

**DEPARTMENT  
OF  
DEVELOPMENTAL SERVICES  
AUDIT  
OF  
TEACHING AUTISTIC CHILDREN (LEARNING ARTS)**

**Programs and Services:**

Client/Parent Support Behavior Intervention Training – PA0112  
Socialization Training Program – PA0725 and PA0726  
Travel Reimbursement – PA0112 and PA0809  
Behavior Management Consultant – PA0809

(Audit Period: July 1, 2009 through June 30, 2010)

**Audit Branch**

**Auditors:** Michael Masui, Chief of Vendor Audits  
Alton Kitay, Supervisor  
Alimou Diallo, Supervisor  
Wilfredo Golez, Lead Auditor  
Jennifer Bernard, Auditor

# LEARNING ARTS

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## EXECUTIVE SUMMARY

The Department of Developmental Services (DDS) has audited Teaching Autistic Children (Learning Arts). The audit was performed upon the following programs: Client/Parent Support Behavior Intervention Training, Socialization Training Program, Behavior Management Consultant, and Travel Reimbursement for the audit period July 1, 2009, through June 30, 2010.

The last day of fieldwork was November 22, 2010.

The results of the audit disclosed the following issues of noncompliance:

### **Finding 1: Client/Parent Support Behavior Intervention Training – Unsupported Billing**

The review of Learning Arts' Client/Parent Support Behavior Intervention Training Program, Vendor Number PA0112, revealed that Learning Arts had unsupported billings to Alta California Regional Center (ACRC). As a result, Learning Arts had a total of \$111,384.13 of unsupported billings.

### **Finding 2: Socialization Training Program – Unsupported Billing**

The review of Learning Arts' Socialization Training Program, for the Vendor Numbers PA0725 and PA0726, revealed that Learning Arts had unsupported billings to ACRC. As a result, Learning Arts had a total of \$5,604.72 of unsupported billings.

### **Finding 3: Behavior Management Consultant – Unsupported Billing**

The review of Learning Arts' Behavior Management Consultant, for Vendor Number PA0809, revealed that Learning Arts had unsupported billings to ACRC. As a result, Learning Arts had a total of \$688.70 of unsupported billings.

### **Finding 4: Travel Reimbursement – Unsupported Billing**

The review of Learning Arts' Travel Reimbursement, Vendor Numbers PA0112 and PA0809, revealed that Learning Arts had unsupported billings to ACRC. As a result, Learning Arts had a total of \$1,009.16 of unsupported billings.

The total of the unsupported billing discrepancies identified in this audit amounts to \$118,686.71 due back to DDS. A detailed discussion of these findings is contained in the Findings and Recommendations section of this report.

## **BACKGROUND**

The DDS is responsible, under the Lanterman Developmental Disabilities Services Act, for ensuring that persons with developmental disabilities receive the services and supports they need to lead more independent, productive, and normal lives. DDS contracts with 21 private, nonprofit regional centers that provide fixed points of contact in the community for serving eligible individuals with developmental disabilities and their families in California. In order for regional centers to fulfill their objectives, they secure services and supports from qualified service providers and/or contractors. Per Welfare and Institutions (W&I) Code, Section 4648.1, DDS has the authority to audit those service providers and/or contractors that provide services and supports to the developmentally disabled.

## **OBJECTIVE, SCOPE, AND METHODOLOGY**

The audit was conducted to determine whether Learning Arts' Client/Parent Support Behavior Intervention Training, Socialization Training, Behavior Management Consultant, and Travel Reimbursement programs were compliant with the W&I Code, California Code of Regulations (CCR, title 17), and the ACRC contracts with Learning Arts for the period of July 1, 2009, through June 30, 2010.

The audit was conducted in accordance with the Generally Accepted Government Auditing Standards issued by the Comptroller General of the United States. The auditors did not review the financial statements of Learning Arts, nor was this audit intended to express an opinion on the financial statements. The auditors limited the review of Learning Arts' internal controls to gaining an understanding of the transaction flow and invoice preparation process as necessary to develop appropriate auditing procedures. The audit scope was limited to planning and performing audit procedures necessary to obtain reasonable assurance that Learning Arts complied with CCR, title 17.

Learning Arts was vendorized by ACRC and Central Valley Regional Center (CVRC) and also provided services to Far Northern Regional Center (FNRC) consumers. Our audit reviewed the services provided to ACRC consumers.

### **Client/Parent Support Behavior Intervention Training Program**

During the audit period, Learning Arts operated two Client/Parent Support Behavior Intervention Training Programs. The audit included the review of one of the Client/Parent Support Behavior Intervention Training Programs, Vendor Number PA0112, Service Code 048.

The procedures performed at ACRC, the vendoring regional center, and Learning Arts included, but were not limited to, the following:

- Reviewed ACRC's vendor files for contracts, rate letters, program designs, purchase of service authorizations, and correspondence pertinent to the review.

- Interviewed ACRC's staff for vendor background information and to obtain prior vendor audit reports.
- Interviewed Learning Arts' staff and management to gain an understanding of its accounting procedures and processes for regional center billings.
- Reviewed Learning Arts' service/attendance records to determine if Learning Arts had sufficient and appropriate evidence to support the direct care services billed to the regional center.

### **Socialization Training Program**

During the audit period, Learning Arts operated two Socialization Training Programs. The audit included the review of the two Socialization Training Programs, Vendor Numbers PA0725 and PA0726, Service Code 028.

The procedures performed at ACRC, the vendoring regional center, and Learning Arts included, but were not limited to, the following:

- Reviewed ACRC's vendor files for contracts, rate letters, program designs, purchase of service authorizations, and correspondence pertinent to the review.
- Interviewed ACRC's staff for vendor background information and to obtain prior vendor audit reports.
- Interviewed Learning Arts' staff and management to gain an understanding of its accounting procedures and processes for regional center billings.
- Reviewed Learning Arts' service/attendance records to determine if Learning Arts had sufficient and appropriate evidence to support the direct care services billed to the regional center.

### **Behavior Management Consultant**

During the audit period, Learning Arts operated one Behavior Management Consultant Program. The audit included the review of this Behavior Management Consultant Program, Vendor Number PA0809, Service Code 620.

The procedures performed at ACRC, the vendoring regional center, and Learning Arts included, but were not limited to, the following:

- Reviewed ACRC's vendor files for contracts, rate letters, program designs, purchase of service authorizations, and correspondence pertinent to the review.

- Interviewed ACRC's staff for vendor background information and to obtain prior vendor audit reports.
- Interviewed Learning Arts' staff and management to gain an understanding of its accounting procedures and processes for regional center billings.
- Reviewed Learning Arts' service/attendance records to determine if Learning Arts had sufficient and appropriate evidence to support the direct care services billed to the regional center.

### **Travel Reimbursement**

During the audit period, Learning Arts operated two Travel Reimbursement Programs. The audit included the review of these two Travel Reimbursement Programs, Vendor Numbers PA0112 and PA0809, Service Code 105.

The procedures performed at ACRC, the vendoring regional center, and Learning Arts included, but were not limited to, the following:

- Reviewed ACRC's vendor files for contracts, rate letters, program designs, purchase of service authorizations, and correspondence pertinent to the review.
- Interviewed ACRC's staff for vendor background information and to obtain prior vendor audit reports.
- Interviewed Learning Arts' staff and management to gain an understanding of its accounting procedures and processes for regional center billings.
- Reviewed Learning Arts' service/attendance records to determine if Learning Arts had sufficient and appropriate evidence to support the direct care services billed to the regional center.

## **CONCLUSION**

Based upon items identified in the Findings and Recommendations section, Learning Arts did not comply with the requirements of CCR, title 17.

## **VIEWS OF RESPONSIBLE OFFICIALS**

The DDS issued a draft report on January 6, 2012. The findings in the report were discussed with Learning Arts in the informal exit conference held on April 28, 2011. The Audit Branch received Learning Arts' response to the draft audit report on February 3, 2012. In its written response to the draft, the Learning Art disagreed with the findings identified therein.

## **RESTRICTED USE**

This report is solely for the information and use of the DDS, Department of Health Care Services, ACRC, and Learning Arts. This restriction is not intended to limit distribution of this report, which is a matter of public record.

## FINDINGS AND RECOMMENDATIONS

### **Finding 1: Client/Parent Support Behavior Intervention Training – Unsupported Billing**

The review of Learning Arts' Client/Parent Support Behavior Intervention Training Program, Vendor Number PA0112, Service Code 48, for the sample period of October 2009 to February 2010, revealed that Learning Arts had unsupported billings to ACRC.

Unsupported billings occurred due to a lack of appropriate documentation to support the units of service billed to ACRC. The following are the discrepancies identified:

Learning Arts was not able to provide appropriate supporting documentation for 1,178.35 consultant and lead hours of services billed. The lack of documentation resulted in unsupported billings to ACRC in the amount of \$93,667.81.

Learning Arts also was not able to provide appropriate supporting documentation for 504.49 tutor and lead hours for In-Home (INHM) services billed. The lack of documentation resulted in unsupported billings to ACRC in the amount of \$17,716.32. As a result, \$111,384.13 is due back to DDS for the unsupported billings. (See Attachment A.)

CCR, title 17, section 54326(a) states:

“All vendors shall:

(3) Maintain records of service provided to consumers in sufficient detail to verify delivery of the units of service billed.

(10) Bill only for services which are actually provided to consumers and which have been authorized by the referring regional center.”

Also, CCR, title 17, section 50604 states:

“(d) All service providers shall maintain complete service records to support all billing/invoicing for each regional center consumer in the program.

(e) All service providers' records shall be supported by source documentation.”

### **Recommendation:**

Learning Arts must reimburse to DDS the \$111,384.13 for the unsupported billings. In addition, Learning Arts should develop and implement policies and procedures to ensure that proper documentation is maintained to support the amounts billed to ACRC.



**Learning Arts' Response:**

In response to this finding, Learning Arts made the following argument:

Learning Arts' states the finding is incorrect and is in fact contradicted by the available evidence, including Learning Arts' financial records and source documentation.

See Attachment B for the full text of Learning Arts' response and Attachment C for DDS' Evaluation of Learning Arts' response.

**Finding 2: Socialization Training Program – Unsupported Billing**

The review of Learning Arts' Socialization Training Programs, Vendor Numbers PA0725 and PA0726, Service Code 28, for the sample period of October 2009 and November 2009 revealed that Learning Arts had unsupported billings to ACRC.

Unsupported billings occurred due to a lack of appropriate documentation to support the units of service billed to ACRC. The following are the discrepancies identified:

For the Socialization Training Program, Vendor Number PA0725, Service Code 28, Learning Arts was not able to provide appropriate supporting documentation for 21 hours of services billed. The lack of documentation resulted in unsupported billings to ACRC in the amount of \$1,783.32.

For the Socialization Training Program, Vendor Number PA0726, Service Code 28 Learning Arts was not able to provide appropriate supporting documentation for 45 hours of services billed. The lack of documentation resulted in unsupported billings to ACRC in the amount of \$3,821.40.

As a result, \$5,604.72 is due back to DDS for the unsupported billings. (See Attachment A.)

CCR, title 17, section 54326(a) states:

“All vendors shall:

- (3) Maintain records of service provided to consumers in sufficient detail to verify delivery of the units of service billed.
- (10) Bill only for services which are actually provided to consumers and which have been authorized by the referring regional center.”

Also, CCR, title 17, section 50604 states:

- “(d) All service providers shall maintain complete service records to support all billing/invoicing for each regional center consumer in the program.
- (e) All service providers' records shall be supported by source documentation.”

**Recommendation:**

Learning Arts must reimburse to DDS the \$5,604.72 for the unsupported billings. In addition, Learning Arts should develop and implement policies and procedures to ensure that proper documentation is maintained to support the amounts billed to ACRC.

**Learning Arts' Response:**

In response to this finding, Learning Arts made the following argument:

Learning Arts states the finding is incorrect and is in fact contradicted by the available evidence, including Learning Arts' financial records and source documentation.

See Attachment B for the full text of Learning Arts' response and Attachment C for DDS' Evaluation of Learning Arts' response.

**Finding 3: Behavior Management Consultant – Unsupported Billing**

The review of Learning Arts' Behavior Management Consultant Program, Vendor Number PA0809, Service Code 620, for the sample period of October 2009 and November 2009 revealed that Learning Arts had unsupported billings to ACRC.

Unsupported billings occurred due to a lack of appropriate documentation to support the units of service billed to ACRC. The following are the discrepancies identified:

Learning Arts was not able to provide appropriate supporting documentation for 17.75 consultant hours of services billed. The lack of documentation resulted in unsupported billings to ACRC in the amount of \$688.70.

As a result, \$688.70 is due back to DDS for the unsupported billings. (See Attachment A.)

CCR, title 17, section 54326(a) states:

“All vendors shall:

- (3) Maintain records of service provided to consumers in sufficient detail to verify delivery of the units of service billed.
- (10) Bill only for services which are actually provided to consumers and which have been authorized by the referring regional center.”

Also, CCR, title 17, section 50604 states:

“(d) All service providers shall maintain complete service records to support all billing/invoicing for each regional center consumer in the program.

(e) All service providers' records shall be supported by source documentation.”

**Recommendation:**

Learning Arts must reimburse to DDS the \$688.70 for the unsupported billings. In addition, Learning Arts should develop and implement policies and procedures to ensure that proper documentation is maintained to support the amounts billed to ACRC.

**Learning Arts' Response:**

In response to this finding, Learning Arts made the following argument:

Learning Arts states the finding is incorrect and is in fact contradicted by the available evidence, including Learning Arts' financial records and source documentation.

See Attachment B for the full text of Learning Arts' response and Attachment C for DDS' Evaluation of Learning Arts' response.

**Finding 4: Travel Reimbursement – Unsupported Billing**

The review of Learning Arts' Travel Reimbursement Programs, Vendor Numbers PA0112 and PA0809, Service Code 105, for the sample period of October 2009 to December 2009 revealed that Learning Arts had unsupported billings to ACRC.

Unsupported billings occurred due to a lack of appropriate documentation to support the units of service billed to ACRC. The following are the discrepancies identified:

For the Travel Reimbursement Program, Vendor Number PA0112, Service Code 105, Learning Arts was not able to provide appropriate supporting documentation for 4,761.80 miles billed. The lack of documentation resulted in unsupported billings to ACRC in the amount of \$952.36.

For the Travel Reimbursement Program, Vendor Number PA0809, Service Code 105, Learning Arts was not able to provide appropriate supporting documentation for 284 miles billed. The lack of documentation resulted in unsupported billings to ACRC in the amount of \$56.80.

As a result, \$1,009.16 is due back to DDS for the unsupported billings. (See Attachment A.)

CCR, title 17, section 54326(a) states:

“All vendors shall:

- (3) Maintain records of service provided to consumers in sufficient detail to verify delivery of the units of service billed.
- (10) Bill only for services which are actually provided to consumers and which have been authorized by the referring regional center.”

Also, CCR, title 17, section 50604 states:

“(d) All service providers shall maintain complete service records to support all billing/invoicing for each regional center consumer in the program.

(e) All service providers’ records shall be supported by source documentation.”

**Recommendation:**

Learning Arts must reimburse to DDS the \$1,009.16 for the unsupported billings. In addition, Learning Arts should develop and implement policies and procedures to ensure that proper documentation are maintained to support the amounts billed to ACRC.

**Learning Arts’ Response:**

In response to this finding, Learning Arts made the following argument:

Learning Arts states the finding is incorrect and is in fact contradicted by the available evidence, including Learning Arts’ financial records and source documentation.

See Attachment B for the full text of Learning Arts’ response and Attachment C for DDS’ Evaluation of Learning Arts’ response.

**Learning Arts**  
**Summary of Over and (Under) Billing**  
**Audit Period: July 1, 2009 through June 30, 2010**

**Attachment A**

Finding #	Vendor	Svc Code	Description	Unit Type	Unit Rate	<u>Unsupported Billings<sup>1</sup></u>		<u>Failed to Bill<sup>2</sup></u>		<u>Net Due to DDS</u>
						Units	Amount	Units	Amount	Amount
						A		B	= A - B	
<b><u>Miscellaneous Program</u></b>										
1	PA0112	48	Client/Parent Support Behavior Intervention Training							
			<u>Sub Code - Consultant</u>							
			Sample Months - Oct. 2009 to Feb. 2010	Hours	\$ 84.92	1,043.52	\$ 88,615.72	-	\$ -	\$ 88,615.72
			<u>Sub Code - Lead</u>							
			Sample Months - Oct. 2009 to Feb. 2010	Hours	\$ 37.47	134.83	5,052.09	-	-	5,052.09
			Sub Total			<u>1,178.35</u>	<u>\$ 93,667.81</u>			<u>\$ 93,667.81</u>
			<u>Sub Code - INHM</u>							
			Sample Months - Oct. 2009 to Feb. 2010							
			Tutor	Hours	\$ 15.49	54.00	\$ 836.46	-	\$ -	\$ 836.46
			Lead	Hours	\$ 37.47	450.49	16,879.86	-	-	16,879.86
			Sub Total			<u>504.49</u>	<u>\$ 17,716.32</u>	<u>-</u>	<u>\$ -</u>	<u>\$ 17,716.32</u>
			<b><u>Total</u></b>							<u>\$ 111,384.13</u>
2	PA0725	28	Socialization Training Program							
			Sample Months - Oct. & Nov. 2009	Hours	\$ 84.92	21.00	\$ 1,783.32	-	\$ -	\$ 1,783.32
	PA0726	28	Socialization Training Program							
			Sample Months - Oct. & Nov. 2009	Hours	\$ 84.92	45.00	3,821.40	-	-	3,821.40
			<b><u>Total</u></b>			<u>66.00</u>	<u>\$ 5,604.72</u>			<u>\$ 5,604.72</u>

**Learning Arts**  
**Summary of Over and (Under) Billing**  
**Audit Period: July 1, 2009 through June 30, 2010**

**Attachment A**

Finding #	Vendor	Svc Code	Description	Unit Type	Unit Rate	<u>Unsupported Billings<sup>1</sup></u>		<u>Failed to Bill<sup>2</sup></u>		<u>Net Due to DDS</u>
						Units	Amount	Units	Amount	Amount
						A		B	= A - B	
<b><u>Other Program</u></b>										
3	PA0809	620	Behavior Management Consultant Sample Months - Oct. & Nov. 2009	Hours	\$ 38.80	17.75	\$ 688.70	-	\$ -	\$ 688.70
<b><u>Miscellaneous Program</u></b>										
4	PA0112	105	Travel Reimbursement Program Sample Months - Oct. 2009 to Dec. 2009	Miles	\$ 0.20	4,761.80	\$ 952.36	-	\$ -	\$ 952.36
	PA0809	105	Travel Reimbursement Program Sample Months - Oct. & Nov. 2009	Miles	\$ 0.20	284.00	56.80	-	-	56.80
			<b><u>Total</u></b>			<u>5,045.80</u>	<u>\$ 1,009.16</u>			<u>\$ 1,009.16</u>
			<b><u>Grand Total</u></b>							<u>\$ 118,686.71</u>

<sup>1</sup>These payments were authorized by the RC(s), were paid to the vendor but were not provided by the vendor.

<sup>2</sup>These payments were authorized by the RC(s), were provided by the vendor but the vendor failed to bill.

**Learning Arts**  
**Summary of Over and (Under) Billing**  
**Audit Period: July 1, 2009 through June 30, 2010**

**Attachment A**

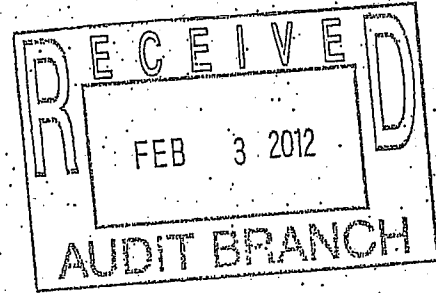
**\$ 88,615.72**

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February 2, 2012

Edward Yan, Manager  
Audit Branch  
Department of Developmental Services  
1600 Ninth Street, Rm. 230, MS 2-10  
Sacramento, CA 95814



Re: Draft Audit Report  
D.D.S. Audit of Learning Arts  
Period: July 1, 2009 - June 30, 2010

Dear Mr. Yan:

I am the attorney for Learning Arts, the entity whose records have been the subject of the above-referenced audit from 2010 to the present date. On behalf of Learning Arts (also referred to herein as "LA"), I am submitting the company's response to the Draft Audit report in accordance with what I understand is your standard procedure, pursuant to Title 17 California Code of Regulations (hereinafter 'CCR'— all references to regulations are to Title 17 unless otherwise specified).

**SUMMARY OF RESPONSE TO EACH FINDING**

**Finding 1 : Client/Parent Support Behavior Intervention Training — Unsupported Billing**

The review of Learning Arts' Client/Parent Support Behavior Intervention Training Program, for Vendor Number PA01 12, revealed that Learning Arts had unsupported billings to Alta California Regional Center (ACRC). As a result, Learning Arts had a total of \$111,384.13 of unsupported billings.

**Response to Finding 1:**

This finding is incorrect and is in fact contradicted by the available evidence, including Learning Arts' financial records and source documentation.

**Finding 2: Socialization Training Program — Unsupported Billing**

The review of Learning Arts' Socialization Training Program, for the Vendor Numbers PA0725 and PA0726 revealed that Learning Arts had unsupported billings to Alta California Regional Center (ACRC). As a result, Learning Arts had a total of \$5,604.72 of unsupported billings.



**Response to Finding 2:**

This finding is incorrect and is in fact contradicted by the available evidence, including Learning Arts' financial records and source documentation.

**Finding 3: Behavior Management Consultant Unsupported Billing**

The review of Learning Arts' Behavior Management Consultant for Vendor Number PA0809, revealed that Learning Arts had unsupported billings to Alta California Regional Center (ACRC). As a result, Learning Arts had a total of \$688.70 of unsupported billings.

**Response to Finding 3:**

This finding is incorrect and is in fact contradicted by the available evidence, including Learning Arts' financial records and source documentation.

**Finding 4: Travel Reimbursement — Unsupported Billing**

The review of Learning Arts' Travel Reimbursement, for the Vendor Numbers PA0112 and PA0809, revealed that Learning Arts had unsupported billings to Alta California Regional Center ACRC. As a result, Learning Arts had a total of \$1,009.16 of unsupported billings.

**Response to Finding 4:**

This finding is incorrect and is in fact contradicted by the available evidence, including Learning Arts' financial records and source documentation.

**Conclusion:**

After reciting the four findings set out above, the Executive Summary portion of the Draft Audit states that the total of the "unsupported billing discrepancies identified in this audit amounts to \$118,686.71 due back to DDS."

**Response to conclusory statement:**

There was no 'discrepancy' found in Learning Arts' records. A 'discrepancy' is defined as "having the quality of being discrepant". 'Discrepant' is defined as "being at variance" (*Webster's New Collegiate Dictionary*, 8<sup>th</sup> Ed., 1981). There is nothing in the audit report which shows or identifies any instance in which LA's records had any discrepancy or disagreement, i.e., that one record differed from or contradicted another. The more detailed discussion in the Findings and Recommendations portion of the audit report refers

repeatedly to 'inadequate documentation' and a lack of 'appropriate supporting documentation'. There is, however, no discrepancy identified, either specifically or generally. The use of this term to refer to LA records is entirely unsupported. Its use is therefore improper, as that implies findings of fact which were not made. As discussed in the General Discussion portion of this Response, such findings could not possibly have been made, under the circumstances of this audit.

### POINTS OF DISPUTE-AUDIT REPORT

The following issues of factual dispute are submitted with respect various statements made in the audit report.

#### Client/Parent Support Behavior Intervention Training Program (p. 2)

**Issue BIT 1**—The audit report claims that staff "Reviewed Learning Arts' service/attendance records to determine if Learning Arts had sufficient and appropriate evidence to support the direct care services billed to the regional center."

**Dispute:** In fact, not all of LA records were reviewed. Though they were offered to the audit staff repeatedly by LA, no review of LA original employee time records stored digitally was undertaken by DDS audit staff. Thus the conclusion that billings were unsupported is a direct result of a refusal by DDS audit staff to review the relevant records. In order to allow DDS to correct this deficiency, the relevant records are submitted herewith in printed form. A review of the records will show that LA records and billing correlate in each case.

#### Socialization Training Program (p. 3)

**Issue STP 1**—The audit report claims that staff "Reviewed Learning Arts' service/attendance records to determine if Learning Arts had sufficient and appropriate evidence to support the direct care services billed to the regional center."

**Dispute:** In fact, not all of LA records were reviewed. Though they were offered to the audit staff repeatedly by LA, no review of LA original employee time records stored digitally was undertaken by DDS audit staff. Thus the conclusion that billings were unsupported is a direct result of a refusal by DDS audit staff to review the relevant records. In order to allow DDS to correct this deficiency, the relevant records are submitted herewith in printed form. A review of the records will show that LA records and billing correlate in each case.

**Behavior Management Consultant (p. 4)**

**Issue BMC 1**—The audit report claims that staff “Reviewed Learning Arts’ service/attendance records to determine if Learning Arts had sufficient and appropriate evidence to support the direct care services billed to the regional center.”

**Dispute:** In fact, not all of LA records were reviewed. Though they were offered to the audit staff repeatedly by LA, no review of LA original employee time records stored digitally was undertaken by DDS audit staff. Thus the conclusion that billings were unsupported is a direct result of a refusal by DDS audit staff to review the relevant records. In order to allow DDS to correct this deficiency, the relevant records are submitted herewith in printed form. A review of the records will show that LA records and billing correlate in each case.

**Travel Reimbursement (p. 4)**

**Issue TR 1**—The audit report claims that staff “Reviewed Learning Arts’ service/attendance records to determine if Learning Arts had sufficient and appropriate evidence to support the direct care services billed to the regional center.”

**Dispute:** In fact, not all of LA records were reviewed. Though they were offered to the audit staff repeatedly by LA, no review of LA original employee time and travel records stored digitally was undertaken by DDS audit staff. Thus the conclusion that billings were unsupported is a direct result of a refusal by DDS audit staff to review the relevant records. In order to allow DDS to correct this deficiency, the relevant records are submitted herewith in printed form. A review of the records will show that LA records and billing correlate in each case.

**Conclusion (p. 5)**

**Issue C 1**— The audit report states that “Learning Arts did not comply with the requirements of Title 17.”

**Dispute:** This conclusion is vague in the extreme. With what requirement(s) of Title 17 did LA not comply? There is no specification. It is LA’s position that it has in fact complied with all requirements of Title 17. However, the complete lack of specificity with regard to which regulation was violated by what action makes it extremely difficult to respond. This is a direct result of the failure of DDS to follow proper audit procedures.

## Audit Procedural Deficiencies

According to the audit report, the audit was conducted "...in accordance with the Generally Accepted Government Auditing Standards..." (p. 2).

The Generally Accepted Government Auditing Standards (GAGAS) are extensive. One provision states that auditors should "...develop the elements of the findings that are relevant and necessary to achieve the audit objectives. The elements of a finding are..."

Criteria: "The laws, regulations...expected performance, defined business practices and benchmarks against which performance is compared or evaluated." (§4.11).

"Condition: Condition is a situation that exists. The condition is determined and documented during the audit." (§4.12).

"Cause: The cause identifies the reason or explanation for the condition or the factor or factors responsible for the difference between the situation that exists (condition) and the required or desired state (criteria), which may also serve as a basis for corrective actions." (§4.13).

An audit report must provide "Clearly developed findings", as discussed in the foregoing GAGAS requirements (§4.28).

**Inadequacy:** The draft audit report fails to do anything more than recite two regulations, 54326(a) and 50604. These in sum set out four standards, which are 1) to maintain service records in sufficient detail to verify delivery; 2) to bill only for services actually provided; 3) to maintain complete service records to support all billing and 4) to support all records by "source documentation". Since no issue has been raised in the report claiming that LA failed to actually provide services as billed, that requirement needs no discussion. The remaining three requirements of the two sections cited deal entirely with records management. To paraphrase, the service provider must maintain complete records, which must be both sufficient to verify delivery of the units of service and which must be supported by source documentation. LA contends, and has offered to prove, that it has records which are complete, adequate to verify service delivery, and which are supported by source documentation. The draft report, however, repeatedly alleges that LA had "unsupported billings" and a "lack of documentation". Indeed, when the entire report is reviewed, this is the only charge made against LA in the report. It is simply repeated with respect to each category of services for which it is claimed that a 'finding' was made.

Given LA's position, that it has all required records, and the conclusion of the report that it does not, a reasonable person would expect the report to explain, or at least address, the discrepancy. However, there is absolutely no discussion of LA records in the draft report, merely a conclusion that the records were inadequate.

Other audit reports, available in the public records, which make a similar finding regarding missing or inadequate records, include an explanation of what records were missing, why they were missing, and what procedure(s) brought about that result. Such is the minimum required by the provisions of the GAGAS. The draft audit report fails to comply with the standards of GAGAS sections 4.11 and 4.13 and 4.28, and therefore does not meet the standards which DDS has established for such reports.

#### Views of Responsible Officials (p. 5)

**Issue:** The draft report includes nothing on this point except a statement that such would be 'discussed during the formal exit interview'. The audit staff however decided not to hold a formal exit interview, so that did not occur. In addition, LA attempted to work through the records issues with DDS in April of 2011, over eight months prior to the issuance of the draft report, by providing an opinion letter from counsel regarding LA's compliance with the requirements of the regulations cited in the draft report. This effort was ignored altogether, so that the views of responsible officials have in fact never been provided to LA by DDS. The reporting of such views is a specific GAGAS requirement (§4.17 d.) The draft report makes no effort meet that standard or show that it has been met. Indeed, the evidence clearly shows that it has not.

#### Finding 1:

The review of Learning Arts Client/Parent Support Behavior Intervention Training Program, Vendor Number PA01-12, Service Code 48, for the sample period of October 2009 to February 2010 revealed that Learning Arts had unsupported billings to ACRC.

Unsupported billings occurred due to a lack of appropriate documentation to support the units of service billed to ACRC. The following are the discrepancies identified:

Learning Arts was not able to provide appropriate supporting documentation for 1178.35 consultant and lead hours of services billed. The lack of documentation resulted in unsupported billings to ACRC in the amount of \$93,667.81.

Learning Arts also was not able to provide appropriate supporting documentation 504.49 tutor and lead hours for In-Home (INHM) services billed. The lack of documentation resulted in unsupported billings to ACRC in the amount of \$17,716.32. As a result, \$111,384.13 is due back to DDS for the unsupported billings. (See Attachment A.)

**Dispute:** LA submits that it has all documentation required by Title 17, sections 54326(a) and 50604. Actual source documentation is provided herewith. Since the draft report makes no effort to identify those hours of service and mileage claims which purportedly were found to have 'inadequate documentation', it is not possible to match particular service records with particular hours or miles or to limit the service records provided. The accompanying service records therefore cover all services at issue in the audit.

**Finding 2:**

The review of Learning Arts Socialization Training Programs, Vendor Numbers PA0725 and PA0726, Service Code 28, for the sample period of October 2009 and November 2009 revealed that Learning Arts had unsupported billings to ACRC.

Unsupported billings occurred due to a lack of appropriate documentation to support the units of service billed to ACRC. The following are the discrepancies identified:

For Socialization Training Program, Vendor Number PA0725, Service Code 28, Learning Arts was not able to provide appropriate supporting documentation for 21 hours of services billed. The lack of documentation resulted in unsupported billings to ACRC in the amount of \$1,783.32.

For Socialization Training Program, Vendor Number PA0726, Service Code 28 Learning Arts was not able to provide appropriate supporting documentation for 45 hours of services billed. The lack of documentation resulted in unsupported to ACRC in the amount of \$3,821.40.

As a result, \$5,604.72 is due back to DDS for the unsupported billings. (See Attachment A.)

**Dispute:** LA submits that it has all documentation required by Title 17, sections 54326(a) and 50604. Actual source documentation is provided herewith. Since the draft report makes no effort to identify those hours of service and mileage claims which purportedly were found to have 'inadequate documentation', it is not possible to match particular service records with particular hours or miles or to limit the service records provided. The accompanying service records therefore cover all services at issue.

**Finding 3:**

The review of Learning Arts Behavior Management Consultant Program, Vendor Number PA0809, Service Code 620, for the sample period of October 2009 and November 2009 revealed that Learning Arts had unsupported billings to ACRC.

Unsupported billings occurred due to a lack of appropriate documentation to support the units of service billed to ACRC. The following are the discrepancies identified:

Learning Arts was not able to provide appropriate supporting documentation for 17.75 consultant hours of services billed. The lack of documentation resulted in unsupported billings to ACRC in the amount of \$688.70.

As a result, \$688.70 is due back to DDS for the unsupported billings. (See Attachment A.)

**Dispute:** LA submits that it has all documentation required by Title 17, sections 54326(a) and 50604. Actual source documentation is provided herewith. Since the draft report makes no effort to identify those hours of service and mileage claims which purportedly were found to have 'inadequate documentation', it is not possible to match particular service records with particular hours or miles or to limit the service records provided. The accompanying service records therefore cover all services at issue.

**Finding 4:**

The review of Learning Arts' Travel Reimbursement Programs, Vendor Numbers PA0112 and PA0809, Service Code 105, for the sample period of October 2009 to December 2009 revealed that Learning Arts had unsupported billings to ACRC.

Unsupported billings occurred due to a lack of appropriate documentation to support the units of service billed to ACRC. The following are the discrepancies identified:

For Travel Reimbursement Program Vendor Number PA0112, Service Code 105, Learning Arts was not able to provide appropriate supporting documentation for 4,761.80 miles billed. The lack of documentation resulted in unsupported billings to ACRC in the amount of \$952.36.

For Travel Reimbursement Program, Vendor Number PA0809, Service Code 105 Learning Arts was not able to provide appropriate supporting documentation for 284 miles billed. The lack of documentation resulted in unsupported billings to ACRC in the amount of \$56.80.

As a result, \$1,009.16 is due back to DDS for the unsupported billings See Attachment A.)

**Dispute:** LA submits that it has all documentation required by Title 17, sections 54326(a) and 50604. Actual source documentation is provided herewith. Since the draft report makes no effort to identify those hours of service and mileage claims which purportedly were found to have 'inadequate documentation', it is not possible to match particular service records with particular hours or miles or to limit the service records provided. The accompanying service records therefore cover all services at issue in the audit.

#### DISCUSSION OF GENERAL ISSUES

A review of the specific responses will show that there is a dispute raised as to each claimed 'finding' included in the draft report, and that, in each case, the dispute centers on LA records. However, the nature of the dispute would be unknown to anyone who simply read the draft report and the response to this point. As to the records, questions naturally arise. Do they exist? Were they adequate? Was there a deficiency of some kind? What was it?

The fact that none of these questions can be answered after a thorough review of the draft report is a direct result of the report's failure to comply with audit standards, in particular the GAGAS, as noted above. Simply pointing this out ought to be enough to prompt a complete reworking of the report in a manner sufficient that questions posed in the preceding paragraph can be answered by the reader, and also to provide an explanation of the standards against which LA records were measured, why and how those records failed to meet that standard, and a clear specification of what particular service hours and miles were disallowed. GAGAS requires nothing less.

However, to simply point out the deficiencies of the draft report would not bring the Department and Learning Arts any closer to resolving a dispute which has been well over a year in the making and which ought to be resolved without further formal proceedings. Therefore, this response will refer to the verbal communications provided to Learning Arts by DDS audit staff which establish what LA understands is the basis of the dispute. In addition, this response will address what the proper standards for 'source documentation' are, per statute and regulation, so as to facilitate resolution.

#### Communications to Learning Arts by DDS Audit Staff

Learning Arts has been informed, during the long course of the audit process, that there is a deficiency in LA records. The deficiency claim is based on the fact that certain records are created and maintained entirely in a digital format. In particular, LA employees enter their time and expenses for payroll and service billing and accounting purposes digitally. That is, they make the entries on Learning Arts' computer server. This is in contrast to a paper-based system, as was used by employers for many years, particularly in centuries past. It is also in contrast to systems used by other service providers, some of whom have employees keep traditional time card records on paper, but for accounting and payroll purposes have that information entered into a computer.

In other published DDS audits, the finding was made that, because some of the original paper records had been destroyed, the service provider lacked 'source documentation', i.e. the original paper time sheets. This finding was presumably based on Title 17, section 50605(c), which provides: "Copies made by microfilming or electronic data processing methods may be substituted for any original record with the exception of source documentation."

As noted, however, the digital records Learning Arts has of employee time, services and travel are not copies. They are originals. The records are created by the employees themselves via internet communication directly with the server maintained by Learning Arts. The employees certify when they submit the information to LA by this means that the information is true and correct. From that time forward the records exist as they were created and signed by the employees, digitally. The records are 'electronic'. LA proceeds to use these digital records for payroll and billing purposes.

LA presented these facts to the DDS audit staff on several occasions, by means of direct verbal communication. In response, LA was advised, by DDS audit staff, that the digital records did not qualify as 'source documentation'. Audit staff therefore refused all offers to review the digital records using LA equipment available on site for that purpose.

In response to this information, LA provided to DDS a letter from LA counsel, dated April 28, 2011, which LA believes clearly demonstrated that, under both Title 17 and the statutes of the State of California, digital records not only qualify as 'source documentation'



under Title 17, but are in fact entitled to equal consideration with written records.

Subsequent to submitting the letter of its counsel to DDS, LA was informed by DDS audit staff that it had not been discussed with audit supervisory staff. LA was also advised, again verbally, that in fact the issue was not that LA original records are digital, but that there was no paper document confirming the information available in digital form. Whether this is a different position than that originally communicated is questionable. The second version of DDS' position on the matter would also indicate that digital records are not 'source documentation'. This conclusion can be reached based on the assertion that, while digital records may be records, some other records are required to confirm them, lest they be unworthy of consideration. Thus, so far as LA can understand, based on the communications received from DDS audit staff, it is DDS' position that digital records cannot constitute 'source documentation' for purposes of Title 17. It is extremely unfortunate that, at this point in the audit process, Learning Arts is forced to refer to oral communications with staff of DDS in order to reach an understanding of DDS' position on digital records as 'source documentation'. This is a direct result of the failure of the draft audit report to comply with the basic requirements of GAGAS, as discussed above. And given the critical role the definition of 'source documentation' plays in the findings proposed in the draft audit report, the failure to even mention, let alone discuss, Title 17, section 50602(q) is inexcusable. That section is, however, discussed below.

#### **DIGITAL RECORDS ARE 'SOURCE DOCUMENTATION'**

It is Learning Arts' position that, without any doubt, digital records qualify as 'source documentation'. For reference, the following is the definition provided by Title 17:

"Source Documentation" means the medium upon which evidence of a transaction is initially recorded. Examples of source documents include, but are not limited to, purchase requisitions, purchase orders, purchase of service authorizations, staffing schedules, employee hourly time reports, invoices and attendance documents for regional center consumers and all other persons provided services. Source documents are used to prepare records and reports.

#### **17 CAC 50602(q)**

'Source documents' are defined to be those used to prepare records and reports. The digital records maintained by LA are the records used to prepare all records and reports, including payroll and billings, which LA prepares. As defined, then, LA's digital records are 'source documentation'.

Examples of source documents are given in the regulation. These include employee hourly time reports and attendance documents. LA digital records are the original employee time reports and attendance documents.

It should also be noted that section 50602(q) does not, at any point, make reference to 'paper records'. It simply makes reference to the categories of records, such as employee time reports. Moreover, section 50602(q) makes a specific reference which contradicts any claim that it deals only with paper records. This is the statement that "'Source Documentation' means the medium upon which evidence of a transaction is initially recorded."

The Oxford University Press provides this current dictionary definition:

"medium > noun (pl. media or mediums) 1 a means by which something is expressed, communicated, or achieved. 2 a substance through which a force or other influence is transmitted. 3 a form of storage for computer software, such as magnetic tape or disks..."

The use of the word 'medium' in section 50602(q) not only includes digital records but, as the word is defined in the computer age, is a specific reference to the accepted concept that records may be stored on computers, not just on paper. Therefore the Title 17 definition of 'source documentation' stands in direct contradiction to the position of DDS as it was orally conveyed to LA by DDS audit staff.

In addition, the general law of the State of California makes it clear that any interpretation which attempted to exclude digital records from consideration as source documentation would be contrary to law. It cannot even be said that digital records are not in "writing":

"Writing" means handwriting, typewriting, printing, photostating, photographing, photocopying, transmitting by electronic mail or facsimile, and every other means of recording upon any tangible thing, any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combinations thereof, and any record thereby created, regardless of the manner in which the record has been stored."

California Evidence Code § 250.

The California Legislature has mandated that digital records be accepted:

"(a) A record or signature may not be denied legal effect or enforceability solely because it is in electronic form.

(b) A contract may not be denied legal effect or enforceability solely because an electronic record was used in its formation.

(c) If a law requires a record to be in writing, an electronic record satisfies the law.

(d) If a law requires a signature, an electronic signature satisfies the law."

California Civil Code §1633.7

Although the statutes make the conclusion absolutely clear, the issue has also been previously considered by the courts. In the appellate case of *Aguimatang v. California State Lottery* (234 Cal App3d 769, 798, 286 Cal Rptr 57, 73 [Cal App 3<sup>rd</sup> Dist, 1991]), litigants claimed that the records of the State Lottery could not be introduced as evidence in court because they (the records at issue) were stored electronically and not printed on paper until and unless needed. The court correctly ruled that the records were in fact "business records", which were admissible in court as an exception to the hearsay rule.

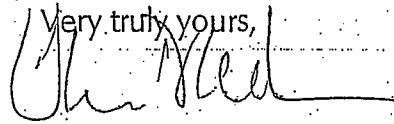
CONCLUSION

Given the fact that the law of California so conclusively provides that digital records are in fact writings, may not be denied legal effect solely because they are electronic, and must be treated with equal dignity to paper records, Learning Arts submits that the position taken by DDS audit staff with regard to LA time and mileage records is patently incorrect. Therefore, the refusal to examine LA digital records and consider them in the audit process was a violation of the law.

Had the appropriate records been examined, the audit would have found that LA records are entirely consistent with its billings. There would therefore have been no overpayments to identify or claim. As noted, the records are provided herewith.

Learning Arts suggests that the draft audit report should be withdrawn, the appropriate records examined, and the audit process completed in a reasonable time.

Very truly yours,



THOMAS D. WALKER

TDW:T

Encl.

cc: w/o encl:

Peter Tiedemann, ACRC

Evie Correa, DHCS

Karyn Meyreles, DDS

Brian Winfield, DDS

Greg Saul, DDS

Michael Masui, DDS

Alimou Diallo, DDS

Alton Kitay, DDS

Learning Arts' Response  
 DDS Fiscal Year 2009 Audit  
 February 2, 2012

Learning Arts' Response  
 DDS Fiscal Year 2009 Audit  
 February 2, 2012

## DEPARTMENT OF DEVELOPMENTAL SERVICES' EVALUATION OF LEARNING ARTS' RESPONSE

As part of the vendor audit report process, Learning Arts was afforded the opportunity to respond to the draft audit report and provide a written response to each finding identified therein. The Audit Branch received Learning Arts' response to the draft report on February 2, 2012. The response included a letter from Learning Arts' Attorney at law, Thomas D. Walker, and a small box of computer generated timesheets/relevant records.

The Department of Developmental Services (DDS) evaluated Learning Arts' written responses to the draft audit report and determined that Learning Arts disagreed with Findings 1, 2, 3 and 4.

### **For all four findings Learning Arts states:**

*"The finding is incorrect and is in fact contradicted by the available evidence, including Learning Arts' financial records and source documentation."*

*Learning Arts argues the definition of "discrepancy" as used in the draft audit report. "A 'discrepancy' is defined as "having the quality of being discrepant". 'Discrepant' is defined as "being at variance". There is nothing in the audit report which shows or identifies any instance in which Learning Arts records had any discrepancy or disagreement, i.e., that one record differed from or contradicted another."*

*Learning Arts disputes that "In fact, not all of Learning Arts' records were reviewed. Though they were offered to the audit staff repeatedly by Learning Arts, no review of Learning Arts' original employee time records stored digitally was undertaken by DDS audit staff. Thus the conclusion that billings were unsupported is a direct result of a refusal by DDS audit staff to review the relevant records. In order to allow DDS to correct this deficiency, the relevant records are submitted herewith in printed form."*

*Learning Arts states, "that it has all documentation required by Title 17, sections 54326(a) and 50604. Actual source documentation is provided herewith. Since the draft report makes no effort to identify those hours of service and mileage claims which purportedly were found to have 'inadequate documentation', it is not possible to match particular service records with particular hours or miles or to limit the service records provided."*

DDS disagrees with Learning Arts' statements. It is the responsibility of Learning Arts to maintain records of service provided to consumers in sufficient detail to verify delivery of units of services billed. The "relevant records" submitted by Learning Arts, in printed form, together with their response were evaluated and were not considered as source documentation.

CCR, title 17, section 50602(p)

"(p) "Service Record" means a book or document evidencing the service activities provided by a service provider or regional center."

CCR, title 17, section 50604(e)

"(e) All service providers' records shall be supported by source documentation."

The following are issues and/or disputes that Learning Arts has with particular sections of the draft audit report:

*Learning Arts disagrees with the conclusion section of the draft audit report which states, based upon items identified in the Findings and Recommendation section, Learning Art did not comply with the requirements of CCR, title 17. “It is Learning Arts position that it has in fact complied with all requirements of Title 17. However, the complete lack of specificity with regards to which regulation was violated by what action makes it extremely difficult to respond.”*

The statement made under the “Conclusion” section of the draft audit report is correct. This section states the auditors conclusions based on the audit objectives and the audit findings. Learning Arts should have read the Findings and Recommendations section of the report, where the particular sections of CCR, title 17 violated were noted.

*In the draft audit report section entitled, Views of Responsible Officials, Learning Arts states, 1) that “the audit staff decided not to hold a formal exit interview, so it did not occur”; 2) Learning Arts attempted to work through the records issues...by providing an opinion letter from counsel regarding compliance with the requirements of the regulations cited in the draft report. This effort was ignored altogether, so that the views of responsible officials have in fact never been provided to Learning Arts by DDS.”*

The Views of Responsible Officials is completed upon receipt of the vendor’s response. The receipt of Learning Arts response is being evaluated in this document, therefore, the Views of Responsible Officials of Learning Arts will be included in the final report. Having a formal exit conference is a courtesy to the Vendor and would have presented no information that was not already discussed with Learning Arts in the informal exit conference held on April 28, 2011. A number of attempts were made to schedule a formal exit conference with Learning Arts, but due to scheduling conflicts on the part of Learning Arts, no reasonable date could be set and the report was issued. This still allowed Learning Arts 30 days from the issuance of the draft report to submit its response.

On April 28, 2011, Thomas D. Walker, attorney for Learning Arts, sent to Will Brandon of Learning Arts an opinion letter, which was subsequently forwarded to DDS. The opinion letter was in support of Learning Arts’ argument that digital records are “source documents.” However, DDS disagrees with this opinion, as it is addressed in the Audit Report. In addition, DDS has no obligation to respond to a letter addressed to Learning Arts.

### **Other Points of Contention Expressed by Learning Arts:**

#### Discussion of General Issues

*There is a dispute raised for each finding included in the draft audit report. The dispute centers on Learning Arts’ records. Learning Arts contends that the draft audit report fails to comply with audit standards, in particular the Generally Accepted Governmental Auditing Standards (GAGAS). The belief that the following questions are not answered in the audit report is a direct result of the report’s failure to comply with audit standards: “Do they exist? Were they adequate? Was there a deficiency of some kind? What was it?”*

DDS disagrees with these statements. The audit is performed under GAGAS with the auditors following the General Standards for fieldwork as set forth in section 6.56 and 6.57, which requires auditors to obtain sufficient and appropriate evidence to provide a reasonable basis for their findings and conclusions. The auditors are to assess whether the evidence is relevant, valid, and reliable. Also, to determine whether sufficient evidence has been obtained to support the findings and conclusions related to the audit objectives.

Therefore, the unsupported billings identified in the audit can represent billings that were found to have no supporting documentation, as well those billings that had documentation that was found to be insufficient and inappropriate evidence to support billings. Since DDS did not consider the documents provided by Learning Arts as “sufficient and appropriate evidence,” the billings were considered unsupported. (2011 Internet Version, GAGAS section 6.56 and 6.57)

This was conveyed to Learning Arts throughout the audit, so there should have been no misunderstanding as to the definition of unsupported billings.

#### Communications to Learning Arts By DDS Audit Staff

*Learning Arts states, “Learning Arts has been informed, during the long course of the audit process, that there is a deficiency in Learning Arts’ records. The deficiency claim is based on the fact that certain records are created and maintained entirely in digital format. In particular Learning Arts’ employees enter their time and expense for payroll and service billing and accounting purposes digitally. That is, they make the entries on Learning Arts’ computer server.”*

*Additionally, Learning Arts states, “Audit staff therefore refused all offers to review the digital records using Learning Arts equipment available on site for that purpose.”*

DDS disagrees with these statements. Learning Arts’ digital documentation was not acceptable as the primary or sole source documentation because it lacks the details to comply with CCR, title 17 regulations:

CCR, title 17, section 50602 states:

“(q) “Source Documentation” means the medium upon which evidence of a transaction is initially recorded...”

DDS’ audit staff communicated with Learning Arts on numerous occasions that digital records were not the medium upon which Learning Arts initially documented its transactions.

The reason DDS knew that the digital records were not the medium upon which the transaction was initially recorded was due to statements made by and attested to by Learning Arts and its staff.

As is required by GAGAS, DDS is to gain an understanding of Learning Arts’ operating processes and controls. To accomplish this, DDS utilizes an Internal Control Questionnaire as well as interviews with staff. Below are a number of statements made by Learning Arts and its

staff that document use of sign in sheets (a source document) to verify the digital time sheets for processing payroll.

- “Staff are required to sign in for shifts that occur at the client’s home. Consultants (through the sign in sheets) and HR (Through the payroll) are responsible for monitoring.” (See Attachment D.)
- “Hours are entered into the time card system by the employees. The time card system compares hours worked to hours available on the purchase orders. Hours are reviewed and approved by the case supervisors after each time card deadline for accuracy. If there is a discrepancy, hours are compared to the sign in sheets from the client’s home.” (See Attachment E.)
- “Some clinical staff, and supervisors will provide oversight and supervision to the cases. They log their time through our internet time card system and sign in via sign in sheets found in the clients program binder.” (See Attachment E.)
- Interviews were conducted with Learning Arts’ employees on October 14, 2010. Both employees indicated that they record the hours they work using different forms of medium prior to entering the information into the internet timesheet program for payroll. (See Attachment F.)

Learning Arts’ statement that certain records are created and maintained entirely in digital format could not be substantiated.

#### Digital Records are Source Documentation

Learning Arts continues to make a number of arguments that its digital records are source documentation.

DDS has demonstrated that Learning Arts’ digital records were not the initial medium upon which data was recorded and, therefore, was not Learning Arts’ source documentation.

#### Conclusion

*Learning Arts states, “Given the fact that the law of California so conclusively provides that digital records are in fact writings, may not be denied legal effect solely because they are electronic, and must be treated with equal dignity to paper records, Learning Arts submits that the position taken by DDS audit staff with regard to Learning Arts’ time and mileage records is patently incorrect. Therefore, the refusal to examine Learning Arts digital records and consider them in the audit process was a violation of the law.”*

DDS did not deny the digital records in totality. DDS used the digital records first to determine if Learning Arts did use the digital records to bill the regional center. This was found to be true. DDS then reviewed the source documents which were determined by Learning Arts’ own attestations as the sign in sheets. These sign-in sheets documented the time the staff person was at the consumer’s home to provide the supported living services. From the comparison of the

digital record (Attachment G) to the source document - sign-in sheet (Attachment H)- it was determined that Learning Arts substantially over billed for services provided.

On Attachment H, the days and hours Learning Arts billed for [REDACTED] during October 1, 2009, was documented as six hours. However, this was not the case. DDS determined that for October 1, 2009, Learning Arts' sign-in sheets indicated only one staff person provided direct care services for two hours only.

The auditors assessed the sign-in sheets as having more validity and relevance for addressing the audit objectives and supporting its findings and conclusions. Additionally, to ensure the sign-in sheets were appropriate source documents, the auditors tested its reliability by obtaining corroborating evidence. Attachment I documents the auditors review of numerous boxes of documents to corroborate evidence of services provided. As noted from the review of the boxes, on October 1, 2009, no additional corroborating evidence of service was found.

DDS' Conclusion

DDS has reviewed Learning Arts' response to the draft report to include the documents submitted with its response and no new information or source documentation was provided to satisfy the four findings of unsupported billings. Therefore, no adjustments will be made to the draft audit report. DDS is requesting reimbursement of \$118,686.71.



**Vendor Audit Questionnaire  
Learning Arts**

Attachment D

**Audit Period: July 1, 2009 through June 30, 2010**

70

	Y	N	Comments
9. Do supervisors approve timesheets?	Y		
10. Are absences reviewed by management? Are they considered to be reasonable and at a minimum?	Y		We have attendances incentives and procedures for monitoring attendance and re-assignment of shifts for people who do not meet the standards set.
11. Are time cards/sheets prepared by all employees including salaried employees?		N	All hourly employees complete time cards. Salaried employees only complete time cards when they have billable hours.
<b>Program Processes:</b>			
<b>Client/Parent Behavior Intervention Training, Travel Reimbursement, Socialization Program and Behavior Management Consultant</b>			
<b>HC0473, PA0112, PA0809, PA0725 &amp; PA0726, SC 048, 105, 028, 620</b>			
<p>1. Please describe the attendance taking process, the documents used and who is responsible for documenting consumer attendance for the following programs?</p> <ul style="list-style-type: none"> <li>▪ <b>Client/Parent Behavior Intervention Training</b></li> <li>▪ <b>Travel Reimbursement</b></li> <li>▪ <b>Socialization Program</b></li> <li>▪ <b>Behavior Management Consultant</b></li> </ul> <p>Please use separate sheets if necessary.</p>			<p><b>Client/Parent Behavior Intervention Training Staff are required to sign in for shifts that occur at the client's home. Consultants (through the sign in sheets) and HR (Through the payroll) are responsible for monitoring.</b></p> <p><b>Travel Reimbursement</b> Employees are given credit cards to cover travel expenses. Some per-diems are paid for exceptional distances/circumstances.</p> <p><b>Socialization Program</b> Clients are scheduled at the client or home by the consultant. Hours are monitored by HR</p> <p><b>Behavior Management Consultant</b> Clients are scheduled at the client or home by the consultant. Hours are monitored by HR</p>

att. F  
p. 28

Learning Arts

Audit Period: July 1, 2009 through June 30, 2010

70

	Y	N	Comments
			language. Court case (2009090172). Some hours have been billed to ACRC in the RDI program have not been paid.
<b>Administrative:</b>			
1. Do you have a compliance officer or internal auditor? If yes, please provide the name.		X	Not 1 person, but all admin work together to ensure employee compliance.
2. Are there procedures in place for monitoring compliance? If so, what are the steps taken.	Y		Hours are entered into the time card system by the employees. The time card system compares hours worked to hours available on the purchase orders. Hours are reviewed and approved by the case supervisors after each time card deadline for accuracy. If there is a discrepancy, hours are compared to the sign in sheets from the client's home. If there is a discrepancy, the employee is contacted and the issues are investigated to determine where the discrepancy was made.
3. Are steps taken to insure policies and procedures comply with state and federal regulations?	Y		Policies and procedures are researched and written according to federal and state wage and hours laws.
4. Do any manager/s, supervisor/s, administrative staffs provide direct care services? If so, how are the hours documented.	X		Some clinical staff, and supervisors will provide oversight and supervision to the cases. They log their time through our internet time card system and sign in via sign in sheets found in the clients program binder.
5. Is there a Policies and Procedures Manual for your organization? If yes, please provide.	Y		
6. How are employees encouraged to report suspected improprieties to the management?			The can contact any member of our administrative team via phone or email to report and questions, problems or concerns
7. What steps does the management take to			We have improved our training

att. F  
p. 28

att. F  
p. 27

Learning Arts  
Meeting Notes  
October 14, 2010

Spoke with [redacted] in regards to source documentation and maintaining his records. He stated that he discarded his day planners about 2-3 months ago. He says that he was really bad as far as signing in on the sign in sheet.

TO:

4A/294

He stated that we could call the parents of the consumers to vouch for his attendance. He said that he does keep a current planner and I asked him if I could see and get copies for April and May of 2010 (which is in the audit period) he said that was no problem.

Wilfredo asked about there not being any sign in sheets and [redacted] stated that it is possible that there are instances when they visited at school and they don't do sign in sheets when they visit at the school. At some schools they make them do a visitor sign in and sometimes they do not.

He stated that he does not record his odometer reading he estimates his mileage and trips the odometer. He stated that if you travel more then 100 miles a day they will give an additional hour per pay period to "reimburse" for mileage. He stated that when he calculates mileage he calculates from office to client, then to next client, and so on and so forth.

Reviewed and Accepted By: [redacted]

TO:  
Att F  
p. 28

Learning Arts  
Meeting Notes  
October 14, 2010

Spoke with [REDACTED] in regards to source documentation and maintaining her records. She stated that she doesn't meet with clients as much as everyone else so she maintained all of her records on her computer via Outlook, and when the company got a new server, she lost everything, so she has no documentation to support any hours prior to May 2010.

TO:

4A/294

I also asked her how the employees tracked mileage she stated that if it was their first appointment of the day and did not have to come into the office they would track from home. She gave us all of the employees addresses as well as the consumer addresses.

I asked her if the employees were compensated for mileage and her reply was they are not compensated for mileage. All consultants have a gas card that the vendor pays for.

Reviewed and Accepted By: [REDACTED]

TO:  
Att #  
p. 28

# TIME SHEET SUMMARY

Attachment G

October 2009

Alta (1375)

#	Date	Service	Employee	Hours	Miles	Can	Billable To
2 ←	10/1/2009	Consultant	[REDACTED]	1.00	38.0	<input type="checkbox"/>	1.00
	10/1/2009	Lead	[REDACTED]	1.00	0.0	<input type="checkbox"/>	1.00
	10/1/2009	Lead	[REDACTED]	1.00	0.0	<input type="checkbox"/>	1.00
	10/1/2009	Lead	[REDACTED]	3.00	60.0	<input type="checkbox"/>	3.00
	10/2/2009	Tutor	[REDACTED]	3.00	46.0	<input type="checkbox"/>	3.00
	10/6/2009	Consultant	[REDACTED]	1.50	60.0	<input type="checkbox"/>	1.50
	10/6/2009	Lead	[REDACTED]	2.00	60.0	<input type="checkbox"/>	2.00
	10/7/2009	Lead	[REDACTED]	2.00	60.0	<input type="checkbox"/>	2.00
	10/8/2009	Consultant	[REDACTED]	2.25	30.0	<input type="checkbox"/>	2.25
	10/8/2009	Lead	[REDACTED]	3.00	60.0	<input type="checkbox"/>	3.00
	10/8/2009	Lead	[REDACTED]	1.00	0.0	<input type="checkbox"/>	1.00
	10/9/2009	Lead	[REDACTED]	3.00	46.0	<input type="checkbox"/>	3.00
	10/12/2009	Lead	[REDACTED]	2.00	46.0	<input type="checkbox"/>	2.00
	10/13/2009	Consultant	[REDACTED]	2.00	45.0	<input type="checkbox"/>	2.00
	10/14/2009	Consultant	[REDACTED]	1.00	0.0	<input type="checkbox"/>	1.00
	10/14/2009	Lead	[REDACTED]	2.00	60.0	<input type="checkbox"/>	2.00
	10/15/2009	Lead	[REDACTED]	2.00	60.0	<input type="checkbox"/>	2.00
	10/16/2009	Consultant	[REDACTED]	1.00	25.0	<input type="checkbox"/>	1.00
	10/16/2009	Consultant	[REDACTED]	2.00	65.0	<input type="checkbox"/>	2.00
6 ←	10/16/2009	Consultant	[REDACTED]	1.00	0.0	<input type="checkbox"/>	1.00
	10/16/2009	Lead	[REDACTED]	3.00	46.0	<input type="checkbox"/>	3.00
5 ←	10/19/2009	Consultant	[REDACTED]	2.00	100.0	<input type="checkbox"/>	2.00
	10/19/2009	Lead	[REDACTED]	2.00	46.0	<input type="checkbox"/>	2.00
	10/20/2009	Lead	[REDACTED]	2.00	60.0	<input type="checkbox"/>	2.00
	10/21/2009	Lead	[REDACTED]	2.00	0.0	<input checked="" type="checkbox"/>	0.00
	10/22/2009	Consultant	[REDACTED]	2.25	65.0	<input type="checkbox"/>	2.25
	10/22/2009	Lead	[REDACTED]	1.00	60.0	<input type="checkbox"/>	1.00
	10/22/2009	Lead	[REDACTED]	1.00	0.0	<input type="checkbox"/>	1.00
	10/23/2009	Lead	[REDACTED]	3.00	46.0	<input type="checkbox"/>	3.00
	10/26/2009	Consultant	[REDACTED]	2.00	79.0	<input type="checkbox"/>	2.00
	10/26/2009	Consultant	[REDACTED]	0.25	17.0	<input type="checkbox"/>	0.25
	10/26/2009	Lead	[REDACTED]	2.00	46.0	<input type="checkbox"/>	2.00
	10/27/2009	Lead	[REDACTED]	2.00	60.0	<input type="checkbox"/>	2.00
	10/28/2009	Lead	[REDACTED]	2.00	60.0	<input type="checkbox"/>	2.00
	10/29/2009	Lead	[REDACTED]	2.00	60.0	<input type="checkbox"/>	2.00
	10/29/2009	Lead	[REDACTED]	1.00	0.0	<input type="checkbox"/>	1.00
	10/30/2009	Consultant	[REDACTED]	0.50	0.0	<input type="checkbox"/>	0.50
	10/30/2009	Lead	[REDACTED]	3.00	46.0	<input type="checkbox"/>	3.00

Consultant Hours	18.75	4A/B
Consultant Miles	524.0	
Lead Hours	46.00	4A/B
Lead Miles	982.0	af
Tutor Hours	3.00	4A/B
Tutor Miles	46.0	ho
Sum Hours	67.75	4A/B
Sum Miles	1552.0	4A/B

Lead Miles 982 } INHM miles  
 Tutor Miles 46 }  
1028

Consultants

[REDACTED]	10.75	var.
[REDACTED]	1.00	0
[REDACTED]	7.00	var
	<u>18.75</u>	

← CANCELLED deduct 2 from Lead Hours

Leads

[REDACTED]	1.00	✓
[REDACTED]	29.00	✓ 60 @
[REDACTED]	21.00	✓ 45 @
	<u>51.00</u>	

Posted



**Learning**  
ARTS

### Sign-In Sheet

Team

Page \_\_\_\_\_

Week of 10/1/09 to \_\_\_\_\_

Date	Name	In	Out	Hours	Cumulative Total
10/1/09		3	5	2	✓
10/02/09		12:30pm	3:30pm	3:00hrs.	✓
10/6		3	5	2	✓
10/7		3	5	2	✓
TM 10/1/09		2	3	(1)	
10/8/09		2	3	1	
Tm Notes					
Tm Binder					

Authorized Signature

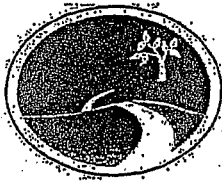
Consultant Authorization

Comments:

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Learning  
A.R.T.S.

# Sign-In Sheet

Team [REDACTED]

Page \_\_\_\_\_

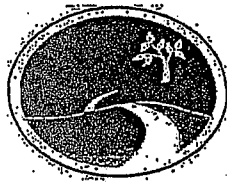
Week of 10/8/09 to \_\_\_\_\_

Date	Name	In	Out	Hours	Cumulative Total
10/8/09	[REDACTED]	3	5	2	✓
10/09/09	[REDACTED]	12:20pm	3:20pm	3:00hrs	✓
10/12/09	[REDACTED]	3:00pm	5:00pm	2:00hrs	✓
10/13/09	[REDACTED]	3	5	2	✓
10/14/09	[REDACTED]	3	5	2	✓
10/15/09	[REDACTED]	3	5	2	✓
10/16/09	[REDACTED]	12:20pm	3:20pm	3:00hrs	✓
10/19/09	[REDACTED]	3:00pm	5:00pm	2:00hrs	✓
10/20/09	[REDACTED]	3	5	2	✓
10/22	[REDACTED]	3	4	1.0	✓
10/23/09	[REDACTED]	12:15pm	3:15pm	3:00hrs	✓
TM	[REDACTED]	2	3	1.0	✓
10/22/09	[REDACTED]	2/14	3/15	1	
Tm Notes					
Tm Binder					

Authorized Signature [REDACTED]

Consultant Authorization: [REDACTED]

Comments:

Learning  
A.R.T.S.

# Sign-In Sheet

Team [REDACTED]

Page \_\_\_\_\_

Week of 10/10/09 to \_\_\_\_\_

Date	Name	In	Out	Hours	Cumulative Total
10/10	[REDACTED]	3	5	2	
10/12	[REDACTED]	3	5	2	
11/16/09	[REDACTED]	2:50 pm	4:50 pm	2:00 hrs	✓
11/17/09	[REDACTED]	3	5	2	✓
11/18/09	[REDACTED]	3	5	2	✓
11/19/09	[REDACTED]	3	5	2	✓
11/20/09	[REDACTED]	12:15 pm	3:15 pm	3:00 hrs	✓
11/23/09	[REDACTED]	2:00 pm	4:00 pm	2:00 hrs	✓
11/24/09	[REDACTED]	12:30	3:30	3	✓
11/25/09	[REDACTED]	9	12	3	✓
11/25/09	[REDACTED]	9	12	3	✓
TM					
TM					
TM					
TM					
TM Notes					
TM Binder					

failed to  
-O.K. added

10/10/09  
10/18/09

Authorized Signature [REDACTED]

Consultant Authorization [REDACTED]

Comments:






WILITE

10/01/09

October 2009

TO:

4A/53,54

4A/118

4A/123,124

4A/128

Attachment I

No.	Name	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31
1																															
2	JB					DN	DN	DN	DN			DN	DN	DN		DN				DN	DN		DN	DN	DN	DN	DN	DN	DN	DN	
3	ASMT																														
4																															
5	JB																														
6	TM																														
7	JB																														
8	ASMT																														
9																															
10	ASMT																														
11																															
12																															
13																															
14	CONSULT																														
15																															
16																															
17																															
18																															
19																															
20	SS	DN	DN		DN	DN	DN		DN			DN	DN	DN	DN				DN	DN	DN	DN	DN	DN	DN	DN	DN	DN	DN	DN	
21		AB		AB																											
22																															
23	JB																														
24																															
25	JB																														
26																															
27	ASMT	DN	DN		DN	DN		DN	DN			DN	DN	DN						DN	DN	DN	DN	DN	DN	DN	DN	DN	DN	DN	
28																															
29	JB																														
30																															
31																															
32	ASMT																														
33	ASMT																														
34		DN				DN	DN	DN	DN	DN		DN																			
35	JB																														
36	JB																														
37																															

AA/155

SS = Sign in Sheet  
 AB = ABC Data Sheet  
 DN = Daily Notes/Comments  
 (A) Antecedent, Behavior, Consequence outcome (ABC)  
 Team Meeting Notes

Handwritten notes and signatures at the bottom right of the page.