The University of the State of New York
New York State Education Department
Rate Setting Unit
Albany, New York 12234

Reimbursable Cost Manual for Programs Receiving Funding Under Article 81 and/or Article 89 of the Education Law to Educate Students with Disabilities

This Manual applies to the July 2013 to June 2014 Tuition Rates and defines Reimbursable Costs for the July 2013 to June 2014 period.

Effective as of January 13, 2014

July 2013 Edition

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INTRODUCTION

THIS JULY 2013 REIMBURSABLE COST MANUAL (MANUAL) DEFINES REIMBURSABLE COSTS FOR THE JULY 2013 - JUNE 2014 SCHOOL YEAR. IT APPLIES TO THE 2013-14 PROSPECTIVE TUITION RATES AND THE 2013-14 RECONCILIATION ADJUSTMENT FACTORS AND RECONCILIATION TUITION RATES, AND FINAL AUDIT RATES BASED ON 2013-14 ACTUAL DATA.

USERS OF THIS MANUAL

When the Manual is silent on the treatment of a cost, it should not be assumed that such costs are reimbursable or that the method of allocation is deemed appropriate without written approval. Therefore all users of this Manual are strongly encouraged to contact the New York State Education Department, Rate Setting Unit, 89 Washington Avenue, Room 302EB, Albany, New York 12234 or RATEWEB@MAIL.NYSED.GOV with questions or concerns.

This July 2013 Reimbursable Cost Manual (Manual) applies to entities receiving public funds for educating students with disabilities ages 3-21 in private schools, special act school districts (SASDs), Boards of Cooperative Educational Services (BOCES), public school districts and municipalities under Article 81 and/or Article 89 of the Education Law.

Approved entities should recognize that information in financial reports is continually analyzed and any part of this Manual may be modified from year to year based on that analysis. Continuous review by the New York State (NYS) Education Department (Department) other NYS agencies, NYS Division of the Budget (DOB) (as mandated by the Institution Schools Act) and municipalities providing funding to entities under Section 4410 of the Education Law may also result in modifications. Since this Manual is revised and updated on a periodic basis, questions arising about a subject not described herein will be reviewed by the Department and treatment of such subjects may be described in subsequent editions of the Manual.

Final costs are determined upon field audit and will be considered for reimbursement provided that such costs are reasonable, necessary and directly related to the education program. **Costs must also have adequate substantiating documentation. Designation of a cost as reimbursable during the initial rate-setting process or during the reconciliation process does not mean that the cost will be reimbursed through the final audit rate since all rates are subject to adjustment on field audit, in accordance with Section 200.18 of the Commissioner's Regulations and this Manual.** A more detailed review of expenditures during an audit may reveal that costs reimbursed during a prior rate calculation for that fiscal year should not be reimbursed. Entities will be given an opportunity to review and comment on the draft audit report before the report is made final.

Section I, **Definitions**

Section II, **Cost Principles**, describes costs the Department considers reimbursable in the calculation of tuition rates for approved programs.

Section III, **General Requirements**, provides information on recordkeeping requirements, general accounting standards and definitions for entities receiving reimbursement under Article 81 and/or Article 89 of the Education Law.

Section IV, **Tuition Rate-Setting Methodology,** provides information on rate setting, adjustments and close down.

Section V, **Index**, provides an alphabetical listing of subjects described in this publication.

Section VI, **Appendices,** contains supplementary information. Special attention should be given to Appendix A-1, "Categorization of Expenditures" and Appendix A-2, "Categorization of Revenues"; these identify specific items of expense and revenue. They also provide direction as to where the cost categories should be reported on the Consolidated Fiscal Report (CFR). Please be advised that reimbursement of expenses designated as non-direct care expenses will be subject to the non-direct care cost parameter.

Section VII, **Topic Appendices,** contains supplementary information to the Statement on the Governance Role of a Trustee or Board Member.

SECTION I
DEFINITIONS

1. Commissioner's Approval

A. In order to receive approval of the Commissioner, the entity must submit a written request to the Commissioner's designated representative with all supporting documents. The Commissioner delegates responsibility for monitoring approved programs educating students with disabilities to the staff of the Office of P-12 Education-Office of Special Education (OSE) and rate-setting responsibility to the staff of the Rate Setting Unit.

The Commissioner's designated representative for program issues is the Deputy Commissioner of the OSE, Education Building, Albany, New York 12234.

The Commissioner's designated representative for fiscal issues is the Chief Operating Officer of the New York State Education Department, Room 2M West, Education Building, Albany, New York 12234.

B. Program and fiscal issues that require prior written approval of the Commissioner’s designees include but are not limited to:

(1) Education program expansion requiring additional staff, property related costs, classroom equipment, etc. when the cost is expected to be reimbursed fully or partially through the tuition rate. Both program and fiscal designee written approval are required.

(2) New or renovated facility space, both instructional and non-instructional to be occupied by approved programs in which space is new, or substantially altered or result in capitalized costs in excess of $100,000 will require both program and fiscal designee written approval prior to implementing.

(3) Service to students whose disabilities are different from the disabilities of students the program is approved to serve. Program designee written approval is required.

(4) Anticipation of large decreases or increases in student population. Program designee written approval is necessary.

(5) Reimbursement of interest expense in less-than-arm's length (LTAL) relationships and/or for reimbursement of costs incurred in LTAL relationships above actual costs of the owner or vendor requires fiscal designee written approval.

(6) Approval by the Department and DOB of any request for a determination of cost effectiveness. Fiscal designee written approval is required.

(7) Transfer or assignment of ownership interest totaling 25 percent or more in the total equity or assets of an entity, whether direct or indirect, possession or operation of the premises and facilities. Both program and fiscal designee written approval are required.

2. Entity

Entity means the governmental unit or corporate organization operating a program(s), as defined in Section I. 5. Program.

3. Fiscal Viability

Fiscal viability as referenced in the Commissioner's Regulations 200.7(a) and 200.9(e) means:

A. Private schools seeking initial approval to be reimbursed with public funds shall have access to sufficient capital or lines of credit to cover all operating, property maintenance, leasing or purchase costs during the period of conditional approval. Schools must be able to demonstrate that sufficient internal controls exist for the protection of school assets. Furthermore, appropriate insurance policies covering assets and limiting school liability must be in place.

B. Entities operating approved programs must use the accrual basis of accounting and maintain accounting books of original entry including asset, liability and fund balance or equity accounts, as well as expenditure and revenue accounts. Subsidiary revenue and expenditure accounts must be maintained for each program requiring a tuition rate and for evaluation costs and government grants administered by the State Education Department.

C. The required financial statements for providers must include a balance sheet, a statement of activity and a statement of cash flow, if applicable. To be considered fiscally viable, the provider's balance sheet should show a positive fund balance or net assets, an acceptable current ratio (current assets divided by current liabilities) of 1:1 or greater and sufficient working capital (current assets minus current liabilities) to demonstrate solvency. Such current assets typically include cash, marketable securities and receivables, but do not include loans or lines of credit. Approved programs where fiscal viability is a concern, will be required to submit to the Department a plan to address fiscal viability. The plan must include a description of management's strategies, key assumptions and specific steps to improve fiscal viability. Also required is a five-year projection of revenue, expenditures and net assets or fund balance; a comparison of the projection for the last complete year to actual results; a current year projection for cash flow; and the projected date for net assets or fund balance to be positive. It must also show any negative impact on the educational program. The plans must be updated annually and submitted to the Department by the CFR due date. Where an adequate plan is not provided or fiscal viability remains a concern, the Office of Special Education will be notified and consulted for potential further action.

D. The entity will be required to retain all pertinent accounting, allocation and enrollment/attendance records, as well as, information relating to the acquisition of fixed assets, equipment and/or building improvements and any related financial arrangements for at least seven years unless otherwise specified in this Manual and provide access to such records during a Department audit or audit by any other funding or regulatory entity. See Section III. 1. Recordkeeping.

4. Less-Than-Arm's-Length (LTAL) Relationship and Conflicts of Interest

A. In general, a LTAL relationship exists when there are related parties and one party can exercise control or significant influence over the management or operating policies of another party, to the extent that one of the parties is or may be prevented from fully pursuing its own separate interests. These relationships must be disclosed in the notes to the audited financial statements.

B. In general, a conflict of interest exists when a person in a position of trust has a competing professional or personal interest. The existence of a conflict of interest does not mean that an unethical or improper act has occurred or will occur. However, care must be taken to ensure that such conflicts do not impair the employee's ability to perform his or her duties objectively and act in the best interest of the entity. Each provider must adopt a written conflict of interest policy that clearly sets forth the procedures to be followed in instance where a member of the governing entity of the provider (for example, the provider's board or person in a management position) have personal or business interests that may be advanced by an action of the board, including a provision that such member may not participate in any decision to approve any transaction where such conflicting interests may be advanced. The policy must also include a requirement and process for identifying and fully disclosing all LTAL relationships and transactions on an ongoing basis as well as on the CFR. The policy should be reviewed and discussed with the provider's attorneys and auditors prior to its adoption.

C. Nepotism is favoritism granted to relatives or friends regardless of merit. Cronyism is partiality to long-standing friends, especially by appointing them to positions of authority regardless of their qualifications. While nepotism and cronyism are detrimental, business relationships with relatives or friends do not necessarily result in cronyism or nepotism.

D. The best way to handle conflicts of interests is to avoid them entirely.

E. Related parties consist of all affiliates of an entity, including but not limited to:

(1) Its management and their immediate families;

(2) Its principal owners and their immediate families;

(3) Any party transacting or dealing with the agency/entity of which that party has ownership of, control over, or significant influence upon the management or operating policies of a program(s)/entity(ies) to the extent that an arm's-length transaction may not be achieved.

F. Common related party transactions include the following:

(1) Services received or furnished (e.g., accounting, management, engineering, legal services and therapy/medical).

(2) Services, purchases and transfers of realty and personal property.

(3) Purchase or subcontracting for the provision of health related services such as speech therapy, physical therapy, occupational therapy and psychological services as prescribed in a student's individualized education program (IEP). Refer to Section II. 39 B. (4) for the treatment of LTAL transactions and cost effectiveness.

(4) Lease of equipment.

(5) Lease of real property. Refer to Section II. 41 (4) for the treatment of LTAL transactions and cost effectiveness.

(6) Borrowings and lendings. Refer to Section II. 28 B. for the treatment of LTAL transactions and cost effectiveness.

(7) All LTAL transactions will be reimbursed using actual documented costs of the owner or vendor. Invoices presented to the approved special education provider by the LTAL party do not constitute "actual costs." Actual costs are those the LTAL party incurs and it is expected upon audit or review, that the LTAL party will produce evidence of its costs. Commissioner's designee's written approval is required to reimburse at a level other than actual costs of the owner or vendor.

G. Codes of Ethics & Conflict of Interest Policies

All entities receiving public funding must develop a written Code of Ethics (which must include a specific conflict of interest policy) and Code of Conduct policies that are enforced within their organizations. Generally, codes of ethics and conflict of interest policies discourage conflicts of interests but acknowledge that conflicts of interest do exist and require that polices be developed to establish the protocols that must be followed when conflicts of interest arise. Codes of ethics help to minimize problems with conflicts of interests because they can spell out the extent to which such conflicts should be avoided, and what the parties should do when such conflicts are permitted by a code of ethics (disclosure, recusal, etc As previously described, each provider must adopt a written conflict of interest policy that clearly sets forth the procedures to be followed in instance where a member of the governing entity of the provider (for example, the provider's board or person in a management position) have personal or business interests that may be advanced by an action of the board, including a provision that such member may not participate in any decision to approve any transaction where such conflicting interests may be advanced. The policy must also include a requirement and process for identifying and fully disclosing all LTAL relationships and transactions on an ongoing basis as well as on the CFR. The policy should be reviewed and discussed with the provider's attorneys and auditors prior to its adoption.

5. <u>Program</u>

Program means an approved program that provides special education to students with disabilities requiring the establishment of a tuition rate consistent with Part 200 of the Commissioner's Regulations.

<u>Full-time programs are defined as:</u>

A. For school age, those programs operating for either 5 hours or 5.5 hours per day or more;

B. For preschool, those programs operating for more than 2.5 hours per day.

6. <u>Staffing Ratios</u>

Staff-to-student ratios are defined in Part 200 of the Commissioner's Regulations. A specific approved program's student-to-staff ratio is also defined in that program's programmatic approval letter from

Office of Special Education-Special Education Quality Assurance (SEQA). Direct care personnel in excess of, or not prescribed by such ratios, are not reimbursable, unless supported by the student's 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.

7. Full-Time Equivalent (FTE) Enrollment

Section 175.6 of the Commissioner's Regulations provides the framework for calculating student enrollment for approved programs. The following specific standards apply to the calculation:

A. "Enrollment" means the student is physically present at or legally absent from the special education program.

B. Legal absences include personal illness, illness or death in the family, impassable roads, weather, religious observance, quarantine, required court appearances, attendance at health clinics, approved college visits, military obligations, disciplinary detention of an incarcerated youth, or for such other reasons as may be approved by the Commissioner.

C. A full-time student who is enrolled from September through June is deemed to be in attendance during that period and therefore a 1.000 FTE. If a student is enrolled for less than the full program duration, then full-time equivalent enrollment is calculated by dividing the total weeks of enrollment by the total number of weeks the program operated. The first and last weeks of the period of enrollment that contain three consecutive days of enrollment within the same week and month plus all weeks in between shall be counted in determining the total number of weeks of enrollment, provided that no more than four weeks of enrollment may be counted in any calendar month. For the summer programs, weeks should be counted as they actually occur; that is, more than 4 weeks in a single month may be counted. Full-time equivalent enrollment shall be calculated to three decimal places without rounding. A full-time student enrolled for the entire summer program regardless of the number of weeks the program operates is counted a 1.000 FTE for enrollment purposes.

D. Tuition rates are calculated on the basis of full-time equivalent student enrollment and therefore billing and reimbursement must be based upon full-time equivalent enrollment. Billing and payment procedures based on actual student attendance are not acceptable practices. Please be advised that BOCES and public school districts are also required to report student enrollment and bill for tuition-based programs they operate under Article 81 and/or Article 89 in accordance with Section 175.6 of the Commissioner’s Regulations.

E. For preschool special class and special class in an integrated setting programs that operated for more than five hours per day, full-time equivalent enrollment shall not be prorated for the hours over five hours per day.

   For preschool special class and special class in integrated setting programs that operate for less than five hours per day, full-time equivalent enrollment shall be prorated as follows. For the following examples, assume a total non-prorated FTE enrollment for the program of 50.000 as calculated consistent with the previous subsections 7 A.- D.

2.5 hr program: 50.000 x 2.5 hr / 5.0 hr = 25.000 prorated FTE

3.0 hr program: 50.000 x 3.0 hr / 5.0 hr = 30.000 prorated FTE

F. For preschool students in special class and special class in an integrated setting programs who are enrolled less than 5 days per week, in accordance with IEP requirements, the appropriate method of calculating FTE enrollment for students is as follows:

(1) The day of the week the student is enrolled or discharged determines whether the three days in a week requirement is met for counting the student enrolled for the week. The specific days of the week a student is scheduled to attend school is not a determining factor. If a student's enrollment period begins on Monday, Tuesday or Wednesday, and the student is present or legally absent for the dates that week specified in his/her IEP, the week is counted as a week enrolled.

(2) Similarly, if a student's enrollment period ends on Thursday or Friday and a student is present or legally absent for his/her scheduled days that week until the discharge date, the week is counted as a week enrolled. All weeks between the first and last weeks of enrollment are counted as weeks enrolled, in accordance with Part 175.6 of the Commissioner's Regulations.

(3) A proration of FTE enrollment of less than 25 hours per week is still required for students in such special class and special class in an integrated setting program.

G. For programs operating Special Education Itinerant Teacher (SEIT) programs, the following rules regarding billing apply:

(1) SEIT certified half hour rates shall be billed and paid on the basis of enrollment as defined in Section 175.6(a)(1) and (2) of the Commissioner’s Regulations.

a. Section 175.6 (a)(1) Legally absent means to be absent for: personal illness, illness or death in the family, impassable roads or weather, religious observance, quarantine, required court appearances, attendance at health clinics, approved college visits, military obligations, disciplinary detention of an incarcerated youth, or for such other reasons as may be approved by the commissioner.

b. Section 175.6 (a)(2) Period of enrollment means that period commencing on the first day a pupil is enrolled in and is physically present at, or legally absent from, a special education program or service offered by a public school or by an approved private school or facility, or an approved educational program or service for incarcerated youth offered by a public school district or board of cooperative educational services, or an educational program or service provided directly or by contact to a homeless child by a public school district, and terminating on the last day such pupil is enrolled in and is physically present at, or legally absent from, such program or service.

(2) Approved programs are authorized to bill for SEIT services if the child is absent. Make-up sessions are encouraged but are not billable.

(3) Approved programs are authorized to bill for scheduled SEIT services when the student is enrolled and present to receive the service and the SEIT teacher is absent. However, programs are encouraged to use substitute SEIT teachers in such instances. The cost of substitute SEIT teachers is reimbursable.

(4) A SEIT student's FTE enrollment is counted for reporting purposes only as a 1.0 FTE when the student is enrolled for the entire 10 month program or 1.0 when enrolled for the entire July –August program. The FTE is prorated for both the 10 month and 2 month programs if the student is enrolled for less than the full 10 month instructional school calendar or less than the full July-August instructional calendar.

8. Close Down

Close down, as defined in Section 200.7 (e) and 200.9 (g) of the Commissioner's Regulations, is the period during which an entity operating an approved program plans to cease operation, transfer ownership, voluntarily or non-voluntarily terminate its status as an approved private residential or non-residential program for students with disabilities that receives public funds pursuant to Article 81 and/or Article 89 of the Education Law. The close-down period means the period of time beginning with the date of the Commissioner's receipt of notice and ending on the date of the program's cessation of operations, transfer of ownership, voluntary or non-voluntary termination of its status as an approved program. Reimbursement shall be determined in accordance with the provisions set forth in Section 200.9 (g) of the Commissioner's Regulations and this Manual. Financial reports and financial statements as required pursuant to Section 200.9 (e) of the Commissioner's Regulations must be submitted to the Commissioner no later than 90 days following close down. The entity is required to transfer student records back to the public school district of origin's Committee on Special Education (CSE) or Committee on Preschool Special Education (CPSE). Financial and other records must be maintained by the entity for seven years. The entity must provide the Department with the name, address and phone number of the contact person for these records. See Section IV. 3. Close-Down Policy and Procedures.

9. Agency Administration

Agency administration is defined as those expenses which are not directly related to a specific program but are attributable to the overall operation of the agency. These costs include: costs for the overall direction of the organization; costs for general recordkeeping, budget and fiscal management; costs for public relations (non-fundraising); and costs for parent agency expenditures.

10. Reasonable Cost

A cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost. In determining reasonableness of a given cost, consideration shall be given to:

A. Whether the cost is of a type generally recognized as ordinary and necessary for the operation of the approved special education program. Public special education funding shall_be used in accordance with Article 89 of Education Law Section 4401 and Section 4410 10.(e.)

B. The restraints or requirements imposed by such factors as: sound business practices; arm's length bargaining; Federal, State or local laws and regulations.

C. Prices for comparable goods or services determined by reviewing similar entities.

D. Whether the individuals concerned acted with prudence given their responsibilities to the entity's Board of Directors, its employees, the public at large and the State government.

E. Significant deviations from the established practices of the entity or similar entities which may unjustifiably increase the cost of the approved program.

SECTION II
COST PRINCIPLES

Generally, costs will be considered for reimbursement provided such costs are reasonable, necessary, directly related to the special education program and are sufficiently documented. Such reimbursable costs will be included in the calculation of tuition rates up to any limits or cost parameters approved annually in the rate-setting methodology.

1. Accounting

Costs of establishing and maintaining accounting and other information systems required for management of Article 81 and/or Article 89 funded programs are reimbursable and subject to the non-direct care cost parameter. When consultants or the entity's independent Certified Public Accounting firm provide these non-audit services, refer to Section II. 14. Consultants for reimbursement standards. See Section III. 1. C. Consultants, for specific details on recordkeeping requirements.

2. Administration

A. Administrative costs include salary and fringe benefit costs of persons whose primary function is management and administration of the program and/or agency, in accordance with Federal and State laws, Regulations of the Commissioner of Education and/or the Board of Directors. All administrative costs are subject to the non-direct care cost parameter.

B. Administrative costs may include, but are not limited to:

> Other-than-personal-services costs of professional dues and conferences; travel; telephone; office equipment and supplies; bonding of employees handling program funds; fees for lawyers, accountants and consultants; charges from parent organizations; personnel advertising and other recruiting costs; minimum corporation franchise tax or similar business tax; postage; office equipment rental or depreciation; repairs and maintenance; depreciation on assets related to administration; administrative purchase of services; organization dues; licenses and permits; subscriptions and publications; interest on operating loans; administrative staff development; and membership in civic, business, professional or technical organizations.

C. Entities who contract for administrative services must review their own administrative costs to avoid duplicate services that can be disallowed during the rate-setting process or upon audit.

3. Advertising

Advertising means the costs associated with publications and other public relations endeavors using the mediums of newspapers, internet websites, magazines, radio and television programs, direct mail, trade papers, etc.

Outreach activities, such as publications and other public relations endeavors which describe the services offered by approved private schools enabling them to better contribute to community educational objectives, are reimbursable. The intended outcome of these publications and public relations endeavors should be that of providing information and not for the purpose of recruiting students into programs or soliciting fund raising monies or donations. New York State places students without regard to advertising or public relations activities. Refer to Section II. 40. Recruitment of Personnel.

Guidelines for Preschool Program Advertising:

A. Chapter 474 of the Laws of 1996 amended Section 4410 of the Education Law to require the Department to establish guidelines for advertising by preschool programs and evaluators. The following guidelines have been developed pursuant to the Statute and corresponding amendments to the Regulations of the Commissioner of Education.

   These amendments also require preschool programs and evaluators to submit upon request copies of advertising to the Department for review. However, neither the Statute nor the Regulations require approved programs to advertise. Advertising costs for the purpose of recruiting students into programs or soliciting fund raising monies or donations are not reimbursable and remain non-allowable in the calculation of tuition rates. Promotional items of any type are not reimbursable. Examples include pens/pencils, notepads, etc,

   If you have any questions, please call the Central Office Administrative Support Services Team (COASST) of the Office of Special Education at (518) 473-4823.

B. Advertisements should include:

   - Clear identification that the program is for preschool children who have or are suspected of having a disability pursuant to Section 4410 of Article 89 of the Education Law;
   - A statement that any services provided to the preschool child with a disability are based upon the individual needs, as determined by the CPSE of the local school district;
   - A statement that the local school district will determine the location where needed special education services will be provided, which may be the child's normal daytime setting;
   - A statement that parents are responsible for arranging for and paying the costs of any child care.

C. The following are appropriate contents of advertising:

   - A description of special services available: evaluation, special education, speech therapy, occupational therapy and physical therapy; and these must be labeled as special education services;
   - A description of the appropriate licensure and/or certification of staff employed;
   - A statement that indicates that the special education services are at no direct cost to the parent, but that funding is provided through county taxes and state funds earmarked for special education services provided;
   - A statement that transportation may be a service provided. However, parents are encouraged to transport their own children and may be reimbursed at a rate per mile or a public service fare established by the municipality and approved by the Commissioner.

D. Advertisements should not include:

- Information which would mislead a parent to believe their child can receive at no cost to them day care services or any and all services the agency has to offer;
- Information which would mislead a parent to believe that the decision regarding appropriate services and where services will be provided is based solely upon what the parent and/or the provider requests;
- Information which would indicate that services are "free" since services are paid through local and state funds;
- Information which would indicate that transportation is always provided;
- General statements that would lead the reader to believe that this is something other than a special education program (i.e., Are you concerned about your children? Come see us.);
- Any information which would be false, deceptive or fraudulent with respect to the services to be provided to preschool children and their families.

4. **Assistive Technology Devices and Services***

An assistive technology device is defined as "any item, piece of equipment, or product system, whether acquired commercially, off the shelf, modified, or customized, that is used to increase, maintain, or improve the functional capabilities of a child with a disability." (Code of Federal Regulations 34 CFR 300.5)

An assistive technology service is defined as "any service that directly assists a child with a disability in the selection, acquisition or use of an assistive technology device." (Code of Federal Regulations 34 CFR 300.6)

A. **Preschool Children**

Under the preschool system, an approved program would make available and be responsible for, in most situations, high and low assistive technology devices as part of its instructional program and be reimbursed, as part of the tuition rate, through the Department's current rate-setting methodology. When a child-specific assistive technology device is required, the county, in which the child resides, purchases or leases the device and submits costs to the Department on a System to Track and Account for Children STAC-1 form. The assistive technology device should be identified on the related service line of the form.

Counties must contract with assistive technology service providers and must submit the contracted rate for such services on the annual County List of Approved Rates for Related Services (SED-RS-3).

B. **School Age Children**

When the school district that is programmatically responsible for the student purchases or leases equipment specified on the IEP, the cost is not reimbursable in the tuition rate.

* The above information is referenced from Thomas Neveldine's memo of July 1996 regarding Assistive Technology Devices and Services and Guidelines to Allow for the Transfer of Assistive Technology When a Student Moves from School Jurisdiction to Higher Education, Other Human Services Agency or Employment.

5. **Auditing**

The cost of certified audits necessary for the administration and management of Article 81 and/or Article 89 funded programs is reimbursable subject to the limitations and requirements for consultant services Refer to Section II. 14. Consultants

6. **Bad Debts**

Bad debt expenses are not reimbursable. Actual or estimated losses resulting from uncollectible accounts or other claims, including related finance charges are not reimbursable operating expenses for Article 81 and/or Article 89 funded programs. Collection and legal expenses for collecting bad debts are reimbursable subject to the non-direct care cost parameter.

7. **Bedding/Linen**

Costs of bedding and linens are not reimbursable as an education expense. Such costs are considered to be parental responsibility or residential expenses. However, bedding, linen and towels for the nurse's office and for the classrooms will be considered reimbursable.

8. **Bonding**

Costs of insurance premiums on bonds covering employees who handle program funds are reimbursable and subject to the non-direct care cost parameter.

9. **Capital Expenditures**

A. SASDs, public school districts and BOCES are required to comply with Governmental Accounting Standards Board (GASB) 34 and depreciate the cost of buildings, equipment, furniture, fixtures or vehicles over the useful life of such assets. Public school districts and BOCES must adhere to the applicable sections of the General Municipal Law, which govern Capital Expenditures. SASDs may choose to renovate existing buildings or purchase equipment, furniture, fixtures or vehicles by transferring funds from the General Fund to a Capital Project or Capital Expenditure Fund as discussed in Section (B) below:

(1) Renovations of existing buildings: Costs of renovations, alterations or major repairs must be approved by the District Board in accordance with the District's annual approved budget policy. Proposals for renovations, alterations or major repairs must be submitted to the Department for review and comment. See Appendix D: Guidelines for Development, Review and Approval of Capital Projects for Students with Disabilities.

(2) Purchases of furniture, fixtures or equipment: For proposed purchases of equipment, furniture and fixtures, three (3) estimates must be provided for items which cost more than $5,000 and have a useful life of more than two years. (Effective with the 2009-10 school year, the $1,000 threshold has changed to $5,000.)

(3) SASDs have no voters or bonding authority and are not considered component school districts within the meaning of Section 1950(14) of Education Law for the purpose of participation in funding of BOCES capital projects without the prior written approval of the Department and the NYS DOB.

(4) Consistent with the provisions of Chapter 383 of the New York State Laws of 2001, SASDs and public school districts are authorized access to the Dormitory Authority of the State of New York (DASNY) for financing and refinancing of bonds for school construction projects. SASDs and public school districts are further authorized to structure financing of capital projects consistent with the payment of building aid based on assumed amortization of debt service payments in accordance with the useful life of the project.

(5) SASDs, public school districts and BOCES are required to fully access available Building Aid funding for all capital projects. Failure to apply for Building Aid funding will result in an adjustment to approved capital costs to reduce reimbursement through the tuition rate to the level of funding that would have resulted if the provider had applied for Building Aid.

(6) The New York State Uniform Fire Prevention and Building Code applies certain standards to new work involving conversions, alterations, additions or repairs to any building owned or operated by a special act school district or a public school district. For construction costing up to $5,000, the school district board must assure compliance with the code. Between $5,000 and $10,000, the school district board has the responsibility to assure compliance and to retain a licensed architect/engineer to prepare plans and specifications and provide supervision. For costs over $10,000, or affecting health and safety, the school district board is responsible for assuring compliance and retaining the architect/engineer to prepare plans and specifications to be submitted for approval and a building permit to the New York State Education Department, Office of Facilities Planning, Room 1060, Education Building Annex, Albany, New York 12234. For more information, please visit the website at http://www.p12.nysed.gov/facplan/ .

B. Interfund transfers will be recognized in the tuition rate calculation process under the following conditions:

(1) In cases where there may be several transfers between funds, costs will only be reimbursed once in the tuition rate-setting process.

(2) Proposed transfers from the General Fund to the Capital Fund or additions to the Capital Fund will be recognized in the tuition rate calculation if Rate Setting Unit (RSU) fiscal review determines prior to the transfer of funds, that transfers or additions result from the need to fund capital projects. Such projects must have been approved by resolution of the SASD Board and endorsed by the Department.

RSU staff will consult with the Department's Facilities Planning and/or State Aid Unit staff during the review process. Districts should submit copies of proposals to Facilities Planning staff and to the RSU. RSU staff review will confirm in writing that amounts to be transferred are reasonable and made at appropriate times during the completion of the project.

(3) When the Trust and Agency fund is used as a clearinghouse for expenses, transfers from the General Fund to the Trust and Agency Fund will be recognized in the rate calculation process, if consistent with regular District practice and in compliance with this Manual. However, transfers from the Trust and Agency Fund back to the General Fund will be offset in rate calculations, if the costs have already been included in a tuition rate.

(4) When a capital project(s) is completed and the Capital Projects Fund has a surplus, then a transfer(s) from the Capital Projects Fund to the General Fund is required. The transferred amount will be offset in rate calculations, if the previous transfers to the Capital Project Fund have already been included in a tuition rate.

(5) Capital Projects Fund investment instruments must be limited to the following reliable sources with minimal risk: U.S. Government securities, local government trusts or fully insured bank certificates of deposit (CDs). Interest income earned by Capital Projects Fund and retained in this fund will be offset in the tuition rate calculations to the extent it was not previously offset in tuition rate calculations.

(6) Transfers to Contingency funds are not reimbursable in the calculation of tuition rates. See Section II. 15. Contingency Provisions for additional information.

C. All other providers should also refer to Section II. 17. Depreciation/Amortization.

10. **Charges from Parent or Related Organizations**

Charges to programs receiving administrative services, insurance, supplies, technical consultants, etc. from a parent or related organization are reimbursable provided they are not duplicative in nature, provide a direct benefit to subsidiary charged and based on actual direct and indirect costs, allocated to all programs on a consistent basis and defined as reimbursable in the Regulations of the Commissioner of Education, the CFR Manual or this Manual. (Refer to Section I. 1. B. (5). Less-Than-Arm's-Length (LTAL) Relationships.)

11. **Clothing/Uniforms**

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. Such costs are considered to be personal expenses.

12. **Commencement and Convocation**

Costs of commencement and convocation activities are reimbursable when they are consistent with local public school districts.

13. **Compensation for Personal Services**

Compensation for personal services includes all salaries and wages, as well as fringe benefits and pension plan costs. Accrued vacation/sick leave is not reimbursable. Payments for vacation/sick leave, including lump sum payments made upon retirement that are required by law or by employer-employee agreement and meet the criteria listed in item (B) below, are reimbursable when paid and reported in the 2013-14 financial reports. Refer to Section III. 1. A. Recordkeeping - Payroll

A. Salaries

Salaries include all taxable and non-taxable salaries and wages paid or accrued to employees on the agency payroll, including severance pay to regular employees. Reimbursement of salary expense shall be subject to the following principles:

(1) Entities operating approved programs shall develop employer-employee agreements with written salary scales and issue them to employees.

(2) Base year salary expense will be inflated at an amount approved by the State Division of Budget for the purpose of establishing a level of reimbursable costs on which to base the per pupil tuition rate calculation.

(3) Payments for sick and vacation leave credits for a retiring employee transferred into a lump sum payment to the employee are reimbursable when reported and paid in the 2013-14 financial reports and when documented in employer-employee contract agreements.

(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. Compensation for an "Executive Director" providing services to an Article 81 and/or Article 89 funded program will be compared to the median "Superintendent-Independent" compensation for the region in which the entity is located and compensation for an Assistant Executive Director and Chief Financial Officer will be compared to the median compensation for "Assistant Superintendent."

b. For non-direct care staff, owners or related parties who are employed in any job title or combination of job titles by the entity operating the approved programs, compensation up to 1.0 FTE for that individual in total, will be considered in the calculation of the portion of 1.0 FTE reimbursable in the tuition rates, subject to the limitations defined in (4) a. above. Allocation of non-direct care compensation among various direct care job titles is not allowable. Staff should be reported in the job code title supported by salary agreements and job descriptions. For example, an individual who fills the position and holds the responsibility and authority of Executive Director should be reported 100% as Executive Director.

c. An entity that employs Co-Executive Directors shall have total reimbursement for all Co-Executive Directors combined limited to a level commensurate with a 1.0 FTE position. This level will be the maximum compensation level for the entire entity operating the approved programs.

d. For non-direct care staff under the 500 and 600 position title code series per Appendix R of the CFR Manual, owners or related parties who work in more than one entity (including organizations that have a less-than-arm's-length relationship with the approved program), the FTE in total across entities cannot exceed 1.0. The allocation of compensation must be supported by time and effort reports or equivalent documentation which meets the following standards:

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

Compensation beyond 1.0 FTE for non-direct care staff, owners or related parties will not be considered reimbursable in the calculation of tuition rates.

e. Direct care student to staff ratios shall not exceed the approved staffing levels supported by the Department's_program approval letter. Any net excess of staff will not be included as part of reimbursable costs in the program's reconciliation tuition rate. Such additional staff may be deemed reimbursable in the prospective rate upon amendment of the provider's program approval letter and demonstration to the satisfaction of the Commissioner that such costs were necessary.

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

a. The board member abstains from any discussion or vote on matters related to his/her compensation and the Board minutes reflect this.

b. The board member has not been employed by the State Education Department within two (2) years of his/her appointment to the Board.

(6) Expenses of a personal nature, such as a residence or personal use of a car, known as perquisites (or perks), are not reimbursable. When costs are disallowed because they are of a

personal nature, providers should inform the employee(s) in writing, that the employee(s) must refund the disallowed costs to the provider within a date certain. If the employee(s) fails to do so, the amount should be recovered through a reduction in compensation.

(7) Compensation paid to an employee(s) which serves to duplicate worker's compensation awards, jury fees or disability claims are not reimbursable.

(8) The estimated value of donated services is not reimbursable. Refer to Section II. 23. Fund-raising.

(9) Expenses for compensation of overtime work for direct care and non-direct care staff that are compensated on an hourly basis are reimbursable subject to all applicable statutes, rules and regulations of the NYS Department of Labor. Overtime compensation for salaried direct care staff for extracurricular activities such as coaching stipends, extra period coverage, plays, etc. are reimbursable when documented in the employee's contract and if they do not exceed local school district compensation for such activities. Overtime for all others, including but not limited to subcontractors and independent consultants, is not reimbursable.

(10) 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 order to demonstrate that a merit award is based on merit and measured and supported by employee performance evaluations, the provider's governing entity must adopt a written employee performance evaluation policy and form that contains sufficient detail as to the criteria and methods used to determine each employee's final evaluation rating. The written employee performance evaluation policy must also describe how the final evaluation rating will directly correlate to any amount of a merit award should funds be available for such an award.

In addition, merit awards:
a. Are restricted to direct care titles/employees as defined by the Reimbursable Cost Manual's Appendix A-1 and those in the 100 position title code series and position title code 505 and 605 as defined by the Consolidated Fiscal Report's Appendix R,
b. Will not be reimbursed if paid to subcontractors and/or independent consultants,
c. Shall be subject to all aspects, constraints and cost parameters contained in the methodology.
d. Must be paid within the year awarded or no later than 2 ½ months after the entity's year end.

(11) Private schools shall submit to the Department upon request, proposed compensation packages of the owners/officers/partners whose annualized compensation exceed $75,000 or whose owners/officers/partners are employed in other businesses or are the owners/officers/partners of other businesses. Such arrangements shall include the proposed salary based on qualifications and actual documented hours worked (time sheets) and fringe benefits, as well as a list of the other jobs and/or businesses and the time devoted to each. The package will be approved or disapproved in writing by the Department within 30 days of

receipt by_the Department. Compensation will be subject to median analysis in the calculation of tuition rates as described in this Manual and the Commissioner's Regulations.

(12) Compensation paid to an employee(s) for their lunch period, is not reimbursable. [**It is acknowledged that for CFR reporting purposes, a full-time position's standard work week hours cannot be less than 35 hours/week. Staff paid for less than 35 hours/week when lunch is omitted from hours paid will have a FTE below 1.0. or .885]**

B. Fringe Benefits

(1) Fringe benefits may include paid time off, such as vacation leave, sick leave, military leave, holidays, training and educational costs, provided the benefit is established by written school policy. Payments into specific employee benefit packages, such as teachers' retirement, employees' retirement and pension plans, Social Security, health insurance, life insurance (to the extent the Internal Revenue Service does not require payment of such premiums to be included in the employee's income), unemployment insurance, disability insurance, union welfare funds or pension plan termination insurance premiums paid pursuant to the Employee Retirement Income Security Act of 1974, may also be included.

(2) Reimbursement of fringe benefit expenses shall be subject to the following principles:

a. Vacation and sick leave are reimbursable in the year actually paid and reported as a salary expense. Accrued vacation and sick leave expenses are not reimbursable until actually paid.

b. Costs of benefits for employees who provide services to more than one program and/or entity must be allocated to separate programs and/or entities in proportion to the salary expense allocated to each program.

c. Benefits including pensions, life insurance and Tax Sheltered Annuities (TSAs) for individual employees or officers/directors are proportionately similar to those received by other classes or groups of employees.

d. Sabbatical leave is not reimbursable.

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. Such costs are limited to tuition charged by the educational institution, textbooks, fees and training materials. Reasonable costs of specialized programs specifically designed to enhance the effectiveness of executives or managers are reimbursable. Employer-provided educational assistance costs will be considered compensation to the individual. Costs of education or training necessary for an employee to meet minimum qualifications for the position for which he/she was hired are not reimbursable.

C. Pensions

(1) Costs of employer funded pension plans which are approved by the Internal Revenue Service and accounted for under generally accepted accounting principles (GAAP) are reimbursable subject to the following exceptions and limitations:

a. Payments in lieu of pensions made to or for the benefit of school officers, directors, presidents, etc. are not reimbursable as a fringe benefit but will be considered as salary expense.

b. Individual Retirement Account (IRA) or Keogh plan payments made by an entity for employees or officers are not reimbursable as a fringe benefit as they are individual in nature, however, they will be considered as salary expense.

c. Employer funded plans such as 403(b) plans are reimbursable if they qualify under Internal Revenue Service (IRS) Guidelines. Employees' contributions to such pension plans may be reimbursable expenses as part of reported gross salaries.

d. Self-Employed Retirement Plans (Partnerships and Sole Proprietorships) that are qualified and non-discriminatory, and which include 70% or more of the employees, are reimbursable. Costs of plans that do not include anyone other than the owner or owner's relatives will not be reimbursed. In instances where sole proprietors or partners are not offered plans, the Department will allow the Self Employment Tax deduction allowed as an adjustment to income on IRS Form 1040 Income Tax Return. In no case will the Department allow a charge for pensions that are accounted for as a salary deduction through compensation paid to the employee.

e. Where funding requirements of the Employee's Retirement Income Security Act (ERISA) differ from GAAP, an explanatory note should be included in the Certified Public Accountant (CPA) financial statements. Reimbursement will be based upon GAAP requirements. In addition, the costs of any excise tax imposed on accumulated funding deficiencies are not reimbursable.

f. Any program decision to terminate participation in a pension plan must be communicated in writing to the RSU not less than 90 days in advance of the proposed termination date and should indicate the reasons for termination and plans for disposition of funds in the pension plan.

g. Supplemental Executive Retirement Plans (SERP) are discriminatory and nonqualified by the IRS; therefore, they are not reimbursable.

h. Refer to FASB 158 for guidance related to projected benefit obligations in the initial and subsequent years of implementation. Tuition rate-setting methodology will be applied in relation to FASB158.

(2) The following principles shall apply concerning pension plan asset reversion transactions in which employers received plan assets in excess of plan obligations:

a. Net reversion assets will be classified as offsetting revenues.

b. Net reversion assets are the reversion dollar amount before any excise tax or tax penalties are deducted.

c. Net reversion assets will include funds received from pension plan termination insurance proceeds.

d. The net reversion assets must be allocated to all programs based on the employees who participated in the pension plan.

e. Enhancing employee benefit plans in such situations is reimbursable.

14. **Consultants**

Consultants include independent accountants, as defined in Section 200.9 (e)(1)(ii)(a) of the Commissioner's Regulations, lawyers and other independent contractors. Refer to Section II. 39 (A) Purchase of Services and Section III. 1.C. Consultants. Non-direct care consultant service costs are subject to the non-direct care cost parameter.

A. Costs of consultants' services are reimbursable provided that:

(1) Fees do not exceed the prevailing rate for such services. The school will maintain documentation to support the regional prevailing rate at the time such costs are incurred. Bonuses paid to consultants are not reimbursable. Selection of professional services must be done at a minimum of every five years through solicitation of competitive bids . Refer to Section III. 1. C.

(2) The services could not have been performed by an appropriately certified school officer or employee who possesses the necessary technical skills or by the Department's staff. Refer to Section III. 1. C.

(3) Paid consultants providing services to approved programs for students with disabilities are not officers or employees of the entity, employees of the State Education Department, employees of municipalities or employees of other private schools whose positions are funded wholly or in part by State or local taxpayer funds.

(4) Persons who have been employed by the State Education Department to monitor or audit approved programs for students with disabilities are not employed as consultants for a period of two years following State employment.

(5) Fees and transactions meet criteria for less-than-arm's length transactions when applicable Refer to Section I. 1. B. (5). LTAL.

(6) An employer-employee relationship is not required for programmatic compliance.

B. Costs of legal, accounting or consulting services and related costs incurred in connection with reorganization of the agency, including mergers and acquisitions, unless mandated by the State Education Department, are not reimbursable. 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.

Lobbying activities include, but are not limited to, advocating for legislation and activities associated with obtaining grants, contracts, cooperative agreements or loans.

C. Legal, accounting or consultant costs that result from claims or lawsuits against an Article 81 and/or Article 89 funded program are reimbursable to the extent not recoverable from other parties. Claims against non-Article 81 and/or non-Article 89 programs are not reimbursable through the tuition rate.

D. When an audit/financial review is conducted by a local school district, a municipality or the State in accordance with State law, Regulations of the Commissioner of Education, Municipal Law and this Manual, any legal/accounting/consultant costs incurred as a result of proceedings brought pursuant to Article 78 of Civil Practice Law & Rules to challenge the established tuition rates are not reimbursable.

E. Fringe benefit costs for independent contractors or consultants are not reimbursable.

F. Costs associated with non-audit services provided by a registered public accounting firm or any person associated with that firm, during or within 365 days of required audit work (prior to the beginning of the fiscal period being audited or after the date of the audit report issued for the audit period), are not reimbursable. Such non-audit services include:

- Bookkeeping or other services related to the accounting records or financial statements of the audit client;
- Financial information systems design and implementation;
- Appraisal or valuation services, fairness opinions or contribution-in-kinds reports;
- Actuarial services;
- Internal audit outsourcing services;
- Management functions or human resources;
- Broker or dealer, investment advisor or investment banking services;
- Legal services and expert services unrelated to the audit; and
- Any other service that the Board of the provider does not approve, or that the Department or other governing State agency does not approve as reasonable and necessary, consistent with applicable requirements and this Manual.

15. **Contingency Provisions**

Contributions to a contingency reserve or any similar provision made for events whose occurrence cannot be forecast are not reimbursable.

16. **Contributions and Donations**

Political and charitable contributions and donations made by the program are not reimbursable.

17. **Depreciation/Amortization**

Public school districts and BOCES must comply with applicable sections of the General Municipal Law and GASB 34. Refer to Section II. 9. Capital Expenditures and Section II. 28. Interest Costs.

A. Depreciation - Buildings, Furniture, Equipment and Vehicles:

(1) Items having a unit cost of $5,000 or more and an estimated useful life of two years or more must be capitalized. Group purchases of similar items (i.e., furniture, small tools, etc.) or separate purchases of similar items in the same fiscal year totaling $5,000 or more should be treated as a single unit purchase. Effective with the 2009-10 school year the $1,000 threshold has changed to $5,000.

(2) Costs of facility acquisition or construction shall be depreciated over the expected useful life of the facility as indicated in Appendix O - "Guidelines for Depreciation and Amortization" of the CFR Manual. Cost of facility acquisition or construction includes architect and inspection fees and should be included in the cost of the building for depreciation purposes. Renovations or alterations that are considered to be directly related to the education program and therefore reimbursable through depreciation charges over the estimated useful life of the renovation or alteration as indicated in Appendix O of the CFR Manual may include: replacement of roofs, boilers, plumbing systems or similar repairs needed to protect the agency's physical plant; installation of safety devices, such as fire exits, alarms or smoke detectors in existing buildings; renovations necessary to comply with New York State standards of instruction; renovations to protect the health or safety of New York State students; and other capital expenditures for minor renovation work. Proposals for acquisition, new construction, renovations, alterations or major repairs in excess of $100,000 of the total cost must be submitted to the Commissioner's designated program and fiscal representatives for their review and written approval. . Refer to Appendix D, in this Manual, for guidelines on the development of capital projects.

(3) A move to a new location must be approved by the Department's program staff prior to the move. Moving costs are discussed in Section II. 41. B. (1) Rent.

(4) The straight-line method of computing depreciation is required by the Department for all classes of assets. Provision for estimated salvage value must be made in accordance with Generally Accepted Accounting Principles when computing depreciation for vehicles, furniture and equipment.

(5) Refer to Appendix O in the CFR Manual for the required minimum useful lives of assets acquired on or after July 1, 1992 to be used in the computation of reimbursable depreciation. Deviation from this Appendix for furniture, equipment and vehicles may be granted by the Department if the assets in question were previously owned. Modifications to reduce useful lives from those indicated in this Appendix must be requested in writing to the Department for their advance approval.

(6) Depreciation based on reappraisals designed to increase the cost basis for depreciation is not reimbursable. Accumulated depreciation on assets transferred due to a change in legal status of the owner, such as incorporation, is not reimbursable. Accumulated depreciation on property owned by a division, subsidiary or affiliate of an entity prior to acquisition by the entity will not be reimbursed to the program after acquisition; the remaining undepreciated cost of the prior entity will be reimbursed over the remaining useful life of the asset as if no ownership change occurred.

(7) The portion of the cost of building construction, acquisition, renovation or equipment cost funded by a government grant or other public funding cannot be reimbursed again through

depreciation of these costs. The asset cost must be reduced by the amount of the grant(s) and the balance depreciated in accordance with this Manual.

(8) Depreciation charges for donated assets are reimbursable in accordance with (1) through (7) above.

(9) If assets are shared by more than one program and/or entity, the share of depreciation expense allocated to programs funded pursuant to Article 81 and/or Article 89 shall be based on documented and reasonable criteria.

(10) Depreciation charged for assets acquired through approved Dormitory Authority construction/renovation projects is not reimbursable in a tuition rate.

B. Amortization: Except for Goodwill (Refer to Section II. 25), intangible and tangible assets such as leaseholds, leasehold improvements, organization expenses and mortgage expenses must be amortized in accordance with the following amortization periods:

(1) Leasehold/Leasehold Improvements - Amortized over the useful life of the improvements or the remaining term of the lease, whichever is shorter. Amortization expense for leaseholds and leasehold improvements will be reimbursable only with the existence of a formal written lease agreement. The term of the lease includes any period for which the lease may be renewed or extended. In the absence of an expressed option, past actions on the part of the lessor and lessee pertaining to renewal will be considered in determining the term of the lease for amortization purposes.

(2) Mortgage Related Expense - Expenses related to purchasing or constructing a facility such as attorney's fees; recording costs; transfer taxes; and service charges such as finder's fees and placement fees; etc. should be amortized over the term of the mortgage.

(3) Organization Expense - Amortized over a 60-month period starting with the month the program becomes operational to provide educational services and receives student referrals.

C. Start-Up Costs (previously amortized). Refer to Section II. 50. Start-Up Costs.

18. **<u>Due Process Costs for Preschool Students Served under Section 4410 of the Education Law</u>**

Due process costs incurred by public school districts associated with educational programs or educational services approved pursuant to Section 4410 of the Education Law and Section 200.17 of the Regulations of the Commissioner.

A. General Public School District Due Process Costs:

The following general due process costs incurred by a public school district are reimbursable, to the extent reasonable and necessary:

(1) Impartial Hearing Officer (IHO) Costs including the hourly fee up to the maximum rate developed by the Department and approved by the Director of the State Division of the Budget. The number of hours of service must also be submitted and reviewed for

reasonableness. Reasonable and necessary travel costs incurred by the IHO may also be reimbursable. The Impartial Hearing Officer must be on the Department's list of certified IHOs.

(2) Court Stenographer Costs at the impartial hearing are reimbursable.

(3) School District Attorney Fees are reimbursable, to the extent they are reasonable, when incurred at the impartial hearing, during review by the State Review Officer or in a judicial action or proceeding brought by another party to review the State Review Officer's determination. Under the conditions described below, school district attorneys' fees are reimbursable in an action or proceeding brought by the board of education. The district must provide a contract or retainer agreement that establishes the hourly rate for the school district attorney. Such hourly fees and number of hours of service shall be reviewed for reasonableness. Reasonable and necessary travel and other incidental costs, such as photocopying, may be reimbursable if documentation is presented. To be eligible to receive reimbursement for reasonable attorneys' fees in an action or proceeding brought by the board of education, the board of education must demonstrate that:

(i) a. The board of education has not named or joined the State nor any State officer, department, board or agency of the State (State defendant) as a party to the action or proceeding; or

b. There has been a judicial determination joining one or more State defendants as a necessary party; and

(ii) The board of education, upon final disposition of such action or proceeding, has received a judgment in its favor annulling the determination of the State Review Officer.

B. Interim Special Education Program or Service Costs paid for by the parents between the time of the Committee on Preschool Special Education meeting, which precipitated the impartial hearing and final resolution (whether a decision from an Impartial Hearing Officer, State Review Officer or a Court) are not reimbursable unless the Impartial Hearing Officer, the State Review Officer or the Court requires the school district to reimburse the parents for such costs in their decisions.

C. Parent Attorney Fees are not reimbursable unless the parents prevail in the final resolution (whether a decision from an Impartial Hearing Officer, State Review Officer or a Court) and the final decision requires the public school district to reimburse the parents for their attorney fees.

D. Evaluation of the child paid for by the parents as part of due process activities is not reimbursable unless the Impartial Hearing Officer, State Review Officer or Court requires the public school district to reimburse the parents for such evaluation costs.

E. Application for the reimbursable costs described in (A) through (D) above shall be submitted upon final resolution (whether a determination from an Impartial Hearing Officer, State Review Officer or a Court).

F. Documentation: The public school district must provide complete and detailed documentation of costs requested for reimbursement. For each item, the nature of the cost must be detailed and the per hour cost and the number of hours must be clear, as well as who performed the service. Costs requested, but not sufficiently documented will not be reimbursed.

G. Sample Due Process Complaint Notice Form To Request An Impartial Hearing: Sample Due Process Complaint Notice Form To Request An Impartial Hearing

H. For additional information on Due Process, visit OSE's webpage and select topics within the Due Process section. http://www.p12.nysed.gov/specialed/publications/topiclist.htm

19. **Dues/Licenses/Permits**

The costs of professional dues, licenses and permits are reimbursable and are subject to the non-direct care cost parameter.

20. **Entertainment Costs and Personal Expenditures**

A. Costs incurred for entertainment of officers or employees, or for activities not related to the program, or any related items such as meals, lodging rentals, transportation and gratuities, are not reimbursable. Refer to Section II. 30. Meetings and Conferences and Section II. 59.

B. All personal expenses, such as personal travel expenses, laundry charges, beverage charges, gift certificates to staff and vendors, flowers or parties for staff, holiday parties, repairs on a personal vehicle, rental expenses for personal apartments, etc., are not reimbursable unless specified otherwise in this Manual.

21. **Fines and Penalties**

Costs resulting from violations of or failure by, the entity to comply with Federal, State and/or local laws and regulations, are not reimbursable.

22. **Food**

A. The cost of food and food related salary and fringe benefit costs are reimbursable. Programs are expected to take full advantage of the funding available through the following sources:

(1) National School Lunch Program, the School Breakfast Program and the Special Milk Program. These national programs are administered at the State level by the Department. Applications and further information regarding child nutrition or school food management may be obtained by writing to the New York State Education Department, Child Nutrition Program Administration, 99 Washington Avenue, Room 1623-OCP, Albany, NY 12234 or viewing the New York State Child Nutrition Knowledge Center website or by calling (518) 473-8781.

(2) The New York State Department of Health, Child and Adult Care Food Program - CACFP For more information about the program, call CACFP at (800) 942-3858.

B. For all approved programs providing required meals to students with disabilities, the following principles shall also apply:

(1) When the program subcontracts for food services, the program shall employ competitive bidding practices.

(2) When the program directly supplies meals, the direct costs of food and food preparation must be reasonable in comparison to the prevailing market for such services.

C. Costs of food provided to any staff including lunchroom monitors are not reimbursable.

D. Food costs will not be reimbursed for special education itinerant programs unless required by the student's IEP as an instructional supply.

23. **Fund Raising Costs**

Costs of organized fund raising (i.e., financial campaigns, endowment drives or solicitation of gifts and bequests) to raise capital, or to obtain contributions are not reimbursable. However, reasonable and necessary costs associated with the procurement and retention of donated services used for IEP mandated services either directly or indirectly, may be reimbursable as long as the program can demonstrate that cost savings exist and that there is a direct benefit to the students in the program through the use of such donated services. These costs are subject to the non-direct care cost parameter.

24. **Gifts**

Gifts of any kind are non-reimbursable.

25. **Goodwill**

Goodwill, defined as the stated value of a business in excess of its book value, is not a reimbursable cost.

26. **Grants**

A. Costs of staff or consultants to prepare a proposal to obtain a government grant or to administer the activities or projects funded by such grants may be reimbursable within the tuition rate as a non-direct care expense to the extent that such costs remain net of all administrative expenses allowed by the grantor.

B. Any claimed excess of actual government (Federal, State or local) grant expenses over approved budgeted grant expenses is not reimbursable through the tuition rate for either current or prior years, except for costs defined in A. above.

C. Effective July 1, 2005, Chapter 437 of the Laws of 2005 requires that the revenues and expenditures awarded by local education agencies' (LEAs) pursuant to Section 611 (g)(1) and Section 619 (g)(1) of the Individuals with Disabilities Education Act (IDEA) be reported in separate and discrete cost columns. Previously, these funds and related expenditures were reported within the program that benefited from LEA's suballocation. Program codes 9805 and 9806 are to be used to report the revenues and expenses of §611 and §619 suballocations, respectively. The full accrual basis of accounting is required.

D. Revenues and expenditures related to the Excess Teacher Turnover Prevention Program (Teacher Retention Grant) must be reported in the cost columns of the eligible programs that the funds were applied to. Position codes and titles that these funds may be spent on are as follows:

218 - Teacher - Special Education
220 - Teacher - Physical Education
222 - Teacher - Other
263 - Teacher - Deaf/Blind
269 - Teacher - Art
270 - Teacher - Music
271 - Teacher - Technology
272 - Teacher - Foreign Language
273 - Teacher - Resource Room
274 - Teacher - Reading

E. For information regarding the 2013-14 Teacher Certification Grant please visit the following website: http://www.oms.nysed.gov/rsu/Grants/

27. **Insurance**

A. Reimbursable insurance premium costs include those for liability, fire/disaster or casualty loss insurance obtained to guard against loss to the program. NOTE: Self-insurance plans for liability, health care, fire/disaster or casualty loss, whereby a program establishes a reserve or contingency account/fund for future liabilities are not reimbursable. Self-insurance plans for unemployment and workers compensation are allowable but not recommended as there is no mechanism within the tuition rate-setting methodology to cover substantial increases associated with these plans. Entities need to ensure self-insurance plans are the most economical in comparison to other coverage types and documentation of bids solicited in this effort is required. For school districts it may be practical if consistent with regular district practice and in compliance with this manual. Refer to Section II. 9. B. Interfund Transfers.

B. Entities have an obligation to adopt insurance practices that will obtain the best coverage for the lowest cost (i.e. solicit competitive bids on insurance).

C. Costs of insurance on the lives of owners/officers or employees when the entity is identified as the beneficiary are not reimbursable. Costs to insure against the loss of key personnel are not reimbursable. Refer to Section II. 13. Compensation for Personal Services.

D. Costs resulting from losses not covered because of deductible insurance policy provisions, and in keeping with sound business practice, are reimbursable. Costs are not reimbursable if the school chooses not to file a claim with the insurance company for losses that are covered under the policy in force at the time.

E. Costs for Business Income Insurance to safeguard against the loss of revenues due to business interruption and consistent with industry standards are reimbursable and subject to the non-direct care costs parameter.

28. **Interest Costs**

Debt for capital expenditures including capital projects, operations, equipment purchases, etc. shall be used only when financing from current revenue sources is not available unless otherwise approved by the Commissioner's designated representative for fiscal issues. Borrowing transactions shall be evaluated on an overall level of reasonableness as **[**it**]** they relate**[**s**]** to interest costs and fees paid for professional services.

A. Arm's-Length - Interest expense on capital indebtedness and working capital is reimbursable provided the interest rate is not in excess of the prime rate plus one percent of the lending institution at the time the loan was made. Interest expense will be reimbursed on loans in excess of the prime rate plus one percent in cases where the entity can establish that it was unable to secure a rate of prime plus one percent or lower despite its good faith efforts to do so. An entity shall demonstrate good faith efforts through documentation supporting annual attempts to obtain the most competitive rate available by requesting quotes from at least three lending institutions. Loan procurement fees are not reimbursable.

B. Less-Than-Arm's-Length - Interest expense on capital indebtedness or on working capital loans incurred in a LTAL transaction between the lender and the borrower will be reimbursed only with the prior written approval of the Commissioner upon establishment of the necessity and cost effectiveness of the transaction. A cost effective transaction relating to interest expense on capital indebtedness or on working capital loans is one in which the interest rate charged by the LTAL lender is less than or equal to the prime rate available from lending institutions and is greater than the actual cost of the capital rate to the lender. The borrowing LTAL entity must demonstrate that through a competitive bidding process from at least three arms-length lending institutions this LTAL transaction was necessary as a last resort to acquiring monies and that the interest rate charged by the lending LTAL entity was more favorable than could be obtained in the market place and that rate of interest must be demonstrated to be at prime or less from available lending institutions at the time the loan was incurred. Loan procurement fees are not reimbursable. Refer to Section I. 1. B. (5). LTAL.

C. Reimbursement of interest expense on capital indebtedness shall be subject to the following conditions:

(1) Interest expense shall be included in the non-direct care cost parameter of the rate-setting methodology.

(2) Interest expense on bank loans, bonds, mortgages or similar instruments is reimbursable if such expense was incurred to finance the acquisition of fixed assets or vehicles, or implement major renovations necessary to provide special education services that conform to standards in Federal and State law and regulation. Interest costs on construction loans must be capitalized as required by GAAP.

(3) Interest expense shall only be capitalized during the time a project is under construction and end when the asset is substantially complete and ready for its intended use.

(4) Mortgage interest expense will be reimbursed, as part of occupancy costs effective with the actual date of occupancy in the new location. Occupancy refers to the site where the students are physically located and receiving services as prescribed on their IEPs. Occupancy costs of the prior location are reimbursable up to the actual date of occupancy in the new location.

(5) Generally, interest expense on the above is reimbursable only when there is a corresponding amortization of principal on the capital indebtedness and there are no loans/notes receivable from related parties at any time during the entity's loan repayment period. Payments, which represent "interest only", are not reimbursable unless otherwise approved by Commissioner's designated representative.

(6) Unless otherwise approved by the Commissioner's designated representative for fiscal issues, debt can only be refinanced for the purpose of interest rate savings, which must be demonstrated by net present value savings from the refinancing, after factoring in all transaction costs.

D. Working capital interest is defined as interest paid on loans that are secured for operational expenses. Entities are encouraged to explore the most cost efficient means of working capital borrowing. For example, a revolving line of credit may result in a lower average monthly principal and lower annual interest charges. Reimbursement for interest expense on working capital financing shall be subject to the following conditions:

(1) Interest expense shall be included in the non-direct care cost parameter of the rate-setting methodology.

(2) Interest expense will be reimbursed only if conditions exist that warrant the principal amount of the loan. Documentation that the loan is warranted includes but is not limited to:

- Evidence that the required financial statements and financial reports were submitted by the deadline including any extension approved by the Commissioner and in the format required by the Commissioner.
- For a new program whose prospective rate was to be based on a budget, evidence that the complete budget with any applicable supporting data was received by the Department's fiscal staff within 30 days after a written request.
- Documentation of cash flow needs including receipts and disbursements.
- Documentation indicating that tuition billings or their equivalent were submitted to the appropriate funding sources in a timely manner in accordance with a written contract or schedule of payments and at least one follow-up notice was sent to delinquent sources.

- Documentation indicating that the required preschool program's contract with the county was submitted to the county on a timely basis and in the format required by the county.

(3) Interest expense on working capital loans for late filers of required financial information will be reimbursed on a prorated basis if submitted within 90 days of the respective due date. No interest expense will be reimbursed for entities that file cost reports more than 90 days after the respective due dates. Non-reimbursable interest expense will affect the tuition rates for the tuition rate year, in accordance with the rate-setting methodology, and will apply to all

tuition rates for that year (prospective, appeal, reconciliation adjustments/rates and final audit).

(4) Interest expense on working capital loans used for the purpose of repayment of tuition to school districts and/or municipalities as a result of an audit or reconciliation rate is not reimbursable.

(5) Interest expense is reimbursable only when there are corresponding payments of principal on the working capital loans *and* only if there are no loans/notes receivable from related parties at any time during the entity's loan repayment period. Payments, which represent "interest only", are not reimbursable.

(6) Interest expenses paid on loans to the entity are not reimbursable unless the criteria in Item #28 have been met. In addition, these interest payments will be considered compensation when paid to a shareholder who is also a paid employee or a consultant of an entity or program.

29. **Investment Management**

Costs of investment counsel and staff and similar expenses incurred solely to enhance income from investments are not reimbursable.

30. **Meetings and Conferences**

For reimbursement purposes, conferences are generally defined to include meetings, conventions, symposiums, seminars, Department sponsored sessions or other such assemblies whose primary purpose is the dissemination of technical information. Conferences must be directly related to the education program or to the administration of the program. Programs shall be required upon audit to provide brochures, agenda or other literature that verify attendance and document the purpose of the conference or meeting. The following reimbursement principles shall be applied to conference costs:

A. Reimbursement for off-site conference costs are limited to no more than three conferences within a 12 month period for any single individual and will be reimbursed consistent with New York State guidelines for costs of meals, transportation, rental of facilities and other items incidental to such conferences. Reimbursement for transportation costs will be limited to the most cost effective means of travel. Refer to Section II. 59. Travel.

B. Costs of conferences held outside of New York State are limited to the guidelines detailed in Appendix C. Reimbursement is allowed up to three days per conference for each person but only when each person requesting reimbursement attends six or more hours per day of conference sessions.

C. Costs for food, beverages, entertainment and other related costs for meetings, including Board meetings, are not reimbursable.

D. Costs of conferences attended by teachers and other direct care staff whose purpose is to improve desired student learning outcomes by more effective means are reimbursable.

E. Costs of conferences attended by administration staff are limited to two people per conference and are reimbursable provided that the purpose of the conference is to improve or demonstrate new administrative techniques or concepts and the criteria above are met. Such costs will be subject to the non-direct care cost parameter.

F. Documentation to support the cost of meetings and conferences must include the names and job titles of staff that attended and the program(s) served by each staff person.

31. **Miscellaneous Expenses**

Expenses that do not fit into any other category for the operation of Article 81 and/or Article 89 education programs are reimbursable provided these expenses meet the cost principle criteria as discussed in this Manual. Miscellaneous expenses are subject to the non-direct care cost parameter.

32. **Office Supplies**

See Section II. 54. Supplies and Materials (Household).

33. **Payroll Preparation**

The cost of preparing payrolls and maintaining necessary related wage records is reimbursable subject to the non-direct care cost parameter.

34. **Plant Security**

Necessary expenses incurred to comply with security requirements, including wages and equipment of personnel engaged in plant protection, are reimbursable subject to the non-direct care cost parameter.

35. **Postage**

Postage costs such as stamps, postage meter rentals and mailing permits for Article 81 and/or Article 89 programs and activities are reimbursable subject to the non-direct care cost parameter.

36. **Printing and Reproduction**

A. Cost for printing and reproduction of forms or reports, etc., which are necessary for Article 81 and/or Article 89 programs, are reimbursable.

B. Costs of providing information regarding program services, placement procedures, admission policies and related matters to be used by placing agencies are reimbursable subject to the non-direct care cost parameter.

C. Costs of publications about research or fund raising are not reimbursable.

37. **Professional Dues**

Costs of the school's membership in civic, business, technical and professional organizations are reimbursable subject to the following restrictions:

A. The benefit from the membership is related to Article 81 and/or Article 89 programs.

B. The cost of membership is reasonably commensurate to the value of the services or benefits received.

C. The expenditure is not for membership in an organization whose primary purpose is to influence legislation.

38. **Profits and Losses on Investments**

Profits and/or losses on the sale or exchange of either short or long term investments are not considered in the computation of tuition rates. Refer to Section II. 44. Revenues.

39. **Purchase of Services**

A. Fees paid to independent contractors, such as payments for garbage pickup, upkeep of grounds, data processing, payroll processing, temporary office workers, security guards or pest exterminators are reimbursable. See Section II. 14. Consultants.

Tuition costs paid by the special act school district (SASD) for non-disabled children of SASD staff or the related residential agency staff that are required to reside on the grounds of the special act school district and attend local public school districts are reimbursable.

B. Health related costs such as speech therapy, physical and occupational therapy and psychological services are reimbursable in the calculation of the program's tuition rate to the extent such services are prescribed in a student's IEP and are subject to the following:

(1) For Article 89 school age students, costs of diagnostic or evaluative services are the responsibility of the school district or the Committee on Special Education (CSE), and are not reimbursable in the tuition rate.

For Article 81 school age students, costs of diagnostic or evaluative services by the Article 81 school's committee on special education are reimbursable in the tuition rate.

(2) For Article 89 preschool students, evaluation costs and bilingual evaluation costs reported in the preschool provider's evaluation cost center are reimbursable, at the evaluation rates established annually pursuant to Section 4410 of the Education Law and the related Commissioner's Regulations.

(3) Consistent with federal and state regulations, related services for school-age students with disabilities may include medical services as provided by a licensed physician, or other appropriately licensed health professional. These services must be for diagnostic or evaluative services only to determine whether a student has a medically related disability. Reimbursement for such evaluations is discussed above in B. (1) and (2). The cost for medical services other than diagnostic or evaluative service in approved private schools should be reimbursed through the maintenance rate as appropriate. Costs incurred to comply with Occupational Safety and Health Administration (OSHA) mandates (Part 1910.1030 of Title 29 of the Code of Federal Regulations) that all health care employers offer Hepatitis B

vaccine free of charge to employees who "reasonably" anticipate exposure to blood and other infectious materials are reimbursable in the tuition rate.

(4) a. Costs incurred in less-than-arm's-length purchase of health related service transactions that are determined to be above actual documented costs of the owner shall be reimbursed only with written approval of the Commissioner obtained prior to the LTAL transaction upon the establishment of the cost-effectiveness that may result from the transaction. The Commissioner's approval may be rescinded retroactively if, based on further review/reconciliation/audit, it is determined that information used in the initial approval was erroneous, incomplete, did not fairly represent all relevant facts, data or issues or there is inadequate supporting documentation for information/data provided and used during the approval process.

b. A cost-effective purchase of health related services transaction is one in which the amount paid to one related party by another related party for the purchase of health related services, on a per session basis, is less than or equal to the average per session base-year costs of the purchase of such services from other entities approved under Article 81 and/or Article 89 of the Education Law to deliver such related services and, those entities have tuition rates established by the Department and approved by NYS DOB and are located within the same Basic Education Data Systems geographic region as the entity requesting the cost-effective determination. The data to be used for this analysis shall be derived from the financial reports submitted to the Department by approved programs as required under Section 200.9(e) of the Commissioner's Regulations. For example, requests for a cost-effectiveness determination for the purchase of health related services transaction for the 2013-14 school year would have the per-session average calculated using the 2011-12 financial report data submitted by approved programs and must be approved prior to July 1 of the school year to which the determination pertains. The per-session average shall not be subject to revision based on subsequent data from future financial reports received for the same fiscal year.

(5) The costs of parent counseling and training to assist parents in understanding the special needs of their child; providing parents with information about child development; and helping parents to acquire the necessary skills that will allow them to support the implementation of their child's IEP are reimbursable.

C. Any agency that relies significantly on public funding must include provisions within the language of multi-year contracts, including employee contracts, that de-obligate the agency, which is closing down, from future payments beyond the 90-day closedown period in accordance with Commissioner's Regulations. (Cancellation Language)

40. **<u>Recruitment of Personnel</u>**

A. Costs of recruiting personnel required to meet State program or fiscal mandates are reimbursable. Costs of "help wanted" advertising and of operating an aptitude and educational testing program for prospective employees, travel costs of employees engaged in recruiting personnel and travel costs of applicants for interviews for prospective employment are reimbursable provided that the size of the staff recruited and maintained is in keeping with workload requirements. Costs of fingerprinting staff, drug testing, etc. are reimbursable if mandatory in the recruitment of personnel. Records must be kept which include the prospective employee's credentials and salary requests.

Where the program uses employment agencies, costs not in excess of standard commercial rates for such services are reimbursable. These costs are subject to the non-direct care cost parameter.

B. Costs for recruiting LTAL individuals are not reimbursable. Refer to Section I. 1. B. (5). LTAL.

C. H1 VISA costs are reimbursable under the following conditions:

a. Significant domestic recruitment efforts to hire staff with similar credentials are documented and available upon request.
b. Staff requiring H1 VISA's possess the required credentials to perform in the position hired.
c. H1 VISA costs for staff that do not remain employed in the organization for at least a year will not be reimbursed.

41. **Rent**

A. Rental agreements, including renewals, must be in writing, dated and signed by the lessee and the lessor.

B. Property - Rental costs of buildings and facilities are reimbursable under the following circumstances:

(1) Rental costs are within the non-direct care cost parameter. Entities operating approved programs may submit copies of new or renegotiated leases to RSU staff for review at least 90 days before the effective date of the lease to allow the Commissioner's designated fiscal representatives to determine whether the costs of rental agreements are within the limitations of the program's non-direct care cost parameter.

A move to a new location must be approved by the Department's program staff and such costs_of move are subject to review and approval by DOB prior to the program's move. Moving costs are reimbursable if the move is necessary to enable the program to conform to requirements of the Regulations of the Commissioner of Education or the students' IEP. However, the program must establish that a change in location or lease resulted from Education Department program mandates, consistent with regulatory or IEP requirements, or arm's-length landlord action in response to market forces. In addition, the program's occupancy costs of the new location are not reimbursable before the actual date of the program's occupancy unless such costs are incorporated in an approved tuition rate. The program's occupancy costs of the prior location are reimbursable up to the actual date of the program's occupancy in the new location unless prior approval allows an exception.

(2) Occupancy costs are based on actual documented rental charges, supported by bills, vouchers, etc. Donated rent is not reimbursable.

Rent security deposits are not reimbursable.

(3) Rental costs specified in sale/transfer and leaseback agreements may not be greater than what the actual costs would have been had the program retained legal title. A sale/transfer or leaseback agreement is one in which a entity either: sells/transfers assets to another party (e.g., insurance company, associated organization or institution or private investor) and the property is leased back to the program, or sells/transfers assets to a person or entity related to the program who then leases the asset to the program.

Sale/transfer and leaseback agreements should be identified in an explanatory note in the program's certified financial statements.

(4) The share of rental expense allocated to programs funded pursuant to Article 81 and/or Article 89 is based on documented and reasonable criteria, such as square footage utilization, when more than one program is operated in a rented facility.

Costs incurred in less-than-arm's-length lease of real property transactions shall be reimbursed based on owner’s actual cost or fair market value, whichever is less.

C. Furnishings and Equipment - Rental costs of furniture, fixtures and equipment are reimbursable provided that annual rental charges and maintenance costs are comparable to the costs that would be reimbursed if the equipment were owned by the program and being maintained and depreciated by the program.

The cost of lease-purchase agreements for furnishings and equipment is reimbursable provided that the lease-purchase agreements are reasonable and appropriate.

Reimbursement of rental costs of furniture and equipment specified in sale/transfer and leaseback agreements will be subject to the conditions specified in B (3) above. Reimbursement for rental costs in LTAL transactions will be limited to owner's actual costs.

D. Vehicles - Rental costs of program vehicles are reimbursable provided that annual rental charges and maintenance costs are comparable to the costs that would be reimbursed if the vehicles were owned by the program and being maintained and depreciated by the program. The cost of lease-purchase agreements for vehicles is reimbursable provided that the lease-purchase agreements are reasonable and appropriate.

Rental costs of vehicles used by administrative staff will be reimbursed only to the extent that they are within the limits of the non-direct care cost parameter and are necessary for operating the program. Refer to Section II. 59. Travel

42. **<u>Repairs and Maintenance - Plant, Equipment and Vehicles</u>**

A. Costs incurred for necessary maintenance, repair or upkeep of property that do not add to the permanent value of the property's usefulness nor appreciably prolong its intended life, but keep it in efficient operating condition, are reimbursable to the extent that they are not otherwise included in rental or other charges.

B. Costs incurred for necessary maintenance or repair of office, stationary or movable equipment that keeps the equipment in an efficient operating condition are reimbursable.

C. Costs incurred for necessary maintenance and repair of agency vehicles that keep these vehicles in an efficient operating condition are reimbursable.

(1) Costs of maintenance and repair of vehicles provided as perks to agency officers or employees for personal use are not reimbursable.

(2) If an agency rents vehicles, only repair and maintenance expenses not covered by the rental/lease agreement are reimbursable. See Section II. 41. Rent

D. These costs are reimbursable only to the extent that they are within the limits of the non-direct care cost parameter and are necessary for operating the program.

E. All facilities, located in New York City, operating classes for children under six years of age will be responsible for correcting all lead-based paint hazards using safe work practices. The NYC department of Health and Mental Hygiene will conduct inspections of day care service providers for lead-based paint hazards. If such hazards are found the provider must remediate such conditions within 45 days. The program shall employ competitive bidding practices in correcting the conditions. Should the expense involved in correcting the condition cause a total cost parameter, documentation should be sent to the rate-setting unit during the reconciliation comment period. These additional costs may be subject to a waiver if they are the cause of a total cost parameter. The full law is available at the New York City Council website at http://www.nyccouncil.info/pdf_files/bills/law04001.pdf.

43. **Research**

Costs of staff salaries, supplies or printing and reproduction of materials or any other costs associated with general research activities are not reimbursable.

44. **Revenues**

A. Section 4401 of Education Law states that an approved tuition rate shall be computed after the following revenues have been offset by the Department against the proper expenditures:

(1) Any cash receipts that reduce the cost of an item will be applied against the item, except gifts, donations and earned interest from other than public funds. Gains from the sale of program equipment, vehicles or buildings not purchased through a grant or private funds will be offset by the Department against replacement assets or total program costs when a tuition rate is calculated. Losses from the sale or impairment of program equipment, vehicles or buildings will not be reimbursed in the tuition rate calculation. See Section II. 17. Depreciation/Amortization relating to costs funded by grants.

(2) Funding received from a governmental agency or unit for specific education programs or cost items will be offset by the Department against the appropriate program costs in the calculation of tuition rates so that costs will not be reimbursed more than once by public funds.

(3) Any income earned from investment of public funds (e.g., tuition) resulting from the operations of approved programs will be considered applied income to reduce the costs of the program(s). See Section II. 38. Profits and Losses on Investments.

(4) Interest income earned on assets/fund balances in funds other than the General Fund shall be offset in the tuition rate calculation if these assets/fund balances were not transferred to these

funds in accordance with the accounting requirements in Section II. 9. (B). Interfund Transfers.

(5) State Transportation Aid, BOCES Aid and Building Aid when not applicable to a Dormitory Authority project are offsetting revenues for Special Act School Districts (SASD).

B. Tuition revenues received from State or local governments or school districts for education of students pursuant to Article 81 and/or Article 89 of Education Law are not offset against costs when a tuition rate is calculated.

45. **Scholarships and Student Aid**

Costs of scholarships, fellowships and other forms of student aid that apply only to instruction of privately funded or non-disabled students are not reimbursable.

46. **Severance Pay**

A. Severance pay is compensation in addition to the regular salary that is paid by a program to employees whose services are being terminated.

B. Cost of severance pay is reimbursable provided that:

(1) Such payment is required by law or by employer-employee agreement or contract.

(2) The cost of severance pay does not exceed two weeks' pay for a full-time employee.

(3) Severance payment should be allocated to all appropriate programs and/or entities on a reasonable basis. Costs should be reported in programs where salary and fringe benefits of the employee who received severance pay would have been reported.

C. Severance pay for normal, recurring staff turnover is not reimbursable in the absence of legal requirements, contracts or agreements.

47. **Software Development and Maintenance Costs**

A. Software development and maintenance costs are reimbursable provided that:

(1) Off the shelf software is not available, insufficient to facilitate the necessary function and/or more expensive than incurring software development costs. The school will maintain documentation to support the cost of comparable off the shelf software.

(2) Costs do not exceed the prevailing rate for such services. Selection of software development vendors must be done through a formal request for proposal process. The school will maintain documentation of at least 3 bids to support their attempt to secure the most cost effective vendor.

B. Software development and maintenance costs, which meet the criteria above, are subject to the non-direct care cost parameter.

48. **Special Education Itinerant Teacher Services**

A. The following costs are reimbursable in the calculation of preschool special education itinerant teacher (SEIT) tuition rates:

(1) Costs for certified special education teacher itinerant salaries and fringe benefits are reimbursable. See June, 2011 memorandum regarding SEIT requirement to have an employer-employee relationship located at:
http://www.p12.nysed.gov/specialed/publications/SEIT-jointmemo.htm

(2) Costs associated with substitute special education itinerant teachers as well as the costs associated with providing regular education classroom coverage when a special education itinerant teacher is engaged in consultation with the regular education teacher, (i.e., indirect service as defined in Section 200.16 (h)(3)(ii) of the Commissioner's Regulations), are reimbursable. Under no circumstances will the reimbursable hours for regular education classroom coverage exceed the weekly amount of such indirect service as required by the student's IEP.

(3) Allocation of property costs to SEIT should be based on square footage. Administrative or shared space should be allocated based upon the square footage and percentage of time used by the various programs. Using Ratio Value alone, Units of Service or similar methodology to allocate property costs is not an appropriate allocation methodology for SEIT.

(4) Travel costs incurred by the special education itinerant teacher in providing direct and indirect services or performing other required functions are reimbursable.

(5) Reimbursable non-direct care costs are subject to the non-direct care cost parameter and include, but are not limited to: non-direct supplies and materials, office space and related expenses, administration and overhead.

(6) Total reimbursable expenditures are subject to the total cost parameter.

B. Expenditures for related services, as defined in Section 4410(1)(J) of the Education Law and Section 200.1(qq) of the Regulations, are not reimbursable in the calculation of tuition rates for special education itinerant teacher services.

49. **Staff Development**

A. The costs of in-service training provided for employee development, including training materials, salaries and related costs of instructors are reimbursable.

B. Educational costs at an undergraduate or postgraduate college level are discussed in Item #14 on Compensation in this Manual.

50. **Start-Up Costs**

Start-up costs are defined in Statement of Position (SOP) 98-5 as “those unusual one-time costs incurred in commencing a new operation” and are reimbursable as one-time only expenses subject to the parameters of the tuition rate-setting methodology. For RCM purposes, start-up costs may be incurred before the commencement of a newly approved education program (i.e. before students are enrolled, before the school year has started and/or prior to occupancy of a facility). Activities related to routine, ongoing efforts to refine, enrich or otherwise improve upon the qualities of an existing service, program or facility are not start-up activities. Activities related to a merger or acquisition are not start-up activities.

Some examples of start-up costs as defined in SOP 98-5 Appendices could include but are not limited to:

- Employee salary–related costs related to needs and feasibility studies
- Staff recruiting and training prior to commencement of new program
- Rent, security, insurance and utilities prior to occupancy of site
- Consultant fees for developing policies and procedures

Additionally, previously unamortized start-up costs shall also be expensed in accordance with generally accepted accounting principles (SOP 98-5) and are reimbursable as one-time only expenses subject to the parameters of the tuition rate-setting methodology and the non-direct care cost parameter. Start-up costs for new programs must be pre-approved to be considered for reimbursement. Start-up costs must be incurred after the date of program approval issued by the Department to be considered for reimbursement.

Please refer to the Appendices in SOP 98-5 for illustrations of what could fall within and what does not fall within the scope of start-up costs. All applicants and providers are encouraged to contact the Rate-Setting Unit to address any specific questions you may have.

51. **Stipends**

Payments to students for on- the- job training or work stipends as part of an educational program are not reimbursable. Such stipends should be paid by the party that receives some benefit from the job or work experience involving the student or by private sources. However, monies provided to students through the entity's payroll for services performed by students that would otherwise need to be performed by school employees are reimbursable if those payments conform to all appropriate labor laws and regulations.

52. **Students' Activities**

A. Costs incurred for intramural activities, student publications, student clubs and other student activities, to the extent such activities are normally provided by public day schools, are reimbursable direct care expenditures. Reasonable costs of class field trips during school hours and extra-curricular activities after school hours are reimbursable as direct care expenditures.

B. Ordinary living expenses such as the cost of overnight class trips or other expenses that are normally assumed by parents of students attending public day schools are not reimbursable.

C. Costs incurred for, or in support of, alumni activities and similar services are not reimbursable.

53. **Subscriptions and Publications**

Costs of subscriptions to civic, business, professional and technical periodicals are reimbursable when related to Article 81 and/or Article 89 programs and addressed to the school.

54. **Supplies and Materials (Household)**

Purchases made specifically for Article 81 and/or Article 89 programs should be charged at actual prices after deducting all cash discounts, trade discounts, rebates and allowances received by the entity. Withdrawals from general stores or stockrooms should be charged at their cost under any method of pricing that conforms to sound accounting practices. Incoming transportation charges are part of material costs. Direct material cost should include only the materials and supplies actually used and due credit should be given for any excess materials retained or returned to vendors. Due credit should also be given for all proceeds or value received for any scrap. Where government donated or furnished material is used in the Article 81 and/or Article 89 programs, no estimated value of such material will be included in the computation of tuition rates.
Private providers are expected to purchase supplies and materials through New York State contract or private purchasing consortia whenever possible and when those contracts or consortia can provide materials at a cost lower than the market place in general. Appendix B provides a listing of approved vendors offering a wide range of products at prices negotiated by purchasing consortia.

Costs of supplies such as light bulbs, brooms, paper products, repair tools, ladders, etc. for repairs and maintenance of the facility are reimbursable subject to the non-direct care cost parameter. Costs of consumable office supplies such as paper, pencils, pens, paper clips, etc. or of printing financial reports, checks or office forms are reimbursable subject to the non-direct care cost parameter.

55. **Supplies and Materials (Non-Household)**

A. Reasonable and necessary costs incurred for purchased supplies and materials that are related to Article 81 and/or Article 89 programs are reimbursable. Reimbursable supply costs include:

(1) Costs of consumable items used in the classroom and SEIT programs (craft paper, chalk, paste, etc.);

(2) Costs incurred for freight, express, cartage, postage and other transportation services relating either to goods purchased, in process or delivered;

(3) Costs of supplies required and supported by the individualized education program (IEP) for students with disabilities as part of their education; and

(4) The costs of consumable medical supplies (aspirin, bandages, etc.) are reimbursable provided they are administered for emergency care by qualified professionals.

B. Gifts to students of any kind (birthday, holiday, graduation, etc.) are non-reimbursable.

56. **Taxes**

A. In general, taxes that the entity must pay and charged to a program (such as water, school or property tax) are reimbursable if they are paid or accrued in accordance with generally accepted accounting principles. Payments made to local governments in lieu of taxes commensurate with services received are reimbursable. The payment of minimum New York State Corporation Franchise Tax or similar business tax is reimbursable. Any amounts over the minimum are the result of a corporation having to base its franchise tax on one of the other given calculation methods (e.g., income capital, officers' compensation, etc.) and are not considered the required minimum tax. Such costs will be subject to the non-direct care cost parameter.

B. Payments for Federal, State and local income taxes or any related penalties and interest are not reimbursable. Penalties and interest on late payments or nonpayment of payroll withholding taxes are not reimbursable.

To get more information on the minimum New York City and New York State Corporation Taxes, you may call the New York State Department of Taxation and Finance, Taxpayer Assistance Bureau at (800) 972-1233.

C. Payments for Metropolitan Commuter Transportation Mobility Tax under Chapter 25 of the Law of 2009 are reimbursable within the parameters of the tuition rate-setting methodology. Guidance regarding payment of this tax may be found at the following website address:
http://www.nystax.gov/pdf/memos/mta_mobility/m09_1mctmt.pdf

57. **Telephone/Communication Equipment**

A. Costs incurred for telephone/cellphone service, local and long distance telephone calls, and electronic facsimiles (FAX) are reimbursable provided that they are used primarily in furtherance of the operation of the special education program. In the case of cellphone data and text messaging charges, Providers must demonstrate the business necessity for such additional cellphone features and that the cost of the plan(s) is no greater than necessary to meet the Provider’s business needs. Any personal use of the devices must meet the *de minimis* fringe benefit standard as established by the IRS.

B. These costs are subject to the non-direct care cost parameter.

58. **Transportation of Students**

A. Costs of transportation to and from a school age (5-21) student's home to the program for the September through June and/or the July/August component are the responsibility of the local school district and are therefore not reimbursable in the computation of a tuition rate.

B. Costs of transportation of students residing in child care institutions between the residence and the education program are reimbursable in accordance with Section 200.12 of the Commissioner’s Regulations.

C. Certain New York City private programs may be open on days when the New York City Board of Education does not provide transportation. Programs should contact the Commissioner's designated fiscal representatives about the reimbursement of transportation costs in these circumstances.

D. SASDs should refer to Section II. 44. Revenues regarding State Transportation Aid.

E. Costs of transportation to and from a preschool (ages 3-4) student's special education program and/or services are the responsibility of the appropriate municipality and are therefore not reimbursable in the computation of the tuition rate.

59. **Travel**

Travel costs include costs of transportation, lodging and subsistence incurred by employees in travel status on official school business. Reimbursement for such travel costs shall be consistent with Bulletins issued by the N.Y.S. Division of the Budget and the Office of the State Comptroller. Refer to Section VI. Appendix C.

A. The method used to claim costs (e.g. per diem, actual costs) must be consistently applied to the entire trip.

B. Out-of-state travel should be severely restricted and should be on an exception basis only. Out-of-state travel costs are reimbursable to the extent they are critical to the success of the program and are for services or training that cannot be obtained in state. Out-of-country travel is not reimbursable.

C. Costs of first class air accommodations are not reimbursable.

D. Costs of automobile travel are reimbursable as follows:

(1) Costs of personal use of a program-owned or leased automobile are not reimbursable. The costs of vehicles used by program officials, employees or Board members to commute to and from their homes are not reimbursable.

(2) The Commissioner reserves the right to determine whether a program-owned or rented automobile is a luxury vehicle. For purposes of reimbursement, a luxury vehicle is described as a car that exceeds a sales price of $38,000 in accordance with the 2001 IRS Retailer's Excise Tax Rates for passenger cars. If the Commissioner determines that an automobile is a luxury car, the added expense of owning or operating such a vehicle will not be reimbursed.

Stereo equipment, remote car starters, fog lights, winches and the like that are factory installed or after-market installed as optional equipment are considered luxury items and are not reimbursable whether the vehicle is program owned, rented or leased by the entity.

(3) Use of privately-owned vehicles for program business by employees is reimbursable provided such use is documented and necessary. Such use will be compensated at a rate not to exceed the mileage rate allowed by the Internal Revenue Service (IRS) for automobile travel or for the use of privately owned motorcycle. Private car mileage reimbursements in excess of the allowable IRS reimbursement rate per mile are subject to withholding and reporting requirements. Auto repair, depreciation, insurance, rental, garage and maintenance costs incurred by employees for privately-owned vehicles are not reimbursable.

(4) For CFR filers, reimbursement for the purchase of vehicles will be in accordance with Appendix O of the CFR Manual governing depreciation. Reimbursable depreciation expense for vehicles used by administrative staff and Board members will be subject to the limitations of the non-direct care cost parameter.

(5) A vehicle log must be maintained to document fuel charges, mileage and repair costs for all program-owned vehicles.

E. Reasonable and necessary costs of meals, lodging and transportation will be reimbursed for Board members in travel status to attend Board meetings at a level of reimbursement consistent with the guidelines established by the Office of the State Comptroller for New York State employees. Refer to Section VI. Appendix C. Travel.

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.

60. **Utilities**

Costs of electricity, gas, heat, water, fuel, bottled gas, etc. are reimbursable, provided these costs have not already been included in costs reported for rental or lease agreements. Such costs must be directly charged to applicable programs or allocated on a reasonable basis and will be subject to the limitations of the non-direct care cost parameter.

SECTION III
GENERAL REQUIREMENTS

1. *Recordkeeping*

Section 200.9 (d) of the Commissioner's Regulations requires entities operating approved programs to retain all pertinent accounting, allocation and enrollment/attendance records supporting reported data directly or indirectly related to the establishment of tuition rates for seven years following the end of each reporting year. Information relating to the acquisition of fixed assets, equipment, land or building improvements and any related financing arrangements and grants must be retained as long as the facility is used by any education program the provider operates if this period exceeds seven years.

Costs will not be reimbursable on field audit without appropriate written documentation of costs. Documentation includes but is not limited to:

A. Payroll

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.

B. Time Distribution

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. If hours of service cannot be calculated or a time study cannot be completed, then alternative methods that are equitable and conform to generally accepted accounting principles may be utilized. Documentation for all allocation methods (bases and percentages) must be retained for a minimum of seven years. Guidelines for acceptable time studies for CFR filers are provided in Appendix L - "Acceptable Time Studies" of the CFR Manual.

C. Consultants

(1) The Department will use government publications including the IRS Publication 15-A Employer's Supplemental Tax Guide and the Handbook for Employers published by the New York State Unemployment Insurance Division as a guide to determine when individuals employed by the program are independent contractors or consultants and when individuals are employees. Teachers who provide core (IEP mandated) special education instructional services in approved special education programs must be supervised and therefore should always be treated as employees.

(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.

(3) Requests for proposals (RFP) or other bidding documentation must be kept on file by the entities operating the program. The entity will need to justify that the consultant hired was the most economical and/or appropriate available for a particular service.

D. Purchases

All purchases must be supported with invoices listing items purchased and indicating date of purchase and date of payment, as well as canceled checks. Costs must be charged directly to specific programs whenever possible. The particular program(s) must be identified on invoices or associated documents. When applicable, competitive bidding practices should be used in conformance with the Purchasing Handbook located at:
http://www.p12.nysed.gov/mgtserv/purchasing/handbook.html.

E. Travel

Logs must be kept by each employee indicating dates of travel, destination, purpose, mileage and related costs such as tolls, parking and gasoline and approved by supervisor to be reimbursable.

F. Attendance Records

(1) Instruction:

Attendance records must be maintained for all students indicating date of admission, discharge, program and funding source. Daily attendance records must be maintained indicating whether each student is present or absent and summarized monthly. In addition, individual student files must be maintained and kept current. Also, both legal and illegal absences, as defined in item C (6) on "Full-Time Equivalent Enrollment" in this Section, must be documented by the provider. Attendance records and documentation of absences must be kept for seven years as well as a signed and dated copy of each student's IEP. Additional guidance regarding attendance records may be found at:
http://www.p12.nysed.gov/sss/pps/attendance/attendanceQ-A.html

(2) Related Services:

Related service records for each child indicating, for each service session, the date, duration, nature and scope of service provided, with the name, license or certification number and signature of the related service provider.

G. Contractual Agreements

All contractual agreements (e.g., leases) must be in writing, signed and dated. When applicable, competitive bidding practices should be used in conformance with the Purchasing Handbook. See Purchases. Multiple-year agreements need to include cancellation language to ensure that contracts can be terminated.

H. Liabilities: Short and Long-Term

(1) Long-term payables (e.g., mortgages and loans) must be supported with amortization schedules, the signed and dated mortgage/loan agreements and evidence of payments made. The acquired assets related to each loan must be identified as well as the program(s) utilizing each of these assets.

(2) Working capital loans and lines of credit borrowings must be supported with the written agreement, loan dates and amounts of borrowings and repayments, applicable interest rates for each borrowing and documentation (i.e. Board meeting minutes) supporting the necessity for the loan and the borrowed amount.

I. Equipment and Furniture

Inventory records, including the invoice, must be kept for all items purchased by the entity or donated to the entity for the benefit of approved programs. These records should list: the invoice number; a description of the item; the make; model; or serial number of the item; cost; date of purchase; date retired; if applicable, the program(s) using the asset; and the location. For donated items, inventory records should identify the item as donated, listing the date of donation and the fair market value of the item at the time of donation.

J. Vehicles

(1) Records must include date purchased, cost, make, model, vehicle ID # and year of the vehicle. If vehicles were rented or leased, a copy of the rental agreements or leases should be retained.

(2) Vehicle use must be documented with individual vehicle logs that include at a minimum: the date, time of travel, to and from destinations, mileage between each, purpose of travel and name of traveler. If the vehicle was assigned to an employee, also list the name of the employee to whom it was assigned. The annual mileage for program purposes and repairs and maintenance costs for each vehicle should be summarized and maintained.

K. Buildings

Records for buildings and land owned by the entity and used by the program must describe the buildings and land owned. Records must include a copy of the purchase agreement, deed, any mortgages and the amortization schedule for such mortgages. Records must include the allocable portion of space in each building used by or for the benefit of each program (education and non-education) and for the purposes of program administration and agency administration. All related information must be retained as long as the facility is used by an approved education program even if this period exceeds seven years.

L. Building Improvements

Records must include the date work was completed, a description of the improvement, including location (i.e. floor, rooms), the cost, the program(s) that benefited, the share of costs allocable to each program and the basis for allocation. Detailed bills from the person or business doing the work are acceptable records.

M. Allocations

(1) Any expenditures that cannot be charged directly to a specific program must be allocated across all programs and/or entities benefited by the expenditure. For example:

(i) Salaries of employees who perform tasks for more than one program and/or entity must be allocated among all programs and/or entities for which they work. See also Section_II. 13. Compensation for Personal Services for additional allocation requirements.

(ii) The cost of supplies that are purchased for distribution among multiple programs must be allocated among these programs if direct charges are not possible. Adequate documentation of the allocation methodology should be maintained.

(iii) General maintenance and overhead expenses must be allocated among all programs and entities.

(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.

(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 administration costs allocated to grant cost centers shall be the lower of actual costs allowable based on the Ratio Value Method (CFR Manual, Section 15.6) or the maximum amount that can be charged based on grantor requirements.

N. Classification (Direct Care/Non-Direct Care)

Entities operating programs may be required upon audit to support the classification of costs as direct care. For example, the classification of conference costs as direct care would be supported by copies of brochures or other literature that explains the purpose of the conference.

2. Accounting Requirements

A. Entities operating programs must maintain accounts in accordance with generally accepted accounting principles and Section 200.9 (d) of the Commissioner's Regulations.

B. The accrual basis of accounting is required for all programs receiving Article 81 and/or Article 89 funds.

C. Accounting books of original entry shall include asset, liability and fund balance or equity accounts, as well as expenditure and revenue accounts. Subsidiary revenue and expenditure accounts shall be maintained for, but not limited to, each approved program requiring a tuition rate, for preschool evaluation costs and for each government grant administered by the Commissioner.

D. As established in Section 200.9(e)(ii)(a) of the Commissioner's Regulations, the financial statements must be certified by a licensed or certified public accountant independent of the program. The certified public accountant or lead and reviewing audit partner of a CPA firm are encouraged to be rotated after five consecutive years on an engagement. In instances where a program retains a licensed or certified public accountant or accounting entity to certify the programs' financial statements and the CPA also provides other non-audit services such as management consulting, automation consulting or bookkeeping services, the provision of these services should be fully disclosed via explanatory notes to the audited financial statements. See Section II. 14. Consultants, for other examples of non-audit services.

E. In accordance with New York State's Accountancy Reform Law, which took effect July 26, 2009, costs associated with the practice of public accountancy, as defined in law and subject to the criteria above, are reimbursable and subject to the non-direct care cost parameter provided the certified public accountant is registered with the New York State Education Department.

F. Entities operating programs must establish adequate systems of internal controls and to conduct annual risk assessments in accordance with guidelines of the Committee of Sponsoring Organizations (COSO).

G. For special act school districts (SASD), public school districts and BOCES, the following accounting principles shall apply:

(1) For capital expenditures, refer to Section II. 9.

(2) Amounts paid to the New York State Teachers' Retirement System and/or New York State Employee Retirement System must be expensed in the fiscal year the amount is due to the retirement systems.

(3) Encumbrances at year end will not be included in the tuition rate for that year. The expenditure will be included in the tuition rate only after the expenditure is made.

(4) Public school districts and BOCES must adhere to all applicable sections of the General Municipal Law.

H. Public school districts, SASDs and BOCES may apply for and receive discounts or rebates on the price of certain eligible telecommunication services and equipment under the Federal Universal Telecommunication Discount Program for Schools and Libraries (E-Rate Discount Program). The New York State Education Department strongly encourages all schools (K-12) to take maximum advantage of the significant discounts offered by the E-Rate program on telecommunications, Internet access and internal wiring services. The E-Rate Central website (http://www.e-ratecentral.com) posts news bulletins, weekly summaries, special instructions and tips covering all phases of the E-Rate application process. E-Rate forms are available in several formats for off-line computer use. To assist public school districts, SASDs and BOCES in properly accounting for and reporting any discounts or rebates received, the following guidelines are provided:

(1) If a discounted price is paid for an eligible service or item under the E-Rate program, the expense should be recorded at the discounted amount and reported accordingly for rate setting purposes.

(2) If a rebate is received, the public school district, SASD or BOCES should record the rebate as offsetting revenues as follows:

Public School District: Schedule SS-10, Line 3

SASD: Schedule SS-20, Line 4

BOCES: Schedule CFR-1, Line 94

3. **Whistleblower Policy**

All entities are required to have a Whistleblower Policy with the following requirements:

- The policy protects employees who report inappropriate behavior from retaliation.
- All employees are made aware of the Whistleblower policy through orientation or ongoing training opportunities.
- The policy is readily accessible to all employees (e.g., website, employee handbooks, and training materials).

SECTION IV

TUITION RATE-SETTING METHODOLOGY

1. Rate-Setting Methodology for 2013-14 Tuition Rates

The "Tuition Rate-Setting Methodology for 2013-14 Tuition Rates for Students with Disabilities Memorandum" will be available on the Internet in the "Methodology Letter" section found within the "Correspondence" link on the RSU (Rate Setting Unit's) home page (http://www.oms.nysed.gov/rsu/).

2. Tuition Rate Adjustments

A. Tuition Rate Appeals:

Tuition rate appeals must be submitted in accordance with Section 200.9 (f)(3)(i) of the Commissioner's Regulations. These criteria will be available soon on the Internet as a direct link from within the "Tuition Rate-Setting Methodology for 2013-14 Tuition Rates for Students with Disabilities Memorandum" on RSU's home page (http://www.oms.nysed.gov/rsu/).

B. Corrected Rates:

Tuition rates will only be adjusted for errors in the reporting of student FTE enrollment, and only if verified with the student enrollment reported on STAC. Corrected rates are subject to approval by the Division of the Budget and are retroactive to the start of the applicable school year. Requests for rate corrections must be received by RSU within 30 days of receipt of the prospective tuition rate.

C. Reconciliation Process:

The "2013-14 Reconciliation Process" will be available as a direct link from within the "Tuition Rate Setting Methodology for 2013-14 Tuition Rates Memorandum" found within the "Correspondence" link on RSU's homepage (http://www.oms.nysed.gov/rsu/).

D. Rates Based on Audit:

All approved programs shall be subject to a fiscal audit pursuant to Section 200.18 of the Commissioner's Regulations. Tuition rates may be adjusted accordingly based on the results of the final audit of actual program expenditures, revenues, enrollment and other relevant program information. The rate-setting methodology in effect for the financial statement period shall be applied to the results of the final audit. All tuition rate adjustments based on audit are subject to the approval and certification of the Division of the Budget. After the rate based on audit is certified, school district or municipality tuition payments to programs are to be adjusted accordingly.

E. Rates for Newly Approved Special Class Programs:

For the initial year of operation, special class programs will be subject to the provisions of Section 200.9 (f) (2)(viii). This section of the regulations states that if a new program's student enrollment is not equal to or greater than the minimum number required in Section 200.7(c)(3), then that program will continue to receive a rate based on the regional weighted average per diem tuition rate previously approved for that program. Upon reconciliation, for programs failing to meet the minimum number of students, the program's per diem rate will be limited to the lower of the per diem based on the school's actual costs or the regional weighted average per diem initially established.

F. Rates for 1:1 Aides:

For the 2013-14 school year, regional weighted average 1:1 aide add-on rates will be developed and added to the schools' base tuition rates. All 1:1 aide costs (salaries, fringe benefits of the aide and allocated direct and indirect costs) should be reported in one separate cost center on the providers' financial reports. Additional guidance regarding 1:1 aides may be found at http://www.oms.nysed.gov/stac/schoolage/1to1_aides/home.html

3. *Close-Down Policy and Procedures*

A. Pursuant to Section 200.7(e) and Section 200.9(g) of the Regulations of the Commissioner of Education, if the owner or operator of an approved private residential or non-residential program for students with disabilities receiving public funds, pursuant to Article 81 and/or Article 89 of the Education Law, intends to cease the operation of such program or chooses to transfer ownership of such program or to voluntarily terminate its status as an approved program, the owner or operator must:

(1) Provide to the Commissioner written notice not less than 90 days prior to the closing date to both:

Office of Special Education	Rate Setting Unit
New York State Education Department	New York State Education Department

89 Washington Avenue, Room 309 EB Albany, NY 12234;	89 Washington Avenue, Room 302 EB Albany, NY 12234;

(2) Submit to the Commissioner a detailed plan which makes provision for a safe and orderly transfer of each student with a disability who was publicly placed in the program; and

(3) Continue to provide uninterrupted services until the required notice and plan have been received and approved by the Commissioner and a transfer of such students has been completed in accordance with the approved plan.

B. Disposition of assets during a close-down period:

(1) Entities operating an approved private residential or nonresidential special education program must submit to the Rate Setting Unit (RSU) an asset disposition plan and an inventory list of all furniture and equipment (not funded via IDEA grants) and consumable supplies and materials to allow the State Education Department to review and approve the orderly disposition and transfer of assets to other approved special education providers and programs. The asset disposition plan should provide a list of approved special education provider(s) and program(s) that will receive all or part of the assets. A similar listing of equipment for items purchased with IDEA grants must be provided to the entity's Department Regional Associate of the Office of Special Education - Special Education Quality Assurance Office. Such lists must be submitted not less than 90 days prior to the closing date and include the following information:

(i) For furniture and equipment – a site-specific listing describing each item, the location at that site (i.e., room number), the cost of the item, school year of acquisition and the amount depreciated. If furniture and equipment are to be transferred, include the name of the approved special education provider(s) and program(s) receiving the transfer. Documentation should be maintained that the recipient actually received the transfer of furniture and equipment.

(ii) For consumable supplies and materials – a site specific listing grouped in categories (such as books, toys/games, curriculum materials, instructional supplies) with the total quantity of items in that group, the location of the items within that site and the market value of each group of items. If consumable supplies and materials are to be transferred, include the name of the approved special education provider(s) receiving the transfer. Documentation should be maintained that the recipient actually received the transfer of supplies and materials.

(2) Disposition of assets for BOCES, public school districts and special act school districts must be in accordance with a board approved written policy.

C. Reimbursement procedures during a close-down period:

(1) The following types of expenditures during the close-down period would not be viewed by this Department as reimbursable:

(i) Costs relating to non-essential and non-mandated staff during the close-down period. This includes salaries and fringe benefits of any of those non-essential, non-mandated staff;

(ii) Expenses for dues, conferences, etc.;

(iii) Expenses intended to enhance the value of the property or space occupied by the program; and

(iv) Major equipment purchases such as computers, typewriters, photocopying machines or any other such items during this period that are not essential for the provision of education services to students with disabilities enrolled in the program during this period.

(2) Financial statement forms annually submitted to the Department by an entity operating an approved program must be filed for the last school year of operation or portion thereof which includes the final date of the close-down period.

D. These close-down policies and procedures shall also apply to BOCES, and public school districts operating preschool programs and summer school-age programs for students with disabilities pursuant to Article 81 and/or Article 89 of the Education Law and to special act school districts. See Section I, 8. Close Down

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SECTION VI

APPENDICES

APPENDIX A-1

Categorization of Expenditures		
CFR-1 Account Code	CFR-1 Item Description	Cost Category
11999	Personal Services	Direct Care = job codes 200 - 390 Non-direct Care = job codes 100 - 190; 400; 500 - 590
12999	Vacation Accruals	Not Reimbursable
13200	Mandated Fringe Benefits	Based on personal services above
13300	Non-Mandated Fringe Benefits	Based on personal services above
14010	Food	Direct Care
14020	Repairs and Maintenance	Non-direct Care
14030	Utilities	Non-direct Care
14040	Transportation - Related	Direct Care
14250	Staff Travel	Non-direct Care
14050	Participant Incidentals	Direct Care
14070	Expensed Adaptive Equipment	Direct Care
14080	Expensed Equipment	Non-direct Care
14090	Raw Materials	Direct Care
14100	Participant Wages - Non-Contract	Not Applicable
14110	Participant Wages - Contract	Not Applicable
14120	Participant Fringe Benefits	Not Applicable
14130	Section 43.04 Services Assessments	Direct Care
14140	Staff Development	Direct Care
14150	Contracted Services	Direct Care
14160	Supplies and Matls - Non-Household	Direct Care
14170	Household Supplies	Non-direct Care
14190	Telephone	Non-direct Care
14260	Insurance - General	Non-direct Care
14998	Other - OTPS	Non-direct Care
15010	Lease/Rental - Vehicle	Direct Care
15020	Lease/Rental - Equipment	Direct Care
15040	Depreciation - Vehicle	Direct Care
15050	Depreciation - Equipment	Direct Care
15070	Interest - Vehicle	Direct Care
15998	Other - Equipment	Direct Care
16010	Lease/Rental - Real Property	Non-direct Care
16020	Leasehold/Leasehold Improvements	Non-direct Care
16030	Depreciation - Building	Non-direct Care
16040	Depreciation - Bldg/Land Improvements	Non-direct Care
16060	Mortgage Interest	Non-direct Care
16070	Mortgage Expenses	Non-direct Care
16080	Insurance - Property and Casualty	Non-direct Care

16090	Real Estate Taxes	Non-direct Care
16100	Interest - Capital Indebtedness	Non-direct Care
16110	Start-Up Expenses	Non-direct Care
16120	MCFFA Interest Expense	Non-direct Care
16130	MCFFA Administration Fees	Not Applicable
16140	Maintenance In Lieu of Rent	Not Applicable
16998	Other - Property	Non-direct Care

Note: All CFR-3 line items are categorized as non-direct care.

APPENDIX A-2

Categorization of Revenues		
CFR-1 Account Code	CFR-1 Revenue Description	Revenue Category
20010	Participant Fee	Offsetting
20020	SSI – SSA	Offsetting
20030	Home Relief	Offsetting
20040	Medicaid	Offsetting
20060	Medicare	Offsetting
20070	Other Third Parties	Offsetting
20080	OPWDD Residential Room and Board	Offsetting
20090	Transportation – Medicaid	Regular
20100	Transportation - Other	Regular
21070	Sales – Contract Total	Not Applicable
22040	Federal Grants	Offsetting
22030	State Grants	Offsetting
22080	LTSE Income Total OMH/OPWDD	Not Applicable
22160	Food Stamps/Food Revenue	Offsetting
22010	Gifts/Legacies/Bequests/Donations	Regular
22020	Section 202/8 HUD Funds	Not Applicable
22050	Interest/Dividend Income	Offsetting
22090	Prior Period Rate Adjustments	Regular
22100	Excessive Teacher Turnover Prevention Grant	Offsetting
22110	LDSS County	Regular
22120	Article 89 Section 4402	Regular
22130	DOH Chapter 428	Regular
22140	Article 89 Section 4408	Regular
22150	Article 81 Section 4410	Regular
20110	Net Deficit Funding	Offsetting
22998	Other – Revenue	Regular

APPENDIX B

Purchasing Consortia

NAMES AND ADDRESSES

1. Greater New York Hospital Association
   555 West 57th Street
   15th floor
   New York, New York 10019
   Phone (212) 246-7100

2. United Iroquois Shared Services
   17 Halfmoon Executive Park Drive
   Clifton Park, New York 12065
   Phone (518) 383-5060

   United Iroquois Shared Services
   5740 Commons Park
   P.O. Box 160
   East Syracuse, New York 13057
   Phone (315) 445-1851

3. Joint Purchasing Corporation
   11 Penn Plaza, 5th Floor New York, NY 10001
   Phone (800) 416-8229

4. Northern Metropolitan Hospital[s Shared Services Corporation] Association
   400 Stony Brook Court
   Newburgh, New York 12550-5162
   Phone (845) 562-7520

5. RRHA Joint Ventures Corporation
   3445 Winton Place Suite #222
   Rochester, New York 14623-2950 Phone (888) 732-4282

6. Vector Healthsystems (an affiliate of Amerinet, Inc.)
   10 Charles Street
   Providence, Rhode Island 02904-2249
   Phone (800) 338-6524

APPENDIX C
Travel Guidelines

In-state and out-of-state meal and lodging allowances and per diem rates are available on the Office of the State Comptroller's website at: http://www.osc.state.ny.us/agencies/ under "New York State Travel Guidelines".

APPENDIX D

Guidelines for Development, Review and Approval of Capital Projects for Students with Disabilities

I. School-Age-Only Projects and Combined School-Age/Preschool Projects

A. Guidelines for State review and approval of applications for capital projects.

All applications for capital projects must be put in writing to their Office of Special Education - Special Education and Quality Assurance Office and the Rate Setting Unit. The application must include line drawings of existing and proposed facilities with square footages listed for each room, cost estimates that include all estimated construction and incidental costs, current enrollment data and student staffing ratios. Additionally, documentation of health/safety issues or violations, building code non-compliance and/or non-compliance with accessibility requirements must be provided to justify the need for the proposed project.

- The agency will be notified if any additional information is needed to review the project application.
- Project plans will be reviewed by the RSU, OSE'S Special Education and Quality Assurance Office and the Office of Facilities Planning.
- The agency will be notified in writing of the capital project cost that is approved by the New York State Division of the Budget and will be considered for reimbursement in future tuition rates.

B. Guidelines for development of applications for capital projects.

All proposed projects will be reviewed to determine the adequacy and appropriateness of services and program space to meet the educational needs of the students with disabilities. Prior to incurring any obligation, it is recommended that the agency receives notification of the approved capital project costs that will be included as part of future tuition rates.

- Before capital projects[1] are approved for education funding for students with disabilities, it must be determined that current education space is not being reallocated to non-education programs causing a lack of appropriate space for the education programs.
- Administrative space may be approved in buildings to be constructed or renovated.
- Existing education areas may also be converted to administrative space when new education facilities are being constructed.

[1]Capital projects refer to construction, renovation and acquisition of real property for educational purposes, including administrative and ancillary space and facilities used to support educational functions.

Note: Where another state agency also has oversight responsibility for the applying program, the Department will confer with such other supervising agency prior to approving any application to construct administrative and/or other shared space.

1) Room Sizes for Special Education Classrooms

15:1 - approximately 770 square feet
12:1+1 - approximately 770 square feet
8:1+1 - approximately 550 square feet
6:1+1 - approximately 450 square feet
12:1+4 - approximately 900 square feet
Resource Room - approximately 300 square feet
Preschool Programs - 50 square feet per student or 60 square feet per student for classroom serving students who are non-ambulatory

The guidelines for preschool programs will be applied with the expectation that classrooms will serve a maximum of 12 students. The square footage requirement for preschool students includes space for a variety of recreational and instructional activities. Consideration will be given to less than 50 square feet per student if other areas of the building have been allocated, outside of the special education classroom, for such activities.

Note: For classrooms which are planned for use by more than one class, size should accommodate the largest requirement.

2) Specialized Areas

- Physical Education Space

  While Department requirements are applicable, physical education space for secondary level students recommended for a building with an enrollment of 500 or less may be exceeded based on the programmatic needs of the students to be served and the physical education and recreation program planned by the school. These dimensions may also be exceeded for schools involved in interscholastic sports.

  The construction of swimming pools may be considered only in those instances where the development of a pool is necessary to meet the programmatic needs of the population served. This relates to programs serving students with multiple disabilities who are unable to access community pools, unable to adequately utilize other recreational areas, and require the pool for therapeutic purposes.

- Library

  For secondary level students, a library or media center of up to 1,500 feet may be developed. Dimensions are based on the projected enrollment and the number of students to use this room at any one time. This guideline may be exceeded based on the specialized needs of the population to be served. For elementary level students, library space of up to 900 square feet may be developed based on enrollment and planned use of space.

- Art

Art rooms of 800 to 900 square feet may be developed for use by classes of 15:1, 12:1+1 or 12:1+4. Dimensions of 500 to 700 square feet are recommended for classes of 8:1+1 and 6:1+1. Additional classrooms may be needed based on enrollment.

- Industrial Arts

  Industrial Arts rooms of between 800 and 1,500 square feet may be developed based on the proposed purpose of the space (e.g., an automotive shop normally requires more area than an electrical shop).

- Home Economics

  Home Economics rooms of 800 to 1,000 square feet may be developed for use by classes of 15:1, 12:1+1 or 12:1+4. Dimensions for Home Economics classrooms for 8:1+1 and 6:1+1 classes may have less square footage based on planned use of space.

- Science (Laboratory Rooms)

  Science rooms for laboratory instruction of approximately 900 square feet in addition to classroom space may be developed for classes of between 12 and 15 students. Dimensions for laboratory space for classes of 6 to 8 students are recommended at approximately 600 - 700 square feet.

- Music

  Music rooms of 770 square feet for classes of 15:1, 12:1+1 and 8:1+1 or 450 square feet for classes of 6:1+1 and 900 square feet for classes of 12:1+4 may be developed.

- Storage

  Storage space may be included in school building plans for general storage areas and storage within classrooms such as Art, Home Economics, Music, Science Laboratory and Industrial Arts.

- Related Services

  A determination on the amount of space allocated for related services should be based on the number of staff and students using the room, activities to be conducted (group or individual speech therapy, counseling, physical therapy, etc.) and equipment to be used.

- Multi-Purpose Rooms

  Other spaces may be developed. However, consideration must be given to using the following areas for multiple purposes (e.g., gym with stage for use as auditorium, cafeteria with stage for use as auditorium, etc.). Size is based on student enrollment and/or the proposed use of the space, such as Auditorium, Cafeteria and remedial rooms or Music practice rooms.

- Administration Space

Administration space is determined based on the functions required to be conducted in the school building and the amount of staff using the space.

- Final Determination

  In determining the appropriate number of classrooms to be included in the school building, the following factors should be considered:

  - Student enrollment;
  - Number of class size configurations and the number of students in each class;
  - Proposed scheduling of classroom use;
  - Number of staff for school building;
  - Multiple use of classroom space and specialty area space.

II. Preschool- Only Projects

A. All applications for capital projects for preschool only programs must be submitted via the "Approved Preschool Special Education Program Modification Requests" process. Preschool programs considering a capital project, a change in program location or adding a new site or deleting an existing site should contact their Regional Associate for further guidance on the required procedures.

   The "Approved Preschool Special Education Program Modification Requests" forms and instructions are available from the Department's P-12 website at http://www.p12.nysed.gov/specialed/applications/ or from the link to the Department's Rate Setting Unit's webpage at www.oms.nysed.gov/rsu/home.

B. Please be advised that cost parameter waivers will not be approved with respect to capital projects involving preschool-only space.

APPENDIX E
Acronyms

ACCES-VR	Adult Career and Continuing Education Services – Vocational Rehabilitation
BEDS	Basic Educational Data Systems
BOCES	Boards of Cooperative Educational Services
CACFP	Child and Adult Care Food Program
CFR	Consolidated Fiscal Report
COASST	Central Office Administrative Support Services Team
COSO	Committee of Sponsoring Organizations
CPSE	Committee Preschool on Special Education
CSE	Committee on Special Education
CPA	Certified Public Accountant
DASNY	Dormitory Authority of the State of New York
Department	NYS Education Department
DOB	NYS Division of the Budget
ERISA	Employee's Retirement Income Security Act
FTE	Full-Time Equivalent
GAAP	Generally Accepted Accounting Principles
GASB	Governmental Accounting Standards Board
IDEA	Individuals with Disabilities Act
IEP	Individualized Education Program
IHO	Impartial Hearing Officer
IRA	Individual Retirement Account
IRS	Internal Revenue Service
LEA	Local Education Agency
LTAL	Less-than-arm's-length
Manual	Reimbursable Cost Manual
NYS	New York State
OCFS	Office of Children and Family Services
OPWDD	Office for People with Developmental Disabilities
OSHA	Occupational Safety and Health Administration
OMS	Office of Management Services
OSE	Office of Special Education
OTPS	Other Than Personal Services
RSU	Rate Setting Unit
SASD	Special Act School District
SED	State Education Department
SEIT	Special Education Itinerant Teacher
SEQA	Special Education Quality Assurance
SERP	Supplemental Executive Retirement Plans
SOP	Statement of Position
SRO	State Review Officer
STAC	System to Track and Account for Children
TSA	Tax Sheltered Annuity

APPENDIX F

Statement on the Governance Role of a Trustee or Board Member

Preface:

The Statement on the Governance Role of a Trustee or Board Member is intended to provide guidance and information to assist trustees and board members in exercising their fiduciary responsibilities. The statement is relevant for all institutions that have been incorporated by the Board of Regents or the New York State Legislature, including programs receiving funding under Article 81 and/or Article 89 of Education Law. Board members of these institutions should additionally be familiar with the requirements and provisions of this manual and Part 200 of the Regulations of the Commissioner of Education.

The Statement on the Governance Role of a Trustee or Board Member which follows is the most recent version available. To view the current Board of Regents, visit: http://www.regents.nysed.gov/members/

The State Education Department does not discriminate on the basis of age, color, religion, creed, disability, marital status, veteran status, national origin, race, gender, genetic predisposition or carrier status, or sexual orientation in its educational programs, services and activities. Portions of this publication can be made available in a variety of formats, including braille, large print or audio tape, upon request. Inquiries concerning this policy of nondiscrimination should be directed to the Department's Office for Diversity, Ethics, and Access, Room 530, Education Building, Albany, NY 12234.

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

February 2007

Dear Colleague:

The University of the State of New York (USNY) is a vast multi-billion dollar enterprise encompassing schools, colleges, universities, libraries, museums, public broadcasting and other educational and cultural institutions incorporated by the Board of Regents or the New York State Legislature. This enterprise has one common characteristic among almost all of its components. Each institution is governed by a board of individuals who willingly volunteer their services.

This Statement on the Governance Role of a Trustee or Board Member is provided by the Board of Regents to assist trustees/board members in exercising their responsibilities. The Statement has been updated since it was originally issued in November of 2001. The most significant change is an enhanced discussion of conflict of interest. Other topics have also been updated including internal controls, the definition of proprietary schools, and best practices for boards to follow. Additional links to websites have been added, as well as information on methods to report instances of fraud, waste, and abuse.

The Statement provides certain fundamental information regarding the stewardship role that members fulfill. The Regents recognize that USNY institutions vary greatly in the mission, size, form, and structure of their boards. This document provides guidance and information to assist all trustees/board members in the performance of their responsibilities. From the small historical society to the multi-million dollar college, university or school district, each board member has a fiduciary responsibility for the institution he/she governs.

We urge you to share this document with your board colleagues, become familiar with its contents, and integrate its provisions into your institution's governance process, e.g., included in orientation materials for new board members or in the institution's handbook, where one exists. It can also be accessed at the following web site: http://www.regents.nysed.gov/. If you have questions or comments regarding the Statement, please refer to Appendix E for offices to contact in the State Education Department.

On behalf of the Board of Regents and the State Education Department, we thank you for your contributions as a trustee/board member. You are performing a much-needed and valuable service to your institution and the community it serves.

Sincerely,

Robert M. Bennett
Chancellor, Board of Regents

Richard P. Mills
Commissioner of Education and President of The University of the State of New York

Board of Regents
The University of the State of New York

The Board of Regents has authority over all elementary, secondary and postsecondary educational institutions, both public and private, libraries, museums, historical societies and other educational institutions chartered by the Regents or the Legislature and admitted to the membership of the University of the State of New York (USNY) by the Regents.

Various provisions of the Education Law, Not-For-Profit Corporation Law and General Municipal Law impose legal duties, fiduciary responsibilities and fiscal requirements upon USNY institutions and the trustees/board members who run them. As a trustee or board member, it is imperative that you understand and comply with applicable requirements. Non-compliance can result in the Regents' revocation of an institution's charter, the removal of trustees/board members from office, or other appropriate remedies under law.

What is the purpose of the institution?

As a trustee/board member, you should understand the purpose and mission of your institution, which is defined by its charter, certificate of incorporation laws or by legislation. USNY institutions encompass a wide array of education purposes. In the case of organizations incorporated or chartered by the Board of Regents, you should obtain a copy of the Regents-issued charter or certificate of incorporation and the institution's by-laws. Institutions chartered or incorporated by the Board of Regents are treated as not-for-profit entities. You should familiarize yourself with the institution's corporate status, powers, privileges, and duties, which are defined by its charter or certificate of incorporation. Independent colleges and universities derive their corporate powers from the Board of Regents as do certain non-degree granting institutions. Libraries, museums, historical societies, public television and/or radio stations also derive their corporate powers from the Board of Regents. All of these institutions are governed by a board of trustees which is legally responsible for assuring that the institution fulfills the distinctive purposes for which it was established.

On the other hand, the State University of New York, its four university centers and various colleges of arts and sciences, technical colleges, medical centers, and community colleges derive their authorities from Education Law, as does the City University of New York, all of which are part of the University of the State of New York (USNY) enterprise. A board of trustees governs and provides oversight for each.

Proprietary (for profit) colleges are incorporated under the provisions of the Business Corporation Law with the Department of State and are authorized by the Board of Regents to award degrees. Any amendment to the corporate purpose of these colleges requires the consent of the Commissioner of Education.

USNY encompasses school districts and Boards of Cooperative Educational Services (BOCES), which also obtain their authority from the Education Law and other relevant statutes. As a board member, you need to know whether the school district is considered a common, union free, central, central high, or small or large city school district. There are also "special act" school districts which have been established by the New York State Legislature on the grounds of charitable institutions caring for children and youth. BOCES are voluntary associations of school districts that agree to provide education and business services in a cooperative manner for purposes of economy and efficiency. The New York State School Boards Association publishes a handbook for school board members that provides more detailed information on the role of a school board member.

What is the financial status of the institution?

One of the most important issues you need to monitor is the financial status of your institution and whether its assets are being used for the accomplishment of the institution's mission. Scandals involving financial mismanagement of USNY institutions have been identified in the past and represent a serious violation of the public trust. As a Trustee or Board member, you should be aware of the institution's financial status. Among the things you should request and examine are copies of periodic fiscal reports including budget and actual revenue and expenses, year end financial statements, and tax returns where applicable. Talk to executive staff and other board members about the financial condition of the institution. Request to speak to the external auditors if you have specific questions regarding the financial statements.

For what am I responsible?

You should meet with other trustees/board members to discuss their expectations of you. Read the by-laws; inquire about committees; organizational structure; financial responsibility; and conflict of interest policies. Keep in mind that being a trustee/board member requires a commitment of personal time and effort generally with no fiscal remuneration.

What duties do trustees and board members have to fulfill?

Although varied in purpose and mission, USNY institutions are, for the most part, government entities and not-for-profit corporations subject to the Education Law, and other laws governing not-for-profit corporations wherein trustees/board members must fulfill certain duties to the institution and the community they serve. Such duties involve care, loyalty, and obedience.

Duty of Care

A trustee or board member must act in good faith and exercise the degree of diligence, care, and skill that an ordinary prudent individual would use under similar circumstances in a like position. To conform with this standard, trustees and board members should:

- Regularly attend and participate in board meetings and committee meetings where applicable;
- Read, review, and inquire about materials that involve the institution, especially board minutes, annual reports, other reports, plans, policies, and any literature that involves the institution;
- Have a fiduciary responsibility for the assets, finances, and investments of the institution and exercise due diligence, care, and caution as if handling one's own personal finances; and
- Use one's own judgment in analyzing matters that have an impact on the institution

Duty of Loyalty/Conflicts of Interest

Trustee/board members owe allegiance to the institution and must act in good faith with the best interest of the institution in mind. The conduct of a trustee/board member must, at all times, further the institution's goals and not the member's personal or business interests. Consequently, trustees/board members should not have any personal or business interest that may conflict with their responsibilities to the institution. A trustee/board member should avoid even the appearance of impropriety when conducting the institution's business. Acts of self-dealing constitute a breach of fiduciary responsibility that could result in personal liability and removal from the board.

The board of trustees/board of education should have a written conflict of interest policy that clearly sets forth the procedures to be followed in instances where a board member's personal or business interests may be advanced by an action of the board, including a provision that the trustee/board member may not participate in any decision to approve any transaction where such conflicting interests may be advanced. The policy should also include a requirement that each trustee/board member provide full, ongoing disclosure to the institution of any interest the trustee/board member and/or his or her family has in any entity that the board transacts business with. The policy should be reviewed and discussed with the institution's attorneys and auditors prior to its adoption.

In addition, there are specific provisions concerning conflicts of interest in Article 18 of the General Municipal Law (applicable to school districts, boards of cooperative educational services [BOCES], county vocational education and extension boards and public libraries), and Section 715 of the Not-for-Profit Corporation Law (applicable to education corporations chartered by the Board of Regents). General Municipal Law §806 requires the governing body of each school district to adopt a code of ethics, including standards for officers and employees with respect to disclosure of interest in legislation before the governing body, holding of investments in conflict with official duties, private employment in conflict with official duties, future employment and such other standards relating to the conduct of officers and employees as may be deemed advisable.

A sample conflict of interest policy is available on the Internal Revenue Service website at (http://www.irs.gov/instructions/i1023/ar03.html).

School board members may contact the New York State School Boards Association (NYSSBA) at 1-800-342-3360 or go to the respective NYSSBA websites shown below to access the following sample policies:

2160 School District Officer and Employee Code of Ethics at
http://www.nyssba.org/index.php?src=gendocs&ref=samplepolicy2160

9120.1 Conflict of Interest at http://www.nyssba.org/index.php?src=gendocs&ref=samplepolicy9120.1

Duty of Obedience

A trustee/board member has a responsibility to insure that the institution's resources are dedicated to the fulfillment of its mission. The member also has a duty to ensure that the institution complies with all applicable laws and does not engage in any unauthorized activities.

The NYS Attorney General publishes *Right from the Start-Responsibilities of Directors and Officers of Not-for-Profit Corporations*, which may be obtained from the following web- site: http://www.ag.ny.gov/home.html. The booklet contains more detailed information on the duties of a trustee/board member of a not-for-profit corporation.

What is the difference between provisional and absolute charters?

Corporations formed for the principal purpose of operating a college, university, school conducting some of or the entire grades prekindergarten (including organizations with whom schools contract) through twelve, library, museum, historical society, public television and/or radio station or nursery school are created by the Board of Regents by issuance of an instrument called a charter, which sets forth the powers of the corporation.

The initial incorporation of the educational institution is executed by the issuance of a provisional charter that is valid for a fixed term of one-to-five years. If the Board of Regents is not satisfied that the corporation can qualify for an absolute charter, it may extend the provisional charter for an additional term of years.

The process for the issuance of a certificate of incorporation is the same as that pertaining to a provisional charter. The legal effect of a certificate of incorporation is the same as that of an absolute charter.

If you are a trustee of a chartered institution, you need to be aware of the following:

- Whether your institution has a provisional or absolute charter from the Board of Regents;
- The specific standards that apply to your institution (**see Appendix C**);
- The specific powers of the corporation contained in the charter; and
- Whether the board has the number of members stipulated in its charter

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How do I distinguish between my governance role and that of a supporter or team player for my institution?

There is a fine line between governance and being a supporter of an institution. Members need to avoid meddling in managing daily affairs. Trustees/board members must balance their role as supporters for the institution's success against their governance role as overseers of the institution's management to ensure that assets are used properly, laws and regulations are followed, and the public interest is best served. The board needs to support the institution's management but must also govern by holding the chief executive officer (CEO) accountable for the institution's operations and service to the public.

In the governance role, trustees/board members should be concerned with protecting the public interest which they serve. Members exercise this role by hiring a CEO to manage the operation of the institution and evaluating his/her overall performance in providing services to the public.

In a supportive role, board members assist by fund-raising, liaison, and networking with other community leaders, and providing expertise in specialty areas such as law, planning, accounting, and overall corporate management.

What if I lack knowledge or experience in fiscal governance?

One of the most important responsibilities of a trustee or board member is to ensure that financial resources are being used efficiently and effectively toward meeting the institution's goals, in compliance with applicable law and regulation, and that its assets are properly safeguarded. The area of fiscal governance is one in which board members may feel the least qualified and rely entirely on the CEO for guidance.

Trustees/board members should be cautious about relying completely on the guidance and judgment of the institution's CEO and management. Members have ultimate responsibility for governance of the institution's resources and their primary role of protecting the public interest. In monitoring the institution's budget, board members should ask questions about the assumptions made in preparing the budget. What types of data are used to prepare the budget? How were estimates developed for such expenditures as payroll, supplies and materials, travel and conferences, capital outlays, etc.? Are accounting and/or management processes adequate to ensure accurate and reliable data? What will be accomplished by passing this budget? How will outcomes be measured, evaluated and reported? How will the board hold the CEO accountable for budget outcomes? How are variances from expectations handled?

Trustees/board members should also ask questions about the institutional year end financial statements. Inquire as to what they mean; what is the fiscal condition of the entity? If the auditors' issued a management letter, request to review the letter.

Similar questions may be raised about other areas, such as the institution's system of financial controls, processes employed to comply with applicable laws and regulations, accountability with performance results, etc. Board members should be aware of an institution's internal control system. The existence of adequate systems of internal controls is also critical for the protection and oversight of the institution's assets. Internal controls are systems to protect the assets of an organization, create reliable financial reporting, promote compliance with laws and regulations, and achieve effective and efficient operations.

The NYS Attorney General publishes *Internal Controls and Financial Accountability for Not-for-Profit Boards* which may be obtained from the following website address: The document contains more detailed information on evaluating internal control systems.

What if the institution needs more expertise with fiscal matters?

When matters of fiscal governance become very technical and require greater expertise in assessing the fiscal condition of the institution or its long-term well-being, a board should seek the advice of experts. One mechanism for giving emphasis to the responsibility of fiscal governance is to create an audit committee composed of board members who have expertise in dealing with fiscal affairs. The Department recommends that as a best practice, each provider of a program receiving funding under Article 81 and/or Article 89 of the Education Law to educate students with disabilities with a governing board should create an audit committee as part of its board. An audit committee is organized pursuant to a charge or mission approved by the board. It should be established in the institution's charter, certificate of incorporation or by-laws.

- Helping set the fiscal environment or "tone at the top," which promotes a theme of fiscal responsibility and ethical conduct among all institution staff and board members;
- Reviewing the certified financial audit report of the institution and providing input on the results to the full board;
- Assessing the effectiveness of the institution's system of internal controls and reporting on any weaknesses;
- Assessing any risk associated with the validity and reliability of financial data; and
- Monitoring compliance with laws and regulations applicable to the institution's operations

These are just some of the many activities that an audit committee can pursue to assist a board in its role of fiscal governance. (**Appendix D**) provides links to web sites that contain more information on audit committees and other issues relevant to the duties and responsibilities of trustees and board members.

Where can I get additional help?

There are many sources available to trustees and board members needing further information and guidance on their role. Members are encouraged to seek additional guidance, evaluate the need for additional training, and contact the NYS Education Department (SED) for guidance. The offices and contact information for SED are illustrated in (**Appendix E**).

The procedures for the creation of education corporations by the Regents, and other related matters, are outlined in the pamphlet entitled "Education Corporations–Law Pamphlet 9." This pamphlet is available from the NYS Education Department Office of Counsel, and is available on the SED website: (http://www.counsel.nysed.gov/).

Members are strongly encouraged to seek the advice of an attorney in matters involving the interpretation of laws and regulations pertaining to the institution's operations. The information contained in this document is not a substitute for the guidance provided by legal counsel.

The appendices contain additional information that may be helpful in fulfilling your role as a trustee or board member. Their content is listed below.

SECTION VII
TOPIC APPENDICES

Topic	Appendix
Top Ten Warning Signs for Boards	A
Best Practices for Boards to Follow	B
Select Regulations of the Commissioner of Education Applicable to Chartered Institutions	C
Links to Websites	D
Contact Offices in SED by Type of Institution	E
Report Waste, Fraud, and Abuse	F

Appendix A

The University of the State of New York

The State Education Department

Top Ten Warning Signs for Boards

1. Lack of available documentation on the organization’s by-laws, charter, mission statement, organization chart, and prior year financial statements.
2. Lack of independent attitude or excessive conflict among trustees/board members.
3. Infrequent board meetings. Absence of board minutes.
4. Poor board attendance at meetings.
5. Lack of access to key, fiscal, budget, program, and operations information.
6. Lack of access to the chief financial officer.
7. Existence of conflict of interest relationships or less than arm’s length transactions between the institution’s board members and organizations that conduct business with the institution.
8. Lack of internal financial controls and written policies and procedures to safeguard, promote, and protect the organization’s funds and other assets. Lack of fidelity bonds.
9. Lack of involvement in the hiring of key employees.
10. Failure to file documents with key control agencies such as the NYS Education Department, Internal Revenue Service, and NYS Department of Taxation and Finance.

Appendix B

The University of the State of New York

The State Education Department

Best Practices for Boards to Follow

1. Be informed of the institution's activities by:

- Discussing operations with board members and officers
- Reviewing materials provided by the institution
- Actively participating in meetings of the board and the committees
- Asking questions and obtaining an understanding of the issues facing the institution
- Attending fiscal training for board members and Trustees

2. Establish an audit and finance committee with responsibility to periodically meet with management and the auditors to consider:

- The adequacy of internal controls and financial reporting processes, and the reliability of fiscal reports
- The independence and performance of the internal and external auditors
- Steps taken by management to address audit report findings
- Compliance with legal and regulatory requirements
- Steps taken by management to minimize significant risks to the institution
- School districts and BOCES are required to have an audit committee
- Museums, historical societies and cultural agencies are required to have an audit committee

3. Ensure the institution is carrying out its purpose without extravagance or waste and is not engaging in any questionable or illegal activities by:

- Requiring management to provide periodic reports on how well the institution is fulfilling its mission and the activities accomplished for the period
- Approving strategic plans, budgets, policies, plans of operation, development plans and goals, contracts, implementing standards of operation, key financial and program reports, and other items
- Holding the chief executive officer accountable for results

- Being involved in the selection and compensation of the chief executive officer
- Using good judgment in analyzing matters that may impact the institution
- School districts are required to have an internal committee to review internal controls
- Reviewing all claims

4. Monitor the financial condition and management practices of the institution by:

- Reviewing periodic fiscal reports, financial statements, audit reports, management letter; including managerial letters, and tax returns
- Ensuring reserve funds are used for their intended purposes
- Verifying fund raising expenses are reasonable in relation to the amount of fund raising revenue generated
- Ensuring net assets are positive, but not excessive
- Verifying that deficits are being addressed with remedial action
- Ensuring records are complete and accurate, and required reports are filed with federal and state agencies
- Issuing a Request for Proposal (RFP) for an external auditor at least once every five years

5. To help ensure effectiveness, trustees/board members need to ensure boards address the following, consistent with statute:

- Consist of a minimum of five voting members who are independent
- Meet at least twice a year, and more often as needed or required by statute
- Keep complete and accurate minutes of all meetings.
- Convene an annual meeting and elections as required by law
- Not compensate their members for services in their role as trustee or board member (see note below)
- Develop a training program for both new and experienced board members.
- Seek expert advice when needed
- Avoid any conflicts of interests or even the appearance of a conflict and maintain a conflict of interest policy for board members and employees
- Require each member to file an annual written disclosure of any business involvement with the institution or related parties

- Assess the need for liability insurance to protect board members and officers from legal liability

- Ensure processes for selecting new members result in diversity of viewpoints and seek out individuals with commitment, skills, life experience, background, and other characteristics that will serve the institution and its needs

- Be aware of the requirement to petition the Regents to amend the charter or certificate of incorporation to change the name, address or purposes of the corporation.

- Be aware of the laws and regulations relating to dissolution of the corporation, and not distribute, disperse or spend down any assets without going through the proper dissolution procedure.

Note: Reimbursement for expenses in the ordinary course of business does not constitute compensation. Trustees/board members who also serve as officers may receive compensation in their role as an officer (e.g., treasurer, secretary). In addition, some school districts are allowed under the law to compensate their Board Members.

Appendix C

The University of the State of New York

The State Education Department

Select Rules of the Board of Regents and Regulations of the Commissioner of Education Applicable to Chartered Institutions

Elementary and Secondary Schools	Part 100 and Sections 170.2, 170.3, and 170.12 of the Commissioner's Regulations
Nursery Schools and Kindergartens	Part 125 of the Commissioner's Regulations
Prekindergarten Programs	Part 151 of the Commissioner's Regulations
Libraries and Library Systems	Part 90 of the Commissioner's Regulations
Historical Societies without Collections and Cultural Agencies	Section 3.30 of the Rules of the Board of Regents and Section 52.22 of the Commissioner's Regulations
Museums and Historical Societies with Collections	Section 3.27 of the Rules of the Board of Regents and Section 52.22 of the Commissioner's Regulations
Public Television and/or Radio Stations	Part 26 of the Rules of the Board of Regents and Part 179 of the Commissioner's Regulations
Colleges and Universities	Parts 50 through 54 of the Commissioner's Regulations

Note: This list is not exhaustive. Moreover, it does not include relevant provisions of the Education law or other laws affecting these institutions.

Appendix D

The University of the State of New York

The State Education Department

Links to Websites

Government Agencies

Internal Revenue Service: http://www.irs.ustreas.gov/

NYS Attorney General: http://www.ag.ny.gov/

NYS Education Department: http://www.nysed.gov/

Office of General Services: http://ogs.ny.gov/default.asp

Department of State: http://www.dos.state.ny.us/

Civil Service: http://www.cs.ny.gov/

Taxation & Finance: http://www.tax.ny.gov/

NYS Office of the State Comptroller: http://www.osc.state.ny.us/

Education Associations

American Association of School Administrators: http://www.aasa.org/

Education Commission of the States: http://www.ecs.org/

Educational Research Service: http://www.ers.org/

National Association of State Boards of Education: http://www.nasbe.org/

National School Boards Association: http://www.nsba.org/

New England School Development Council: http://www.nesdec.org/

New York State School Boards Association: www.nyssba.org

Not-for-Profit Associations

Center for Non-Profit Corporations: http://www.njnonprofits.org/

Guidestar (IRS Form 990 database): http://www2.guidestar.org/

Internet Nonprofit Center: http://www.nonprofit-info.org/

Law about Nonprofit Organizations: www.law.cornell.edu/topics/nonprofits

National Center for Nonprofit Boards: http://www.boardsource.org/

Nonprofit Evaluation Tools: http://www.innonet.org/

Nonprofit Resource Center: http://www.nonprofitresource.com/

Nonprofit Risk Management Center: http://www.nonprofitrisk.org/

Urban Institute – Center on Nonprofits: http://www.urban.org/

Museums/Art Associations

American Association for State and Local History (AASLH): http://www.aaslh.org/

American Association of Museums (AAM): http://www.aam-us.org/

Museum Association of New York (MANY): http://www.manyonline.org/

New York State Council on the Arts, Museum Program (NYSCA): http://www.nysca.org/

New York State Museum Chartering: www.nysm.nysed.gov/charter

The International Council of Museums (ICOM): http://icom.museum/

Library Associations

American Library Association's Association for Library Trustees and Advocates: http://www.ala.org/altaff/

New York Library Association: http://www.nyla.org/

New York State Association of Library Boards: http://www.librarytrustees.org/

New York State Library: www.nysl.nysed.gov/libdev

DISCLAIMER: These sites are provided for the user's convenience. The State Education Department (SED) does not control or guarantee the accuracy, relevance, timeliness or completeness of web sites not maintained by SED. Further, the inclusion of such sites on this list is not intended to reflect their importance, nor is it intended to endorse views expressed, or products or services offered, on these outside sites, or the organizations sponsoring the sites.

Appendix E
The University of the State of New York
The State Education Department

Contact Offices in SED by Type of Institution

To obtain further guidance about the governance role of a trustee or board member, you may contact the following addresses, telephone numbers, and web sites for your respective institution.

Institution	Contact Office
Public schools, Boards of Cooperative Educational Services	School Operations and Management Services Office of Elementary, Middle, Secondary, and Continuing Education Room 874 EBA Albany, New York 12234 http://www.p12.nysed.gov/ 518-474-2238
Nonpublic schools	Office for Nonpublic School Services Room 481 EBA Albany, New York 12234 http://www.p12.nysed.gov/nonpub/ 518-474-3879 Charter Schools Room 462 EBA Albany, NY 12234 518-474-1762
Museums, historical societies, and other Cultural agencies	NYS Museum Room 3097 CEC Albany, New York 12230 www.nysm.nysed.gov/charter 518-473-3131
Libraries and library systems	Division of Library Development NYS Library NYS Education Department Room 10C50 CEC Albany, New York 12230 http://www.nysl.nysed.gov/libdev/libs/index.html#Trustees 518-474-7196
Public Television and Radio stations	Office of Educational Television & Public Broadcasting Room 10A75 CEC Albany, New York 12230 518-474-5862 http://www.oce.nysed.gov/etvpb/

Public, independent, and propriety colleges and universities, licensed private and registered business schools	Office of Higher Education NYS Education Department 89 Washington Avenue 2 M West Wing Albany, NY 12234 http://www.highered.nysed.gov/ 518-474-3862
Independent living centers	Adult Career and Continuing Education Services – Vocational Rehabilitation One Commerce Plaza Albany, New York 12234 http://www.acces.nysed.gov/vr/ 518-474-3946
Psychotherapy Institutes	Executive Secretary to the State Board for Psychology Office of the Professions 89 Washington Avenue Albany, New York 12234 psychbd@mail.nysed.gov 518-474-3817 ext. 150

Appendix F
The University of the State of New York
The State Education Department

Report Fraud, Waste, and Abuse

The New York State Education Department is interested in information pertaining to fraud, waste, abuse, or mismanagement of local, state, or federal education funds (including information on vendors who receive education funds). Both the Board of Regents and the Commissioner of Education take these concerns very seriously.

Individuals who make an allegation are not required to identify themselves; they may remain anonymous. In such cases, the State Education Department will assess the information provided, given the constraints of an anonymous contact. Therefore, persons making a complaint may wish to provide contact information in the event additional questions arise.

Preferred Method:

Fill out electronic complaint form the following address: https://eservices.nysed.gov/oasfraud/.

Other Methods:

- Email: OAS@mail.nysed.gov
- Phone: 518-473-4516
- Fax: 518-473-0259
- Mail:

  New York State Education Department
  The Office of Audit Services (OAS)
  89 Washington Avenue, Room 524 EB
  Albany, NY 12234