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STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

April 6, 2015

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

Ms. Elizabeth R. Berlin
Acting Commissioner
State Education Department
State Education Building
89 Washington Avenue
Albany, NY 12234

Re: Audit of the Tuition Assistance
Program at DeVry College of New York
Report 2014-T-2

Dear Ms. Magee and Ms. Berlin:

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 DeVry College of New York (DeVry) officials complied with the State Education Law and the Commissioner of Education's Rules and Regulations when certifying students for TAP awards.

Summary

We determined that DeVry was overpaid \$758,293 because school officials incorrectly certified certain students as eligible for TAP awards. We tested the accuracy of the school's certifications by reviewing a sample of 100 randomly selected awards from the three academic years ended June 30, 2013.

From a random statistical sample, we disallowed 18 TAP awards (totaling \$33,027) for several reasons, including awards made on behalf of students who did not have a certificate of graduation or a recognized equivalent; had not passed an ability to benefit test; or were not in good academic standing. Our statistical projection of these 18 awards to the school's award

population for the three-year review period results in an audit disallowance of \$744,853. We also disallowed another seven awards, totaling \$13,440, 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 \$758,293, plus applicable interest, from DeVry for its incorrect certifications (see Table on page 3). We also recommend that State Education Department (SED) and HESC officials work with DeVry officials to help ensure future compliance with all of the TAP requirements cited in our report.

Background

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 postsecondary educational tuition charges in New York-based schools. Schools receiving TAP payments are responsible for certifying student eligibility. DeVry officials certified 3,627 awards for the three academic years ended June 30, 2013.

Founded in 1931, DeVry University offers students on-site, online, or blended educational options. It offers programs at more than 90 campuses throughout the United States. In New York, DeVry University operates as DeVry College of New York, offering several programs leading to an associate's or bachelor's degree. TAP-eligible programs include business administration, accounting, computer technology, and electronics.

DeVry operates three campuses in New York – two in Manhattan and one in Queens. The school's academic calendar comprises three 16-week semesters. Each semester consists of two eight-week sessions. Students pay tuition on a per-credit basis. For the 2014-15 academic year, tuition is \$609 per credit hour for the first seven credits and \$365 per credit hour for each additional credit in a session. As of September 30, 2014, there were 1,209 undergraduate students enrolled at DeVry's New York campuses.

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

In their response, HESC officials agreed with our disallowances relating to student residency requirements and untimely postings to student accounts. Regarding other recommended disallowances, they defer to SED indicating that they are SED regulatory issues. SED officials agree with our recommendation to work with DeVry College officials to help ensure future compliance with the TAP-governing rules. DeVry College officials disagreed with our recommended disallowances pertaining to students not demonstrating academic preparedness. However, they agreed with our other findings regarding ineligible TAP awards.

Audit Results

The following table summarizes our audit disallowances:

Disallowed Payments During the Three-Year Sample Period		
Reason	Awards	Amount
Students Not Demonstrating Their Academic Preparedness	14	\$25,654
Students Not in Good Academic Standing	3	7,275
Students Not in Full-Time Attendance	3	5,048
Student Not Meeting Accelerated TAP Requirements	1	2,413
Student Not Meeting Residency Requirements	1	1,475
Award Not Fully Credited to the Student's Account	<u>1</u>	<u>987</u>
Total Disallowance from the Sample Period	23	\$42,852
Minus: Awards Disallowed for Multiple Reasons	<u>(5)</u>	<u>(9,825)</u>
Net Disallowance from the Sample Period	<u>18</u>	<u>\$33,027</u>
Projected Amount for the Sample Period		<u>\$744,853</u>

Disallowed Payments Outside the Three-Year Sample Period		
Reason	Awards	Amount
Students Not Demonstrating Their Academic Preparedness	5	\$12,400
Student Not in Good Academic Standing	1	520
Student Not in Full-Time Attendance	<u>1</u>	<u>520</u>
Total Disallowance from Outside the Sample Period	<u>7</u>	<u>\$13,440</u>

Total Disallowance	
Total Disallowance (Projected Amount + Net Disallowance from Outside the Sample Period)	<u>\$758,293</u>

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

Students Not Demonstrating Academic Preparedness

Section 661 of the State Education Law (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 or later must have a certificate of graduation from a U.S. high school or the recognized equivalent, or must have achieved a passing score on a federally approved ability to benefit test that has been identified by the Board of Regents as satisfying eligibility requirements and that is independently administered and evaluated.

The certificate of graduation or high school diploma must be issued by a secondary school that is recognized, authorized, or approved by the State educational entity having jurisdiction. Requirements for the recognized equivalent of a high school diploma are contained in Title 8, Section 100.7 of the Commissioner of Education's Rules and Regulations (Regulations). That section states that a high school equivalency diploma can be earned by passing a general comprehensive examination or successfully completing 24 college-level semester hours in specific disciplines.

We disallowed 19 awards (14 from our statistical sample period and five from outside the period) that had been paid on behalf of 14 students who did not demonstrate academic preparedness. School officials did not provide adequate documentation of a U.S. high school-issued diploma; the recognized equivalent; or successful passing of a federally approved ability to benefit test. Specifically, we determined that:

- Twelve students, who first received their State financial aid during the 2008-09 through 2012-13 school years, had diplomas issued by foreign-based high schools (e.g., Bangladesh, Ghana, Russia); and
- For two other students, we were provided with documentation of their respective qualifying certificates of online study from a private school located in Florida. However, DeVry officials have not provided us with evidence that this online school is recognized, authorized, or approved by the State of Florida or any other educational jurisdiction within Florida.

DeVry officials disagree with these disallowances. They state that the foreign high school diplomas for the aforementioned 12 students were evaluated by independent entities with expertise in educational credentials, which concluded that the diplomas met the "recognized equivalent" requirement noted in the Law. They further stated that they believe the Law is not clear on whether a government agency or authority must recognize the "qualifying" diplomas. Nevertheless, we maintain that the students were not eligible for the awards in question because their certificates of graduation, or recognized equivalent of such a certificate, were not from a high school in the U.S., as the Regulations have required since the 2006-07 academic year.

DeVry officials also disagree with the disallowance for the two students who were issued the Florida-based high school diplomas for their online studies. They cite a Florida statute that requires private schools to register with the Florida Department of Education. They assert that because the high school in question was registered, the two students satisfied the high school diploma requirement. We note, however, that the Florida Department of Education registry indicates that it is provided merely as a "service to the public" and not to "regulate, control, approve or accredit private educational institutions." Moreover, as previously noted, DeVry officials provided no evidence that any Florida educational jurisdiction formally authorized or approved the online high school program.

Students Not in Good Academic Standing

Section 665(6) of the Law requires that students be in good academic standing, as defined by the Commissioner, 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 for the appropriate level of TAP payment.

A student who fails to maintain good academic standing is not eligible for TAP. However, a student can regain good academic standing by: (a) pursuing the program of study in which he or she is enrolled and making satisfactory progress toward the completion of his or her program's academic requirements; or (b) establishing in some other way, to the satisfaction of the Commissioner, the ability to successfully complete an approved program (e.g., by obtaining a TAP waiver, remaining out of school for at least one calendar year, or transferring to another institution).

We disallowed four awards (three from our statistical sample period and one from outside the period) that were paid on behalf of three students who did not meet the good academic standing requirements. Two students did not earn passing or failing grades in a sufficient number of courses applicable to their designated programs to meet the pursuit of program requirements. The other student did not earn the minimum number of cumulative credits required to maintain TAP eligibility.

DeVry officials agreed with these disallowances.

Students Not in Full-Time Attendance

Section 661 of the Law provides for the Commissioner of Education to define full-time attendance. Section 145-2.1 of the Regulations states, in part, that full-time study at a degree-granting school is defined as enrollment for at least 12 credits for a semester of not less than 15 weeks or its equivalent. It further states that a student carrying a full-time program that includes non-credit remedial courses shall carry at least six credits (of college-level study) each semester, except that in the first semester of study a student need carry only three credit hours.

SED's Memorandum to Chief Executive Officers of Postsecondary Institutions in New York State (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."

We disallowed four awards (three from our statistical sample period and one from outside the period) that had been paid on behalf of four students who did not meet the full-time requirement. These students, while enrolled for the full-time number of credits, did not enroll in at least 12 credits required for their designated program of study.

DeVry officials agreed with these disallowances.

Student Not Meeting Accelerated TAP Requirements

Students are entitled to their annual TAP payment by attending school full-time for two semesters per year. For schools, such as DeVry, that have continuous enrollment and allow students to attend three semesters in a 12-month period, a TAP payment for the third semester is considered an additional or “accelerated” payment.

Section 665(2)(c) of the Law allows students to qualify for an accelerated TAP payment if they earn 24 credit hours, or the equivalent, required for their program of study in the two immediately preceding semesters.

We disallowed one award from our statistical sample period that had been paid on behalf of a student who did not meet the requirements for an accelerated TAP payment. This student, who we also discuss above in our section on Students Not in Good Academic Standing, earned less than 24 credits applicable to his designated program in the two consecutive semesters immediately before the semester in which he received the accelerated award.

DeVry officials agreed with this disallowance.

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. HESC’s Manual of Programs and Procedures stipulates that schools should not certify student eligibility for New York State awards, such as TAP, for any student whose State residency is suspect.

We disallowed one award from our statistical sample period paid on behalf of a student for whom we found insufficient proof that he satisfied the New York State residency requirement. DeVry records indicate the student had a Florida driver’s license and that his state of residence was Florida.

DeVry officials agreed with this disallowance.

Award Not Fully Credited to the Student’s Account

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

We disallowed part of one award (\$987 out of \$2,450) from our statistical sample period that had not been fully credited to a student’s account.

DeVry officials agreed with this disallowance.

Other Matters

Prior to commencing our audit, HESC informed us that it authorized the Office of the State Comptroller (OSC) to issue \$1.2 million in TAP awards to DeVry in 2012 for the period April 2012 through November 2012. At that time, OSC issued \$1.2 million in paper checks that were mailed to DeVry. However, DeVry had not deposited these checks as of May 2014, and we determined that these monies were held by OSC's Office of Unclaimed Funds pursuant to the Abandoned Property Law. Upon commencement of our audit, we informed DeVry officials of this matter and they informed us that they were in the process of recovering these funds.

Although DeVry's failure to process these monies did not affect the associated students, we recommend that DeVry officials periodically reconcile their TAP certifications to the payments deposited to help ensure accountability over school revenues and prevent a future oversight of this nature.

Audit Scope

According to HESC records, as of July 24, 2014, DeVry officials certified 3,627 awards totaling almost \$6.4 million for 1,689 students during the three academic years ended June 30, 2013. We reviewed a statistical sample of 100 awards totaling \$163,561 paid on behalf of 97 students during that period. In addition, we reviewed other awards outside the three-year period through spring 2014 paid to the sampled students. These other awards are not included in our projection, but are included in our disallowances as appropriate. Our audit did not include a review of HESC processes to determine student award amounts.

Methodology

We conducted our 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 DeVry, 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. To project our audit disallowance from our sample to DeVry's award population, we used a statistically valid sampling methodology with a 95 percent confidence level.

DeVry officials are responsible for complying with the Law and Regulations. In connection with our audit, we performed tests of DeVry'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 DeVry's overall compliance with such provisions. Our audit found that, for the transactions and records tested, DeVry officials 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 New York State's Tuition Assistance Program.

Contributors to This Report

Major contributors to this report were Cindi Frieder, Gene Brenenson, Nicholas Angel, Farhan Ahmad, Lillian Fernandes, and Manna Zhen.

Recommendations to the Higher Education Services Corporation

1. Recover \$758,293, plus applicable interest, from DeVry for its incorrect TAP certifications.
2. Work with DeVry officials to help ensure they fully credit TAP awards to student accounts and verify that student residency requirements are met as cited in this report.

Recommendation to the State Education Department

3. Work with DeVry officials to help ensure their future compliance with the TAP requirements cited in this report.

Recommendation to DeVry

4. Ensure that TAP certifications are properly reconciled with the payments deposited.

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

Very truly yours,

Frank P. Patone, CPA
Audit Director

cc: Anthony Stanziani, DeVry College of New York
Alan Shikowitz, DeVry College of New York