

New York State Comptroller
THOMAS P. DiNAPOLI

State Education Department

Shield of David – Compliance With the
Reimbursable Cost Manual

June 2026 | Report 2020-S-24

Prepared by the Division of State Government Accountability

Audit Highlights

Objective

To determine whether the costs reported by Shield of David (Shield), d.b.a. The Shield Institute, on its Consolidated Fiscal Report (CFR) 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). This audit covered the expenses claimed on Shield's CFR for the fiscal year ended June 30, 2016.

About the Program

Shield is a New York City-based organization authorized by SED to provide full-day Special Class and full-day Special Class in an Integrated Setting services to children with disabilities who are between the ages of 3 and 5 years. For purposes of this report, these programs are collectively referred to as the SED preschool cost-based programs. Shield also operated two other SED-approved programs: Evaluations 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 CFRs. Shield also provided school-age special education services to children with disabilities who are between the ages of 5 and 21 years. During the fiscal year ended June 30, 2016, Shield served approximately 276 students in the SED preschool cost-based programs.

New York City Public Schools refers students to Shield and pays for its services using rates established by SED. The rates are based on the financial information that Shield reports to SED on its annual CFRs. For the fiscal year ended June 30, 2016, Shield reported approximately \$10.3 million in reimbursable costs for the SED preschool cost-based programs.

Key Findings

For the fiscal year ended June 30, 2016, we identified \$221,752 in reported costs that did not comply with the requirements in the RCM and the CFR Manual, as follows:

- \$78,287 in unsupported compensation expenses, including fringe benefits, charged to the SED preschool cost-based programs.
- \$131,762 in unsupported, insufficiently documented, and overallocated depreciation expenses related to equipment and property.
- \$6,448 for non-reimbursable employee parking expenses.

- \$3,010 for various non-reimbursable expenses, including \$2,084 in gifts, flower arrangements, and party supplies; \$600 in fines; and \$326 in food purchases.
- \$2,245 for overallocated costs related to painting a classroom.

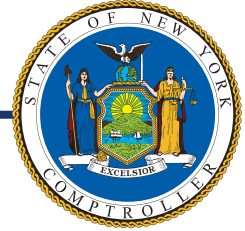
Key Recommendations

To SED:

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

To Shield:

- 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**

June 26, 2026

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

Marni Sussman, Ed.D.
Executive Director
Shield of David
144-61 Roosevelt Avenue
Flushing, NY 11354

Dear Dr. Rosa and Dr. Sussman:

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 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 Shield of David 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 under 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>
NYCPS	New York City Public Schools	<i>Agency</i>
OTPS	Other than personal service	<i>Key Term</i>
RCM	Reimbursable Cost Manual	<i>Policy</i>
Shield	Shield of David	<i>Service Provider</i>
TDR	Time Detail Report	<i>Key Term</i>

Background

Shield of David (Shield), d.b.a. The Shield Institute, located in Flushing, Queens, with a secondary location in the Bronx, is authorized by the State Education Department (SED) to provide full-day Special Class and full-day Special Class in an Integrated Setting services to children with disabilities who are between the ages of 3 and 5 years. For the purposes of this report, these programs are referred to as the SED preschool cost-based programs. During the fiscal year ended June 30, 2016, Shield served approximately 276 students in the SED preschool cost-based programs. In addition to the SED preschool cost-based programs, Shield operated two other SED-approved programs: Evaluations 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 the annual Consolidated Fiscal Reports (CFRs). Shield also provided school-age special education services to children with disabilities who are between the ages of 5 and 21 years.

New York City Public Schools (NYCPS) refers students to Shield based on clinical evaluations and pays for Shield's services using rates established by SED. The rates are based on the financial information that Shield reports to SED on its annual CFRs. To qualify for reimbursement, Shield's expenses must comply with the criteria in SED's Reimbursable Cost Manual (RCM) and the Consolidated Fiscal Reporting and Claiming Manual (CFR Manual), which provide guidance to special education providers on the eligibility of reimbursable costs, the documentation necessary to support these costs, and cost allocation requirements for expenses related to multiple programs and entities. SED reimburses NYCPS 59.5% of the statutory rate, which NYCPS pays Shield.

The audit encountered unusual and significant delays, mostly unjustified, which severely impacted its progress. For instance, while the audit was paused as of March 2020 due to COVID-19-related restrictions, despite Shield reopening in August 2020, we were not allowed to return to the location in Flushing, Queens until July 2021—nearly 1 year later—and then were only given limited access to staff and records. In addition, we were initially not allowed to visit the Bronx location, except for two occasions when we were allowed in after the school day ended so we could measure the classroom space used for the SED preschool cost-based programs. Subsequently, when faced with our recommendation for significant disallowances for the Bronx location (including personal services), Shield's former Executive Director requested we meet with selected employees at the Bronx location to obtain information about the timekeeping system in use at the time related to our findings (fiscal year ended June 30, 2016). Despite our numerous requests thereafter, it wasn't until January 29, 2024—almost 3 years later—that Shield employees agreed to meet. This report also takes into account a series of updates that were due to Shield's lack of cooperation from July 2021 to January 29, 2024 that required additional time to review. In its response to this report, Shield officials acknowledged delays; however, after this time, we noted a marked improvement in cooperation, with Shield providing previously requested access and omitted documentation.

For the fiscal year ended June 30, 2016, Shield reported approximately \$10.3 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 fiscal year ended June 30, 2016, we identified \$221,752 in reported costs that did not comply with SED's requirements for reimbursement. These ineligible costs included \$78,287 in personal service costs and \$143,465 in other than personal service costs (see Exhibit at the end of this 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 Shield'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, 2016, Shield reported approximately \$8.2 million in personal service costs for the SED preschool cost-based programs. We identified \$78,287 in personal service costs that did not comply with the RCM's requirements for reimbursement.

Unsupported Personal Service Costs

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. Employee time sheets must be signed by the employee and a supervisor and must be completed at least monthly. We identified \$78,287 of these expenses that did not comply with SED's reimbursement requirements.

For the fiscal year ended June 30, 2016, Shield reported approximately \$8.2 million in compensation (\$5,969,982 in salaries and \$2,272,654 in fringe benefits) for the SED preschool cost-based programs. We requested employee time records; however, Shield officials could not provide time records to substantiate that these employees worked the time for which they were paid. We asked officials if they could provide other documentation, such as class rosters and class lesson plans, to substantiate the employees' work time and activities; however, Shield was not able to provide these documents. In lieu of the required records, Shield provided Time Detail Reports (TDRs) printed from its timekeeping system. However, the TDRs did not have evidence of supervisor/manager review to confirm the employees recorded their time accurately (which determines the amount paid to the employee) and they were not contemporaneous. After our reservations regarding the TDRs were communicated to Shield officials, they requested we visit the Flushing and Bronx locations and review the timekeeping system on site as support for the reliability of the TDRs with respect to documenting the time worked.

We requested TDRs for a sample of 37 employees and reviewed documentation submitted by Shield. We found that, for 10 employees, the hours worked claimed on the CFR were greater than what was supported by the TDRs by \$62,670 (\$45,396 in salaries and \$17,274 in fringe benefits).

We also identified another \$15,617 in personal service expenses that were not in compliance with the RCM, as follows:

- \$14,647 for one administrative employee who took 427 hours of vacation leave; however, the employee did not have any vacation accruals or leave balances documented in their records. Shield allocated this amount to the SED preschool cost-based programs.
- \$970 for accrued vacation expenses. According to the RCM, payments for accrued vacation leave are not reimbursable until actually paid. We note that, under SED's tuition rate-setting process, vacation accruals are omitted from reimbursable expenses.

Consequently, we recommend SED disallow \$78,287 (\$62,670 + \$14,647 + \$970) for personal service expenses that did not comply with the requirements in the RCM.

Other Than Personal Service Costs

For the fiscal year ended June 30, 2016, Shield reported approximately \$2.1 million in other than personal service (OTPS) costs for its SED preschool cost-based programs. To determine whether these costs complied with SED's requirements for reimbursement, we selected a judgmental sample of 131 expenses totaling \$327,196. We identified \$143,465 of these expenses that did not comply with SED's reimbursement requirements.

Equipment and Property Depreciation Expenses

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. Costs will not be reimbursable on field audit without appropriate written documentation of costs. 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. Records must include the allocable portion of space in each building used by or for the benefit of each program (education and non-education) and for the purposes of program administration and agency administration. 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. Information relating to the acquisition of fixed assets, equipment, land or building improvements, and any related financing arrangements and grants must be retained as long as the facility is used by any education program the provider operates if this period exceeds 7 years. If agency administrative offices and program offices are located in the same building, property-related costs must be allocated using square footage as the statistical basis. For depreciation costs, the CFR Manual requires that service providers maintain

schedules that include the description of asset, date of acquisition, cost at acquisition, depreciation method, and annual depreciation amount.

For the fiscal year ended June 30, 2016, Shield reported \$154,497 in expenses for equipment and property (building) on its CFR for the SED preschool cost-based programs as follows: building/land improvement depreciation expenses (\$114,328), equipment depreciation expenses (\$26,312), and building depreciation expenses (\$13,857).

We requested Shield's depreciation schedules and documentation to support the original purchase of the building and all other assets used to determine the depreciation expenses for the fiscal year ended June 30, 2016. We reviewed Shield's records and determined that \$131,762 in depreciation expenses did not meet the requirements of the RCM as follows:

- \$107,595 in building/land improvement depreciation expenses:
 - \$89,384 – Shield did not provide any supporting documentation besides the depreciation schedule.
 - \$16,513 – Shield provided an invoice, but not a canceled check.
 - \$1,698 – Shield did not provide an invoice or a canceled check.
- \$19,979 in equipment depreciation expenses:
 - \$9,705 – Shield did not provide any supporting documentation besides the depreciation schedule.
 - \$10,274 – Shield provided an invoice, but not a canceled check.
- \$4,188 in overallocated building depreciation expenses. For the fiscal year ended June 30, 2016, Shield allocated \$12,772 in building depreciation expenses for the full-day preschool Special Class program located in Flushing, Queens. However, using the square-footage method of allocation (the allocation method required by SED), we determined that Shield should have allocated \$8,584. Therefore, \$4,188 (\$12,772 - \$8,584) in building depreciation expenses were overallocated.

Consequently, we recommend SED disallow \$131,762 for equipment and property depreciation expenses that were not in compliance with the RCM's and CFR Manual's requirements.

Employee Parking Costs

The RCM states that all personal expenses, such as personal travel expenses, are not reimbursable unless specified otherwise in the RCM. The RCM also states that the costs of vehicles used by program officials, employees, or Board members to commute to and from their homes are not reimbursable. We identified \$6,448 in parking expenses that were not in compliance with the RCM's requirements.

During our audit period, we initially reviewed documentation for \$760 paid to a parking garage near Shield's Bronx location. According to Shield officials, \$760 is a weekly recurring charge to secure 95 parking spots at a nearby parking facility. Shield officials stated they use free parking

as an incentive to help retain their staff and to help attract future job applicants. Further, they explained that finding parking in the area is very challenging. In total, Shield allocated \$6,448 in parking expenses to the SED preschool cost-based programs during the fiscal year ended June 30, 2016. However, these expenses are not in compliance with the requirements of the RCM.

Consequently, we recommend that SED disallow \$6,448 in expenses that did not comply with the RCM's requirements.

Miscellaneous Non-Reimbursable Costs

According to the RCM, costs must be reasonable, necessary, directly related to the special education program, and sufficiently documented. Payments for federal, State, and local income taxes or any related penalties and interest are not reimbursable. Additionally, the RCM states that gifts (of any kind) and food provided to any staff are not reimbursable. We identified \$3,010 in costs that were ineligible for reimbursement because they did not comply with the requirements of the RCM, as follows:

- \$2,084 in gifts, flower arrangements, party supplies, and other items. Additionally, there was no documentation to support that these items were purchased for the SED preschool cost-based programs.
- \$600 in fines.
- \$326 in administrative food costs.

We recommend that SED disallow \$3,010 in expenses that did not comply with the RCM's requirements.

Overallocated Vendor Expenses

The RCM states that entities operating programs must use allocation methods that are fair and reasonable, as determined by the Commissioner of Education's fiscal representatives. Additionally, allocation percentages should be reviewed on an annual basis and adjusted, as necessary.

We reviewed documentation paid to a vendor who painted one of the classrooms at the Flushing, Queens location. We note that this expense included the removal of a door, patching a wall, insulation, drywall, plaster, and installing a vinyl base. The total cost of this invoice, \$5,400, was allocated to Shield's various programs. Of this amount, \$2,862 (53%) was allocated to the two SED preschool cost-based programs. Based on our review of the documents provided and square footage calculations, we determined that Shield should have only allocated \$617. Therefore, Shield overallocated \$2,245 due to an error in its cost allocation methodology.

We recommend that SED disallow \$2,245 in overallocated expenses that were not in compliance with the RCM's requirements.

Recommendations

To SED:

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

To Shield:

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

Audit Objective, Scope, and Methodology

The objective of our audit was to determine whether the costs reported by Shield on its CFR were reasonable, necessary, directly related to the special education program, and sufficiently documented pursuant to SED's RCM and the CFR Manual. The audit covered the expenses claimed on Shield's CFR for the fiscal year ended June 30, 2016.

To accomplish our objective, we reviewed the RCM, the CFR Manual, the Regulations of the Commissioner of Education, Shield's CFR, and relevant financial and program records for the audited period. We also interviewed Shield officials and staff to obtain an understanding of Shield'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 CFR 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, 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 Shield's general ledgers and other financial systems and assessed the reliability of that data by interviewing officials knowledgeable about the systems 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 State 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 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 the 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 Shield's compliance with the RCM and the CFR Manual.

Reporting Requirements

We provided a draft copy of this report to both SED and Shield 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. In their response, Shield officials generally disagreed with most of our conclusions. Our responses to certain remarks are embedded within Shield's response as State Comptroller's Comments. Shield 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 of the 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 the recommendations were not implemented, the reasons why.

Exhibit

Shield of David Summary of Reported and Disallowed Program Costs for the Fiscal Year Ended June 30, 2016

Program Costs	Amount Reported on CFR	Amount Disallowed	Amount Remaining
Personal Services			
Direct Care	\$7,466,614	\$63,640	\$7,402,974
Agency Administration	\$776,022	\$14,647	\$761,375
Total Personal Services	\$8,242,636	\$78,287	\$8,164,349
Other Than Personal Services			
Direct Care	\$1,710,615	\$143,465	\$1,567,150
Agency Administration	\$358,877	\$0	\$358,877
Total Other Than Personal Services	\$2,069,492	\$143,465	\$1,926,027
Total Program Costs	\$10,312,128	\$221,752	\$10,090,376

Notes A–C, H, and I correspond with personal services.

Notes A, D–H, and J–N correspond with other than personal services.

Notes to Exhibit

The following Notes refer to specific sections of SED's RCM and the CFR Manual used to develop our recommended disallowances. We summarized the applicable sections to explain the basis for each disallowance. We provided the details supporting our recommended disallowances to SED and Shield officials during the course of the audit.

- A. 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.
- B. RCM Section II.13 – Compensation for personal services includes all salaries and wages, as well as fringe benefits and pension plan costs. Accrued vacation/sick leave is not reimbursable. Payments for vacation/sick leave, including lump sum payments made upon retirement that are required by law or by employer-employee agreement and meet the criteria listed in item (B), are reimbursable when paid and reported in the 2015–16 financial reports.
- C. RCM Section II.13.B.2.(a) – Vacation and sick leave are reimbursable in the year actually paid and reported as a salary expense. Accrued vacation and sick leave expenses are not reimbursable until actually paid.
- D. RCM Section II.20.B – All personal expenses, such as personal travel expenses, laundry charges, beverage charges, gift certificates to staff and vendors, flowers or parties for staff, holiday parties, repairs on a personal vehicle, rental expenses for personal apartments, etc., are not reimbursable unless specified otherwise in the RCM.
- E. RCM Section II.21 – Fines and penalties resulting from violations of or failure by the entity to comply with federal, State, and/or local laws and regulations are not reimbursable.
- F. RCM Section II.22.C – Costs of food provided to any staff are not reimbursable.
- G. RCM Section II.59.D.1 – Costs of personal use of a program-owned or leased automobile are not reimbursable. The costs of vehicles used by program officials, employees, or Board members to commute to and from their homes are not reimbursable.
- H. RCM Section III.1 – Section 200.9 (d) of the Commissioner's Regulations requires entities operating approved programs to retain all pertinent accounting, allocation, and enrollment/attendance records supporting reported data directly or indirectly related to the establishment of tuition rates for 7 years following the end of each reporting year. Information relating to the acquisition of fixed assets, equipment, land or building improvements, and any related financing arrangements and grants must be retained as long as the facility is used by any education program the provider operates if this period exceeds 7 years. Costs will not be reimbursable on field audit without appropriate written documentation of costs.

- I. 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.
- J. 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 programs must be identified on invoices or associated documents.
- K. RCM Section III.1.K – Records for buildings and land owned by the entity and used by the program must describe the buildings and land owned. Records must include a copy of the purchase agreement, deed, any mortgages, and the amortization schedules for such mortgages. Records must include the allocable portion of space in each building used by or for the benefit of each program (education and non-education) and for the purposes of program administration and agency administration. All related information must be retained as long as the facility is used by an approved education program, even if this period exceeds 7 years.
- L. RCM Section III.1.M.2 – 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 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.
- M. CFR Manual Appendix I (Page 42.2) – If agency administrative offices and program offices are located in the same building, property-related costs must be allocated using square footage as the statistical basis.
- N. CFR Manual Appendix O (Page 48.1) – The service provider is required to maintain depreciation schedules that include the following minimum information: description of asset, date of acquisition, cost at acquisition, State/federal funding for items, salvage value, depreciation method, useful life used for depreciation purposes, annual depreciation amount, and accumulated depreciation.

SED Response



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

Dr. Jeffrey Matteson, Senior Deputy Commissioner for Education Policy
Education Building, Room 125 EB (518) 474-3862
89 Washington Avenue
Albany, NY 12234
jeffrey.matteson@nysed.gov

June 18, 2025

Carmen Maldonado
Audit Director
Office of the State Comptroller
Division of State Government Accountability
59 Maiden Lane, 21st. Floor
New York, NY 10038

Dear Ms. Maldonado:

The following is the New York State Education Department's (SED) response to the draft audit report, 2020-S-24, *Shield of David (Shield) - 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 Shield's CFRs and to Shield's tuition reimbursement rates, as warranted."

We agree with this recommendation. SED will review the recommended disallowances as noted in the report and adjust the reported costs to recover any overpayments, as appropriate, by recalculating tuition rates. NYSED will further review the staffing recommendations to determine if the adjustments are appropriate.

Recommendation 2:

"Remind Shield officials of the pertinent 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 that Shield'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 Shield to 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,

A handwritten signature in black ink, appearing to read "Jeffrey Matteson". The signature is fluid and cursive, with a large initial "J" and "M".

Jeffrey Matteson
Senior Deputy Commissioner for
Education Policy

cc: Christina Coughlin
Christopher Suriano
Suzanne Bolling
James Kampf
Jeanne Day
Nell Brady
Jennifer Finucan
William Meissner
Rebecca Jones
Mary Moore

Shield Response and State Comptroller's Comments

BARCLAY DAMON^{LLP}

Margaret M. Surowka
Partner

August 8, 2025

VIA ELECTRONIC MAIL

AND HAND DELIVERY (with password protected flash drive)

Office of the State Comptroller
Division of State Government Accountability
110 State Street, 11th Floor
Albany, New York 12236
Attn: Carmen Maldonado (via electronic mail cmaldonado@osc.state.ny.us)

Re: Compliance with the Reimbursable Cost Manual
Shield of David dba The Shield Institute
Audit # 2020-S-24
Response to OSC Draft Audit Report

Dear Ms. Maldonado:

We are counsel to Shield of David dba The Shield Institute (“The Shield”) and we submit this response on its behalf to the June 2025 Draft Audit Report¹ reviewing The Shield’s Consolidated Fiscal Report (“CFR”). In addition to this response, we refer to and incorporate The Shield’s prior responses and documentation produced throughout this audit process. The stated purpose of the review was to determine whether the CFR costs 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”). The audit covered the expenses reported on The Shield’s CFR for the fiscal year ended June 30, 2016. In sum, as shown below, the Shield is including documentation in response to the majority of the OSC’s Key Findings and we submit that most of the recommended disallowances must be removed.

¹ The Draft Audit Report itself is not dated but was sent via electronic mail on June 4, 2025. The Draft Audit Report did not identify the specific personal services disallowances in a way that The Shield could meaningfully respond and The Shield requested additional information and time. OSC granted an extension of time for The Shield to respond after providing information on the findings until August 8, 2025.

We urge the OSC to reconsider its findings in light of the accompanying documentation and to issue a Final Audit Report finding The Shield's CFR in substantial compliance with the RCM and that SED, therefore, need not make any adjustments to The Shield's reimbursement rates.

The Shield submits the following responses and accompanying documentation to each of the findings within the Draft Audit Report, with specific reasons for its dissent where it disputes the New York Office of the State Comptroller ("OSC") findings.

After considerable review by both current management and external analysts, necessitated by this audit, The Shield wants to underscore to the OSC and SED that it does, in fact, have strong internal controls, efficient timekeeping record systems, and complete financial records. We want to assure you that The Shield is committed to compliance, accountability, and transparency.

The Shield 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 the Shield's rights or interests to 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.

I. BACKGROUND

For over 100 years, The Shield has met and continues to meet the needs of the communities it serves. Founded in 1921 as a childcare facility for homeless children, The Shield has remained committed to the principles that guided it at its' inception; holding strong to its' commitment to serve the underserved, represent the underrepresented and provide services and supports to vulnerable populations. While our mission has since shifted, its values remain the same.

Today, The Shield's mission is to enable children and adults with developmental disabilities to lead meaningful lives. By working with families and communities, The Shield helps children and adults with intellectual and developmental disabilities to lead full, meaningful lives. The Shield has program sites in Queens, Bronx and Manhattan and serves New Yorkers of all ages who have autism or other developmental disabilities, including many who also have physical challenges.

For purposes of this review, The Shield operates special education preschools in the Bronx and Queens and a school age program in Queens that serve 390 children per year. The vast majority of the children are referred by the NYC Department of Education for special education and related services that include occupational, physical and speech therapy, as well as counseling, to address their respective disabilities. The children served by The Shield range in age from 3-21 years. For purposes of this review, the programs serve 3-5 year old children.

Many are bilingual and/or come from immigrant homes. The children are representative of the racial and ethnic diversity of NYC and it is The Shield's distinct privilege to serve them on a daily basis.

We dispute the OSC's mis-characterization of the background of the audit fieldwork, specifically the "unusual and significant, mostly unjustified" delays it attributes to The Shield. There were delays, but not all were unjustified and we refer to and incorporate by reference The Shield's prior responses that were submitted in this audit. Although the Shield requested samples, it did ultimately provide what it believed to be all payroll information to the auditors and access to any and all employee data. Upon issuance of the DAR in June 2025, The Shield still did not have clarification as to which employees were the subject of the findings. Upon request, on June 16, 2025, the OSC auditors did provide a spreadsheet of the specific disallowance for the personal services. This is the first opportunity The Shield has had to provide these specific answers and documentation for these specific disallowances. Upon review of the findings, the new administration of The Shield realized that the prior payroll information had omitted information for the summer session on its 10-month salaried employees and that accounts for many of the findings. The Shield provided OSC auditors information regarding its recordkeeping and timekeeping. We forward the additional information that addresses these specific findings in the password protected disk that accompanies the hand-delivered original letter. Each individual staff member has a separately labeled pdf that includes all the information that satisfies the specific disallowances.

State Comptroller's Comment – Our report accurately characterizes the delays that occurred during the audit. However, we acknowledge Shield for more recently improving its responsiveness and cooperation, providing the many requested records that had been previously omitted.

We submit that upon review of the additional documentation, the largest findings, those totaling \$775,753 in alleged unsupported compensation (salary and fringe benefit) expenses, must be fully removed based on the documentation herein provided. As to the majority of the remaining findings, we also submit that the accompanying documentation supports that the reported costs are substantially in compliance with the RCM and that therefore no adjustments to tuition rates are warranted.

II. THE SHIELD'S RESPONSES TO SPECIFIC DRAFT AUDIT REPORT FINDINGS

The Shield's responses herein correspond to the sections of the Draft Audit Report, together with OSC recommended disallowance amounts, as follows:

- A. Personal Services - \$775,753
- B. Other than Personal Services ("OTPS") - \$236,796
 - 1. \$225,754 depreciation
 - 2. \$6,448 parking expenses
 - 3. \$3,132 various expenses

4. \$1,462 Painting costs

Total - \$1,012,549

The Shield disputes the findings as indicated below and submits the accompanying documentation supporting its position. The captions correlate to the Draft Audit Report.

A. Personal Services

Audit Findings:

See pages 7 -8 of the Draft Audit Report.

The Shield Response:

The Shield disagrees with these findings. As stated above, The Shield was never provided with the identity of the individuals that are the subject of the alleged findings until after the issuance of the latest findings and only upon request following the Draft Audit Report was The Shield provided with a detailed spreadsheet on June 16, 2025.

We provide supporting documentation consistent with the documentation accepted with other staff that supports the inclusion of the costs in the CFR in compliance with the RCM.² We submit that all \$775,753 findings must be removed as they were properly charged to the SED preschool cost-based programs.

OSC provided a spreadsheet in June 16, 2025 detailing its specific disallowances and we address those in our attached spreadsheet in Column U. The attached spreadsheet details the employee compensation and benefits at issue and is consistent with previously submitted materials and information. The Shield welcomes the opportunity to further explain this with regard to these specific individuals if there are additional questions from OSC or SED. We summarize these responses below:

1. **[Redacted]**: OSC disallowed \$4,837.90, and fringe \$1,256.03 based on what they claim was not worked. We are attaching a pdf with the contemporaneous time detail. The hours that are claimed missing are, in fact, accounted for and a full explanation is provided in the Column U of the spreadsheet. The Shield did not have the opportunity to specifically respond and explain the calculation to the OSC auditors as this was just provided on June 16, 2025. We reserve the right to further explain the calculation but in sum this employee worked 10 months with the wages (paid in hours) spread over 12 month. We note that the time detail is the same as that accepted with other staff and includes a printout of all time for the hours in question, noting the date and time worked, which

² Enclosed in the password protected flash drive, there is an pdf for each individual staff member identified in the spreadsheet that was forwarded to The Shield on June 16, 2025. The pdf for each individual contained contemporaneous time records and other time detail that satisfies the costs of their compensation and fringe benefits and that was accepted for the other staff. The current administration discovered that many of these records had inadvertently been omitted in the records previously provided as they involved summer school hours and were kept separately from the regular school hours.

- was recorded contemporaneously.
2. [Redacted]: OSC disallowed \$5,176.89 and fringe \$1,256.03 based on what they claimed was not worked. We are attaching a pdf with the contemporaneous time detail. We reserve the right to further explain the calculation but in sum this employee worked 10 months with the wages (paid in hours) spread over 12 month. The hours that are claimed missing are, in fact, accounted for and a full explanation is provided in the Column U of the spreadsheet. We note that the time detail is the same as that accepted with other staff and includes a printout of all time for the hours in question, noting the date and time worked, which was recorded contemporaneously.
 3. [Redacted]: OSC disallowed \$11,063.91 and fringe \$1,256.03 based on missing time information. Attached in a pdf accompanying this letter, we include the contemporaneous time entries for the summer hours and other time detail. The hours that are claimed missing are, in fact, accounted for and a full explanation is provided in the Column U of the spreadsheet. We reserve the right to further explain the calculation but in sum this employee worked 10 months with the wages (paid in hours) spread over 12 month. We note that the time detail is the same as that accepted with other staff and includes a printout of all time for the hours in question, noting the date and time worked, which was recorded contemporaneously.
 4. [Redacted]: OSC disallowed \$6,168.14 and fringe \$1,256.03 based on missing time information. Attached in a pdf accompanying this letter, we include the contemporaneous time entries for the summer hours and other time detail. Upon receiving the specific disallowances, the current administration at The Shield discovered that the time for summer hours had inadvertently not been provided to the OSC auditors. We note that the time detail is the same as that accepted with other staff and includes a printout of all time for the hours in question, noting the date and time worked, which was recorded contemporaneously.
 5. [Redacted]: OSC disallowed \$25,428.59 and fringe \$7,536.21 based on missing time information. Attached is a pdf accompanying this letter, we include the contemporaneous time entries and other time detail. Upon receiving the specific disallowances, the current administration at The Shield discovered that the time detail had inadvertently not been provided to the OSC auditors. We note that the time detail is the same as that accepted with other staff and includes a printout of all time for the hours in question, noting the date and time worked, which was recorded contemporaneously.
 6. [Redacted]: OSC disallowed \$36,418.56 and fringe \$7,536.21. [Redacted] is agency administration and her salary is properly allocated across programs. Her office is located in the Flushing location with agency administration but she provided services for the Brons, in addition to other programs. In the accompanying pdf we include her time records which note that she was in “CA” Building – “Central Administration” Building and time detail and her job description which also notes that she was in Central Administration. Other Administrative staff were similarly allocated which is proper and consistent with the RCM and not cited by the OSC.
 7. [Redacted]: OSC disallowed \$55,500.97 and fringe \$7,536.21. [Redacted] is a Speech Pathologist for the Bronx school and her job description and contemporaneous time entries and time detail is all submitted in the accompanying pdf. This documentation was similar to and consistent with clinical staff which is proper and consistent with the RCM and not cited by the OSC.

8. [Redacted]: OSC disallowed \$45,888.98 and fringe \$7,536.21 because they had no records. We are resubmitting the time detail in the accompanying pdf. We note that the time detail is the same as that accepted with other staff and includes a printout of all time for the hours in question, noting the date and time worked, which was recorded contemporaneously.
9. [Redacted]: OSC disallowed \$60,868.72 and fringe \$7,536.21 because they claim the records were not verified and not available. The current administration verified the records and is resubmitting the time records in response to this finding. We note that the time detail is the same as that accepted with other staff and includes a printout of all time for the hours in question, noting the date and time worked, which was recorded contemporaneously.
10. [Redacted]: OSC disallowed \$7,265.79 and fringe \$1,256.03 because they claim that more hours were claimed than documented. This staff had time split between CFR PTC 347 --Staff Training for his title as Technology Integration Coordinator and CFR PTC 505 Officer Worker for his position as Student Records Coordinator. The Time records do, in fact, account for the time claim in both position and are therefore all appropriate and accurate. We note that the time detail is the same as that accepted with other staff and includes a printout of all time for the hours in question, noting the date and time worked, which was recorded contemporaneously.
11. [Redacted]: OSC disallowed \$15,459.85 and \$7,536.21 in fringe because OSC claims they had no records. We resubmit the time records herein. We note that the time detail is the same as that accepted with other staff and includes a printout of all time for the hours in question, noting the date and time worked, which was recorded contemporaneously.
12. [Redacted]: OSC disallowed \$20,752.62 and \$7,563.21 in fringe because OSC claims they had no records. The current administration at The Shield discovered that this time had inadvertently not been provided to the OSC auditors. We note that the time detail is the same as that accepted with other staff and includes a printout of all time for the hours in question, noting the date and time worked, which was recorded contemporaneously.
13. [Redacted]: OSC disallowed \$60,827.48 and \$7,536.21 in fringe because OSC claims they had no records. The current administration at The Shield discovered that this time had inadvertently not been provided to the OSC auditors. We note that the time detail is the same as that accepted with other staff and includes a printout of all time for the hours in question, noting the date and time worked, which was recorded contemporaneously.
14. [Redacted]: OSC disallowed \$1,648.60 and \$1,256.03 in fringe because OSC claims they had no records. The current administration at The Shield discovered that not all time for this staff had been provided to the OSC auditors. We submit all the time detail. The hours that are claimed missing are, in fact, accounted for and a full explanation is provided in the Column U of the spreadsheet. We note that the time detail is the same as that accepted with other staff and includes a printout of all time for the hours in question, noting the date and time worked, which was recorded contemporaneously.
15. [Redacted]: OSC disallowed \$45,909.99 and \$7,536.21 in fringe because OSC claims they had no records. We resubmit the time records herein. We note that the time detail is the same as that accepted with other staff and includes a printout of all time for the hours in question, noting the date and time worked, which was recorded contemporaneously.

16. [Redacted]: OSC disallowed \$45,403.86 and \$7,536.21 in fringe because OSC claims they had no records. We resubmit the time records herein. We note that the time detail is the same as that accepted with other staff and includes a printout of all time for the hours in question, noting the date and time worked, which was recorded contemporaneously.
17. [Redacted]: OSC disallowed \$67,996.73 and \$7,536.21 in fringe because OSC claims they had no records. The current administration at The Shield discovered that relevant documentation had inadvertently not been provided to the OSC auditors and we submit it herewith. We note that the time detail is the same as that accepted with other staff and includes a printout of all time for the hours in question, noting the date and time worked, which was recorded contemporaneously.
18. [Redacted]: OSC disallowed \$65,435.92 and \$7,536.21 in fringe because OSC claims they had no records. We resubmit the time records and other documentation herein. We note that the time detail is the same as that accepted with other staff and includes a printout of all time for the hours in question, noting the date and time worked, which was recorded contemporaneously.
19. [Redacted]: OSC disallowed \$57,792.08 and \$7,536.21 in fringe because OSC claims they had no records. We resubmit the time records and other documentation herein. We note that the time detail is the same as that accepted with other staff and includes a printout of all time for the hours in question, noting the date and time worked, which was recorded contemporaneously.
20. [Redacted]: OSC disallowed \$3,087.62 and \$1,256.03 in fringe because OSC claims they had no records. The current administration at The Shield discovered that this time for summer hours had inadvertently not been provided to the OSC auditors. We note that the time detail is the same as that accepted with other staff and includes a printout of all time for the summer hours in question, noting the date and time worked, which was recorded contemporaneously.

In sum, The Shield has now produced all documentation for the stated disallowances and being that the documentation is the same as that already accepted the OSC auditors for the other staff, we submit that this additional documentation must be accepted and the findings all removed for Personal Service Costs which are all supported and consistent with the RCM.

State Comptroller's Comment – As stated in their response, Shield's current administration discovered that many records had inadvertently been omitted from the records previously provided during the audit. Based on our review of the additional documentation, we revised the recommended disallowances in our report.

B. Other than Personal Service Costs

The OSC alleges that of the sample it selected, it identified \$225,654³ of expenses that did not comply with SED's reimbursement requirements, as follows:

³ OSC incorrectly notes \$236,796 but the stated disallowance did not add up to that.

State Comptroller's Comment – The \$236,796 in the draft report was calculated correctly. The calculation included all OTPS expenses that were recommended for disallowance—not just those listed in the Equipment and Property Depreciation Expenses subsection of the report.

- Building/Land Improvement - \$114,328
- Equipment Lease Expenses - \$59,711
- Equipment Depreciation Expenses - \$26,312
- Building Depreciation Expenses - \$13,857
- Mortgage/Capital Improvement Interest Expenses - \$11,546
 - **Total - \$225,754**

Audit Findings:

See pages 10 of the Draft Audit Report.

The Shield Response:

The Shield disagrees with these findings. The Shield provides the accompanying documentation to substantiate the costs.

- Building/Land Improvement - \$114,328

Included herewith is the Title report and other documentation relating to capital improvements during the FY 2016 at issue.

- Equipment Lease Expenses - \$59,711

Included herewith is the response relating to the lease expenses. The Lease equipment invoices are included on the accompanying flashdrive.

- Equipment Depreciation Expenses - \$26,312

Included herewith is documentation relating to equipment depreciation expenses.

- Building Depreciation Expenses - \$13,857

Included herewith is the Depreciation schedule and supporting documentation

- Mortgage/Capital Improvement Interest Expenses - \$11,546

Included herewith is the Depreciation schedule and supporting documentation

In sum, the accompanying documentation is consistent with the RCM and OSC's findings should be removed.

State Comptroller's Comment – Based on our review of additional documentation, we revised the recommended disallowances in our report.

C. Employer Parking Costs

OSC identified \$6,448 in parking expenses that it contends were not reasonable or not directly related to the SED preschool cost-based program.

Audit Findings:

See pages 10-11 of the Draft Audit Report.

The Shield Response:

The Shield disagrees with these findings. These parking expenses are not only reasonable, they are directly related to the SED preschool cost-based program as they cover parking for commuting staff, and without this necessary expense the operations of the school would be adversely affected because the site would become inaccessible by preschool staff who would find the use of public transportation extremely burdensome and/or excessively time consuming within NYC and the surrounding suburbs .

State Comptroller's Comment – SED's RCM clearly states that all personal expenses, such as personal travel expenses, are not reimbursable unless specified otherwise in the RCM. Moreover, the RCM states, "The costs of vehicles used by program officials, employees or Board members to commute to and from their homes are not reimbursable." We revised our report to clarify this.

D. Miscellaneous Non-Reimbursable Costs

OSC identified \$3,132 in costs that were allegedly ineligible for reimbursement because they did not comply with the requirements of the RCM, as follows:

- Gifts, Flower arrangement, party, supplies and other items- \$2,084
- Fines (\$600) and Taxes (\$123)
- Administrative food costs- \$325
 - **Total - \$3,132**

Audit Findings:

See page 11 of the Draft Audit Report.

The Shield Response:

The Shield agrees not to contest these *de minimis* disallowances and notes that they do not warrant any adjustment to tuition rate.

E. Overallocated Vendor Expenses

OSC identified \$1,462 in overallocated expenses that it claims is not in compliance with the RCM's requirements.

Audit Findings:

See pages 11-12 of the Draft Audit Report.

The Shield Response:

The Shield agrees not to contest these findings and due to the *de minimis* nature of the amount at issue, it does not submit any additional documentation to dispute these findings and notes that these disallowances do not warrant any adjustment to tuition rate.

III. CONCLUSION

The Shield submits that upon your review of this documentation and analysis of the issues, the majority of OSC's findings in the DAR should be rejected and removed. We submit that the immaterial disallowances that would remain do not warrant any adjustment to SED's tuition rate. As such, The Shield is in substantial compliance with the RCM requirements.

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

Very truly yours,



Margaret M. Surowka

MMS

cc: Marni Sussman, Executive Director



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