THOMAS P. DiNAPOLI
COMPTROLLER

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STATE OF NEW YORK
**OFFICE OF THE STATE COMPTROLLER**

December 10, 2019

Ms. Shannon Tahoe
Acting Commissioner
State Education Department
State Education Building
89 Washington Avenue
Albany, NY 12234

Mr. Anthony Cortese
Chief Executive Officer
St. Anne Institute
160 North Main Avenue
Albany, NY 12206

Re: Compliance With the Reimbursable
Cost Manual
Report 2019-S-20

Dear Ms. Tahoe and Mr. Cortese:

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

## Background

St. Anne is an SED-approved, not-for-profit special education provider located in Albany. St. Anne provides preschool special education services to children with disabilities who are between three and four years of age. For the fiscal year ended June 30, 2016, St. Anne operated one rate-based preschool special education program: Preschool Integrated Special Class – over 2.5 hours per day (referred to as the Program). During the 2015-16 school year, St. Anne provided these special education services to 17 children with learning disabilities from two school districts located in Albany and Rensselaer counties.

The counties that use St. Anne's preschool special education services pay tuition to St. Anne using reimbursement rates set by SED. The State, in turn, reimburses the counties 59.5 percent of the special education tuition that the counties pay. SED sets the special education tuition rates based on financial information, including costs, reported by St. Anne on its annual Consolidated Fiscal Report (CFR) that it submits to SED. Costs reported on the CFR must comply fully with the guidelines in SED's Reimbursable Cost Manual (RCM) regarding eligibility and documentation requirements and must meet the reporting requirements prescribed by the Consolidated Fiscal Reporting and Claiming Manual (CFR Manual). For the fiscal year ended June 30, 2016, St. Anne reported about $450,000 in reimbursable costs for the Program on its CFR.

## Results of Audit

According to the RCM, costs reported on the CFR are considered for reimbursement if they are reasonable, necessary, directly related to the special education program, and adequately documented. For the fiscal year ended June 30, 2016, we identified $14,204 in costs that were ineligible for reimbursement because they did not comply with SED's requirements. The non-reimbursable costs included $7,287 in personal service costs and $6,917 in other than personal service costs.

### *Personal Service Costs*

We determined St. Anne reported personal service costs for 11 employees who were not directly related to the Program. Eight employees had job titles and/or duties that specifically referenced a residential program operated by St. Anne. Another employee was a social studies teacher in St. Anne's school-age program. Two other employees were also incorrectly reported under the Program. Consequently, St. Anne reported non-reimbursable personal service costs totaling $7,287 ($6,010 in salary and $1,277 in fringe benefits) for the 11 employees.

### *Other Than Personal Service Costs*

For the fiscal year ended June 30, 2016, we identified $6,917 in other than personal service costs charged to the Program that did not meet SED's requirements for reimbursement. The ineligible costs consisted of the following:

- $2,434 in unnecessary or non-reimbursable costs related to account adjustments and bad debts. The RCM states that costs will be considered for reimbursement provided they are reasonable, necessary, and directly related to the special education program. Further, it states bad debt expenses are not reimbursable. St. Anne reported $1,350 in unnecessary costs that resulted from adjustments to write off certain account balances at the end of its fiscal year. St. Anne also included non-reimbursable bad debt expenses totaling $1,084 on its CFR.
- $1,505 in non-reimbursable vehicle expenses. According to the RCM, vehicle use must be documented with individual vehicle logs. St. Anne did not maintain vehicle logs as required. As a result, $936 for lease costs and $569 for insurance was ineligible for reimbursement.

- $1,362 in excess audit and legal costs. According to the CFR Manual, agency-wide auditing and legal costs cannot be directly charged on the CFR-1. However, St. Anne improperly included accounting and legal costs on the CFR-1 instead of the CFR-3 as required, resulting in excess costs that were non-reimbursable.
- $805 in working capital interest that was non-reimbursable because St. Anne submitted its CFR late. The CFR Manual requires providers to submit CFRs no later than 120 days after the end of the reporting period, or no later than 150 days after the end of the reporting period with a preapproved 30-day extension request. For July–June filers, such as St. Anne, the extended due date is December 1. According to the RCM, interest expense on working capital loans is not reimbursable if the CFR is not submitted within 90 days after the due date. St. Anne submitted its CFR on March 31, 2017, more than 90 days after it was due. Therefore, the working capital interest was not reimbursable. SED previously identified these costs as ineligible for reimbursement.
- $570 in non-reimbursable costs for non-audit services. The RCM states that costs associated with non-audit services provided by an accounting firm within 365 days of required audit work are not reimbursable. The non-audit services were related to assistance implementing a new accounting system during the 2015-16 fiscal year.
- $241 in other non-reimbursable costs. According to the RCM, costs for food, gifts, and donations are not reimbursable. In addition, the RCM states that costs will be considered for reimbursement provided they are reasonable, necessary, and directly related to the special education program. The ineligible costs reported on the CFR were as follows: $126 for food for staff; $68 for gifts for staff; $25 for donations; and $22 in unnecessary costs for TVs and a Kindle for staff picnics and a refrigerator for the pool area.

## Recommendations

**To SED:**

1. Review the disallowances identified by our audit and, if warranted, make the necessary adjustments to the costs reported on St. Anne's CFR and to St. Anne's tuition reimbursement rates.

2. Remind St. Anne officials of the pertinent SED guidelines that relate to the deficiencies we identified.

**To St. Anne:**

3. Ensure that all costs reported on annual CFRs fully comply with SED's requirements, and communicate with SED to obtain clarification as needed.

## Audit Scope, Objective, and Methodology

We audited the costs that St. Anne reported on its CFR for the fiscal year ended June 30, 2016. The objective of our audit was to determine whether the reported costs were allowable, properly calculated, and adequately documented in accordance with applicable SED requirements.

To accomplish our objective, we reviewed the RCM that applied to the year we examined as well as the CFR Manual and its appendices. We also evaluated the internal controls over the costs claimed on, and schedules prepared in support of, the CFR submitted to SED. We interviewed St. Anne officials to obtain an understanding of their practices for reporting costs on the CFR. We reviewed St. Anne's CFR for the year ended June 30, 2016 and relevant financial records for the audit period. We analyzed job titles and descriptions and employee time records and met with program staff to assess certain personal service costs. We also obtained accounting records and supporting information to assess whether a judgmental sample of costs claimed by St. Anne on the CFR that were considered high risk or reimbursable under limited circumstances (such as vehicles, bad debt, food, donations, and gifts) were properly calculated, adequately documented, and allowable. The results of our judgmental sample cannot be projected to the population.

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

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

## Reporting Requirements

We provided a draft copy of this report to SED and St. Anne officials for their review and formal comment. We considered their comments in preparing this report and have included them in their entirety at the end of it. In SED's response, officials agreed with the audit recommendations and indicated the actions they will take to address them. However, in their response, St. Anne officials disagreed with most of the proposed disallowances. Our responses to certain St. Anne comments are included in the report's State Comptroller's Comments.

Within 180 days of the final release of this report, as required by Section 170 of the Executive Law, the Commissioner of Education shall report to the Governor, the State Comptroller, and the leaders of the Legislature and fiscal committees, advising what steps were taken to implement the recommendations contained herein, and where recommendations were not implemented, the reasons why.

Major contributors to this report were Ed Durocher, CIA; Brian Krawiecki, CIA; Jessica Kirk, CGAP; Jonathan Julca; Christian Butler; and Logan Frese.

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

Sincerely,

Brian Reilly, CFE, CGFM
Audit Director

cc: Sharon Cates-Williams, State Education Department
Traci Coleman, State Education Department
James Kampf, State Education Department
Phyllis Morris, State Education Department
Brian Zawistowski, State Education Department

# Agency Comments - State Education Department

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

DEPUTY COMMISSIONER
Office of Performance Improvement and Management Services
O: 518.473-4706
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December 5, 2019

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

Dear Mr. Reilly:

The following is the New York State Education Department's (SED) response to the draft audit report, 2019-S-20, St. Anne Institute (St. Anne) - Compliance with the Reimbursable Cost Manual.

Recommendation 1:

"Review the disallowances identified by our audit and, if warranted, make the necessary adjustments to the costs reported on St. Anne's CFR and to St. Anne's tuition reimbursement rates."

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

Recommendation 2:

"Remind St. Anne officials of the pertinent SED guidelines that relate to the deficiencies we identified."

We agree with this recommendation. SED will continue to provide technical assistance whenever requested and will strongly recommend the St. Anne's officials avail themselves of our assistance to help them better understand the rules for cost reporting and criteria for cost reimbursement as presented in the CFR, Regulation and the Reimbursable Cost Manual (RCM). Furthermore, SED will alert St. Anne of online CFR training that is available on SED's webpage. SED recommends that all individuals signing the CFR certification statements, namely the Executive Director and Certified

Public Accountant, complete this training. This training is a requirement for preschool special education providers upon approval and reapproval.

If you have any questions regarding this response, please contact Brian Zawistowski, Assistant Director of the Rate Setting Unit, at (518) 474-3227.

Sincerely,

Sharon Cates-Williams

Sharon Cates-Williams
Deputy Commissioner

c: Phyllis Morris
Christopher Suriano
Suzanne Bolling
Traci Coleman
Brian Zawistowski
James Kampf

# Agency Comments - St. Anne Institute

ANTHONY G. CORTESE
CEO/President

St. Anne Institute
LOVING · CARING · PROTECTING
160 North Main Ave. | Albany, NY 12206

www.stanneinstitute.org

November 12, 2019

Brian Riley
Audit Director
Office of the State Comptroller
110 State Street, 11th Floor
Albany, NY 12236

**Re: Report # 2019-S-20 State Education Department St. Anne Institute (St. Anne) Compliance with RCM**

Dear Mr. Riley,

I am responding to your draft letter regarding Compliance With the Reimbursable Cost Manual Report 2019-S-20 received on November 1, 2019.

**Results of the Audit:**

Personal Service Costs

We understand that in 2015-2016 the job descriptions in place for the eight (8) employees whose salaries and fringe benefits were excluded did not reference the Preschool Program specifically. The duties of these positions do oversee the security of the staff and clients in all programs and departments throughout St. Anne Institute. The job descriptions for these positions were updated shortly thereafter to reference the security aspect of these positions and how they are integral to all programs/departments within St. Anne Institute. With this in mind, St. Anne Institute believes that $6,562 of the $7,287 were legitimate expenses to the Preschool Program.

Comment 1

We agree that there were three (3) employees who were not integral in the Preschool program during this time. However, these employees had worked in the Preschool at other times in the past. In this instance, these three (3) employees' should be excluded for the amount of $725 comprised of their combined salaries and fringe benefits.

Other Than Personal Costs

The $2,434 in non-reimbursable costs for account adjustments and bad debt was categorized as not directly related to the Preschool Program. Bad debt by its very nature is Program driven. When a County, school district or parent refuses to pay for tuition for education services provided to the child, the Agency traditionally attributes the lost revenue to the Program.

Comment 2

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*Accredited by the Council on Accreditation* **(COA)**

The reasons for adjusting account balances to a Program are also generated by the program where the adjustment has been made.

$1,505 was considered a "non-reimbursable" vehicle expense as a result of the vehicle logs having been destroyed after 3 years versus the 7 years that the auditors indicated was appropriate for this type of records retention. The vehicle logs did exist during the 2015-2016 fiscal year; however, they were not in existence in 2019 when this audit took place. Had the logs existed when the audit took place, we believe that these expenses would have been acceptable and a non-issue.

Comment 3

Regarding the $1,362 in excess audit and legal costs having been recorded on the CFR-1 program expenses versus the CFR-3 administrative expenses, the $1,362 was attributable to the Program none-the-less.

Comment 4

The $805 in working capital was recorded as a reimbursable expense in good faith. St. Anne Institute believed that the CFR had been filed in a timely manner as a result of having a filing extension in place for that filing period.

Comment 5

As with the $1,362 audit and legal costs previously referenced, the $570 for non-audit services were necessary and attributable to the program. These expenses should be considered reasonable and reimbursable administrative expenses.

Comment 6

The $241 costs for food, gifts and donations were used to provide a staff picnic. This picnic was established as an employee morale effort. $126 of the costs was for the food at the staff recognition picnic. $68 was used for staff recognition gifts and included $22 toward the purchase of a TV and a Kindle which were part of a drawing to raise staff morale and let staff know that they are appreciated and an integral part of St. Anne Institute. As a not for profit, small events such as picnics are a modest effort to build staff morale. The $25 for donations was actually interest expense to administration which is an appropriate administrative expense.

Comment 7

**Recommendations to St. Anne:**

As always, St. Anne Institute will work with NYSED to ensure that the CFR is submitted according to the Reimbursable Cost Manual in place at the time of submission.

Should you have additional questions, please e-mail me at dmalecki@s-a-i.org or call me at (518) 437-6510.

Yours,

*Diane T. Malecki*

Diane T. Malecki
Chief Financial Officer/
Human Resources Supervisor

Cc: Anthony G. Cortese
Chief Executive Officer
St. Anne Institute

## State Comptroller Comments

1. According to the RCM, costs are considered for reimbursement if they are reasonable, necessary, and *directly related* to the special education program. Documentation reviewed did not support St. Anne's stance that the costs associated with these positions were legitimate Program expenses. As stated in the report, eight of these employees' job titles and duties explicitly referenced St. Anne's residential program, and the remaining three employees did not work in the Program during the period covered by our audit, which St. Anne itself acknowledges in its response. Although St. Anne officials contend that the job descriptions were updated subsequent to June 30, 2016, nothing provided to us during the audit supports their position for the period covered by this audit. Therefore, we maintain the $7,287 in salaries and fringe benefits is non-reimbursable.

2. St. Anne incorrectly states in its response that $2,434 for account adjustments and bad debt expenses was considered non-reimbursable because it was not directly related to the Program. Rather, these costs were considered non-reimbursable for other reasons outlined in the RCM: as stated in the report, the account adjustments totaling $1,350 were considered non-reimbursable because they were unnecessary, and the bad debt expense of $1,084 was non-reimbursable because it is not allowed by the RCM.

3. According to the RCM, a vehicle log must be maintained to document fuel charges, mileage, and repair costs for all Program-owned vehicles. Further, the RCM requires entities to retain records supporting reported data directly or indirectly related to the establishment of tuition rates for at least seven years following the end of each reporting year. Officials stated that vehicle logs existed, but were destroyed after three years. Absent appropriate documentation, we maintain the reported vehicle costs of $1,505 are ineligible for reimbursement.

4. We do not assert that the $1,362 is ineligible for reimbursement because it is not related to the Program. According to the CFR Manual, agency-wide auditing and legal costs cannot be directly charged on CFR-1. The $1,362 is excess audit and legal costs representing the difference between the amount St. Anne reported on its CFR-1 and what would have been allowed had St. Anne correctly reported these costs on its CFR-3. Therefore, we maintain this difference of $1,362 is ineligible for reimbursement.

5. According to the CFR Manual, the due date for filing CFRs is no later than 150 days after the end of the reporting period with a preapproved 30-day extension request. As such, St. Anne's extended due date to submit its CFR as a July–June filer was December 1, 2016. St. Anne submitted its CFR on March 31, 2017 – well after the extended due date that would have resulted from any extension that may have been granted.

6. According to the RCM, costs associated with non-audit services provided by an accounting firm within 365 days of required audit work are not reimbursable. Therefore, we maintain the $570 related to implementation of a new accounting

system is ineligible for reimbursement.

7. We recognize St. Anne’s efforts to build and maintain staff morale. However, according to the RCM, costs for food and gifts for staff are not reimbursable. Additionally, the RCM does not allow reimbursement for donations. Contrary to St. Anne’s assertion that a certain expense was actually an interest expense, accounting records reviewed during the audit identified this expense as a donation. For these reasons, we maintain that the entire $241 for food, gifts, and donations is ineligible for reimbursement.