

# State Education Department

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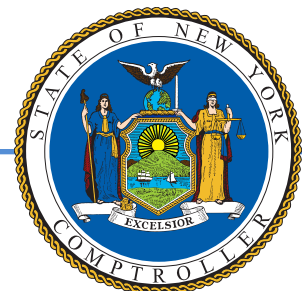
## Liberty Resources, Inc. – Compliance With the Reimbursable Cost Manual

Report 2023-S-22 | August 2024

OFFICE OF THE NEW YORK STATE COMPTROLLER  
Thomas P. DiNapoli, State Comptroller

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Division of State Government Accountability



# Audit Highlights

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## Objective

To determine whether the costs reported by Liberty Resources, Inc. (LRI) on its Consolidated Fiscal Reports (CFRs) were reasonable, necessary, directly related to the special education program, and sufficiently documented pursuant to the State Education Department's (SED) Reimbursable Cost Manual (RCM) and the Consolidated Fiscal Reporting and Claiming Manual (CFR Manual). The audit covered expenses reported on LRI's CFRs for the 2 fiscal years ended June 30, 2021.

## About the Program

LRI is a not-for-profit special education provider located in Rochester that serves students in Monroe and Wayne counties. LRI is authorized by SED to provide Preschool Special Class (2.5 hours per day) and Preschool Integrated Special Class (2.5 hours per day) education services to children with disabilities who are between the ages of 3 and 5 years. For the purposes of this report, these programs are referred to as SED preschool cost-based programs. LRI also operated other SED-approved preschool special education programs including Special Education Itinerant Teacher services and 1:1 Aides. However, payments for services under these programs are based on fixed fees, as opposed to the cost-based rates established using CFR-reported financial information. During the 2020–2021 school year, LRI served 195 preschool children in the SED preschool cost-based programs.

The counties that use LRI's preschool special education services pay tuition to LRI using reimbursement rates set by SED. The State, in turn, reimburses the counties for a portion of the tuition paid. SED sets the special education rates based on financial information, including costs, that LRI reports to SED on its annual CFRs. For the 2 fiscal years ended June 30, 2021, LRI reported approximately \$5.54 million in reimbursable costs for the SED preschool cost-based programs.

## Key Findings

For the 2 fiscal years ended June 30, 2021, we identified \$38,336 in reported costs that did not comply with the requirements in the RCM and CFR Manual, as follows:

- \$36,187 in expenses that were ineligible for reimbursement, including amortization of goodwill, payments to the previous owner for a non-compete agreement, gifts, and food for staff.
- \$1,322 in salaries and fringe benefits that could not be supported.
- \$827 in program administrative expenses that were not sufficiently documented, including shipping and postage expenses and travel expenses.

## Key Recommendations

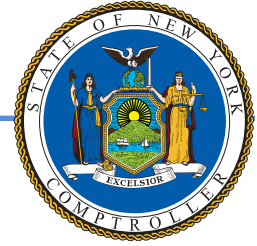
### To SED:

- Review the recommended disallowances identified by our audit and make the necessary adjustments to the costs reported on LRI's CFRs and LRI's tuition reimbursement rates, as warranted.
- Remind LRI officials of the pertinent SED requirements that relate to the deficiencies we identified.

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**To LRI:**

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



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## Office of the New York State Comptroller Division of State Government Accountability

August 28, 2024

Betty A. Rosa, Ed.D.  
Commissioner  
State Education Department  
State Education Building  
89 Washington Avenue  
Albany, NY 12234

Carl Coyle  
Chief Executive Director  
Liberty Resources, Inc.  
1045 James Street  
Syracuse, NY 13203

Dear Dr. Rosa and Mr. Coyle:

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

Following is a report, entitled *Compliance With the Reimbursable Cost Manual*, of our audit of the costs submitted by Liberty Resources, Inc. (LRI) to the State Education Department for the purpose of establishing the preschool special education tuition reimbursement rates used to bill public funding sources that are supported by State aid payments. This audit was performed pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution; Article II, Section 8 of the State Finance Law; and Section 4410-c of the State Education Law.

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

Respectfully submitted,

*Division of State Government Accountability*

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# Glossary of Terms

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<b>Term</b>	<b>Description</b>	<b>Identifier</b>
SED	State Education Department	<i>Auditee</i>
CFR	Consolidated Fiscal Report	<i>Key Term</i>
CFR Manual	Consolidated Fiscal Reporting and Claiming Manual	<i>Policy</i>
LRI	Liberty Resources, Inc.	<i>Service Provider</i>
OTPS	Other than personal service	<i>Key Term</i>
RCM	Reimbursable Cost Manual	<i>Policy</i>

# Background

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Liberty Resources, Inc. (LRI) is a not-for-profit special education provider located in Rochester, serving students from Monroe and Wayne counties in western New York. LRI is authorized by the State Education Department (SED) to provide Preschool Special Class (2.5 hours per day) and Preschool Integrated Special Class (2.5 hours per day) education services to children with disabilities who are between the ages of 3 and 5 years. For the purposes of this report, these programs are referred to as the SED preschool cost-based programs. During the 2020–2021 school year, LRI served 195 preschool children in the SED preschool cost-based programs.

In addition to the SED preschool cost-based programs, LRI operated other SED-approved preschool special education programs, including Special Education Itinerant Teacher services and 1:1 Aides. However, payments for services under these programs are based on fixed fees, as opposed to the cost-based rates established through Consolidated Fiscal Reports (CFRs).

The counties that use LRI's preschool special education services pay tuition to LRI using reimbursement rates set by SED. The State, in turn, reimburses the counties for a portion of the tuition paid. SED sets the special education rates based on financial information, including costs, that LRI reports to SED on its annual CFRs. 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 in the Consolidated Fiscal Reporting and Claiming Manual (CFR Manual). For the 2 fiscal years ended June 30, 2021, LRI reported approximately \$5.54 million in reimbursable costs for the SED preschool cost-based programs.

# Audit Findings and Recommendations

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According to the RCM, costs will be considered for reimbursement provided they are reasonable, necessary, directly related to the special education program, and sufficiently documented. For the 2 fiscal years ended June 30, 2021, we identified \$38,336 in costs that LRI reported on its CFR that did not comply with SED's requirements for reimbursement. These ineligible costs include \$1,322 in personal service costs and \$37,014 in other than personal service (OTPS) costs. (See Exhibit at the end of the report.)

Strong internal controls are critical to the overall health of an organization and help to safeguard assets and ensure reliable financial reporting and compliance with regulatory requirements. We attributed the disallowances detailed in this report to weaknesses in LRI's internal controls over its compliance with SED's guidelines.

## Personal Service Costs

According to the RCM, personal service costs, which include all salaries and fringe benefits paid or accrued to employees on the service provider's payroll, must be reported on the CFR as either direct care costs (e.g., teachers' salaries) or non-direct care costs (e.g., administrators' salaries). For the 2 fiscal years ended June 30, 2021, LRI reported approximately \$4.7 million in personal service costs for the SED preschool cost-based programs. We identified \$1,322 in personal service costs that did not comply with the RCM and the CFR Manual's requirements for reimbursement.

## Unsupported Salary Costs

According to the RCM, 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.

We reviewed time sheets for a judgmental sample of 10 employees, for two pay periods, and found that LRI reported an additional 50 hours on the CFR that could not be supported by time records, totaling \$1,322 (\$1,153 in salary and \$169 in fringe benefits).

LRI officials stated that, according to LRI policy, when an employee is salaried and works at least half a day, they do not need to charge time off and are paid at the full-time rate. Therefore, their time sheets will not reflect the employees' full-time hours reported on the CFR. However, salaries reported on the CFR must comply with the RCM's documented payroll guidelines to be eligible for reimbursement and LRI's policy does not comply with the RCM.

We recommend that SED disallow \$1,322 in salary expenses that were not in compliance with the RCM.



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## Other Than Personal Service Costs

According to the RCM, costs must be reasonable, necessary, directly related to the special education program, and sufficiently documented. For the 2 fiscal years ended June 30, 2021, LRI reported \$825,842 in OTPS expenses charged to the SED preschool cost-based programs. To determine whether these expenses complied with SED's requirements for reimbursement, we judgmentally selected and reviewed a sample of OTPS expenses totaling \$196,606. We also compared LRI's general ledger to expenses reported on its CFRs. We identified \$37,014 in expenses that did not comply with SED's reimbursement requirements.

### Ineligible Costs

According to the RCM, goodwill is defined as the stated value of a business in excess of its book value and is not a reimbursable cost. In addition, costs will be considered for reimbursement provided such costs are reasonable, necessary, directly related to the SED preschool cost-based programs, and sufficiently documented. Gifts of any kind and the costs of food provided to any staff are not reimbursable.

We found that LRI reported \$36,187 in expenses that are ineligible for reimbursement, including amortization of goodwill (\$22,353), payments to the previous owner for a non-compete agreement (\$9,920), gifts (\$3,304), and food for staff (\$610).

We recommend that SED disallow \$36,187 in costs that were not in compliance with the RCM.

### Insufficient Documentation

According to the RCM, costs will be considered for reimbursement provided such costs are reasonable, necessary, directly related to the special education program, and sufficiently documented. It also states that for travel, logs must be kept by each employee indicating the dates of travel, destination, purpose, mileage, and related costs such as tolls, parking, and gasoline.

We identified \$827 in program administrative expenses that were not sufficiently documented, including shipping and postage expenses (\$517) and travel expenses (\$310).

We recommend that SED disallow \$827 in OTPS costs that were reported on the CFR but were not sufficiently documented.

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## Recommendations

### To SED:

1. Review the recommended disallowances identified by our audit and make the necessary adjustments to the costs reported on LRI's CFRs and LRI's tuition reimbursement rates, as warranted.
2. Remind LRI officials of the pertinent SED requirements that relate to the deficiencies we identified.

### To LRI:

3. Ensure that 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

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The objective of our audit was to determine whether the costs reported by LRI on its CFRs were reasonable, necessary, directly related to the special education program, and sufficiently documented pursuant to SED's guidelines, including the RCM and CFR Manual. The audit covered expenses claimed on LRI's CFRs for the 2 fiscal years ended June 30, 2021.

To accomplish our objective, we reviewed the RCM, the CFR Manual, the Regulations of the Commissioner of Education, LRI's CFRs, and relevant financial and program records for the audited period. We also interviewed LRI officials and staff to obtain an understanding of LRI's financial and business practices. In addition, we evaluated the internal controls over the costs claimed on, and the schedules prepared in support of, the CFRs submitted to SED.

We used a non-statistical sampling approach to provide conclusions on our audit objective and to test internal controls and compliance. We selected a judgmental sample of reported OTPS costs to determine whether they were supported, program-related, and reimbursable. Specifically, we reviewed costs that were considered high risk and reimbursable in limited circumstances based on prior audit report findings. For specific costs we identified as not reimbursable, we expanded our review to the prior year. We also selected a judgmental sample of employees based on their title codes, the number of programs their salaries were attributed to, and the CFR schedule they were charged to. Our samples were based on the relative materiality of the various categories of costs reported and their associated levels of risk. However, because we used a non-statistical sampling approach for our tests, we cannot project the results to the respective populations. Our samples are discussed in detail in the body of our report.

We obtained data from LRI's general ledger and other financial systems and assessed the reliability of that data by interviewing officials knowledgeable about the system, and tracing to and from source data. We determined that the data from these systems was sufficiently reliable for the purposes of this report.

# Statutory Requirements

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## Authority

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

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. These duties may be considered management functions for the purpose of evaluating organizational independence under generally accepted government auditing standards. In our professional judgment, these duties do not affect our ability to conduct this independent performance audit of SED's oversight and administration of LRI's compliance with the RCM and the CFR Manual.

## Reporting Requirements

We provided a draft copy of this report to SED and LRI officials for their review and formal comment. Their comments were considered in preparing this final report. SED provided a formal response, which is attached in its entirety at the end of the report. LRI officials opted not to provide a formal response. Both SED and LRI officials agreed with the audit recommendations, and SED officials indicated the actions they will take to address those recommendations.

Within 180 days after final release of this report, as required by Section 170 of the Executive Law, the Commissioner of the State Education Department 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.

# Exhibit

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**Liberty Resources, Inc.**  
**Schedule of Submitted and Disallowed Program Costs**  
**for the 2 Fiscal Years Ended June 30, 2021**

<b>Program Costs</b>	<b>Amount Reported on CFR</b>	<b>Amount Disallowed</b>	<b>Amount Remaining</b>	<b>Notes to Exhibit</b>
Personal Services				
Direct Care	\$4,406,478	\$1,322	\$4,405,156	A, E
Agency Administration	312,471	0	312,471	
<b>Total Personal Services</b>	<b>\$4,718,949</b>	<b>\$1,322</b>	<b>\$4,717,627</b>	
Other Than Personal Services				
Direct Care	\$560,405	\$34,098	\$526,307	A, B-D, F
Agency Administration	265,437	2,916	262,521	
<b>Total Other Than Personal Services</b>	<b>\$825,842</b>	<b>\$37,014</b>	<b>\$788,828</b>	
<b>Total Program Costs</b>	<b>\$5,544,791</b>	<b>\$38,336</b>	<b>\$5,506,455</b>	

# Notes to Exhibit

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The following Notes refer to specific sections of the RCM that we used to develop our recommended disallowances. We summarized the applicable sections to explain the basis for each disallowance. We provided the details supporting our recommended disallowances to SED and LRI officials during the course of our audit.

- A. RCM Section II – Costs will be considered for reimbursement provided such costs are reasonable, necessary, directly related to the special education program, and sufficiently documented.
- B. RCM Section II.22.C – Costs of food provided to any staff, including lunchroom monitors, are not reimbursable.
- C. RCM Section II.24 – Gifts of any kind are non-reimbursable.
- D. RCM Section II.25 – Goodwill, defined as the stated value of a business in excess of its book value, is not a reimbursable cost.
- E. RCM Section III.1.A – Compensation costs must be based on approved, documented payrolls. Payroll must be supported by employee time records prepared during, not after, the time period for which the employee was paid. Employee time sheets must be signed or electronically approved and dated by the employee and the employee’s supervisor or personnel authorized to approve/date employee time sheets, and must be completed at least monthly.
- F. RCM Section III.1.E – Logs must be kept by each employee indicating the dates of travel, destination, purpose, mileage, and related costs such as tolls, parking, and gasoline. Logs must have supervisory approval for the associated travel expense to be reimbursable.

# Agency Comments - State Education Department

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

Sharon Cates-Williams  
EXECUTIVE DEPUTY COMMISSIONER

O: 518.473-4706  
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July 9, 2024

Ms. Nadine Morrell  
Audit Director  
Office of the State Comptroller  
Division of State Government Accountability  
110 State St, 11<sup>th</sup> Floor  
Albany, NY 12236

Dear Ms. Morrell:

The following is the New York State Education Department's (SED) response to the draft audit report, 2023-S-22, *Liberty Resources, Inc (LRI) - Compliance With the Reimbursable Cost Manual*.

Recommendation 1:

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

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 LRI officials of the pertinent SED requirements 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 LRI 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, Regulations, and the Reimbursable Cost Manual (RCM).

Furthermore, SED will alert LRI 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.

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If you have any questions regarding this response, please contact Nell Brady,  
Director of the Rate Setting Unit, at (518) 474-1298.

Sincerely,



Sharon Cates-Williams

cc: Christina Coughlin  
Christopher Suriano  
Suzanne Bolling  
James Kampf  
Jeanne Day  
Nell Brady  
Jennifer Finucan  
William Meissner  
Rebecca Jones  
Mary Moore



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