

**Nassau County  
Office of the Comptroller**



**Operational Review of the  
Nassau County Department of Health's  
Preschool Special Education Program**

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**May 21, 2013**

**NASSAU COUNTY**  
**OFFICE OF THE COMPTROLLER**

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### **Introduction**

The Preschool Special Education Program (ages 3-5) is mandated pursuant to the New York State Education Law which requires that counties across the state administer this educational program, under the guidance of the New York State Education Department and contribute 40.5% of the educational costs and the related transportation. The specific responsibility to contract with service providers and review, approve and pay provider invoices is assigned to the counties. Eligibility is determined by the local school districts. In Nassau County, the Preschool Special Education Program is administered by Nassau County's Department of Health ("DOH"). The net cost to Nassau County was \$47.2 million in 2009 and \$46.2 million in 2010.

"In most of the Country, public school district provide Special Ed Pre-K. New York is the only state that turns over the program to private contractors, Many of which are for profit companies (The state's program predates the 1986 federal law mandating Special Ed Pre-K and New York has always relied on contractors.)"<sup>1</sup> "Records ...showed that 83% of the contractors that evaluated children in the program since 2003 went on to teach those same pupils."<sup>2</sup>

### **Purpose**

The purpose of this review was to examine the management effectiveness of the County's Preschool Special Education Program in the areas of cost control and eligibility supervision. In addition, the New York State Association of Counties list of cost containment reforms were reviewed in order to determine which measures would bring the most relief to Nassau County.

### **Summary of Significant Findings**

Our review found:

- The DOH cost savings estimates of \$11 million annually during the audit period cannot be validated. These savings represented the costs associated with the reduction of the number of eligible children and the nature and frequency of services being provided. We found that the estimates were based on what transpired during these meetings but were not verified to the final documents to ensure the savings came to fruition.
- We also found that budgetary constraints resulted in the DOH representatives only attending 64% of local school district meetings, whereas a neighboring county covers 75% - 85%.
- There is a lack of managerial cost analyses of the DOH's Preschool Special Education component costs both for year to year trends and comparisons with other counties.

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<sup>1</sup> Daniel Halbinger, The NY Times, June 5, 2012.

<sup>2</sup> Ibid.

## **Executive Summary**

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Auditors determined that although Pre-school costs on the whole rose 2% over a five year period, the administrative costs from local school districts billed to the County's preschool program rose 26%.

- DOH was not reconciling payment information from their subsidiary ledger to actual payments made in the County's Integrated Finance System (NIFS). The reconciliation process is needed to minimize the likelihood of undetected payment and posting errors. (Effective December 2011, DOH now completes a daily reconciliation.)
- Auditors determined the number of Quality Assurance reviews of the special education service providers with the DOH's performance and billing standards were not adequate.
- DOH has not evaluated other options to reduce costs such as bringing the transportation program in-house and the DOH becoming a New York State Program Provider.

### **Summary of Significant Recommendations**

We recommend that the Nassau County Department of Health:

- verify the accuracy of cost savings estimates resulting from the DOH's attendance at the local school district meetings to the final approved documentation;
- prepare comparative cost analyses to identify inconsistencies and help ensure that the taxpayer is getting the best value;
- seek out comparative data from other counties to identify best practices and opportunities to improve the DOH's efficiency and effectiveness;
- reconcile approved provider claims to cash disbursements on a regular basis; and
- prepare cost benefit analyses to determine the feasibility of:
  - performing quality assurance reviews of program providers on a regularly scheduled basis;
  - the DOH becoming a New York State approved Program Provider;
  - hiring a transportation administrator; and
  - expanding the DOH's coverage of local school district meetings.

We found that the DOH would benefit most from several recommendations proposed by the New York State Association of Counties. These include increasing State Aid, eliminating the reimbursement to local school districts for their administrative overhead, incorporating Universal Pre-K in each school district and incorporating budgetary accountability by the local school districts.

## Executive Summary

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The matters covered in this report have been discussed with officials of the Department of Health. On January 10, 2013, we submitted a draft report to the Department of Health for its comments. The Department of Health's comments and our responses to those comments are included as Appendix E to this report.

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## **Introduction**

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### **Background**

Educational services for preschool children with disabilities (ages 3-5) are mandated pursuant to Section 4410 of the New York State Education Law and the Federal Individuals with Disabilities Act<sup>3</sup>. State Law requires local school districts to determine eligibility for services, the services to be provided and the service providers, while the counties across the state are required to pay the associated costs, including transportation. The counties receive State Aid reimbursement for 59.5% of the aforementioned eligible expenditures<sup>4</sup>. The Preschool Special Education (“PSE”) Program is fiscally administered by Nassau County’s Department of Health (“DOH”) based on the services authorized in each child’s Individual Education Program (“IEP”) set by the local school districts. In Nassau County, there are 56<sup>5</sup> local school districts.

When a child is deemed eligible for services, an IEP is created and various services are recommended. Possible services can include related services, which may consist of speech, occupational and physical therapy, assistive technology, parent training and/or Special Education Itinerant Teacher “(SEIT)”<sup>6</sup> services which may consist of one on one therapy and/or Center Based (“CB”)<sup>7</sup> services. The provider(s) who will render the SEIT and/or CB program and Related Services must be chosen from a NYS approved provider list. Once chosen, the County is responsible for drafting the contract with the provider and payment of provider invoices.

According to the DOH, the PSE Program served 6,191 Nassau County children for the 2008-2009 school year and 5,720 Nassau County children for the 2009-2010 school year. As shown in Exhibit 1, Nassau County’s PSE Program expenditures before State Aid totaled \$115.9 million in 2009 and \$113.5 million in 2010. Nassau County’s PSE Program revenues, including State Aid and Federal Stimulus dollars, totaled \$68.7 million in 2009 and \$67.3 million in 2010. The net cost to Nassau County was \$47.2 million in 2009 and \$46.2 million in 2010.

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<sup>3</sup> Federal Individuals with Disabilities Act, Part B, Section 300.101(c) (1).

<sup>4</sup> State Law also requires that counties pay 10% of the cost of Special Education Summer School Programs for special education students (ages 5-21). This is accomplished by reducing the amount of PSE State Aid the counties receive by 10%.

<sup>5</sup> Sewanhaka School District does not have an elementary school and does not provide a Preschool Special Education Program.

<sup>6</sup> SEIT services are approved programs provided by a certified special education teacher on an itinerant basis in accordance with the regulations of the commissioner.

<sup>7</sup> A Center Based program is tuition based and must deliver services in accordance with the IEP (such as speech therapy, occupational therapy and physical therapy) as part of their daily services to all children enrolled in the program.

## Introduction

### Exhibit 1

<b>Nassau County Preschool Special Education Program</b>		
<b>Revenues and Expenditures</b>		
<b>2009 and 2010</b>		
	<b>Actual</b>	
<b>Revenues:</b>	<b>2009</b>	<b>2010</b>
PSE 3-5 Years - State Aid *	\$65,661,063	\$23,199,289
PSE 3-5 Years - Federal Stimulus (In lieu of State Aid) **		41,930,383
PSE 3-5 Years - Medicaid	2,025,688	107,761
Recovery Prior Year - Purchase Order Disencumbrances	103,057	1,669,686
Vendor Recoveries	807,250	426,420
Reimbursed Expenditures	139,592	8,125
Fines & Forfeits and Charges to Grants		386
<b>Total Revenues</b>	<b>\$68,736,650</b>	<b>\$67,342,050</b>
<b>Expenditures:</b>		
PSE 3-5 Years Center-Based	\$60,770,347	\$68,812,179
PSE 3-5 Years Transportation	16,983,289	16,079,768
PSE 3-5 Years SEIT Services	17,069,029	10,324,104
PSE 3-5 Years Related Services	11,496,058	9,080,791
PSE 3-5 Years Initial Eligibility Evaluations	3,646,304	3,426,059
Reimbursement of School Districts' CPSE Administration	2,703,616	3,015,300
Special Education Summer School Program Ages 5 - 21	2,599,643	2,274,437
DOH Salaries, Wages	\$315,371	337,477
DOH CPSE Consultants	149,467	143,598
Contracts (Includes DOH McGuinness Software)	157,247	50,959
Supplies	1,434	1,752
<b>Total Expenditures</b>	<b>\$115,891,805</b>	<b>\$113,546,424</b>
<b>Total PSE Program Cost to Nassau County</b>	<b>\$47,155,155</b>	<b>\$46,204,374</b>
Data taken from Nassau Integrated Financial System ("NIFS") Organization Summary Inquiry		
* The 2009 Revenues for Preschool Special Education 3-5 Years of \$65,661,063 are from State Aid.		
** In 2010, a portion of the Revenues for Preschool Special Education 3-5 Years is from State Aid and the remainder was funded by Federal Stimulus dollars and will revert to State Aid for 2011.		

## **Introduction**

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### **Operations**

The DOH is responsible for the following mandated PSE Program functions for all 56 school districts in Nassau County:

- preparing and managing 200<sup>8</sup> service provider contracts and maintaining lists of approved itinerant service providers;
- reviewing and approving claim vouchers received from the service providers prior to submission to Nassau County's Claims Section in the Comptroller's Office for payment;
- preparing and submitting the State Aid claims;
- providing the statutory function of the Nassau County Municipal Representative ("MR")<sup>9</sup> at local school district Committee on Preschool Special Education ("CPSE")<sup>10</sup> meetings;
- implementing and overseeing Nassau County's transportation system for the PSE Program; and
- reviewing the provider claims paid by New York State for summer school programs for Special Education students ages 5-21.

The DOH has a PSE Team which manages and monitors Nassau County's PSE Program by implementing internal control initiatives, including a PSE Program Policy and Procedures Manual, Best Practices Manual and contracts for all service providers with clearly defined deliverables.

### **Review Methodology**

Our review focused on the internal controls over the operations and costs of the Nassau County PSE Program for 2009 and 2010 to ensure that provider claims represented approved services for eligible children and costs were being monitored.

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<sup>8</sup> The number of provider contracts for 2010 was provided by the Nassau County Department of Health and includes 197 contracts plus a contract with the Transportation Management Company and blanket purchase orders with two bus companies.

<sup>9</sup> The Municipal Representative function is to attend Committee on Preschool Special Education meetings as non-voting members to help monitor and control the cost of services provided to each child and to help protect the County's financial interests.

<sup>10</sup>The Committee on Preschool Special Education includes the Committee on Preschool Special Education chairperson; child's parent; a regular education teacher of such child; a special education teacher; a qualified special education professional employed by the school; a parent of another child with a disability in the district; and a certified licensed professional of the municipality in which the child resides.

## **Introduction**

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We reviewed the written policies, procedures and applicable laws and interviewed DOH personnel. We selected a random sample of children approved for the PSE Program and examined payments to the service providers to determine that payments were made by the DOH only when there was evidence that actual services were provided. In addition, we reviewed the New York State Association of Counties Report, with respect to the PSE Program, with the DOH PSE Program staff and contacted Suffolk and Westchester Counties to obtain data for comparative purposes.

We believe our review provides a reasonable basis for the findings and recommendations contained herein.

## Findings and Recommendations

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### **Review Finding (1):**

#### **Annual Savings Estimates by DOH of \$11 Million Cannot be Validated**

The DOH estimates that Nassau County Municipal Representative (“MR”) attendance at local school district meetings resulted in a cost savings of approximately \$11 million in 2009 and \$10 million in 2010. Our review found that a control is not in place to ensure the validity of the basis for the estimates.

Nassau County’s only direct input into the eligibility determination process is through the statutory function of the MR at the local school district Committee on Preschool Special Education (“CPSE”) meetings as a non-voting member<sup>11</sup>. The MR’s purpose is to protect Nassau County’s interest by reviewing eligibility criteria and recommending what services may not be beneficial and should not be provided. All determinations and decisions made by the CPSE are formally documented in the child’s Individual Education Program (“IEP”) and presented to the District’s Board of Education for approval. The CPSE uses the IEP to complete the System to Track and Account for Children (“STAC”) form that is sent to the DOH within 30 days of the meeting. The DOH enters the data from the STAC form into New York State’s STAC system and it is used as the basis to verify that invoices from service providers were approved in the IEP. A copy of the final approved IEP is sent to the service provider and used as the authorization to provide services.

The DOH has entered into contracts with eight independent providers to perform the MR function. The MRs are paid \$39 per hour to attend school district meetings and \$25 per hour to attend DOH meetings. According to the DOH, the MRs are required to take notes at the meetings they attend and, on a monthly basis, report to the DOH the recommendations they made that would lead to the reduction of the number of children entering the program and the nature of services being provided. The MRs also provide hours worked, meetings attended and an individual summary sheet done on every child that has had a meeting. The MR recommendations are quantified by the DOH, using established rates calculated by the DOH, to project potential cost savings over a two year period. The STAC forms are sent to the DOH after the CPSE meetings and are not the basis for the projections.

To test the savings, we took a sample from one month’s claimed savings and traced this back to the DOH monthly tally sheet. The tally sheet was prepared from the individual MR’s cost Saving Summary. We then traced two MR’s monthly saving calculations to the MR’s notes. As this is a manual process, we found numerous mathematical mistakes.

We also found that when the DOH receives the STAC form, the DOH does not verify that the MRs’ recommendations were accepted. As a result, differences between the MR’s notes and the

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<sup>11</sup>The number of Municipal Representatives the County contracts with is determined by the County, not the statute. Factors that impact the number of MRs include the number of school districts and the budget.

## **Findings and Recommendations**

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STAC form are not detected and there is no assurance that the estimated cost savings associated with the MR's notes came to fruition. We were also informed that the school districts do not always send the STAC form to the DOH in the same time period for which the DOH calculated the potential cost savings. Further, the potential cost savings estimates are not adjusted to reflect changes (such as the nature and frequency of services) to the STAC form.

### **Review Recommendations:**

We recommend that the DOH should:

1. verify the accuracy of the MR recommendations to the final approved STAC forms received from the local school districts;
2. replace the manual process with a computerized spreadsheet; and
3. analyze the results by individual MR to determine individual effectiveness in cost savings.

### **Review Finding (2):**

#### **Attendance by Municipal Representatives at Important School Eligibility Meetings is Well Below Neighboring County's Attendance**

The DOH indicated that Nassau County's eight<sup>12</sup> MRs had attended on average approximately 64%, or 8,061 of the 2009 CPSE meetings and 64% or 7,395 of the 2010 CPSE meetings held by the 55 Nassau County school districts that provide PSE services. The DOH explained that CPSE meetings occur weekly at various times and locations that span a large geographic area. The DOH stated that since there are only eight full-time MRs, they may not assign a MR to a local school district that has only one or two meetings scheduled. DOH further commented that there are days when so many meetings are held that County representation at the determination meeting is not possible. There are also districts that hold a meeting early in the morning and then another late in the afternoon. There is some hesitation in sending a MR back to some of the second meetings if it is a great distance.

In addition, even though the school districts are required to notify the DOH of all CPSE meetings in advance, we were told that they do not always do this. Also, some notify so late that there may not be sufficient time to assign a MR to attend when CPSE meetings are added and/or cancelled with short notice.

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<sup>12</sup> There were eight municipal representatives for the period audited. This number does not represent how many municipal representatives were added or let go subsequent to the audit period.

## **Findings and Recommendations**

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Suffolk County has 18 full time MR's, ten more than Nassau. They state they cover about 75% - 85% of all meetings in their County. The meetings they generally do not attend are where the services of only one child are being determined.

With only 64% of the meetings covered, there is a risk that there is not uniform representation at schools throughout the County and that schools geographically near other schools may be visited more often.

### **Review Recommendations:**

We recommend that the DOH try to increase their 64% coverage rate and ensure that all districts have visits from the County.

### **Review Finding (3):**

#### **The Lack of Cost Analysis Increases the Risk of Undetected Cost Fluctuations such as the School District's Increase in Administration Costs of 26%**

The DOH does not perform sufficient managerial cost analyses. Our review found that the DOH performs budget to actual analyses, but does not prepare a formal comparative cost analysis of the fluctuations in Nassau County's PSE Program costs from year to year and over several years. Such a comparative analysis is a tool to monitor and identify unusual fluctuations and patterns that warrant further review, as well as to identify ways to curtail costs and improve operations.

We prepared a five-year comparative cost analysis (see Exhibit 2) and determined that PSE disbursements (including State Aid and Medicaid reimbursements) totaled \$547.7 million over the years 2006-2010. State Aid and Medicaid reimbursements totaled \$342 million for the same period, resulting in a net cost to Nassau County of \$205.7 million.

As can be seen in Exhibit 2, the number of children enrolled in the PSE Program increased from 2006 through 2007 and then decreased over the next three years. However, Exhibit 2 also indicates that the reimbursements paid by Nassau County to the local school districts for their Preschool administrative costs experienced an average annual growth rate of 26% over the same five-year period, when the average annual growth rate for all program costs was only 2%.

When we inquired about the reason for the 26% average annual growth rate, the DOH explained that each school district must submit a claim to be reimbursed for their PSE administrative costs and many school districts did not consistently submit a claim for each year in a timely manner, which could result in multiple years' costs being reimbursed in the same year. As a result, there will be unanticipated fluctuations in the school district's PSE Administrative costs over the five-

## **Findings and Recommendations**

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year period. We also noted that the DOH did not prepare a formal analysis to quantify the extent to which this explanation accounts for the 26% growth rate.

In addition, the DOH does not seek out comparative PSE data from other counties. Such data would determine whether Nassau County's costs were consistent with other counties and would identify best practices and opportunities to revise Nassau County's PSE Program operations to be more efficient and effective. Discussions with Suffolk and Westchester<sup>13</sup> counties regarding PSE costs revealed that Nassau County is not unique; the three counties share similar problems with high PSE program costs.

### **Review Recommendations:**

We recommend that the DOH improve its cost monitoring process by:

1. preparing a formal comparative cost analysis of the fluctuations in Nassau County's PSE Program costs from year to year and over several years to ensure that the County taxpayer is getting the best value;
2. seeking out comparative PSE data from other counties to determine whether Nassau County's costs were consistent with other counties and to identify best practices and opportunities to improve the DOH's efficiency and effectiveness; and
3. requesting the school districts provide an analysis of their PSE administrative overhead. DOH should prepare a variation analysis of each school's cost fluctuations.

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<sup>13</sup> Discussions with the Suffolk County Coordinator of Preschool Special Education and Westchester County's Acting Assistant Commissioner of Children with Special Needs.

## Findings and Recommendations

### Exhibit 2

### Nassau County Preschool Special Education Program Comparative Cost Analysis 2006-2010\* Rounded (000's)

<u>Year</u>	<u>Number of Children</u>	<u>Center Based Services</u>	(1) Special Education		<u>Eligibility Evaluations</u>	(2) Reimbursed School Districts		<u>Summer Program</u>	<u>Nassau County Salaries</u>	(3) <u>Other Program Costs</u>	<u>Total Program Costs</u>
			<u>Itinerant Teacher and Related Services</u>	<u>Cost to Transport Preschool Special Education Children</u>		<u>Adm. Costs</u>					
2006	6,321	\$ 59,818	\$ 25,791	\$ 11,410	\$ 4,684	\$ 1,320	\$ 1,600	\$ 360	\$ 74	\$ 105,057	
2007	6,334	54,537	27,254	16,387	4,464	1,616	1,600	383	126	\$ 106,367	
2008	6,310	56,814	24,650	17,755	2,698	2,097	2,259	322	200	\$ 106,795	
2009	6,191	60,770	28,565	16,983	3,646	2,704	2,600	315	308	\$ 115,891	
2010	5,720	68,812	19,405	16,080	3,426	3,015	2,274	337	196	\$ 113,545	
<b>Totals</b>		<b>\$ 300,751</b>	<b>\$ 125,665</b>	<b>\$ 78,615</b>	<b>\$ 18,918</b>	<b>\$ 10,752</b>	<b>\$10,333</b>	<b>\$ 1,717</b>	<b>\$ 904</b>	<b>\$ 547,655</b>	
<b>Average Annual Growth</b>		<b>3%</b>	<b>-5%</b>	<b>8%</b>	<b>-5%</b>	<b>26%</b>	<b>8%</b>	<b>-1%</b>	<b>33%</b>	<b>2%</b>	

\* Data taken from Nassau Integrated Financial System ("NIFS") Organization Summary. NIFS is Nassau County's general ledger.

- (1) Nassau County Comptroller's Office Field Audit Section ("Field Audit") analysis of NIFS revealed that Related Services was not shown as a separate item in 2006-2008. The amount attributed to Related Services was \$11.5 million in 2009 and \$9.1 million in 2010.
- (2) These costs represent the salaries and other expenses incurred by each school district to determine a child's eligibility for the Preschool Program and the nature and scope of the services to be provided. The average annual growth of 26% between 2006 and 2010 could not be explained by analyzing NIFS.
- (3) Field Audit's analysis of NIFS grouped the following costs as "Other Program Costs": Committee on Preschool Special Education Municipal Representatives Fees, Medicaid Billing Agencies, and Software & Supplies. We determined that the average annual growth of 33 % between 2006 and 2010 is primarily due to the use of Medicaid billing agents in 2008 and 2009. The decreased cost in 2010 was the result of the federal government's retroactive revision of the requirements for billing Medicaid. Nassau County was unable to meet the revised requirements on a retroactive basis, reducing the number of Medicaid billing agents needed.

## **Findings and Recommendations**

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### **Review Finding (4):**

#### **Regular Reconciliations of Vendor Payments Are Not Performed**

The Nassau County DOH has not reconciled the McGuinness<sup>14</sup> software system for approved payment claim requests to the payments made to service providers and posted to the County's Nassau Integrated Finance System ("NIFS") to ensure that only approved claims were paid for the correct amount, for the reasons stated below. The McGuinness system software is used by the DOH to record and monitor all provider payment claim requests against the school districts' authorization documentation before payments are approved to be paid.

Upon receipt of provider claims, DOH staff review each claim to ensure the services are approved in the child's Individual Educational Program ("IEP") at the approved rate and enter the claim in the McGuinness system. An approved payment request detail file is generated by McGuinness showing all approved payments requests to the service providers. It is forwarded to the Comptroller's Office for payment and posting to NIFS. NIFS generates the payments to the providers and a payment file, which is sent to the DOH and uploaded into the McGuinness software system. Our testing of 30 payment claim requests for 2010 received by the DOH from six service providers (for Center Based, Special Education Itinerant Teacher and Related Services), totaling \$100,500, determined that the claims were properly reviewed, supported and paid.

In addition to the testing of 30 payment requests, we requested the claims to cash disbursements reconciliation to ensure that differences were identified and resolved in a timely manner. We were informed that the DOH performed the claims to cash disbursements reconciliation on a daily basis prior to when Nassau County first made electronic payments available to vendors. We were advised that due to this change, the reconciliation method was no longer viable and the DOH had not been able to develop a new method. As a result, the DOH decided to reconcile McGuinness to NIFS monthly for a test period only (July 2008 through March 2009) and found that the differences during the test period were primarily due to timing issues.

In order to assess the risk of undetected errors, we performed the McGuinness to NIFS reconciliation for 2010 and noted significant differences. However, with the help of the DOH staff, we were able to identify the nature of the differences in the audit reconciliation.

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<sup>14</sup> McGuinness is a software system used in many Counties to data input the STAC ("System to Track & Account for Children") forms. The school's IEP is used to authorize services. Data can also be imported from other sources. The McGuinness software system takes the data and formats it into NYSED's designated layout for electronic submittals.

## **Findings and Recommendations**

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<b>McGuinness</b>	<b>NIFS</b>	<b>Difference</b>
\$19,066,053	\$16,079,768	\$(2,986,285)*

\* \$2,687,700 - Paid in NIFS in 2009 – Timing Difference  
\$298,585 - Other Reconciling Items

After considering these reconciling items, we determined that unexplained differences for the audit period were not material. However, performing a reconciliation on a test basis for a limited period of time is not an adequate substitute to ensure that the differences are always due to timing and within acceptable limits. The lack of a regularly scheduled claim to cash disbursements reconciliation increases the risk of undetected errors and overpayments.

### **Review Recommendations:**

We recommend that the DOH develop a practical method to perform the claims to cash disbursement reconciliation on a periodic basis. Year-end NIFS balances are used for the County's Consolidated Financial Report; therefore DOH should at a minimum make sure the NIFS balance is reconciled back to the subsidiary ledger (McGuinness system).

### **Review Finding (5):**

#### **The Number of Quality Assurance Reviews of Service Providers is Inadequate**

During the audit period 2009 and 2010, support was provided by the DOH Education Specialist that DOH performed only three independent service provider visits. These reviews help ensure billing and quality control problems are detected and resolved in a timely manner.

The local school district approves the PSE services and selects the service providers from a NYS list of approved providers. From this point on, the DOH is responsible to prepare the contract to provide the services and the contract is between the DOH and the service provider. The DOH manages 200 service providers pursuant to the aforementioned contracts. To assist in managing the 200 service providers, the DOH implemented internal control initiatives including a PSE Program Policy and Procedures Manual and a Best Practices Manual. The DOH distributes the manuals to all its service providers and schedules visits with the providers to evaluate compliance.

According to the DOH, its education specialist performs the visits to service providers. This assignment is in addition to the education specialist's responsibility to manage the Municipal Representative ("MR") function for the DOH. According to the DOH, the visit is a Quality Assurance monitoring review at the service provider's facility. The review involves the

## **Findings and Recommendations**

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examination of personnel records, child records, policies and procedures, billing practices and health and safety practices. For example, the DOH may review personnel records for up to date license and registration information. Case files are reviewed for proper log notes, progress reports, absence notes and billing data, etc. The review can result in recommendations to improve records as well as the disallowance of expenses. The DOH notifies the service provider of the results and the service provider is required to submit a corrective action plan.

### **Review Recommendation:**

DOH officials should perform Quality Assurance reviews of PSE Program providers every two to three years.

### **Review Finding (6):**

#### **DOH Has Not Pursued the Opportunity to Reduce Costs by Becoming an Approved New York State Program Provider**

We were informed by Suffolk and Westchester County representatives<sup>15</sup> that these counties applied for and became approved by NYSED as Program Providers. Both counties have established their own Special Education Itinerant Teacher and Related Services programs. The representatives explained that as Program Providers, Suffolk and Westchester Counties receive administrative fees from the NYSED for services each provided as Program Providers and the services may be provided through the use of contracted agents. Suffolk and Westchester County representatives were unable to provide the related cost savings.

We were informed by the DOH that Nassau County has not become an approved NYSED Program Provider due to the lack of staffing that would be required to operate such a program. However, we found no evidence that the DOH had performed a cost/benefit analysis to determine if Nassau County would benefit from becoming an approved NYSED Program Provider.

### **Review Recommendation:**

We recommend that the DOH develop a cost/benefit analysis to determine if the DOH would benefit from becoming Program Providers.

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<sup>15</sup> Discussions with the Suffolk County Coordinator of Preschool Special Education and Westchester County's Acting Assistant Commissioner of Children with Special Needs.

## **Findings and Recommendations**

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### **Review Finding (7):**

#### **DOH Has Not Evaluated the Feasibility and Potential Savings in Bringing the Transportation Program In-House**

NYS mandates that Nassau County provide, either directly or by contract, suitable transportation for PSE children who attend a Center Based program school up to 50 miles from the Center Based location.

Transportation expenses paid by Nassau County totaled approximately \$33 million for approximately 1,400 children enrolled in the PSE Program for 2009 and 2010. On a per child basis, this computes to an average transportation cost per child of approximately \$1,000 per month or \$12,000 per year. We were informed by the DOH that factors contributing to higher transportation costs included: buses may transport only one child due to the different programs' start times for each child and more routes are necessary because the maximum time a child could be on a bus is 75<sup>16</sup> minutes. The DOH advised that as an alternative, the parents of these children can, but are not required to, transport their child at public expense (parents receive the federal mileage reimbursement rate).

Nassau County contracts with an outside vendor, Servisair, to be the transportation administrator at a cost of \$437,650 for the 2009-2010 school year and \$444,215 for the 2010-2011 school year. Nassau County also has blanket purchase orders for two bus companies, Acme Bus and WE Transport, to provide the transportation service. Servisair monitors and inspects Acme and WE Transport's compliance with Nassau County's contracts, manages the bus routes and handles bus complaints.

Our review noted that Westchester County administers its PSE transportation program through two employees at an annual cost of approximately \$140,000<sup>17</sup>, excluding benefits. We determined that one reason the Servisair administrator costs were higher was because they included the salaries of four bus inspectors totaling \$123,000 for the 2010-2011 school year compared to the cost of Westchester's one inspector. A comparison to Suffolk County could not be done because Suffolk County did not respond to our inquiries regarding transportation costs.

We discussed the approach being used by Westchester County with Nassau County's DOH and were advised that Nassau County does not have the staff required to administer the transportation program. However, we found no evidence that Nassau County's DOH had prepared a cost/benefit analysis to determine if Nassau County would benefit from bringing this function in house.

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<sup>16</sup> The DOH advised that the time was recently increased subsequent to our audit to 90 minutes.

<sup>17</sup> Transportation Coordinator \$90,000 and Inspector \$50,000, per phone call with Westchester County.

## **Findings and Recommendations**

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Our substantive testing included eight transportation claims submitted by parents and two transportation claims submitted by service providers totaling \$4.2 million for 2010. We found that the eight transportation claims were paid for eligible children according to their Individual Education Plan and the transportation rates paid agreed to the supporting contracts and addendums.

We noted a 5.3% reduction in Nassau County's PSE related transportation costs from 2009 to 2010. Nassau County's DOH attributed the reduction in transportation expenses from 2009 to 2010 to its concerted effort to increase the maximum time a child can be on a bus to 90 minutes and to County initiatives to encourage parents to drive their children to the Center Based programs.

### **Review Recommendation:**

We recommend that the DOH develop a cost/benefit analysis to determine if Nassau County would benefit from bringing the transportation administrator function in house.

## Appendix A - Audit Commentary on New York State Mandates

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In February 2011, the New York State Association of Counties (“NYSAC”) issued the *Reforming Mandates, Reducing Costs Report* (“Report”) to the Governor’s Mandate Relief Team. According to the NYSAC, “State mandates consumed 90 percent of the county property tax levy statewide in 2010 and have been a direct cause of property tax increases over the past five decades.”<sup>18</sup> The Report pointed out that NYS had reneged on its statutory assurances to increase State Aid in the program to reduce the County fiscal liability to 25% by the 1993-1994 school year. The Report also concluded that the priority should be to remove counties from the fiscal, contractual and programmatic responsibilities of the PSE Program by 2013. Moreover, the Report identified 23<sup>19</sup> specific mandate relief opportunities that in the near term would save money, improve service, or both.

Further, “In most of the Country, public school districts provide Special Ed Pre-K. New York is the only state that turns over the program to private contractors, many of which are for profit companies. (The state’s program predates the 1986 federal law mandating Special Ed Pre-K and New York has always relied on contractors.)”<sup>20</sup>

In June 2012, the New York State Association of Counties issued an opinion stating that “Recent New York Times articles, combined with a series of State Comptroller reports, expose serious deficiencies in the State’s Preschool Special Education Program. These reports reveal a pattern of systemic fraud, waste and abuse that must lead to an overhaul of this critical program.

The preschool special education program provides essential services like speech and occupational therapy to special needs children between the ages of 3 and 5 years old. Counties, which finance this \$2 billion program, are alarmed at these recent reports that highlight the growing costs and apparent misuse of taxpayer dollars. The issue is that our children are receiving uncoordinated care at the most expensive rate in the nation.”<sup>21</sup> See Appendix D for the full opinion.

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<sup>18</sup> New York State Association of Counties (“NYSAC”), *Reforming Mandates, Reducing Costs*, page 3.

<sup>19</sup> See Appendix C for the complete list of NYSAC’s 23 mandate relief opportunities.

<sup>20</sup> Daniel Halbinger, *The New York Times*, June 5, 2012.

<sup>21</sup> Stephen J. Acquario, *Legislative Action Center*, June 26, 2012.

**Impact of State Mandates to Nassau County**

During the course of the audit, we noted the following as it pertains to the impact of NYS PSE Mandates on Nassau County operations and expenses:

- **County Cost of Providing Preschool Special Education Services is Not in Nassau County's Charter**

Our review found that providing for PSE services is not a customary function of county government and is not included in the Nassau County Charter. Based on actual PSE revenues and costs in 2009 and 2010, including State Aid, shifting responsibility to the educational funding sources would have saved Nassau County \$47.2 million in 2009 and \$46.2 million in 2010.

- **Lack of Budgetary Control in the State Mandated Preschool Special Education Program**

School districts are only responsible for establishing operational controls and administrating PSE Program operations. They are not required to budget for PSE Program costs and are not accountable to stay within the confines of the DOH budget. As a result, there is no inherent incentive to encourage the selection of the least costly service, service provider or service location.

- **Disparity in Nassau County School Districts' Preschool Eligibility and Costs per Child**

Nassau County's DOH provides the school districts with a PSE Program Schedule ("Schedule") for each school year. The Schedule for the 2009-2010 school year can be found in Appendix B to this report. The Schedule is prepared by the DOH using the information received from each school district and the program provider billing. The Schedule will show each school district's enrollment figures, eligibility rates, the average cost per eligible child for each school district in Nassau County and total costs. The eligibility rate represents the number of children who are approved as eligible for PSE services as a percentage of the total number of children in the school district who applied for PSE eligibility. A high eligibility rate means that more children are entering the program, which drives up costs for the County, not the school districts.

The DOH Director of PSE Programs provides the Schedule to the school districts to increase their awareness of the financial impact of the CPSE decisions made throughout the County and where each school district stands in relation to the others. Many of the school districts were surprised that the countywide enrollment numbers, eligibility rates and costs were as high as they were.

## Appendix A – Audit Commentary on New York State Mandates

For example, using the data in Appendix B, we prepared the chart in Exhibit 3 to illustrate that PSE enrollment figures, eligibility rates and costs for many school districts in Nassau County for the 2009-2010 school year were high when compared to the County Averages shown at the bottom of Appendix B.

### Exhibit 3

#### Analysis of Local School Districts Nassau County Enrollment, Eligibility Rates and PSE Costs 2009/2010 School Year

School Districts Compared to Nassau County Average	Number of School Districts	Total Number of School Districts	%	Additional Information
Greater than Nassau County Average Eligibility Rate* of 81%	21	55**	38%	
<u>Greater than Eligibility Rate of 90%</u>	4	21	19%	Amityville, Mineola Roosevelt and West Hempstead
Greater than Nassau County Average Cost/Eligible Child of \$25,885	27	55	49%	
<u>Greater than Average Cost/Eligible Child of \$40,000</u>	3	27	11%	Herricks, Jericho and Plainview-Old Bethpage
Eligible PSE School Children Represent over 19% of PSE and Kindergarten Population in Nassau County	25	55	45%	
<u>Over 28% of PSE and Kindergarten Population in Nassau County</u>	7	25	28%	Island Park, Island Trees, Lawrence, Locust Valley, Malverne, Wantagh and West Hempstead
* The eligibility rate represents the number of children who are approved as eligible for Preschool Special Education services as a percentage of the total number of children in the school district who applied for Preschool Special Education eligibility. The Nassau County average eligibility rate represents the simple average of the individual school district eligibility rates.				
** Nassau County has 56 local school districts, however, the Sewanhaka School district does not have an elementary school and does not provide a Preschool Special Education Program				
Source of Data: Appendix B				

## **Appendix A – Audit Commentary on New York State Mandates**

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- **Medicaid Requirements Changed Retroactively Causing Nassau County to Lose \$1.9 Million in 2010**

Medicaid reimbursements received by Nassau County for the PSE Program decreased from approximately \$2 million in 2009 to \$108,000 in 2010. We were informed by the DOH that NYS, through an agreement with the federal government, revised the requirements for billing Medicaid. However, the agreement, dated April 26, 2010, was effective September 1, 2009 and the DOH was unable to retroactively meet the revised requirements. The DOH indicated that it filed a suit under Article 78<sup>22</sup> of the New York Civil Practice Law and Rules against NYS to challenge this agreement; however, the County did not prevail.

- **Special Education Itinerant Teacher Services Were Paid When Services Were Not Provided**

Special Education Itinerant Teacher services paid by Nassau County totaled \$17.1 million for 2009 and \$10.3 million for 2010. We were advised by the DOH that it could not provide any data on student absenteeism to determine the cost to the County for SEIT services not actually provided to children.

### **Department of Health Views on New York State Mandates**

Our review of the mandate relief opportunities shown in Appendix C with the DOH Preschool Special Education Program staff revealed that they agree with some but not all of the mandate relief opportunities. The mandate relief opportunities that the DOH Preschool Special Education Program staff agreed with included:

1. Removing counties from the fiscal, contractual and programmatic responsibilities of the PSE Program by shifting responsibilities to educational funding sources.
2. Increasing the NYSED reimbursement to counties to 75% if counties are not removed from the fiscal, contractual and programmatic responsibilities.
3. Making school districts responsible to contract with bus companies to transport Pre-K students.
4. Making school districts responsible to pay their administrative overhead cost to administer the PSE Program and the cost of the Special Education Summer School Program. The DOH Preschool Special Education Program staff believes that these expenses represent normal operating expenses of each school district.

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<sup>22</sup> Article 78 of the New York Civil Practice Laws and Rules establishes the procedure for challenging the determinations of administrative agencies, public bodies or officers.

## **Appendix A – Audit Commentary on New York State Mandates**

5. Not requiring the County to pay for Special Education Itinerant Teacher services that were not provided.
6. Mandating that the “closest certified program available” should be selected.
7. Training CPSE chairs<sup>23</sup> on 12-month programming and reviewing Individual Education Plans for compliance.

The mandate relief opportunities that the DOH Preschool Special Education Program staff did not agree with included:

1. Increasing the counties role in developing and writing the initial Individual Education Plan and in decisions on Individual Education Plan amendments.
2. Giving counties control over Individual Education Plan decisions and final say in services to be provided.
3. Appointing the MR to the CPSE as a voting member.

### **Auditor Recommendations on New York State Mandate Reforms Listed in Appendix C That Can Bring the Most Relief to Nassau County**

We recommend that Nassau County should pursue with New York State’s legislative bodies the New York State Association of Counties’ recommendations with a focus on those that we believe would bring the most relief to Nassau County. The primary relief opportunity is to pursue legislation to shift fiscal responsibility for the Preschool Education Program, including transportation, to the educational funding sources.

In the short term, we believe Nassau County would benefit most from the following New York State Association of Counties’ recommendations. New York State should:

1. increase the State Aid percentage of reimbursement to Nassau County;
2. eliminate the requirement for Nassau County to reimburse the local school districts for their PSE Administrative overhead;
3. include PSE Administrative overhead as an eligible cost for State Aid reimbursement;
4. eliminate the requirement for Nassau County to fund 10% of a summer school program for Special Education students ages 5-21;

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<sup>23</sup> The chairperson of the Committee on Preschool Education.

## **Appendix A – Audit Commentary on New York State Mandates**

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5. incorporate Universal Pre-K in each school district; and
6. incorporate budgetary accountability by the local school districts to the counties.

## Appendix B

<b>Nassau County Preschool Special Education Program Enrollment, Eligibility Rates and PSE Expenditures 2009/2010 School Year</b>							
<b>Nassau County School District</b>	<b>Number of Children Enrolled in Pre-K &amp; K</b>	<b>Total Expenditures (CB, SEIT, RS, Evaluation)</b>	<b>Number of Eligible Children</b>	<b>Number of Eligible &amp; Noneligible Children</b>	<b>Eligible as a % of Eligible &amp; Nonelegible</b>	<b>Eligible as a % of PreK and K</b>	<b>AVG Cost per Eligible Child</b>
AMITYVILLE	341	\$557,197	19	20	95%	6%	\$29,326
BALDWIN	292	2,016,512	61	74	82%	21%	33,058
BELLMORE	221	418,631	48	59	81%	22%	8,721
BETHPAGE	192	1,141,118	54	66	82%	28%	21,132
CARLE PLACE	98	667,876	22	27	81%	22%	30,358
COLD SPRING HARBOR	110	45,080	5	7	71%	5%	9,016
EAST MEADOW	417	3,807,602	117	138	85%	28%	32,544
EAST ROCKAWAY	90	322,813	14	22	64%	16%	23,058
EAST WILLISTON	110	474,418	15	22	68%	14%	31,628
ELMONT	670	2,409,461	101	125	81%	15%	23,856
FARMINGDALE	574	1,750,104	65	90	72%	11%	26,925
FLORAL PARK-BELLEROSE	340	886,527	35	43	81%	10%	25,329
FRANKLIN SQUARE	275	1,253,372	43	53	81%	16%	29,148
FREEPORT	704	3,399,396	124	148	84%	18%	27,414
GARDEN CITY	318	1,595,968	57	71	80%	18%	27,999
GLEN COVE CITY	324	2,185,480	86	106	81%	27%	25,413
GREAT NECK	582	1,877,982	93	137	68%	16%	20,193
HEMPSTEAD	804	3,116,181	120	136	88%	15%	25,968
HERRICKS	274	1,739,949	41	55	75%	15%	42,438
HEWLETT-WOODMERE	327	1,806,676	59	79	75%	18%	30,622
HICKSVILLE	462	3,063,212	84	97	87%	18%	36,467
ISLAND PARK	73	635,801	21	28	75%	29%	30,276
ISLAND TREES	155	982,230	51	63	81%	33%	19,259
JERICO	169	1,588,510	35	43	81%	21%	45,386
LAWRENCE	366	3,130,749	151	192	79%	41%	20,733
LEVITOWN	599	3,266,431	143	178	80%	24%	22,842
LOCUST VALLEY	130	1,187,460	42	47	89%	32%	28,273
LONG BEACH	471	1,872,827	65	81	80%	14%	28,813
LYNBROOK	206	796,029	37	47	79%	18%	21,514
MALVERNE	127	851,299	38	43	88%	30%	22,403
MANHASSET	225	1,184,656	47	53	89%	21%	25,205
MASSAPEQUA	525	2,211,395	102	131	78%	19%	21,680
MERRICK	211	1,003,116	45	68	66%	21%	22,291
MINEOLA	371	1,937,305	87	96	91%	23%	22,268
NEW HYDE/GARDEN CITY PK	275	1,441,824	37	52	71%	13%	38,968
NORTH BELLMORE	349	1,313,698	60	79	76%	17%	21,895
NORTH MERRICK	162	892,725	34	51	67%	21%	26,257
NORTH SHORE @ GLEN HEAD	176	1,395,606	38	42	90%	22%	36,726
OCEANSIDE	450	1,692,355	86	114	75%	19%	19,679
OYSTER BAY/EAST NORWICH	162	703,809	34	41	83%	21%	20,700
PLAINEDGE	246	1,173,152	35	45	78%	14%	33,519
PLAINVIEW-OLD BETHPAGE	354	2,378,535	54	75	72%	15%	44,047
PORT WASHINGTON	570	1,949,344	91	115	79%	16%	21,421
ROCKVILLE CENTRE	270	1,052,187	64	77	83%	24%	16,440
ROOSEVELT	402	1,279,122	42	42	100%	10%	30,455
ROSLYN	248	1,600,761	53	69	77%	21%	30,203
SEAFORD	184	736,775	49	60	82%	27%	15,036
SEWANHAKA	NA	NA	NA	NA	NA	NA	NA
SYOSSET	458	2,040,718	92	106	87%	20%	22,182
UNIONDALE	400	1,481,955	73	84	87%	18%	20,301
VALLEY STREAM #13	275	1,415,306	41	52	79%	15%	34,520
VALLEY STREAM#24	138	913,372	24	27	89%	17%	38,057
VALLEY STREAM #30	196	637,731	27	34	79%	14%	23,620
VALLEY STREAM CHS	NA	NA	NA	NA	NA	NA	NA
WANTAGH	207	1,540,945	71	86	83%	34%	21,703
WEST HEMPSTEAD	138	927,183	49	50	98%	36%	18,922
WESTBURY	676	2,764,169	84	100	84%	12%	32,907
<b>TOTALS</b>	<b>17,489</b>	<b>\$84,514,635</b>	<b>3,265</b>	<b>4046</b>	<b>81%</b>	<b>19%</b>	<b>\$25,885</b>

### Preschool Special Education

#### New York State Association of Counties Mandate Recommendations

If counties are not removed from the fiscal, contractual and programmatic responsibilities of the program, State Education Department reimbursement to counties must be increased to the 75 percent, which was the original percentage of reimbursement promised to counties from the start.

1. Medicaid should not be applying requirements retroactively for services already claimed for the Preschool Supportive Health Services Program since New York State did not make those requirements clear in the past. Medicaid should publish the requirements in a new Medicaid Handbook, and ensure that they are clear and consistent moving forward for 2010-11 school year.
2. Limit eligibility to individuals that have greater delays in development.
3. Require some family financial participation, based on income. This could be through third party insurance payments to the county/State.<sup>24</sup>
4. Fee schedule for services.
5. Increase county role in developing and writing Individual Education Plans.
6. Flexibility in implementation, appointment to CPSE as a voting member.
7. If counties are to pay they should have the final say in services to be provided. If they cannot have the say, the costs should be paid by the school districts who determine the level of services.
8. Counties bear the cost of Pre-K transportation which is a very large portion of their budgets. There is also a cap on reimbursement for this. Counties should not be responsible to contract with bus companies to transport Pre-K students when the school districts already transport children. One county pays about \$350 per day per bus. Because they are a rural area, sometimes there is only one child per bus.
9. If a county has to stay involved in the program, the school districts should be responsible for transportation (bus and parent reimbursed) – there would be economy of scale because they already have a transportation system in place and have appropriate personnel to carry out the support functions for transportation.
10. Transportation guidelines for preschoolers with a disability should be clearly defined - parents MUST transport if they are able and be reimbursed at the standard IRS mileage rate.

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<sup>24</sup> This NYSAC recommendation may be contrary to the Free and Appropriate Education for 3-5 year old children with disabilities covered under the Individuals with Disabilities Act.

## Appendix C

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11. Increase the availability of Universal Pre-K to enable families to access nursery school experiences, increase learning in group settings. This would cut down on number of children in 4410 because there would be other options.
12. If a county is to be involved in preschool, consider ways to include the county in decisions on IEP amendments that can be done by agreement between the parent and CPSE chair. This would help to control unnecessary increase or addition of services.
13. Eliminate the requirement for counties to pay for Administrative Overhead and 4408. Counties have no input nor control over these expenses. In addition services for 5-21 (4408) should not be the responsibility of the county.
14. SEIT should be a fee for service. Counties are paying for services not being delivered at a substantial cost.
15. Provide services to preschoolers for one 12 month period non-working parents need to be present and take part in child's therapy.
16. The preschool program should be centralized per county, not per district to be more efficient, effective and consistent.
17. Counties should have control of Individualized Education Plan decisions.
18. Mandate attendance at "closest certified program available" for the CPSE assignment purposes.
19. Reduce preschool tuition by either a percentage or by reducing the number of hours or days that a program is held. A five-hour program can be reduced to a three-hour program since it is not typical for three-year old children to attend school for five hours. A 2.5-hour program can be changed to a 4-day a week program. Head Starts operate four days a week and this will also alleviate transportation changes for those children who enroll in two programs.
20. An audit of the SED rate setting unit to determine how they approved tuition increases that were higher than the cost of living and did not require center-based programs to operate in a cost-effective manner. Tuition for preschoolers is similar to college tuition, ranging from \$26,000 to \$30,000.
21. SED should be training CPSE chairs on 12-month programming and reviewing IEPs for compliance. They should also not allow a preschool agency to exceed their school year enrollment during the summer months.
22. Four year olds in a school district with a universal pre-kindergarten ("UPK") should receive special education services though the district. If the responsibility of special

## Appendix C

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education for 4-year olds was delegated to the school district both administratively and financially, they would be able to use district staff at no extra expense. A salaried district employee would not get an increase in pay with the addition of each preschooler. A contracted provider's compensation increases with each child added to their caseload. Travel expense for a district employee would not be an issue for the district since the preschooler is already attending UPK in a district building. It is a cost-cutting measure because salaried employees are required to have a certain caseload. Contract providers receive additional revenue for each child added to the caseload and also make the recommendation about the level of services, continuing services and providing summer services.

## **Now is the Time to Overhaul Preschool Special Education in NYS**

*An Opinion*

By Stephen J. Acquario, Executive Director  
New York State Association of Counties

June 26, 2012

Recent New York Times articles, combined with a series of State Comptroller reports, expose serious deficiencies in the State's Preschool Special Education Program. These reports reveal a pattern of systemic fraud, waste and abuse that must lead to an overhaul of this critical program.

The preschool special education program provides essential services like speech and occupational therapy to special needs children between the ages of 3 and 5 years old. Counties, which finance this \$2 billion program, are alarmed at these recent reports that highlight the growing costs and apparent misuse of taxpayer dollars.

The issue is that our children are receiving uncoordinated care at the most expensive rate in the nation. The cost of services is far outpacing increases in enrollment. It is clear from these reports and our experience that continuing the status quo is unacceptable and unsustainable. Our children and our families deserve better.

Four consecutive Governors and a State Task Force have all recommended reforms that would have addressed many of the deficiencies in these programs highlighted by these reports.

One has to wonder why nothing has been done?

For decades county officials have advocated for reforms that would foster greater efficiency, oversight and accountability. We need to incentivize schools and providers for making the program more efficient, accountable and effective. Simply shifting the cost from one taxpayer base to another is not the answer.

It's time for the State to enact major reforms that are in the long-term best interest of the children.

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**Appendix E – DOH Response and Auditor’s Follow-up**

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**EDWARD P. MANGANO**  
COUNTY EXECUTIVE

**LAWRENCE E. EISENSTEIN, M.D., F.A.C.P.**  
COMMISSIONER



**NASSAU COUNTY**  
**DEPARTMENT OF HEALTH**  
106 CHARLES LINDBERGH BLVD.  
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To: JoAnn Greene, Field Audit Director  
Nassau County Comptroller’s Office

From: Lawrence E. Eisenstein, M.D., F.A.C.P..  
Commissioner of Health

Date: March 8, 2013

Subject: Operational Review of the Nassau County Department of Health’s Preschool Special Education program

This memo is in response to the January 2013 draft entitled “ Operational Review of the Nassau County Department of Health’s Preschool Special Education Program.” The actual net cost of the program in 2010 was 2% lower than in 2009 as presented in Exhibit 1. It is through Health Department due dilligence that this cost savings was achieved.

The Health Department response to the Comptroller’s Office draft of the Operational Review of the Nassau County Department of Health’s Preschool Special Education Program is attached. The response to the January 2013 review follows the format of the draft referencing each section.

We look forward to meeting again to discuss our responses to the Comptroller’s findings and recommendations.

We are grateful for the Comptroller’s support.

Cc Vincent Abbatiello  
Shelly Schechter  
Linda Rennie  
Toni Mason  
Shannon Jauck  
Linda Leung

**Findings and Recommendations:**

**Finding (1):**

**Annual Savings Estimates by DOH of \$11 million Cannot be Validated**

We recommend that the DOH should:

1. verify the accuracy of the MR recommendations to the final approved STAC forms received from the local school districts;
2. replace the manual process with a computerized spreadsheet; and
3. analyze the results by individual MR to determine individual effectiveness in cost savings.

**DOH Response to Recommendation 1:**

The municipal representative’s purpose in attending CPSE meetings is to bring expertise and knowledge of the regulations and provide support to committee members regarding DOH and SED positions based on these regulations. The goal is to ensure specific eligibility criteria are adhered to and an appropriate level of services is recommended and approved by the committee.

The municipal representatives do not make recommendations for services at CPSE meetings, but rather point members to regulations and guidance in order to recommend the appropriate level of services.

The Health Department believes the cost savings estimates are a reasonable measure of the effectiveness of the municipal representatives at the CPSE meetings even though they are not verified by document comparison. The Department understands the position to compare the plan to actual services received; however the design of this methodology would be complicated and impossible to follow and at considerable staffing cost

**Auditor’s Follow-up Response:**

*We do not agree that the cost savings estimates are a reliable measure of the effectiveness of the municipal representatives at the CPSE meetings without verification to the documentation received by the local school district. A municipal representative could misunderstand a decision at a CPSE or intentionally exaggerate the savings to enhance their own performance and without a verification process it would not be detected. We reiterate our recommendation.*

**DOH Response to Recommendation 2:**

As noted in the findings, the school districts do not send the STAC forms to DOH in a timely manner in order to accurately compare cost savings utilizing this method.

The Department agrees with replacing the manual calculation process with a computerized spreadsheet. This will be implemented in 2013.

**Auditor’s Follow-up Response:**

*We concur with the DOH’s corrective action to replace the manual calculation process with a computerized spreadsheet.*

**DOH Response to Recommendation 3:**

Each municipal representative’s results are analyzed on a monthly basis to determine individual effectiveness in cost savings.

**Auditor’s Follow-up Response:**

*As stated in the auditor’s response to recommendation 1 of this finding, we do not agree that the cost savings estimates are a reliable measure of the effectiveness of the municipal representatives at the CPSE meetings without verification to the documentation received by the local school district. As such, we do not agree that performing an analysis of unreliable data on a monthly basis is a reliable determination of the individual municipal representative’s effectiveness.*

**Finding (2):**

**Attendance by Municipal Representatives at Important School Eligibility Meetings is Well Below Neighboring County’s Attendance**

**Review Recommendation:**

We recommend that the DOH try to increase their 64% coverage rate and ensure that all districts have visits from the County.

**DOH Response:**

Nassau County Department of Health currently contracts with 11 municipal representatives. The Health Department hired two additional municipal representatives in 2012. The Department is looking to hire two more representatives in 2013. Approximately 69% of CPSE meetings were attended by municipal representatives in 2012. It is significant to note that DOH has included in its calculation of percentage of meeting attendance, CPSE to CSE meetings. These meetings are never attended by municipal representatives because the purpose is to discuss the plan for kindergarten where the county is no longer a stakeholder. The Department will recalculate its attendance percentage comparing only initial and annual CPSE meetings and not CPSE to CSE meetings.

Representation at meetings is prioritized by the number of meetings being held at the school district not geographic location.

**Auditor’s Follow-up Response:**

*We concur with the hiring of more municipal representatives to improve County attendance at CPSE meetings county-wide.*

**Finding (3):**

**The Lack of Cost Controls and Analysis Resulted in Average Annual Cost Increases of 26% Unknown to DOH Management**

**Review Recommendation:**

We recommend that the DOH improve its cost monitoring process by:

1. preparing a formal comparative cost analysis of the fluctuations in Nassau County’s PSE Program costs from year to year and over several years to ensure that the County taxpayer is getting the best value;
2. seeking out comparative PSE data from other counties to determine whether Nassau County’s costs were consistent with other counties and to identify best practices and opportunities to improve the DOH’s efficiency and effectiveness; and
3. requesting the school districts provide analysis of their administrative overhead and DOH prepare a variation analysis of each school’s cost fluctuations.

**DOH Response:**

Each year the State determines the Approved School District Administrative Cost and instructs Nassau County the amount to pay. The county has no control over that determination. The 26% increase refers to Reimbursed School District Administrative costs only, which fluctuate year to year depending on the districts submissions. The State reimburses 59.5% of this cost. Overall the five year average program cost increase is 2% growth from 2006 through 2010 as noted in the Comptroller’s analysis. Not every child receives all services. The Health Department looks at the number of children receiving each service. However, complete data is available only after five years. The Department prepares a formal cost analysis and trends annual increases from year to year based on NIFS data.

**DOH Response to Recommendation 1:**

The Health Department agrees there should be a better methodology to perform cost analysis from year to year. The limiting factors to this effort include both the County Financial Program and SED regulations on billing.

The County Financial Program includes prior year disencumbrances as current revenue and distorts the actual cost of the program making evaluation of actual expenditures inaccurate. SED permits school districts a four year window for billing thereby preventing a timely analysis of true costs. Trends are evaluated and growth or decline is estimated on an annual basis however a

## **Appendix E – DOH Response and Auditor’s Follow-up**

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true cost report would be a five year old document. The Health Department prepares this actual document each year and arrives at final costs after a five year period using our legacy software.

### **Auditor’s Follow-up Response:**

*We are aware of the process and that the 26% growth referred to in the finding relates to reimbursed school district administrative costs only, which have nothing to do with program costs. The administration costs referred to in the finding relate to the school districts expenses to administrate the program, not the cost of services provided to the children. Thus, the overall 2% growth is not relevant to this finding. We stand by our findings.*

### **DOH Response to Recommendation 2:**

The Health Department is a member of DECCO (Downstate Early Childhood County Officials) where trends, strategies, best practice and opportunities to improve effectiveness are discussed. Through partnerships established with other counties, the Department believes this comparison can be done and will be completed before the end of 2013.

### **Auditor’s Follow-up Response:**

*We concur with the Health Department’s corrective action.*

### **DOH Response to Recommendation 3:**

The administrative costs the Health Department receives on an annual basis from the State do not include all districts. The Department prepares a five school year report, however beginning with the 2008-2009 school year, federal funding could no longer be used to lower costs. The Department saw a spike in Administrative costs, followed by a year of lower costs. The Department has no control over what districts submit for reimbursement. In addition, the county does not have any power to mandate the school districts to provide an analysis of their administrative overhead.

### **Auditor’s Follow-up Response:**

*We agree that the DOH does not have the power to mandate that school districts provide an analysis of their administrative overhead. However, this doesn’t mean that the DOH can’t ask for an analysis or inquire about any unusual expenses. At a minimum, the school districts would know someone is looking at information and the DOH does have the ability to report unusual expenses to the NYSED. The DOH should try to obtain the information.*

**Finding (4):**

**Regular Reconciliations of Vendor Payments Are Not Performed**

**Review Recommendations:**

We recommend that the DOH develop a practical method to perform the claims to cash disbursement reconciliation on a periodic basis. Year-end NIFS balances are used for the County’s Consolidated Financial Report; therefore DOH should at a minimum make sure the NIFS balance is reconciled back to the subsidiary ledger (McGuinness system).

**DOH Response:**

The Health Department agrees with this finding and has instituted a remediation. Although testing supported that all claims were properly reviewed, supported and claimed, the Health Department has instituted a daily reconciliation of all payments from McGuinness to NIFS.

**Auditor’s Follow-up Response:**

*We concur with the DOH’s corrective action.*

**Finding (5):**

**Quality Assurance Reviews of Service Providers is Inadequate**

**Review Recommendation:**

DOH officials should perform Quality Assurance reviews of PSE Program providers every two to three years.

**DOH Response:**

During 2008 through 2011, the Department completed 17 provider reviews, including six site visits. These reviews resulted in 14 Corrective Action Plans (CAP). For 2013, DOH plans on monitoring two provider agencies per month. Not all reviews result in a CAP.

For DOH to perform the number of reviews recommended by the Comptroller’s Office (an average of 77 per year), additional staff would be needed.

**Auditor’s Follow-up Response:**

*We are pleased to hear that the DOH has completed additional reviews; however, we still believe that the DOH needs to perform quality reviews on a larger percentage of their 200 providers.*

**Finding (6):**

**DOH Has Not Pursued the Opportunity to Reduce Costs by Becoming an Approved New York State Program Provider**

**Review Recommendation:**

We recommend that the DOH develop a cost/benefit analysis to determine if the DOH would benefit from becoming Program Providers.

**DOH Response:**

The Health Department has no knowledge of either Suffolk or Westchester providing related services in-house. Westchester provides, and Suffolk provided, a Special Education Itinerant Teacher program. Historically this program has been understaffed and in the current budget all vacancies have been eliminated.

DOH can develop a cost/benefit analysis to determine if the Department would benefit from becoming Program Providers. In recent conversations with Suffolk County, they no longer provide Preschool Special Education Services. When Suffolk County did provide services, the caseload was one. In order to provide SEIT services, Nassau would need to hire a teacher as an employee instead of contracting out.

**Auditor’s Follow-up Response:**

*We concur with the DOH action plan to develop a cost/benefit analysis to determine if the Department would benefit from becoming Program Providers.*

**Finding (7):**

**DOH Has Not Evaluated the Feasibility and Potential Savings in Bringing the Transportation Program In-House**

**Review Recommendation:**

We recommend that the DOH develop a cost/benefit analysis to determine if Nassau County would benefit from bringing the transportation administrator function in house.

**DOH Response:**

The County fiscal environment prohibits hiring of non-essential personnel. In this economic climate bringing this function in-house would entail major capital purchases that may not be approved. Suffolk County employs a full time Transportation Coordinator in addition to a contracted Transportation Management Company. Westchester County employs two full time and two part time employees. The Health Department fringe benefit rate is 66.5% and would add significantly to our costs. It is evident that hiring a management firm that provides

## Appendix E – DOH Response and Auditor’s Follow-up

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management services using a single software program for multiple contracts provides efficiencies of scale that the Department would not achieve on our own.

In a continuing effort to address efficiencies the Health Department has attempted to contain costs by revising the new contract with the Transportation Management Company to change the previous requirement of four bus inspectors to “an appropriate number to be able to respond to emergencies within twenty minutes.” The Department also eliminated the requirement that the management company maintain all contact with parents. Parents now contact the bus companies directly when there is an issue. In addition the county created a Transportation Work Group consisting of school districts, providers, the Transportation Management Company and the County. Some efficiencies that the group addressed are:

- Individual school bell times have been adjusted to allow increased occupancy on vehicles
- Low occupancy vehicles are identified, reported and combined where possible
- Maximum times on the bus have been increased from 75 minutes to 90 minutes
- Additionally the Department is researching pre-established routes for Universal Pre-K (UPK) busing and cross-county ride share.

The Department sought Request for Proposals for transportation management and has since decreased costs to Servisair, the Transportation Management Company, to \$352,000 for the new contract period of 2012.

### **Auditor’s Follow-up Response:**

*We are pleased the DOH reviewed the requirements of the outside transportation contract and received savings of almost \$100,000 per year. However, the DOH did not perform a cost benefit analysis to determine if it would be to Nassau County’s advantage to bring the transportation administrator function in-house.*