



Danya Labban
Auditor General

June 30, 2015

Dear Executive Director:

You may be aware that on June 4, 2015, the New York State Supreme Court, Appellate Division, Third Department, issued a Memorandum and Order in a case which raised whether NYSED acted outside regulatory guidance in relying on SEIT session information submitted to it by the New York City Department of Education (“Department”) and three counties (collectively referred to as “Municipalities”) in setting a SEIT agency’s 2008/2009 and 2009/2010 session rates.

It is not the purpose of this letter to re-visit the merits of the case. However, since the Court’s determination that NYSED should not have relied on the Municipalities’ session information makes reference to the Department’s “history of supplying information that was not correct,” we believe it is necessary to define the Department’s *current* practice with respect to session and center-based tuition payment information the Department shares with NYSED.

Monthly invoices for payment are submitted by Providers upon their certification that the representations regarding student enrollment are true and accurate. Providers are afforded an opportunity throughout the school year to review that information and correct inaccuracies. The Department does not “reconcile” or otherwise manipulate final data other than to calculate full time equivalency and aggregate sessions using the exact numbers certified and submitted by the Provider. Therefore, the numbers passed by the Department to NYSED are, in fact, only those obtained from the Provider.

For the last several years, the Department has taken every opportunity to remind the Provider community that the Department relies upon certified enrollment data to make payments and report the data upon which the payments are made. As we segue into the new school year with new preschool and school-age contracts and a new methodology for paying for SEIT services, we are again underscoring that it is in the Provider’s best interests to adhere to its responsibilities respecting accurate student data.

Under separate cover, the Office of Auditor General will issue an outline of certain key new contract provisions.

Very truly yours,

Marlene Malamy
Deputy Auditor General

CC: Josh Morgenstern
Jaime Kraybill
Angel Lopez
Frank Lanore
Karen Hunter
Danya Labban
Robert Sosa
Suzanne Bolling
Nora Galto
Peter LaPan
Pamela Madeiros
Joyce Glassman
Peter Pierri