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STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

February 18, 2016

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

Ms. MaryEllen Elia
Commissioner
State Education Department
89 Washington Avenue
Albany, NY 12234

Re: Audit of the State Financial Aid Program
at the Metropolitan Learning Institute
Report 2014-T-1

Dear Ms. Magee and Ms. Elia:

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

Summary

We determined that Metropolitan was overpaid \$581,315 because school officials incorrectly certified certain students as eligible for State financial aid. We tested the accuracy of the school's certifications by reviewing a sample of 125 randomly selected awards for the three academic years ended June 30, 2012.

We disallowed 16 of the sampled awards totaling \$26,082. The disallowed awards include those made on behalf of students who were not properly matriculated and students who were not in full-time attendance. Our statistical projection of these 16 awards to Metropolitan's award population for the three-year review period results in an audit disallowance of \$577,315. We also disallowed another two awards, totaling \$4,000, relating to awards made on behalf of some of the sampled students outside of the three-year review period.

We recommend that the Higher Education Services Corporation (HESC) recover the \$581,315 paid to Metropolitan, plus applicable interest, for its incorrect certifications (see Table on page 3). We also recommend that State Education Department (SED) officials work with Metropolitan officials to help ensure future compliance with all of the State financial aid requirements cited in our report.

Background

TAP is the largest student grant program administered by HESC and is designed to help eligible students pay postsecondary tuition charges in New York schools. HESC also administers a variety of State scholarship programs. Schools receiving State financial aid payments are responsible for certifying student eligibility. Section 665-a of the Education Law requires institutions participating in State financial aid programs to comply with all laws and rules applicable to said programs.

Metropolitan, the subject of this audit, is a non-profit licensed private career school headquartered in Rego Park, Queens. It also has instruction sites in Jackson Heights, Brooklyn, and Jersey City, New Jersey. Only students attending the New York-based locations are eligible to receive New York State financial aid. Metropolitan offers ten programs that are registered with SED, including Medical Billing, Bookkeeping, and Computer Office Technology. Five of these programs include courses in English as a Second Language.

During the three academic years ended June 30, 2012, Metropolitan officials certified 4,605 awards, totaling almost \$8.7 million, on behalf of 1,890 students.

Metropolitan's programs are "accelerated." Most program courses consist of 75 hours of instruction. Students usually enroll in one course at a time, meeting five hours a day for three weeks. Students usually take eight English as a Second Language courses in their first 24 weeks of study, and then take their 12 vocational program requirements for the next 36 weeks.

At the time of our audit, Metropolitan served about 550 students. Tuition costs average \$16,500 per program. Many students fund their tuition costs solely with federal and State financial aid.

Our sample of 125 awards relates to 122 students. All but one of the sampled students was enrolled in a program that included an English as a Second Language component. Metropolitan records show that only three students earned a U.S. high school diploma or the recognized equivalent. The others were required to take a qualifying examination.

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

In their response, SED officials agreed with our findings related to student matriculation, full-time attendance, and academic preparedness. HESC officials deferred to SED on these three issues and agreed with our finding that the school certified some students prematurely. In their

response, Metropolitan officials disagreed with our findings relating to matriculation, but agreed with our findings relating to full-time attendance and academic preparedness.

During our audit, an independent review of certain Metropolitan operating practices was being performed by another government oversight agency. Due to the nature of their findings, officials of the other oversight agency were unable to provide us with details of those findings. Consequently, we do not know the extent to which the findings could have impacted our conclusions (including potential additional disallowances) pertaining to the awards we tested. Further, due in significant part to the other oversight agency's review, we temporarily delayed the finalization of our audit's findings and the completion of the reporting process.

Audit Results

The following table summarizes our audit disallowances:

Disallowed Payments During the 3-Year Sample Period		
Reason	Number of Awards	Dollar Amount
Students Not Properly Matriculated	10	\$17,200
Students Not in Full-Time Attendance	2	4,000
Students Certified Before the Second Module	3	3,407
Student Not Demonstrating Academic Preparedness	<u>1</u>	<u>1,475</u>
Total Disallowance from the Sample Period	<u>16</u>	<u>\$26,082</u>
Projected Amount for the Sample Period		<u>\$577,315</u>

Disallowed Payments Outside the 3-Year Sample Period		
Reason	Awards	Amount
Student Not Properly Matriculated	2	\$4,000
Disallowance from Outside the Sample Period	<u>2</u>	<u>\$4,000</u>

Total Disallowance	
Total Disallowance (Projected Amount + Disallowance from Outside the Sample Period)	<u>\$581,315</u>

The reasons for our disallowances are discussed in the following paragraphs. Student names and related information have been provided to school officials under separate cover.

Students Not Properly Matriculated

Section 5004(1)(a) of the Education Law (Law) states that no party may, for consideration or remuneration, enroll a student for instruction unless the party is a salaried employee of the school and has secured a private school agent's certificate from SED. Section 126.11(a)(9) of the

Commissioner's Rules and Regulations (Regulations) requires schools to maintain "a completed copy of (each) student's enrollment agreement contract signed by both an authorized agent of the school and the student prior to the time instruction begins" for (a period of) seven years. Enrollment agreements should set forth the title of the curriculum chosen by the student, a list of approved courses for that curriculum, the number of required instructional hours, the amount of tuition and other student fees, the school's refund policy, and an acknowledgment by the student that he or she has received certain disclosure material.

We disallowed 12 awards (10 from our statistical sample period and 2 from outside the period) that had been paid on behalf of nine students who were not properly matriculated.

- The file for one student contained an agreement that was not signed by a licensed school agent; and
- The files for the other eight students contained enrollment agreements signed months after their respective instruction had begun. For example, one student's agreement was signed on August 2, 2011, but the student actually began classes 11 months earlier – on August 30, 2010.

Metropolitan officials stated that the original enrollment agreements for the eight students may have been discarded and replaced by updated agreements when students changed programs.

After the issuance of our draft audit report, Metropolitan officials submitted "replacement enrollment agreements" that were signed by the students in question and included students' attestations that they signed and received the original enrollment agreements containing all information required by SED for TAP eligibility. We contacted the affected students about the replacement agreements to assess the basis for the students' assertions. None of the students indicated that they possessed the original agreements, and they told us that they were asked to sign the replacement agreements when recently visited by a Metropolitan official (subsequent to the issuance of the draft report). Thus, the enrollment agreements for the eight students were not signed prior to the time their instruction began.

Students Not in Full-Time Attendance

Section 661(4) of the Law provides for the Commissioner of Education to define full-time attendance. As such, Section 145-2.1(b) of the Regulations states that, in non-collegiate programs that measure study in terms of instructional hours, a semester of full-time study requires a minimum of 24 instructional hours each week. Compliance with the Law, Regulations, and SED guidelines ensures course hours are taught in an educationally sound manner to safeguard the overall educational quality of the programs offered and to provide students with the necessary skills to secure meaningful employment upon graduation. According to SED officials, course hours not offered in an educationally sound manner do not count toward full-time status.

Section 126.4(a) of the Regulations requires SED to approve the student-teacher ratio for each course or curriculum and states that schools shall ensure that student enrollment does not exceed the approved ratio after the first week of instruction. Further, SED officials stated that

class sizes exceeding the SED-approved student-teacher ratio by more than two students after the first week of instruction are not offered in an educationally sound manner.

We disallowed two awards from our statistical sample period that had been paid on behalf of two students who did not meet the full-time attendance requirements. These students were not offered at least 24 hours of instruction in an educationally sound manner during each week of the semester, as they were in classes where enrollment exceeded the SED-approved student-teacher ratio after the first week of instruction by more than two students.

Metropolitan officials agreed with these findings.

Students Certified Before the Beginning of the Second Module

Section 2205.3(e) of the Regulations requires institutions participating in State financial aid programs to sign a participation agreement with HESC. Those agreements require institutions to comply with the procedures set forth in HESC's program policy and procedures manual. Section 5.02 of that manual states that schools offering programs on a simulated semester basis may not certify a student for a State financial aid award until the student has begun the second module of the simulated semester.

A semester at Metropolitan consists of five three-week modules. We disallowed three awards from our sample period wherein the students did not study beyond the first module of the semester. The three students enrolled in only one three-week course and did not begin the second module.

School officials disagreed with the disallowances for these students. Because Metropolitan prorated the students' tuition charges, officials contended that the students were eligible for their awards. However, HESC officials reviewed the students' records and advised us that all three students were not eligible for the awards in question.

Student Not Demonstrating Academic Preparedness

Section 661(4)(f) of the Law provides three options for students to demonstrate their academic preparedness. Students who received their first financial aid payment in the 2007-08 academic year and thereafter must have a certificate of graduation from a high school located in the United States; the recognized equivalent (e.g., high school equivalency diploma); or must have achieved a passing score on a federally approved "ability to benefit" (ATB) examination that has been identified by the Board of Regents as satisfying eligibility requirements and that is independently administered and evaluated.

We disallowed one award from our statistical sample period paid on behalf of a student who did not demonstrate her academic preparedness in accordance with these requirements. This student did not have a certificate of graduation from a U.S. high school or the recognized equivalent, and failed her ATB examination.

Metropolitan officials agreed with this disallowance.

Audit Scope

We reviewed a sample of 125 randomly selected State financial aid awards, totaling \$224,206, paid on behalf of 122 students during the three-year period ended June 30, 2012. We also reviewed other awards paid to our sampled students through the fall 2012 semester. Our audit did not include a review of HESC processes to determine student award amounts.

In planning and performing our audit of Metropolitan, we reviewed management's internal control system relating to its State financial aid operations. 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 school's accounting system and other systems that would support claims for student financial aid.

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 objective. We believe that the evidence obtained during the audit provides a reasonable basis for our findings and conclusions based on our audit objective.

Metropolitan officials are responsible for complying with the Law and Regulations. In connection with our audit, we performed tests of Metropolitan'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 State awards were eligible for them. Our objective was not to provide an opinion on Metropolitan's overall compliance with such provisions. Our audit found that, for the transactions and records tested, Metropolitan officials sometimes did not comply with all tested provisions, as noted previously in this report.

Our audit testing included a review of student transcripts and attendance records, available high school diplomas, and ATB examination results. To project our audit disallowance from our sample to Metropolitan's award population, we used a statistically valid sampling methodology with a 95 percent confidence level.

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 New York State's financial aid payments.

Contributors to the Report

Major contributors to this report were Cindi Frieder, Gene Brenenson, Dana Bitterman, Rita Verma, Nicholas Angel, Trina Clarke, and Manna Zhen.

Recommendations to the Higher Education Services Corporation

1. Recover our audit disallowance of \$581,315, plus applicable interest, from Metropolitan for its inappropriate State financial aid certifications.
2. Work with Metropolitan officials to help ensure their future compliance with HESC's State financial aid requirements cited in this report.

Recommendation to the State Education Department

3. Work with Metropolitan officials to help ensure their future compliance with SED's State financial aid requirements cited in this report.

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

Very truly yours,

Frank P. Patone, CPA
Audit Director

cc: Boris Davidoff, Metropolitan Learning Institute