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Nell Brady, Director

To: District Superintendents, Superintendents and Executive Directors of Approved Programs Serving Students with Disabilities, School District and County Officials

From: Nell Brady

Subject: Tuition Rate Setting Methodology for 2022-23 Rates for School-Age Providers Serving Students with Disabilities

Date: August 4, 2022

This memorandum communicates the 2022-23 tuition rate setting methodology to providers operating school-age programs receiving funding under Article 81 and/or Article 89 of the Education Law. The 2022-23 tuition rate setting methodology provides an 11.0 percent trend factor for the 2022-23 school year and includes modifications to enhance funding stability for private and special act school district school-age providers serving students with disabilities.

Section I: General Rate Setting Methodology

The following methodology components may be used in whole or in part, pursuant to Section 200.9 of the Regulations of the Commissioner, to establish the 2022-23 tuition rates. Generally, the 2022-23 tuition rates for programs that were in operation during the 2020-21 school year are based on reported 2020-21 financial data. Any approved appeal items from prior and current school years will be reviewed and, if appropriate, included in the calculation of the 2022-23 rate. As in previous years, each provider's financial data is reviewed by staff of the Rate Setting Unit (RSU) and any necessary adjustments are made in accordance with Section 200.9 of the Commissioner's Regulations and the Reimbursable Cost Manual (RCM), as applicable. This process is completed prior to the application of cost screens. The basic components of the tuition rate setting methodology and various factors used to calculate the 2022-23 tuition rates are described below:

A. Prospective Trend Factor - School-Age Programs

An 11.0 percent trend factor is approved for the 2022-23 school year for school-age programs. A factor of 15.44 percent which represents the compounding of the approved prospective trend

factors of 4.0 percent for the 2021-22 and 11.0 percent for the 2022-23 school years is applied to reimbursable 2020-21 base year direct care and non-direct care costs, excluding interest, depreciation, and expenses related to one-time waivers as appropriate.

B. Non-direct Care Cost Parameter

The non-direct care cost parameter limits the amount of non-direct care costs that will be reimbursed through the tuition rate to 30 percent of the reimbursable costs after adjustments. The reimbursable limit for non-direct care costs can be calculated by multiplying adjusted direct care costs by .4286, which is the ratio of 30/70 for non-direct care/direct care costs.

C. Applied Revenues

Applied revenues will be subtracted from total adjusted costs after the application of the non-direct care cost parameter.

Extraordinary federal aid received by providers, including but not limited to federal Paycheck Protection Program (PPP) and Emergency Assistance to Non-Public Schools (EANS) revenue, will be treated as offsetting revenue for 2022-23 reconciliation tuition rate calculations, with providers' prospective rates in future years held harmless from the impact of extraordinary federal aid offset against expenses in a prior year's tuition rate.

D. Total Cost Screen

1. The hold-harmless component of the total cost screen is not applied in the calculation of 2022-23 tuition rates for school-age programs.
2. For the 2022-23 Prospective Rate:
 - a. For private and special act school district school-age programs the 2022-23 prospective rate cannot exceed the greater of:
 - i. The 2020-21 reconciliation per diem rate plus 15.44 percent or
 - ii. The 2021-22 prospective per diem rate plus 11.0 percent.

The Department reserves the right to apply the 2020-21 reconciliation rate plus 15.44 percent if the application of the 2021-22 prospective rate plus 11.0 percent would result in an inappropriate benefit, as determined by SED, under the circumstances applicable at the time the reconciliation rate is being calculated.

- b. For public and BOCES school-age providers that operate summer only programs, the 2022-23 prospective per diem rate cannot exceed the 2020-21 reconciliation per diem rate plus 15.44 percent.

3. For the 2022-23 Reconciliation Rate:

a. For private and special act school district school-age programs:

- i. In most cases, the 2022-23 reconciliation per diem rate cannot exceed the greater of:
 - 1. The 2021-22 reconciliation per diem rate plus 11.0 percent or
 - 2. The 2022-23 prospective per diem rate.
- ii. If the 2022-23 enrollment-to-capacity percent decreases by seven and one half (7.5) percentage points or more from the 2016-17 through 2018-19 three-year average enrollment-to-capacity percent, then the 2022-23 reconciliation per diem rate cannot exceed the greater of:
 - 1. The 2021-22 reconciliation per diem rate plus 11.0 percent, plus per diem costs removed by the total cost screen that are added back by using the lesser of the 2016-17 through 2018-19 three-year average enrollment-to-capacity percent or 92.5 percent of reported enrollment capacity care days in the total cost screen calculation, or
 - 2. The 2022-23 prospective per diem rate, plus per diem costs removed by the total cost screen that are added back by using the lesser of the 2016-17 through 2018-19 three-year average enrollment-to-capacity percent or 92.5 percent of reported enrollment capacity care days in the total cost screen calculation.

Using the 2016-17 through 2018-19 three-year average enrollment-to-capacity percent will not be applied if the school-age program does not have an approved reconciliation rate for the 2016-17 through 2018-19 years.

- iii. In either calculation of the reconciliation rate total cost screen under (i) or (ii) described above, the Department reserves the right to apply 1 if the application of 2 would result in an inappropriate benefit, as determined by SED, under the circumstances applicable at the time the reconciliation rate is being calculated.

- b. For public and BOCES school-age providers that operate summer only programs, the 2022-23 reconciliation per diem rate cannot exceed the 2021-22 reconciliation per diem rate plus 11.0 percent.

E. 2022-23 Reconciliation Process

The reconciliation process, as defined in Section 200.9 (f)(3)(iii) of the Commissioner's Regulations, will be applied in the calculation of the 2022-23 reconciliation rates for all approved

school-age programs with the additional provisions as follows:

1. Chapter 56 of the Laws of 2022, Section 19-a, allows preschool special education providers (4410 programs), private school-age special education providers (853 schools) and special act school districts to retain annual surpluses of 11% in 2022-23, 2023-24, and 2024-25, 8% in 2025-26, 5% in 2026-27, and 2% in 2027-28 and thereafter. A.10191/S.9132, a bill which passed the Legislature during the 2022 session and is currently pending action by the Governor, would amend the surplus retention language in Chapter 56 of the Laws of 2022. NYSED will issue an update to this memorandum once there is resolution on surplus retention.
2. The 2022-23 reconciliation rate calculated and certified will be the basis of 2023-24 reconciliation and 2024-25 prospective rate calculations, regardless of whether the 2022-23 reconciliation rate was issued or not. Therefore, even when a 2022-23 reconciliation rate is not issued, it is anticipated that each program will retrieve and review their 2022-23 reconciliation rate on SEDFIN and use that reconciliation rate for future budgeting purposes.
3. When an enrollment adjustment factor is applied to the 2022-23 reconciliation rate, a 2022-23 reconciliation rate will be issued in all instances.
4. The 2022-23 reconciliation per diem to be used in the calculation of the 2023-24 reconciliation and 2024-25 prospective tuition rates will be exclusive of any enrollment adjustment factor amount that may be added back to the 2022-23 reconciliation rate.

F. Excessive Teacher Turnover Prevention Program

Funding for the Excessive Teacher Turnover Prevention Program (ETTPP) for eligible school programs will be directly incorporated into the 2022-23 prospective tuition rates for qualifying providers. The distribution of the funding will be provided to eligible programs whose average teacher salary are below the median salary provided for similarly qualified teachers in public schools in the region in which their agency is located. The allocation to each qualifying program will be calculated based on the number of weighted full-time equivalent (FTE) calculated as follows:

1. The total number of weighted FTE will be determined by multiplying the actual number of FTE teachers (based on a three-year average of historical data submitted in program's cost reports) providing classroom instruction in each program by:
 - a. A factor of 2.0 for those programs where average teacher salaries are 50% or less of those in public schools located in the same geographic region;
 - b. A factor of 1.5 for those programs where average teacher salaries are greater than 50% but 75% or less than those in public schools located in the same geographic region; or
 - c. A factor of 1.0 for those programs where average teacher salaries are greater than

75% but 100% or less than those in public schools located in the same geographic region.

Programs where average teacher salaries equal or exceed regional 50th percentile special education teacher salaries are not eligible for a rate adjustment. Distribution of \$8 million for school-age and preschool programs will be calculated for 2022-23.

Each program receiving ETPP funding will be notified of the total dollar amount added to their 2022-23 prospective rate. A Chief Administrator's Certification statement will be needed to attest to the total dollar amount of funding spent to supplement teacher compensation with an assurance statement that this amount will continue to be used for this purpose. Upon reconciliation, if a program is impacted by a total cost screen, a total cost screen waiver up to the amount of the total cost screen will be applied as part of approved methodology equal to the allowable 2022-23 ETPP expenditure as certified by the program. Upon review of such reports, annual cost reports, or as a result of field audit, if SED determines funds were not spent in compliance with stated purpose of supplemental teacher compensation, such expenditures will be recouped via a reconciliation rate or a final audit rate.

Reconciliation Glossary

- "Reconciliation tuition rate per diem" is the per care day rate after adjustments to reported costs made on desk review, and after offsetting applied revenues and application of the non-direct care cost parameter and the total cost screen.
- "Regional weighted average per diem" used in the 2022-23 reconciliation process is the weighted average per diem for full-day segregated special class programs operating at greater than 2.5 hours and are equal to the approved 2021-22 rates plus 11.0% growth.
- "Reported enrollment capacity care days" is the number of students per the approved classroom ratio multiplied by the operated number of classrooms multiplied by the number of session days.
- "Enrollment-to-capacity percent" is total care days used in the tuition rate calculation divided by reported enrollment capacity care days.
- "Three-year average enrollment-to-capacity percent" is the sum of the total care days for the 2016-17 through 2018-19 report years divided by the sum of the reported enrollment capacity care days for the 2016-17 through 2018-19 report years.
- "Enrollment Adjustment Factor" is the per diem costs removed by the total cost screen in the reconciliation rate that are added back by using the lesser of the three-year average enrollment-to-capacity percent or 92.5 percent of reported enrollment capacity care days in the total cost screen calculation.

Section II. Specific Provisions to the Rate Setting Methodology

- A. Special Class Programs - Tuition Rates for Initial Years of Operation Pursuant to Section 200.9 (f)(2)(viii) of the Regulations of the Commissioner of Education.

1. Special class programs that operated initially in 2020-21 will have the prospective tuition rate and reconciliation tuition rate for 2022-23 established using the general rate setting methodology detailed in Section I of this memo based on required financial statements and reports.
2. Special class programs that operated initially in 2021-22 will have the prospective tuition rate for 2022-23 established at the 2021-22 prospective tuition rate with no trend applied. For 2022-23 reconciliation:
 - a. Private and Special Act School Districts - the program's per diem rate will be limited to the lower of: (i) the per diem based on the school's reimbursable costs; or (ii) the higher of the 2021-22 reconciliation per diem rate plus 11.0 percent trend factor or the 2022-23 prospective per diem rate.
 - b. Public School District and BOCES 2 month – the program's per diem rate will be limited to the lower of the per diem based on the school's reimbursable costs or the 2021-22 reconciliation per diem rate plus 11.0 percent trend factor.
3. Special class programs that are seeking initial approval in 2022-23 will receive prospective tuition rates based on the 2022-23 regional weighted average per diem tuition rate. For 2022-23 reconciliation, the program's per diem rate will be held to the lower of the per diem based on the school's reimbursable costs or the 2022-23 regional weighted average per diem rate.

Notwithstanding the above provisions, approved private special class programs will be subject to the provisions of Section 200.9 (f)(2)(viii) of the Commissioner's Regulations. This section of the Regulations states that if a new approved private special class program's student enrollment is not equal to or greater than the minimum number required in Section 200.7 (c)(3), then that program shall continue to receive the regional weighted average per diem tuition rate for the rate year until such time that the program's actual base year enrollment equals or exceeds the required minimum number of full-time-equivalent students.

"Regional weighted average per diem" used in the 2022-23 reconciliation process is the weighted average per diem developed on a regional basis for 2-month only and 10 or 12-month segregated special class programs and can be found in Attachment I. Separate 2022-23 regional weighted average per diem tuition rates shall be used for school-age 2-month only and 10 or 12-month programs. The 2022-23 rates equal the approved 2021-22 rates plus 11.0% growth.

B. 1:1 Aide Add-On Rates

The 2022-23 regional weighted average 1:1 aide add-on rates are listed in Attachment II. These will be added to the approved tuition rate(s) of the program in which the student is enrolled. The 2022-23 1:1 aide add-on rates are not subject to reconciliation. The 2022-23 rates are based on 2021-22 regional rates plus 11.0% growth.

C. Minimum Wage

2022-23 tuition rates may include additional funding for compliance with the Minimum Wage Act (Article 19 of the New York State Labor Law), which was signed into law on April 4, 2016. Approved private programs serving school-age students with disabilities (chapter 853 schools) and Special Act School Districts that submitted minimum wage survey data in December 2020 may be eligible for a funding adjustment to 2022-23 tuition rates for minimum wage impact.

D. Interim Rates

For the 2022-23 school year, interim rates were issued to approved programs, as warranted. These rates are in effect until the prospective 2022-23 rates are calculated and approved. The interim rates are intended to provide cash flow until the 2022-23 prospective tuition rates are processed. Interim rates are posted at the Rate Setting Unit website at the following: http://www.oms.nysed.gov/rsu/Rates_Methodology/Rates/home.html.

E. Reimbursement for July/August Session Days

This is to remind all providers that consistent with Section 4408 of Education Law, funding for school-age programs operated during July and August of 2022 will be based on thirty days of service. Programs that operate more than thirty days during July and August will only be funded for thirty days and will be subject to total cost screens if they choose to operate longer sessions.

F. BOCES & Public Summer School-Age Only Programs

School-age July/August home instruction (9022-9024), related service with specialized instruction (9025) and specialized instruction (9029) are now combined with the previous related service-only programs under program code 9015 and renamed school-age non-special class. This program will be reimbursed using rates per ½-hour units of service, and subject to verification within the reimbursement system. The 2022-23 regional weighted average school-age non-special class rates are listed on Attachment III and are not subject to reconciliation.

G. Teacher Certification Funds for 2022-23

Instructions and required forms for applying for these monies will be available on the STAC website <http://www.oms.nysed.gov/stac/>. Please note that related costs and revenues are to be reported in a separate program cost center, and not in any rate program cost center. These monies are not to be used to increase base year costs for future rate setting.

H. Reimbursable Cost Manual and Rate Setting Unit Contact Information

The 2022 edition of the RCM, which defines reimbursable costs for the 2022-23 school

year, will be available at the Rate Setting Unit's website in September 2022:
http://www.oms.nysed.gov/rsu/Manuals_Forms/Manuals/RCM/home.html

Inquiries regarding 2022-23 tuition rates should be directed to the RSU staff accountant who is assigned to process the school's 2020-21 financial reports. RSU staff telephone numbers and e-mail addresses are available at the Rate Setting Unit's Website at
http://www.oms.nysed.gov/rsu/Contact_Us/employees.html

RSU staff school assignments are available at the Rate Setting Unit's Website at:
http://www.oms.nysed.gov/rsu/Contact_Us/SchoolAssignments.html

The general RSU office information is listed below:

New York State Education Department
Rate Setting Unit
Albany, New York 12234
Phone: (518) 474-3227
Fax: (518) 486-3606

Enclosures:

- Attachment I: 2022-23 Regional Weighted Average Per Diem Tuition Rates
- Attachment II: 2022-23 1:1 Aide Add-on Rates
- Attachment III: 2022-23 School-Age Non-Special Class Regional Rates

Attachment I

2022-23 Regional Weighted Average Per Diem Tuition Rates

County	BEDS CODE	School Age	
		Two Month RWAPD	Twelve Month RWAPD
1 ALBANY	04	\$ 164.00	\$ 224.36
2 ALLEGANY	11	\$ 159.86	\$ 236.14
3 BROOME	09	\$ 159.86	\$ 236.14
4 CATTARAUGUS	11	\$ 159.86	\$ 236.14
5 CAYUGA	08	\$ 159.86	\$ 236.14
6 CHAUTAUQUA	11	\$ 159.86	\$ 236.14
7 CHEMUNG	10	\$ 159.86	\$ 236.14
8 CHENANGO	09	\$ 159.86	\$ 236.14
9 CLINTON	05	\$ 159.86	\$ 236.14
10 COLUMBIA	04	\$ 164.00	\$ 224.36
11 CORTLAND	08	\$ 159.86	\$ 236.14
12 DELAWARE	09	\$ 159.86	\$ 236.14
13 DUTCHESS	03	\$ 159.86	\$ 289.22
14 ERIE	13	\$ 159.86	\$ 237.05
15 ESSEX	05	\$ 159.86	\$ 236.14
16 FRANKLIN	06	\$ 159.86	\$ 236.14
17 FULTON	04	\$ 164.00	\$ 224.36
18 GENESEE	12	\$ 196.49	\$ 236.14
19 GREENE	04	\$ 164.00	\$ 224.36
20 HAMILTON	05	\$ 159.86	\$ 236.14
21 HERKIMER	07	\$ 159.86	\$ 236.14
22 JEFFERSON	06	\$ 159.86	\$ 236.14
23 LEWIS	06	\$ 159.86	\$ 236.14
24 LIVINGSTON	12	\$ 196.49	\$ 236.14
25 MADISON	08	\$ 159.86	\$ 236.14
26 MONROE	12	\$ 196.49	\$ 236.14
27 MONTGOMERY	04	\$ 164.00	\$ 224.36
28 NASSAU	02	\$ 167.55	\$ 303.64
30 NEW YORK CITY	01	\$ 318.07	\$ 264.19
40 NIAGARA	13	\$ 159.86	\$ 237.05
41 ONEIDA	07	\$ 159.86	\$ 236.14
42 ONONDAGA	08	\$ 159.86	\$ 236.14
43 ONTARIO	12	\$ 196.49	\$ 236.14
44 ORANGE	03	\$ 191.17	\$ 289.22
45 ORLEANS	12	\$ 196.49	\$ 236.14
46 OSWEGO	08	\$ 159.86	\$ 236.14
47 OTSEGO	09	\$ 159.86	\$ 236.14
48 PUTNAM	03	\$ 191.17	\$ 289.22
49 RENSSELAER	04	\$ 164.00	\$ 224.36
50 ROCKLAND	03	\$ 191.17	\$ 289.22
51 ST. LAWRENCE	06	\$ 159.86	\$ 236.14
52 SARATOGA	04	\$ 164.00	\$ 224.36
53 SCHENECTADY	04	\$ 164.00	\$ 224.36
54 SCHOHARIE	04	\$ 164.00	\$ 224.36
55 SCHUYLER	10	\$ 159.86	\$ 236.14
56 SENECA	12	\$ 196.49	\$ 236.14
57 STEUBEN	10	\$ 159.86	\$ 236.14
58 SUFFOLK	02	\$ 167.55	\$ 303.64
59 SULLIVAN	03	\$ 191.17	\$ 289.22
60 TIOGA	09	\$ 159.86	\$ 236.14
61 TOMPKINS	09	\$ 159.86	\$ 236.14
62 ULSTER	03	\$ 191.17	\$ 289.22
63 WARREN	05	\$ 159.86	\$ 236.14
64 WASHINGTON	05	\$ 159.86	\$ 236.14
65 WAYNE	12	\$ 196.49	\$ 236.14
66 WESTCHESTER	03	\$ 191.17	\$ 289.22
67 WYOMING	13	\$ 159.86	\$ 237.05
68 YATES	12	\$ 196.49	\$ 236.14

Attachment II

2022-23 Regional Weighted Average Per Diem Tuition Rates 1:1 Teacher Aides

County	1:1 Aides 2022-23 School Age
1 ALBANY	\$ 132.61
2 ALLEGANY	\$ 124.95
3 BROOME	\$ 124.95
4 CATTARAUGUS	\$ 124.95
5 CAYUGA	\$ 124.95
6 CHAUTAUQUA	\$ 124.95
7 CHEMUNG	\$ 124.95
8 CHENANGO	\$ 124.95
9 CLINTON	\$ 124.95
10 COLUMBIA	\$ 132.61
11 CORTLAND	\$ 124.95
12 DELAWARE	\$ 124.95
13 DUTCHESS	\$ 154.07
14 ERIE	\$ 123.85
15 ESSEX	\$ 124.95
16 FRANKLIN	\$ 124.95
17 FULTON	\$ 132.61
18 GENESEE	\$ 128.37
19 GREENE	\$ 132.61
20 HAMILTON	\$ 124.95
21 HERKIMER	\$ 124.95
22 JEFFERSON	\$ 124.95
23 LEWIS	\$ 124.95
24 LIVINGSTON	\$ 128.37
25 MADISON	\$ 124.95
26 MONROE	\$ 128.37
27 MONTGOMERY	\$ 132.61
28 NASSAU	\$ 142.55
30 NEW YORK CITY	\$ 174.17

County	1:1 Aides 2022-23 School Age
40 NIAGARA	\$ 123.85
41 ONEIDA	\$ 124.95
42 ONONDAGA	\$ 124.95
43 ONTARIO	\$ 128.37
44 ORANGE	\$ 154.07
45 ORLEANS	\$ 128.37
46 OSWEGO	\$ 124.95
47 OTSEGO	\$ 124.95
48 PUTNAM	\$ 154.07
49 RENSSELAER	\$ 132.61
50 ROCKLAND	\$ 154.07
51 ST. LAWRENCE	\$ 124.95
52 SARATOGA	\$ 132.61
53 SCHENECTADY	\$ 132.61
54 SCHOHARIE	\$ 132.61
55 SCHUYLER	\$ 124.95
56 SENECA	\$ 128.37
57 STEUBEN	\$ 124.95
58 SUFFOLK	\$ 142.55
59 SULLIVAN	\$ 154.07
60 TIOGA	\$ 124.95
61 TOMPKINS	\$ 124.95
62 ULSTER	\$ 154.07
63 WARREN	\$ 124.95
64 WASHINGTON	\$ 124.95
65 WAYNE	\$ 128.37
66 WESTCHESTER	\$ 154.07
67 WYOMING	\$ 123.85
68 YATES	\$ 128.37

Attachment III

2022-23 School Age Summer Non-Special Class Regional Average Rates for Program Code 9015

	2022-23 Regional Average Rates
County	
1 ALBANY	\$ 57
2 ALLEGANY	\$ 46
3 BROOME	\$ 46
4 CATTARAUGUS	\$ 48
5 CAYUGA	\$ 48
6 CHAUTAUQUA	\$ 50
7 CHEMUNG	\$ 43
8 CHENANGO	\$ 45
9 CLINTON	\$ 55
10 COLUMBIA	\$ 55
11 CORTLAND	\$ 50
12 DELAWARE	\$ 45
13 DUTCHESS	\$ 62
14 ERIE	\$ 60
15 ESSEX	\$ 52
16 FRANKLIN	\$ 48
17 FULTON	\$ 52
18 GENESEE	\$ 53
19 GREENE	\$ 50
20 HAMILTON	\$ 48
21 HERKIMER	\$ 52
22 JEFFERSON	\$ 50
23 LEWIS	\$ 48
24 LIVINGSTON	\$ 48
25 MADISON	\$ 50
26 MONROE	\$ 52
27 MONTGOMERY	\$ 55
28 NASSAU	\$ 79
30 NEW YORK CITY	\$ 60

	2022-23 Regional Average Rates
County	
40 NIAGARA	\$ 58
41 ONEIDA	\$ 57
42 ONONDAGA	\$ 52
43 ONTARIO	\$ 50
44 ORANGE	\$ 62
45 ORLEANS	\$ 55
46 OSWEGO	\$ 52
47 OTSEGO	\$ 45
48 PUTNAM	\$ 77
49 RENSSELAER	\$ 57
50 ROCKLAND	\$ 76
51 ST. LAWRENCE	\$ 50
52 SARATOGA	\$ 60
53 SCHENECTADY	\$ 57
54 SCHOHARIE	\$ 50
55 SCHUYLER	\$ 50
56 SENECA	\$ 46
57 STEUBEN	\$ 48
58 SUFFOLK	\$ 72
59 SULLIVAN	\$ 57
60 TIOGA	\$ 46
61 TOMPKINS	\$ 48
62 ULSTER	\$ 65
63 WARREN	\$ 53
64 WASHINGTON	\$ 53
65 WAYNE	\$ 46
66 WESTCHESTER	\$ 79
67 WYOMING	\$ 52
68 YATES	\$ 48