



Amended Guidance Regarding Audited Financial Statements

CEO: 12-06A (supersedes CEO Memo 12-06)

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: Amended Guidance Regarding Audited Financial Statements

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 such awards. As a result, formerly ineligible students attending your institution may now be eligible for TAP awards.

This Memorandum supersedes CEO Memo 12-06 issued on May 24, 2012. The purpose of this Memorandum is to provide guidance with respect to the submission of financial statements related to those programs of study at your institution subject to registration pursuant to 8 NYCRR §2408.8 and §2408.9 (Program). All terms herein shall have the same meaning as set forth in 8 NYCRR §2400.2.

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.

In order to evaluate whether an educational institution satisfies this standard, HESC requires that educational institutions provide a set of audited financial statements for its latest complete fiscal year, as well as any other documentation HESC deems necessary to make a determination, at the time of registration, or re-registration, of its Program.

The standard which HESC utilizes to measure the financial resources of an educational institution is a composite of three ratios HESC derives from the educational institution’s audited financial statements, which gauge the fundamental elements of its financial health. Based on an educational institution’s composite score, HESC may require the institution to submit audited financial statements on an annual basis. For more details, refer to CEO Memo 12-07.

Audited financial statements submitted to HESC must be prepared on an accrual basis in accordance with generally accepted accounting principles, and audited by an independent auditor in accordance with generally accepted government auditing standards, issued by the Comptroller General of the United States and other guidance contained in the Office of Management and Budget Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations or in audit guides developed by, and available from, the U.S. Department of Education's Office of Inspector General, whichever is applicable. Educational institutions which are not subject to the OMB Circular A-133 requirements must submit an exemption letter from the U.S. Department of Education to HESC with the audited financial statements.

As part of these financial statements, the educational institution must include a detailed description of related entities based on the definition of related entity as set forth in the Statement of Financial Accounting Standards (SFAS) 57 and include all related parties for such fiscal year at a level of detail that would enable HESC to readily identify each related party. Such information may include, but is not limited to, the name, location and a description of the related entity including the nature and amount of any transactions between the related party and the educational institution, financial or otherwise, regardless of when such transaction occurred. Based on such disclosure, HESC may also require the submission of audited consolidated financial statements, audited full consolidating financial statements, audited combined financial statements or the audited financial statements of one or more related parties that have the ability, either individually or collectively, to significantly influence or control the educational institution, as determined by HESC. If HESC determines that a combined financial statement is required, HESC may require the other parties to sign the Program Participation Agreement.

Failure to provide audited financial statements with the application for registration, or re-registration, may result in a conditional approval or the denial of the application. Conditional approval will be based on HESC's review of the financial statements submitted by the educational institution in accordance with the standards set forth in CEO Memo 12-07. If conditional approval is granted, educational institutions may have up to six months from the date of such approval to provide the required audited financial statements. After that time, if audited statements have not been provided, the conditional approval will expire and any funds paid will need to be refunded by the educational institution. Additionally, conditional approval will be rescinded if an 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 in accordance with the standards set forth in CEO Memo 12-07. 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 ineligibility due to either the expiration or rescission of such conditional approval.