New York State Office of the State Comptroller
Thomas P. DiNapoli

Division of State Government Accountability

Compliance With the Reimbursable Cost Manual

State Education Department Lifeline Center for Child Development, Inc.

Report 2016-S-95

October 2017

Executive Summary

Purpose

To determine whether the costs reported by Lifeline Center for Child Development, Inc. (Lifeline) on its Consolidated Fiscal Reports (CFRs) were reasonable, necessary, directly related to the special education program, and sufficiently documented pursuant to the State Education Department's (SED) Reimbursable Cost Manual (Manual) and the Consolidated Fiscal Reporting and Claiming Manual (CFR Manual). The audit focused primarily on expenses claimed on Lifeline's CFR for the fiscal year ended June 30, 2015, and included certain expenses claimed on Lifeline's CFRs for the two fiscal years ended June 30, 2014.

Background

Lifeline is a Queens, New York-based not-for-profit organization authorized by SED to provide preschool special education services to children with disabilities who are between the ages of three and five years. During the 2014-15 school year, Lifeline served about 52 students. The New York City Department of Education (DoE) refers students to Lifeline and pays for its services using rates established by SED. The DoE is reimbursed by SED for a portion of its payments to Lifeline. For the three fiscal years ended June 30, 2015, Lifeline reported approximately $9.8 million in reimbursable costs for the SED preschool cost-based program. Lifeline also shares space and staff with a DoE District 75 program that serves school-age special education students.

Key Findings

For the three fiscal years ended June 30, 2015, we identified $304,192 in reported costs that did not comply with the guidelines in the Manual, as follows:

- $80,506 in bonuses, including $61,205 to employees who were not eligible to receive such payments, $12,857 that exceeded the 3.5 percent limit set by SED, and $6,444 that was not supported by performance evaluations;
- $75,569 in property-related expenses that were incorrectly allocated to the SED preschool cost-based program;
- $53,742 in excess staffing costs. The excess costs resulted from Lifeline exceeding the approved staff-to-student ratios specified in the program approval letters issued by SED's Special Education Quality Assurance Office;
- $31,313 in ineligible expenses, including $21,083 in taxi fares to transport parents and their children to Lifeline for evaluations, $5,091 in food for staff, $1,445 in gift cards, $1,408 for lobbying, $966 for investment management, $664 for staff uniforms, $250 in food for Board meetings, $228 for student clothing, a $122 plaque for a retiring employee, and $56 for flowers;
- Lifeline used an allocation methodology that was neither fair nor reasonable to allocate $24,337 of its plant manager's compensation to the SED cost-based program;
- $23,587 in undocumented and/or insufficiently documented expenses, including $2,105 in compensation to four employees, $7,015 for repairs and maintenance, $6,513 for staff travel and development, $5,175 for tuition reimbursement, $1,600 in consulting costs, $1,040 in depreciation expense, and $139 for advertising; and
- $15,138 in compensation incorrectly allocated to the SED cost-based program, including $7,053 in agency administration costs and $8,085 in executive compensation.

Key Recommendations

To SED:

- Review the recommended disallowances resulting from our audit and make the appropriate adjustments to Lifeline's CFRs and tuition reimbursement rates, as warranted.
- Work with Lifeline officials to ensure their compliance with SED's reimbursement requirements.

To Lifeline:

- Ensure that all costs reported on future CFRs comply with the requirements in the Manual.

Other Related Audits/Reports of Interest

Hebrew Institute for the Deaf and Exceptional Children: Compliance With the Reimbursable Cost Manual (2015-S-67)
Books and Rattles, Inc.: Compliance With the Reimbursable Cost Manual (2016-S-25)

State of New York
Office of the State Comptroller

Division of State Government Accountability

October 12, 2017

Ms. MaryEllen Elia
Commissioner
State Education Department
State Education Building - Room 125
89 Washington Avenue
Albany, NY 12234

Mr. Charles Caputo
Executive Director
Lifeline Center for Child Development, Inc.
80-09 Winchester Boulevard
Queens Village, NY 11427

Dear Ms. Elia and Mr. Caputo:

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

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

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

Respectfully submitted,

Office of the State Comptroller
Division of State Government Accountability

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Background

Lifeline Center for Child Development (Lifeline) is a Queens, New York-based not-for-profit organization authorized by the State Education Department (SED) to provide preschool special education services to children with disabilities who are between the ages of three and five years. During our audit period, Lifeline operated one rate-based preschool special education program: full-day Special Class. For purposes of this report, this program is referred to as the SED preschool cost-based program.

During the 2014-15 school year, Lifeline served about 52 students. In addition to the SED preschool cost-based program, Lifeline operated one other SED-approved preschool program: Evaluations. However, payments for services under the Evaluations program are based on fixed fees, as opposed to the cost-based rates established through financial information reported on the annual Consolidated Fiscal Reports (CFRs) Lifeline files with SED. Lifeline also shares space and staff with a New York City Department of Education (DoE) District 75 program that serves school-age special education students.

The DoE refers students to Lifeline based on clinical evaluations and pays for Lifeline's services using rates established by SED. The rates are based on the financial information Lifeline reports to SED on its annual CFRs. To qualify for reimbursement, Lifeline's expenses must comply with the criteria set forth in SED's Reimbursable Cost Manual (Manual) and its 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 relating to multiple programs. Reimbursable costs must be reasonable, necessary, directly related to the special education program, and sufficiently documented. The State reimburses the DoE 59.5 percent of the statutory rate it pays to Lifeline.

Section 4410-c of the Education Law authorizes the State Comptroller to audit the expenses reported to SED by special education service providers for preschool children with disabilities. For the three fiscal years ended June 30, 2015, Lifeline reported approximately $9.8 million in reimbursable costs for the SED preschool cost-based program. This audit included expenses claimed on Lifeline's CFR for the fiscal year ended June 30, 2015 and certain expenses claimed on its CFRs for the two fiscal years ended June 30, 2014.

Audit Findings and Recommendations

For the three fiscal years ended June 30, 2015, we identified $304,192 in reported costs that did not comply with SED's requirements for reimbursement. The ineligible costs included $168,775 in personal service costs and $135,417 in other than personal service (OTPS) costs (see Exhibit at the end of this report). SED, pursuant to a desk review, previously disallowed some of these costs.

Personal Service Costs

According to the Manual, costs will be considered for reimbursement provided such costs are reasonable, necessary, directly related to the special education program, and sufficiently documented pursuant to the guidelines in the Manual. In addition, personal service costs, which include all salaries and fringe benefits paid or accrued to employees on the agency'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 three fiscal years ended June 30, 2015, Lifeline reported approximately $8.9 million in personal service costs for its SED preschool cost-based program. We identified $168,775 in personal service costs that did not comply with the Manual's guidelines for reimbursement.

Ineligible Bonuses

According to the Manual, a bonus is a non-recurring and non-accumulating (i.e., not included in base salary of subsequent years) lump sum payment in excess of regularly scheduled salary which is not directly related to hours worked. A bonus may be reimbursed if it is based on merit as measured and supported by employee performance evaluations. Moreover, reimbursable bonuses are restricted to direct care employees and those in position title code series 100. Further, those in position title codes 505 and 605 were eligible for bonuses in fiscal years 2013-14 and 2014-15. In addition, for the fiscal year ended June 30, 2013, the Manual limits bonus compensation to 3.5 percent of an employee's base salary.

For the three fiscal years ended June 30, 2015, Lifeline reported $300,315 ($223,869 in salaries and $76,446 in fringe benefits) in bonus payments on its CFRs. We determined that $80,506 ($60,434 in salaries and $20,072 in fringe benefits) in bonuses were not in compliance with the Manual's requirements, as follows:

- $61,205 ($46,076 in salaries and $15,129 in fringe benefits) in bonuses were paid to administrative (non-direct care) employees, including the Executive Director and Assistant Executive Director. The Manual restricts bonus payments to direct care employees only;
- $12,857 ($9,564 in salaries and $3,293 in fringe benefits) in bonuses that exceeded the 3.5 percent limit of employees' base salaries; and
- $6,444 ($4,794 in salaries and $1,650 in fringe benefits) in bonuses were not supported by performance evaluations.

Consequently, we recommend that SED disallow the $80,506 ($60,434 salaries and $20,072 fringe benefits) in bonuses that did not comply with the guidelines in the Manual.

Excess Staffing Ratio Expenses

Program approval letters issued by SED's Special Education Quality Assurance Office (SEQA) state the approved student-to-staff ratios under which classrooms are to operate. According to the Manual, costs for direct care personnel in excess of, or not prescribed by, such ratios are not reimbursable. For the three fiscal years ended June 30, 2015, we compared the teacher aides staffing levels reported on Lifeline's CFRs to the SEQA-approved ratios and found that Lifeline exceeded approved staffing levels during two of the three fiscal years, as follows:

- For fiscal year 2012-13, the SED-approved staffing ratio was set at 9.790 full-time equivalents (FTEs). However, Lifeline reported 10.797 FTEs on the CFR for that year - an excess of 1.007 FTEs. The compensation associated with the excess teacher aides staffing amounted to $40,204 ($29,909 in salaries and $10,295 in fringe benefits); and
- For fiscal year 2014-15, the SED-approved staffing ratio was set at 10.680 FTEs. However, Lifeline reported 11.031 FTEs on the CFR for that year - an excess of 0.351 FTEs. The compensation associated with the excess teacher aides staffing amounted to $13,538 ($10,261 in salaries and $3,277 in fringe benefits).

Consequently, we recommend that SED disallow $53,742 ($40,170 in salaries and $13,572 in fringe benefits) in compensation that did not comply with the requirements in the Manual.

Allocation of Plant Manager's Compensation

The CFR Manual states that actual hours of service is the preferred statistical basis upon which to allocate salaries and fringe benefits for shared staff or for staff who work at multiple programs/sites. Consequently, providers must maintain appropriate documentation reflecting the hours used in this allocation. If the preferred allocation method cannot be utilized, allocations based on time studies will be accepted. In addition, the CFR Manual states that compensation (salaries and fringe benefits) for housekeeping and janitorial staff who serve more than one program may be allocated based upon the square-footage the staff maintains.

In addition to its SED preschool cost-based program, Lifeline operates an SED Evaluations program and a DoE school-age program. For the three fiscal years ended June 30, 2015, Lifeline reported $251,405 in compensation ($187,748 in salaries and $63,657 in fringe benefits) for its plant manager. Lifeline allocated $125,703 (or 50 percent) of the plant manager's compensation to the SED preschool cost-based program. However, Lifeline officials were unable to provide actual hours of service or time studies to support the allocation of the plant manager's compensation among the three programs. In order to determine if the amount of compensation allocated to the preschool cost-based program was fair and reasonable, we used the methodology recommended by the Manual and reviewed the square-footage allocated to each of the three programs. As a result, we determined that the SED preschool cost-based program occupied 40.32 percent of the building's square footage. Therefore, just $101,366 of the plant manager's compensation should have been charged to the SED preschool cost-based program. Consequently, we recommend that SED disallow $24,337 ($125,703 - $101,366) in compensation costs that were incorrectly allocated to the SED preschool cost-based program.

Excess Executive Compensation

According to the Manual, compensation (i.e., salaries plus fringe benefits) for an entity's staff whose function is that of an Executive Director will be directly compared with the regional median compensation for comparable administration job titles of public school districts. Reimbursement shall not exceed the median compensation paid to comparable personnel in public schools for similar work and hours of employment in the region in which the entity is located.

For the two fiscal years ended June 30, 2014, Lifeline reported $554,562 ($275,963 and $278,599, respectively) in compensation for its Executive Director. However, the total regional median reimbursement limit for an Executive Director for the two years was $534,221. Consequently, the Executive Director's compensation exceeded SED's limits by $20,341 ($554,562 - $534,221). We recommend that SED disallow $8,085, the portion of the excessive compensation allocated to the SED preschool cost-based program. SED, pursuant to a desk review, previously disallowed some of these costs.

Insufficiently Documented Personal Service Expenses

The Manual requires that reimbursable compensation costs be based upon approved and documented payrolls. Payrolls must be supported by employee time and attendance records, which must be signed by both the employee and his/her supervisor and completed at least monthly. The Manual also states that costs will not be reimbursable on field audit without appropriate written documentation of such costs. During the two fiscal years ended June 30, 2015, Lifeline reported $235,131 ($174,703 in salaries and $60,428 in fringe benefits) in compensation on its CFRs for four employees who provided services to the SED preschool cost-based program, including two custodians, a physical therapist assistant, and a teacher's assistant. However, Lifeline officials could not adequately document $2,105 ($1,557 salaries and $548 in fringe benefits) of the $235,131 in compensation. Consequently, we recommend that SED disallow the $2,105 because it was insufficiently documented.

Other Than Personal Service Costs

According to the Manual, OTPS costs must be reasonable, necessary, directly related to the special education program, and sufficiently documented. For the three fiscal years ended June 30, 2015, Lifeline reported approximately $897,558 in OTPS costs for the SED preschool cost-based program. We determined that $135,417 of these costs did not comply with SED's reimbursement requirements.

Excess Property Allocation Costs

According to the CFR Manual, when programs share the same geographical location or more than one agency is served at the same location, property and related costs, such as utilities, general insurance, repairs and maintenance, non-household supplies, and materials must be allocated between the programs/agencies benefitting from those costs. The CFR Manual also states that square footage is the approved method for allocating property and property-related costs. Further, the Manual states that an expenditure that cannot be charged to a specific program must be allocated across all programs that benefited from the expenditure. In addition, entities must use allocation methods that are fair and reasonable and allocation percentages should be reviewed and adjusted on an annual basis, if necessary.

For the three fiscal years ended June 30, 2015, Lifeline operated an SED preschool cost-based program, an SED fixed-fee Evaluations program, and a DoE school-age program at the same location. During the same three fiscal years, Lifeline allocated $303,350 in property-related costs to the SED preschool cost-based program. To determine if the property-related costs allocated to the program were fair and reasonable, we reviewed the building's blueprints, measured each room/space in the building, and discussed space usage with Lifeline officials. Based on our review, we determined that just $227,781 in property-related costs should have been allocated to the SED preschool cost-based program. Consequently, we recommend that SED disallow $75,569 ($303,350 - $227,781) in property-related costs because the allocation of these costs did not comply with the guidance in the Manual and the CFR Manual.

Ineligible Expenses

The Regulations of the Commissioner of Education (Regulations) state that evaluation costs and related statistical data must be reported in a separate cost center. In addition, the Manual states that travel expenses of spouses, family members, or non-employees are not reimbursable unless the family member is an employee of the entity and a legitimate business purpose exists for such travel. The Manual also states that the costs of gifts, flowers, food, beverages, entertainment, and other related costs for meetings, including Board meetings, are not reimbursable. Further, the Manual states that lobbying expenses, the costs of investment counsel and staff, and similar expenses incurred solely to enhance income from investments are not reimbursable. Moreover, the Manual states that ordinary living expenses, such as the cost of clothing and uniforms that are normally assumed by parents or legal guardians of students attending day care centers or public day schools, are not reimbursable. Finally, clothing expenses for staff, such as uniforms for custodians or bus drivers, even if required by school policy, are not reimbursable. However, for the three fiscal years ended June 30, 2015, Lifeline reported $31,313 in ineligible expenses, as follows:

- $21,083 in travel costs (taxis) to transport parents and their children to and from Lifeline to be evaluated. These costs should have been charged to the SED fixed-fee Evaluations program rather than to the SED preschool cost-based program;
- $7,192, including $5,091 in food for staff, $1,445 in gift cards, $250 in food for Board meetings, $228 for student clothing, a $122 plaque for a retiring employee, and $56 for

flowers;
- $1,630 in miscellaneous expenses, including $966 in costs for investment management and $664 in staff uniform expenses; and
- $1,408 in expenses that Lifeline officials claimed were for lobbying. Lobbying expenses are not reimbursable.

Consequently, we recommend that SED disallow the $31,313 because these costs were not eligible for reimbursement.

Undocumented and Insufficiently Documented Expenses

The Manual states that purchases must be supported with invoices that list the items purchased, dates of purchase and payment, as well as with copies of canceled checks. The Manual also states that all consultant payments must be supported by itemized invoices which indicate the specific services actually provided; and for each service, the date(s), number of hours provided, and the fee per hour; and the total amount charged. Moreover, logs must be maintained by each employee indicating the dates of travel, destination, purpose, mileage, and related costs such as tolls, parking, and gasoline. For the three fiscal years ended June 30, 2015, we identified $16,307 in undocumented or insufficiently documented costs, as follows:

- $13,363 in undocumented expenses, including $7,015 for repairs and maintenance; $5,308 for staff travel, conferences, and food; and $1,040 for depreciation;
- $1,600 in insufficiently documented legal consultant expenses. The invoices in support of these expenses did not contain required information such as the services actually provided, service date(s), number of hours provided, or the fee per hour for each service; and
- $1,344 in insufficiently documented expenses, including $830 for employee travel (e.g., train tickets, gas), $375 for staff development, and $139 for advertising.

Consequently, we recommend that SED disallow the $16,307 because these expenses did not meet the documentation requirements stated in the Manual.

Incorrectly Reported Agency Administration Costs

The Manual states that agency administration costs must be allocated to all programs using the ratio value method. For the three fiscal years ended June 30, 2015, Lifeline officials incorrectly reported $15,069 in agency administration costs for snow removal, repairs, and maintenance as a direct expense to the SED preschool cost-based program. Since these agency administration costs pertained to Lifeline’s entire operation, they should have been allocated across all programs operated by Lifeline based on the ratio value method. We recalculated the allocated administration costs and determined that just $8,016 should have been allocated to the preschool cost-based program.

Consequently, we recommended SED disallow $7,053 ($15,069 - $8,016) in costs that did not comply with the guidelines in the Manual.

Tuition Reimbursement

The Manual states that employer-provided educational assistance costs (limited to tuition and materials) are reimbursable only when the course or degree pursued is relevant to the field in which the employee is working. Moreover, employees must complete and receive passing grades for the course(s), and appropriate records of course completion must be maintained. For fiscal year 2012-13, we disallowed $5,175 in ineligible tuition reimbursement costs, as follows:

- $3,650 in tuition costs. Lifeline was unable to show that these costs met the Manual's guidelines for reimbursement; and
- $1,525 in tuition costs. Lifeline could not provide sufficient evidence to show that the reimbursed courses were completed or that the employee received passing grades.

Consequently, we recommend that SED disallow the $5,175 ($3,650 + $1,525) in tuition reimbursement because these costs did not comply with the requirements in the Manual.

Recommendations

To SED:

1. Review the recommended disallowances resulting from our audit and make the appropriate adjustments to Lifeline's CFRs and tuition reimbursement rates, as warranted.

2. Work with Lifeline officials to ensure their compliance with SED's reimbursement requirements.

To Lifeline:

3. Ensure that all costs reported on future CFRs comply with the requirements in the Manual.

Audit Scope, Objective, and Methodology

We audited the costs reported on Lifeline's CFRs to determine whether they were reasonable, necessary, directly related to the special education program, and sufficiently documented pursuant to the guidelines in SED's Manuals. The audit included all claimed expenses for the fiscal year ended June 30, 2015, and certain expenses claimed on Lifeline's CFRs for the two fiscal years ended June 30, 2014.

To accomplish our objective, we reviewed the Regulations, the Manual, the CFR Manual, Lifeline's CFRs, and relevant financial and program records for the audited period. We also interviewed Lifeline officials, staff, and independent auditors to obtain an understanding of Lifeline's financial and business practices. In addition, we selected and reviewed 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, as well as property expenses. Our samples were based on the relative materiality of the various categories of costs reported and their associated level of risk. Our samples were not designed to be projected to the entire population of reported costs. Also, our review of Lifeline's internal controls focused on the controls over Lifeline's CFR preparation process.

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

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 management functions do not affect our ability to conduct independent audits of program performance.

Authority

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

Reporting Requirements

We provided draft copies of this report to SED and Lifeline officials for their review and formal comment. Their comments were considered in preparing this final report and are included 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, Lifeline officials generally accepted most of our conclusions, but disagreed with other proposed disallowances. Our rejoinder to certain Lifeline 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 Education 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 if the recommendations were not implemented, the reasons why.

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Vision

A team of accountability experts respected for providing information that decision makers value.

Mission

To improve government operations by conducting independent audits, reviews and evaluations of New York State and New York City taxpayer financed programs.

Exhibit

Lifeline Center for Child Development, Inc.
Summary of Submitted and Disallowed Program Costs
for the 2012-13, 2013-14, and 2014-15 Fiscal Years

Program Costs	Amount Per CFR	Amount Disallowed	Amount Remaining	Notes to Exhibit
Personal Services				
Direct Care	$8,176,472	$128,574	$8,047,898	
Agency Administration	752,791	*40,201	712,590	
Total Personal Services	**$8,929,263**	**$168,775**	**$8,760,488**	A,B,D-F, K,L,O
Other Than Personal Services				
Direct Care	$762,598	$121,220	$641,378	
Agency Administration	134,960	14,197	120,763	
Total Other Than Personal Services	**$897,558**	**$135,417**	**$762,141**	B,C,G-J, M-P
Total Program Costs	**$9,826,821**	***$304,192**	**$9,522,629**	

*SED, pursuant to a desk review, previously disallowed some of these costs.

Notes to Exhibit

The following Notes refer to specific sections of the 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 Lifeline officials during the course of our audit.

A. Section I.6 - Staff-to-student ratios are defined in Part 200 of the Regulations. A specific approved program's student-to-staff ratio is also defined in that program's programmatic approval letter from SEQA. Direct care personnel in excess of, or not prescribed by such ratios, are not reimbursable, unless supported by the student's Individualized Education Program (IEP) requirements and the program generated summary data relating to those IEPs. A Department programmatic review and approval of variations from these ratios is required for costs of additional staff to be reimbursable.
B. Section II - Costs will be considered for reimbursement provided such costs are reasonable, necessary, directly related to the education program, and sufficiently documented.
C. Section II.11 - Ordinary living expenses, such as the cost of clothing and uniforms that are normally assumed by parents or legal guardians of students attending day care centers or public day schools, are not reimbursable. Clothing expenses for staff such as uniforms for custodians or bus drivers, even if required by school policy, are not reimbursable.
D. Section II.13.A(4)(a) - Compensation (i.e., salaries plus fringe benefits) for an entity's staff whose function is that of Executive Director, Assistant Executive Director, or Chief Financial Officer will be directly compared to the regional median compensation for comparable administration job titles of public school districts, as determined and published annually by the Department's Basic Educational Data Systems (BEDS). Reimbursement of employee compensation for these job titles shall not exceed the median compensation paid to comparable personnel in public schools for similar work and hours of employment in the region in which the entity is located.
E. Section II.13.A(10) - (July 2014 Edition) - A merit award (or bonus compensation) shall mean a non-recurring and non-accumulating (i.e., not included in base salary of subsequent years) lump sum payment in excess of regularly scheduled salary which is not directly related to hours worked. A merit award may be reimbursed if it is based on merit as measured and supported by employee performance evaluations. In addition, merit awards are restricted to direct care titles/employees and those in the 100 position title code series and position title codes 505 and 605.
F. Section II.13.A(10) - (July 2012 Edition) - A merit award may be reimbursed if it is based on merit, as measured and supported by employee performance evaluations and does not exceed 3.5 percent of the base salary of the direct care employee who is receiving the merit award. In addition, merit awards are restricted to direct care titles/employees.
G. Section 200.9(e)(i)(d) of the Regulations states that evaluation costs and related statistical data for preschool students, as prescribed in Section 4410 of the Education Law and Sections 200.4 and 200.16 of the Regulations, must be reported in a separate cost center.
H. Section II.13.B(2)(e) - Employer-provided educational assistance costs are reimbursable as compensation only when the course or degree pursued is relevant to the field in which

the employee is working and the employer has exhausted all Federal and other grant funds available to cover the education costs. The employee must complete and receive a passing grade for the course(s) for which the employer/provider paid. Appropriate records of course completion must be maintained by the employer/provider.

I. Section II.14.B - Costs associated with retainers for legal, accounting, or consulting services are not reimbursable unless the fee represents payment for actual documented reimbursable services rendered, provided the services are not for lobbying efforts.

J. Section II.59.F - Travel expenses of spouses, family members, or any nonemployee (consultants, independent contractors, etc.) are not reimbursable unless the spouse or family member is an employee of the entity (ies) and a legitimate business purpose exists for them to travel.

K. 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.

L. Section III.1.B - Actual hours of service are the preferred statistical basis upon which to allocate salaries and fringe benefits for shared staff who work on multiple programs. Entities must maintain appropriate documentation reflecting the hours used in this allocation. Acceptable documentation may include payroll records or time studies.

M. Section III.1.C.2 - Adequate documentation includes, but is not limited to, the consultant's resume, a written contract which includes the nature of the services to be provided, the charge per day and service dates. All payments must be supported by itemized invoices which indicate the specific services actually provided; and for each service, the date(s), number of hours provided, the fee per hour; and the total amount charged. In addition, when direct care services are provided, the documentation must indicate the names of students served, the actual dates of service, and the number of hours of service to each child on each date.

N. Section III.1.E - Logs must be kept by each employee indicating the dates of travel, destination, purpose, mileage, and related costs such as tolls, parking, and gasoline. Logs must have supervisory approval for the associated travel expense to be reimbursable.

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

P. Section III.1.M(3) - For CFR filers (except Office of Children and Family Services Residential Facilities), agency administration costs shall be allocated to all programs operated by the entity based on the ratio value method of allocation.

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

September 26, 2017

Mr. Kenrick Sifontes
Audit Director
Division of State Government Accountability
NYS Office of the State Comptroller
59 Maiden Lane, 21st Floor
New York, NY 10038

Dear Mr. Sifontes:

The following is the New York State Education Department's (SED) response to the draft audit report, 2016-S-95, Compliance with the Reimbursable Cost Manual: Lifeline Center for Child Development, Inc. (Lifeline).

In addition to the actions that will be taken in response to the specific recommendations described below, SED will closely examine the circumstances that led to the findings described in the audit report. This examination will include an assessment of the programmatic oversight and fiscal management employed at Lifeline and will be a factor in the consideration of the continued approval of this provider and the corrective action or enforcement actions that may be warranted.

Recommendation 1:

Review the recommended disallowances resulting from our audit and make the appropriate adjustments to Lifeline's CFRs and tuition reimbursement rates, as warranted.

We agree with this recommendation; provided that SED will look further into OSC's application of the Reimbursable Cost Manual (RCM) standard that costs for "direct care personnel in excess of, or not prescribed by, such [student-to-staff] ratios are not reimbursable" as the RCM further states, "unless supported by the student's IEP requirements and the program generated summary data relating to those IEPs." As such, 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:

Work with Lifeline officials to ensure their compliance with SED's reimbursement requirements.

We agree with this recommendation. SED will continue to provide technical assistance whenever requested and will strongly recommend the Lifeline officials take advantage of our availability to help them better understand the standards for reimbursement as presented in Regulation and the

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. This training is a requirement for preschool special education providers upon approval and reapproval.

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

Yours truly,

Sharon Cates-Williams

Sharon Cates-Williams
Deputy Commissioner

cc: Thalia Melendez
Christopher Suriano
Belinda Johnson
Suzanne Bolling

Agency Comments - Lifeline Center for Child Development, Inc.

GreenbergTraurig

Pamela A. Madeiros
(518) 689-1412
madeirosp@gtlaw.com

August 15, 2017

VIA ELECTRONIC MAIL

Kenrick Sifontes
Office of the State Comptroller
Division of State Government Accountability
59 Maiden Lane, 21st Floor
New York, New York 10038

Re: State Education Department
Compliance with Reimbursable Cost Manual
Lifeline Center for Child Development, Inc.
Draft Report #2016-S-95

Dear Mr. Sifontes:

We have reviewed the above captioned Draft Report concerning the expenses claimed by Lifeline Center for Child Development, Inc. (Lifeline) on its Consolidated Fiscal Report (CFR) for the fiscal year ending June 30, 2015, as well as certain expenses claimed on the CFRs for the two fiscal years 2012-13 and 2013-14 and provide the following comments and challenges to specific findings presented.

Personal Services

As the auditors are aware, recent changes within Lifeline's senior management staff have presented certain challenges to our ability to respond to the auditors' requests as thoroughly as we would have preferred, and we acknowledge with appreciation the audit team's patience as the new Executive Director and Chief Fiscal Officer worked to review prior agency records and fiscal reports in response to requests for information and explanations. Upon appointment, the new management team had immediately worked to refine existing internal control protocols, policies and procedures to assure the highest level of integrity in program and fiscal operations, the results of which are already discernible. However, the new management team remains unable to provide the fullest information possible around some aspects of the auditors' findings.

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GreenbergTraurig

Bonuses

While Lifeline does not challenge significant portions of the auditors' findings relating to employee bonuses, and gratefully acknowledges that the auditors have thoughtfully considered our challenges as reflected in minor adjustments to certain findings, we renew our general challenge that a substantial component of the $81,440 disallowance is the result of certain errors in the assignment of proper job codes/functions on the CFR.

Job Titles/Codes

More specifically, review of job descriptions and performed functions of the following individuals reveals the miscoding of titles/positions which, if corrected, would render the individuals eligible for performance based bonuses:

2012-13

- Employee #1, coded as 612 (administrative assistant), in fact, performed job functions more appropriately associated with the 516 job title code.

* Comment 1

- Employee #2, coded as 513 (Supervisor-Social Services), in fact, performed program functions such as conducting evaluations and assuring the appropriate implementation of IEP's, sufficient to warrant eligibility for a performance based bonus award as captured by codes 516 (Educational evaluator) or 238 (IEP Coordinator).

* Comment 2

2013-14

- Employee #2, coded as 513 (Supervisor-Social Services), in fact, performed program functions such as conducting evaluations and assuring the appropriate implementation of IEP's, sufficient to warrant eligibility for a performance based bonus award as captured by codes 516 (Educational evaluator) or 238 (IEP Coordinator).

* Comment 2

- Employee #3, mistakenly coded as 590 (Other Program Administrative Staff), in fact, performed tasks to the exclusive benefit of the Program and should have been reported as 505 (Program Administration), clearly eligible for award of a merit bonus pursuant to the RCM (I (13) (A) (10) (a)).

* Comment 3

2014-15

- Employee #2 (See above)

* Comment 2

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*See State Comptroller's Comments, page 31.

Kenrick Sifontes
August 15, 2017
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Performance Evaluations

While Lifeline does not challenge the auditors' assertion that the new management team was unable to produce performance evaluation documentation in support of some of the awarded bonuses, we would respectfully request the auditors reconsider certain portions of the finding: specifically;

2012-13

- Employee #6 – Special circumstances prevented completion of the full evaluation process as this individual was unable to return to work after complications associated with her maternity leave.

* Comment 4

2013-14

Appropriate evaluation documentation in support of merit awards made to the two custodians identified by the audit team had been provided to the auditors in response to the preliminary report sufficient to warrant removal of this portion of the finding.

* Comment 5

2014-15

- Appropriate evaluation documentation in support of merit awards made to the same two custodians referenced above had also been provided to the auditors in response to the preliminary report warranting removal of this portion of the finding.

* Comment 5

As stated above, Lifeline's new management team has dedicated itself to assuring the highest level of integrity in its operations and demonstrated accountability. Towards that end, the newly appointed Executive Director assured review and revision of all internal control policies and procedures, including those governing performance evaluations and merit awards. A copy of these policies revised in 2016 and again in early 2017 and provided to the auditors, attests to Lifeline's renewed commitment to full compliance with regulatory requirements.

Bonus Percentage

Lifeline does not challenge the auditors' finding that prior management decisions around the appropriate percentage of merit awards to salary did not comport with the restrictive provisions of the RCM.

Staffing Analysis

Lifeline does not challenge the auditors' assertion that certain staff FTEs appear to exceed approved staffing ratios but notes, however, that the aggregated FTE includes substitute

Kenrick Sifontes
August 15, 2017
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personnel as well as standard staff, thus serving to "inflate" the reported FTEs. Lifeline believes this inflationary element may misrepresent what is actually Lifeline's full compliance with its approved staffing ratios.

* Comment 6

Lifeline has refined its policies governing staff deployment and retention of documentation to assure substantiation of reported costs.

Allocation of Plant Manager's Compensation

Lifeline does not challenge the auditors' finding that the plant manager's salary may have been over allocated to the school program to the extent of $11,063 absent time studies to determine the exact time on task.

* Comment 7

Compensation Support

Lifeline challenges the auditors' assertion that compensation for certain employees was "overstated". We believe, as we have shared with the audit team and as presented in our response to the preliminary report, that the identified anomalies are a function of the audit protocol which captures 26 pay weeks without recognition of the year end accrual adjustment entry, specifically as relates to the year end which falls on a date other than the standard Friday of the second week of the payroll period. Once this anomaly is recognized, we are confident that the proposed disallowance will be reconsidered and adjusted accordingly. We appreciate that the auditors have revised their initial finding based upon thoughtful consideration of our challenge.

* Comment 8

We also challenge certain findings around select employees for whom we are able to provide additional substantiation in support of compensation paid; specifically:

- as relates to two custodians (SR/ER) who received overtime compensation (compensation for hours in excess of the standard 40-hour work week), we request reinstatement of $291.21/$102.86 (salary/fringe) and $472.98/$166.85 (salary/fringe), respectively;

* Comment 9

- as relates to the clinical coordinator (SDO) whose salary increase was reflected in 2 separate, and contemporaneous, memos from the Executive Director to the Chief Fiscal Officer (attached), one for an increase effective 9/2/2014, the second effective 1/16/2015. We have also attached a notarized statement by the clinical coordinator attesting to the salary increases based upon assumption of additional tasks and responsibilities.

* Comment 10

We believe this additional documentation supports allowance of these specific salary costs ($6,052.62 (salary), $1,933.21 (fringe)).

Lifeline has refined its internal controls and policies to ensure appropriate documentation of staff time and compensation.

Executive Compensation

Lifeline does not challenge the auditors' finding that prior management decisions around executive compensation did not comport with the restrictive provisions of the RCM.

In furtherance of its review of internal controls, policies and procedures, however, Lifeline's new management team has revised policies governing executive compensation to assure further compliance with the RCM restrictions.

Other Than Personal Services

Property Costs

We had initially challenged the auditors' assertion that Lifeline claimed property-related costs based on incorrect square footage allocations based upon representations made by an architect as reflected in the attached email dated May 18, 2011 from K. Duffy which established the square footage for the agency. The School Program was allocated 18,506 square footage and, based on the assurances by this architect, Lifeline allocated 50% of that total School square footage to the preschool Program, 47% to the school age Program and 3% to administration. Thus, in good faith, Lifeline reported property costs associated with the preschool Program operations at the full 50% utilization rate.

Lifeline engaged the same architectural firm to confirm the original calculations and to develop a set of detailed floor plans in support of the 18,506 square footage calculated by the firm in 2011. Upon review, the architectural firm conceded that an error may have been made in the calculation of square footage. The firm was then instructed to prepare revised floor plans which they have assured are accurate. These floor plans, however, show a tremendous reduction in square footage for the preschool program than reflected in the confirming email or original set of floor plans. At the request of the audit team, agency administration has revised the original property square footage worksheet.

Clearly, Lifeline has not been well served by either of the staff of the architectural firm that was involved with this project, having relied to our detriment on the assurances made, not once but twice, by these trained professionals. Regrettably, Lifeline is unable to challenge the auditors' finding, as reflected in the attached worksheet, although Lifeline has relied on professional judgment in good faith.

Ineligible Expenses

Clothing/Uniforms

We do not challenge the auditors' finding that $665 in staff uniform expenses were reported on the CFR in the audited years, in advance of NYSED amendments to the RCM in 2016 authorizing certain uniform expenses as reimbursable.

Food/Gifts/Flowers

We do not challenge the auditors' finding that approximately $7,200 in staff related costs were erroneously reported on the CFR, including staff function and Board meeting food costs, retirement plaques and student clothing. Lifeline has strengthened its internal fiscal controls to better identify such expenses as non-reimbursable as part of its fiscal operations.

Travel Expenses

While we do not challenge the auditors' findings that $21,083 in travel expenses were incurred to assure parent attendance at their child's evaluation, we believe such costs are necessary and reasonable under RCM standards to assure the meaningful participation of parents at every stage of the special education program process. As the audit team acknowledged during the audit process, Lifeline's 4410 program (which complements children's day treatment services with special education programming) is unique to approximately ten or twelve preschool special education programs throughout the State. This unique model of coordinated clinical mental health and special education services relies on the active participation of parents to assure success. Parent participation during the evaluation process, then, is essential to assuring access to these vital services. Expenses incurred to assure parental attendance, then, are not only "necessary and reasonable" but an essential element to access and success.

*
Comment 11

We do not challenge the auditors' assessment that these costs should have been charged to the Evaluation cost center.

Lobbying Expenses

We do not challenge the auditors' finding that certain lobbying expenses were inadvertently reported as a reimbursable expense.

Investment Management

We do not challenge the auditors' determination that $966 in allocated costs associated with investment management was reported in support of the special education program as a legitimate agency business expense.

Expenses Lacking Documentation

We do not challenge the auditors' determination that Lifeline is unable, at this time, to provide invoices in support of certain expenses, including certain graduation costs, repairs and maintenance and depreciation costs, with the exception of the invoices provided to the auditors in response to the preliminary report. (More specifically: $4,575 legal fees (line 511, auditors' back-up); $2,458 journal entry (line 186, auditors' back-up); $1,060 Toys-R-Us invoice (line 439, auditors' back-up); $1,828.75 PC Service invoices (lines 542, 543 and 544, auditors' back-up); and $230 graduation expenses (line 277, auditors' back-up).) Lifeline has strengthened its fiscal operations to assure the retention of all supporting documentation.

*
Comment 12

Insufficiently Documented Expenses

Lifeline does not challenge the auditors' determination that certain reported expenses may not have been fully supported by documentation recommended by the RCM with limited exception, but notes the following:

- As related to certain staff travel ($830), Lifeline did produce the requested receipts and invoices in support of staff travel, failing only to produce an actual log of the travel. Lifeline has strengthened its internal protocols to add this additional measure to its travel reimbursement process.

*
Comment 13

- As related to certain legal fees ($1,600), Lifeline did produce the requisite supporting invoices which reflected the total fee and related expenses as reflected in the engagement letter which provided sufficient detail to meet the requirements of the RCM. Lifeline has improved its fiscal operations to assure sufficient detail is provided in consultant invoices in addition to the detailed terms of the letter of engagement.

*
Comment 14

- Lifeline does not challenge the auditors' findings around certain staff development costs for which the registration form had been retained but for which an invoice was unavailable ($375); and, certain advertisement costs for which an invoice was provided, consistent with the requirements of the RCM, but for which a copy of the actual advertisement was not available to provide ($139). Lifeline has strengthened its internal controls to assure heightened record keeping in this regard.

Misclassified Agency Administration Expenses

We must challenge the auditors' assertion that certain non-direct expenses were inappropriately reported. To the contrary, Lifeline orders household supplies and tracks maintenance and repairs specific to the school program and exclusive to the school program. Accordingly, and as directed by the RCM, where costs can be discretely allocated to a specific cost center, those costs should be reported as expenses of that specific program. We respectfully request the auditors reconsider this recommended disallowance of $7,053 which we acknowledge with appreciation, has been reduced upon thoughtful consideration of additional documentation we had presented in response to the preliminary report.

*
Comment 15

Tuition Reimbursement

We do not challenge the auditors' determination that certain employer-provided educational assistance costs may have lacked certain elements of substantiation such as course completion records with the exception of the grade sheet and invoice provided the auditors in support of $1,650 in tuition reimbursement for an employee. Lifeline has revised its policies

*
Comment 16

governing these essential staff retention efforts to assure comprehensive records support these expenses.

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We appreciate the opportunity to respond to the auditors' findings and to provide context to our select challenges.

Very truly yours,

GREENBERG TRAURIG, LLP

Pamela A. Madeiros

PAM/hae
Attachments
ALB 2044348v4

cc: Suzanne Bolling, NYSED
Thalia Melendez, NYSED
James Kampf, NYSED
Charles Caputo, Lifeline

Attachment

GREENBERG TRAURIG, LLP ■ ATTORNEYS AT LAW ■ WWW.GTLAW.COM

Memo 12-16-14

To: Caroline Drucker

Re: Salary Adjustment for Dr. Steve DeOrio.

Effective January 16, 2015 please adjust Dr. Derio's salary by $3500 for a total $71, 500 annually.

Joseph Zacherman PhD

Executive Director

CC: S. DeOrio

ENTERED 1/12/15

KQ

MEMO FROM LIFELINE

July 30, 2014

TO: Caroline Drucker

FROM: Dr. Joseph Zacherman

RE: Dr. Stephen DeOrio - Upper School supervision

Effective September 2, 2014 Dr. Stephen DeOrio will assume supervision of the upper school social work staff, as well as the Clinical Coordinator for the Pre School. His annual salary will be an additional $3,000. This position will be re-evaluated in three months.

k
71500

JGZ:mag
cc: Dr. DeOrio

August 10, 2017

To whom it may concern:

I am writing this memo to acknowledge that in January 2015, I received a salary increase due to my assuming additional tasks and responsibilities within the agency. My salary was raised from to $71,500 in January 2015 due to the additional responsibilities that I was assigned.

Sincerely,

Stephen DeOrio, Ph.D.

Clinical Coordinator—Lifeline Center for Child Development

State of New York

County of NASSAU

Subscribed and sworn to before me

This 12th day of AUGUST 2017

By

Notary Public

MATTHEW J. FLAHERTY
Certified Notary State of New York
County: Nassau
Reg. #01FL6202072
Exp: 3/09/2021

State Comptroller's Comments

1. We disagree. Lifeline officials could not provide any documentation to support a change in the position title code (PTC) from PTC 612 to PTC 516. Moreover, the Manual did not list PTC 516 as being eligible for a bonus reimbursement during fiscal year 2012-13.
2. We disagree. Lifeline officials could not provide any documentation to support a change in the PTC from PTC 513 to PTC 516 and PTC 238. Moreover, the Manual did not list PTC 516 and PTC 238 as being eligible for a bonus reimbursement during fiscal years 2012-13, 2013-14, and 2014-15.
3. Upon review of additional documentation, we revised our report and allowed $934 in previously disallowed employee bonuses.
4. We disagree. The Manual specifically requires that employee bonuses be supported by employee performance evaluations. The Manual does not make any exceptions to this requirement.
5. Lifeline's comment is incorrect. Our report did not recommend a bonus disallowance due to a lack of employee evaluations.
6. We disagree. We requested documentation supporting Lifeline's assertion that substitutes were erroneously reported under the Teacher Assistant PTC. Subsequent to their draft response, Lifeline officials advised us that staff reported as Teacher Assistants had been misclassified and should now be reported as Behavioral Support staff. We requested documentation showing the Teacher Assistants were in fact retained to serve as Behavioral Support staff; however, the documentation provided by Lifeline officials does not sufficiently indicate that these individuals worked as Behavioral Support staff.
7. We stand by our finding that $24,337 of the plant manager's salary was incorrectly allocated to the SED preschool cost-based program.
8. We disagree. We took into consideration the year-end accruals adjustments along with any other factors that Lifeline could support. In addition, we did not use the word "overstated" in the report.
9. We disagree. Lifeline officials could not provide sufficient documentation to demonstrate that the custodians worked overtime.
10. Upon review of additional documentation provided by Lifeline officials, we revised our report and allowed $7,986 in previously disallowed insufficiently documented personal service expenses pertaining to the clinical coordinator.
11. The Manual specifically states that travel expenses of family members are not reimbursable unless the family member is an employee of the entity. The family members cited in the report were not employees of Lifeline; consequently, their travel costs are not reimbursable.
12. Lifeline's comment is incorrect. Our report did not recommend a disallowance of $230 in graduation expenses.
13. We acknowledge that Lifeline maintained some receipts and invoices. However, the Manual also requires that logs be kept indicating the dates of travel, destination, purpose, mileage, and related costs such as tolls, parking, and gasoline. Without the required logs, we were not able to determine if the costs documented by the receipts and invoices were applicable to the SED preschool cost-based program.

14. We disagree. As stated on page 10 of our report, the $1,600 in legal consultant invoices did not contain required information such as the services actually provided, number of hours provided, or the fee per hour for each service.
15. We acknowledge that the Manual allows for discreet costs to be allocated to a specific cost center. The $7,053 in recommended disallowances did not include any non-direct expenses, including household supplies, where Lifeline officials could sufficiently document that they were related to a specific program.
16. We stand by our recommended disallowance of $5,175. The evidence provided was insufficient to show that Lifeline complied with the Manual's requirements for the reimbursement of tuition costs.