

*A REPORT BY THE NEW YORK STATE
OFFICE OF THE STATE COMPTROLLER*

Alan G. Hevesi
COMPTROLLER



**NEW YORK STATE EDUCATION
DEPARTMENT**

***AUDIT OF THE TUITION REIMBURSEMENT ACCOUNT
FOR THE FISCAL YEARS ENDED
MARCH 31, 2003 AND 2004***

2003-S-52

DIVISION OF STATE SERVICES

NEW YORK STATE EDUCATION DEPARTMENT
AUDIT OF THE TUITION REIMBURSEMENT ACCOUNT
FOR THE FISCAL YEARS ENDED MARCH 31, 2003 AND 2004

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STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

Comptroller's Report
New York State Education Department

We have audited the accompanying Statements of Revenues, Expenditures, and Changes in Fund Balance for the fiscal years ended March 31, 2003 and 2004, and the related Balance Sheet (Statements) for the Tuition Reimbursement Account (TRA). The Statements are the responsibility of Department management. Our responsibility is to express an opinion on the Statements based on our audit.

We conducted our audit in accordance with Government Auditing Standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the Statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the Statements. An audit also includes assessing the accounting principles used, and significant estimates made, by management, as well as evaluating the overall presentation of the Statements. We believe that our audit provides a reasonable basis for our opinion.

As described in Note 2, the accompanying financial statements are prepared on the modified accrual basis of accounting, which is a comprehensive basis of accounting in conformance with Generally Accepted Accounting Principles.

In our opinion, the Statements referred to above present fairly, in all material respects, the TRA's financial position as of March 31, 2003 and 2004, and the results of its operations for the fiscal years then ended, in conformity with the modified accrual basis of accounting.

In addition to being the State Auditor, the Comptroller performs certain other constitutionally and statutorily mandated duties as chief fiscal officer of New York State, several of which are performed by the Division of State Services. These include operating the State's accounting system; preparing the State's financial statements; and approving State contracts, refunds, and other payments. In addition, the Comptroller appoints members to certain boards, commissions and public authorities, some of whom have minority voting rights. These duties may be considered management functions for purposes of evaluating organizational independence under Generally Accepted Government Auditing Standards. In our opinion, these management functions do not affect our ability to conduct independent financial audits.

In accordance with Government Auditing Standards, we have also issued a report on Department compliance with selected laws and regulations pertaining to the administration of the TRA (Appendix A), and a report on the Department's internal control structure over its TRA financial reporting operations (Appendix B).

Office of the State Comptroller
Date: December 27, 2004

**NEW YORK STATE EDUCATION DEPARTMENT
TUTION REIMBURSEMENT ACCOUNT
STATEMENT OF REVENUES, EXPENDITURES AND CHANGES
IN FUND BALANCE
FOR THE FISCAL YEARS ENDED MARCH 31, 2003 AND 2004**

	<u>Fiscal Year Ended March 31,</u>	
	<u>2003</u>	<u>2004</u>
Revenues:		
Tuition Assessment (Note 9)	\$ 501,457	\$ 187,607
Fines and Penalties	252,000	172,000
Interest	24,420	18,644
Less: Transfer to Supervision Account (Note 1)	(279,917)	(163,842)
Total Revenues	<u>\$ 497,960</u>	<u>\$ 214,409</u>
Expenditures:		
Refunds (Note 10)	\$ 153,414	\$ 1,566,748
Less: Reimbursements (Note 11)	0	(711)
Uncollectible Accounts Expense	59,976	0
Total Expenditures	<u>\$ 213,390</u>	<u>\$ 1,566,037</u>
Net Revenues	\$ 284,570	\$(1,351,628)
Fund Balance-Beginning	1,774,431	1,792,695
Audit Adjustments (Note 12)	<u>(266,306)</u>	<u>(12,574)</u>
Fund Balance-Ending	<u>\$1,792,695</u>	<u>\$ 428,493</u>

* The accompanying notes are an integral part of the Statement(s).

**NEW YORK STATE EDUCATION DEPARTMENT
TUITION REIMBURSEMENT ACCOUNT
BALANCE SHEET
AS OF MARCH 31, 2003 AND 2004**

	<u>Fiscal Year Ended March 31,</u>	
	<u>2003</u>	<u>2004</u>
Assets:		
Cash (Note 4)	\$1,529,991	\$491,522
Receivables (Note 5)		
Current:		
Tuition Assessments (Note 9)	\$ 322,875	\$ 87,434
Receivable from Supervision Account (Note 8)	0	0
Fines and Penalties	65,000	14,500
Interest	1,649	2,403
Long Term:		
Tuition Assessment	194,645	308,448
Fines and Penalties	0	0
Total Receivables	<u>\$ 584,169</u>	<u>\$412,785</u>
Less: Allowance for Doubtful Accounts (Note 6)	(60,470)	(30,804)
Total Net Receivables	<u>\$ 523,699</u>	<u>\$381,981</u>
Total Assets	<u><u>\$2,053,690</u></u>	<u><u>\$873,503</u></u>
Liabilities:		
Refunds Payable	\$ 28,029	\$ 129,225
Payable - Other (Note 7)	6,834	7,337
Payable to Supervision Account (Note 8)	31,487	0
Deferred Revenue	194,645	308,448
Total Liabilities	<u>\$ 260,995</u>	<u>\$ 445,010</u>
Fund Balance:	<u>1,792,695</u>	<u>428,493</u>
Total Liabilities and Fund Balance	<u><u>\$2,053,690</u></u>	<u><u>\$ 873,503</u></u>

* The accompanying notes are an integral part of the Statement(s).

**NEW YORK STATE EDUCATION DEPARTMENT
AUDIT OF THE TUITION REIMBURSEMENT ACCOUNT
FOR THE FISCAL YEARS ENDED MARCH 31, 2003 AND 2004**

*** Notes to the Financial Statements**

1. Background

Students who are enrolled in post-secondary private schools licensed by the State Education Department (Department), and in business schools registered with the Department that close before their education is completed, are eligible for a tuition refund. Students who drop out of such schools that have violated the Education Law (Law) - and are still in operation - are also eligible for a tuition refund. Students in such schools are also eligible to have their student loans repaid by the Department. Chapter 887 of the Laws of 1990 created the Tuition Reimbursement Fund (Fund) now titled the Tuition Reimbursement Account (TRA) to protect the financial interests of these students.

Chapter 887 of the Laws of 1990 also created the Proprietary Schools Vocational Supervision Account (Supervision Account) to support Bureau of Proprietary Schools (Bureau) operations. The Bureau monitors licensed private schools and registered business schools to ensure compliance with applicable provisions of the Law and the Commissioner of Education's Rules and Regulations (Regulations). The TRA and related Supervision Account are financed by assessments on qualifying schools for eight-tenths of one percent of their respective gross tuition revenues. The Law directs the Department to credit three-tenths of one percent to the TRA, and five-tenths of one percent to the Supervision Account. In addition, "English as a Second Language" (ESL) schools are subject to an initial TRA assessment upon obtaining their licensure.

On June 1, 1993, the Law was amended to establish a TRA cap of \$1.8 million with no further annual assessments levied unless the balance falls below \$1.3 million. In addition, any licensed private school, ESL school, or registered business school found to have violated the Law or related Regulations can be assessed a fine or penalty. The Law requires that these fines and penalties be deposited into the TRA.

Effective August 31, 1999, the State Legislature amended Article 101, Section 5007, Parts 1 and 10 of the Law now requiring all schools, including ESL schools licensed after June 30, 1993, to pay a "special" assessment where all schools are to be assessed at a rate of three-tenths of one percent of their gross tuition revenue, except for ESL schools which are to be assessed at a rate of two-tenths of one percent pursuant to the Commissioner's Regulations. The amount of the assessment is based each school's gross tuition revenue for its first three years of operations whether the revenue is reported for full or partial years. The special assessment is payable over four years from the date of enactment (five years for schools licensed after June 30, 1999).

When the TRA balance exceeds \$1.5 million, the excess, as well as any subsequent assessments, is deposited into the Supervision Account. For the purpose of this provision, the TRA balance is calculated quarterly based on dates established by the Law (June 30, September 30, December 31 and March 31).

2. Basis of Accounting

In conformance with Generally Accepted Accounting Principles (GAAP), the accompanying financial statements were prepared using the modified accrual basis of accounting. These principles are prescribed by the Governmental Accounting Standards Board (GASB) which is the primary standard setting body for establishing governmental accounting and financial reporting principles. Under the modified accrual basis of accounting, revenues and related receivables are recorded in the accounting period that they become both measurable and available. Available means collectible within the current period or soon enough thereafter to be used to pay liabilities of the current period. Expenditures and related liabilities are recorded in the accounting period when the liability is incurred and payment is due.

3. Accounting Records

The audited financial statements are based on the financial records maintained by the Department and are in agreement with those maintained by the Office of the State Comptroller.

4. Cash

The amount reported on the Statements as cash is the actual TRA balance as of the Statement date and is invested in the Short-Term Investment Pool (STIP) administered by the State Comptroller. All STIP funds were fully collateralized at each year-end.

5. Receivables and Deferred Revenue

Receivables classified as current are those that are expected to be collected within 12 months of the Statement date. Receivables classified as long-term are those that are expected to be collected thereafter. Department officials also report long-term TRA receivables as a deferred revenue in the liabilities section of the balance sheet.

The Office of the State Comptroller has a different interpretation regarding billings for special assessments which are due August 2004 which would affect TRA receivables for the fiscal year ended March 31, 2004. We note this difference in the attached Comptroller's Report on Department Compliance, and detail the reasons for our interpretation in our resolution through Legislative clarification. If our interpretation proves correct, TRA receivables for this period would be increased by at least \$384,000.

6. Allowance for Doubtful Accounts

The TRA's Allowance for Doubtful Accounts was established to reflect the dollar amount of receivables that Department management estimate will not be collected. This amount is based on the average uncollected amounts from the immediate prior three years.

7. Payable

In both fiscal years, a payable was due to schools covered by the Law. This payable was the result of a recalculation of the special assessment in accordance with the terms described in Note 1.

8. Payable to Supervision Account

In fiscal year 2000-2001, a payable was due to the Supervision Account as a result of transfers that were not yet made but should have been, based on the TRA balance at various times during the reporting period. The payable for the reporting period was offset by a subsequent receivable due from the Supervision Account.

9. Tuition Assessments

The Tuition Assessment account category includes the initial assessment fees paid by newly licensed ESL schools, as well as the newly instituted special assessment.

10. Refunds

For financial statement purposes, Department officials recognize student tuition reimbursement claims as expenses in the fiscal year they are approved for payment.

11. Reimbursements

TRA reimbursements result from the recovery of monies previously paid by the TRA in error, or represent monies submitted by schools to reimburse the TRA for payments made to students on their behalf.

12. Audit Adjustments

During fiscal year 2002-2003, Department officials reassessed TRA receivables which were questioned during the prior year's audit. The \$266,306 adjustment reduces the year-end Fund balance to reflect actual cash in the bank and the appropriate receivables.

The adjustment for fiscal 2003-2004 resulted from a decrease in the calculated Allowance for Doubtful Accounts, as well as a related adjustment to accounts receivable recognized in prior periods.

13. Contingencies and Subsequent Events

Upon completion of our audit, it was determined that two major licensed schools had either gone out of business, or were about to go out of business. Considering the TRA balance as of March 31, 2004, Department officials' interpretation of billing for special assessments, and the likely significant dollar value of anticipated refund requests, it is possible that the TRA would not be able to meet all of its refund obligations in the short term. Further, current and long-term liabilities reported on the Balance Sheet would be significantly increased. According to Department officials, they are authorized to obtain up to \$600,000 in loans from the State as a

contingency to meet such emergency obligations.

14. Explanations for Significant Reporting Category Variances

Statement of Revenues, Expenditures and Changes in Fund Balance

Revenues (-57%)

TRA revenues decreased significantly between fiscal years 2002-2003 and 2003-2004 for three primary reasons. First, a significant number of special assessments that were billed in fiscal year 2002 were collected in fiscal year 2003. Secondly, a decrease in the number of schools which were cited as having violated the State Education Law during the 2003/2004 year resulted in a corresponding decrease in Fines and Penalties. Lastly, as a result of lower interest rates interest revenue decreased accordingly.

Expenditures (+634%)

TRA expenditures increased significantly between fiscal years 2002-2003 and 2003-2004 as a result of four large schools closing during fiscal year 2004. These closings resulted in increased refund claims and corresponding payments.

Balance Sheet

Cash (-68%)

The decreased cash balance is the result of decreased revenue collections as explained under "Revenues".

Net Receivables (-27%)

The Account's net receivables decreased significantly between fiscal years 2002-2003 and 2003-2004 for two primary reasons. First, a large number of special assessments came due and were paid in the 2003-2004

year resulting in a decrease in the Tuition Assessment Receivables. Second, there were decreases in the number and amount of fines and penalties levied near the end of the year resulting in a decrease in the Fines and Penalties Receivables.

Liabilities (+71%)

The Refunds Payable account increased significantly between 2002-2003 and 2003-2004 due to four large school closings and timing differences as to when claims were processed. More claims were processed at the end of the fiscal year in 2003-2004 than in fiscal year 2002-2003, leading to an increase in payables outstanding at year-end.



STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

**Comptroller's Report on Department Compliance with Selected Statutory Requirements
Applicable to the Tuition Reimbursement Account**

New York State Education Department

We have audited the accompanying Tuition Reimbursement Account's (TRA) Statement of Revenues, Expenditures, and Changes in Fund Balance for the fiscal years ended March 31, 2003 and 2004, and the related Balance Sheet (Statements).

In connection with our audit of the Statements, we selected certain transactions applicable to compliance with Article 101, Sections 5001 and 5007, of the State Education Law. These sections address the assessment process for proprietary schools and student refund eligibility requirements.

The procedures we followed to assess Department compliance with selected statutory requirements were substantially less than those performed during an audit, the objective of which is to express an opinion on Department compliance with these requirements. Accordingly, we do not express such an opinion.

With respect to the items tested, the Department was not initially in compliance with the statutory requirements relating to the TRA. Among the areas of noncompliance noted were: The dates used to calculate interest for delinquent assessments; timeframes for assessing new schools; and suspending the assessment and collection of the special assessments due in August 2004. When we brought these issues to the attention of Department officials, except for the last item noted, they began to establish procedures to help ensure future compliance.

With respect to the items not tested, nothing came to our attention that caused us to believe that the Department had not complied, in all material respects, with those requirements and would not be in compliance with the laws and regulations if they continue to apply the same methodology(s).

This report is intended for the information and use of Department management and the State of New York. However, this report is a matter of public record and its distribution is not limited.

Appendix A

Office of the State Comptroller
Date: December 27, 2004

Alan C. Hevesi
STATE COMPTROLLER



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ALBANY, NEW YORK 12236

STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

Comptroller's Report on Internal Controls Applicable to the Tuition Reimbursement Account

New York State Education Department

In planning and performing our audit of the Tuition Reimbursement Account's (TRA) Statement of Revenues, Expenditures and Changes in Fund Balance for the fiscal years ended March 31, 2003 and 2004, and the related Balance Sheet (Statements), we considered the State Education Department's (Department) internal control structure in order to determine our auditing procedures for the purpose of expressing an opinion on the above-noted Statements, and not to provide assurance on the Department's internal control structure.

Our consideration of the internal control structure would not necessarily disclose all matters therein that might be a material weakness under standards established by the American Institute of Certified Public Accountants. A material weakness is a condition in which the design or operation of one or more of the internal control structure elements does not reduce, to a relatively low level, the risk that errors or irregularities, in amounts that would be material in relation to the financial statements being audited, may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions.

We conveyed the results of our review of the Department's internal control structure in a separate letter to Department management, which includes a description of management's responsibility to establish and maintain the Department's internal control structure, and the objectives of, and inherent limitations in, such a structure.

Our letter, which addresses issues relating to the Department's accounting policies, accounting practices, interest calculations, and compliance with legal requirements, is intended solely for the information and use of Department management and others within the organization.

Appendix B

Office of the State Comptroller
Date: December 27, 2004

NEW YORK STATE EDUCATION DEPARTMENT
AUDIT OF THE TUITION REIMBURSEMENT ACCOUNT
FOR THE FISCAL YEARS ENDED MARCH 31, 2003 AND 2004

Supplementary Information

Schedules 1 & 2

Appendix C

**NEW YORK STATE EDUCATION DEPARTMENT
TUIITION REIMBURSEMENT ACCOUNT
COMPARATIVE STATEMENT OF REVENUES, EXPENDITURES, AND CHANGES
IN FUND BALANCE
FOR THE FISCAL YEARS ENDED MARCH 31, 2003 AND 2004**

	<u>As of March 31, 2003</u>	<u>As of March 31, 2004</u>	<u>Percentage Increase <Decrease></u>
Revenues:			
Tuition Assessment	\$ 501,457	\$ 187,607	-63%
Fines and Penalties	252,000	172,000	-32%
Interest	24,420	18,644	-24%
Less: Transfer to Supervision Account	(279,917)	(163,842)	-41%
Total Revenues	<u>\$ 497,960</u>	<u>\$ 214,409</u>	<u>-57%</u>
Expenditures:			
Refunds	\$ 153,414	\$ 1,566,748	921%
Less: Reimbursements	0	(711)	-
Uncollectible Accounts Expense	59,976	0	-100%
Total Expenditures	<u>\$ 213,390</u>	<u>\$ 1,566,037</u>	<u>634%</u>
Net Revenues	<u>\$ 284,570</u>	<u>\$ (1,351,628)</u>	<u>-575%</u>

*See Note 14 to the financial statements for explanations of the significant variances.

**NEW YORK STATE EDUCATION DEPARTMENT
TUIITION REIMBURSEMENT ACCOUNT
COMPARATIVE BALANCE SHEET
FOR THE FISCAL YEARS ENDED MARCH 31, 2003 AND 2004**

	<u>As of March 31, 2003</u>	<u>As of March 31, 2004</u>	<u>Percentage Increase <Decrease></u>
Assets:			
Cash	\$1,529,991	\$491,522	-68%
Receivables			
Current:			
Tuition Assessments	\$ 322,875	\$ 87,434	-73%
Receivable from Supervision Account	0	0	0%
Fines and Penalties	65,000	14,500	-78%
Interest	1,649	2,403	46%
Long Term:			
Tuition Assessment	194,645	308,448	58%
Fines and Penalties	0	0	0%
Total Receivables	\$ 584,169	\$412,785	-29%
Less: Allowance for Doubtful Accounts	(60,470)	(30,804)	-49%
Total Net Receivables	\$ 523,699	\$381,981	-27%
Total Assets	\$2,053,690	\$873,503	-57%
Liabilities:			
Refunds Payable	\$ 28,029	\$129,225	361%
Payable - Other	6,834	7,337	7%
Payable to Supervision Account	31,487	0	-100%
Deferred Revenue	194,645	308,448	58%
Total Liabilities	\$ 260,995	\$445,010	71%

*See Note 13 to the financial statements for explanations of the significant variances.