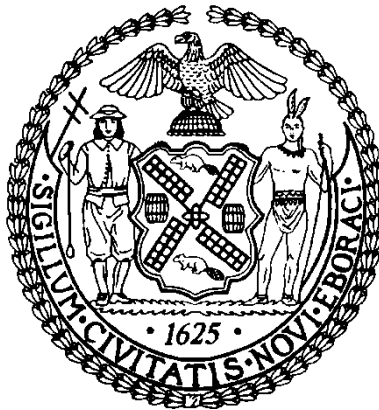


**CITY OF NEW YORK  
OFFICE OF THE COMPTROLLER**

**John C. Liu  
COMPTROLLER**

**FINANCIAL AUDIT**

**Tina Kim  
Deputy Comptroller for Audit**



**Audit Report on the  
Financial and Operating Practices of the  
Social Service Employees Union Local 371  
Legal Services Fund and Educational Fund**

*FL10-125A*

**April 29, 2011**



THE CITY OF NEW YORK  
OFFICE OF THE COMPTROLLER  
1 CENTRE STREET  
NEW YORK, N.Y. 10007-2341

John C. Liu  
COMPTROLLER

April 29, 2011

**To the Residents of the City of New York:**

My office has audited the financial and operating practices of the Social Service Employees Union Local 371 Legal Services Fund (Legal Services Fund) and the Social Service Employees Union Local 371 Educational Fund (Educational Fund) for the period July 1, 2007, through June 30, 2008. We audit agencies such as these to ensure that benefit funds are spending monies in the best interest of their members and are complying with applicable procedures and reporting requirements, as set forth in Comptroller's Internal Control and Accountability Directive #12, Employee Benefit Funds – Uniform Reporting and Auditing Requirements.

The audit found the Legal Services Fund and the Educational Fund had weaknesses in their financial, operating, and benefit processing procedures. Specifically, of the \$74,876 in claims and payments to class instructors reviewed, \$5,318 (7 percent) in payments were made to individuals not listed on the City's Payroll Management System, the City's Health and Hospitals Corporation contribution reports, or the Administrative Fund's database system or were made without supporting documentation. In addition, the Legal Services Fund also provided civil representation to 17 of the 100 (17 percent) randomly selected participants reviewed and criminal representation to three of the 100 (3 percent) randomly selected participants who were not eligible to receive this benefit. Lastly, the Legal Services Fund did not properly authorize checks issued from its checking account for Fiscal Year 2008.

The audit recommends that the Legal Services Fund and the Educational Fund ensure that benefits are provided in accordance with their guidelines and that only authorized personnel sign checks.

The results of the audit have been discussed with Legal Services Fund and Educational Fund officials, and their comments have been considered in preparing this report. Their complete written responses are attached to this report.

If you have any questions concerning this report, please e-mail my audit bureau at [audit@comptroller.nyc.gov](mailto:audit@comptroller.nyc.gov).

Sincerely,



John C. Liu

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*The City of New York*  
*Office of the Comptroller*  
*Financial Audit*

**Audit Report on the  
Financial and Operating Practices of the  
Social Service Employees Union  
Local 371 Legal Services Fund and Educational Fund**

**FL10-125A**

**AUDIT REPORT IN BRIEF**

The Social Service Employees Union Local 371 Legal Services Fund (Legal Services Fund) and the Social Service Employees Union Local 371 Educational Fund (Educational Fund) receive their funding from the Social Service Employees Union Local 371 Administrative Fund (Administrative Fund). The Administrative Fund was created to receive the negotiated contributions from its members' employers and to allocate and distribute the monies received to the Social Service Employees Union Local 371 Benefit Funds—Social Service Employees Union Local 371 Welfare Fund (Welfare Fund), the Legal Services Fund, and the Educational Fund. The Legal Services Fund and the Educational Fund receive an allocation of funds from the Administrative Fund that is equivalent to its net cost of operations. The Legal Services Fund and the Educational Fund are required to conform to Comptroller's Directive #12, "Employee Benefit Funds—Uniform Reporting and Auditing Requirements," which sets forth accounting, auditing, and financial guidelines for funds and their boards of trustees.

We performed an audit on the financial and operating practices of the Legal Services Fund and the Educational Fund for Fiscal Year 2008. The Legal Services Fund received \$3,900,521 for legal benefits, and the Educational Fund received \$332,269 for educational benefits for Fiscal Year 2008. Administrative expenses were paid through the Administrative Fund

**Audit Findings and Conclusions**

The Legal Services Fund and the Educational Fund complied with the procedures and reporting requirements of Directive #12; in addition, the Legal Services Fund and the Educational Fund complied with their accounting procedures, and those procedures were adequate and proper. However, we found some weaknesses in the financial and operating procedures of the Legal Services Fund and the Educational Fund. Of the \$74,876 in claims and payments to class instructors reviewed, \$5,318 (7 percent) in payments were made to individuals not listed on the City's Payroll Management System (PMS), City's Health and Hospitals Corporation (HHC) contribution reports, or Administrative Fund's database system or were made without supporting

documentation.

The Legal Services Fund also provided civil representation to 17 of the 100 (17 percent) randomly selected participants reviewed and criminal representation to three of the 100 (3 percent) randomly selected participants who were not eligible to receive this benefit. Lastly, the Legal Services Fund did not properly authorize checks issued from its checking account for Fiscal Year 2008.

### **Audit Recommendations**

The audit makes four recommendations. The Legal Service Fund and the Educational Funds should:

- Pay for benefits for eligible individuals only and make payments in accordance with their guidelines.
- Ensure that benefits are provided only to eligible members and their dependents.
- Maintain all supporting documentation to substantiate City contributions, member eligibility, and benefit use.
- Ensure that only authorized personnel sign program checks for the Legal Service Fund.

### **Funds Response**

In their response, Legal Service Fund and Educational Fund officials generally did not specifically address the audit's findings or recommendations and did not indicate how they will implement the necessary corrective actions to remediate the findings discussed in this report.

## INTRODUCTION

### **Background**

The Legal Services Fund and the Educational Fund were established on March 28, 1974, and April 27, 1966, respectively, under the provisions of Fund Agreements among the City of New York and the Social Service Employees Union Local 371 (Union) and the Declarations of Trust. The Legal Services Fund and the Educational Fund receive their funding from the Social Service Employees Union Local 371 Administrative Fund.<sup>1</sup> The Legal Services Fund and Educational Fund receive an allocation of funds from the Administrative Fund that is equivalent to its net cost of operations. The Legal Services Fund provides legal benefits, and the Educational Fund provides educational benefits to employees currently working in one of the approximately 160 eligible titles.

Specifically, the Legal Services Fund is mandated by its agreement to provide legal benefits for civil matters, criminal defense representation, court costs, and bail bonds to its eligible members. The Educational Fund is mandated by its agreement to provide training and reimburse eligible members for job-related courses and conferences.

The Legal Services Fund received \$3,900,521 for legal benefits, and the Educational Fund received \$332,269 for educational benefits for Fiscal Year 2008. Administrative expenses were paid through the Administrative Fund.

The Legal Services Fund and the Educational Fund are required to conform to Comptroller's Directive #12, "Employee Benefit Funds—Uniform Reporting and Auditing Requirements," which sets forth accounting, auditing, and financial guidelines for funds and their boards of trustees.

Tables I and II show the benefits that were available to the 17,130 members of the Legal Services Fund and the Educational Fund and the total amount reportedly paid for each type of benefit during Fiscal Year 2008.<sup>2</sup>

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<sup>1</sup> The Administrative Fund was created to receive the negotiated contributions from its members' employers and to allocate and distribute the monies received to provide welfare, education, and legal service benefits to eligible employees.

<sup>2</sup> According to the Trustees' Management Letters, the Legal Services Fund and the Educational Fund had 17,130 members during Fiscal Year 2008. The number of members varies during the year because of new hires, retirements, suspensions, etc.

**Table I**

Legal Services Fund Benefits and Amounts Paid as Reported by the Legal Services Fund  
Fiscal Year 2008

<b>Legal Services Benefit</b>	<b>Amount</b>	<b>Coverage</b>
Civil Matters	\$2,219,340	Members are entitled to three of the civil matter benefits per year in addition to the last will and testament benefit. The civil matter benefits include: living will/health care proxy; appointment of agent to control disposition of remains; designation of person in parental relation; legal defense; appeals; legal separation; divorce proceeding; annulment proceeding; family court; custody; adoption; guardianship; change of name; personal bankruptcy; legal protection for the elderly; consumer protection; estates and administration; homeowner rights; and immigration law. Member payments vary based on the fee schedule.
Criminal Representation	\$1,443,817	The criminal matter benefits that members are entitled to include: 24-hour answering service; criminal defense; criminal traffic offenses; criminal defense of dependents; family court representation; application for a certificate of relief from civil disabilities; department of motor vehicles hearing and applications for license restoration; federal criminal defense; and interrogation.
FICA Expense	\$151,691	This expense should be included in the Legal Services benefit.
Court Costs	\$40,523	Members are entitled to a maximum reimbursement of \$300 per case for court costs in any legal matter covered by the Legal Services Fund. Court costs include fees for filing, fees for deposition, and costs related to investigations.
Bail Bond	\$4,538	Members are entitled to a maximum benefit of \$2,500 twice a year for bail bond when the covered member is arrested in a non-work-related situation on a civil or criminal charge in any jurisdiction covered by the Legal Services Fund. The member's eligible dependents are entitled to a maximum benefit of \$1,500 for bail bond when he/she is arrested on a criminal charge not related to City employment in any jurisdiction covered by the Fund.
<b>Total</b>	<b>\$3,859,909</b>	

**Table II**

Educational Fund Benefits and Amounts Paid as Reported by the Educational Fund  
Fiscal Year 2008

<b>Educational Benefit</b>	<b>Amount</b>	<b>Coverage</b>
Tuition Reimbursements	\$292,328	Members are entitled to a maximum reimbursement of \$500 per academic year (September 1 through August 31) for any one or combination of courses listed under course benefits. These courses include courses for non-high school graduates; technical and vocational courses; specialized courses; conversational language courses; courses for seeking a college degree (AA, BA, BS); and computer courses.
Civil Service Exam Preparation Courses	\$12,914	Members are entitled to attend any civil service examination preparation courses provided by the Educational Fund. There is no out-of-pocket expense, and there is no limitation on the number of courses members can take. Members are entitled to a maximum reimbursement of \$125 per academic year for preparation courses for certification examinations for covered civil titles. Members are entitled to a maximum reimbursement of \$100 per academic year for computer seminars.
Job-Related Conferences	\$9,334	Members are entitled to a maximum reimbursement of \$150 per academic year for registration fees for job-related conferences, fees for human relations workshops, and fees for human relations seminars.
Dues for Professional Organizations	\$7,851	Members are entitled to a maximum reimbursement of \$100 per academic year for membership fees paid to any organization that qualifies as related to the member's job under IRS regulations.
<b>Total</b>	<b>\$322,427</b>	

During Fiscal Year 2008, the Legal Services Fund provided legal benefits through contracts with Mirkin & Gordon, PC (civil matter and court costs) and Kreisberg & Maitland, LLP (criminal representation and bail bond). Educational benefits were provided by the Educational Fund.

As of June 30, 2008, the Legal Services Fund and the Educational Funds reported \$3,900,521 and \$332,269 in benefit expenditures, respectively. Tables III and IV summarize the Legal Services Fund and the Educational Fund's audited financial data, as reported by the Legal Services Fund and the Educational Fund, for the years ending June 30, 2007, and June 30, 2008.



**Table III****Summary of the Legal Services Fund's Reported  
Revenues and Expenses**

	<b>2007</b>	<b>% of Total Revenue</b>	<b>2008</b>	<b>% of Total Revenue</b>
Contributions—Allocation from Social Service Employees Union Local 371 Administrative Fund	\$3,679,648	100.00%	\$3,900,521	100.00%
<b>Total Revenue</b>	<b>\$3,679,648</b>	<b>100.00%</b>	<b>\$3,900,521</b>	<b>100.00%</b>
Total Benefit Paid	\$3,680,426	100.02%	3,859,909	98.96%
Net Increase (Decrease) in Benefit Obligations	(778)	(0.02%)	40,612	1.04%
<b>Total Expenses</b>	<b>\$3,679,648</b>	<b>100.00%</b>	<b>\$3,900,521</b>	<b>100.00%</b>
Excess (Deficiency) of Revenue	\$0		\$0	
Welfare Fund Balance (Beginning of Year)	\$0		\$0	
Welfare Fund Balance (End of Year)	\$0		\$0	

**Table IV****Summary of the Educational Fund's Reported  
Revenues and Expenses**

	<b>2007</b>	<b>% of Total Revenue</b>	<b>2008</b>	<b>% of Total Revenue</b>
Contributions—Allocation from Social Service Employees Union Local 371 Administrative Fund	\$346,368	100.00%	\$332,269	100.00%
<b>Total Revenue</b>	<b>\$346,368</b>	<b>100.00%</b>	<b>\$332,269</b>	<b>100.00%</b>
Total Benefit Paid	\$352,896	101.88%	\$322,427	97.04%
Net Increase (Decrease) in Benefit Obligations	(6,528)	(1.88%)	9,842	2.96%
<b>Total Expenses</b>	<b>\$346,368</b>	<b>100.00%</b>	<b>\$332,269</b>	<b>100.00%</b>
Excess (Deficiency) of Revenue	\$0		\$0	
Welfare Fund Balance (Beginning of Year)	\$0		\$0	
Welfare Fund Balance (End of Year)	\$0		\$0	

This audit report is one of three reports our office issued on the Social Service Employees Union benefit funds. The Social Service Employees Union has four benefit funds—the Administrative Fund, the Welfare Fund, the Legal Services Fund, and the Educational Fund. The audits of the financial and operating practices of the Administrative Fund (Audit # FL10-124A) and the Welfare Fund (Audit #FL10-123A) will be issued under separate cover. This audit discusses the results of our review of Social Services Employees Union Local 371 Legal Services Fund and the Educational Fund.

### **Objective**

The objectives of the audit were to determine whether the Legal Services Fund and the Educational Fund complied with applicable procedures and requirements of Comptroller’s Directive #12, had adequate and proper accounting procedures and complied with them, and paid benefit expenses that were appropriate and reasonable.

### **Scope and Methodology**

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 objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. This audit was conducted in accordance with the audit responsibilities of the City Comptroller as set forth in Chapter 5, §93 of the New York City Charter.

To achieve our audit objectives, we reviewed the Legal Services Fund and the Educational Fund financial and operating practices for the period July 1, 2007, through June 30, 2008—the period covered by the most recent Directive #12 filings available when we began the audit. Directive #12 establishes uniform reporting and auditing requirements for City-funded employee benefit plans. We obtained the Legal Services Fund and the Educational Fund Directive #12 filings with the Comptroller’s Office, which included their financial statements, federal tax return, and other required schedules. We determined whether the Legal Services Fund and the Educational Fund complied with the significant terms and conditions of Directive #12 by checking their filings of:

- annual certified financial statements prepared in accordance with generally accepted accounting principles that were attested to by a certified public accountant (CPA), and
- Internal Revenue Service Forms 990.

We interviewed officials from the Legal Services Fund and the Educational Fund and reviewed their Fund Agreements and Trust Agreements to gain an understanding of both funds’ financial and operating practices. We prepared flowcharts and memoranda outlining our understanding of these procedures and internal controls.

To determine whether all revenues and expenses were properly recorded, we reconciled the

certified financial statements with their trial balance, records of adjusting entries, cash receipts, disbursements journals, and other related documentation for both the Legal Services Fund and Educational Fund. Specifically, we traced revenue amounts for Fiscal Year 2008 from the Administrative Fund's bank transfer notices to the bank statements and general ledgers of the Legal Services Fund and the Educational Fund.

To determine the accuracy of bank reconciliations and to account for all checks paid, outstanding, and voided by the Legal Services Fund and the Educational Fund, we reviewed all of the bank statements for the commercial checking account for Fiscal Year 2008 for both funds.

In addition, we performed tests of the benefit payments to members to determine whether only eligible members and their dependents received benefits from the Legal Services Fund and the Educational Fund. To verify member eligibility for all benefits, we intended to trace selected participants listed on the utilization reports or benefit check registers for Fiscal Year 2008 to the City and the HHC contribution reports. However, the Administrative Fund was unable to provide us with these contribution reports. Therefore, as an alternative procedure, we traced the selected participants to either the City's PMS or contribution reports that we retrieved from HHC to determine whether members were working in covered titles and eligible for benefits. However, without the City contribution reports, we were unable to determine whether the Legal Services Fund and the Educational Fund received contributions for these members.

We performed additional benefit testing as discussed in detail in the following sections of this report.

### **Legal Services Fund Benefits**

#### **Civil Matters**

We compared the number of participants listed on the Fiscal Year 2008 premium billings, totaling \$2,219,340, from Mirkin & Gordon, PC (Legal Services Fund's civil matter benefit provider) to the number of individuals listed on the City and HHC contribution vouchers. We also traced the participants listed on the Mirkin & Gordon, PC SSEU Local 371 Legal Services Fund Utilization Report to the Legal Services Fund's appointment book for civil matters. As discussed above, we traced 100 randomly selected participants to either the City's PMS or contribution reports that we retrieved from HHC to determine whether members were working in covered titles and eligible for benefits. We also intended to review the claim forms to verify these services were actually provided. However, the Legal Service Fund was unable to provide us with the claim forms.

#### **Criminal Representation**

We compared the number of participants listed on the Fiscal Year 2008 premium billings, totaling \$1,443,817, from Kreisberg & Maitland, LLP (Legal Services Fund's criminal representation benefit provider) to the number of individuals listed on the City contribution vouchers. We also traced the participants listed on the Kreisberg & Maitland, LLP SSEU Local 371 Legal Services Fund Utilization Report to the Legal Services Fund's appointment book for criminal representation. As previously discussed, we traced 100 randomly selected participants to either the

City's PMS or contribution reports that we retrieved from HHC to determine whether members were working in covered titles and eligible for benefits.

### **Court Costs**

To verify member eligibility, we traced all 27 participants—with claims totaling \$5,216—listed on the Mirkin & Gordon itemized breakdown of court cost disbursements for the month of January 2008 to the City's PMS and the contribution reports we retrieved from HHC.<sup>3</sup> In addition, we determined whether reimbursements were calculated correctly, supported with proper documentation, and did not exceed the amounts specified in the Legal Services Fund's fee schedule.

### **Bail Bond**

To verify member eligibility, we traced the two payments—with claims totaling \$9,500—listed on the Legal Services Fund General Ledger for the Fiscal Year 2008 to the City's PMS and the contribution reports we retrieved from HHC. Moreover, we also determined whether the claims were supported with proper documentation and met the amounts specified in the Legal Services Fund's fee schedule.

### **Educational Fund Benefits**

#### **Tuition Reimbursements**

To verify member eligibility, we traced all 102 claims, totaling \$49,116, listed on the educational claim review and check register for tuition reimbursements for the month of November 2007 to the City's PMS and the contribution reports we retrieved from HHC.<sup>4</sup> We also determined whether the reimbursements were calculated correctly, supported with proper documentation, and met the amounts specified in the Educational Fund's fee schedule.

#### **Job-Related Conferences**

To verify member eligibility, we traced all 20 claims, totaling \$2,659, listed on the Educational Claim Review and Check Register for job-related conference reimbursements for the month of June 2008 to the City's PMS and the contribution reports we retrieved from HHC.<sup>5</sup> Furthermore, we determined whether the reimbursements were calculated correctly, supported with proper documentation, and met the amounts specified in the Educational Fund's fee schedule.

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<sup>3</sup> For our tests of court cost reimbursements, we judgmentally selected January 2008 based on the highest dollar amount the Legal Services Fund paid in court cost reimbursements during Fiscal Year 2008.

<sup>4</sup> For our tests of tuition reimbursements, we judgmentally selected November 2007 based on the highest dollar amount the Educational Fund paid in tuition reimbursement during Fiscal Year 2008.

<sup>5</sup> For our tests of job-related conference reimbursements, we judgmentally selected June 2008 based on the highest dollar amount the Educational Fund paid in job-related conference reimbursements during Fiscal Year 2008.

### **Dues for Professional Organizations**

To verify member eligibility, we traced all 17 claims, totaling \$1,145, listed on the educational claim review and check register for dues for professional organizations reimbursements for the month of February 2008 to the City's PMS and the contribution reports we retrieved from HHC.<sup>6</sup> In addition, we determined whether the reimbursements were calculated correctly, supported with proper documentation, and met the amounts specified in the Educational Fund's fee schedule.

### **Civil Service Exam Preparation Courses**

To verify member eligibility, we traced all 22 claims, totaling \$2,440, listed on the educational claim review and check register for civil service exam preparation courses reimbursements during Fiscal Year 2008 to the City's PMS and HHC contribution reports. Moreover, we determined whether the reimbursements were calculated correctly, supported with proper documentation, and met the amounts specified in the Educational Fund's fee schedule.

For the civil service examinations preparation courses sponsored by the Educational Fund, we reviewed all payments made to class instructors, totaling \$4,800, attendance records, and other supporting documentation to determine whether these courses were actually held.

Overall, we reviewed \$3,738,033 in benefit payments, which include premium payments, totaling \$3,663,157, 196 claims, totaling \$70,076, and payments to class instructors, totaling \$4,800.

The results of the above tests, while not statistically projected to the various populations from which they were drawn, provided a reasonable basis for us to satisfy our audit objectives.

### **Discussion of Audit Results**

The matters covered in this report were discussed with Legal Services Fund and Educational Fund officials during and at the conclusion of this audit. A preliminary draft report was sent to Legal Services Fund and Educational Fund officials on January 28, 2011, and was discussed at an exit conference held on February 15, 2011. On March 18, 2011, we submitted a draft report to Legal Services Fund and Educational Fund officials with a request for comments. We received a written response from Legal Services Fund and Educational Fund officials on March 30, 2011.

In their response, Legal Service Fund and Educational Fund officials generally did not specifically address the audit's findings or recommendations and did not indicate how they will implement the necessary corrective actions to remediate the findings discussed in this report.

The full text of the Legal Services Fund and Educational Fund's response is included as an addendum to this report.

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<sup>6</sup> For our tests of dues for professional organizations reimbursements, we judgmentally selected February 2008 based on the highest dollar amount the Educational Fund paid in professional organizations reimbursements during Fiscal Year 2008.

## FINDINGS AND RECOMMENDATIONS

The Legal Services Fund and the Educational Fund complied with the procedures and reporting requirements of Directive #12; in addition, the Legal Services Fund and the Educational Fund complied with their accounting procedures, and those procedures were adequate and proper. However, we found some weaknesses in the financial and operating procedures of the Legal Services Fund and the Educational Fund. Of the \$74,876 in claims and payments to class instructors reviewed, \$5,318 (7 percent) in payments were made to individuals not listed on the City's PMS, HHC contribution reports, or Administrative Fund's database system or were made without supporting documentation.

The Legal Services Fund also provided civil representation to 17 of the 100 (17 percent) randomly selected participants reviewed and criminal representation to three of the 100 (3 percent) randomly selected participants who were not eligible to receive this benefit.

Lastly, the Legal Services Fund did not properly authorize checks issued from its checking account for Fiscal Year 2008.

These issues are discussed in detail in the following sections of this report.

### **Improper Benefit Payments**

The Legal Services Fund and the Educational Fund made improper benefit payments totaling \$5,318—\$4,048 from the Legal Services Fund and \$1,270 from the Educational Fund. Of the \$74,876 in claims reviewed—\$14,716 from the Legal Services Fund and \$60,160 from the Educational Fund—\$5,318 (7 percent) in payments were made to individuals who were not listed on PMS or HHC contribution reports, retired, or were made without supporting documentation.

Of the \$14,716 in court cost claims and bail bond claims from the Legal Services Fund, we reviewed, \$4,048 (28 percent) were made on behalf of ineligible individuals. These benefits were paid for individuals who were not listed on the City's PMS or HHC contribution reports, retired, or were made without supporting documentation.

Of the \$60,160 in claims we reviewed from the Educational Fund, \$1,270 (2 percent) in payments were made to individuals who were not listed on City's PMS or HHC contribution reports or were made without supporting documentation.

Specifically, the Educational Fund:

- Paid \$60 for one claim on behalf of an ineligible individual.
- Paid \$1,200 to three instructors for civil service examination preparation courses without any supporting documentation, such as an invoice or attendance records.
- Paid \$10 for one claim without supporting documentation, such as an invoice or member certificate.

Of the 100 randomly sampled participants listed on the utilization report for civil matters provided by Mirkin & Gordon, PC, 17 participants (17 percent) were not eligible for this benefit. In addition, of the 100 randomly sampled participants listed on the utilization report for criminal representation provided by Kreisberg & Maitland, LLP, three participants (3 percent) were not eligible for this benefit. Specifically, these individuals were not listed on the City's PMS, HHC contribution reports, or the Administrative Fund's database system. Although these services did not increase the Legal Services Fund's legal benefit costs (since the legal providers are paid a fixed rate per member), we question the provision of these benefits to these individuals.

***Legal Services and Educational Funds Response:*** “*Benefits Payments:* The Funds provide benefits only to eligible participants. They receive monthly electronic member eligibility updates from the City, and this electronic file is a mirror image of the hard copy.”

***Auditor Comment:*** Contrary to the Legal Services and Educational Funds' response, monthly electronic member eligibility updates from the City will not automatically ensure that the Legal Services and Educational Funds pay claims to only eligible individuals with adequate supporting documentation. The Legal Services and Educational Funds must maintain all supporting documentation to substantiate City contributions, member eligibility, and benefit use. These documents should include, but not be limited to, the City contribution reports, claim forms, and supporting medical receipts. These documents are important because they ensure that the Legal Services and Educational Funds are maximizing the amount of benefits paid on behalf of eligible members.

### **Improper Check Authorization**

The Legal Services Fund did not properly authorize checks issued from its checking account for Fiscal Year 2008. The Legal Services Fund's Trust Agreement Section 7.7 states that the checks should only be signed by Fund Trustees or any other employee of the Fund Trustees. However, 42 of the 73 (58 percent) canceled checks from these accounts were signed by a Fund employee and a Union officer. Two of the 73 canceled checks were signed by a Fund employee only. Because the Union officer is not a Trustee or employee of the Trustees of the Legal Service Fund, he/she should not be authorizing the Legal Service Fund checks.

***Legal Services and Educational Funds Response:*** “*Check Authorization:* In 1992, the Funds' Trustees approved a two-signature policy on all disbursements; this policy decision is set forth in the minutes of the Boards of Trustees meetings, and is designed to strengthen internal controls. The policy is not set forth in the Funds' Trust Documents, and the Trustees will make every effort to have the Trust Documents amended to include the two-signature policy.”

***Auditor Comment:*** By allowing a union official to sign checks on behalf of the fund, the Legal Services Fund may be in violation of the Fund's Trust Agreement. A union official

is not a trustee or employee of the Legal Services Fund. The Trust Agreement only allows fund trustees or fund employees the authority to sign checks. Although fund officials claim that having a two-signature policy on all disbursements strengthens internal controls, allowing an unaffiliated union officer to sign checks significantly weakens the controls over disbursements.

Legal Services Fund trustees have a fiduciary responsibility to their members and are expected to comply with the terms and provisions of the Trust Agreement and, therefore, must ensure that *only* Trustees, the Administrator, or designated employees of the Trustees are allowed to sign checks issued by the Legal Services Fund. Fund officials need to reconsider their position and designate a trustee or fund employee to co-sign checks on behalf of the fund.

### **Recommendations**

The Legal Service Fund and the Educational Fund should ensure that:

1. They pay for benefits for eligible individuals only and make payments in accordance with their guidelines.
2. Benefits are provided only to eligible members and their dependents.
3. They maintain all supporting documentation to substantiate City contributions, member eligibility, and benefit use. These documents should include, but not be limited to, the City contribution reports, HHC contribution reports, and claim forms that were missing during our audit period.
4. Only authorized personnel sign program checks.



SOCIAL SERVICE EMPLOYEES UNION LOCAL 371

# Legal Services Fund



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FAX: (212) 673 - 3813

March 29, 2011

H. Tina Kim  
Deputy Comptroller, City of New York  
One Centre Street, Room 1100  
New York, New York 10007-2341

RE: Audit Report on the Financial and Operating  
Practices of the Social Service Employees Union  
Local 371 Legal Services Fund and Educational Fund  
FL10-125A

Fear Ms. Kim:

Thank you for your letter dated March 18, 2011, and for the above-cited draft Audit Report of the same date. We appreciate the observations and recommendations set forth in the *Audit Report in Brief* section of the draft Audit Report, and to the extent that they are applicable we will implement the recommendations as soon as possible. As requested in your letter, the following are our responses to the observations and recommendations set forth in the *Audit Report in Brief* section:

- Ⓢ *Benefits Payments:* The Funds provide benefits only to eligible participants. They receive monthly electronic member eligibility updates from the City, and this electronic file is a mirror image of the hard copy.
- Ⓢ *Check Authorization:* In 1992, the Funds' Trustees approved a two-signature policy on all disbursements; this policy decision is set forth in the minutes of the Boards of Trustees meetings, and is designed to strengthen internal controls. The policy is not set forth in the Funds' Trust Documents, and the Trustees will make every effort to have the Trust Documents amended to include the two-signature policy.

Again, we would like to thank you, and, in particular Ms. Irene Lam, Audit Supervisor, for the professionalism and courtesy demonstrated during the audit process, and for the recommendations for improving the Funds' policies resulting from the audit.

Very truly yours,

John D. Brown

Cc: Boards of Trustees

Trustees

Ikechukwu I. Ekweonu  
Kirby Lindell  
Faryce B. Moore  
Joseph Nazario  
Lloyd Permaul  
Miriam Ramos-Ortiz  
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Administrator  
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Associate  
Administrator  
Helen C. Wilson