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STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

November 22, 2000

Mr. Richard Mills
Commissioner
State Education Department
Education Building
Albany, NY 12234

Mr. Peter J. Keitel
President
Higher Education Services Corporation
99 Washington Avenue
Albany, NY 12255

Re: New York Institute of Technology
Report 2000-T-2

Dear Mr. Mills and Mr. Keitel:

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 the New York Institute of Technology (NYIT) for the 1996-97 through 1998-99 academic years.

Summary Conclusions

In accordance with Section 665(3)(b) of the Education Law (Law), we determined that NYIT was overpaid \$914,570 because school officials incorrectly certified some students as eligible for TAP awards. We tested the accuracy of the 9,704 TAP certifications NYIT awarded for the three-year period that ended on June 30, 1999, by reviewing a statistical sample of 200 randomly-selected awards. From our statistical sample, we disallowed 21 awards totaling \$29,176. A statistical projection of these disallowances to the entire population, using a 95 percent single-sided confidence level, results in an audit disallowance of \$899,597. We also disallowed nine awards totaling \$14,973 based on our review of other awards from outside the statistical sample period. Therefore, we recommend that HESC recover a total of \$914,570 plus applicable interest from NYIT.

Background

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

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 programs.

On September 28, 2000, we provided SED and HESC officials with a draft report on the results of our audit of TAP payments to NYIT for review and comment. These officials agree with the findings in the draft report. Their comments have been considered in the preparation of this final report on our audit of TAP payments to NYIT.

A copy of the draft report was also provided to the President of NYIT. On October 16, 2000, the President of NYIT wrote to the Commissioner of the State Education Department in reply to the draft audit report. Included in this letter were the President's concerns that it was not accurate for the draft audit report to indicate that NYIT had not responded to certain audit findings. In support of his concerns the President's letter referenced meetings with and correspondence to the audit team about the audit findings.

We acknowledge that meetings and correspondence cited by the President took place during the audit to address the findings. However, it was not our understanding that the meetings and correspondence established NYIT's official position about the audit findings. Accordingly, the draft audit report indicated that NYIT did not respond to certain audit findings. We have prepared this final audit report to reflect the information contained in the President's October 16, 2000 letter. Where appropriate, our rejoinders to NYIT's information are also shown in this final audit report.

Audit Scope

The objective of our financial and compliance 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 reviewing the records and procedures of HESC for determining the amount of the awards.

According to HESC's records, NYIT officials certified 9,704 TAP awards totaling \$13,967,741 paid on behalf of 3,641 students during the three academic years that ended on June 30, 1999. We reviewed a statistical sample of 200 randomly-selected awards totaling \$289,355 that were made to 196 students during that period. We also reviewed other awards that came to our attention during the audit.

We conducted our audit according to generally accepted government auditing standards. Such standards require us to plan and perform our audit to adequately assess those operations of NYIT that are included within our audit scope. These standards also require that we review and report on NYIT's internal control system and its compliance with those laws, rules and regulations that are relevant to NYIT's operations and are included in our audit scope. An audit includes examining, on a test basis, evidence supporting transactions recorded in the accounting and operating records and applying such other auditing procedures as we consider necessary. An audit also includes assessing the estimates, judgments, and decisions made by management. We believe that our audit provides a reasonable basis for our findings, conclusions and recommendations.

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 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 the Law and Regulations.

The results of our tests indicate that, with respect to the items tested, NYIT was generally in compliance with the provisions of the Law and Regulations relating to students' TAP eligibility, except as noted in the following section of this report.

Audit Disallowances

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

<u>Reason for Disallowance</u>	<u>Number of Awards</u>	<u>Amount</u>	<u>Total</u>
Disallowances from the Statistical Sample:			
Students Not in Good Academic Standing	17	\$25,697	
Students Not in Full-Time Attendance	3	4,721	
Student Not Matriculated	1	558	
TAP Not Posted to a Student's Account	<u>1</u>	<u>50</u>	
Total Sample Disallowance	22	\$31,026	
Less: Disallowance For More Than One Reason	<u>1</u>	<u>1,850</u>	
Net Disallowance From Statistical Sample	<u>21</u>	<u>\$29,176</u>	
Projected Amount			\$899,597
Disallowances from Outside the Statistical Sample Period:			
Students Not in Good Academic Standing	4	\$5,908	
Students Not in Full-Time Attendance	3	5,489	
Students Not Matriculated	<u>2</u>	<u>3,576</u>	
Total Disallowance From Outside the Sample	<u>9</u>		<u>14,973</u>
Total Audit Disallowance			<u>\$914,570</u>

The various types of disallowances are discussed in the remaining sections of this report. The students' names and related information were provided separately to NYIT officials.

Students Not in Good Academic Standing

Criteria - Section 665 of the Law requires that students must be in good academic standing to qualify for TAP awards. To maintain good academic 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 (GPA), 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.

A student who fails to maintain good academic standing loses TAP eligibility. Students can regain good academic standing by making up the deficiencies at their own expense, remaining out of school for at least one calendar year, transferring to another institution, or obtaining a TAP waiver.

SED's Chief Executive Officers Memorandum No. 81-12 states that the requirements for good academic standing may be waived for "exceptional or extraordinary cases" beyond a student's control. Moreover, it requires that "a complete case record should be maintained for students who receive the waiver. Failure on the part of an institution to ... maintain necessary documentation may result in an audit disallowance."

Section 52.2(e) of the Regulations requires schools to "maintain for each student a permanent, complete, accurate, and up-to-date transcript of student achievement at the institution. This document will be the official cumulative record of the student's cumulative achievement."

Audit Determination - We disallowed 21 TAP awards paid on behalf of 18 students who had not maintained good academic standing. Eight of these students did not earn enough credits or the minimum GPA required on NYIT's chart of satisfactory academic progress to maintain TAP eligibility. Eight students did not earn passing or failing grades in enough courses to meet the pursuit of program requirements, and two students did not meet the requirements relating to both satisfactory academic progress and pursuit of program.

NYIT granted TAP waivers to two of these students. We reviewed the supporting documentation for both waivers and found that the reasons for the waivers were either not "exceptional or extraordinary" or were not adequately documented, as required. One student was granted a waiver because he was misadvised by his advisor to drop a class. The school could not provide adequate documentation for the other waiver. The remaining 16 students had not received waivers, made up the deficiencies at their own expense, or remained out of school for one year; therefore, they were not eligible to receive TAP awards for one calendar year.

We determined that some of these improper TAP certifications resulted from the method used by NYIT to calculate students' cumulative GPA. According to this method, when a student repeatedly fails a course, only the most recent grade is factored into the calculation of the GPA. This practice is inconsistent with SED's guidelines, which state that all failing grades earned in a course must be included in the cumulative GPA up to the point when a passing grade is earned. At that point, the college may drop all prior failing grades and count only the passing grade. In

the case of students who were not pursuing their programs, we found that the school had certified TAP awards even though the students had not completed certain courses and, according to Regulations, had lost eligibility for the awards.

School Officials' Position - School officials responded to our findings on five of the students who were determined to not have been in good academic standing. Officials stated that two students (students A and B) were making satisfactory academic progress. They calculated that these students' cumulative grade point averages met the SED approved satisfactory academic progress chart. They also indicated that another student (student C) earned enough credits to meet the satisfactory academic progress chart requirement for the student's TAP award. For another student (student D), NYIT officials stated that we did not provide a basis for our conclusion that the student was not pursuing her program. NYIT officials stated that a fifth student (student E) was eligible for a waiver because the student's family had personal and financial difficulties.

Auditors' Comments - Our calculations of cumulative grade point averages for students A and B, which we previously provided to NYIT officials, show that these students did not have the required averages to meet the satisfactory academic standing requirement for their subsequent TAP payments. We also previously provided NYIT officials with an analysis that showed that student C did not earn the credits required to maintain satisfactory academic progress. Our finding with respect to student D was that no documentation was available in NYIT files to explain that the student met SED requirement for a waiver. For student E, NYIT files documented that a waiver had been granted because the student had been misadvised to drop a class. This reason does not justify the use of a waiver. The explanation that the student's family had personal and financial difficulties was not documented in the student's file. We had previously requested NYIT officials to provide any additional documentation to justify the waiver for student E, but to date none has been provided. NYIT officials also have not reconciled why the reason that is documented in the file varies from the reason about personal and financial difficulties.

Students Not in Full-Time Attendance

Criteria - Section 661 of the Law requires that students must 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 at a degree-granting school is defined as enrollment for at least 12 hours per semester for a semester of 15 weeks or its equivalent. Chief Executive Officers Memorandum No. 86-17 states, "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 six awards paid on behalf of five students who did not meet the full-time requirement. These awards had been paid to students for a semester in which they repeated one or more previously passed courses. Therefore, these courses do not count toward full-time status for TAP purposes.

School Officials' Position - School officials stated in general that HESC guidelines allow repeated courses to be counted toward full-time study requirements when a passing grade is unacceptable in a particular program. They are currently studying the applicability of this guideline to the disallowance.

Auditors' Comments - The school's catalogs do not state that a minimum grade is required in the courses in question. Further, after meeting and discussing this with NYIT officials, they did not provide any additional information supporting that a minimum grade is required in these courses.

Students Not Matriculated

Criteria - Section 661 of the Law requires that students be matriculated in an approved program for financial aid eligibility. Section 145-2.4 of the Regulations states that a student is considered matriculated if the student has filed a written application for enrollment, and the institution has taken into account the capacity of the student to complete the program and the institution's own capacity to provide instructional and other support the student needs to complete the program, as required by Section 52.2 of the Regulations. Section 52.2 of the Regulations states "the admission of a student shall be determined through an orderly process using published criteria which shall be uniformly applied." Meeting this requirement is demonstrated by students meeting the school's admission criteria as published in its catalog. NYIT requires a completed application for admission and a high school diploma or its equivalent.

Section 667 of the Education Law states that students are entitled to up to four years of TAP payments at the undergraduate level. Section 145-2.7 of the Commissioner's Regulations states that a student shall be eligible for a fifth year of benefits provided the student is enrolled in a five-year program.

Audit Determination - We disallowed three TAP awards paid on behalf of two students who were not properly matriculated. One student's admission records did not indicate that he had a high school diploma or its equivalent. The other student received TAP payments for a fifth year although he was not enrolled in an approved five-year program.

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

TAP Not Posted to a Student's Account

Criteria - Section 2205.3(e) of the Regulations requires that each student's account be credited within seven days after receipt of a TAP award.

Audit Determination - We identified one student whose TAP award had not been fully credited to his account. Since NYIT officials did not distribute the funds properly so the student could benefit from the TAP award, we are disallowing the portion of the award not posted to the student's account.

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

Other Matters Needing Attention

The following findings do not result in an audit disallowance. The findings pertain to controls that NYIT's officials need to address.

Credit Earned For Certain Courses

Criteria - Section 50.1(n) of the Regulations defines a credit as "a unit of academic award applicable towards a degree offered by the institution." Section 52.2 (c)(3) of the Regulations states that "credit toward an undergraduate degree shall be earned only for college level work."

Audit Determination - NYIT's catalog classifies only one course as developmental in nature and thus not providing college credit. However, we found seven additional courses - five English courses and two Math courses - which provide college credit, even though they are described in the school's catalog as helping students improve their basic skills. The descriptions for these courses suggest that they may not be college-level courses. Also, we noted that the school assigns a grade of "PR" (progress, re-enroll) to these courses if students meet a certain level of achievement but need to retake them. The "PR" grade does not have a negative affect on students since it is not used in calculating students' grade point averages. Moreover, students can continue to receive "PR" grades when they repeat such courses.

We question whether these courses should be credit-bearing, and if so, whether it is appropriate to use the "PR" grade. An "F" or incomplete grade would be more consistent with what NYIT and other schools grant for their standard college-level courses.

School Officials' Position - NYIT officials told us that the seven courses are regular college-level courses which earn degree credit. They have offered to provide documentation supporting that these are college level courses. They said that the "PR" grade is given when a student has completed a segment of the course, but must continue for another term to complete the remainder of the course. Officials objected to disallowances relative to remedial courses.

Auditors' Comments - We are not recommending disallowances relative to any of the courses we are questioning. Rather, we have referred this issue to SED for review.

Information Presented on Transcripts

Criteria - Section 52.2(e) of the Regulations requires NYIT to "maintain for each student a permanent, complete, accurate, and up-to-date transcript of student achievement at the institution. This document will be the official cumulative record of the student's cumulative achievement." In addition, SED officials informed us that all failing grades a student receives in a particular course should be included in the student's GPA until the student passes the course.

Audit Determination - According to the school's procedures, when a student repeatedly fails a course, only the latest grade earned in the course is calculated in the student's cumulative GPA.

School Officials' Position - School officials did not respond to this issue.

Recommendations to the Higher Education Services Corporation

1. *Recover the \$914,570 plus applicable interest from the New York Institute of Technology for its incorrect TAP certifications.*
2. *Ensure that the New York Institute of Technology posts TAP awards to students' accounts in a timely manner.*

Recommendation to the State Education Department

Ensure that the New York Institute of Technology complies with SED regulations as they pertain to good academic standing, matriculation and full-time status.

Major contributors to this report were Kenneth I. Shulman, Kenrick Sifontes, Salvatore D'Amato, Kezia Chacko and Mostafa Kamal.

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

Yours truly,

Jerry Barber
Audit Director

cc: Edward Guiliano, Ph.D.
Charles Conaway