



**TO:** P-12 Education Committee

**FROM:** Beth Berlin *Eloise R Berlin*

**SUBJECT:** Preschool Special Education Tuition Methodology Study

**DATE:** November 10, 2014

**AUTHORIZATION(S):** *J. B. G. G.*  
SUMMARY

**Issue for Discussion**

To inform the Board of Regents of the Department's work relating to issuing a study of preschool special education tuition methodologies and monitoring protocols pursuant to Chapter 545 of the Laws of 2013.

**Reason(s) for Consideration**

For Information

**Proposed Handling**

This item will come before the P-12 Education Committee for discussion at the November 2014 meeting.

**Background Information**

The Department has oversight responsibilities for the preschool special education program, which includes approximately 500 approved providers, private and public schools and BOCES, and their provision of preschool special education services to approximately 80,000 preschoolers with disabilities ages 3-4 annually. The Department approves providers that operate one or more of the following four different types of programs: Multidisciplinary Evaluation Programs (MDE), Special Education Itinerant Services (SEIS), Special Class Programs, and Special Class in an Integrated Setting Programs (SCIS). For the 2013-14 school year, 402 providers operated an approved MDE program, 276 operated Special Class and/or SCIS programs, and 334 operated SEIS programs. Most providers operate more than one type of program.

The Department establishes preschool special education tuition rates pursuant to section 4410 of the Education Law and 8 NYCRR §200.9, for SEIS, Special Class and SCIS approved preschool programs. The existing rate setting system is cost-based and includes current year prospective rates as well as a process to reconcile prior year rates. Cost and enrollment data is submitted via financial reports, certified by an independent Certified Public Accountant, submitted to the Department by the providers. The Department conducts a desk audit and makes adjustments to the rates based on allowable costs as described in the Reimbursable Cost Manual (RCM).

As part of legislation requiring the New York State Comptroller to audit the expenses reported to the Department by every preschool special education provider at least once by March 31, 2018, Chapter 545 of the Laws of 2013 directs the Department to “conduct a comprehensive study of alternative systems of reimbursement methodologies and monitoring protocols for the tuition and maintenance components of special education services programs for preschool children with disabilities.” The statutory language states that the study is in response to a finding that special education programs for preschool children with disabilities have been susceptible to fraud and abuse and the legislative sponsor’s memo remarks that there are “many inequities in the current system of funding special education services program providers for preschool children with disabilities. The study is to be submitted to the Governor, the State Comptroller, Temporary President of the Senate, and Speaker of the Assembly no later than December 18, 2014.

The Department’s Rate Setting Unit, Office of Special Education and STAC (System to Track and Account for Children) Unit are collaboratively leading the Department’s effort to integrate programmatic and fiscal considerations, conduct data analysis, engage stakeholders and prepare the study report. The study will describe the existing tuition methodology and monitoring protocols, including data analysis regarding fiscal trends, and discuss alternative reimbursement methodologies and monitoring protocols that could be applied to each of the three preschool program types for which tuition rates are set (SEIS, Special Class and SCIS).

### Stakeholder Involvement

To assist the Department with its review and analysis of relevant factors, and to obtain valuable perspectives on the practical implications of the existing rate setting structure and how the needs of preschool children with disabilities may be better served through revisions to the current tuition reimbursement methodology, a committee of the Department’s Special Education Financial Advisory Workgroup was created. Six meetings have been conducted between September and November of this year. The stakeholder committee is comprised of individuals representing the following organizations: New York City Department of Education, New York State Association of Counties, New York State School Boards Association, BOCES, ACTS Agencies for Children’s Therapy Services, Cerebral Palsy Associations of New York State, Interagency Council of Developmental Disabilities Agencies (IAC), NYSARC, The Alliance for Children with Special Needs, Advocates for Children of New York, and Early Childhood Direction Centers. The meetings were also open to the public and

representatives of the Executive, Legislature and New York State Division of Budget were notified of the meetings.

### Study Parameters

**Special Education Itinerant Services:** SEIS are services by which a special education teacher provides specially designed instruction on an itinerant basis (i.e., the teacher goes to the setting where the child is - for example: Universal Prekindergarten Program (UPK), Head Start; other day care or regular preschool program; hospital or another child care location). In instances where the child has documented medical or other special needs indicating that the child cannot be transported to another site, the child could receive SEIS in the student's home. SEIS are currently reimbursed on a tuition basis calculated based on the recommended services in the student's individualized education programs (IEP). A program receives reimbursement whether or not the students receive all of their IEP services due to staff or student absences.

Pursuant to Chapter 56 of the Laws of 2014, effective for 2015-16 school year, SEIS programs must be reimbursed based on the actual attendance of preschool children receiving services. Given this directive, the study will explore alternatives for calculating SEIS rates, including but not limited to whether to make adjustments to reimbursement limits under the existing cost-based system, whether to establish a new fixed rate that would not be reconciled at the end of the year, or whether to calculate rates using a regional rate approach, all while retaining as constant within each methodology that reimbursement will be based on services provided.

**Special Class and SCIS:** In a Special Class, preschool students with disabilities are grouped together in a classroom setting for purposes of receiving specially designed instruction and related services. In a SCIS, the class includes both students with and without disabilities. Special Class and SCIS programs can be for a half or a full day. Alternative reimbursement methodologies that may be described in the study for Special Class and SCIS tuition rates include but are not limited to: adjusting the existing cost-based methodology by applying flexibility options adopted in 2014 for school-age providers; reconstituting cost parameters under either the existing cost-based methodology or through new provider budget-based rates; building a new rate for providers using a regional rate to reimburse core educational costs based on approved class ratio, adding an administrative and property cost allowance, and then adding costs corresponding with related services provided. The study will also explore methods to eliminate barriers or create incentives for integrated setting placements or collaborations with UPK, Head Start or Day Care Centers.

### Fiscal Monitoring Protocols

In accordance with the statutory language, the study will also consider monitoring protocols that may be applicable under the alternative methodologies studied including the implications of retaining or eliminating rate reconciliation, establishing more comprehensive requirements for providers to adopt financial oversight and accountability measures, and additional measures that may be taken by the Department and counties to monitor the appropriate expenditure of public funds.

### **Recommendation**

It is recommended that Department staff provide a summary of the contents of the preschool methodology study at the December 2014 P-12 meeting.

### **Timetable for Implementation**

The Department must issue the report by the statutorily required date of December 18, 2014.

Preschool Special Education Fiscal Advisory Workgroup - Methodology Study Committee

Preschool Stakeholder Organization	Representative	Title
BOCES	Jo Anne Antonacci	District Superintendent Monroe 2-Orleans BOCES
BOCES	Tom Burns	District Superintendent FEH BOCES
ACTS Agencies for Children's Therapy Services	Steve Sanders	Executive Director
ACTS Agencies for Children's Therapy Services	John Calderon	Board Member
CP of NYS	Thomas Hamel	Vice President, Financial Management & Support
CP of NYS	Judi Gerson	Vice President, Policy & Program Services
Interagency Council of Developmental Disabilities Agencies	Peter Pierri	Executive Director
Interagency Council of Developmental Disabilities Agencies	Chris Treiber	Associate Executive Director for Children's Services
NYSARC	John Kemmer	Associate Executive Director for Program Services
NYSARC	Christina Muccioli	NYC Chapter
NYSARC	Fran Porcaro	Education Director Westchester Chapter, NYSARC
NYSARC	Jennifer Ball	Assistant CFO at NYSARC, Inc. Erie County
The Alliance for Children with Special Needs	Pam Madeiros	Shareholder, Greenberg Traurig
Advocates for Children of New York	Randi Levine	Project Director
Early Childhood Direction Center, Manhattan	Marilyn Rubinstein	Director
Early Childhood Direction Center, Capital District/North County	Ellen Burns	Director
Early Childhood Direction Center Lower Hudson	Suzanne M. Peretz	Director
New York State School Boards Assn.	Julie Marlette	Governmental Relations
NYS Association of Counties	Dave Lucas	Director of Finance and Intergovernmental Relations
NYS Association of Counties	Lisa Mell	Financial Manager, Schenectaday County
NYC DOE	Marlene Malamy	Deputy Auditor General
NYC DOE	Robert Sosa	Assistant Auditor General

## Additional Participants for Special Class Integrated Setting Discussion

NYC DOE	Louise Kanian	Program Division CSE/CPSE
NYS Head Start	Patricia Persell	Collaboration Director
Whispering Pines	Martha M. Frank	Program Director
Achievements	Tami Callister	Executive Director
New York League for Early Learning	Bernadette Flynn	Executive Director
The Alliance for Children with Special Needs	Joyce Glassman	NYC Coalition Glassman Educational Assoc.
The Alliance for Children with Special Needs	Steve Held	Just Kids