

THOMAS P. DiNAPOLI
STATE COMPTROLLER



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STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

December 7, 2009

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

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

Re: ASA Institute of Business and
Computer Technology
Report 2008-T-4

Dear Mr. 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 ASA Institute of Business and Computer Technology (ASA) 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 ASA was overpaid \$649,009 because school officials incorrectly certified 8 students as eligible for eleven TAP awards. We tested the accuracy of the 17,596 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 \$17,780. 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 \$641,768. We also disallowed 3 awards totaling \$7,241 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 \$649,009 (\$641,768 and \$7,241) plus applicable interest, from ASA.

Background

ASA Institute of Business and Computer Technology (ASA) was founded in 1985 as a registered postsecondary business school. In 1999, the State Education Department (SED) authorized ASA to award the Associate in Occupational Studies (A.O.S.) degree and certificates in the fields of business, health professions, and physical sciences. In 2005, SED authorized ASA to confer the Associate in Applied Science (A.A.S.) degree in Health Information Technology and Criminal Justice. Since March 2005, ASA has been waiting to be accredited with the Commission on Higher Education of the Middle States Association of Colleges and Schools.

ASA's main campus is in Brooklyn, New York. Its only extension center was approved in May 2005 and is located in Manhattan. Seventeen of ASA's programs are approved for State financial aid eligibility. Currently, ASA has about 3,000 full and part-time students and its tuition per semester is approximately \$5,600.

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, SED and ASA 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 ASA'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, ASA officials certified 17,596 TAP awards totaling more than \$38 million that were paid on behalf of 7,403 undergraduate students during the three academic years that ended June 30, 2007. We reviewed a statistical sample of 200 awards totaling \$440,374 that were made to 198 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 ASA, 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.

ASA's management is responsible for complying with the Law and the Regulations. In connection with our audit, we performed tests of ASA'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 ASA's overall compliance with such provisions. Our audit found that, for the transactions and records tested, ASA 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:

<u>Reason for Disallowance</u>	<u>Number of Awards</u>	<u>Amount</u>	<u>Total</u>
Disallowances from the Statistical Sample:			
Students Not Matriculated	7	\$15,280	
Students Not Meeting Accelerated TAP Requirement	<u>1</u>	<u>2,500</u>	
Total Disallowances from the Sample Period	<u>8</u>	<u>\$17,780</u>	
Projected Amount			\$641,768
Disallowances from Outside the Statistical Sample Period:			
Students Not Matriculated	3	\$7,241	
Total Disallowances from Outside the Sample Period	3	\$7,241	<u>\$7,241</u>
Total Audit Disallowance			<u>\$649,009</u>

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

On October 11, 2002, SED issued CEO No. 02-06 which addresses issues related to high school completion. SED agreed to accept affidavits provided that institutions assure that the affidavits are obtained at the time of admission and are signed by the student, dated, and notarized. According to CEO No. 02-06, affidavits will be acceptable (1) to substantiate attendance at foreign institutions when there is documented evidence that an effort was made to obtain a credential but extenuating circumstances prevented access, and (2) when circumstances such as a natural disaster, fire, or closing of a school prevent access to high school records. CEO No. 02-06 also states that all foreign diplomas must be translated in English. In addition, according to other SED guidelines, a mere translation of a diploma is not acceptable for matriculation purposes. Foreign diplomas should also be evaluated by a professional evaluation service if there is any question on whether the foreign diploma is equivalent to a United States high school diploma.

SED's CEO 05-04, which went into effect on September 30, 2004, states that when a student has completed a high school program through correspondence study, the correspondence school must be recognized, authorized, or approved by the state educational entity where the correspondence school is located. It also states that the validation of the correspondence study program in the form of regional accreditation adds to the acceptability of such credentials.

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. A student that receives a "certificate of completion of education" in Poland must also pass a national administered exam.

Audit Determination - We disallowed 10 awards (7 from the statistical sample period and 3 from outside this period) paid on behalf of 7 students who were not properly matriculated. Additional details are provided below:

- Two of these students were admitted to ASA prior to academic year 2007-08 and did not show valid proof of completing high school. One student provided academic credentials from a foreign country that were not the equivalent of United States high school credentials as these credentials showed the student only completed the 10th grade. The other student provided credentials that show that the student completed school and obtained a diploma. However, this student did not show proof that the student passed a matriculation exam required in Poland for high school graduation and eligibility for post secondary education.
- Four students submitted affidavits stating that they had graduated from high school. However, these students graduated from foreign countries where the students were required to pass an independently administered national examination to be considered high school graduates. None of the affidavits for these students indicated that the students passed the required exam. ASA officials also could not provide any other evidence that indicates the students passed the exam.
- One student provided a certificate from a correspondence school located in the state of Georgia. This school was not approved by the state's education department and was also not regionally or nationally accredited.

School Officials' Position -School officials did not address the issues concerning three of the seven students in their response to the draft report. For the four students that submitted affidavits, ASA officials believe that when the students completed their affidavits attesting that they earned diplomas this indicated that the students completed all requirements for obtaining a high school diploma, including passing the independently administered national exam.

Auditors' Comments –We do not believe that when students submit affidavits they are attesting to meeting all the requirements for earning a diploma, especially from certain countries that have additional requirements for post secondary education eligibility. Section 661 of the Law requires students to have a high school diploma or its equivalent to be eligible for State aid. Students receiving diplomas from foreign countries are often required to pass nationally administered exams before students are considered high school graduates and eligible for post secondary education. These students did not show proof they passed the required exam. Therefore, they were not eligible for their awards.

Students Not Meeting Accelerated TAP Payment Requirements

Criteria - The Education Law, under certain circumstances, permits an additional “accelerated” TAP payment in a calendar year, over and above the regular annual award. Section 665(2)(c) of the Education Law states that a student may qualify for a TAP award for accelerated study upon completion of at least twenty-four credits, or its equivalent in the two immediately preceding consecutive semesters. These twenty-four credits may include the equivalent of three semester hours of remedial course work per semester. Section 145-2.9 of the Regulations also states that students

must have earned twenty-four semester hours in the two immediately preceding consecutive semesters to be eligible to receive TAP awards for accelerated study.

In addition to the regulations, HESC provided guidance to schools on how they should evaluate academic terms for accelerated study. According to HESC, for schools whose summer term is not part of the regular academic year, the summer 2007 term is the first term that needs to be evaluated for accelerated study. For schools that have continuous enrollment, which allows students to attend three semesters in a calendar year, the spring 2007 term would be the first term that needs to be evaluated. Since ASA has continuous enrollment, the spring 2007 term is the first term that should be evaluated for accelerated TAP payments.

Audit Determination - We disallowed one sample term award paid on behalf of one student that was not eligible for an accelerated TAP award for the spring 2007 term. This student was not eligible for this award since the student did not earn the required twenty-four credits in the two immediately preceding consecutive semesters.

School Officials' Position - ASA officials disagree with this disallowance. The officials contend that the spring 2007 term would not be considered an accelerated term since in this term the student received a fourth consecutive TAP award. As such, the student was not required to earn twenty-four credits in the two immediately preceding consecutive semesters to qualify for this award.

Auditors' Comments - According to HESC officials, the spring 2007 term was an accelerated term. The fact that the student earned three TAP awards prior to the spring 2007 term has no impact on determining whether the spring 2007 term was accelerated. Therefore, the student was required to earn twenty-four credits in the two immediately preceding consecutive semesters. Since the student did not earn the required twenty-four credits, the student was not eligible for this award.

Other Matter Needing Attention - Accuracy of Transcripts

The following does not result in an audit disallowance. However, it pertains to a control issue that ASA officials should address.

Criteria - Section 52.2(e)(6) of the Regulations requires institutions to “maintain for each student a permanent, complete, accurate, and up-to-date transcript of student achievement at the institution. This document will be the official cumulative record of the student’s cumulative achievement.”

SED’s Chief Executive Officer’s Memorandum No. 02-06 states that when a student repeats a course, the subsequent grade can either replace or be averaged with the prior grade in the cumulative grade point average from the term in which the course is repeated forward. The cumulative grade point average cannot be recalculated retroactively to the term when the student first took the course, as if the student had originally earned the subsequent grade.

Audit Determination - When a student repeats a course previously failed, or earns a higher grade after repeating a course, ASA’s policy is to exclude the original grade and recalculate the student’s

cumulative grade point average retroactively to the term in which the original grade was earned. As a result, ASA is incorrectly reporting the cumulative grade point average on the transcripts for these students.

Auditors' Comments - School officials did not respond to this issue.

Recommendation to the Higher Education Services Corporation

Recover the \$649,009 plus applicable interest from ASA for its incorrect TAP certifications.

Recommendation to the State Education Department

Ensure that ASA officials comply with the State Education Department requirements relating to matriculation, accelerated TAP and accuracy of transcripts.

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

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

Very truly yours,

Steven E. Sossei
Audit Director

CC: Alex Shchegol, ASA Institute of Business and Computer Technology
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, 11th Floor
Albany, New York 12236

RE: ASA Institute of Business and
Computer Technology
TAP Audit No.: (2008-T-4)

Dear Mr. Sossei:

HESC has reviewed the New York State Comptroller's (OSC) working draft TAP Audit Report No. 2008-T-4 regarding Tuition Assistance Program (TAP) payments at ASA Institute of Business and Computer Technology for the 2004 – 2005 through 2006 – 2007 academic years. HESC offers the following comments:

One disallowance area is a State Education Department (SED) regulatory issue: Students Not Matriculated. As this matter involves the interpretation of SED regulations, HESC will defer to SED's response.

The second disallowance area, Students Not Meeting Accelerated TAP Requirements is both a SED regulatory issue and an issue that HESC has offered additional guidance based on statute. HESC agrees with the interpretation of OSC on the accelerated term disallowance as noted in this report.

HESC will defer to SED's response to the other matter needing attention that was cited in this draft: Accuracy of Transcripts.

Thank you for your consideration of these comments.

Sincerely,

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



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DEPUTY COMMISSIONER FOR OPERATIONS
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September 28, 2009

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

Dear Mr. Sossei:

The following is the New York State Education Department's (SED) response to the Office of the State Comptroller's draft audit report (2008-T-4) on the administration of the Tuition Assistance Program (TAP) at ASA Institute of Business and Computer Technology (ASA). We agree with the auditor's findings disallowing TAP awards as a result of students not matriculated and students not meeting accelerated TAP payment requirements. Additionally, we agree with the auditor's determinations regarding control issues that ASA officials should address to ensure accuracy of student transcripts.

Our response to the recommendation addressed to the Department is below.

Recommendation to the State Education Department – Ensure that ASA officials comply with the State Education Department requirements relating to matriculation, accelerated TAP and accuracy of transcripts.

We agree with this recommendation. The State Education Department will provide guidance to ASA officials to ensure that the institution complies with requirements for the proper administration of State student financial aid.

Questions regarding this matter should be directed to Kathleen Clarity in the Teacher Development Programs Unit of the Office of K-16 Initiatives and Access Programs at (518) 486-6042 or via E-mail to kclarity@mail.nysed.gov.

Sincerely,

Theresa E. Savo

c: Kathleen Clarity
James Conway
Richard Rose