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April 12, 2024

Commissioner Betty A. Rosa
New York State Education Department
89 Washington Avenue
Albany, New York 12234

Dear Commissioner Rosa:

Recently, we have received concerning reports that the New York State Education Department (NYSED) has refused to reimburse \$1.5 million to Success Academy based solely on a simple typographical error.

On October 26 and November 2, 2023, Success Academy made two Elementary and Secondary School Emergency Relief (ESSER) reimbursement submissions to NYSED. Based on those submissions, we are unaware of any reason permissible under ESSER for that rejection of \$1.5 million of expenses.¹ Success Academy subsequently made a third submission at NYSED's request, as a courtesy, in which expenses were grouped together by vendor to make it easier for NYSED to review.

In this third submission, Success Academy inadvertently listed the overall dates of reimbursement as "3/1/2020 - 12/31/2020" rather than "3/13/2020 - 12/31/2020." The omission of the "3" in the starting date range was an error that was trivial and obvious – Success Academy did not claim any reimbursements between 3/1 and 3/13, as NYSED could clearly see on the itemized listing of expenses. Neither did the typo appear in Success Academy's original two submissions. Unfortunately, it appears that Deputy Commissioner Christina Coughlin is using this typo as a basis to disallow all of Success Academy's expenses incurred in 2020.

Given the time-sensitive nature of this disallowance, we ask that you quickly review Deputy Commissioner Coughlin's ruling.

¹ Aside from the \$1.5 million in disallowed reimbursements, we are also aware that approximately \$120,000 in potential reimbursements in Success Academy's original submission were missing a date. In this letter, we are only inquiring about the \$1.5 million portion that was denied.

In addition, please answer the following questions by April 19, 2024:

1. Should Deputy Commissioner Coughlin's ruling be found to be in error, can you guarantee that Success Academy will be reimbursed for the full amount due to it?
2. NYSED's March 15 letter to Success Academy claims that Success Academy's submission is "missing required dates or included dates outside of the allowable project period." Aside from the aforementioned typo, please provide an itemized list of the \$1.5 million in expenses Success Academy is claiming that fall outside the legally allowed dates.
3. NYSED's March 15 letter to Success Academy claims that the reasons for the disallowed reimbursement were "more substantive" than a simple typo. Please explain these reasons in detail.
4. In NYSED's March 15 letter, the first bullet point under "circumstances necessitat[ing] the disallowance" notes that Success Academy submitted final fiscal reports "on" – not "after" – the deadline. Please explain, including with a specific citation, the governing statute(s) or regulation(s) that require final fiscal reports submitted on a deadline to be disallowed for reimbursement.
5. In NYSED's March 15 letter, the second bullet point under "circumstances necessitat[ing] the disallowance" alleges that Success Academy's submission "did not contain all required pages." Please explain in detail the specific pages required by governing law (along with a specific citation to the governing statute(s) or regulation(s)) that Success Academy did not submit at any point.

If you have any questions, please contact RJ Martin at rj.martin@mail.house.gov or 202-225-4527. We look forward to hearing from you.

Sincerely,



Virginia Foxx
Chairwoman, U.S. House Committee on
Education and the Workforce



Aaron Bean
Chairman, Subcommittee on Early
Childhood, Elementary, and Secondary
Education



Elise Stefanik
Member of Congress



Brandon Williams
Member of Congress