

THOMAS P. DINAPOLI  
COMPTROLLER



110 STATE STREET  
ALBANY, NEW YORK 12236

STATE OF NEW YORK  
OFFICE OF THE STATE COMPTROLLER

April 12, 2017

Ms. MaryEllen Elia  
Commissioner  
State Education Department  
State Education Building  
89 Washington Avenue  
Albany, NY 12234

Ms. Sheri Townsend  
Executive Director  
Spotted Zebra Learning Center, Inc.  
26 Computer Drive East  
Albany, NY 12205

Re: Compliance With the Reimbursable Cost  
Manual  
Report 2016-S-81

Dear Ms. Elia and Ms. Townsend:

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

**Background**

Spotted Zebra, a for-profit organization located in Albany, New York, is an SED-approved provider of preschool special education services. Spotted Zebra offers special education services to children with disabilities who are between three and five years of age. During the audit period, Spotted Zebra operated three SED-funded, rate-based preschool special education programs: Preschool Integrated Special Class – over 2.5 hours per day; Preschool Integrated Special Class – 2.5 hours per day; and Preschool Special Education Itinerant Teacher Services (collectively referred to as the Programs). During the 2013-14 school year, Spotted Zebra provided these services to 43 children from school districts located in Albany, Columbia, Rensselaer, and Saratoga counties.

The counties that use Spotted Zebra's preschool special education services pay tuition to Spotted Zebra using reimbursement rates set by SED. The State then reimburses the counties 59.5 percent of the special education tuition that counties pay. SED sets the preschool special education tuition rates based on financial information, including costs, reported by Spotted Zebra on the annual Consolidated Fiscal Report (CFR) that it submits to SED. Costs reported on the CFR must comply fully with the guidelines in SED's Reimbursable Cost Manual (RCM) regarding the eligibility of costs and documentation requirements, and must meet the reporting requirements prescribed by the Consolidated Fiscal Reporting and Claiming Manual (CFR Manual). For the three years ended June 30, 2014, Spotted Zebra reported over \$2.5 million in reimbursable costs for the Programs on its CFRs.

## **Results of Audit**

According to the RCM, costs reported on the CFR are considered for reimbursement if they are reasonable, necessary, directly related to the special education program, and adequately documented. We determined the personal service costs we tested were in compliance with the RCM and CFR Manual. However, we identified \$13,058 in other than personal service costs that Spotted Zebra reported on its CFRs that did not comply with SED's prescribed requirements for reimbursement. The ineligible costs included \$7,779 in interest expense on working capital loans and \$5,279 in non-reimbursable purchases.

### ***Non-Reimbursable Interest***

The CFR Manual requires providers to submit CFRs no later than 120 days after the end of the reporting period, or no later than 150 days after the end of the reporting period with a pre-approved 30-day extension. For July–June filers, such as Spotted Zebra, the due date is November 1 and the extended due date is December 1. According to the RCM, interest expense on working capital loans is not reimbursable if the CFR is not submitted within 90 days of the designated due date. Additionally, interest expense for late filers will be reimbursed on a prorated basis, if the CFR is submitted within 90 days of the designated due date.

Spotted Zebra failed to submit all of its required financial information by the extended December 1 deadline for its 2011-12, 2012-13, and 2013-14 reporting periods. For the 2011-12 fiscal year, Spotted Zebra submitted all of its required financial information by July 2, 2013, which was 213 days after the December 1 extension date. Consequently, the corresponding interest expense was not reimbursable. For the 2012-13 and 2013-14 fiscal years, Spotted Zebra failed to submit all of the required financial information by December 1 (15 days late for 2012-13 and 65 days late for 2013-14). Therefore, a proportionate share of the interest expense for these two years was not reimbursable. In total, we determined \$7,779 in working capital interest was not eligible for reimbursement. (Note: Prior to our audit, SED identified a portion of these costs as ineligible for reimbursement.)

### ***Non-Reimbursable Purchases***

According to the RCM, expenses for food, gifts, clothing, personal expenses, and flowers are not reimbursable. For the year ended June 30, 2014, we identified \$4,950 in non-reimbursable costs that Spotted Zebra claimed on its CFR for these items. The non-reimbursable costs included the following:

- \$3,571 for staff food, coffee, and water;
- \$456 for gifts which included staff gift cards and a student gift;
- \$393 for clothing;
- \$267 for a personal subscription to a social networking service; and
- \$263 for flowers.

In addition to the \$4,950 in non-reimbursable costs, Spotted Zebra claimed \$329 in unnecessary costs to participate in a pilot program to examine the effectiveness of using a dietary supplement on students with disabilities.

### **Recommendations**

#### **To SED:**

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

#### **To Spotted Zebra:**

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**

We audited the costs that Spotted Zebra reported on its CFR for the fiscal year ended June 30, 2014 and certain costs reported on Spotted Zebra's CFRs for the two fiscal years ended June 30, 2013. The objective of our audit was to determine whether the reported costs were allowable, properly calculated, and adequately documented in accordance with applicable SED guidelines.

To accomplish our objective and assess internal controls related to our objective, we interviewed SED officials to obtain an understanding of the CFR and the policies and procedures contained in SED's guidelines. We also interviewed Spotted Zebra officials and staff to obtain an understanding of their financial practices relating to the expenses reported on Spotted Zebra's CFRs. We reviewed Spotted Zebra's CFR for the fiscal year ended June 30, 2014, as well as its

relevant financial records for the same period. We reviewed a judgmental sample of Program costs to determine whether they were supported, Program appropriate, and reimbursable. The sample included selected high-cost items as well as selected items only reimbursable in limited circumstances, such as food and entertainment expenses. Based on issues found in our sample review, we expanded our review to include certain other than personal service costs for the two fiscal years ended June 30, 2013.

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

In addition to being the State Auditor, the Comptroller performs certain other constitutionally and statutorily mandated duties as the chief fiscal officer of New York State. These include operating the State's accounting system; preparing the State's financial statements; and approving State contracts, refunds, and other payments. In addition, the Comptroller appoints members to certain boards, commissions, and public authorities, some of whom have minority voting rights. These duties may be considered management functions for purposes of evaluating organizational independence under generally accepted government auditing standards. In our opinion, these functions do not affect our ability to conduct independent audits of program performance.

### **Reporting Requirements**

We provided a draft copy of this report to SED and Spotted Zebra officials for their review and formal comment. We considered their comments in preparing this report and attached them in their entirety to it. In their response, SED officials agreed with the audit recommendations and indicated the actions they will take to address them. In Spotted Zebra's response, officials agreed with the audit findings with the exception of the recommended audit disallowance of \$7,779 in working capital interest. Our rejoinders to certain Spotted Zebra comments are included in the report's State Comptroller's Comments.

Within 90 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 recommendations were not implemented, the reasons why.

Major contributors to this report were Ed Durocher, Dan Towle, Jessica Kirk, Anne Marie Miller, and Adriane Inman.

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

Sincerely,

Andrea Inman  
Audit Director

cc: Suzanne Bolling, Director of Special Education Fiscal Services, SED  
Thalia Melendez, Director of Audit Services, SED

# Agency Comments - State Education Department



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

DEPUTY COMMISSIONER  
Office of Performance Improvement and Management Services  
O: 518.473-4706  
F: 518.474-5392

April 4, 2017

Ms. Andrea Inman  
Audit Director  
Office of the State Comptroller  
Division of State Government Accountability  
110 State Street – 11<sup>th</sup> Floor  
Albany, NY 12236

Dear Ms. Inman:

The following is the New York State Education Department's (Department) response to the draft audit report, 2016-S-81, Compliance with the Reimbursable Cost Manual: Spotted Zebra Learning Center, Inc. (Spotted Zebra).

**Recommendation 1:** Review the disallowances identified by our audit and, if warranted, make the necessary adjustments to the costs reported on Spotted Zebra's CFRs and to Spotted Zebra's tuition reimbursement rates.

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

**Recommendation 2:** Remind Spotted Zebra 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 the Spotted Zebra officials take advantage of our availability to help them better understand the standards for reimbursement as presented in Regulation and the Reimbursable Cost Manual (RCM). Furthermore, Consolidated Fiscal Report (CFR) training is available online on SED's webpage. SED recommends that all individuals signing the CFR certification statements, namely Executive Directors and Certified Public Accountants, complete this training. At the direction of the Board of Regents, the Department intends to require that this training be mandatory and will require individuals to verify that they have completed the training.

If you have any questions regarding this response, please contact Suzanne Bolling, Director of Special Education Fiscal Services at 518/474-3227.

Sincerely,

A handwritten signature in black ink that reads "Sharon Cates-Williams".  
Sharon Cates-Williams

c: Christopher Suriano  
Suzanne Bolling

# Agency Comments - Spotted Zebra Learning Center, Inc.



26 Computer Drive East • Albany • New York • 12205  
[www.spottedzebra.org](http://www.spottedzebra.org)

March 24, 2017

State of New York  
Office of the State Comptroller  
Andrea Inman, Audit Director  
110 State Street  
Albany, New York 12236

Re: Compliance with the Reimbursable Cost Manual  
Report 2016-S-81

Dear Ms. Inman:

This agency is in receipt of the above referenced report and we appreciate the opportunity to comment on the findings identified within the report.

## Finding 1: Interest Expense on Working Capital Loans

We disagree with this finding. As per the CFR Manual, providers must submit CFRs no later than 120 days after the end of the reporting period or no later than 150 days after the end of the reporting period with a preapproved 30-day extension.

The criteria for CFR submission date can be found in the CFR Manual, Section 2.0, as follows: "Full CFR submissions require completion of all applicable CFR schedules and submission of the service provider's audited and certified financial statements." We contend that Spotted Zebra Learning Center submitted electronically and received confirmation of such the full CFR with all schedules and the audited and certified financial statements. Attached you will find a schedule of the dates the agency submitted its CFR and required materials, along with the dates of the review process by the State Education Department. Nowhere in the CFR manual does it state "a Full CFR submission is to be considered as filed after the SED Rate Setting Unit has contacted the provider with follow-up questions in support of their rate processing and resolved all inquiries to their satisfaction." It appears this is your interpretation of the rule. The provider has no control over the delays of the rate setting processing at the State Education Department, nor do we believe that it is the intent of the rule or the position of SED to punish by way of interest that becomes non-reimbursable. We simply contend that the Office of the State Comptroller is misinterpreting the process identified in the CFR Manual.

\*  
Comment  
1

ph 518 • 438 • 4800 fx 518 • 689 • 1091

for kids of all stripes

\*See State Comptroller's Comments, Page 10.

Finding 2: Expenses for food, gifts, clothing, personal expenses, and flowers are not reimbursable. While we do not disagree with these minor findings we would like to take an opportunity to clarify the rationale for the expenditures.

The Spotted Zebra Learning Center offers students and staff an opportunity to purchase pizza on Fridays. Payment by families and staff are submitted monthly to the agency which in turn pays the vendor. We agree that for that fiscal year those offsetting revenues were misapplied to another program and your disallowance finding is appropriate. The agency will strive to improve its accounting of these funds.

As per the New York State Nursery School Regulations, the Spotted Zebra Learning Center is required to provide individual drinking cups, disposable paper cups or bubbler fountains for children and staff. (Chapter II Regulations of the Commissioner, Subchapter F, Section 125.2.c) Spotted Zebra felt that it was acting in compliance with providing water for its population. We will seek to consider other options.

Gifts, clothing, flowers: The Spotted Zebra strives to recognize the ongoing efforts and hard work of its staff. For many years, there was no opportunity to provide salary increases as the state did not support such with its rates. As much as we feel this policy runs contrary to sound and ethical business practices, we will seek to recognize our staff and their longevity without the use of state funds in the future.

Subscription to a Social Networking Service: This was an agency subscription to Linked In so that the Agency itself, rather than a specific individual, could have an account. Spotted Zebra Learning Center uses Linked In as a way to announce job opportunities, etc... We will not use state funds in the future for this valuable tool. We are disappointed that approved providers are not allowed to use what many would believe to be "best practices" for their social and community service networking.

Pilot Program to examine the effectiveness of using dietary supplement on students with disabilities: The agency supported its families and their interests by examining the impact of such supplements with its preschoolers identified on the autism spectrum. We will not use state funds in the future for studies that impact our student population at the Spotted Zebra Learning Center. We will consider the utilization of other state funding mechanisms to fund such appropriate educational studies.

In closing, we would like to recognize and commend the audit team that worked with the Spotted Zebra Learning Center staff. They were professional, courteous and kind throughout the course of the examination. We also recognize the mandate for your audits and appreciate your efforts to express a test on the validity and appropriateness of the expenditure of public funds. We remain committed to providing appropriate professional education to all of our students and continuing our commitment to reporting our costs in accordance with the rules and regulations as they exist at the time. We are also hopeful that someday the results of student accomplishments and transitions will be a better measure of our success. For what good is all the appropriate spending in the world if we do not garner results?

Sincerely,



Sheri Townsend

cc: Suzanne Bolling, Director of Special Education Fiscal Services, SED  
Thalia Melendez, Director of Audit Services, SED



Spotted Zebra Learning Center, Inc.  
**Review of Disallowed Interest (OSC Audit)**  
 Documentation of CFR Filing and Correspondence Dates,  
 Working Capital Interest and Total Cost Screens (Per SED Calcs)  
**Program 9160 (Full-Day Special Class in Integrated Setting)**

srj: 01/31/2017

| Below per SED Rate Calculations (SEDFIN):           |                                      |                          |                             | Below per Provider Documentation of SED Correspondence |                                 |   |                                       |
|---|--------------------------------------|--------------------------|-----------------------------|--|---------------------------------|---|---------------------------------------|
| Rate Year   | Total Cost Screen for Entire Program | Working Capital Interest | Disallowed Interest in Calc | Date Provider Filed CFR                                | Date SED 1st Contacted Provider | Date of Providers final Response to SED Inquiries | SED Notification of Final Recon Rates |
| <b>11-12</b><br>Days<br>Total Days in SED's Process | (7,825)                              | 2,435                    | -                           | 01/21/13   | 06/24/13<br>154                 | 08/22/13<br>59                                    | 09/16/13<br>25<br><b>238</b>          |
| <b>12-13</b><br>Days<br>Total Days in SED's Process | (10,607)                             | 3,169                    | -                           | 11/25/13   | 02/11/14<br>78                  | 03/12/14<br>29                                    | 05/14/14<br>63<br><b>170</b>          |
| <b>13-14</b><br>Days<br>Total Days in SED's Process | (7,104)                              | 1,353                    | -                           | 12/12/14   | 06/11/15<br>181                 | 06/26/15<br>15                                    | 09/15/15<br>81<br><b>277</b>          |

## State Comptroller's Comments

1. Although Spotted Zebra electronically submitted its CFRs for our three-year audit period on the dates stipulated in its response, a CFR submission is not considered complete until the entity submits all applicable CFR schedules (including CFR-i and CFR-ii certification schedules), along with copies of its audited and certified financial statements. SED does not accept electronic signatures for the certification schedules (CFR-i and CFR-ii); therefore, the provider must submit signed paper copies of these schedules. However, Spotted Zebra was unable to produce any evidence demonstrating that the certification schedules were sent to SED on the dates they electronically submitted their CFRs. Further, as noted on page 2 of our report, SED identified a portion of the interest expense as ineligible for reimbursement. Absent proper documentation, we maintain that \$7,779 in working capital interest should be disallowed.
2. We acknowledge that Spotted Zebra officials agree with the various findings. Further, to clarify officials' comments pertaining to Chapter II of the Regulations of the Commissioner, the audit disallowance related to recurring purchases of spring water for the staff lounge, not a required bubbler fountain.