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STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

September 25, 2002

Mr. Richard P. Mills
Commissioner
State Education Department
Education Building
Albany, New York 12234

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

Re: Empire State College
Report 2000-T-8

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 Empire State College (Empire) for the 1997-98 through 1999-2000 academic years.

Summary Conclusions

In accordance with Section 665(3)(b) of the New York State Education Law (Law), we determined that Empire was overpaid \$179,592, because school officials had incorrectly certified some students as eligible for TAP awards. We tested the accuracy of the 6,424 TAP certifications Empire awarded for the three-year period that ended on June 30, 2000, by reviewing a statistical sample of 200 randomly-selected awards. From our statistical sample, we disallowed nine awards totaling \$11,592. 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 \$165,262. We also disallowed 10 awards totaling \$14,330 based on our review of other awards from outside the statistical sample period. Therefore, we recommend that HESC recover a total of \$179,592 plus applicable interest from Empire.

Background

Empire, a college operated by the State University of New York (SUNY), is a nontraditional institution of higher education with central operations in Saratoga Springs, New York. Empire offers courses leading to associate, bachelor's, and master's degrees in 11 areas of study, as well as one certificate program. It has more than 40 locations throughout New York State where students meet with faculty to plan their curriculum and receive mentoring. Empire, which serves more than 10,000 students a year, also operates an International Program at various locations outside of the United States. Students matriculating at Empire enroll in programs and then work with faculty advisors to develop individualized curricula. They pursue course work in 16-week contract periods that begin weekly, except during the month of August, and learn through a variety of methods, such as guided independent study, group tutorials, distance learning and cross registration at other colleges and universities.

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.

We provided draft copies of this report to SED, HESC, and Empire 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 financial and compliance audit was to determine whether Empire'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 reviews of the process HESC follows in determining the amount of such awards.

According to HESC records, Empire officials certified 6,424 TAP awards totaling \$7,718,678 paid on behalf of 3,296 students during the three academic years that ended on June 30, 2000. We reviewed a statistical sample of 200 randomly-selected awards totaling \$242,407 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 Empire that are included within our audit scope. These standards also require that we review and report on Empire's internal control system and its compliance with those laws, rules and regulations that are relevant to Empire'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 Empire, 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 supporting the claims for student financial aid.

Empire’s management is responsible for complying with the Law and the Regulations. In connection with our audit, we performed tests of Empire’s compliance with certain provisions of the Law and the Regulations. Our objective in performing these tests was to obtain reasonable assurance that the students who had received TAP awards were eligible for them. Our objective was not to provide an opinion on Empire’s overall compliance with such provisions.

Our audit showed that, for the transactions and records tested, Empire was generally in compliance with these provisions, except as noted in the following sections 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 Matriculated	4	\$5,418	
Students Not in Good Academic Standing	2	2,878	
Student Not in Full-Time Attendance	1	1,542	
Student Awarded Excess TAP Payments	1	1,442	
Student’s Tuition Reported Incorrectly to HESC	<u>1</u>	<u>312</u>	
Total Disallowances from the Statistical Sample	<u>9</u>	<u>\$11,592</u>	
Projected Amount			\$165,262
Disallowances from Outside the Statistical Sample Period:			
Students Not in Good Academic Standing	8	\$11,588	
Students Not in Full-Time Attendance	<u>2</u>	<u>2,742</u>	
Total Disallowances from Outside the Sample	<u>10</u>		<u>14,330</u>
Total Audit Disallowance			<u>\$179,592</u>

The reasons for the disallowances are discussed on the following pages. Details of the students’ names and related information were provided separately to Empire officials.

Students Not Matriculated

Criteria – Section 661 of the Law requires that students be matriculated in an approved program to be eligible for financial aid. It also requires students who received their first financial aid payments in the 1996-97 academic year or thereafter to have a certificate of graduation from a high school or a General Equivalency Diploma (GED); or to have achieved a passing score, as determined by the United States Secretary of Education, on a Federally-approved examination. Section 145-2.4 of the Regulations states that a student is considered matriculated if he or she has filed a written application for enrollment, and the college has taken into consideration the capacity of the student to complete the program and the college'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. This section states that, "the admission of a student shall be determined through an orderly process using published criteria which shall be uniformly applied." Compliance with this requirement is demonstrated when students meet the school's admission criteria as published in its catalog. According to Empire's catalog, a principal requirement for undergraduate admission is that an applicant must possess a high school diploma or its equivalent, or have the ability to benefit from college study as demonstrated through means required by the college. Section 3.47 of the Rules of the Board of Regents (Rules) requires schools to obtain satisfactory evidence that students have met the high school graduation requirement or its equivalent before they begin studying for their degrees.

Audit Determination – We disallowed four awards paid on behalf of four Empire students who had not been matriculated properly. The admission files for these students did not contain evidence that they had met the high school graduation requirement or its equivalent. Two of the awards were made to students who received their first financial aid payment in the 1996-97 academic year or thereafter.

School Officials' Position – Empire officials disagree with this disallowance. They hold that in the 31 years that Empire has been in existence, the college has always relied upon student-reported information provided in enrollment applications as evidence of high school graduation or its equivalent. They state that the audit report does not cite specific regulatory language requiring the maintenance of files containing copies of high school diplomas or GED certificates. They note that the April 1999 Grants and Scholarships Guide published by HESC does not state that a college must have the documentation (of high school graduation, GED, or passing ATB score) in its possession, and neither does it say self-declaration is prohibited. They further state that in every case that they were able to check students' claims of high school completion, the documentation supported the claim. Empire officials have indicated that they will modify their admissions procedures to require a transcript from a regionally-accredited institution, a high school diploma, or its equivalent.

Auditors' Comments – SED officials have advised us that student-reported information (i.e., self-reporting) does not satisfy Education Law § 661(4)(c), which specifies that a student must have a certificate of graduation from a school providing secondary education, or the recognized equivalent of such certificate; or have achieved a passing score, as determined by the United States Secretary of Education, on a Federally-approved examination which demonstrates that the student can benefit from the education being offered. Further, Section 3.47 of the Rules requires schools to obtain satisfactory evidence that students have met the high school graduation requirement or its equivalent before they begin studying for their degrees. Student self-reporting does not satisfy this Rule.

Students Not in Good Academic Standing

Criteria – Section 665 of the Law requires students to be in good academic standing to be eligible 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 chart of satisfactory academic progress published by the college and approved by SED. Empire’s approved standard of satisfactory academic progress requires only that a student accrue a certain minimum number of credits. The grade point average requirement is waived because Empire does not use a letter grading system.

A student is pursuing the approved program of study if, during each term of study for which an award is received, he or she 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. However, good academic standing can be regained if the deficiencies are made up at the student’s own expense, a TAP waiver is obtained, or the student remains out of school for at least one calendar year, or transfers to another institution.

Audit Determination – We disallowed ten awards (two awards from our statistical sample period and eight from outside the period) paid on behalf of eight students who failed to maintain good academic standing. Six of these students had received a total of eight awards in terms after they failed to make satisfactory academic progress. They did not accrue the minimum number of credits required on the college’s chart of satisfactory academic progress, and therefore were not eligible to receive TAP awards in the specified terms. Each of the two remaining students received an award after failing to pursue their approved program of study. They did not achieve passing (credit awarded) or failing (no credit outcome) grades in the appropriate percentage of the minimum full-time course load required to qualify for their TAP awards.

School Officials’ Position – Empire officials disagree with this finding for one of the awards paid on behalf of a student who had failed to meet the pursuit-of-program requirement. They state that the auditors failed to include, in the pursuit-of-program determination, that part of the student’s program that represented work beyond the associate degree. They note that this student, though pursuing an associate degree, had declared on her college application that the baccalaureate degree was her goal. Therefore, they reason, some of the courses applicable to the baccalaureate degree should have been included when determining whether the student met the pursuit-of-program requirements. Empire officials outlined a number of steps they plan to take to improve their policies, procedures and internal controls over determinations of good academic standing.

Auditors’ Comments – The student in question was enrolled in an associate degree program, but took courses beyond the requirements for her program. SED officials have advised us that such courses cannot count in the determination of good academic standing (i.e., in this case, pursuit of program). Although college officials claim the student had the intent or goal of continuing beyond the associate degree to earn a baccalaureate degree, the documentation that the college provided did not clearly demonstrate that the student was matriculated in a baccalaureate program.

Students Not in Full-Time Attendance

Criteria – Section 661 of the Law requires students to 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 hours per semester for a semester of 15 weeks or its equivalent. In addition, SED’s Memorandum to Chief Executive Officers (CEO) No. 86-17 requires that a student’s minimum course load be creditable toward the degree in which he or she is enrolled.

Audit Determination – We disallowed three awards (one award from our statistical sample period and two from outside the period) paid on behalf of two students who did not maintain full-time status. These students received awards for terms in which they were not enrolled for 12 hours creditable toward the degrees they were pursuing.

School Officials’ Position – Empire officials disagree with this finding. They state that the auditors did not count toward full-time enrollment that portion of the student’s for-credit enrollment that represents credits toward the bachelor’s degree, rather than the associate’s degree. They add that the students were matriculating students and should be considered TAP eligible.

Auditors’ Comments – The students in question were enrolled in associate degree programs, but took courses beyond the requirements for their programs. SED officials have advised us that such courses cannot count in the determination of full-time attendance. Although college officials claim the students had the intent or goal of continuing beyond the associate degree to earn a baccalaureate degree, the documentation that the college provided did not clearly demonstrate that the students were matriculated in baccalaureate programs.

Student Awarded Excess TAP Payments

Criteria – Section 667 of the Law states that a student enrolled in a two-year program is eligible for TAP awards for no more than three academic years.

Audit Determination – We disallowed one award paid on behalf of a student who received excess TAP payments. This student was enrolled in a two-year program, but received TAP for a fourth year.

School Officials’ Position – Empire officials agree with this finding.

Student’s Tuition Reported Incorrectly to HESC

Criteria – Section 665(3)(a) of the Law requires that participating institutions certify to HESC the actual amount of tuition liability incurred by each student receiving a TAP award.

Audit Determination – For one student, Empire reported a tuition charge to HESC that was higher than the amount charged the student. After we asked HESC to recalculate the award based on the actual tuition charge, the student’s TAP award was reduced by \$312. Accordingly, we disallowed \$312 for this award.

School Officials' Position – Empire officials agree with this finding.

Other Matter – Students Due Refunds

The following finding does not result in an audit disallowance. It pertains to control issues that Empire officials need to address.

Criteria – Section 2205.3(e)(1)(iii) of the Regulations requires that, within 45 days of the receipt of a financial aid payment, institutions must refund to the student any overpayment they received or, with the written consent of the student, apply such funds to subsequent terms.

Audit Determination – In our review of the 200 statistically-sampled awards, we found that eight students' accounts had credit balances that had been outstanding more than 45 days. We also found that one student may have been overcharged for tuition in the Spring 1999 term. Where appropriate, these students should be issued refunds.

School Officials' Position – Empire officials did not respond to this finding.

Recommendations to the Higher Education Services Corporation

1. *Recover the \$179,592, plus applicable interest, from Empire State College for its incorrect TAP certifications.*
2. *Ensure that Empire State College officials report students' tuition charges accurately, do not certify students for excess TAP payments, and promptly refund any amounts owed to students.*

Recommendation to the State Education Department

Ensure that Empire State College complies with the State Education Department requirements relating to matriculation, good academic standing, and full-time attendance cited in this report.

Major contributors to this report were Kenneth Shulman, Cindi Frieder, Kenrick Sifontes, Maureen Costello, Brittany Hayes, and Jean Yang.

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

Very truly yours,

Frank J. Houston
Audit Director

cc: Joseph Moore, President, Empire College
C. Kevin O'Donoghue, University Auditor
Deirdre A. Taylor, Division of the Budget