

Reimbursable Cost Manual

July 2012 Edition

Summary of Changes

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 2012 to June 2013 Tuition Rates and defines Reimbursable Costs for the
July 2012 to June 2013 period.

July 2012 Edition

Reimbursable Cost Manual

July 2012 Edition

- **The July 2012 Edition of the Reimbursable Cost Manual (RCM) defines Reimbursable Costs for the July 2012 to June 2013 period and applies to the 2012-13 prospective tuition rates, 2012-13 reconciliation adjustment factors and reconciliation tuition rates, and final audit rates based on 2012-13 actual data.**

Reimbursable Cost Manual

Summary of Changes

- The following presentation will highlight some of the most significant amendments to the July 2012 Edition of the Reimbursable Cost Manual by section.
- For a comprehensive list of changes made to the July 2012 Edition of the Reimbursable Cost Manual, please refer to the Crosswalk of Changes at the following location:
http://www.oms.nysed.gov/rsu/Manuals_Forms/Manuals/RCM/home.html

Reimbursable Cost Manual Summary of Changes

Introduction

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Summary of Changes

Introduction (page 3)

- **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.

Reimbursable Cost Manual Summary of Changes

Section I – Definitions

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Summary of Changes

Section I (pages 6-7)

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

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.*

Reimbursable Cost Manual

Summary of Changes

Section I (page 7)

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

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.

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Summary of Changes

Section I (pages 7-8)

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

G. Codes of Ethics

Generally, codes of ethics *discourage* conflicts of interests *but acknowledge that conflicts of interest do exist and require that policies be developed to establish the protocols that must be followed when conflicts of interest arise.* (The remaining language in sub-section G. was not amended.)

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Summary of Changes

Section I (page 10)

- 7. Full-Time Equivalent (FTE) Enrollment

G. (1) 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.

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Summary of Changes

Section I (page 10)

■ 7. Full-Time Equivalent (FTE) Enrollment

G. (1) 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.

Reimbursable Cost Manual Summary of Changes

Section II – Cost Principals

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Summary of Changes

Section II (page 18)

■ 13. Compensation for Personal Services

A. (4) 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. (The remaining language in sub-section A. (4) b. was not amended.)

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Summary of Changes

Section II (pages 18-19)

- 13. Compensation for Personal Services

A. (4) d. For ***non-direct care staff, 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 remaining language in sub-section A. (4) d. was not amended with the exception of the following.)

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.

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Summary of Changes

Section II (page 20)

- 13. Compensation for Personal Services

A. (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 and does not exceed ***three and a half*** percent of ***the base*** salary ***of the direct care employee who is receiving the merit award. In addition, merit awards:*** (continued on next slide)

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Summary of Changes

Section II (page 20)

- **13. Compensation for Personal Services (A. (10) continued)**
 - a. Are restricted to direct care titles/employees as defined by the Reimbursable Cost Manual's Appendix A-1 and those in the 100 job code series as defined by the Consolidated Fiscal Report's Appendix R,*
 - b. Will not be reimbursed if paid to subcontractors and/or independent consultants, and*
 - c. Shall be subject to all aspects, constraints and cost parameters contained in the methodology.*

Reimbursable Cost Manual

Summary of Changes

Section II (page 20)

- **13. Compensation for Personal Services**

A. (12) Compensation paid to an employee(s) for *the lunch period is not reimbursable* with the exception of providing services in an *approved* instructional lunch program.

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Summary of Changes

Section II (pages 22-23)

■ 14. Consultants

A. (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 23 Section III. 1. C.

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Summary of Changes

Section II (pages 30-31)

■ 28. Interest Costs

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.

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Summary of Changes

Section II (page 31)

■ 28. Interest Costs

C. (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.***

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Summary of Changes

Section II (page 31)

- 28. Interest Costs

C. (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.*

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Summary of Changes

Section II (page 33)

- 30. Meetings and Conferences

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.

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Summary of Changes

Section II (page 37)

■ 41. Rent

B. (5) 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.***

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Summary of Changes

Section II (page 38)

■ 44. Revenues

A. (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.

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Summary of Changes

Section II (page 40)

- 48. Special Education Itinerant Teacher Services

A. (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>

Reimbursable Cost Manual

Summary of Changes

Section II (page 40)

- 48. Special Education Itinerant Teacher Services

A. (3) Allocation of property costs to SEIT should be based on direct usage when administrative space is shared with other programs or square footage when administrative space is stand alone. Using Ratio Value, Units of Service or similar methodology to allocate facility overhead costs is not an appropriate allocation methodology for SEIT.

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Summary of Changes

Section II (page 41)

■ 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.* (continued on next slide)

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Summary of Changes

Section II (page 41)

■ 50. Start-Up Costs (continued)

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* (continued on next slide)

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Summary of Changes

Section II (page 41)

- **50. Start-Up Costs** (continued)

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. (continued on next slide)

Reimbursable Cost Manual

Summary of Changes

Section II (page 41)

- 50. Start-Up Costs (continued)

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.

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Summary of Changes

Section II (page 43)

■ 56. Taxes

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.tax.ny.gov/pdf/memos/mta_mobility/m09_1mctmt.pdf (The 2011 Edition of the Reimbursable Cost Manual stated that “***These expenses are subject to the non direct care cost parameter.***” This language has been removed from the 2012 Edition of the Reimbursable Cost Manual.)

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Summary of Changes

Section II (page 43)

- 57. Telephone/Communication Equipment

C. Cell phone charges for data packages and/or internet access are not reimbursable. (This language was included in the July 2011 Edition of the Reimbursable Cost Manual and has subsequently been removed from the July 2012 Edition of the Reimbursable Cost Manual)

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Summary of Changes

Section II (page 44)

- 59. Travel

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.*

Reimbursable Cost Manual Summary of Changes

Section III – General Requirements

Please turn to page 46

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Summary of Changes

Section III (page 47)

■ 1. Recordkeeping

F. (1) 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/ssr/pps/attendance/attendanceQ-A.html>

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Summary of Changes

Section III (page 47)

- 1. Recordkeeping

G. 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.*

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Summary of Changes

Section III (page 49)

■ 2. Accounting Requirements

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. (The remaining language in sub-section D. was not amended.)

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Summary of Changes

Section III (page 50)

■ 2. Accounting Requirements

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.

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Section IV – Tuition Rate-Setting Methodology

Please turn to page 51

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Summary of Changes

Section IV (page 51)

■ 2. Accounting Requirements

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.

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Section IV (page 52)

- **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: (continued on next slide)

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Summary of Changes

Section IV (page 52)

■ 3. Close-Down Policy and Procedures (continued)

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

Office of Special Education
New York State Education Dept.
89 Washington Ave., Room 309EB
Albany, NY 12234;

Rate Setting Unit
New York State Education Dept.
89 Washington Ave., Room 302EB
Albany, NY 12234;

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Questions ?