

ALAN G. HEVESI
COMPTROLLER



110 STATE STREET
ALBANY, NEW YORK 12236

STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

August 19, 2004

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

Mr. Michael R. Wilton, Jr.
President
Higher Education Services Corporation
99 Washington Avenue
Albany, New York 12255

Re: DeVry Institute of Technology
Report 2003-T-2

Dear Messrs. Mills and Wilton:

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 DeVry Institute of Technology's Long Island City Campus (DeVry-LI) for the 1999-00 through 2001-02 academic years.

Summary Conclusions

In accordance with Article 14, Section 665(3)(b) of the New York State Education Law (Law), we determined that DeVry-LI was overpaid \$385,190, because school officials incorrectly certified some students as eligible for TAP awards, and did not properly credit some students with their TAP awards. We tested the accuracy of the 5,385 TAP certifications the school awarded for the three-year period that ended on June 30, 2002, by reviewing a statistical sample of 200 randomly-selected awards. From our statistical sample, we disallowed 24 awards totaling \$23,574. A statistical projection of these disallowances to the entire population, using a 95 percent single-sided confidence level, results in an audit disallowance of \$381,304. We also disallowed three awards totaling \$3,886 based on our review of other awards from outside the statistical sample

period. DeVry-LI officials decertified 45 awards totaling \$74,382 and subsequently refunded to students 26 awards totaling \$19,811 that were not credited previously to the students' accounts. Therefore, we recommend that HESC recover a net total of \$290,997, plus applicable interest, from DeVry-LI.

Background

DeVry Institute of Technology (DeVry), headquartered in Oak Brook, Illinois, provides career-oriented, technology-based education to high school graduates and working adults. DeVry campuses are located in nine states and in Canada. DeVry's Long Island City, New York (DeVry-LI) campus offers several programs which are approved by the New York State Education Department (SED) and are eligible for State financial aid.

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 eligible programs.

We provided draft copies of the report to SED, HESC and DeVry-LI 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 performance audit was to determine whether DeVry-LI's management complied with the Law and Regulations of the Commissioner of Education (Regulations) governing 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, DeVry-LI officials certified 5,385 TAP awards totaling \$8,950,841 that were paid on behalf of 2,154 students during the three academic years that ended on June 30, 2002. We reviewed a statistical sample of 200 randomly-selected TAP awards totaling \$334,760 that were made to 193 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 DeVry-LI that are included within our audit scope. These standards also require that we review and report on DeVry-LI's internal control system and its compliance with those laws, rules, and regulations that are relevant to DeVry-LI'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 DeVry-LI, 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 claims for student financial aid.

DeVry-LI's management is responsible for complying with the Law and the Regulations. In connection with our audit, we performed tests of DeVry-LI'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, and were credited with, the awards. Our objective was not to provide an opinion on DeVry-LI's overall compliance with such provisions.

Our audit showed that, for the transactions and records tested, DeVry-LI was generally in compliance 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, several of which are performed by the Division of State Services. 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 Auditing Standards. In our opinion, these management functions do not affect our ability to conduct independent audits of program performance.

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:			
TAP Not Credited to Students' Accounts	12	\$ 6,433	
Students Not in Good Academic Standing	6	8,257	
Students Not in Full-Time Attendance	3	4,506	
Students Not Meeting Residency Requirements	2	3,575	
Students Not Matriculated	1	1,815	
Over Certification of Tuition	<u>1</u>	<u>501</u>	
Total Disallowances from the Statistical Sample	25	25,087	
Less: Disallowances for More than One Reason	<u>1</u>	<u>1,513</u>	
Net Disallowances from the Statistical Sample	<u>24</u>	<u>\$23,574</u>	
Projected Amount			\$381,304
Disallowances from Outside the Statistical Sample Period:			
TAP Not Credited to Students' Accounts	2	\$ 1,386	
Student Not in Good Academic Standing	<u>1</u>	<u>2,500</u>	
Total Disallowances from Outside the Sample	<u>3</u>		<u>3,886</u>
Total Audit Disallowance			385,190
Less: Decertified Awards from our Sample Period		74,382	
Awards Refunded to Students		<u>19,811</u>	
			<u>94,193</u>
Net Audit Disallowance			<u>\$290,997</u>

The reasons for the disallowances are discussed on the following pages. Students' names and related information were provided separately to DeVry-LI officials.

TAP Not Credited to Students' Accounts

Criteria - Section 2205.3(e) of HESC Regulations requires institutions participating in State financial aid programs to enter into a written Participation Agreement with HESC, and further, that the Participation Agreement require the institution to credit each student's account within seven days after the receipt of a TAP award. The Participation Agreement also sets forth an institution's obligation to comply with all laws and regulations governing the award programs, as well as with the procedures in HESC's Program, Policies and Procedures Manual (Manual). Section 4.10 of the Manual obligates institutions to credit each student's account within seven days after the receipt of a TAP award.

Audit Determination - We disallowed 14 awards (12 from our statistical sample period, and 2 awards from outside the statistical sample) which the school had not credited, or not fully credited to the accounts of 14 students. School records indicated that some students were assessed finance charges on money owed to the school because TAP awards were not credited to the accounts of these students.

School Officials' Position - School officials stated that they concur with the nature of the finding, but disagree with the inclusion of the disallowances in the statistical projection. Furthermore, they stated that, where appropriate, all awards have since been disbursed to students' accounts, adjustments made to finance charges, and refunds issued.

Auditors' Comments - The disallowed TAP awards were received by the school, but not credited to the students' accounts as required. In addition, the sampled TAP awards were randomly selected from the entire population of awards issued during the three-year period, so that each award had an equal probability of being included in the sample. Conclusions made from the review of sample term TAP awards are, appropriately, projected to the entire population from which the sampled awards were selected. Awards subsequently decertified or refunded to students have been subtracted in determining the net audit disallowance.

Students Not in Good Academic Standing

Criteria - Section 665 of the Law requires that students 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 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, 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 without additional State awards, 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 seven awards (six from our statistical sample period and one from outside the period) that had been paid on behalf of seven students who failed to maintain good academic standing. Three of these students did not earn passing or failing grades in enough courses, applicable to their designated programs, to meet the pursuit of program requirements. The four other students did not earn enough cumulative credits and/or earn the cumulative grade point average required on DeVry-LI's chart of satisfactory academic progress to maintain TAP eligibility.

School Officials' Position - School officials disagree with the fall 2002 term disallowance for one student who had failed to meet the pursuit of program requirements. School officials asserted that they had decertified the student's summer 2002 term award, thus making him eligible for the fall 2002 award. School officials concur with the remaining six disallowances.

Auditors' Comments - The student did not meet good academic standing requirements at the end of the spring 2002 term. As he did not regain good academic standing for the summer and fall 2002 terms, he was ineligible to receive TAP awards for those terms. The summer 2002 term award, which was disbursed to the student's account in July 2002, was subsequently decertified by the school on March 27, 2003, after we had informed school officials that this award would be disallowed. According to SED officials, a disallowed/decertified award is not one of the ways a student can regain TAP eligibility. The TAP award disallowance for the fall 2002 term remains.

Students Not in Full-Time Attendance

Criteria - Section 661 of the Law requires that students be in full-time attendance to be eligible for 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 a semester for a semester of 15 weeks, or its equivalent. SED's Memorandum to Chief Executive Officers 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 three sample term awards that had been paid on behalf of three students who did not meet the full-time requirement. Two of these students had not enrolled in any courses during the semesters for which their awards were disallowed. Because the third student, in the fall 2000 term, repeated some courses that he had previously passed, he was not enrolled in the minimum full-time course load for that term.

School Officials' Position - School officials concur with the disallowances pertaining to the two students who were not enrolled in any courses. They contend that the third student, who was academically dismissed in fall 1999, had applied for and was reinstated for the fall 2000 term. School officials contend that repeating and obtaining higher grades in the previously passed courses were conditions for the student's reinstatement.

Auditors' Comments - The school's conditions for the student's reinstatement are not the criteria for determining compliance with the full-time attendance requirements for TAP awards. The grades earned in the previously passed courses were acceptable to DeVry-LI, and therefore, according to SED guidelines, cannot be included as part of the student's minimum full-time course load for financial aid purposes.

Students Not Meeting Residency Requirements

Criteria - Section 661 of the Law requires that an applicant for a TAP award at the undergraduate level be a legal resident of New York State (State) for at least one year immediately preceding the beginning of the semester for which the award is made, or be a legal resident of the State and have been a legal resident during the final two semesters of high school. Furthermore, according to HESC's Manual, "the student must show having established a domicile or permanent place of abode in New York State." The Manual also stipulates that institutions should not certify eligibility for State awards for any student whose State residency is suspect.

Audit Determination - We disallowed two awards from our statistical sample that had been paid on behalf of two students for whom DeVry-LI officials did not provide us with sufficient documentation to indicate that the students had met the residency requirements. The first student, whose fall 1999 sample term award was disallowed, self-reported on her 1999-2000 financial aid form, that she and her parents were current State residents, but not did respond to questions on the date legal residency was established, or whether they had been State residents before January 1, 1994. The student's high school transcript shows that the student attended high school in Jamaica, West Indies, from September 1990 through June 1996, when she graduated from that school. DeVry-LI officials could not establish when the student had relocated to New York State.

The second student, whose fall 2001 sample term award was disallowed, had graduated from high school in Delaware in 1996. The student had indicated on her financial aid form that she had a New York State driver's license. However, according to New York State Department of Motor Vehicle records, the student had received this license in May 2001, in reciprocity for her Delaware driver's license. This indicates that the student may not have been a New York resident for a full year prior to the sampled fall 2001 term.

School Officials' Position - School officials disagree with these disallowances. They contend that an out-of-State graduation occurring a few years prior to a TAP award is not sufficient to dispute residency and that, at the time, the HESC Manual did not specifically identify graduation from an out-of-State high school as an indication that the student was not a New York State resident.

Further, they contend that the first student was a dependent of her parents and had self-reported on her 2000-01 Institutional Student Information Record (ISIR) that she and her parents

were New York State residents and had been State residents before January 1, 1995. School officials assert that they had no reason to suspect the second student was not a resident, since she had attended grades 9 and 10 at a New York State high school and had listed a State address on all of the documents she had submitted to DeVry-LI. They contend that they had no way of knowing that she had obtained the driver's license in reciprocity for a Delaware license. They also assert that a 2001 summer term award for this student should not be projected, since it was decertified in March 2004.

Auditors' Comments - There was insufficient documentation to establish that the two students, who attended and graduated from out-of-State high schools, were New York residents for a full year before the terms for which their awards were disallowed. In addition, HESC officials advised us that the documents on file at DeVry-LI were not sufficient to establish residency for the two students, and that school officials should not have certified them as eligible for TAP awards.

Further, we note that, although both students' ISIRs for the years related to the disallowed awards reflected their self-reporting of current State residency, neither resolved questions about the date of legal residency or the residency status of the student (and parents, in the first case) before the stipulated date. Finally, the 2001 non-sample summer term award was not included in the statistical projection.

Student 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 payment in the 1996-97 academic year or thereafter, to have a high school diploma or the equivalent, or to have achieved a passing score, as determined by the United States Secretary of Education, on a federally-approved examination. Further, HESC's Manual states that a student must enroll in an approved program of study in a New York State postsecondary institution to be eligible for a TAP award.

Audit Determination - We disallowed the fall 2000 sample term award that had been paid on behalf of a student who was not properly matriculated. This student attended the DeVry campus in Columbus, Ohio, a non-New York State postsecondary institution, but was certified for a TAP award at the Long Island, New York campus for the fall 2000 term.

School Officials' Position - School officials concur with this finding.

Over Certification of Tuition

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. Further, Section 2205.3 (b) of the HESC regulations states that institutions shall be responsible for the accuracy of the tuition reported to HESC.

Audit Determination - We partially disallowed a sample term award that had been paid on behalf of a student who withdrew from classes during the spring 2002 term. DeVry-LI officials reported a tuition amount to HESC that was higher than the amount the student was charged. We requested

that HESC recalculate the award based on the actual tuition charged. As a result, the student's TAP award was reduced by \$501. Accordingly, we disallowed this amount.

School Officials' Position - School officials disagree with this finding. They contend that the student was initially charged \$4,975 in tuition for the spring 2002 term. This amount was subsequently adjusted to \$1,562 when the student withdrew from classes. School officials also contend that the disallowance should be limited to \$161.50, which represents the difference between the TAP award of \$1,723.50 and the revised tuition of \$1,562.

Auditors' Comments - At our request, HESC again recalculated the spring 2002 award based on the revised tuition of \$1,562 that was charged the student. HESC affirmed that the spring 2002 award should be reduced by \$501.

Recommendations to the Higher Education Services Corporation

1. *Recover the \$290,997, plus applicable interest, from DeVry Institute of Technology.*
2. *Ensure that DeVry Institute of Technology officials comply with the Higher Education Services Corporation requirements relating to New York State residency, crediting of TAP awards, and accurate reporting of tuition amounts.*

Recommendation to the State Education Department

Ensure that DeVry Institute of Technology officials comply with the State Education Department requirements for good academic standing, full-time attendance, and matriculation cited in this report.

Major contributors to this report were Cindi Frieder, Kenrick Sifontes, Sal D'Amato, Kezia Chacko, Erica Zawrotniak, and Jean-Renel Estime.

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

Very truly yours,

Frank J. Houston
Audit Director

cc: Diane Engelhardt