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STATE OF NEW YORK  
**OFFICE OF THE STATE COMPTROLLER**

December 11, 2008

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

Mr. James C. Ross  
President  
Higher Education Services Corporation  
99 Washington Avenue  
Albany, New York 12255

Re: Baruch College  
Report 2008-T-1

Dear Messrs. Mills and Ross:

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 Baruch College (Baruch) for the 2003-2004 through 2005-2006 academic years.

**Summary Conclusions**

In accordance with Article 14, Section 665(3)(b) of the New York State Education Law (Law), we determined that Baruch was overpaid \$1,344,446 because school officials incorrectly certified eight students as eligible for ten TAP awards. We tested the accuracy of the 33,168 TAP certifications the school awarded for the three-year period ended June 30, 2006, by reviewing a statistical sample of 150 randomly-selected awards. From our statistical sample, we disallowed eight awards totaling \$14,330. 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 \$1,340,496. We also disallowed two awards totaling \$3,950 based on our review of other awards, from outside the statistical sample period, for these students. These awards were not projected to the population. Therefore, we recommend that HESC recover a total of \$1,344,446, (\$1,340,496 and \$3,950) plus applicable interest, from Baruch.

## **Background**

The City University of New York's (CUNY) Bernard M. Baruch College, located in Manhattan, is one of 11 senior colleges in the CUNY system. Baruch offers undergraduate and graduate programs of study through its three schools: the School of Business, the School of Arts and Science, and the School of Public Affairs. The college also offers non-degree and certificate programs through its Division of Continuing and Professional Studies. Currently, Baruch has an enrollment of approximately 12,500 undergraduate students.

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 preliminary audit findings to HESC, SED and Baruch officials for their review and comments. We have considered their comments in preparing this draft audit report.

## **Audit Scope, Objective, and Methodology**

The objective of our performance audit was to determine whether Baruch'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 a review of the process HESC follows in determining the amount of such awards.

According to HESC records, Baruch officials certified 33,168 TAP awards totaling \$47,824,361 that were paid on behalf of 10,448 undergraduate students during the three academic years that ended June 30, 2006. We reviewed a statistical sample of 150 awards totaling \$213,636 that were made to 150 undergraduate 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 we plan and perform our audit to adequately assess those operations of Baruch that are included within our audit scope. These standards also require that we review and report on Baruch's internal control system and its compliance with those laws, rules, and regulations that are relevant to Baruch'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 Baruch, 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.

Baruch's management is responsible for complying with the Law and the Regulations. In connection with our audit, we performed tests of Baruch'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 Baruch's overall compliance with such provisions. Our audit found that, for the transactions and records tested, Baruch 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 auditing standards. In our opinion, these management functions do not affect our ability to conduct independent audits of program performance.

### **Audit Results**

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

<b><u>Reasons for Disallowances</u></b>	<b><u>Number of Awards</u></b>	<b><u>Amount</u></b>	<b><u>Total</u></b>
<b>Disallowances from the Statistical Sample:</b>			
Students Not in Good Academic Standing	5	\$ 8,818	
Student Not in Full-Time Attendance	1	2,000	
Student Not Meeting Residency Requirements	1	2,000	
Student Not Meeting Citizenship Requirements	<u>1</u>	<u>1,512</u>	
Total Disallowances from the Sample Period	<u>8</u>	<u>\$14,330</u>	
Projected Amount			\$1,340,496

### **Disallowances from Outside the Statistical Sample Period:**

Student Not in Good Academic Standing	1	\$ 1,950	
Student Not in Full-Time Attendance	<u>1</u>	<u>2,000</u>	
Total Disallowances from Outside the Sample Period	<u>2</u>	<u>\$ 3,950</u>	<u>3,950</u>
Total Audit Disallowance			<u>\$1,344,446</u>

The disallowances are discussed in the following paragraphs. Students' names and related information were provided separately to Baruch officials.

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

*Criteria* - Section 665 of the New York State Education Law (Law) requires that students 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 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. However, good academic standing can be regained if the deficiencies are made up at the student's own expense, a one-time TAP waiver is obtained, the student remains out of school for at least one calendar year, or transfers to another institution.

SED's CEO No. 84-07 requires a student to declare a major no later than the beginning of the junior year in a baccalaureate program to be considered matriculated for financial aid purpose. Baruch classifies a student as a junior when the student completes 60 credit hours.

*Audit Determination* - We disallowed six awards (five awards from our statistical sample period and one from outside this period) paid on behalf of six students who did not maintain good academic standing. Five students did not earn passing or failing grades in enough courses creditable to their degree to meet the pursuit of program requirements. The other student did not earn the minimum number of credits required to maintain TAP eligibility. Since these students did not make up the deficiencies at their own expense, did not receive TAP waivers, or did not remain out of school for one year, they were not eligible for these TAP awards.

*School Officials' Position* - School officials agree with the disallowances for five of the students. However, school officials disagree with the disallowances for the other student. Details for this student are as follows:

- School officials believe the student took courses that were creditable towards the student's liberal arts degree and therefore, maintained good academic standing.

*Auditors' Comments* - We disagree with school officials' comments as follows:

- Baruch requires a student to declare a major by the time the student earns 60 credits. The student's transcript shows that the student earned over 60 credits and declared a Computer Information Science major for the fall 2005 semester. Since the student did not take courses consistent with the declared major, the student did not maintain

good academic standing and was not eligible for the subsequent TAP award. In their response, school officials state that the student actually declared a Liberal Arts major. However, Baruch does not offer a Liberal Arts major.

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

*Criteria* - Section 661 of the Law requires that students 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 semester hours during a semester of not less than 15 weeks.

SED's Memorandum to Chief Executive Officers No. 86-17 states that "basic to the payment of State student aid is the requirement 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."

*Audit Determination* - We disallowed two awards (one award from our statistical sample period and one from outside this period) paid on behalf of one student who did not meet the full-time requirement. This student enrolled in courses that were not creditable toward the degree in which the student was enrolled.

*School Officials' Position* - School officials disagree with these disallowances. School officials contend that the student's transcript does not show that the student declared a major in Finance. They also contend that since the student was not required to declare a major until the student earned 60 credits, the courses the student took were creditable towards the student's degree. As such, the officials believe the student maintained good academic standing and was eligible for the TAP awards we are disallowing.

*Auditors' Comments* - We agree that the student did not need to declare a major until the student earned 60 credits. However, the student chose to declare a major before earning 60 credits. Once the student declares a major, the student needs to take courses consistent with the declared major. Since the student did not take courses consistent with the declared major, the student was not full-time and was not eligible for the TAP award. These documents also show that the "major code" on the student's transcript indicates a major in Finance.

### **Student Not Meeting Residency Requirements**

*Criteria* - Section 661 of the 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 for which an award is made, or be a legal resident of New York State during the last two semesters of high school. Furthermore, according to HESC's Manual of Programs and Procedures "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 New York State awards for any student whose State residency is suspect.

*Audit Determination* - We disallowed one sample term award paid on behalf of one student who did

not meet the New York State residency requirement. Records provided by the student indicate that the student was a dependent of a parent that lived in another State.

School Officials' Position - School officials disagree with this disallowance. The officials stated that they are waiting for documentation from a school the student previously attended; that they believe will show the student was a New York State resident. While the student did attend a two-year CUNY community college, the student did not receive any TAP awards at this school.

Auditors' Comments - School officials have yet to provide us with any documentation that shows the student met the New York State residency requirement.

### **Student Not Meeting Citizenship Requirements**

Criteria - 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.

Audit Determination - We disallowed one sample term award paid on behalf of one student who did not meet the citizenship requirement since the student only had a non-immigrant visa at the time the TAP payment was made.

School Officials' Position - School officials agree with this disallowance.

### **Recommendation to the Higher Education Services Corporation**

*Recover the \$1,344,446 plus applicable interest from Baruch College for its incorrect TAP certifications.*

### **Recommendation to the State Education Department**

*Ensure that Baruch officials comply with the State Education Department requirements relating to good academic standing, full-time attendance, residency and citizenship.*

Major contributors to this report were Dennis Buckley, Mostafa Kamal, Joseph Giaimo, Yelena Feldman and Brenda Maynard.

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

Very truly yours,

Kenneth I. Shulman  
Audit Manager

cc: Dr. Kathleen M. Waldron, Baruch College  
Mary Finnen, Baruch College  
Gordon Taylor, CUNY  
Tom Lukacs, Division of the Budget