compensation. In addition, for all individuals, compensation for board service or trustee service is not reimbursable.

For the 3 fiscal years ended June 30, 2020, JCDC claimed $393,536 in salaries paid to the Executive Director's husband ($128,876) and their son ($264,660). JCDC reported this cost under the CFR's Position Title Codes (PTCs) of Chief Financial Officers/Controllers (PTC 603), Agency Administration Office workers (PTC 605), or Agency Administration Accountants (PTC 606). During this period, JCDC's records show the Executive Director's husband served as the president of JCDC's Board of Directors in addition to serving as the Comptroller for JCDC and JCS.

We requested that JCDC provide supporting documentation (such as time records, time and effort reports, and work product) for these costs. However, the documentation provided was unreliable and insufficient. It consisted of non-contemporaneous handwritten notes and a document titled "COVID related activities," emails, and/or time allocation estimates created to support the costs claimed for both individuals. JCDC officials claimed the activities in the notes were drawn from a variety of confirming sources; however, they did not provide us with actual records of services (as employees or consultants) these individuals provided to benefit the SED preschool cost-based programs. In addition, we found that these individuals owned or worked for other entities besides JCDC and its affiliate (JCS). For example, we found that the Executive Director's husband held the title of Dean at a separate school during the audit period. In addition, he was identified as an officer of a different, separate entity (owned by him and his wife) from which JCDC rented one of its program sites. According to the Executive Director's husband, among other things, he monitored this rental property and ensured that it was in compliance with applicable laws. We also found that, during the audit scope period, the Executive Director's son worked as a managing member of another entity located in New Jersey.

In response to our preliminary audit findings, JCDC officials provided a personal statement from the Executive Director's husband that included a schedule and description of his daily, weekly, and annual duties and responsibilities. The personal statement also included the planned time for each activity/task. However, the personal statement is not dated, and it is non-contemporaneous to the reporting year. In addition, it does not reference any specific period. Finally, the time allocation for various tasks and activities constitutes a planned schedule—not a record of actual activities and tasks. Likewise, JCDC did not provide contemporaneous records in support of the costs reported for the Executive Director's son. Instead, JCDC officials provided a list estimating the time this individual spent on various activities.

Overall, the records JCDC provided for these two individuals were not sufficient or reasonable support for the compensation costs that JCDC reported for reimbursement. As a result, we recommend that SED disallow $507,256 ($393,536 in salaries and $113,720 in related fringe benefits) pertaining to the unsupported related-party executives' compensation.

Non-Mandated Fringe Benefits (Health and Dental Insurance Costs)

According to the RCM, benefits for individual employees or officers/directors shall be proportionately similar to those received by other classes or groups of employees. Additionally, fringe benefits may include paid time off, such as vacation leave, sick leave, military leave, holidays, and training and educational costs, provided the benefit is established by written school policy. According to JCDC's internal policies, as outlined in the *JCDC Employee Handbook*, JCDC pays for employees' individual health insurance coverage subject to a required employee contribution. The employee must cover the difference for a spouse and/or family coverage. Furthermore, if employment at JCDC ends or if working hours are reduced so that the employee is ineligible to receive group health plan benefits, the employee and their dependent(s) may continue to receive group health plan coverage at their own expense. Additionally, according to the CFR Manual, only expenses and revenues for the proper CFR reporting period should be included on the CFR. CFRs submitted with expenses and revenues for a different reporting period will not be accepted.

For the 3 fiscal years ended June 30, 2020, JCDC reported approximately $1,310,699 in non-mandated fringe benefits for health insurance, dental plan, and health spending account costs under the SED preschool cost-based programs. Of this amount, we identified $304,996 in health insurance and dental costs that did not comply with the RCM's requirements, as follows:

- $157,486 in expenses that were not necessary and/or not reasonable, including costs for ineligible employees who worked less than the required work-week hours, employees who no longer worked for JCDC, duplicated health insurance payments, and incorrect dental charges.
- $112,503 in expenses that were not proportionately similar costs. For instance, JCDC covered a larger portion of health insurance costs for certain employees and/or did not collect the required employees' share of the health insurance and dental plan premiums.
- $33,820 in expenses that lacked sufficient documentation.
- $1,187 in expenses incorrectly claimed for another reporting period.

We recommend that SED disallow $304,996 in non-mandated fringe benefit costs that were not in compliance with the RCM's requirements.

Discrepancies in Employees’ Salaries

The RCM requires entities operating an approved program to use the accrual basis of accounting and to maintain accounting books of original entry including asset, liability and fund balance or equity accounts, as well as expenditure and revenue accounts. We identified $55,745 in salary expenses that did not comply with the RCM’s requirements, as follows:

- $45,675 in reported personal service expenses that did not follow the accrual basis of accounting. JCDC officials reported these costs for reimbursement in the incorrect reporting year.
- $10,070 in salary costs that were not reasonable, necessary, directly related to the special education program, and/or sufficiently documented.

We recommend that SED disallow $73,150 in compensation costs ($55,745 in salary costs + $17,405 in related fringe benefits) that were not in compliance with the RCM’s requirements.

IDEA Funding

According to the RCM, funding received from a governmental agency or unit for specific education programs or cost items will be offset by SED against the appropriate program costs in the calculation of tuition rates so that costs will not be reimbursed more than once by public funds. Moreover, any claimed excess of actual government (federal, State, or local) grant expenses over approved budgeted grant expenses is not reimbursable through the tuition rate for both the current and prior years.

During the 3 fiscal years ended June 30, 2020, JCDC reported $45,000 ($15,000 each fiscal year) in funding provided by federal Individuals with Disabilities Education Act (IDEA) funds for a Parent-Liaison program. Specifically, these funds were designated as salary payments to JCDC’s Principal to supervise the program. The terms of an application for IDEA funds for fiscal year 2018-19 required that related work was to be performed outside the Principal’s work for the SED preschool cost-based programs.

Our review found that in addition to serving as JCDC’s program administrator and supervising the Parent-Liaison program, JCDC’s Principal also worked as the program administrator for JCDC’s for-profit affiliate (JCS) during this same period. However, JCDC officials were unable to provide any time records or other documentation of this employee’s actual time spent on both the SED preschool cost-based and Parent-Liaison programs to show that the hours worked did not overlap.

We also found that for fiscal year 2019-20, JCDC reported the excess, totaling $18,127 of approved IDEA grant budget expenses, to the SED preschool cost-based programs. This includes $18,000 reported for an Assistant Principal and $127 reported for a Speech Therapist. Although JCDC officials claimed the $18,127 was due to additional grant funds awarded to these individuals, JCDC did not provide us with records supporting the excess compensation.

Consequently, we recommend that SED disallow $69,127, consisting of $63,127 ($45,000 + $18,127) in salaries and $6,000 in related fringe benefits.

Ineligible 1:1 Aide Costs

According to the CFR Manual, 1:1 Aides costs (salaries, fringe benefits, and allocated direct and indirect costs) should be reported in a separate cost center on the providers' financial reports. During the 2 fiscal years ended June 30, 2020, JCDC incorrectly reported compensation costs totaling $18,554 ($14,006 in salaries and $4,548 in fringe benefits) for four Teacher Assistants who performed 1:1 Aides services under the SED preschool cost-based programs. JCDC did not report the salaries applicable to these staff's 1:1 Aides roles in the required separate cost center and provided insufficient support for the costs attributed to the SED preschool cost-based programs.

We recommend that SED disallow $18,554 in compensation costs that were incorrectly charged to the SED preschool cost-based programs.

Bonuses

According to the RCM, a merit award (or bonus compensation) shall mean a non-recurring and non-accumulating (i.e., not included in base salary of subsequent years) lump sum payment in excess of regularly scheduled salary that is not directly related to hours worked. A merit award may be reimbursed if it is based on merit as measured and supported by employee performance evaluations. The provider's governing entity must adopt a written employee performance evaluation policy and form that contains sufficient detail as to the criteria and methods used to determine each employee's final evaluation rating. The written employee performance evaluation policy must also describe how the final evaluation rating will directly correlate to any amount of a merit award should funds be available for such an award. In addition, merit awards are restricted to direct care titles/employees as defined by the RCM's Appendix A-1 and those in the 100 PTC series and PTC 505 and PTC 605, as defined by the CFR Manual. For the 3 fiscal years ended June 30, 2020, JCDC reported approximately $98,122 in bonus costs under personal service costs for the SED preschool cost-based programs. We determined that $10,907 of these bonus costs did not comply with the RCM as follows:

- $10,186 in expenses that were not sufficiently documented or were based on inconsistent methodologies.
- $500 in a sign-on bonus that was not included in the written employer-employee agreement.
- $221 in bonus expenses reported for an ineligible PTC, 690.

We recommend that SED disallow $14,089 ($10,907 in salaries and $3,182 in related fringe benefits) in non-reimbursable bonus compensation.

Disability Claims

According to the RCM, compensation paid to an employee that duplicates workers' compensation awards, jury fees, or disability claims is not reimbursable. In fiscal year 2017-18, JCDC's disability insurance provider paid $2,380 in disability claims to certain JCDC employees.

We recommend that SED disallow $3,078 in non-reimbursable compensation costs ($2,380 in salaries and $698 in related fringe benefits) applicable to disability claims.

Other Than Personal Service Costs

According to the RCM, costs must be reasonable, necessary, directly related to the special education program, and sufficiently documented. In the 3 fiscal years ended June 30, 2020, JCDC reported approximately $3.8 million in OTPS costs under the SED preschool cost-based programs on its CFRs. To determine whether these expenses complied with SED's requirements for reimbursement, we reviewed a judgmental sample totaling $3,517,299. We identified $970,391 in OTPS costs that did not comply with SED's reimbursable cost requirements.

Contracted Direct Care and Clinical Personal Services Costs

According to the RCM, costs will not be reimbursable on field audit without appropriate written documentation, and entities operating approved programs should retain all pertinent accounting and allocation records to support the reported costs. Adequate documentation includes, but is not limited to, the consultant's résumé, a written contract that includes the nature of the services to be provided, the charge per day, and service dates. All payments must be supported by itemized invoices that indicate the specific services actually provided; and for each service, the date(s), number of hours provided, and fee per hour; and the total amount charged. In addition, when direct care services are provided, the documentation must indicate the names of students served, the actual dates of service, and the number of hours of service to each child on each date. In addition, the CFR Manual states that only expenses and revenues for the proper CFR reporting period should be included on the CFR. CFRs submitted with expenses and revenues for a different reporting period will not be accepted. For the 3 fiscal years ended June 30, 2020, JCDC charged $370,007 for services that did not meet the requirements of the RCM.

We selected a judgmental sample of 42 payments, totaling $965,084, that were recorded on JCDC's general ledger as Contracted Direct Care and Clinical Personal Services. We identified $370,007 in expenses that did not comply with the RCM's requirements for reimbursement, as follows:

- $358,742 in expenses that did not have sufficient support. Some had no invoices, or the invoices/session notes did not contain details of the services provided, the fee per hour, number of therapy sessions provided, number of service hours provided on each date, names of the students served, and the number of service hours per student on the date(s) of service.
- $9,336 in expenses related to JCDC's Evaluations program. This program is not related to the SED preschool cost-based programs.
- $1,929 in expenses claimed for the incorrect reporting period.

We recommend that SED disallow $370,007 in insufficiently supported, non-program-related, or incorrect reporting period contracted direct care expenses.

Insufficiently Documented and/or Non-Allowable Expenses

According to the RCM, costs will be considered for reimbursement provided such costs are reasonable, necessary, directly related to the special education program, and sufficiently documented. In addition, costs will not be reimbursable on field audit without appropriate written documentation of costs, and entities operating approved programs should retain all pertinent accounting, allocation, and enrollment/attendance records to support the reported costs. Gifts of any kind are non-reimbursable. Fines and penalties resulting from violations of or failure by the entity to comply with federal, State, and/or local laws and regulations and punitive damages are not reimbursable. According to the CFR Manual, only expenses and revenues for the proper CFR reporting period should be included on the CFR. CFRs submitted with expenses and revenues for a different reporting period will not be accepted.

For the 3 years ended June 30, 2020, we identified $352,551 in OTPS expenses that did not comply with SED's reimbursement requirements, as follows:

- $241,462 in expenses that were not sufficiently documented. For example, JCDC provided American Express credit card statements for July 2017 through June 2018, a table containing a summary of transactions by month and by account classification, and a list of transactions by month. However, it did not provide all the corresponding invoices or receipts. Additionally, JCDC provided invoices for repairs and maintenance during fiscal year 2018-19 that were missing required support (e.g., service dates, number of hours provided on each service date, and the fee per hour).
- $75,908 in duplicative and unnecessary OTPS expenses. For example, we found:
  - $59,579 in duplicative charges and/or unsupported adjusting entries.
  - $16,329 in unnecessary expenses, including $8,059 in overstated or insufficiently documented expenses; $5,804 in Verizon long-distance calls (to Guinea); and $2,466 related to taxes, overdraft fees, and late

payment fees. JCDC did not provide records showing that these costs were necessary or directly related to the education program.

- $35,181 in other miscellaneous expenses, including $30,207 claimed in the incorrect reporting period, $3,864 in penalties applicable to delinquent Form 5500 filings, $579 in gifts, and $531 in disproportionate fringe benefits reported as office supply expenses.

We recommend that SED disallow $352,551 in costs that were not in compliance with RCM requirements.

Rent on a Building Leased from a Related Party

According to the RCM, related parties consist of all affiliates of an entity, including but not limited to its management and their immediate families or its principal owners and their immediate families. Rental costs of buildings and facilities are reimbursable if the share of rental expense allocated to programs funded pursuant to Article 81 and/or Article 89 is based on documented and reasonable criteria, such as square footage utilization, when more than one program is operated in a rented facility. The rental costs incurred in less-than-arm's-length lease of real property transactions shall be reimbursed based on the owner's actual cost or fair market value, whichever is less. The CFR Manual indicates that the related organization's actual cost in operating the building used by the service provider may include depreciation, amortization, mortgage interest, property taxes, insurance, utilities, and repairs and maintenance.

During the audit period, JCDC officials included $606,109 for reimbursement in leased property rental expenses for the usage of a building in which JCDC's Executive Director and its Comptroller held an ownership interest through a for-profit affiliate called Jackson Services, LLC. However, despite the RCM's guidelines, JCDC did not provide sufficient records in support of the costs reported for reimbursement. We reviewed available records and found that $106,029 of the reported costs were not sufficiently supported. This resulted in an overstatement of costs for this leased building reported on the CFRs for the 3 fiscal years ended June 30, 2020.

We recommend that SED disallow a total of $106,029 in costs pertaining to the lease of the building that were not adequately supported.

Overallocated Non-Allowable OTPS Costs (Non-Facility)

According to the RCM, any expenditures that cannot be charged directly to a specific program must be allocated across all programs and/or entities benefited by the expenditure. Such allocation methods, as well as the statistical basis used to calculate allocation percentages, must be documented and retained for each fiscal year for review upon audit for a minimum of 7 years. Allocation percentages should be reviewed on an annual basis and adjusted, as necessary. If agency officials do not track or cannot directly charge certain shared costs to the benefiting program, the CFR Manual recommends that such cost categories be allocated between all benefiting programs using specific allocation methods. Additionally, a move to a new location must be approved by SED's program staff.

We determined that JCDC overallocated a total of $49,816 in administrative expenses for reimbursement to the SED preschool cost-based programs, such as telephone, cable, internet, supplies and materials, office supplies, and postage. We found that for some costs, JCDC failed to allocate any portion of the shared cost to JCS (its affiliate) even though JCS benefited from the resources. We also found instances where JCDC allocated costs using an alternate allocation method as opposed to the recommended allocation method. In addition, JCDC officials did not provide the statistical basis used in the calculation of its allocation percentages. Further, JCDC officials claimed reimbursement for rental costs for an unapproved office space located in New Jersey and managed by the son of JCDC's Executive Director. However, JCDC officials did not provide us with an agreement identifying JCDC as an occupant of this office, nor did JCDC show that it obtained SED's approval for this site. Of the reported cost, $11,754 was allocated to the SED preschool cost-based programs.

We recommend that SED disallow $61,570 ($49,816 + $11,754) in overallocated and non-allowable non-facility costs.

Overallocated OTPS Costs (Facility Costs)

According to the RCM, when more than one program is operated in a rented facility, the share of rental expenses allocated to the SED preschool cost-based programs is based on documented and reasonable criteria, such as square footage utilization. Additionally, the RCM states rental agreements, including renewals, must be in writing, dated, and signed by the lessee and the lessor. According to the CFR Manual, if a cost cannot be charged directly to agency administration or program/site(s), the entity may use an OTPS-specific method. For "repairs and maintenance" and "utilities," this is the square footage allocation method.

We found $63,411 in facility costs that did not comply with SED's reimbursement requirements, as follows:

- $48,480 in facility rental expenses for two of JCDC's locations (its Main and Annex sites) that were overallocated to the SED preschool cost-based programs. For example, JCDC did not provide a lease agreement to support additional rental costs of $11,427 in fiscal year 2017-18 for the Annex site.
- $14,931 in reported "repairs and maintenance" and "utilities" expenses that were overallocated to the SED preschool cost-based programs.

We recommend that SED disallow $63,411 in overallocated and/or not sufficiently documented costs applicable to JCDC's facilities.

Non-Reimbursable Non-Audit Consulting Services

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. We found that JCDC incorrectly reported $16,823 in fiscal year 2017-18 for non-audit consulting services that were provided within 365 days by the same CPA firm that audited JCDC's reports for the same applicable year.

We recommend that SED disallow $16,823 for non-audit consulting service costs that were not in compliance with the RCM.

Other Matters

During our review, we identified that SED's Office of the Professions partially suspended one of JCDC's CPAs from auditing due to procedural errors committed during the audit of an employee benefit plan. As part of this suspension, this CPA agreed to not perform audits until after the suspension period was over and after the completion of certain audit training. The suspension period included approximately 3 months of our audit scope period.

However, we found the CPA performed certain tasks during this partial suspension period for JCDC. JCDC's officials indicated that this CPA prepared JCDC's CFRs and its financial statements during the audit scope and were unaware of the CPA's partial suspension and that he was limited in his functions during the suspension period. Further, JCDC officials indicated they relied on this CPA and his firm for reviewing the accuracy of costs reported for reimbursement, auditing JCDC's financial statements, and providing certain non-audit services.

Recommendations

To SED:

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

To JCDC:

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 JCDC 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 focused primarily on expenses claimed on JCDC's CFR for the fiscal year ended June 30, 2020, and certain expenses claimed on its CFRs for the 2 fiscal years ended June 30, 2019.

To accomplish our objective, we reviewed the RCM, the CFR Manual, the Regulations of the Commissioner of Education, JCDC's CFRs, and relevant financial and program records for the audited period. We also interviewed JCDC officials and staff to obtain an understanding of JCDC'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 objectives as well as to 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, such as salaries and fringe benefit expenses, cost allocations, and OTPS expenses. Our samples were based on the relative materiality of the various categories of costs reported 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.

We obtained data from JCDC's general ledgers and other financial systems and assessed the reliability of that data by interviewing officials knowledgeable about the system and by 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

The audit was performed pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution; Article II, Section 8 of the State Finance Law; and Section 4410-c of the Education Law.

We conducted our performance audit in accordance with generally accepted government auditing standards. These standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained during our audit provides a reasonable basis for our findings and conclusions based on our audit objective.

In addition to being the State Auditor, the Comptroller performs certain other constitutionally and statutorily mandated duties as the chief fiscal officer of New York State. These include operating the State's accounting system; preparing the State's financial statements; and approving State contracts, refunds, and other payments. These duties may be considered management functions for purposes of evaluating organizational independence under generally accepted government auditing standards. In our professional judgment, these duties do not affect our ability to conduct this independent performance audit of SED's oversight and administration of JCDC's compliance with the RCM and the CFR Manual.

Reporting Requirements

We provided a draft copy of this report to both SED and JCDC officials for their review and formal comments. Their comments were considered in preparing this final report and are included in their entirety at the end of it. In their response, SED officials agreed with our recommendations and indicated that they will take steps to address them. JCDC officials accepted some of our conclusions but disagreed with certain proposed disallowances. Our responses to certain remarks are embedded within JCDC's response as State Comptroller's Comments. Additionally, certain information that may be used to identify JCDC personnel or related parties has been redacted from the response. JCDC officials also included a set of attachments with their response. Those attachments are not included in this report. However, they have been retained on file at the Office of the State Comptroller.

Within 180 days after final release of this report, as required by Section 170 of the Executive Law, the Commissioner of 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 the recommendations were not implemented, the reasons why.

Exhibit

Jackson Child Development Center, Inc.
Summary of Submitted and Disallowed Program Costs for the 2017-18, 2018-19, and 2019-20 Fiscal Years

Program Costs	Amount Claimed on CFR	Amount Disallowed	Amount Remaining	Notes to Exhibit
Personal Services				
Direct Care	$18,392,080	$1,248,115	$17,143,965	A, D–L, P, U, V, Z–AC, AG
Agency Administration	1,891,729	802,294	1,089,435	
Total Personal Services	**$20,283,809**	**$2,050,409**	**$18,233,400**	
Other Than Personal Services				
Direct Care	$2,726,093	$626,100	$2,099,993	A–D, M–O, Q–T, W–Y, AA-AB, AD-AF
Agency Administration	1,056,514	344,291	712,223	
Total Other Than Personal Services	**$3,782,607**	**$970,391**	**$2,812,216**	
Total Program Costs	**$24,066,416**	**$3,020,800**	**$21,045,616**	

Notes to Exhibit

The following Notes refer to specific sections of SED's RCM and CFR Manual used to develop our recommended disallowances. Although we looked at 3 years, the section numbers and requirements did not change from year to year. We summarized the applicable sections to explain the basis for each disallowance. We provided the details supporting our recommended disallowances to SED and JCDC officials during the course of our audit.

A. RCM Section I.3.B – Entities operating approved programs must use the accrual basis of accounting and maintain accounting books of original entry including asset, liability and fund balance or equity accounts, as well as expenditure and revenue accounts.

B. RCM Section I.4.A – In general, a less-than-arm's-length relationship exists when there are related parties and one of the parties can exercise control or significant influence over the management or operating policies of another party, to the extent that one of the parties is or may be prevented from fully pursuing its own separate interests.

C. RCM Section I.4.E – Related parties consist of all entity affiliates, including its management and their immediate families, its principal owners and their immediate families, or any party transacting or dealing with the agency/entity of which that party has ownership of, control over, or significant influence upon the management or operating policies of a program(s)/entity(s) to the extent that an arm's-length transaction may not be achieved.

D. 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.

E. RCM [2018 & 2019] Section II.13.A.4.(d) – For non-direct care staff under the 500 and 600 PTC series per Appendix R of the CFR Manual, and for owners or related parties who work in more than one entity and/or in more than one job title (including organizations that have a less-than-arm's-length relationship with the approved program), the FTE in total across entities or job title cannot exceed 1.000. The allocation of compensation must be supported by time and effort reports or equivalent documentation that meets the following standards:

   - They must reflect contemporaneous time records of the actual activity of each employee.
   - They must account for the total activity for which each employee is compensated.
   - They must be prepared at least monthly and coincide with one or more pay periods.
   - They must be signed or electronically approved and dated by the employee and employee's direct supervisor. Executive Directors must have their time records signed or electronically approved by the agency's Controller, Compliance Officer, or staff employed in a similar capacity (in the event that the Executive Director also serves as the agency's Controller, a separate independent individual within the agency's management structure may serve this function). Budget estimates or other allocation methods determined before the services are performed are not adequate documentation for use in completing annual financial reports but may be used for interim accounting purposes.

   Compensation beyond 1.000 FTE for non-direct care staff (excluding those in the 100 PTC series and PTC 505 and 605 as defined by the CFR Manual's Appendix R), owners, or related parties will not be considered reimbursable in the calculation of tuition rates.

F. RCM Section II.13.A.4.(e) – Direct care students to staff ratios shall not exceed the approved staffing levels supported by SED's program approval letter. Any net excess of staff will not be included as part of reimbursable costs in the program's reconciliation tuition rate.

G. RCM Section II.13.A.5 – Compensation to all individuals who have a financial interest in the program, including shareholders, trustees, board members, officers, family members, or others, and who are also program employees must be commensurate to actual services provided as appropriately qualified program employees or consultants, and shall not include any distribution of earnings in excess of reimbursable compensation. Compensation shall not exceed the average regional levels paid by similar private providers to comparably qualified and appropriately certified personnel for similar work and hours of employment. Any compensation determined to be excessive will not be reimbursed in the tuition rate. For all individuals, compensation for board service or trustee service is not reimbursable. For example, a full-time program employee may serve on the Board of Directors of the agency. However, compensation for board service will not be reimbursed. Compensation for such employee's personal service to the program will be allowed in the computation of the tuition rate if:
(a.) The board member abstains from any discussion or vote on matters related to his/her compensation and the Board minutes reflect this.

H. RCM Section II.13.A.7 – Compensation paid to an employee(s) that duplicates workers' compensation awards, jury fees, or disability claims is not reimbursable.

I. RCM Section II.13.A.10 – The written employee performance evaluation policy must describe how the final evaluation rating will directly correlate to any amount of a merit award should funds be available for such an award. In addition, merit awards are restricted to direct care titles/employees as defined by the RCM's Appendix A-1 and those in the 100 PTC series and PTCs 505 and 605 as defined by the CFR Manual's Appendix R. Merit awards must be paid within the year awarded or not later than 2-½ months after the entity's year end.

J. RCM Section II.13.A.13.(b) – The sign-on bonus terms must be articulated in a written employer-employee agreement.

K. RCM Section II.13.B.1 – Fringe benefits may include paid time off, such as vacation leave, sick leave, military leave, holidays, and training and educational costs, provided the benefit is established by written school policy.

L. RCM Section II.13.B.2.(c) – Reimbursement of fringe benefit expenses shall be subject to the following principles: Benefits including pensions, life insurance, and Tax-Sheltered Annuities (TSAs) for individual employees or officers/directors are proportionately similar to those received by other classes or groups of employees.

M. RCM Section II.14.E – Costs associated with non-audit services provided by a registered public accounting firm or any person associated with that firm, during or within 365 days of required audit work (prior to the beginning of the fiscal period being audited or after the date of the audit report issued for the audit period), are not reimbursable. Such non-audit services include bookkeeping, financial information systems design, and actuarial services.

N. 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 and punitive damages are not reimbursable.

O. RCM Section II.24 – Gifts of any kind are non-reimbursable.

P. RCM Section II.26.B – Any claimed excess of actual government (federal, State, or local) grant expenses over approved budgeted grant expenses is not reimbursable through the tuition rate for either current or prior years.

Q. RCM Section II.41.A – Rental agreements, including renewals, must be in writing, dated, and signed by the lessee and the lessor.

R. RCM Section II.41.B.1 – Property – Rental costs of buildings and facilities are reimbursable under the following circumstances:

- Rental costs are within the non-direct care cost parameter. Entities operating approved programs may submit copies of new or renegotiated leases to Rate Setting Unit (RSU) staff for review at least 90 days before the effective date of the lease to allow the Commissioner's designated fiscal representatives to determine whether the costs of rental agreements are within the limitations of the program's non-direct care cost parameter.
- A move to a new location must be approved by SED's program staff and such costs of move are subject to review and approval by the New York State Division of Budget prior to the program's move. Moving costs are reimbursable if the move is necessary to enable the program to conform to requirements of the Commissioner's Regulations or the students' Individualized Education Programs (IEPs). However, the program must establish that a change in location or lease resulted from SED program mandates, consistent with regulatory or IEP requirements, or arm's-length landlord action in response to market forces. In addition, the program's occupancy costs of the new location are not reimbursable before the actual date of the program's occupancy unless such costs are incorporated in an approved tuition rate. The program's occupancy costs of the prior location are reimbursable up to the actual date of the program's occupancy in the new location unless prior approval allows an exception.

S. RCM Section II.41.B.2 – Occupancy costs are based on actual documented rental charges, supported by bills, vouchers, etc. Donated rent is not reimbursable. Rent security deposits are not reimbursable.

T. RCM Section II.41.B.4 – The share of rental expense allocated to programs funded pursuant to Article 81 and/or Article 89 is based on documented and reasonable criteria, such as square footage utilization, when more than one program is operated in a rented facility. Costs incurred in less-than-arm's-length lease of real property transactions shall be reimbursed based on owner's actual cost or fair market value, whichever is less.

U. RCM Section II.44.A.2 – Funding received from a governmental agency or unit for specific education programs or cost items will be offset by SED against the appropriate program costs in the calculation of tuition rates so that costs will not be reimbursed more than once by public funds.

V. RCM Section III.1.A – 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. Employee time sheets must be signed by the employee and a supervisor and must be completed at least monthly.

W. RCM Section III.1.C.2 – Adequate documentation for consultants includes, but is not limited to, the consultant's résumé, a written contract that includes the nature of the services to be provided, the charge per day, and service dates. All payments must be supported by itemized invoices that indicate the specific services actually provided and, for each service, the date(s), number of hours provided, and fee per hour; and the 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.

X. 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.

Y. RCM Section III.1.M.1 – Any expenditures that cannot be charged directly to a specific program must be allocated across all programs and/or entities benefited by the expenditure.

Z. RCM Section III.1.M.1.(i) – 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.

AA. RCM Section III.1.M.2 – Entities operating programs must use allocation methods that are fair and reasonable, as determined by the Commissioner's fiscal representatives. Such allocation methods, as well as the statistical basis used to calculate allocation percentages, must be documented and retained for each fiscal year for review upon audit for a minimum of 7 years. Allocation percentages should be reviewed on an annual basis and adjusted, as necessary.

AB. RCM Section III.2.B – The accrual basis of accounting is required for all programs receiving Article 81 and/or Article 89 funds.

AC. CFR Manual, Section 8.0 (page 8.5) – Expenses and revenues and FTE enrollment for approved 1:1 teacher aides (preschool and school age) must be reported as a separate column (Program Code 9230).

AD. CFR Manual, Section B (page 18.4 in Fiscal Year 2020, page 18.3 in Fiscal Year 2019 and Fiscal Year 2018) – The allowable cost of a related-party transaction is the lower of the related organization's/individual's actual cost or the fair market value of providing the service or supply. For example, the related organization's actual cost in operating the building used by the service provider may include depreciation, amortization, mortgage interest, property taxes, insurance, utilities, and repairs and maintenance.

AE. CFR Manual, Appendix J (page 43.3) – When programs share the same geographic location or more than one State agency is served at the same geographic location, property and related costs must be allocated between the programs/State agencies benefiting from those resources. These costs include expenses such as utilities, repairs and maintenance, depreciation, leases, or mortgage interest. The most common method uses square footage allocation as the statistical basis.

AF. CFR Manual, Appendix J (page 43.4) – Expenses such as food, transportation, supplies and material, and staff travel and training that cannot be directly charged to a specific program or State agency must be allocated across all such entities deriving benefits. If repairs and maintenance or utilities cannot be directly charged to an agency administration or a program/site(s), the square footage allocation method may be used.

AG. CFR Manual [2018], Appendix L (page 45.1) – Providers with personnel who work in more than one program should allocate their salary to the proper cost center during the normal accounting cycle based on actual time and attendance records. If this does not occur, the service provider must complete a time study for each employee who works in more than one program.

Agency Comments - State Education Department

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

Sharon Cates-Williams
EXECUTIVE DEPUTY COMMISSIONER

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November 5, 2024

Kenrick Sifontes
Audit Director
Office of the State Comptroller
Division of State Government Accountability
59 Maiden Ln. 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, 2022-S-21, *Jackson Child Development Center, Inc. (JCDC) - Compliance With the Reimbursable Cost Manual.*

Recommendation 1:

"Review the recommended disallowances resulting from our audit and make the appropriate adjustments to the costs reported on JCDC's CFRs and to JCDC'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 and bonus payment recommendations to determine if the adjustments are appropriate.

Recommendation 2:

"Remind JCDC 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 JCDC'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 JCDC of online CFR training that is available on SED's webpage. SED requires 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

Sharon Cates-Williams

cc: Christina Coughlin
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November 15, 2024

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Re: State Education Department
Compliance with the Reimbursable Cost Manual
Jackson Child Development Center, Inc.
Audit Report 2022-S-021
Draft Report

Dear Mr. Sifontes:

We have reviewed the above-referenced Draft Report which considers whether the costs reported by Jackson Child Development Center, Inc. ("JCDC") on its Consolidated Fiscal Reports ("CFRs") were reasonable, necessary, directly related to the special education programs, and sufficiently documented pursuant to the State Education Department's ("SED") Reimbursable Cost Manual ("RCM") and the Consolidated Fiscal Reporting and Claiming Manual ("CFR Manual"), and which focused primarily on expenses claimed on its CFRs for the two fiscal years ending June 30, 2019 (2018 and 2019).

Personal Service Costs

Overallocated Staff

As shared with the auditors, JCDC is unfortunately disadvantaged by the corruption of the timesheet data which had been properly and contemporaneously maintained in support of claimed personal service costs but subsequently deemed irretrievable. While the CFR manual encourages time studies to support allocations of staff personal costs, such an approach is not required. Here, job descriptions set out performance expectations, activities to be engaged and tasks to be undertaken within the defined workweek. The performance of such tasks and activities, as reflected by work product, is testament to the validity of the costs as reported.

State Comptroller's Comment – Without timesheet data, we cannot confirm JCDC's assertion that these records would have properly and contemporaneously supported the expenses claimed. According to the RCM, other documentation—including time studies for shared employees—may be prepared and maintained in support of claimed personal service costs. However, JCDC did not prepare time studies. In lieu of timesheets and time studies, we reviewed all the other documentation JCDC officials provided and found it insufficient to support these personal service costs.

Review of the audit teams' analysis reveals the following mischaracterization:

State Comptroller's Comment – Our analysis is not a mischaracterization. Rather, it identified JCDC's noncompliance with the requirements in the RCM.

Again, JCDC did, in fact, maintain the required records, in support of its reported personal services costs for all employees, as well as in support of the allocation of such costs. Unfortunately, as JCDC shared with the audit team during the field visit, the software which managed the required data was corrupted. In such extreme circumstances as presented here, we believe strongly that the CFR Manual and RCM would dictate allocation of costs by ratio value as the alternative allocation methodology in the absence of compelling documentation as provided here.

State Comptroller's Comment – Without the required records, we cannot confirm JCDC's assertion that the missing records would have supported the personal service costs for all employees. Furthermore, in regard to using the ratio value as an alternative allocation method, JCDC officials did not provide all the financial statements and other supporting records to enable us to determine appropriate allocation of expenses.

As noted by the auditors, JCDC provided substantial documentation during the audit process and in response to the preliminary finding reports, including individual testimonials and personal statements by agency personnel attesting to the accuracy and validity of JCDC's Staff Allocation Claims. We are disappointed that these supportive statements are given no merit as we have few alternatives available in the wake of a complete data collection/retention/record keeping corruption.

State Comptroller's Comment – We reviewed and considered all documentation JCDC officials provided to support the salaries and time allocations claimed for shared employees. However, the information provided was insufficient to support the salary allocation of shared employees in accordance with the requirements in the RCM.

We also note instances where sufficient documentation has been shared with the auditors in support of the allocation of costs based upon time spent on task. For example, the auditors disallowed 50% of salary expenses attributed to [redacted], the facilities manager, notwithstanding the classroom allocation chart date reflecting that only 10% of the facility was used for JCS classrooms. The allocation of the facility manager's salary, then, should align with classroom utilization. (Attachment I)

State Comptroller's Comment – JCDC's response is misleading. We did not recommend a disallowance of 50% of the salary expense of the facilities manager. Further, JCDC's assertion that the facilities manager only provided services to its affiliate in one classroom at one location is inaccurate. Our review found the facilities manager also provided services to an affiliate—JCS—at two other locations that JCDC officials failed to include in their allocation calculation. Moreover, JCDC officials used classroom utilization to allocate the facilities manager's salary. However, according to the CFR Manual, allocation should be based on the square footage of the space being maintained.

In the case of [redacted], Education Supervisor her work product and responsibilities were shared with the audit team. Based on student FTE, it is clear that her responsibilities were to CPSE children exclusively. She conducted an occasional tour for parents of early intervention children, for a maximum time of 30 minutes. We concede the error of [redacted] name appearing on the classroom assignment. (Attachment II)

State Comptroller's Comment – Notwithstanding JCDC officials' assertion that this individual's name was mistakenly listed on the classroom assignment records for its affiliate (JCS), they did not provide adequate records to support the time this individual spent performing work for other programs, including information on the total number of tours she provided.

We do, however, appreciate the favorable consideration of specific challenges made in the prepared preliminary finding response.

Unsupported Related Party Compensation

Again, JCDC is severely disadvantaged by its inability to retrieve the contemporaneously maintained time records for managements staff, left instead with only personal statements and work product as a testament to the work performed. The personal statement and representative documentation presented to the auditors attest to the effort expended by [redacted], husband to the Executive Director.

State Comptroller's Comment – We reviewed all documentation JCDC officials provided and found it was neither sufficient nor reasonable to support the expenses claimed for reimbursement.

Similarly, JCDC's inability to provide contemporaneous documentation in support of the Chief Financial Officer's reported salaries is further exacerbated by his untimely passing, severely limiting JCDC's ability to reconstruct daily calendars as in similar proposed findings of disallowance. The reproduction of time on task provided was based on the position job description, together with shared work product with [redacted] and correspondence reflecting the engagement of both individuals. It is disquieting that the auditors could not view more favorably "secondary source" information acceptable in other contexts.

State Comptroller's Comment – We reviewed all documentation JCDC officials provided for these individuals and found it was neither sufficient nor reasonable to support the expenses claimed for reimbursement.

Non-Mandated Fringe Benefits (Health and Dental Insurance Costs)

While we appreciate the minor adjustment made to the preliminary finding of $165,399 in health insurance and dental costs, we must again challenge the auditors' findings that certain costs were unnecessary and/or unreasonable and we must reassert our position that as shared with the audit team, JCDC is greatly disadvantaged by its inability to retrieve time records from its files as a result of a corrupted timekeeper system.

State Comptroller's Comment – We stand by our findings. We reviewed all other documentation provided by JCDC officials and found it insufficient to support these costs.

We reassert our challenge to the auditors' findings as relates to certain employees who the team asserts were ineligible for health plan coverage other than at their own expense based upon the number of hours worked per week, for the reasons provided, including:

While we concede that one staff person did not meet the hours worked criteria for benefit eligibility, the insurance carrier provided the benefits for Executive staff regardless of an hour criteria.

State Comptroller's Comment – The insurance carrier's policy did not show that the benefits for the Executive staff were provided regardless of an "hour criteria."

We also reassert our challenge to the auditors' determination that JCDC reported health insurance costs for subscribers who were no longer employed for the reasons provided, including:

- Certain staff were employed during the 2019-20 school year and were therefor eligible for the benefits.

State Comptroller's Comment – We stand by our findings. According to JCDC's health insurance criteria, the employee(s) were not eligible for the benefits.

- Certain staff were employed for one half of the month of August for which she was eligible for the benefit.

State Comptroller's Comment – We stand by our findings. According to JCDC's health insurance criteria, the employee(s) were not eligible for the benefits.

- One staff person, who was terminated from employment on 4/30/2020, was entitled to and received benefits through the termination date.

State Comptroller's Comment – We stand by our findings. According to JCDC's health insurance criteria, the employee(s) were not eligible for the benefits.

- One individual took advantage of a three year COBRA benefit which was paid in its entirety to JCDC in January, 2023, thus addressing the need for any proposed disallowance.

State Comptroller's Comment – The repayment for the disallowed COBRA benefit was not reported on the CFRs and thus has no impact on this finding.

In addition, JCDC challenges the auditors' proposed disallowance of the entirety of benefits costs associated with certain individuals. both of whom performed services for both JCDC and JCS. Accordingly, only the proportionate share of such costs – 50% – should be disallowed, contrasted with a disallowance of 100%.

State Comptroller's Comment – JCDC officials did not provide sufficient support that these employees worked the minimum number of hours, according to the requirements in JCDC's employee handbook, to qualify for health insurance.

We do not challenge the auditors' finding that JCDC "duplicated health insurance payments" and reported "incorrected dental charges."

Not Proportionally Similar Costs

JCDC does not challenge the auditors' finding that the organization offered a particular health/dental insurance plan benefits at different costs to different employees thereby violating the "proportionally similar" benefit requirement.

Not Sufficiently Documented Costs

We do not challenge the audit team's finding that JCDC had mistakenly recorded July 2017 health insurance costs in June 2016.

Costs Not on Accrual Basis of Accounting

We do not challenge the auditors' finding that JCDC had not reported the costs on an accrual basis.

Discrepancies in Employees' Salaries

We appreciate the favorable consideration given to supporting documentation provided related to certain reported salaries, as set out in the preliminary findings report, and do not challenge the auditors' findings as related to $45,675 in reported personal service expenses that did not follow the accrual basis of accounting.

IDEA Funding

We do not challenge the auditors' finding that $69,127 in IDEA funding lacked supporting records.

However, we note that [redacted] received $20,000 in IDEA grant during the 2019-20 year for which the documented final expenditure report is attached. The $18,000 was correctly reflected in her compensation which was distributed to her as an add-on NOT a grant. Attachment III

State Comptroller's Comment – We stand by our findings. The documentation provided does not support JCDC's assertion that the $18,000 was an add-on and not part of the IDEA grant.

Ineligible 1:1 Aide Costs

We renew our challenge to the auditors' finding that JCDC did not report the salaries applicable to certain 1:1 aide roles in the required separate cost center, and failed to provide sufficient support for the costs attributed to the preschool cost-based program. To the contrary, we provided ample documentation including classroom rosters, and classroom assignments attesting to the performance of certain personnel as aides.

State Comptroller's Comment – We reviewed all documentation provided by JCDC officials and found it insufficient to support the costs claimed for the preschool cost-based program.

Bonuses

We appreciate the minor adjustment made to the auditors' findings as relates to the proposed disallowance relating to certain bonus costs. However, we renew our challenge to the auditors' claim that specific bonus expenses were not sufficiently documented or were based on inconsistent methodologies. On the contrary, JCDC did, in fact, maintain a standard protocol and process for the evaluation of employee performances and the award of bonuses. Documentation shared with the auditors revealed discrete metrics for evaluation of employee performances and the award of bonuses within given ranges. Accordingly, we again challenge the proposed disallowance in the amount of $10,186 as unsubstantiated and baseless.

State Comptroller's Comment – We disagree. The recommended disallowance is neither unsubstantiated nor baseless. Rather, it is based on our review of the documentation JCDC officials provided, which we found not to be in compliance with the requirements in the RCM. Further, JCDC officials did not provide support for the discrete metrics they claimed were used for evaluating employee performance and awarding bonuses.

Disability Claims

We do not challenge the auditors' finding that an error was made in the reporting of certain disability compensation as salary.

Other Than Personal Services Costs

Contracted Direct Care and Clinical Personal Services Costs

While we acknowledge and appreciate the auditors' favorable consideration of certain documentation in support of our challenge, we must reassert our challenges to certain discrete findings as relates to certain speech and language service costs, certain clinical school psychologist costs, and additional speech pathology services, all of which were supported by documentation, while acknowledging a lack of supporting documentation for expenses itemized in our response to the preliminary findings report.

State Comptroller's Comment – The documentation provided by JCDC officials was not in compliance with the requirements in the RCM. The invoices/session notes did not contain details of the services provided, the fee per hour, number of therapy sessions provided, number of service hours provided on each date, names of students served, and the number of service hours per student on the date(s) of service.

Insufficiently Documented and/or Non-Allowable Expenses

While we appreciate and acknowledge the minor adjustments made to the auditors' initial findings, we renew our challenge to the assertion that $243,213 in claimed expenses was not sufficiently documented, having shared detailed documentation reflecting the exclusive benefit to JCDC of certain identified expenses, contrary to the auditors' assertion, confirmed separate ordering protocols, provided detailed invoices and other documentation. (Attachment IV and V)

State Comptroller's Comment – We reviewed all subsequent documentation provided by JCDC and modified the recommended disallowances in our report, as appropriate.

Rent on a Building Leased from a Related Party

We again recognize the reconsideration by the auditors of the initially proposed disallowance related to the rent expenses of the building leased from a related party, yet must renew our challenge of the determination that $106,029 of the reported costs was not sufficiently supported, given the significant number of vendor invoices, tax receipts, water charge invoices, and additional accountant notes shared with the audit team.

State Comptroller's Comment – We stand by our findings. We reviewed all documentation provided by JCDC officials and found it insufficient to support the costs claimed on the CFRs. JCDC did not use the useful life to determine the depreciation amount; instead, it reported the related-party building costs as a rent expense. Further, JCDC officials did not provide invoices for the water charges, and other invoices did not contain all required details.

Overallocated Non-Allowable OTPS Costs (Non-Facility)

We renew our challenge of the auditors' finding that JCDC overallocated certain administrative expenses to the cost-based program and failed to identify the statistical basis used in the calculation of our allocation percentages, reflecting the auditors' suggested 50/50 allocation while relying on the preferred ration value allocation methodology recommended and direct by the RCM. JCDC provided a significant number of vendor statements, invoices and other documentation in support of costs as claimed. (Attachment VI)

State Comptroller's Comment – We reviewed all subsequent documentation provided by JCDC and modified the recommended disallowances, as appropriate.

More specifically, administrative expenses such as telephone, utilities, and office expenses should have been recognized as allocated on the basis of FTEs (85% JDC and 15% JCS). (Attachment VII)

State Comptroller's Comment – According to the RCM and the CFR Manual, FTEs are not the recommended allocation method that should be used for these types of expenses. Rather, square footage and the number of telephone lines are the recommended allocation methods. Furthermore, to use an alternative allocation method such as FTEs, a written basis for the alternative method and support for the FTE allocation percentages must be provided. They were not.

Overallocated OTPS Costs (Facility Costs)

We do not challenge the auditors' findings related to the allocation of these specific expenses.

Non-Reimbursable Non-Audit Consulting Services

While we acknowledge and appreciate the adjustments made to the initially proposed disallowance relating to non-audit services provided by a registered accounting firm, we renew our challenge of the remaining expenses as supported by detail invoices provided and receipts of payments.

State Comptroller's Comment – We stand by our findings. According to the RCM, costs associated with non-audit consulting services during or within 365 days of the required audit work are not reimbursable.

Other Matters

As indicated, while JCDC was unaware of the suspension of certain professionals' licenses with whom JCDC contracted, it will improve its protocols to assure appropriate licensure moving forward.

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We appreciate the opportunity to provide comment on the draft report and the thoughtful consideration of our challenges.

Very truly yours,

GREENBERG TRAURIG, LLP

PAM/mtj
Enclosures
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