

THOMAS P. DiNAPOLI  
STATE COMPTROLLER



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

October 8, 2009

Dr. David Steiner  
Commissioner  
State Education Department  
State Education Building, Room 408  
89 Washington Avenue  
Albany, New York 12234

Ms. Elsa Magee  
Acting President  
Higher Education Services Corporation  
99 Washington Avenue  
Albany, New York 12255

Re: Technical Career Institutes  
Report 2008-T-3

Dear Dr. Steiner and Ms. Magee:

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 Technical Career Institutes (TCI) for the 2004-05 through 2006-07 academic years.

**Summary Conclusions**

In accordance with Article 14, Section 665(3)(b) of the New York State Education Law (Law), we determined that TCI was overpaid \$593,302 because school officials incorrectly certified 7 students as eligible for 16 TAP awards. We tested the accuracy of the 15,988 TAP certifications the school awarded for the three-year period ended June 30, 2007, by reviewing a statistical sample of 200 randomly-selected awards. From our statistical sample, we disallowed 8 awards totaling \$17,640. 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 \$578,843. We also disallowed 8 awards totaling \$14,459 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 \$593,302 (\$578,843 and \$14,459) plus applicable interest, from TCI.

## **Background**

TCI was established in 1909 as RCA Institute, and was renamed TCI in 1997. Today, TCI offers certificate and associate degree programs in business, the health professions, and the physical sciences. Currently TCI has an enrollment of more than 4,000 students. The tuition during the academic year 2008-09 was approximately \$4,600 per semester. Students are offered three 15-week semesters each academic year. Approximately 94 percent of TCI's freshmen received some type of financial assistance.

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 a copy of this report in draft to HESC, State Education Department (SED) and TCI 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 TCI'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, TCI officials certified 15,988 TAP awards totaling more than \$32 million that were paid on behalf of 7,568 undergraduate students during the three academic years that ended June 30, 2007. We reviewed a statistical sample of 200 awards totaling \$412,947 that were made to 197 undergraduate students during that period. We also reviewed other awards that came to our attention during the audit.

In planning and performing our audit of TCI, 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.

TCI's management is responsible for complying with the Law and the Regulations. In connection with our audit, we performed tests of TCI'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 TCI's overall compliance with such provisions. Our audit found that, for the transactions and records tested, TCI generally complied with these provisions, except as noted in the following sections of this report.

We conducted our performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our

audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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>Reason for Disallowance</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 Matriculated	7	\$15,140	
Students Not in Good Academic Standing	<u>1</u>	<u>2,500</u>	
Total Disallowances from the Sample Period	<u>8</u>	<u>\$17,640</u>	
Projected Amount			\$578,843
<b>Disallowances from Outside the Statistical Sample Period:</b>			
Students Not Matriculated	8	\$14,459	
Total Disallowances from Outside the Sample Period	8	\$14,459	<u>\$14,459</u>
Total Audit Disallowance			<u>\$593,302</u>

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

### **Students Not Matriculated**

*Criteria* - Section 661 of the Law requires students who received their first financial aid payment in academic year 1996-97 through academic year 2006-07 to have a high school diploma or its equivalent, or to have achieved a passing score, as determined by the United States Secretary of

Education, on a federally approved examination - referred to as Ability-to-Benefit (ATB) test. Beginning in academic year 2007-08, students without a high school diploma or a Graduate Equivalency Diploma (GED) from the United States must pass an approved ATB exam to be eligible for State aid as high school diplomas earned outside of the United States are no longer acceptable. Section 661 also states that students must have a certificate of graduation from a school providing secondary education.

TCI requires applicants to submit evidence of high school graduation or its equivalent, or to demonstrate their ability to benefit from higher education by passing an ATB test. An "equivalent" generally means a GED which is described in the Commissioner of Education's Rules and Regulations section 100.7 (a)(2)(iii) as amended in 1999 and in 2004. With regard to the ATB test, TCI administers and grades three federally-approved ATB tests; the Combined English Language Skills Assessment (CELSA) test, Career Programs Assessment Test (CPAt) and the Accuplacer test. Students not achieving a passing score on one of these tests would not qualify for TAP awards.

According to Title 34 of the Code of Federal Regulations, the CELSA can be used to determine the ability-to-benefit of a non-native student who will be enrolled solely in an English as a Second Language (ESL) program, as well as a student who is enrolled in a postsecondary educational program that is taught in English and has an ESL component in which the student is also enrolled. Additionally, the test must be administered according to test publisher guidelines.

Section 145-8.4(b)(1) and Subpart 52.2(d)(2) of the Commissioner's Regulations both outline the need for the schools to only accept and maintain appropriate credentials which document that students have the ability to benefit from the instruction they will receive. This can only be achieved when the school's admission office is aware of the country-specific high school graduation requirements which impact the acceptability of such credentials.

To be eligible for admission to a New York State college a student that graduates from a high school in a Caribbean country also needs to have passed either the Caribbean Examinations Council (CXC) examination or the General Certificate of Education (GCE) "O" Level examination. Similarly, a student that graduates from a high school in Liberia needs to have passed the West African Examination Council examination.

Section 100.09 of the Commissioner's Regulation addresses issues related to high school Individualized Education Program (IEP) diplomas. An IEP diploma signifies that the recipient attended high school and met the goals stated in his or her Individual Education Plan. According to SED and HESC officials, IEP students need to obtain a high school diploma or its equivalent, or pass an ATB test to qualify for TAP awards. IEP diplomas do not qualify a student for such aid.

*Audit Determination* - We disallowed 15 awards (7 from our statistical sample period and 8 from outside this period) paid on behalf of 6 students who were not properly matriculated. Additional details are provided below:

- One student did not show proof of having passed a West African Examination Council exam. Since the student attended high school in Liberia, proof of passing this exam is required for admission to a New York State college.

- Four students did not show proof of having taken or passed either a CXC, or a GCE exam. Since the students attended high schools in Caribbean countries, proof of passing one of these exams is required for admission to a New York State college.
- One student was admitted to TCI based on an IEP diploma. Since an IEP diploma is not the equivalent of a high school diploma or a GED certificate, it does not qualify a student for TAP awards.

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

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

Criteria - Section 665 of the Education 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 who fails to maintain good academic standing loses subsequent 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.

Audit Determination - We disallowed one award from our statistical sample period paid on behalf of a student who was not in good academic standing. This student was required to earn at least nine credits applicable to the student's program prior to receiving the third TAP award. Since this student only earned seven credits prior to the third TAP payment, the student was not in satisfactory academic progress. Since the student did not make up the deficiencies at the student's own expense, did not receive a TAP waiver, or did not remain out of school for one year, the student was not eligible for this TAP award.

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

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

*Recover the \$593,302 plus applicable interest from TCI for its incorrect TAP certifications.*

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

*Ensure that TCI officials comply with the State Education Department requirements relating to matriculation and good academic standing.*

Major contributors to this report were Dennis Buckley, Harry Maher, Yelena Feldman and Danielle Marciano.

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

Very truly yours,

Steven E. Sossei  
Audit Director

CC: Dr. James F. Melville, Jr., Technical Career Institutes  
Tom Lukacs, Division of the Budget



September 18, 2009

Mr. Steven E. Sossei  
Audit Director  
Office of the State Comptroller  
Division of State Government Accountability  
110 State Street, 11<sup>th</sup> Floor  
Albany, New York 12236

RE: Technical Career Institute  
TAP Audit No.: (2008-T-3)

Dear Mr. Sossei:

HESC has reviewed the New York State Comptroller's (OSC) working draft TAP Audit Report No. 2008-T-3 regarding Tuition Assistance Program (TAP) payments at Technical Career Institute for the 2004 – 2005 through 2006 – 2007 academic years. HESC offers the following comments:

The two disallowance areas are State Education Department (SED) regulatory issues: Students Not in Good Academic Standing and Students Not Matriculated. As these matters involve the interpretation of SED regulations, HESC will defer to SED's response

Thank you for your consideration of these comments.

Sincerely,

A handwritten signature in black ink that reads 'Joseph A. Bradley'. The signature is written in a cursive style with a large, sweeping initial 'J'.

Joseph A. Bradley  
Director, Office of Counsel &  
Regulatory Compliance