

THOMAS P. DINAPOLI
COMPTROLLER



110 STATE STREET
ALBANY, NEW YORK 12236

STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

February 7, 2014

Dr. John King, Jr.
Commissioner
State Education Department
State Education Building, Room 408
89 Washington Avenue
Albany, NY 12234

Ms. Elsa Magee
Acting President
Higher Education Services Corporation
99 Washington Avenue
Albany, NY 12255

Re: Audit of the Tuition Assistance
Program at the New York Career
Institute
Report 2013-T-1

Dear Dr. King and Ms. Magee:

The Office of the State Comptroller audits postsecondary institutions to verify that only eligible students receive State-funded Tuition Assistance Program (TAP) awards. The objective of this audit was to determine whether New York Career Institute (NYCI) officials complied with the State Education Law (Law) and the Commissioner of Education's Rules and Regulations (Regulations) when certifying students for TAP awards.

Summary

We determined that NYCI's TAP certification procedures substantially complied with the governing Law and Regulations during the audit period for the transactions we tested. We therefore concluded that there is a low risk that a significant number of students certified for TAP were not eligible for awards. However, our tests did disclose 30 awards totaling \$27,964 that school officials certified in error. We also identified 11 TAP payments from the Higher Education Services Corporation (HESC), totaling \$2,976, that NYCI officials had received but not credited to the associated student accounts. Subsequent to our audit fieldwork, school officials posted these credits. We recommend that HESC recover from NYCI the \$27,964 in inappropriate awards, plus

statutory interest, and work with NYCI officials to help ensure all future awards comply with the Law and Regulations, including crediting student awards to the appropriate accounts within the mandated timeframes.

Background

TAP is an entitlement program designed to provide financial assistance to help eligible students pay tuition. It is the largest of HESC's student grant and scholarship programs. Schools receiving TAP payments are responsible for certifying student eligibility. Eligibility requirements for TAP are set forth in the State Education Law (Law) and the State Education Department's (SED) Rules and Regulations (Regulations).

NYCI is a two-year private, degree-granting school located in downtown Manhattan. NYCI is approved to offer nine certificate and degree programs in the fields of Court Reporting, Paralegal Studies, Office Science and Medical Office Administration. The school's academic year is based on a trimester system consisting of the fall, spring and summer terms. NYCI's current enrollment is approximately 600 students and its tuition for full-time study is \$4,250 per trimester (\$12,750 per year). For the three academic years ended June 30, 2011, NYCI received 2,045 TAP awards, totaling \$2.2 million, on behalf of 840 students.

We provided a draft copy of our report to HESC, SED and NYCI officials for their review and comment. Their comments were considered in preparing this final audit report.

In response to our draft report, SED officials agreed with our report recommendation. While HESC officials routinely pursue recovery of the disallowances noted in our audit reports, they defer to SED for the regulatory issues we cite. They did not comment on our recommendation for them to work with NYCI officials to ensure their future compliance with crediting student accounts in a timely manner.

NYCI officials continue to disagree with several of our recommended disallowances. We've revised some of our report wording to more accurately reflect their reasons for disagreement.

Audit Results

The following table summarizes our audit disallowances:

Disallowed TAP Awards		
Criteria for Disallowance	Awards	Amount
Students Not in Good Academic Standing	30	\$27,964
Student Not in Full-Time Attendance	1	975
Preliminary Disallowance	31	\$28,939
Award Disallowed for Multiple Reasons*	(1)	(975)
Audit Disallowance	30	\$27,964

* Student falls into both disallowance categories.

The disallowed awards are discussed in the following paragraphs. The associated student names and related information were provided to NYCI officials under separate cover.

Students Not in Good Academic Standing

Section 665(6) of the Law requires students to be in good academic standing to qualify for a TAP award. To maintain such standing, a student is required by Section 145-2.2 of the Regulations to pursue the program of study in which he or she is enrolled and to maintain satisfactory academic progress toward completion of that program.

A student is pursuing his/her approved program of study if, during each term of study for which an award is received, the student receives a passing or failing grade in a predetermined percentage of the minimum course load. To maintain satisfactory academic progress, a student must accrue a certain number of credits with a minimum grade point average in each term an award is received, as required on the SED-approved chart of satisfactory academic progress.

A student who fails to maintain good academic standing loses TAP eligibility. Students can regain good academic standing by either making up the deficiencies at their own expense, obtaining a TAP waiver, remaining out of school for at least one calendar year, or transferring to another institution.

We disallowed 30 awards that were paid to NYCI on behalf of 15 students who did not maintain good academic standing. Thirteen of these students did not receive either a passing or a failing grade in a sufficient number of credits applicable to their designated programs. The remaining two students did not maintain the minimum grade point average required by the chart of satisfactory academic progress.

NYCI officials agreed with our disallowances for four of the students but disagreed with our disallowances for 11 of the students. These students were enrolled in a stenography course as part of the Court Reporting program. NYCI officials asserted that these students were assigned an "IP" grade (rather than a Pass or a Fail) because, upon completion of their stenography course, they did not achieve the required speed proficiency. They further told us that since the IP grade indicates course completion, it should be acceptable to meet the pursuit requirement.

Section 52.2(e)(3)(iii) of the Regulations requires schools to publish their grading policies. In NYCI's catalog, the "IP" grade is defined simply as In-Progress. There is no indication or inference that "IP" is one and the same as a passing or failing grade. As such, these 11 students did not meet the required Pass or Fail criteria.

Student Not in Full-Time Attendance

Section 661 of the Law authorizes the Commissioner of Education to define full-time attendance for the purpose of student financial aid. Section 145-2.1 of the Regulations state, in part, that full-time study at a degree-granting school is defined as enrollment for at least 12 semester hours for a semester of not less than 15 weeks or its equivalent. Based on its term

lengths and class hours, NYCI officials require students to enroll in at least eight credits each term to meet the full-time study requirement.

SED's Memorandum No. 86-17 to Chief Executive Officers of postsecondary educational institutions states that "basic to the payment of student financial aid is the requirement that courses which make up a student's minimum course load must be creditable toward the degree, diploma or certificate program in which the student is enrolled." If a course for which credit was previously earned is repeated, it is no longer required as part of the student's program and therefore cannot be included as part of the student's minimum course load for State financial aid purposes.

We disallowed a \$975 award for a student who did not meet the full-time requirement. For the summer 2011 term, this student was enrolled for nine credits, including a three-credit course that she had previously passed and was given credit for. Therefore, the class is not creditable for TAP purposes for the term in question, leaving the student with only six credits. NYCI officials agreed with this disallowance when discussed during our field work. However, in their written response, they disagreed with our disallowance in this category stating that the sampled student was in the first term at school and therefore met the full-time requirement and was entitled to receive TAP. We note that the sampled student addressed by NYCI officials in their response is not the student we are addressing in this section and for whom we had previously submitted supporting documentation.

Awards Not Fully Credited to Student Accounts

Section 2205.3(e)(1)(iii) of the Regulations requires school officials to credit the accounts of students certified for TAP awards within seven days after the receipt of the TAP award from HESC, or within seven days from the date the applicant incurred a full tuition liability for the semester, whichever is later.

We observed that NYCI officials do not always comply with this requirement. Instead, only a portion of the awards (65 percent) are credited to student accounts when the associated payments are received from HESC. The balance of the awards (35 percent) are credited to the student accounts in a second transaction usually several months after receipt of the award.

In addition to not being in compliance with the regulations, this practice can result in unnecessary financial hardship for the affected students who rely greatly on financial aid. In fact, one NYCI student, independent of our audit, sent a letter to the State Comptroller complaining of such hardship.

NYCI officials explained that they sometimes post the awards in this manner so they have monies on hand in case of subsequent reductions to the awards by HESC. NYCI officials, although admitting that 35 percent of each student award is categorized as "deferred," stated that they believe "posting" a notation on a student account record that their award has been received complies with the governing regulations. However, TAP regulations require "crediting" student accounts within the specified timeframes, thereby making the TAP monies available to

the recipient student at that time. Our review of the noted student accounts shows that this was not the case.

Audit Scope

We reviewed a sample of 50 randomly selected TAP awards totaling \$57,322 paid on behalf of 48 students during our three-year audit period ended June 30, 2011. We also reviewed other awards paid to our sampled students through the fall 2012 semester. The purpose of our audit was to assess the propriety of TAP certifications made by NYCI. Our audit did not include a review of HESC processes to determine student award amounts.

Methodology

We conducted our performance audit in accordance with generally accepted government auditing standards. 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 we obtained during the audit provides a reasonable basis for our findings and conclusions.

In planning and performing our audit, we reviewed NYCI's internal control system over its TAP certification process. Our audit was limited to a preliminary review of this system to obtain an understanding of the environment and the flow of transactions through the college's accounting system and other systems that would support claims for student financial aid. We also reviewed student transcripts and other documents maintained by NYCI to justify TAP certifications.

NYCI management is responsible for complying with the governing Law and Regulations. In connection with our audit, we performed tests of NYCI's compliance with certain provisions of the Law and Regulations. Our objective in performing these tests was to obtain reasonable assurance that the students who received TAP awards were eligible for them. Our objective was not to provide an opinion on NYCI's overall compliance with such provisions. Our audit found that, for the transactions and records tested, NYCI generally complied with these provisions, except as noted in this report.

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

Authority

Article V, Section 1 of the State Constitution; Article II, Section 8 of the State Finance Law;

and Article XIV, Section 665(3) of the State Education Law authorize the State Comptroller to audit New York State's Tuition Assistance Program.

Contributors to This Report

Major contributors to this report were Cindi Frieder, Gene Brenenson, Rita Verma, Farhan Ahmad, and Yelena Feldman.

Recommendations to the Higher Education Services Corporation

1. Recover the \$27,964 in awards paid to NYCI for inappropriately certified students, plus applicable interest.
2. Work with NYCI officials to ensure their future compliance with the governing Regulations regarding crediting TAP awards to student accounts within required timeframes.

Recommendation to the State Education Department

3. Work with NYCI officials to help ensure their future compliance with the appropriate Law and SED Regulations relating to full-time attendance and good academic standing.

We express our appreciation to the management and staff of NYCI for the courtesies and cooperation extended to our auditors during this audit.

Very truly yours,

Frank Patone, CPA
Audit Director

cc: Dennis Byrns, NYCI
Ivon Londa, NYCI