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STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

September 27, 2012

Dr. John King, Jr.
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: Audit of the Tuition Assistance
Program at The New School
Report 2010-T-5

Dear Dr. King and Ms. Magee:

The Office of the State Comptroller audits postsecondary institutions to verify that only eligible students receive State-funded Tuition Assistance Program (TAP) awards. The objective of this audit was to determine whether The New School management complied with the Education Law and the Commissioner of Education's Rules and Regulations when certifying students for TAP awards.

Summary

We determined that The New School was overpaid \$245,653 because school officials incorrectly certified students as eligible for Tuition Assistance Program awards. We tested the accuracy of the school's certifications¹ for the three-year period ended June 30, 2009, by reviewing a sample of 150 randomly-selected awards. From the sample, we disallowed 12 payments totaling \$22,453 for a variety of reasons, including payments for students who were not in good academic standing or who did not meet residency requirements.

Our projection² of these 12 awards to the school's payment population for the three-year period results in an audit disallowance of \$224,517. We also disallowed 12 awards totaling

¹The New School certified 2,871 TAP awards for the academic years 2006-07 through 2008-09.

²A 95-percent single-sided confidence level was used.

\$21,136 from outside the three-year period. Therefore, we recommend that the Higher Education Services Corporation (HESC) recover \$245,653, plus applicable interest, from The New School.

Background

The New School (New School) is an independent, nonprofit, coeducational institution of higher education, founded in 1919. Originally devoted to exploring the pressing social, political, and economic problems of the day, New School has since expanded its focus to embrace the arts and culture. The school offers programs in the visual and performing arts, liberal arts, social sciences, and management and urban policy. New School comprises eight schools, each with its own history and program offerings. In addition to its main campus in Greenwich Village, the school has other instruction sites throughout Manhattan. New School's current enrollment is approximately 10,500 students. Tuition fees are per credit or on a semester basis, depending on the school. Schools charge from \$970 to \$1,645 per credit, while the semester rate is about \$18,000.

TAP is the largest of the various student grant and scholarship programs HESC administers. It is an entitlement program designed to provide funds for paying tuition costs to eligible students. Schools receiving TAP payments certify student eligibility.

We provided a draft copy of this report to HESC, the State Education Department (SED) and New School officials for their review and comment. We have considered their comments in preparing this audit report.

Audit Results

The following table summarizes the disallowed payments:

| Disallowed Payments During the 3-Year Sample Period | | |
|--|------------------|------------------------|
| Reason | Awards | Amount |
| Students Not Matriculated | 5 | \$11,390 |
| Students Not in Good Academic Standing | 4 | 8,177 |
| Students Not Meeting Residency Requirements | 2 | 2,636 |
| Student with Overcertified Tuition | 1 | 250 |
| Award Not Fully Credited to the Student's Account | <u>1</u> | <u>25</u> |
| Total Disallowance from the Sample Period | 13 | \$22,478 |
| Minus: Award Disallowed for Multiple Reasons | <u>(1)</u> | <u>(25)</u> |
| Net Disallowance from the Sample Period | <u>12</u> | <u>\$22,453</u> |
| Projected Amount for the Sample Period | | \$224,517 |

| Disallowed Payments Outside the 3-Year Sample Period | | |
|---|------------------|------------------------|
| Reason | Awards | Amount |
| Student Not Matriculated | 1 | \$ 2,462 |
| Students Not in Good Academic Standing | 3 | 6,899 |
| Students Not Meeting Residency Requirements | 2 | 2,975 |
| Student with Overcertified Tuition | 1 | 2,302 |
| Awards Not Fully Credited to the Students' Accounts | 5 | 6,498 |
| Student Not in Full-Time Attendance | <u>1</u> | <u>1,212</u> |
| Total Disallowance from Outside the Sample Period | 13 | \$22,348 |
| Minus: Award Disallowed for Multiple Reasons | <u>(1)</u> | <u>(1,212)</u> |
| Net Disallowance from Outside the Sample Period | <u>12</u> | <u>\$21,136</u> |

| Total Disallowance | |
|--|-------------------------|
| Total Disallowance (Projected Amount + Net Disallowance from Outside the Sample Period) | <u>\$245,653</u> |

The disallowed payments are discussed in the following paragraphs. Student names and related information were provided separately to school officials.

Students Not Matriculated

Section 661 of the State Education Law (Law) requires that students who received their first financial aid payment in the 2006-07 academic year must have a certificate of graduation from a United States high school or the equivalent, or must have achieved a passing score on a federally-approved examination that has been independently administered and evaluated.

Section 100.7(a)(2) (iii) of the Commissioner of Education's Rules and Regulations (Regulations) states that a student can earn the equivalent of a high school diploma by completing 24 semester hours in specified subjects at an approved institution.

We disallowed six awards (five from our statistical sample period and one from outside the period) paid on behalf of three students who were not properly matriculated. All three students attended high schools in foreign countries and received their first State financial aid in the 2006-07 academic year. We did not see evidence that they passed a GED or federally-approved examination.

New School officials agreed with the disallowances for two students. They stated that the third student completed 90 credits at the University of Macau and that these courses should serve as the equivalent of a GED or federally-approved examination. We forwarded the student's prior institution transcript to SED for review. SED officials concluded that the student did not complete 24 credits in the specified subjects. As the student did not earn the equivalent of a high school diploma, we are disallowing her three award payments.

Students Not in Good Academic Standing

Section 665(6) of the 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. 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 eligibility. Students can regain good academic standing by making up the deficiencies at their own expense, obtaining a TAP waiver, remaining out of school for at least one calendar year, or transferring to another institution.

We disallowed seven awards (four from our statistical sample period and three from outside the period) that had been paid on behalf of six students who did not maintain good academic standing. All six students did not earn passing or failing grades in enough courses applicable to their designated program of study.

New School officials agreed with the disallowances paid on behalf of three students. They disagreed with the disallowances for the three other students as follows:

- One student did not complete the minimum course load because she had enrolled in a course not necessary for her program of study. School officials explained that students are encouraged to seek out elective and internship opportunities. However, this student enrolled in an internship that was an elective for her program and she had already completed her elective credit requirement.

- Another student took two courses for which she had already earned credit at a previous postsecondary institution. New School accepted these courses as transfer credits, but school officials explained that the student subsequently changed her major and the new department would not accept the transferred courses as equivalent. The student was therefore required to take the courses again. However, because the student's New School transcript already includes the transfer credit for these two specifically-identified courses, these courses cannot be counted toward the minimum course load.
- The last student completed 19 credits during fall 2006; but only nine were applicable to her program. She needed to complete 12 credits applicable to her program to be eligible for a TAP award. School officials stated that the student met the 12-credit requirement, as the 19 credits included some prerequisites for a required course. However, the student had taken and passed the prerequisites prior to fall 2006.

Students Not Meeting Residency Requirements

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. For State financial aid purposes, an individual cannot acquire status as a permanent resident of New York by merely being a student. Attendance at an educational institution, albeit a continuous and long-term experience is interpreted as temporary residence; therefore, a student neither gains nor loses residence status solely by such attendance.

HESC's Manual of Programs and Procedures stipulates that institutions should not certify eligibility for State awards for any student whose New York State residency is questionable. We disallowed four awards (two from our statistical sample period and two from outside the period) paid on behalf of two students whose New York State residency was questionable – and therefore should not have been certified. One student had graduated from a high school in Minnesota in June 2000 and attended another school in that state from 2000 to 2002. His admission application for New School, dated September 2004, bore a Minnesota address. The student began attending New School in spring 2005 - less than a year later.

The other student reportedly attended high school in South Korea and attended Bergen Community College in New Jersey until May 2007. The student indicated on her September 2007 enrollment application that her permanent address was in Queens but her mailing address was in New Jersey. The student's acceptance letter and New School transcript have the same New Jersey address. The student began attending New School in spring 2008. We forwarded this student's information to HESC officials to obtain their opinion on the residency status of the student. They concluded that the school should have questioned this student's residency before certifying her for awards.

New School officials disagreed with these disallowances stating that HESC verified the students' incomes with the New York State Department of Taxation and Finance and that that action confirms the students' New York residency. However, HESC has advised schools that

students may perform many acts required by law such as paying taxes, but that such acts alone are not sufficient evidence of New York residence. HESC further advises that when there is on-campus information that reflects negatively on a student's claim of New York residency, such as a non-New York high school diploma or the student has used an out of state address, schools must review the student's eligibility and document their decision.

Students with Overcertified Tuition

Section 2205.3(b) of the Regulations requires that participating institutions certify to HESC the actual amount of tuition charged each student receiving a TAP award.

We disallowed two awards (one from our statistical sample period and one from outside the period). These awards were paid on behalf of two students for whom the school reported tuition amounts to HESC, but these students had not been charged any tuition. TAP awards are intended to meet part of a student's tuition charges and cannot exceed the student's tuition liability.

New School officials agree with these disallowances.

Awards Not Fully Credited to Students' Accounts

Section 2205.3(e)(1)(iii) of the Regulations requires that each student's account be credited within seven days after the receipt of a State financial aid award or within seven days from the date the applicant incurred a full tuition liability for the semester, whichever is later.

We disallowed six awards (one from our statistical sample period and five from outside the period) that had not been fully credited to the accounts of six students. Since New School did not distribute the funds properly so that the students could benefit from them, we are disallowing the undistributed portion of these awards.

New School officials agree with these disallowances.

Student Not in Full-Time Attendance

Section 661 of the Law requires the Commissioner of Education to define full-time attendance. Section 145-2.1 of the Regulations states, in part, that full-time study at a degree-granting school is enrollment for at least 12 semester hours for a semester of not less than 15 weeks or its equivalent.

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."

We disallowed one award from outside the statistical sample period. The student enrolled in only 11 credit hours applicable for her program of study.

New School officials agree with this disallowance.

Audit Scope

According to HESC records, New School officials certified 2,871 TAP awards totaling \$4.7 million that were paid to the school for 1,029 students during the three academic years ended on June 30, 2009. We reviewed a statistical sample of 150 TAP awards totaling \$250,377 made on behalf of 135 New School students during that period. We also reviewed other awards outside the three-year period that came to our attention during the audit. Our audit did not include a review of HESC processes to determine student award amounts.

Methodology

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 planning and performing our audit of New School, 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.

New School management is responsible for complying with the Law and Regulations. In connection with our audit, we performed tests of New School 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 New School overall compliance with such provisions. Our audit found that, for the transactions and records tests, New School generally complied with these provisions, except as noted in 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 accounting standards. In our opinion, these functions do not affect our ability to conduct independent audits of program performance.

Authority

Article V, Section 1 of the State Constitution; Article II, Section 8 of the State Finance Law; and Article XIV, Section 665(3) of the State Education Law authorize the State Comptroller

to audit the Tuition Assistance Program.

Contributors to the Report

Major contributors to this report were Cindi Frieder, Gene Brenenson, Ryan Wendolowski, Legendre Ambrose, Dana Bitterman, and Yelena Feldman.

Recommendations to the Higher Education Services Corporation

1. *Recover \$245,653, plus applicable interest, from New School, for its incorrect TAP certifications.*
2. *Ensure New School officials comply with requirements relating to certifying accurate tuition amounts, crediting TAP awards and verifying students' residency.*

Recommendation to the State Education Department

Ensure New School officials comply with the State Education Department requirements relating to matriculation, full-time attendance, and good academic standing cited in this report.

We express our appreciation to management and staff of New School for the courtesies and cooperation extended to our auditors during this audit.

Very truly yours,

John F. Buyce, CPA, CIA, CGFM
Audit Director

cc: David Van Zandt, The New School
William Kimmel, The New School
Tom Lukacs, Division of the Budget