HESC
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Financial Resources

CEO: 12-07

To: Chief Executive Officers/Presidents of Institutions of Higher Education

From: Barbara Hochberg, Director of Grant and Scholarship Programs
New York State Higher Education Services Corporation (HESC)

Date: December 3, 2012

Subject: Financial Resources

The enacted 2011-12 New York State Budget amended the New York State Education Law to expand participation in the Tuition Assistance Program ("TAP") to certain full-time resident undergraduate students not previously eligible for awards. As a result, formerly ineligible students attending your institution may now be eligible for TAP awards.

This Memorandum describes the standards used to determine whether an educational institution possesses the financial resources necessary to accomplish its mission and the purposes of each program subject to registration pursuant to 8 NYCRR §2408.8 (Program) in order to participate in the TAP program. All terms herein shall have the same meaning as set forth in 8 NYCRR §2400.2. However, any reference to an educational institution in this Memo shall also include any related party contained in the educational institution's audited financial statement as required in CEO Memo 12-06A.

CEO Memo 12-02 provided the standards for the registration of postsecondary curricula as required by 8 NYCRR §2408.9. Pursuant to this Memo, educational institutions must demonstrate that they possess the financial resources necessary to accomplish their mission and the purposes of each Program.

CEO Memo 12-06A, issued on December 3, 2012, contains the requirement that educational institutions provide audited financial statements in order for HESC to evaluate whether an educational institution has satisfied this standard.

This Memo describes the requirements applied to all audited financial statements.

Standards. (a) General Standard. An educational institution possesses the financial resources necessary to accomplish its mission and the purposes of the Program if HESC determines that:

1. The educational institution's Equity, Primary Reserve, and Net Income ratios yield a composite score of 1.5 through 3.0, as provided under 34 C.F.R. §668.172 and appendix B to Title 34, Part 668, Subpart L; and

2. The educational institution is current in its debt payments. An educational institution is not current in its debt payments if-
(i) It is in violation of any existing loan agreement at its fiscal year end, as disclosed in a note to its audited financial statements or audit opinion; or
(ii) It fails to make payment in accordance with existing debt obligations for more than 120 days, and at least one creditor has filed suit to recover funds under those obligations.

If an educational institution's composite score is 1.5 through 2.0, or if HESC determines that a particular event may have inflated the score above 2.0, HESC may require such institution to submit audited financial statements on an annual basis. In the event a participating educational institution's audited financial statement fails to demonstrate that the educational institution possesses the financial resources necessary to accomplish the mission and purpose of the applicable Program, the educational institution may be subject to suspension or termination from program participation or other action taken by HESC as described in Section (c) below. HESC may take any action it deems appropriate, including suspension or termination, for an institution's failure to provide any required annual audited financial statements. A student shall not be held liable for any disallowed funds awarded on his or her behalf as a result of the educational institution's suspension or termination from the program or other action taken by HESC.

(b) Alternative Standard. Notwithstanding the general standard set forth in Section (a) above, for participating educational institutions with a composite score of 1.0 or above, but below 1.5, HESC will consider the institution to have the minimal financial resources necessary to accomplish their mission and the purpose of the Program and will allow the educational institution to continue to participate in the TAP program for no more than three consecutive years under this alternative standard. As a result, the educational institution will be subject to additional monitoring and closer scrutiny to protect the interests of the students and the taxpayers as follows:

1. An educational institution continues to qualify under this alternative standard if, based on the educational institution's audited financial statements for each of its subsequent two fiscal years, the educational institution's composite score is 1.0 or above, but below 1.5.

2. Under this alternative standard, the President:
(i) Requires the educational institution to make disbursements to eligible students under the lump sum payment method described in 8 NYCRR §2411.3(c) and shall be disqualified from the prepayment method described in 8 NYCRR §2411.3(b);

(ii) Requires the educational institution to provide timely information regarding any of the following oversight and financial events:

- (A) Any adverse action, including a probation, or similar action, taken against the educational institution by its accrediting agency or the Secretary;
- (B) Any event that causes the educational institution, or related entity as defined in the Statement of Financial Accounting Standards (SFAS) 57, to realize any liability that was noted as a contingent liability in the educational institution's or related entity's most recent audited financial statement;
- (C) Any violation by the educational institution of any loan agreement;
- (D) Any failure of the educational institution to make a payment in accordance with its debt obligations that results in a creditor filing suit to recover the funds under those obligations; or
- (E) Any extraordinary losses, as defined in accordance with Accounting Principles Board (APB) Opinion No. 30;

(iii) Requires the educational institution to submit its audited financial statements prior to re-registering its Program;

(iv) May conduct periodic audits, program reviews, and/or site visit reviews of the educational institution, which may include mandatory training of appropriate staff;

(v) May notify the Office of the State Comptroller and/or request the Comptroller conduct an audit; and

(vi) May require the educational institution to provide information about its current operations and future plans.

3. Under this alternative standard, the educational institution must, for any oversight or financial event described under Section 2(ii) above, provide the information to the President by certified mail or electronic or facsimile transmission no later than 10 days after that event occurs. An educational institution that provides this information electronically or by facsimile transmission is responsible for confirming that the President received a complete and legible copy of that transmission.

4. If the educational institution fails to comply with the requirements under Sections 2 and 3 above, the President may determine that the educational institution no longer qualifies under this alternative standard.

(c) Administrative Actions. If the President determines that an educational institution does not possess adequate financial resources under the general or alternative standards, or the educational institution does not submit its audited financial statements as required in this CEO Memo or in CEO Memo 12-06A, the President may-

1. Deny any registration or re-registration of a Program;

2. Initiate an action under Part 2404 of Chapter XXII of Title 8 of the New York Codes, Rules, and Regulations to fine the educational institution, or limit, suspend, or terminate the educational institution's participation in the TAP program;

3. Notify the Office of the State Comptroller and/or request the Comptroller conduct an audit;

4. Rescind any conditional approval granted to an institution that has received conditional approval to participate in the TAP program; or

5. Take any other action deemed appropriate based upon the circumstances.