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STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

November 4, 2010

Dr. David Steiner
Commissioner
State Education Department
State Education Building, Room 408
89 Washington Avenue
Albany, New York 12234

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

Re: New York Institute of Technology
Report 2009-T-5

Dear Dr. Steiner and Ms. Magee:

According to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution, Article II, Section 8 of the State Finance Law, and a Memorandum of Agreement dated December 1, 1989, involving the State Comptroller, the Commissioner of Education, the President of the Higher Education Services Corporation (HESC), and the Director of the Budget, we audited the records and procedures used in administering the Tuition Assistance Program (TAP) at New York Institute of Technology (NYIT) for the 2005-2006 through 2007-2008 academic years.

Summary Conclusions

In accordance with Article 14, Section 665 (3) (b) of the New York State Education Law (Law), we determined that NYIT was overpaid \$114,830 because school officials incorrectly certified 8 students as eligible for 10 TAP awards. We tested the accuracy of the 10,316 TAP certifications the school awarded for the three-year period ended June 30, 2008, by reviewing a statistical sample of 150 randomly-selected awards. From our statistical sample, we disallowed 6 awards totaling \$7,338. A statistical projection of these audit disallowances to the entire population, using a 95 percent single-sided confidence level, results in an audit disallowance of \$109,380. We also disallowed 4 awards totaling \$5,450 based on our review of other awards from outside the statistical sample period for the students in our random sample. These awards were not projected to the population. Therefore, we recommend that HESC recover a total of \$114,830 (\$109,380 and \$5,450) plus applicable interest, from NYIT.

Background

NYIT, with locations in Old Westbury, Manhattan and Central Islip, is an independent, non-sectarian senior institution of higher learning. Founded in 1955, NYIT is authorized to grant several undergraduate degrees including the Bachelor of Fine Arts in English and Communication, Bachelor of Architecture and Bachelor of Engineering. NYIT also offers a combined Bachelor of Science and Doctor of Osteopathic Medicine program. Many of these programs have been approved by the New York State Education Department (SED) as TAP eligible.

TAP is the largest of the various student grant and scholarship programs administered by HESC. It is an entitlement program designed to provide tuition aid to eligible full-time students who are enrolled in a variety of eligible programs.

We provided a copy of this report, in draft, to HESC, SED and NYIT officials for their review and comments. We have considered their comments in preparing this audit report.

Audit Scope, Objective, and Methodology

The objective of our performance audit was to determine whether NYIT's management complied with the Law and the Commissioner of Education's Rules and Regulations (Regulations) for certifying students as eligible for TAP awards. The scope of our audit did not include a review of the process HESC follows in determining the amount of such awards.

According to HESC records, NYIT officials certified 10,316 TAP awards totaling more than \$15.4 million that were paid on behalf of 3,769 undergraduate students during the three academic years that ended June 30, 2008. We reviewed a statistical sample of 150 awards totaling \$242,275 that were made to 148 undergraduate students during that period. We also reviewed other awards that came to our attention during the audit.

In planning and performing our audit of NYIT, 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 college's accounting system and other systems that would support claims for student financial aid.

NYIT's management is responsible for complying with the Law and the Regulations. In connection with our audit, we performed tests of NYIT'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 NYIT's overall compliance with such provisions. Our audit found that, for the transactions and records tested, NYIT generally complied with these provisions, except as noted in the following sections of this report.

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 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 auditing standards. In our opinion, these management functions do not affect our ability to conduct independent audits of program performance.

Audit Results

The following table summarizes the disallowances that resulted from our audit:

<u>Reasons for Disallowances</u>	<u>Number of Awards</u>	<u>Amount</u>	<u>Total</u>
Disallowances from the Statistical Sample:			
Students Not in Full-Time Attendance	2	\$2,925	
Students Not in Good Academic Standing	3	4,163	
TAP Not Credited to Students' Accounts	<u>2</u>	<u>863</u>	
Total Disallowances from the Sample Period	7	\$7,951	
Less: Disallowances for More Than One Reason	<u>1</u>	<u>613</u>	
Net Disallowances from the Sample Period	<u>6</u>	<u>\$7,338</u>	
Projected Amount			\$109,380
Disallowances from Outside the Statistical Sample Period:			
Student Not in Full-Time Attendance	2	\$500	
Student Not in Good Academic Standing	<u>2</u>	<u>4,950</u>	
Total Disallowances from Outside the Sample Period	<u>4</u>	<u>\$5,450</u>	<u>5,450</u>
Total Audit Disallowances			<u>\$114,830</u>

The disallowances are discussed in the following paragraphs. Students' names and related information were provided separately to NYIT officials.

Students Not in Full-Time Attendance

Criteria - Section 661(4) (b) of the New York State Education Law (Law) requires that students be in full-time attendance to be eligible for their TAP awards. Section 145-2.1 of the Regulations states, in part, that full-time study for a semester-based program at a degree-granting school is defined as enrollment for at least 12 semester hours during a semester of not less than 15 weeks or its equivalent.

SED's Chief Executive Officers' Memorandum (CEO) 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." It further states that, "if a student repeats a course in which a passing grade acceptable to the institution has already been received, the course cannot be included as part of the student's minimum full-time course load for financial aid purposes."

Audit Determination - We disallowed four awards (two awards from our statistical sample period and two from outside this period) paid on behalf of four students that did not meet the full-time requirement since the students were not enrolled for a minimum of 12 semester hours creditable toward their degrees. For two of these students, their courses could not be included as part of their minimum full-time requirement since the students repeated courses they had passed in previous semesters. Another student received a TAP award for a term in which the student was not enrolled in any courses. The remaining student took courses that were not creditable towards the student's program. Since these courses were not creditable, the student did not meet the full-time requirement.

School Officials' Position - School officials agree with these disallowances.

Students Not in Good Academic Standing

Criteria - Section 665 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 the student 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 chart of satisfactory academic progress published by the school and approved by SED. A student is pursuing the 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. Additionally, according to CEO No. 86-17, a course in which an acceptable grade has already been earned cannot be considered in determining whether a student has met the pursuit of program requirement.

A student who fails to maintain good academic standing loses subsequent TAP eligibility. However, good academic standing can be regained if the deficiencies are made up at the student's own expense, a TAP waiver is obtained, the student remains out of school for at least one calendar year, or transfers to another institution.

Audit Determination - We disallowed five awards (three awards from our statistical sample period and two from outside this period) paid on behalf of four students who did not maintain good academic standing. One of these students repeated courses he had previously passed, and for which the student had already received credits toward his degree. Since these courses could not be credited again towards his degree, this student did not earn passing or failing grades in enough courses creditable towards his degree to meet the pursuit of program requirement. Another student did not register for any courses in a previous semester; therefore, the student did not meet the pursuit of program requirement. The other two students did not earn the cumulative grade point average as required on the school's chart of satisfactory academic progress to maintain TAP eligibility. Because these students did not make up the deficiencies, did not receive a waiver or did not remain out of school for one year, they were not eligible for these TAP awards.

School Officials' Position - School officials agree with these disallowances.

TAP Not Credited to Students' Accounts

Criteria - Section 2205.3(e) of the Regulations requires institutions participating in State financial aid programs to enter into a written Participation Agreement with HESC, and further, that the Participation Agreement require the institution to credit each student's account within seven days after the receipt of a TAP award.

Audit Determination - We disallowed two awards from our statistical sample period paid on behalf of two students where NYIT officials had not properly credited the students' TAP awards to their accounts. Since NYIT did not distribute the funds properly so the students could benefit from these TAP awards, we are disallowing the amount of the awards not posted to the students' accounts.

School Officials' Position - School officials agree with these disallowances.

Recommendations to the Higher Education Services Corporation

- 1. Recover the \$114,830 plus applicable interest from the New York Institute of Technology for its incorrect TAP certifications.*
- 2. Ensure that New York Institute of Technology officials comply with the Higher Education Services Corporation requirements relating to crediting TAP to students' accounts.*

Recommendation to the State Education Department

Ensure that New York Institute of Technology officials comply with the State Education Department requirements relating to full-time attendance and good academic standing.

Major contributors to this report were Dennis Buckley, Mostafa Kamal, Joe Giaimo and Brenda Maynard.

We wish to express our appreciation to the management and staff of New York Institute of Technology for the courtesies and cooperation extended to our auditors during this audit.

Very truly yours,

David R. Hancox
Director of State Audits

cc: Edward Guiliano, Ph.D, New York Institute of Technology
Tom Lukacs, Division of the Budget