

# Niagara Falls City School District

## Out-of-District Tuition Billing

**AUGUST 2020**



OFFICE OF THE NEW YORK STATE COMPTROLLER  
Thomas P. DiNapoli, State Comptroller

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# Report Highlights

## Niagara Falls City School District

### Audit Objective

Determine if tuition billings for the Niagara Falls City School District (District) students enrolled in out-of-district programs were accurately calculated and properly supported.

### Key Findings

Tuition billings for District students enrolled in out-of-district programs were not always accurately calculated or properly supported.

- District officials overpaid two charter schools for 36 special education students by approximately \$71,000 and may have overpaid for three students in foster care and three students in McKinney-Vento status by approximately \$44,000.
- District officials were unable to properly monitor out-of-district tuition billings or ensure the billed amounts were accurate and proper because they did not obtain or retain adequate support documentation.

### Key Recommendations

- Consult with legal counsel concerning options available for addressing overpayments.
- Develop and adopt written policies and procedures for monitoring out-of-district tuition billing.

District officials agreed with our recommendations and indicated they planned to initiate corrective action.

### Background

The District serves the City of Niagara Falls in Niagara County.

The District is governed by an elected nine-member Board of Education (Board). The Board is responsible for the general oversight of District operations. The Superintendent of Schools, along with other administrative staff, are responsible for managing day-to-day operations under the Board's direction. The Administrator for School Business Services (Administrator) is responsible for overseeing the department of finance. The Administrator is also responsible for developing and implementing policies for all business departments.

#### Quick Facts

2019-20 School Year Appropriations	\$148 million
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2018-19 School Year District Enrollment	7,015
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2019-20 School Year Out-of-District Tuition Billing Appropriations	\$9.9 million
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### Audit Period

June 1, 2018 – February 12, 2020

# Out-of-District Tuition Billing

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A school district is financially responsible for the tuition and for certain health and welfare service<sup>1</sup> costs of students residing in or originating from the school district but attend other schools for general and/or special education programs.

## How Should Out-of-District Tuition Be Billed and Monitored?

The New York State Education Department (SED) provides guidance on the various types<sup>2</sup> of out-of-district tuition to be billed, including billing frequency, the billing rate, how the rate should be calculated or established, and how to identify the financially responsible school district.

Schools and school districts should bill the originating school district or district of residence at the authorized rate for the programs and/or services the student receives. The originating school district or district of residence being billed should ensure it has sufficient supporting documentation when it is reviewing the billings to ensure the rate and the basis for billing is accurate and properly supported. School districts can use SED resources to ensure proper rates are accurately applied, calculated or contracted, and billed, for student enrollment in charter and full day schools, students in foster care, students receiving certain health and welfare services at nonpublic schools and students in McKinney-Vento status.<sup>3</sup> The billings should be sufficiently supported by evidence such as, student attendance rosters, IEPs, health and welfare service and full day program contracts and documentation from the local county's social services department for foster or McKinney-Vento status students.

District officials should develop and adopt written policies and procedures for out-of-district tuition that establish clear roles and responsibilities, resources for rate verification (e.g., annual review of updated SED State aid handbooks and formulas and/or rates) and methods for monitoring out-of-district tuition billing rates and supporting documentation requirements. District officials should also review tuition invoices and annually review SED State aid handbooks and formulas and/or rates to ensure billings are accurate and supported. These actions help ensure billings are accurate, supported and for authorized programs or services that are the district's financial responsibility.

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1 The school district is responsible to pay the school of attendance when a student attends a charter school, attends a different school or school district in accordance with his or her individualized education program (IEP), enters foster care or McKinney-Vento status and attends a different school or school district or attends a nonpublic school in a different school district and receives health and welfare services. See Appendix A.

2 See Appendix A.

3 See Appendix A for rate details.

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## Officials Did Not Ensure Charter School Special Education Billings Were Accurate

We reviewed out-of-district tuition billings<sup>4</sup> from two charter schools for 326 students totaling approximately \$4.3 million. Of these, 36 students received special education services that were in accordance with their IEP but were not billed accurately. The charter schools did not use the correct formula<sup>5</sup> to calculate the special education tuition billing rate for the 36 students. Further, two students who attended a charter school for the entire school year were included on the roster of special education students for additional tuition charges; however, their IEPs did not support the specific services the District was billed for. Also one additional student was included on a charter school bill for the entire school year and included additional tuition for three months of that year (September through November) for services that were not supported by the student's IEP. With these combined issues, the District overpaid by approximately \$71,000.

District officials were unaware that the billed amounts were incorrect because they did not verify the correct rate and formula was used and instead relied on the charter schools to calculate the billed amounts. Further, District staff were unclear as to who had primary responsibility for reviewing these bills. While both the business office clerk and special education department clerk reviewed the invoices, both indicated they thought the other had primary responsibility for ensuring special education billings were properly supported. However, ultimately, the Administrator is responsible for ensuring that tuition billings are verified to be accurate. This can be accomplished in part by assigning clear roles and responsibilities and establishing written policies and procedures to provide guidance to those carrying out the duties.

## Officials Can Continue To Improve How They Monitor Out-of-District Tuition Billings

We reviewed out-of-district tuition billed from five nonpublic schools and 10 school districts totaling approximately \$3.8 million in the 2018-19 school year.<sup>6</sup> Generally, officials properly monitored these bills to ensure they were sufficiently supported and properly calculated. However, the billings for three students who

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4 The charter schools billed the District on a bimonthly basis, in six installments that included a student attendance roster for basic tuition and special education services.

5 For the 2007-08 school year, SED implemented a new formula for determining Public Excess Cost Aid (PECA) for students with disabilities attending charter schools. At that time, PECA became part of New York State Foundation Aid to public schools, changing the calculation used previously. The revised formula uses the 2006-07 PECA excess cost ratio calculated by SED and an approved operating expense per student, which were frozen in 2007-08. SED provided a PECA set-aside calculation worksheet in 2007-08, which is updated annually.

6 See Appendix C.

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were in foster care from three different school districts<sup>7</sup> had no support that the special education services were prescribed by an IEP or provided to the students. Further, the District did not have IEPs for these students or other documentation to ensure the charges were appropriate. As a result, the District may have overpaid by approximately \$38,000 for these three students.

One school district also billed for three students in McKinney-Vento status totaling approximately \$6,000. While the invoices included the number of days the three students attended, they did not include the specific dates of attendance for support.

District officials did not obtain and retain itemized documentation that authorized or otherwise supported the provision and extent of services provided, verify the rates used or evaluate documentation supporting the programs or services provided such as, dates of attendance and special education services. As a result, District officials were unable to properly monitor out-of-district tuition billings and ensure the billed amounts are accurate and proper and may have overpaid by approximately \$44,000 for out-of-district tuition.

District officials can continue to improve their monitoring of out-of-district tuition billings by developing and adopting written policies and procedures and implementing a method for reviewing tuition invoices to ensure billings are accurate and supported, and by annually reviewing SED State aid handbooks and formulas and/or rates for out-of-district tuition.

## **What Do We Recommend?**

The Board and District officials should:

1. Consult with legal counsel concerning options available for addressing prior overpayments.
2. Develop and adopt written policies and procedures establishing clear roles and responsibilities, resources (e.g., annual review of updated SED State aid handbooks and formulas and/or rates) and methods for monitoring out-of-district tuition billing rates and supporting documentation to ensure the billings are accurate, supported and the District's financial responsibility, prior to payment.

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<sup>7</sup> Five school districts billed tuition for 20 students in foster care, 13 of which were enrolled in special education programs. Of these, seven student billings did not have appropriate supporting documentation attached to the invoice; however, District officials subsequently provided documentation that four did have IEPs prescribing these services.

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District officials should:

3. Thoroughly review tuition invoices to ensure that billings are accurate and supported.
4. Annually review SED State aid handbooks and formulas and/or rates for any updates applicable to out-of-district tuition billings.

# Appendix A: Types of Out-of-District Tuition

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Our audit focused on out-of-district tuition billings related to students residing or originating in the District but attending school elsewhere. Following is specific guidance for the types of out-of-district tuition included in our audit.

Charter Schools – A charter school is a public school financed by local, State and federal resources that is not under the control of a local school board. Education Law<sup>8</sup> provides for the funding of charter schools’ operating budgets primarily by billing the public school districts in which their students reside. SED provides a basic tuition rate annually based on the student’s district of residence and has implemented a formula for determining PECA<sup>9</sup> for students with disabilities attending charter schools.

Full Day Schools – Students with disabilities attend full day school programs based on IEPs prepared by the school district of residence. Full day schools bill the district of residence on a monthly basis, using a weekly rate based on SED-established 10-month tuition rates.

Foster Care – School districts have the option to provide instruction to non-resident students and are entitled to charge a net cost tuition for non-resident students. A Commissioner of Education’s regulation<sup>10</sup> prescribes the maximum tuition rate methodology that is not to exceed the net cost for regular and special education services of non-resident students. There are two methods to determine this net cost. The non-resident tuition formula can be used when the accounting records are not maintained in a manner which would indicate the net cost of educating such students. The other method is that SED produces a non-resident tuition output report in various categories (K-6 general education, 7-12 general education, K-6 special education and 7-12 special education). The estimated tuition rate can be used during the current school year but the tuition rates should be adjusted when the final tuition rates are issued.

Health and Welfare – Education Law<sup>11</sup> requires each school district in New York State to provide resident students who attend nonpublic schools with the same health and welfare services<sup>12</sup> available to students who attend the school district. These services must be provided by the school district in which the nonpublic school is located. If students attending a nonpublic school live in another school district, the two school districts must enter into a written contract governing the services and reimbursement.

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8 Education Law Section 3602-c

9 The purpose of PECA set-aside is to ensure that school districts meet federal maintenance of effort requirements regarding spending for students with disabilities.

10 Part 174

11 Education Law Section 912

12 Such as services performed by school nurse, school psychologist, school social worker and speech language pathologist.



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McKinney-Vento – Students who lack a fixed, regular and adequate nighttime residence will be considered homeless. These students are eligible to continue receiving appropriate public education and continue attending the school district of origin or enroll in another school or school district in the local attendance area. The educating school or school district is reimbursed by the school district of origin that these students were residing in at the time they entered McKinney-Vento status at the non-resident tuition rate established by SED.

## Appendix B: Response From District Officials



### School District of the City of Niagara Falls, New York

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July 9, 2020

Mr. Jeffrey D. Mazula, Chief Examiner  
Buffalo Regional Office  
OSC Division of Local Government and School Accountability  
295 Main Street, Suite 1032  
Buffalo, NY 14203

Dear Mr. Mazula,

The Niagara Falls City School District is in receipt of the draft “Out-of-District Tuition Billing” Report of Examination for the period July 1, 2018 – February 2020. On behalf of the Board of Education and District administration, we would like to thank the local field staff of the Comptroller’s office for their efforts in preparing this report.

We have carefully reviewed the findings and recommendations. Please accept this as the response by the Niagara Falls City School District (“the District”) and attach this document as an Appendix to any report that is issued.

We agree with the recommendations provided in the report and will provide a detailed corrective action plan within 90 days as required. The District will more fully elaborate in our corrective action plan but please note some of the actions to date:

- We have corrected the 2019-2020 charter school invoices for students with disabilities based upon the audit findings.
- We have ensured that all foster care and McKinney-Vento tuition invoices received that include students with disabilities have IEPs, which have been verified by the Committee on Special Education.
- We have ensured that all tuition invoices received for McKinney-Vento students include the proper documentation as recommended in the audit findings.
- District officials have begun consulting with internal legal counsel concerning options available for addressing prior year overpayments.
- District officials have begun drafting a written policy and procedures for out of district tuition billings to include procedures for reviewing tuition invoices received to ensure the accuracy of all future billings and the annual review of the NYSED State Aid Handbook and PECA set-aside calculation worksheet.

Once again, thank you for your thoughtful report. We look forward to formally addressing the audit findings and improving District operations through the forthcoming corrective action plan.

Respectfully submitted,

Mark Laurrie  
Superintendent of Schools



# Appendix C: Audit Methodology and Standards

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We conducted this audit pursuant to Article V, Section 1 of the State Constitution and the State Comptroller's authority as set forth in Article 3 of the New York State General Municipal Law. To achieve the audit objective and obtain valid audit evidence, our audit procedures included the following:

- We interviewed District officials and employees, inquired whether there were documented out-of-district tuition policies and procedures and reviewed SED guidance and publications to gain an understanding of the procedures and resources for monitoring and verifying that out-of-district tuition billing invoices are appropriate, accurately calculated and billed, and properly supported.
- We reviewed tuition invoices including student rosters to determine our audit population. The District was billed for approximately 800 students attending 40 unique, out-of-district schools for programs and services totaling \$9.8 million in the 2018-19 school year. We selected 17 unique entities<sup>13</sup> (two charter schools, five nonpublic schools and districts that billed for full day special education services, five school districts that billed for foster care students, five districts that billed for health and welfare services, and one district that billed for McKinney-Vento students). These entities collectively billed \$8.1 million (83 percent) in the categories of out-of-district tuition.
  - Charter Schools – Eight charter schools billed for programs and services provided to over 360 students totaling approximately \$4.3 million. We selected the two charter schools with the highest student enrollment and billing which in total billed for 326 students, 36 of which were enrolled in special education programs, totaling approximately \$4.3 million. We reviewed each charter school's final tuition billing for the 2018-19 school year.
  - Full Day Schools – 18 nonpublic schools and school districts billed for full day special education services in accordance with student IEPs for over 100 students, which were billed a total of \$5 million. We selected the top five billing entities that had the largest enrollment and billing amounts. As a result, we selected five nonpublic schools that billed for approximately 80 students totaling \$3.4 million. We reviewed each school's final tuition billing for the 2018-19 school year.
  - Foster Care – 14 school districts billed for programs and services provided to over 30 foster care students totaling \$334,000. We selected the top five school districts with the highest student enrollment and billing which in total billed for 20 students in foster care totaling \$253,000. We reviewed each school district's final tuition billing for the 2018-19 school year.

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<sup>13</sup> One school district billed for two different types of programs and services and fell into two categories.

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- Health and Welfare – 11 school districts billed for health and welfare services provided to over 300 students for a total of \$172,000. We selected the top five school districts with the highest student enrollment and billing that in total billed for 274 students totaling \$145,000. We reviewed each school district's annual billing for the 2018-19 school year.
  - McKinney-Vento – One school district (that was also included our health and welfare services sample) billed for programs and services provided to three students in McKinney-Vento status which totaled approximately \$6,000. We reviewed all three invoices for the 2018-19 school year.
  - We reviewed the billing invoices and supporting documentation that was either attached to the billing, or was available at the District to determine whether the District was financially responsible, the billing rates were accurate, the program attendance or enrollment documentation was adequate and the special education services were in accordance with IEPs to assess whether the District properly monitored tuition bills prior to payment.

We conducted this performance audit in accordance with generally accepted government auditing standards (GAGAS). Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

Unless otherwise indicated in this report, samples for testing were selected based on professional judgment, as it was not the intent to project the results onto the entire population. Where applicable, information is presented concerning the value and/or size of the relevant population and the sample selected for examination.

The Board has the responsibility to initiate corrective action. A written corrective action plan (CAP) that addresses the findings and recommendations in this report must be prepared and provided to our office within 90 days, pursuant to Section 35 of General Municipal Law, Section 2116-a (3)(c) of New York State Education Law and Section 170.12 of the Regulations of the Commissioner of Education. To the extent practicable, implementation of the CAP must begin by the end of the next fiscal year. For more information on preparing and filing your CAP, please refer to our brochure, *Responding to an OSC Audit Report*, which you received with the draft audit report. The CAP should be posted on the District's website for public review.

## Appendix D: Resources and Services

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### **Regional Office Directory**

[www.osc.state.ny.us/sites/default/files/local-government/documents/pdf/2018-12/regional\\_directory.pdf](http://www.osc.state.ny.us/sites/default/files/local-government/documents/pdf/2018-12/regional_directory.pdf)

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