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STATE COMPTROLLER



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STATE OF NEW YORK  
OFFICE OF THE STATE COMPTROLLER

January 27, 1998

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

Mr. Robert J. Maurer  
President  
Higher Education Services Corporation  
99 Washington Avenue  
Albany, NY 12255

Re: Blake Business School  
Report 96-T-7

Dear Mr. Mills and Mr. Maurer:

According to the State Comptroller's authority as set forth in Section 1, Article V of the State Constitution, Section 8, Article 2 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 Blake Business School (Blake) for the 1993-94 through 1995-96 academic years.

**Summary Conclusions**

In accordance with Section 665(3)(b) of the Education Law (Law), we determined that Blake was overpaid \$1,525,388 because school officials incorrectly certified students as eligible for TAP awards. From our statistical sample, we disallowed 104 awards totaling \$75,132. A statistical projection of these audit disallowances to the entire population results in an audit disallowance of \$1,523,732. We also disallowed four awards totaling \$1,656 based on our review of other awards from outside the statistical sample period. Therefore, we recommend that HESC recover the total \$1,525,388 plus applicable interest from Blake.

## **Background**

Blake was a two-year registered business school located at 20 Cooper Square, New York. Blake offered three diploma programs which were approved by SED for TAP eligibility. On May 23, 1997, Blake ceased its operations.

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.

Draft copies of this report were sent to SED, HESC and Blake officials for their review and comments. SED and HESC officials agreed with the audit findings. However, HESC raised a concern about recovering the disallowance because Blake is closed. Blake officials responded that they had ceased operations and had no assets. They neither agreed nor disagreed with the issues included in the draft report. The school officials' position included in this report reflect Blake's position in their response to our preliminary audit findings.

## **Audit Scope**

The objective of our financial and compliance audit was to determine whether Blake's management complied with appropriate law and 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 records, Blake certified 2,216 students for 4,640 TAP awards totaling \$3,545,125 during the 1993-94 through 1995-96 academic years. We selected and reviewed a statistical sample of 200 awards totaling \$152,033 paid on behalf of 188 students. We also reviewed other awards that came to our attention during the audit.

We did our audit according to generally accepted government auditing standards. Such standards require that we plan and do our audit to adequately assess those operations of Blake which are included within our audit scope. These standards also require that we review and report on Blake's internal control system and its compliance with the law, rules and regulations that are relevant to Blake's operations that 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 recommendation.

In planning and doing our audit of Blake, we reviewed management's internal control system. Our audit was limited to a preliminary review of the internal control system to obtain an understanding of the environment and the flow of transactions through the accounting system and other systems supporting the claims for student financial aid.

Blake's management was responsible for complying with the Law and Commissioner of Education's Rules and Regulations (Regulations). In connection with our audit, we did tests of Blake's compliance with certain provisions of the Law and Regulations. Our objective in doing these tests was to obtain reasonable assurance that the TAP awards Blake received were for eligible students. Our objective was not to provide an opinion on Blake's overall compliance with such provisions.

The results of our audit showed that for the transactions and records tested, Blake did not comply, in most material respects, with the provisions referred to in the preceding paragraph, as noted in the following sections of the report.

### **Audit Results**

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

	<b>Number of</b>		
<b>Disallowances from Statistical Sample:</b>			
Students Not Offered Program As Approved:			
1,440 Approved Hours	29	\$19,724	
Core Course Requirements	28	20,709	
Classes Exceeded Student/Teacher Ratio	43	34,990	
Students Not in Full-Time Attendance:			
Unlicensed Teachers	25	15,854	
Insufficient Course Hours	11	8,462	
Students Not in Good Academic Standing	2	1,000	
TAP Overpayments	5	1,652	
TAP Not Posted	<u>3</u>	<u>1,500</u>	
Total Sample Disallowance	146	103,891	
Less: Disallowances for More Than One Reason	<u>42</u>	<u>28,759</u>	
Net Sample Disallowance	<u>104</u>	<u>\$75,132</u>	
Projected Disallowance			\$1,523,732
<b>Disallowances from Outside the Statistical Sample:</b>			
Students Not Offered Program As Approved:			
1,440 Approved Hours	3	\$1,436	
Core Course Requirements	3	1,436	
Student Not in Full-Time Attendance:			
Insufficient Course Hours	<u>1</u>	<u>220</u>	
Total Disallowance From Outside the Sample	7	3,092	
Less: Disallowances for More Than One Reason	<u>3</u>	<u>1,436</u>	
Net Disallowance From Outside the Sample	<u>4</u>		<u>1,656</u>
Total Audit Disallowance			<u>\$1,525,388</u>

The various types of disallowances are discussed in the following sections of this report. Details of the statistical projection, students' names and related information were provided to Blake officials separately.

### **General Requirements**

Registered business schools must follow requirements established in the Law, Regulations and SED guidelines to ensure that their course hours are taught in an educationally sound manner. Course hours which are not taught in compliance with these requirements do not count toward total hours when calculating a student's full-time status for TAP eligibility. To determine our TAP disallowances for each student, we reviewed the school's attendance registers to calculate the number of hours that students were not taught in an educationally sound manner. For the students who graduated, we determined whether the school offered a program which met the minimum 1,440 hour requirement established in Section 145-2.3 of the Regulations.

Section 661 of the Law requires that a student be in full-time attendance, as defined by the Commissioner of Education, to be eligible for financial aid awards. Any course hours which a student was offered that were not in an educationally sound manner, do not count toward a student's full-time status.

Section 5002 of the Law requires registered business schools to employ teachers who are licensed by SED. In accordance with this requirement, we did not count hours toward a student's TAP eligibility for courses taught by teachers who SED determined were not qualified to teach the subjects they were teaching.

Section 126.4 of the Regulations states, "...the Commissioner shall approve the student-to-teacher ratio for each course or curricula. Schools shall ensure that student enrollment on the attendance register does not exceed the approved ratio after the first week of instruction." In accordance with this requirement, we did not count hours toward a student's TAP eligibility when courses exceeded the SED-approved student/teacher ratio.

### **Students Not Offered Program As Approved**

*Criteria* - Section 601.4 of the Law requires that students attending a registered business school be enrolled in an approved two-year program to be eligible for TAP awards. Section 145-2.3 of the Regulations defines an approved program as one that provides at least 1,440 instructional hours and is approved by SED under Section 126 of the Regulations.

The approved program defines the specific core curriculum which SED has determined provides the most essential skills or competencies needed for students to meet the occupational objectives of the program. SED has established criteria to determine whether any deviations from

the approved program's core requirements are serious enough to cause the program to lose its approved status for TAP purposes. SED has concluded that a program's TAP eligibility is lost if a core course was offered for less than 90 percent of its approved length and if the total number of instructional hours offered was less than 1,440.

Audit Determination - We identified 29 awards from our statistical sample and three awards from outside the sample that were paid to students who graduated from Blake but who were not offered programs that provided at least 1,440 approved instructional hours as required. Also, we determined that 28 awards from our statistical sample and three awards from outside the sample were paid to students who graduated but who did not successfully complete their program's core course requirements because, in certain courses, less than 90 percent of the course hours were offered in an educationally sound manner. In calculating the 1,440 hour requirement, we did not count course hours for students in the following situations:

- Courses when the actual student/teacher ratios exceeded the SED-approved ratio. For example, the actual student/teacher ratio for Modern Office Technology with Applications was 31:1. However, the ratio approved by SED is only 20:1.
- Course hours taught by teachers who were not licensed for subjects they taught.
- Course hours when the attendance registers were not initialed by teachers as required or where we could not determine the identity of the teachers to verify their license.

School Officials' Position - Blake officials maintain that many of the instances we found of unlicensed teachers were due to SED's failure to properly notify schools of the results of its review of teachers' license applications. Blake officials also contend that classes did not exceed the SED approved student/teacher ratio. Officials state that many of the students whose names were on attendance registers were not in attendance or were in the process of withdrawing. Officials stated that although the attendance registers indicated greater than the allowable student/teacher ratios, actual attendance after the seventh week never exceeded the approved ratio on any given day. Officials also stated that two courses, Modern Office Techniques and Introduction to Computers, were theory courses with little or no skill component, and therefore a higher student/teacher ratio was allowed. Additionally, Blake officials provided the identity of four teachers, whom they believed we could not identify.

Auditors' Comments - Regarding the issue of unlicensed teachers, the only notification SED sends to schools is the teacher's license if, in fact, the teacher is eligible for a license. Until the license is issued, the school is not in compliance with the Regulations. No teacher's licenses were provided for specific subjects taught. Blake's argument that attendance never exceeded the allowable ratio on any given day after the seventh week is an incorrect application of SED's regulation regarding approved student/teacher ratios. According to the Regulations, compliance with SED-approved

student/teacher ratios is determined after the first week of the term. Regarding the two courses, Introduction to Computers and Modern Office Techniques, SED advised that those two courses are skill courses. As for the identity of the four teachers, Blake did not identify the unknown teachers cited in the preliminary audit report.

### **Classes Exceeded Student/Teacher Ratio**

Criteria - Section 126.4 of the Regulations requires registered business schools to ensure that student enrollment on the attendance register does not exceed the approved student/teacher ratio after the first week of instructions. When SED approved a higher ratio for a program during our audit, we applied the higher ratio for the entire audit period. We did not count classes toward a student's TAP award eligibility that exceeded the SED approved student/teacher ratio.

Audit Determination - We identified 43 awards from our statistical sample paid on behalf of 42 students who attended courses that exceeded the approved student/teacher ratios. The approved ratio for most of these courses was 20 students to one teacher. However, we found courses that exceeded the approved student/teacher ratio anywhere from 2 to 11 students. Consequently, Blake did not teach the curriculum as approved by SED.

School Officials' Position - As mentioned above, Blake officials contend that classes did not exceed the SED approved student/teacher ratios. They state that many students' names were on attendance records but those students were not in attendance. Therefore, actual attendance never exceeded the approved student/teacher ratios.

Auditors' Comments - We adjusted our findings to reflect those students who never attended the courses. However, for the remainder of the students, the attendance registers document that the courses exceeded the student/teacher ratio, regardless of how many students actually attend class each day.

### **Students Not in Full-Time Attendance**

Criteria - Section 145-2.1 of the Regulations states that in noncollegiate programs, which measure study in terms of instructional hours, full-time study requires at least 24 instructional hours a week.

An SED directive states, "Each attendance register must contain a signature block in which the teacher who is responsible for taking attendance verifies the accuracy of the attendance register." The directive also states, "The teacher is the one who is legally responsible for the daily taking of attendance in each laboratory, class, or session. All teachers must initial the attendance register daily to attest that attendance was taken and recorded."

Audit Determination - We identified 36 awards from our statistical sample and one award from outside our statistical sample, paid for students who did not meet full-time attendance requirements as follows:

- 25 awards were paid for students who were taught by teachers who were not licensed for the courses they taught.
- 11 awards were paid for students who were offered courses for less than 90 percent of the approved course hours. In calculating course hours, we did not count the hours taught by teachers whom we could not identify, hours that did not include the teacher's initials in the attendance registers, and hours where the students were not in attendance.
- one award was paid to a student that Blake officials could not provide any records for and therefore, we disallowed this award on the basis of insufficient course hours.

School Officials' Position - Blake officials provided the identity of four teachers whom we could not identify from the attendance registers. Also, Blake officials maintained that the instances we found of unlicensed teachers were caused by SED's failure to properly review teachers' applications for licenses and notify schools of the results.

Auditors' Comments - Although Blake identified four teachers, they were not the correct ones that we needed. As for the unlicensed teachers, Blake officials are required by the Commissioner's Regulations to employ teachers who have the appropriate licenses for the courses they will be teaching. Regarding the issue of unlicensed teachers, the only notification SED sends to schools is the teacher's license if, in fact, the teacher is eligible for a license. Until the license is issued, the school is not in compliance with the Regulations.

### **Students Not in Good Academic Standing**

Criteria - Section 665 of the Law requires that students be in good academic standing to maintain eligibility for TAP awards. Section 145-2.2 of the Regulations states that to maintain good academic standing a student must (1) make satisfactory academic progress toward completion of a program and (2) pursue the program of study in which he or she is enrolled.

In order to meet satisfactory academic progress requirements, a student must have accrued at least a certain number of credits with at least a certain cumulative grade point average as required on the Satisfactory Academic Progress chart, approved by SED. A student is considered to be 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 at least a predetermined percentage of the minimum full-time course load.

When a student fails to maintain good academic standing, the student loses prospective TAP eligibility. A student may regain good academic standing either by using a one-time TAP waiver, making up the deficiency at his own expense, or remaining out of school for one year.

Audit Determination - We identified two awards in our statistical sample paid on behalf of two students who failed to maintain good academic standing. These students did not receive passing or

failing grades in the required number of courses to meet the pursuit of program requirement and did not achieve the minimum grade point average required for the payments received.

School Officials' Position - Blake officials disagreed, stating that all students either met or exceeded the good academic standing requirements.

Auditors' Comment - Based on the Blake's transcripts for these students, they did not earn passing or failing grades in the required number of courses and did not earn the required grade point average to maintain good academic standing. Therefore, these students are not eligible for these awards.

### **TAP Overpayments**

Criteria - Section 667 of the Law states that a TAP award cannot exceed the tuition charged. Blake charges full tuition at the beginning of each term. If a student withdraws from school during the withdrawal period, the tuition will be adjusted accordingly.

Audit Determination - We found Blake overcertified the amount of certain students' tuition to HESC. When there is an adjustment to the student's tuition, Blake posts it on the student's account, but does not adjust the tuition reported to HESC. While many times the overcertification of tuition to HESC did not result in excess TAP awards, we found five awards for five students who received a TAP award in excess of the actual tuition charged.

School Officials' Position - Blake officials agreed with all the disallowances related to TAP overpayments.

### **TAP Not Posted**

Criteria - Section 2205.3(e) of the Regulations requires that each student's account be credited within seven days from the date the institution receives the financial aid payment.

Audit Determination - We found that Blake received three awards on behalf of three students, but did not credit these awards to the students' accounts. Therefore, these students' accounts showed that they owed a higher balance to the school than, in fact, they did.

School Officials' Position - Blake officials submitted posting sheets and ledger cards with their response and stated that these awards were appropriately posted.

Auditors' Comment - These TAP awards were not posted on the ledger cards provided during the audit. Blake officials posted these awards after we brought this issue to their attention in the preliminary audit report.

**Recommendation to the Higher Education Services Corporation**

*Recover \$1,525,388, plus applicable interest, from Blake Business School for its incorrect TAP certifications.*

Since the school closed, we have no recommendations for SED.

Major contributors to this report were William Challice, David R. Hancox, Frank Russo, Kenneth I. Shulman, David Louie, Lu Pham, Helen Crick, Yelena Feldman and Donald Collins.

We wish to express our appreciation to the management and staff at Blake Business School for their courtesies and cooperation extended to our auditors during this audit.

Yours truly,



Carmen Maldonado  
Audit Director

cc: Donna Arduin, DOB  
Herbert Marion