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STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

May 16, 2014

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

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

Re: Audit of the Tuition Assistance
Program at CUNY Medgar Evers College
Report 2011-T-4

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 Medgar Evers College (Medgar Evers) management complied with the Education Law and the Commissioner of Education's Rules and Regulations when certifying students for TAP awards.

Summary

We determined that Medgar Evers was overpaid \$3,398,205 because school officials incorrectly certified certain students as eligible for Tuition Assistance Program awards. We tested the accuracy of the school's certifications by reviewing a sample of 150 randomly-selected awards during the three academic years ended June 30, 2010.

We disallowed 30 payments totaling \$52,607 for a variety of reasons, including payments for students who did not meet the full-time attendance requirement and payments for students who were not in good academic standing. Our statistical projection of these 30 awards to the school's payment population for the three-year review period results in an audit disallowance of \$3,342,692.

We also disallowed another 38 awards, totaling \$62,139, relating to payments for some of these sampled students outside of the three-year review period. In addition, during our review period, Medgar Evers officials decertified one award, disbursed refund checks to two students whose accounts were not previously credited, and refunded to HESC the associated payment for a fourth student whose account also had not been previously credited. These corrective actions total \$6,626.

We recommend that HESC recover \$3,398,205, plus applicable interest, from Medgar Evers for these incorrect certifications (see Table on page 3).

Background

Medgar Evers, located in Brooklyn, is a senior college within the City University of New York. Established in 1969, Medgar Evers offers a variety of baccalaureate, associate and certificate programs that have been approved by the State Education Department for tuition assistance eligibility. Student enrollment during our review period approximated 6,000 students, and tuition for full-time study is about \$5,000 per year.

TAP is the largest of the various student grant and scholarship programs administered by HESC. It is an entitlement program designed to help eligible students pay tuition charges. Schools receiving TAP payments are responsible for certifying student eligibility. Medgar Evers certified 13,293 TAP awards for the three academic years ended June 30, 2010.

We provided a draft copy of this report to HESC, State Education Department (SED), and City University of New York/Medgar Evers officials for their review and comment. Their comments were considered in preparing this final report.

After receiving our draft report, City University of New York (CUNY) officials challenged certain findings. Since our findings are based on SED's historic positions on those cited issues, CUNY requested SED officials re-visit their positions based on the individual facts and circumstances relating to the sampled Medgar Evers students. As a result of their review, SED officials reversed SED's prior positions on those matters as they pertain to the sampled students. This final report reflects those revised positions.

Audit Results

The following table summarizes the disallowed payments:

<u>Disallowed Payments During the 3-Year Sample Period</u>		
Reason	Awards	Amount
Students Not in Full-Time Attendance	18	\$31,641
Students Not in Good Academic Standing	11	17,650
Students Not Matriculated	2	4,187
Award Not Credited to the Students' Accounts	1	1,950
Student Not Meeting Citizenship Requirements	1	1,835
Student Not Meeting Residency Requirements	<u>1</u>	<u>1,512</u>
Total Disallowance from the Sample Period	34	\$58,775
Minus: Awards Disallowed for Multiple Reasons	<u>(4)</u>	<u>(6,168)</u>
Net Disallowance from the Sample Period	<u>30</u>	<u>\$52,607</u>
Projected Amount for the Sample Period		\$3,342,692

<u>Disallowed Payments Outside the 3-Year Sample Period</u>		
Reason	Awards	Amount
Students Not in Full-Time Attendance	18	\$31,148
Students Not in Good Academic Standing	10	17,686
Students Not Matriculated	2	2,113
Students Not in an Approved Program	3	3,628
Awards Not Credited to the Students' Accounts	3	4,676
Student Not Meeting Residency Requirements	<u>3</u>	<u>4,350</u>
Total Disallowance from Outside the Sample Period	39	\$63,601
Minus: Awards Disallowed for Multiple Reasons	<u>(1)</u>	<u>(1,462)</u>
Net Disallowance from Outside the Sample Period	<u>38</u>	<u>\$62,139</u>

Total Disallowance	
Total Disallowance (Projected Amount + Net Disallowance from Outside the Sample Period)	\$3,404,831
Minus: Decertified Awards and Returned Payments	<u>(6,626)</u>
Net Audit Disallowance	<u>\$3,398,205</u>

The disallowed payments are discussed in the following paragraphs. Student names and related information were provided separately to school officials.

Students Not in Full-Time Attendance

Section 661 of the State Education Law (Law) provides for the Commissioner of Education to define full-time attendance. Section 145-2.1 of the Commissioner of Education's Rules and Regulations (Regulations) states, in part, that full-time study at a degree-granting school means enrollment for at least 12 semester hours for a semester of not less than 15 weeks or its equivalent.

SED's Memorandum to Chief Executive Officers No. 86-17 states that, "basic to the payment of State student aid is the requirement that courses that make up a student's minimum course load be creditable toward the degree, diploma or certificate program in which the student is enrolled." Once credit has been earned, if a course is repeated, it is generally 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. Students enrolled in courses not required for their respective programs of study may incur unnecessary tuition costs, spend unnecessary time in school, and risk running out of State aid before completing their degrees.

We disallowed 36 awards (18 from our statistical sample period and 18 from outside the period) paid on behalf of 29 students who did not meet the full-time attendance requirement.

- Four students enrolled in less than 12 credits.
- The other 25 students, while enrolled for the full-time number of credits, did not enroll in at least 12 credits that were applicable to their designated programs and/or repeated courses already passed.

Medgar Evers officials agreed with these 36 disallowed awards.

Students Not in Good Academic Standing

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

To maintain satisfactory academic progress, a student must accrue a certain minimum number of credits and earn a specified minimum cumulative grade point average, as required on the school's charts of satisfactory academic progress approved by SED. A student is pursuing an 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 full-time course load required to qualify for the appropriate level of TAP payment.

A student who fails to maintain good academic standing is not eligible for TAP. 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 21 awards (11 from our statistical sample period and ten from outside the period) that had been paid on behalf of 14 students who did not maintain good academic standing.

- Three students did not earn the minimum number of cumulative credits required to maintain TAP eligibility as required by the school's satisfactory academic progress charts;
- Eight students did not earn passing or failing grades in enough courses applicable to their designated programs to meet the pursuit of program requirements; and
- Three students neither earned the minimum number of cumulative credits required to maintain TAP eligibility as required by their satisfactory academic progress chart, nor earned passing or failing grades in enough courses, applicable to their designated programs, to meet the pursuit of program requirements.

Students Not Matriculated

Section 661 of the Law requires that students who received their first financial aid payment in the 2006-2007 academic year must have a certificate of graduation from a United States high school or the equivalent; or must have achieved a passing score on a federally-approved examination that has been independently administered and evaluated.

Students who received their first financial aid payment in the 2007-2008 academic year and thereafter must have a certificate of graduation from a United States high school or the equivalent; or have achieved a passing score on a federally-approved examination that has been identified by the Board of Regents as satisfying eligibility requirements and is independently administered and evaluated.

We disallowed four awards (two from our statistical sample period and two from outside the period) paid on behalf of three students who were not properly matriculated.

- Two students, who did not have sufficient proof of high school graduation, did not take all parts of an ability-to-benefit (ATB) test.
At the exit conference Medgar Evers officials agreed with these disallowances.
- The third student provided Medgar Evers with a career diploma from an online instruction program located in Mississippi. SED officials advised us that New York State residents may not use correspondence or online study to meet secondary education requirements in New York State.

Students Not in an Approved Program

Section 661.4(a) of the Law requires students to be matriculated in an approved program to be eligible for State financial aid payments. Section 601.4 defines an "approved program" as certain collegiate educational and training programs that have been approved by the Commissioner.

We disallowed three awards from outside the sample period paid on behalf of two students who enrolled in programs not approved by SED. These unapproved programs of study include curriculums related to mass communication and a CUNY baccalaureate program.

Awards Not Credited to Students' Accounts

Section 2205.3(e)(1)(iii) of the Regulations requires that each student's account be credited within seven days after the receipt of a TAP award, or within seven days from the date the applicant incurred a full tuition liability for the semester, whichever is later.

We disallowed four awards (one from our statistical sample period and three from outside the period) that had been paid on behalf of four students but not distributed to the student accounts so they could benefit from them.

Medgar Evers officials took corrective action on these awards in 2012. They sent refund checks to two of these students, sent a refund check to HESC for a third student, and decertified the fourth student's award. The three refund checks and the decertification total \$6,626.

Student Not Meeting Citizenship Requirements

Section 661 of the Law states that, to be eligible for a TAP award, the applicant must be either a citizen of the United States, an alien lawfully admitted for permanent residence in the United States, or an individual in a class of refugees paroled by the attorney general of the United States under his parole authority pertaining to the admission of aliens to the United States.

We disallowed one award from our statistical sample period that had been paid on behalf of a student who did not meet the citizenship requirements.

Student Not Meeting Residency Requirements

Section 661 of the Law requires that an applicant for a TAP award at the undergraduate level of study be a legal resident of New York State for at least one year immediately preceding the beginning of the semester or quarter for which an award is made, or be a legal resident of New York State during his/her last two semesters of high school. For State financial aid purposes, an individual cannot acquire status as a permanent resident of New York by merely being a student. Attendance at an educational institution, albeit a continuous and long-term experience, is interpreted as temporary residence; therefore, a student neither gains nor loses residence status solely by such attendance.

HESC's Manual of Programs and Procedures stipulates that institutions should not certify eligibility for New York State awards for any student whose State residency is suspect.

We disallowed four awards (one from our statistical sample period and three from outside the period) paid on behalf of a student for whom we found insufficient proof that she satisfied the New York State residency requirement. Medgar Evers' records indicated that the student

attended a Canadian high school and graduated from that school in June 2008. She received her first TAP payment at Medgar Evers less than one year later in spring 2009.

Audit Scope

According to HESC records as of September 8, 2011, Medgar Evers officials certified 13,293 TAP awards totaling \$22.0 million for 6,666 students during the three academic years ended June 30, 2010. We reviewed a statistical sample of 150 TAP awards totaling \$255,684 paid on behalf of 149 students during that period. In addition, we reviewed other awards outside the three-year period through spring 2012 paid to the sample students. These other awards are not included in our projection. 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 obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

In planning and performing our audit of Medgar Evers, we reviewed management's internal control system. 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 colleges' accounting system and other systems that would support claims for student financial aid. To project our audit disallowance from our sample to Medgar Evers' TAP award population, we used a statistically valid sampling methodology with a 95 percent confidence level.

Medgar Evers management is responsible for complying with the Law and Regulations. In connection with our audit, we performed tests of Medgar Evers' 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 Medgar Evers' overall compliance with such provisions. Our audit found that, for the transactions and records tested, Medgar Evers did not always comply with these provisions, 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 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 accounting standards. In our opinion, these functions do not affect our ability to conduct independent audits of program performance.

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 the Tuition Assistance Program.

Contributors to This Report

Major contributors to this report were Cindi Frieder, Gene Brenenson, Nick Angel, Diane Gustard, Elizabeth McNiff, Rita Verma, Farhan Ahmad, Legendre Ambrose, Yelena Feldman, and Ryan Wendolowski.

Recommendations to the Higher Education Services Corporation

1. Recover \$3,398,205, plus applicable interest, from Medgar Evers for its incorrect TAP certifications.
2. Ensure Medgar Evers officials post TAP awards to student accounts within the mandated time limits and verify that student citizenship and residency requirements are met as cited in this report.

Recommendation to the State Education Department

3. Ensure Medgar Evers officials comply with State Education Department requirements relating to full-time attendance, good academic standing, matriculation, and approved programs as cited in this report.

Recommendation to Medgar Evers College

4. Establish and implement an action plan to comply with all governing TAP rules and regulations.

We express our appreciation to the management and staff of Medgar Evers for the courtesies and cooperation extended to our examiners during this audit.

Very truly yours,

Frank Patone, CPA
Audit Director

cc: Dr. Rudolph Crew, Medgar Evers College
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