

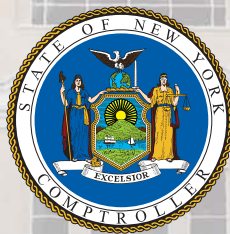


New York State Education Department

Audit of the Tuition Reimbursement Account

**For the Three Fiscal Years
Ended March 31, 2010**

Report 2010-S-39



Thomas P. DiNapoli

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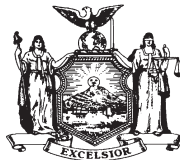
**NEW YORK STATE EDUCATION DEPARTMENT
AUDIT OF THE TUITION REIMBURSEMENT ACCOUNT
FOR THE THREE FISCAL YEARS ENDED
MARCH 31, 2010**

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THOMAS P. DiNAPOLI
STATE COMPTROLLER



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STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

NEW YORK STATE EDUCATION DEPARTMENT

**AUDIT OF THE TUITION REIMBURSEMENT ACCOUNT
FOR THE THREE FISCAL YEARS ENDED
MARCH 31, 2010**

We have examined the accompanying Statements of Revenues, Expenditures, and Changes in Fund Balance and the related Balance Sheets (Statements) for the Tuition Reimbursement Account (TRA) for the three fiscal years ended March 31, 2010. The Statements are the responsibility of the State Education Department (Department) management. Our responsibility is to express an opinion on the fair presentation of the Statements based on our examination.

Our examination was conducted in accordance with the attestation standards established by the American Institute of Certified Public Accountants and the standards applicable to attestation engagements contained in Government Auditing Standards issued by the Comptroller General of the United States. Accordingly, our examination included tests of selected transactions and performing such other procedures, as we considered necessary in the circumstances. We believe that our examination provides a reasonable basis for our opinion.

In our opinion, the Statements fairly present, in all material respects, the TRA's financial position as of March 31, 2008, March 31, 2009 and March 31, 2010, and the results of its operations for the fiscal years then ended, in conformity with the modified accrual basis of accounting.

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 examinations.

Office of the State Comptroller
Date: March 17, 2011

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EXHIBIT A

**NEW YORK STATE EDUCATION DEPARTMENT
Tuition Reimbursement Account
STATEMENT OF REVENUES, EXPENDITURES AND
CHANGES IN FUND BALANCE
FOR THE THREE FISCAL YEARS ENDED MARCH 31, 2008, MARCH 31, 2009 and
MARCH 31, 2010**

	<u>Fiscal Year Ended March 31,</u>		
	<u>2008</u>	<u>2009</u>	<u>2010</u>
Revenues:			
Fines and Penalties	\$ 193,750	\$ 302,812	\$ 478,750
Interest	102,766	32,996	5,305
Less: Transfers to Other Funds (Note 7)	<u>0</u>	<u>(500,000)</u>	<u>(23,000)</u>
Total Revenues	<u>\$ 296,516</u>	<u>\$ (164,192)</u>	<u>\$ 461,055</u>
Expenditures:			
Refunds (Note 5)	\$ 385,021	\$ 136,556	\$ 111,263
Less: Reimbursements (Note 6)	<u>0</u>	<u>(155)</u>	<u>0</u>
Total Expenditures	<u>\$ 385,021</u>	<u>\$ 136,401</u>	<u>\$ 111,263</u>
Net Revenues	\$ (88,505)	\$ (300,593)	\$ 349,792
Fund Balance-Beginning	2,117,467	2,086,339	1,785,746
Prior Period Adjustments (Note 9)	<u>57,377</u>	<u>0</u>	<u>(11,411)</u>
Fund Balance-Ending	<u>\$2,086,339</u>	<u>\$1,785,746</u>	<u>\$2,124,127</u>

* The accompanying notes are an integral part of the Statement(s).

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EXHIBIT B

**NEW YORK STATE EDUCATION DEPARTMENT
TUITION REIMBURSEMENT ACCOUNT
STATEMENT OF FUND BALANCE AS OF
MARCH 31, 2008, MARCH 31, 2009 AND MARCH 31, 2010**

	<u>Fiscal Year Ended March 31,</u>		
	<u>2008</u>	<u>2009</u>	<u>2010</u>
Assets:			
Cash (Note 4)	\$2,105,982	\$1,703,581	\$2,107,362
Receivables			
Fines and Penalties	\$ 0	\$ 100,000	\$ 37,500
Interest	4,972	531	287
Refund Receivable (Note 8)	195	195	195
Due from Supervision Account	<u>0</u>	<u>0</u>	<u>11,508</u>
Total Receivables	<u>\$ 5,167</u>	<u>\$ 100,726</u>	<u>\$ 49,490</u>
Total Assets	<u>\$ 2,111,149</u>	<u>\$ 1,804,307</u>	<u>\$2,156,852</u>
Liabilities:			
Refunds Payable	\$ 22,560	\$ 0	\$ 7,491
Payable to Supervision Account (Note 10)	100	100	1,195
Payable to Schools/Other (Note 11)	<u>2,150</u>	<u>18,461</u>	<u>24,039</u>
Total Liabilities	<u>\$ 24,810</u>	<u>\$ 18,561</u>	<u>\$ 32,725</u>
Fund Balance:	<u>\$2,086,339</u>	<u>\$1,785,746</u>	<u>\$2,124,127</u>
Total Liabilities and Fund Balance	<u>\$2,111,149</u>	<u>\$1,804,307</u>	<u>\$2,156,852</u>

* The accompanying notes are an integral part of the Statement(s).

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**NEW YORK STATE EDUCATION DEPARTMENT
AUDIT OF THE TUITION REIMBURSEMENT ACCOUNT
FOR THE THREE FISCAL YEARS ENDED
MARCH 31, 2008, MARCH 31, 2009 AND MARCH 31, 2010**

*** Notes to the Financial Statements**

1. Background

Students who are enrolled in post-secondary private schools licensed by the State Education Department (Department), and in business schools registered with the Department that close before their education is completed, are eligible for a tuition refund. Students who drop out of such schools that have violated the Education Law (Law) - and are still in operation - are also eligible for a tuition refund. Students in such schools are also eligible to have their student loans repaid by the Department. Chapter 887 of the Laws of 1990 created the Tuition Reimbursement Fund (Fund) now titled the Tuition Reimbursement Account (TRA) to protect the financial interests of these students.

Chapter 887 of the Laws of 1990 also created the Proprietary Schools Vocational Supervision Account (Supervision Account) to support Bureau of Proprietary Schools (Bureau) operations. The Bureau monitors licensed private schools and registered business schools to ensure compliance with applicable provisions of the Law and the Commissioner of Education's Rules and Regulations (Regulations). The TRA and related Supervision Account are financed by assessments on qualifying schools at a rate of .8 of 1 percent of their respective gross tuition revenues. The Law directs the Department to credit .3 of 1 percent to the TRA, and .5 of 1 percent to the Supervision Account.

On June 1, 1993, the Law was amended to establish a TRA cap of \$1.8 million with no further annual assessments levied unless the balance falls below \$1.3 million. In addition, any licensed private school, ESL school, or registered business school found to have violated the Law or related Regulations can be assessed a fine or penalty. The Law requires that these fines and penalties be deposited into the TRA.

In accordance with Article 101, Section 5007, Parts 1 and 10 of the Law requires all schools, including ESL schools licensed after June 30, 1993, to pay a "special" assessment. The schools are to be assessed at a rate of .3 of 1 percent of their gross tuition revenue, except for ESL schools, which are to be assessed at a rate of .2 of 1 percent pursuant to the Commissioner's Regulations. The amount of the assessment is based on each school's gross tuition revenue for its first three years of operations, whether the revenue is reported for full or partial years. The special assessment is payable over four years from the date of enactment (five years for schools licensed after June 30, 1999).

When the TRA balance exceeds \$1.5 million, the special assessments are deposited into the

Supervision Account. For the purpose of this provision, the TRA balance is calculated quarterly based on dates established by the Law (June 30, September 30, December 31 and March 31).

2. Basis of Accounting

The accompanying financial statements were prepared using the modified accrual basis of accounting. As such, revenues and related accounts receivable are reported in the accounting period in which they become both measurable and available. Expenditures and related liabilities are recorded in the accounting period when the liability is incurred and payment is due.

3. Accounting Records

The audited financial statements are based on the financial records maintained by the Department and are in agreement with those maintained by the Office of the State Comptroller.

4. Cash

The amount of cash reported on the Statements is the actual TRA balance as of the Statement date plus any TRA-related cash on hand at year-end not yet deposited. The TRA's cash is continually invested in the State's Short-Term Investment Pool administered by the State Comptroller.

5. Refunds

For financial statement purposes, Department officials recognize student tuition claims for reimbursement (refunds) as expenses in the fiscal year during which they are approved for payment.

6. Reimbursements

TRA reimbursements are monies submitted by schools to reimburse the TRA for payments made to students on the schools' behalf.

7. Transfers to Other Funds

These TRA funds were swept by the New York State Division of the Budget and transferred to the State's general fund as a part of the State's endeavors to reduce the State deficit.

8. Refund Receivable

This reporting category reflects a refund check issued by a Department staff to a student that was \$195 greater than the amount of refund the student was entitled to. The TRA is seeking reimbursement of the excess payment.

9. Prior Period Adjustment

These transactions are recorded to properly report revenue and/or expense transactions relating to the reporting period that were either received or incurred in a prior period.

10. Payable to Supervision Account

The Department erroneously deposited \$100 in revenue due the Supervision Account into the TRA. The Department also erroneously paid \$1,095 of student refunds from the Supervision Account instead of making payment from the TRA.

11. Payable to Schools/Other

Over the three-year period, the Department collected \$23,583 in English as Second Language initial certification assessments. However, the law authorizing the collection of these assessments was repealed prior to the audit period. Department officials agreed that these assessments were improperly collected and should be refunded to the schools. In addition, a deposit totaling \$456 that should have been deposited into the Supervision Account was erroneously deposited into the TRA.