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STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

July 11, 2011

Dr. John B. King, Jr.
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: Audit of the Tuition Assistance
Program at Berkeley College
(Manhattan Campuses)
Report 2010-T-2

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 Berkeley College 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 Berkeley College was overpaid \$634,714, because school officials incorrectly certified students as eligible for Tuition Assistance Program awards. We tested the accuracy of the school's certifications¹ for the three-year period ended June 30, 2008, by reviewing a sample of 200 randomly-selected awards.

From the sample, we disallowed 16 payments totaling \$18,108. Our projection² of these 16 awards to the school's payment population for the three-year period results in an audit disallowance of \$558,320. We also disallowed 65 awards totaling \$76,394 from outside the three-year period.

¹ Berkeley certified 11,044 TAP awards for the academic years of 2005-06 through 2007-08.

² A 95-percent single-sided confidence level was used.

Therefore, we recommend that the Higher Education Services Corporation (HESC) recover \$634,714, plus applicable interest, from Berkeley.

Background

Berkeley College is a private coeducational college located in New York and New Jersey. Berkeley's Manhattan campuses (Berkeley) specialize in business programs, and offer associates and bachelors degree programs that have been approved by the State Education Department (SED) for tuition assistance eligibility. The Berkeley academic year is divided into quarter terms, each lasting about 12 weeks. Students can enroll in four quarters each year. Berkeley's current enrollment is approximately 3,600 students and its annual tuition is about \$26,400 (\$6,600 per quarter).

TAP is the largest of the various student grant and scholarship programs HESC administers. It is an entitlement program designed to provide funds for paying tuition costs to eligible students. Schools receiving TAP payments certify student eligibility.

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

Audit Results

The following table summarizes the disallowed payments:

Disallowed Payments during the 3-Year Sample Period		
Reason	Awards	Amount
Students Not Meeting Residency Requirements	10	\$12,785
Students Not Matriculated	5	7,201
Students Not in Good Academic Standing	3	1,381
Student Not in Full-Time Attendance	1	167
Total Disallowance from the Sample Period	19	\$21,534
Minus: Awards Disallowed for Multiple Reasons	(3)	(3,426)
Net Disallowance from the Sample Period	16	\$18,108
Projected Amount for the Sample Period		\$558,320

Disallowed Payments outside the 3-Year Sample Period		
Reason	Awards	Amount
Students Not Meeting Residency Requirements	29	\$38,738
Students Not Matriculated	24	23,063
Students Not in Good Academic Standing	8	5,943
Students Not in Full-Time Attendance	6	7,540
Students Not Meeting Accelerated TAP Requirements	6	7,065
Students Not Meeting Citizenship Requirements	3	4,846
Total Disallowance from Outside the Sample Period	76	\$87,195
Minus: Awards Disallowed for Multiple Reasons	(11)	(10,801)
Net Disallowance from Outside the Sample Period	65	\$76,394

Total Disallowance	
Total Disallowance (Projected Amount + Net Disallowance from Outside the Sample Period)	\$634,714

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

Students Not Meeting Residency Requirements

Section 661 of the State Education 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 the last two semesters of high school. The Higher Education Services Corporation's Manual of Programs and Procedures requires that institutions not certify any student whose State residency is suspect.

We disallowed 39 awards (10 from the sample period and 29 from outside the period) paid to Berkeley on behalf of 12 students for whom there was insufficient proof that they satisfied the State residency requirement. Berkeley transcripts for three students show out-of-state addresses, and school records for the other nine students indicate they had lived and attended high school in another state or abroad. We asked school officials to provide documentation that these students satisfied the New York State residency requirement and disallowed those terms where adequate documentation was not provided.

Berkeley officials agree with these disallowances. They indicated that inexperienced personnel were responsible for some incorrect TAP certifications. They plan to improve staff training and enhance controls.

Students Not Matriculated

Section 661 of the Law requires that students who received their first financial aid payment in the 1996-97 academic year until the 2006-07 academic year to have a certificate of graduation from a high school or the equivalent; or to have achieved a passing score, as determined by the United States Secretary of Education, on a federally-approved examination.

Students who received their first financial aid payment in the 2006-07 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 2007-08 academic year or later 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 identified by the Board of Regents as satisfying eligibility requirements and that is independently administered and evaluated.

For students who have graduated from a high school in another state, the certificate of graduation must be from a secondary school that is recognized, authorized, or approved by the state educational entity having jurisdiction.

We disallowed 29 awards (5 from the sample period and 24 from outside the period) paid to Berkeley on behalf of 7 students who were not properly matriculated:

- Two students received their first TAP award during the 2006-07 academic year or later and had foreign high school diplomas. The school did not provide proof that these students had taken a federally-approved examination.
- A third student provided the school with an online high school diploma from the State of Florida. We found no evidence that the online school is recognized, authorized, or approved by the State of Florida.
- School officials did not provide adequate evidence of high school graduation or the equivalent for the other four students.

Berkeley officials agree with the disallowances for five of the seven students. They plan

to train admissions staff on the elements of acceptable high school credentials for New York State financial aid purposes. They disagree with the disallowance for two students.

Regarding the student with the Florida online high school diploma, Berkeley officials state that Florida policy is not to “authorize” *any* private high schools, adding that Florida nonetheless permits such schools to operate and grant diplomas. HESC, however, requires that a student who has graduated from an out-of-state high school that is not recognized or authorized by the state where the school is located choose one of the other options for establishing eligibility for financial aid.

Regarding one student without proof of high school graduation, Berkeley officials explain that a representative from the student’s high school had verbally confirmed that the student had graduated – but ultimately did not provide any supporting documentation as Berkeley officials had requested. As State financial aid can be awarded only to a student who has a certificate of high school graduation, and evidence of this was not provided, we are disallowing this award. The student could have chosen one of the other options for establishing eligibility.

Students Not in Good Academic Standing

Section 665(6) of the Law requires students to 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 SED-approved and published chart of satisfactory academic progress. 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.

A student who loses good academic standing loses TAP eligibility. Students can regain good academic standing by 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 11 awards (3 from the sample period and 8 from outside the period) that had been paid to the school for 7 students who were not in good academic standing.

- Four students did not earn passing or failing grades in enough courses, applicable to their majors, to meet the pursuit of program requirements.
- Two students did not earn the minimum number of cumulative credits required to maintain TAP eligibility.
- The seventh student did not maintain the required cumulative grade point average during one term.

Berkeley officials responded that they are continually improving methods and technology to minimize the number of incorrect TAP certifications. They add that while they agree with the disallowances for the semesters in which students did not maintain good academic standing, they disagree that subsequent payments should be disallowed. The Regulations state that a student who has lost good academic standing cannot receive State aid until good academic standing is regained.

Students Not in Full-Time Attendance

Section 661 of the Law requires students to be in full-time attendance to be eligible for State financial aid. 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 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 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.

The Berkeley academic year is divided into quarters, each lasting about 12 weeks. The school defines full-time status as 12 quarter credits; associates and bachelors degree programs generally require 90 and 180 quarter credits, respectively, for graduation.

We disallowed seven awards (one from the sample period and six from outside the period) paid to Berkeley on behalf of five students who were not full-time. Four students registered for the full-time number of credits, but did not enroll for at least 12 credits applicable to their programs of study. The fifth student's 12-credit course load included a course that he had already taken and passed at a prior school. Berkeley had accepted transfer credit for this course.

Berkeley officials agree with these disallowances.

Students Not Meeting Accelerated TAP Requirements

Berkeley's calendar is comprised of four terms, each lasting about 12 weeks, organized on a quarter system. Berkeley students can receive their annual TAP payment by attending full-time for three quarters. Students can receive an additional TAP payment if they enroll in a fourth quarter.

Section 665(2)(c) allows students to receive this accelerated TAP payment, if they earn 24 credit hours in the preceding two semesters or its equivalent. To receive an accelerated TAP payment at Berkeley, a student must earn 36 quarter credits in the preceding three quarters. No more than three remedial quarter credits can be included each quarter.

For schools such as Berkeley that have continuous enrollment and that allow students to attend four quarters in a calendar year, the accelerated term is the fourth payment within a year.

We disallowed six awards from outside the sample period paid to Berkeley on behalf of six students who did not satisfy the accelerated TAP payment requirements. These students did not earn 36 quarter credits, including remedial courses, in the three immediately-preceding consecutive quarters.

Berkeley officials agree with these disallowances.

Students Not Meeting Citizenship Requirements

Section 661 of the Law states that an applicant for a TAP award must be a citizen of the United States, an alien lawfully admitted for permanent residence in the United States, or an individual of 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 three awards from outside the sample period paid on behalf of a student who did not meet the citizenship requirements.

Berkeley officials agree with these disallowances.

Audit Scope

According to HESC records, Berkeley officials certified 11,044 TAP awards totaling \$13,476,560 that were paid to the school for 3,351 students during the three academic years ended on June 30, 2008. We reviewed a statistical sample of 200 TAP awards totaling \$243,650 made on behalf of 191 Berkeley students during that period. We also reviewed other awards outside the three-year period that came to our attention during the audit.

Audit Objective

Our objective was to determine whether Berkeley management complied with the Education Law and the Commissioner of Education's Rules and Regulations when certifying students for TAP awards. 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 obtained provides 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 Berkeley College, 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.

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

Major contributors to this report were Cindi Frieder, Gene Brenenson, Diane Gustard, Dana Bitterman, Legendre Ambrose, and Eric Fong.

Recommendations to the Higher Education Services Corporation

1. *Recover \$634,714, plus applicable interest, from Berkeley College for its incorrect TAP certifications.*
2. *Ensure Berkeley officials verify that residency and citizenship requirements are met for students who are certified as eligible for TAP.*

Recommendation to the State Education Department

Ensure Berkeley officials comply with the State Education Department requirements relating to matriculation, full-time attendance, good academic standing, and accelerated TAP payments cited in this report.

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

Very truly yours,



John Buyce, CPA, CIA, CGFM
Audit Director

cc: Dr. Dario A. Cortes, Berkeley College
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