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# Community Care College's Administration of Title IV Federal Student Aid Programs

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## FINAL AUDIT REPORT



**ED-OIG/A06H0016**  
**August 2009**

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U.S. Department of Education  
Office of Inspector General

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**UNITED STATES DEPARTMENT OF EDUCATION**  
OFFICE OF INSPECTOR GENERAL

AUDIT SERVICES  
Chicago/Kansas City/Dallas Audit Region

August 26, 2009

Teresa Knox  
Chief Executive Officer  
Community Care College  
4242 South Sheridan  
Tulsa, OK 74145

Dear Ms. Knox:

Enclosed is our **final audit report**, Control Number ED-OIG/A06H0016, entitled *Community Care College's Administration of Title IV Federal Student Aid Programs*. This report incorporates the comments you provided in response to the draft report. If you have any additional comments or information that you believe may have a bearing on the resolution of this audit, you should send them directly to the following Education Department official, who will consider them before taking final Departmental action on this audit:

William J. Taggart  
Chief Operating Officer  
Federal Student Aid  
U. S. Department of Education  
Union Center Plaza, Room 112E1  
830 First Street, N. E.  
Washington, D.C. 20002

It is the policy of the U. S. Department of Education to expedite the resolution of audits by initiating timely action on the findings and recommendations contained therein. Therefore, receipt of your comments within 30 days would be appreciated.

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Sincerely,

/s/

Gary D. Whitman  
Regional Inspector General for Audit

Enclosure

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## **Acronyms/Abbreviations Used in this Report**

C.F.R	Code of Federal Regulations
CCC	Community Care College
COO	Chief Operating Officer
Department	U. S. Department of Education
DCL	Dear Colleague Letter
FFEL	Federal Family Education Loan
FSA	Federal Student Aid
HCM2	Heightened Cash Monitoring Two
HEA	Higher Education Act of 1965
IPA	Independent Public Accountant
LDA	Last Date of Attendance
LOA	Leave of Absence
LOC	Letter of Credit
NSLDS	National Student Loan Data System
Pell	Federal Pell Grant

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## EXECUTIVE SUMMARY

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The objectives of our audit were to determine if Community Care College (CCC) complied with selected provisions of the Higher Education Act of 1965, as amended (HEA), and regulations governing (1) student eligibility, (2) recruitment of students and incentive compensation, (3) the return of Title IV aid, (4) disbursements, and (5) the percentage of revenue that may be derived from Title IV, HEA programs (90/10 Rule). Our audit covered the period July 1, 2006, through June 30, 2007 (award year 2006-2007).

During award year 2006-2007, CCC generally complied with the HEA and regulations governing student eligibility for the 25 students in our sample. In addition, CCC generally complied with the recruitment of students and incentive compensation requirements. However, CCC did not comply with the HEA and regulations governing the return of Title IV aid, disbursements, and the 90/10 Rule. Specifically, CCC:

- Incorrectly calculated the amounts it was required to return to Title IV, HEA program accounts, returning \$37,277 less than it should have for the students in our sample. Based on our sample results, we are 90 percent confident that CCC incorrectly calculated the amounts it was required to return for at least 228 (71 percent) of the 321 students who dropped out during award year 2006-2007;
- Untimely determined when students withdrew from CCC, exceeding the 14-day withdrawal determination period for 27 of the 33 (82 percent) students in our sample;
- Untimely returned Title IV, HEA program funds;
- Improperly made late disbursements, resulting in CCC retaining \$7,345 in prohibited loans disbursed to students in our sample. Based on our sample results, we are 90 percent confident that CCC disbursed Title IV, HEA program funds late to students who withdrew, disbursing amounts after the students' last date of attendance (LDA) for at least 144 (45 percent) of the 321 students who received Title IV, HEA program funds and withdrew during the award year 2006-2007;
- Incorrectly prorated disbursements, resulting in excessive awards of \$2,461 for students in our sample; and
- Inaccurately calculated the percentage of revenue it derived from the Title IV, HEA programs.

We recommend that the Chief Operating Officer (COO) for Federal Student Aid (FSA) require CCC to:

- Recalculate all return of Title IV aid calculations for students who withdrew, dropped, or terminated from July 1, 2004, through December 31, 2004, and January 1, 2006, to the present and return all Title IV, HEA program funds owed to the U.S. Department of Education (Department) or lenders, as appropriate, including the \$37,277 identified for the students in our sample, and engage an independent public accountant to attest to the accuracy of the return of Title IV aid recalculations.

- Obtain return of Title IV aid calculation training for any and all personnel responsible for administering the Title IV, HEA programs.
- Identify all late returns of Title IV aid made for students from July 1, 2004, to the present, including the 6 untimely return payments in our sample, and calculate and pay to the Department and lenders, as appropriate, the imputed interest and special allowance costs.
- Identify all late disbursements made to students from July 1, 2004, to the present, including the late disbursements for the students in our sample, and calculate and pay to the Department and lenders, as appropriate, the imputed interest and special allowance costs, including the return of the remaining \$7,345 in prohibited loans kept by CCC that were disbursed late for the students in our sample.
- Review the records for all students who dropped out of school from July 1, 2004, to the present (excluding the 33 students in our sample), identify any who should have required Title IV, HEA program funds proration, and return any over awarded amounts owed to the Department or lenders, as appropriate, including the return of \$2,461 for the students in our sample.
- Develop and implement policies and procedures to provide reasonable assurance that it (1) calculates return of Title IV aid in compliance with the requirements set forth in applicable regulations; (2) determines that a student withdrew no later than 14 days after the student's last date of attendance; (3) meets the return of Title IV aid 45-day requirement; (4) verifies students are still eligible before Title IV disbursements are made; (5) identifies students progressing at a greater than minimum full-time rate and prorate the Title IV, HEA program funds; and (6) ensures the percentage of revenue derived from the Title IV, HEA programs is calculated in accordance with applicable regulations.

We also recommend that the COO for FSA require CCC to post a letter of credit (LOC) commensurate with the untimely return of Title IV aid described in Finding No. 3.

We provided a draft of this report to CCC for review and comment on April 9, 2009. We received CCC's comments, along with additional documentation, on June 3, 2009. In its comments, CCC did not concur with all aspects of the six findings presented in the draft report and did not specifically address the recommendations. CCC's comments are summarized at the end of each finding. Based on CCC's comments and our analysis of the additional documentation, we revised Finding No. 5. We also clarified other findings but did not change our conclusions or recommendations.

Except for information protected under the Privacy Act of 1974 (5 U.S.C. § 552a), the full text of CCC's comments on the draft report is included as an Enclosure to this report. We have not included CCC's attachments to its comments on the draft report because they were voluminous. Copies of the attachments are available upon request.

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## BACKGROUND

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Dental Directions, Inc., doing business as Community Care College, is a proprietary school established in 1995 and located in Tulsa, Oklahoma. CCC is accredited by the Accrediting Bureau of Health Education Schools. Dental Directions, Inc., also operates Clary Sage College in Tulsa.<sup>1</sup>

CCC offers career and technical training programs leading to diplomas in Dental Assisting, Massage Therapy, Medical Assisting, Pharmacy Technology, Surgical Technology, and Veterinary Assisting; and Associate of Applied Science degrees in Business Administration, Dental Assisting, Fitness and Health Training, Health Service Administration, Massage Therapy, Pharmacy Technology, Surgical Technology, and Veterinary Assisting. The training programs are offered in a non-term academic calendar and are measured in credit hours.

Prior to January 2007, CCC divided the various program weeks and credit hours in half (or in quarters if a degree program) to determine the payment period. Each program had a different academic year definition. For example, the Medical Assisting diploma program consisted of 37 weeks and 36.5 credits, which represented the academic year for that program. CCC divided the number of weeks and the number of credits by 2 (and rounded) to identify the 2 payment periods for the program (18 weeks and 18 credits for the first payment period; 19 weeks and 18.5 credits for the second payment period). The Associate of Applied Science Medical Assisting degree program consisted of 67 weeks and 66.5 credits, which represented two academic years for that program. CCC divided the number of weeks and the number of credits by 4 (and rounded) to identify the 4 payment periods for the program (17 weeks and 17 credits for the first three payment periods; 16 weeks and 15.5 credits for the fourth payment period).

Effective January 2007, CCC changed its definition of an academic year and a payment period, electing to use 30 weeks of instruction and 24 credit hours, with 15 weeks of instruction and 12 credit hours considered a payment period. This change caused the academic programs to extend over the original one- and two-year academic years, depending on the individual programs. For example, the same Medical Assisting diploma program identified above now has three payment periods (15 weeks and 12 credits for the first 2 payment periods; 7 weeks and 12.5 credits for the third payment period). The Associate of Applied Science Medical Assisting degree program identified above now has 5 payment periods (15 weeks and 12 credits for the first 4 payment periods; 7 weeks and 18.5 credits for the fifth payment period). With the new definition of the academic year, CCC considered students eligible for additional Title IV, HEA program funds because the programs extended into a third payment period for diploma programs and a fifth payment period for degree programs. However, students continue to progress at the pre-January 2007 rate of one credit per week.

The purpose of the programs authorized by Title IV of the HEA is to provide financial assistance to students attending eligible postsecondary higher education institutions. During award year

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<sup>1</sup> Clary Sage College, which offers programs in cosmetology/spa career fields, was not approved to participate and did not participate in the Title IV, HEA programs during award year 2006-2007.

2006-2007, CCC participated in the Federal Pell Grant (Pell) and Federal Family Education Loan (FFEL) programs. Pell Grants help financially needy students meet the cost of their postsecondary education. FFEL Program loans enable a student or his or her parents to pay the costs of the student's attendance at postsecondary schools. During the award year 2006-2007, CCC awarded approximately \$1.8 million in Pell and \$4.2 million in FFEL program funds to 826 students.

Other oversight entities previously identified instances of noncompliance by CCC.

- An on-site compliance review of CCC's 2002 fiscal year by the Oklahoma State Regents for Higher Education identified inaccurate return of Title IV aid, untimely returns, and improper disbursements.
- The independent public accountant's (IPA) 2005 compliance report identified ineligible disbursements, incorrect return of Title IV aid calculations, and late returns.
- A 2004 FSA program review found improper disbursements and return of Title IV aid calculations not documented or not performed.
- A 2006 FSA program review identified incorrect return of Title IV aid calculations and late returns of Title IV aid.

Due to the program review findings, CCC was required to obtain a LOC for \$231,000, payable to the Department. The expiration date of the LOC was October 31, 2008. However, CCC's LOC was released on June 12, 2008.

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## AUDIT RESULTS

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For the 25 students in our sample, CCC generally complied with the HEA and regulations governing student eligibility. In addition, CCC generally complied with the recruitment of students and incentive compensation requirements. However, CCC did not comply with the HEA and regulations governing the return of Title IV aid, disbursements, and the 90/10 Rule. CCC (1) incorrectly calculated the amounts it was required to return to Title IV, HEA program accounts; (2) untimely determined when students withdrew from CCC; (3) untimely returned Title IV, HEA program funds; (4) improperly made late disbursements; (5) incorrectly prorated Pell and FFEL disbursements; and (6) inaccurately calculated the percentage of revenue it derived from the Title IV, HEA programs.

### **FINDING NO. 1 - Incorrect Return of Title IV Aid Calculations**

CCC incorrectly calculated the amounts it was required to return to Title IV, HEA program accounts. A student earns Title IV, HEA program funds on a pro-rata basis until the student completes 60 percent or more of the payment period. For a non-term school, an institution must use the student's progress up to the point the student withdraws to project a completion date for the payment period. The calculation of time does not include certain periods when the student was not taking classes due to scheduled breaks or other specific reasons.

We randomly selected 33 students from the universe of 321 students who dropped out, withdrew, or were terminated during award year 2006-2007. These 33 students received \$149,720 in Title IV, HEA program funds. CCC made errors in calculating the amount it was required to return to Title IV, HEA program accounts for 28 of the 33 (85 percent) students. The most significant error CCC made was not using the appropriate payment period end dates. CCC consistently overstated the portion of a payment period that a withdrawn student had completed by not using the student's actual attendance to project when the student would have completed the credits for the payment period. Other errors in the return of Title IV aid calculation were that CCC (a) incorrectly accounted for non-scheduled periods; (b) incorrectly calculated the number of days in institutional breaks; (c) incorrectly categorized Title IV, HEA program funds as could have been disbursed or disbursed; (d) incorrectly determined the last date of attendance (LDA); and (e) incorrectly calculated institutional charges.

#### **Incorrect Payment Period End Dates**

CCC determined the total number of calendar days in the payment period for the return of Title IV aid calculations by using dates based on the number of weeks of scheduled instruction. However, as students progressed through their educational programs, they did not always complete their coursework within the established timeframes, and, as a result, the end dates for their payment periods changed. Because CCC is a non-term credit hour institution, its students cannot advance to the next payment period until they complete the work for the preceding payment period. When students withdrew, CCC was required to determine the amount of Title IV, HEA program aid the student earned using a realistic projection for the student's remaining coursework for the payment period. CCC did not ensure that the payment period end

dates used for the return of Title IV aid calculation reflected a realistic projection for the student's remaining coursework for the payment period. For example, students who failed to earn credits for attempted courses needed to retake courses to complete their required number of credits for the payment period. For these students, the payment period end date should have been extended to include additional courses. By failing to make this adjustment when reviewing the student's files and performing the return of Title IV aid calculation, CCC was not using the student's actual payment period to determine the amount of unearned aid that should be returned.

Section 484B(d) of the HEA differentiates between credit-hour and clock-hour programs but does not distinguish between credit-hour term programs and credit-hour non-term programs. The Department provided additional guidance on the proper application of § 484B(d) by institutions offering credit-hour, non-term programs in Dear Colleague Letter (DCL) GEN-04-03, Revised (November 2004). This letter addresses a number of issues regarding the return of Title IV aid for a student who withdraws from an institution. Under this guidance, the institution needs to determine an appropriate date for when the student would be expected to complete the period to determine how much of the period was completed at the point the student withdrew. For programs where the ending date for a period is dependent on the pace at which an individual student progresses through the program, the institution must project the completion date based on the student's progress.

We recognize that in a credit-hour nonterm [sic] program, the ending date for a period and, therefore, the total number of calendar days in the period, may be dependent on the pace at which an individual student progresses through the program. Therefore, for a student who withdraws from a credit-hour nonterm [sic] program where the completion date of the period is dependent on an individual student's progress, an institution must project the completion date based on the student's progress as of his or her withdrawal date to determine the total number of calendar days in the period.

CCC provides credit-hour, non-term programs that allow students to schedule courses to meet their individual needs. In its catalog, CCC describes the schedule as a continuous term. Students can schedule and start the 2- or 3-week courses as needed and are not restricted to a set schedule as a group. A student's academic year begins with the first eligible course of the student's degree or certificate program and ends when the student completes a defined number of weeks and credits.<sup>2</sup> The academic year has no calendar time constraints and continues until both the credit and week requirements are met.

CCC students were allowed to miss extended periods of non-scheduled time.<sup>3</sup> This non-scheduled time was treated as a leave of absence (LOA) or scheduled school break in the return of Title IV aid calculation. Despite having procedures for reviewing and revising the dates for the student's academic year and corresponding payment periods, CCC did not always review the appropriateness of the payment period end date before performing return of Title IV aid calculations for 19 of the 33 students in our sample. For example, CCC reviewed and re-established payment period end dates when students had not completed the number of credits or

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<sup>2</sup> The defined number of weeks and credits depends on the student's degree or certificate program.

<sup>3</sup> CCC defines non-scheduled time as a period in which the student is not scheduled for classes but is not on an official leave of absence or withdrawn from CCC.

weeks required for subsequent Title IV, HEA program disbursements. CCC usually rescheduled the date for the second or subsequent disbursement by reviewing the student's schedule, attendance, and grades and then projecting when the student would likely meet the credits and weeks requirement. Although CCC acknowledged the need and had the capability to adjust payment period end dates in these circumstances, CCC failed to review and make similar adjustments when calculating the amount to return to Title IV program accounts.

### **Other Return of Title IV Aid Calculation Errors**

CCC, for the 33 return of Title IV aid calculations in our sample, (a) incorrectly accounted for non-scheduled periods in 10 calculations, (b) incorrectly calculated the number of days in the institutional breaks in 4 calculations, (c) incorrectly categorized Title IV, HEA program funds as could have been disbursed<sup>4</sup> or disbursed in 11 calculations, (d) incorrectly determined the LDA in 10 calculations, and (e) incorrectly calculated institutional charges in 21 calculations. Return of Title IV aid is based on determining the correct amount of Title IV, HEA program funds the student earned for the payment period at the point he or she withdrew or stopped attending. After an institution identifies the correct dates for the length of the payment period using a projected completion date and the student's withdrawal date, it can determine the percentage of the payment period that a student completed. This process requires knowing not only the start date, end date, and withdrawal date, but it also requires the removal of blocks of time such as scheduled breaks of more than five days (34 C.F.R. § 668.22(f)(2)).<sup>5</sup> The institution then must calculate the amount of earned Title IV, HEA program funds by applying a percentage to the total amount of Title IV, HEA program assistance that was disbursed and that could have been disbursed at the time of withdrawal. For example, when a school determines the treatment of Title IV, HEA program funds on a payment period basis, the student's Title IV, HEA program assistance to be used in the calculation is the aid that is disbursed or that could have been disbursed for the payment period. Also, the institutional charges used in the calculation would have to reflect the charges for the payment period.

Pursuant to 34 C.F.R. § 668.22(e)(1), the amount of Title IV, HEA program funds that is earned by the student is calculated by—

- (i) Determining the percentage of title IV grant or loan assistance that has been earned by the student, as described in paragraph (e)(2) of this section; and
- (ii) Applying this percentage to the total amount of title IV grant or loan assistance that was disbursed (and that could have been disbursed, as defined in paragraph (l)(1) of this section) to the student, or on the student's behalf, for the payment period or period of enrollment as of the student's withdrawal date.

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<sup>4</sup> Pursuant to 34 C.F.R § 668.22(l)(1), Title IV, HEA program funds that “could have been disbursed” are determined in accordance with the late disbursement provisions in § 668.164(g). According to 34 C.F.R. § 668.164(g)(2), a student who becomes ineligible (or the student's parent in the case of a PLUS loan) qualifies for a late disbursement if, before the date the student became ineligible “(i) Except in the case of a PLUS loan, the Secretary processed a Student Aid Report or Institutional Student Information Report with an official expected family contribution; and (ii)(A) For a loan under the FFEL or Direct Loan programs, the institution certified or originated the loan; or (B) For an award under the Federal Perkins Loan or Federal Supplemental Educational Opportunity Grant programs, the institution made that award to the student.

<sup>5</sup>C.F.R. citations are from the July 1, 2005, edition.

In addition, accounting for non-scheduled periods, determining the LDA, and calculating the number of days in the institutional breaks in the return of Title IV aid calculations are critical in determining the number of calendar days in a payment period. Pursuant to 34 C.F.R. § 668.22(f)(2)—

(i) The total number of calendar days in a payment period . . . includes all days within the period, except that scheduled breaks of at least five consecutive days are excluded from the total number of calendar days in a payment period . . . and the number of calendar days completed in that period.

(ii) The total number of calendar days in a payment period . . . does not include days in which the student was on an approved leave of absence.

### **Inadequate Internal Control Caused Errors That Resulted in CCC Returning Over \$37,000 Less Than It Should Have Returned to Title IV, HEA Program Accounts**

By incorrectly determining the number of calendar days in a payment period for students who withdrew, CCC understated the number of days for the return of Title IV aid calculation. Because the number of days in the payment period is used as the denominator for calculating the percentage of the payment period completed, an understated number of total days resulted in a higher percentage of completion. Consequently, a higher percentage of completion increases the amount of Title IV, HEA program aid calculated as earned by the student. Of the 33 students we reviewed, CCC incorrectly calculated the amount of Title IV, HEA program funds that 28 students earned. CCC also returned incorrect amounts of Title IV, HEA program funds for those students, underestimating the amount of Title IV, HEA program funds to be returned by \$37,277. The dollar effect of the errors varied from student to student, ranging from CCC returning \$592 more than it should have to CCC returning \$4,890 less than it should have returned. Based on our sample results, we are 90 percent confident that CCC incorrectly calculated the amounts it was required to return for between 228 (71 percent) and 299 (93 percent) of the 321 students who dropped out during award year 2006-2007.

CCC management did not ensure that CCC had a system of internal control in place that would provide reasonable assurance that it complied in all material respects with the Title IV, HEA program regulations. CCC management did not ensure that staff completing return of Title IV aid calculations were properly trained and did not monitor staff performance to ensure that they complied with Title IV, HEA program regulations and guidance. In addition, CCC used an in-house return of Title IV aid calculation program that required manual entry of various data fields.

### **Recommendations**

We recommend that the COO for FSA require CCC to:

- 1.1 Recalculate all return of Title IV aid calculations for students who withdrew, dropped, or terminated from July 1, 2004, through December 31, 2004, and January 1, 2006, to the present and return all Title IV, HEA program funds owed to the Department or FFEL lenders, as appropriate. Include the return of under-returned amounts, totaling \$37,277, identified to the students in our sample.

- 1.2 Engage an independent public accountant to attest to the accuracy of the return of Title IV aid recalculations.
- 1.3 Develop and implement policies and procedures to provide reasonable assurance that return of Title IV aid calculations are completed in compliance with the requirements.
- 1.4 Obtain return of Title IV aid calculation training for any and all personnel responsible for administering the Title IV, HEA programs.

### **CCC's Overall Comments**

CCC had some overarching disagreements with the draft audit report. Specifically, CCC stated that five of the six findings were at least partially dictated by OIG's inaccurate conclusion that CCC offers self-paced programs and OIG's confusion about the correct date of determination for making returns of Title IV aid. According to CCC, the inaccurate determination that CCC provides self-paced programs results in additional erroneous conclusions that CCC: (1) incorrectly calculated return to Title IV (Finding No. 1); (2) made untimely determinations of student withdrawals (Finding No. 2); (3) returned Title IV funds in an untimely manner (Finding No. 3); (4) improperly disbursed funds to students after they withdrew (Finding No. 4); and (5) incorrectly pro-rated Pell and FFEL (Finding No. 5).

CCC contends that students at CCC are required to proceed through a program according to the schedules identified in their enrollment agreement and school catalog. In each instance, the student's schedule reflects finite start and end dates for each modular course. CCC acknowledged that its students can possibly proceed through programs at varying rates if there are interruptions in their ability to attend courses, by failing a course, etc. The fact that students start on the same date in the same program but ultimately conclude the program on different dates is not indicative of a self-paced program but evidence that some student's education is interrupted by events such as failing a course or having to take a leave of absence. CCC contends that it is a non-term credit-based school providing education through a modular course structure as opposed to a school offering self-paced programs. CCC also contends the draft audit report confuses the fundamental elements of a self-paced program in rendering Finding Nos. 1 through 5 because it focused on interruptions in some student's studies.

CCC also maintains that it is more likely that the conclusions in the draft audit report are inaccurate because they are inconsistent with the review and approvals issued by its primary regulators and Title IV professionals who have significantly greater familiarity with CCC and similarly situated schools. CCC argues that the OIG's audit commenced only three months after CCC was removed from Heightened Cash Monitoring Two (HCM2) in April 2007. Because the findings in the draft audit report were delayed so long, it references a timeframe no longer relevant. CCC resolved most deficiencies occurring in the time frame of the draft audit report during the HCM2 reimbursement process. In addition, CCC officials contend that they were subjected to extensive scrutiny by various regulators, such as the Department, and Title IV, HEA consultants and its IPA for the time period before, during, and after award year 2006-2007, the subject of the draft audit report. That scrutiny involved all aspects of Title IV, HEA program compliance including Title IV, HEA program policies, regulatory interpretations, and methods of implementing Title IV, HEA program-related policies

## **OIG Response to CCC's Overall Comments**

We made some revisions to the findings in this report and clarified some of the recommendations. However, we did not change our overall conclusions. We concluded that CCC's students were allowed to progress at their own pace based on discussions with CCC management staff and our review of student files. During a discussion regarding the 14-day determination requirement, CCC's Financial Aid Director stated that determinations are made on a case-by-case basis because students are allowed to progress at their own pace. When we asked about students progressing at one's own pace and its impact on return of Title IV aid calculations, CCC's Chief Financial Officer stated that CCC was not a self-paced school.

Though we agree that CCC, as defined in its catalog, is not a self-paced school, CCC officials treat students as progressing at their own pace when making withdrawal determinations but then ignore that process for return of Title IV aid calculation purposes. Our conclusion is consistent with documentation in the students' files; therefore, we recalculated the return of Title IV aid calculations using this process.

Because students earn Title IV, HEA program funds on a pro rata basis until a student completes more than 60 percent of the payment period, the progression method for determining the end of a payment period is the best way to obtain an accurate payment period end date. A non-term school such as CCC must use the student's progress up to the point the student withdraws to project a completion date for the payment period. The calculation of time does not include certain periods when the student was not taking classes due to scheduled breaks or other specific reasons. Our recalculation showed that CCC consistently overstated the portion of a payment period a withdrawn student had completed because CCC did not use the student's actual attendance to project when the student would have completed the credits for that payment period.

We are aware of the various reviews conducted at CCC, and we had discussions with FSA and the Oklahoma Board of Private Vocational Schools. However, the reviews by the other entities did not always include an in-depth review of all aspects of CCC's Title IV, HEA program. Under HCM2 imposed by FSA, FSA reviewed only a sample of return of Title IV aid calculations. None of the students we included in this report were reviewed by FSA as part of its HCM2 process.

### **CCC Comments and OIG Responses to Finding No. 1**

*CCC Comments.* CCC did not concur with the finding in its entirety and did not specifically address the recommendations in its response. CCC disagreed with the OIG's conclusion that CCC offers self-paced programs and its reliance on guidance from Dear Colleague Letter GEN-04-03, Revised (November 2004) ("DCL GEN-04-03"). CCC contends that this conclusion and reliance are unjustified and inaccurate as applied to CCC. CCC contests the finding with respect to the remaining students alleged to have been improperly categorized.

*OIG Response.* Based on information that we obtained from CCC's students' files, discussions with CCC staff, and CCC's response to the draft audit report, we concluded that CCC's students are allowed to proceed through their programs at varying rates if there are interruptions in their ability to attend courses, by failing a course, etc. Even though CCC officials deny that CCC has self-paced programs, they agree that CCC allows students to proceed through their programs at

varying rates. We are not concluding that CCC officially offers self-paced programs. Rather, we are stating that, in practice, CCC allows students to progress at their own pace. Regardless of what term (varying rate or self-paced) is used, for non-term institutions such as CCC, students earn Title IV, HEA program funds on a pro rata basis until a student completes more than 60 percent of the payment period. The institution must use the student's progress up to the point the student withdraws to project a completion date for the payment period. The calculation of time does not include certain periods where the student was not taking classes due to scheduled breaks or other specific reasons.

In regards to the other aspects of Finding No. 1:

#### Incorrectly Accounted for Non-Scheduled Periods in 10 Calculations

*CCC Comments.* CCC disagrees with the OIG's position that CCC improperly handled non-scheduled periods as institutional breaks instead of counting those periods as absences in the return of Title IV aid calculation. CCC contends that these errors eliminate any credibility in OIG's most significant assertion in Finding No. 1 and undermines its claim that the school failed to use the correct payment period end dates. CCC contends that non-scheduled periods occur when extenuating circumstances interrupt a student's ability to attend one or more of his or her originally scheduled courses. In those instances, the student may request course rescheduling for a future date. CCC contends that there is no regulatory requirement that a student must be counted absent during periods they were not scheduled to attend. If students fail to attend a scheduled course, they are counted absent. However, they are not absent merely because they are not on campus during an arranged break while waiting for a future course.

*OIG Responses.* CCC students were allowed to have extended non-scheduled periods because of personal reasons, not because the course was not being offered. The Federal Student Aid Handbook states that

A student who completes a course is expected to begin attending the next available course in the program, until the student completes the credits for which he or she has received Federal Student Assistance. If before a student completes the credits for which he or she has received Title IV, the student fails to enroll in the next course in the program, the student must be put on an approved LOA or considered withdrawn.

#### Incorrectly Calculated the Number of Days in the Institutional Breaks in 4 Calculations

*CCC Comments.* CCC concedes that it incorrectly calculated the number of institutional break days in 4 of the 33 sample calculations (12 percent) and discussed oversight with the OIG during its audit fieldwork. CCC made immediate changes implementing corrective action.

*OIG Response.* CCC agreed with this portion of the finding.

Incorrectly Categorized Title IV, HEA Program Funds As Could Have Been Disbursed or Disbursed in 11 Calculations

*CCC Comments.* CCC concedes that it incorrectly categorized aid with respect to 4 of the 33 (12 percent) sample students. However, CCC contests the finding with respect to the remaining students alleged to have been improperly categorized. CCC relies upon the same analysis it provides with respect to Finding No. 2 to refute this portion of Finding No. 1. Specifically, CCC stated that the OIG erroneously asserts that CCC should have made earlier determinations to drop the students and that an earlier determination would have affected the relative aid classifications for those students.

*OIG Response.* While CCC conceded that it incorrectly categorized aid for four students, it did not provide any additional support for the other seven students identified in the finding. Therefore, we did not change the report.

Incorrectly Determined the LDA in 10 Calculations

*CCC Comments.* CCC disagrees that it incorrectly determined the LDA in 10 of the 33 sample return of Title IV aid calculations. The 10 students had periods of non-attendance due to a break in schedule between courses. CCC alleges that the OIG objects to students being allowed to subsequently resume their studies after a break in schedule even if the students make specific commitments to return to school.

*OIG Response.* CCC is incorrect in its assumption that all of the incorrect LDAs were a result of the OIG's position regarding timely determinations of the students' withdrawal date. Three of the incorrect dates included in this finding are a result of CCC identifying the wrong LDA from the students' attendance records. For example, for one student, the student's attendance records first showed that the LDA was January 26, 2006. However, CCC determined the student's LDA was January 12, 2007, a date on which the student was not enrolled in class. The remaining students who CCC states made specific commitments to return to school rarely, if at all, resumed attendance, attending as few as 3 days during the 13 weeks following the date we concluded should have been the student's LDA.

Incorrectly Calculated Institutional Charges in 21 Calculations

*CCC Comments.* CCC contends that it accurately prorated the charges consistent with the guidance provided by the Department and according to Federal guidelines. CCC contends that the OIG maintains that prorated charges should be based upon each academic year of tuition, fees, and books as reflected on the enrollment agreement. CCC states that the OIG further maintains that the resulting amount should be divided into two payment periods because CCC utilizes two payment periods in its related policy. However, CCC claims that the OIG fails to recognize that CCC posts all tuition, fees, and book charges to student accounts at the time of enrollment without regard of the number of payment periods in the student's program.

*OIG Response.* We used the prescribed method when recalculating the return of Title IV aid calculations. According to the Federal Student Aid Handbook

If, for a non-term or nonstandard term program, a school chooses to calculate Returns on a payment period basis, but the school charges for a period longer than a payment period (e.g., period of enrollment), total institutional charges for the period will be the greater of the –

- Prorated institutional charges for the period, or
- The amount of Title IV assistance retained for institutional charges as of the student's date of withdrawal.

## **FINDING NO. 2 - Untimely Determination of Student Withdrawal**

CCC did not determine that students withdrew within 14 days of the students' last dates of academic attendance. We randomly selected 33 students from the universe of 321 students who received Title IV, HEA program funds and dropped out, withdrew, or were terminated during award year 2006-2007. CCC exceeded the 14-day period for 27 of the 33 (82 percent). The number of days that CCC exceeded the 14-day period ranged from 2 to 398.

According to 34 C.F.R. § 668.22(b)(3)(i), “[a]n institution is required to take attendance if an outside entity . . . has a requirement, as determined by the entity, that the institution take attendance.” Under 34 C.F.R. § 668.22(b)(1), the withdrawal date for a student who withdraws from an institution that is required to take attendance “is the last date of academic attendance as determined by the institution from its attendance records.” CCC is required to take attendance by the State of Oklahoma.<sup>6</sup>

Dear Colleague Letter GEN-04-03, *Return of Title IV Aid*, Revised (November 2004), states,

Except in unusual instances, at an institution that is required to take attendance, [the Department of Education] would expect that the date of the institution's determination that the student withdrew would be no later than 14 days after the student's withdrawal date—the last date of academic attendance as determined by the institution from its attendance records.

Although aware of the 14-day period expected by the Department and the existence of an attendance system that could record daily attendance, CCC officials chose to make determinations of student withdrawal in accordance with their own policy for unofficial withdrawals. That policy states “If a student fails to attend classes for a period of 30 consecutive scheduled class days, CCC will unofficially withdraw the student.” Under this policy, a student could miss 45 or more calendar days before triggering CCC's unofficial withdrawal determination. Because the policy specifies scheduled class days, students without scheduled classes could miss even more days and not trigger an unofficial withdrawal determination.

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<sup>6</sup> Section 565:10-11-4(a) of the Oklahoma Administrative Code states, “The school shall maintain individual records for each student enrolled, which are current, complete and accurate, and will reveal the following information . . . (2) Date student enrolled and completed . . . (5) Student attendance, which shall be kept daily indicating present or absent . . . .”

CCC officials contend that the regulations do not require the student to be dropped after 14 days of nonattendance, only that a determination as to whether the student will return needs to be made. However, CCC neither provided any documentation to support that it made such determinations within the 14 days nor described the basis on which it made the determinations. Therefore, unnecessarily long periods passed before CCC determined that students had withdrawn and performed the corresponding return of Title IV aid calculations. As a result, more interest accrued on students' unsubsidized loans, and the government paid more special allowance and interest on the subsidized loans.

## **Recommendation**

We recommend that the COO for FSA require CCC to:

- 2.1 Develop and implement policies and procedures to provide reasonable assurance that it determines that a student withdrew no later than 14 days after the student's last date of attendance.

## **CCC Comments**

CCC contends that the OIG is confused about the purpose and meaning of the 14-day rule discussed in DCL GEN-04-03. According to CCC, the 14-day rule is used solely to determine the date of determination for return of Title IV aid purposes. Because the rule only has relevance in the context of determinations of the amount and timing of any amounts due to be returned pursuant to the return of Title IV, HEA program requirements, CCC is unclear why the OIG cites the letter in the context of Finding No. 2. CCC further states that it is apparent that the OIG erroneously concluded that DCL GEN-04-03 has relevance for use in determining if and when to drop a student. As a result, CCC states that this finding should be removed from this report.

With respect to this finding, CCC states that the OIG's fundamental observation is that it was unable to find documentation of CCC's interaction with students in the context of determining withdrawals. The comments attributed to officials at CCC confirm those officials properly understand the requirements of unofficial withdrawal determinations.

CCC stated that its Title IV, HEA program management and documentation capabilities have improved significantly with a centralized database for maintaining all student communications. The student records database also improves controls for monitoring and enforcing policies and procedures as recommended in the draft of this report.

## **OIG Response**

In the Decision of the Secretary *In the matter of College America-Denver* (Docket No. 06-24-SP), the Secretary upheld and confirmed the requirements of DCL GEN-04-03 regarding the timely return of Federal funds for institutions required to take attendance. In this decision, the Secretary found that 14 days is a reasonable assessment of when a school should have made the determination that a student ceased attendance. The ruling also stated that the timely return of Federal funds is important for two significant reasons: (1) institutions are not entitled to keep Federal funds that are not earned, and (2) a timely return of Federal funds allows access by other students in need to a necessarily limited supply of student financial assistance. At least two dates

are critical to the assessment of whether funds were timely returned to the Federal government when a student drops out or withdraws: (1) the date the student withdrew or the institutions became aware that the student withdrew, and (2) the date when the time period expires for returning; the later timeframe depends upon the former timeframe.

CCC's failure to make withdrawal determinations within 14 days affected several aspects of the return of Title IV aid and disbursements and contributed to several other findings in this report. By not making timely determinations of students' withdrawal dates, the school made incorrect LDA determinations (Finding No. 1), did not return Title IV, HEA program funds in a timely manner (Finding No. 3), and improperly disbursed Title IV, HEA program funds to students who had withdrawn (Finding No. 4).

CCC stated that it has implemented a corrective action plan. However, we have not had the opportunity to audit the new procedure, so we cannot conclude on the effectiveness of the change.

### **FINDING NO. 3 - Untimely Return of Title IV, HEA Program Funds**

CCC did not return Title IV, HEA program funds in a timely manner. We randomly selected 33 students from the universe of 321 students who received Title IV, HEA program funds and dropped out, withdrew, or were terminated during award year 2006-2007. CCC calculated an amount to be returned for 25 and calculated no return due for 8. Of the 25 return of Title IV aid calculations, 6 return payments, totaling \$2,283, were made more than 45 days after CCC determined that the students withdrew. The 6 return payments were for 5 students. Three of the 6 late payments were for corrected amounts of returns made at earlier dates. CCC made late returns for 5 of 33 (15 percent) students in the sample. However, because CCC did not determine the students' LDA timely, we determined that a total of 13 return payments were late. The 13 return payments were for 10 students (30 percent of the sample returns). The range of these late returns was from 3 to 99 days past the 45 days from CCC's determination.

According to 34 C.F.R. § 668.22(j)(1), “[a]n institution must return the amount of title IV funds for which it is responsible . . . as soon as possible but no later than 45 days after the date of the institution’s determination that the student withdrew . . . .” Pursuant to 34 C.F.R. § 668.173(b)(1), “an institution returns unearned title IV, HEA funds timely if . . . [t]he institution deposits or transfers the funds into the bank account it maintains [for Title IV purposes] no later than 45 days after the date it determines that the student withdrew . . . .”

Pursuant to 34 C.F.R. § 668.173(c)(1)(i)—

An institution does not comply with the reserve standard under . . . if, in a compliance audit conducted . . . by the Office of the Inspector General . . . the auditor or reviewer finds . . . [i]n the sample of student records audited or reviewed that the institution did not return unearned title IV, HEA program funds within the timeframes described in paragraph (b) of this section for 5% or more of the students in the sample.

If an institution does not meet this compliance threshold for either of its two most recently completed fiscal years, it must submit an irrevocable LOC to the Department as described in

34 C.F.R. § 668.173(d). CCC's fiscal year is the same as its calendar year (January 1, 2006, through December 31, 2006). CCC's fiscal year 2006 and award year 2006-2007 overlap from July 1, 2006, through December 31, 2006. CCC exceeded the 45-day limit for 15 percent of the students in our sample for whom a return of unearned Title IV funds was made during the award year 2006-2007, and the dates of determination for all these late payments were during the last six months of 2006. Therefore, CCC exceeded the compliance threshold for its 2006 fiscal year.

Although CCC officials were aware of the 45-day requirement in 34 C.F.R. § 668.22(j), they did not process all returns of Title IV aid in a timely manner. As a result, more interest accrued on students' unsubsidized loans, and the government paid more special allowance and interest on the subsidized loans.

## **Recommendations**

We recommend that the COO for FSA require CCC to:

- 3.1 Identify all late returns of Title IV, HEA program funds made to students from July 1, 2004, to the present, including the six untimely return payments in our sample, and calculate and pay to the Department and FFEL Program lenders, as appropriate, the imputed interest and special allowance costs.
- 3.2 Develop and implement policies and procedures to meet the return of Title IV aid 45-day requirement in 34 C.F.R. § 668.22.

We also recommend that the COO for FSA:

- 3.3 Post a LOC commensurate with the conditions in this finding.

## **CCC Comments**

CCC stated that the finding is inconsistent with information that OIG provided to CCC after the draft audit report was issued. CCC also stated that the request for a LOC is unjustified because CCC satisfies the regulatory requirement for timely returns of Title IV, HEA program funds.

## **OIG Response**

This finding has two parts: (1) the information for the five students presented in the first part of this finding and (2) the information covering the five students identified in Finding No. 2. We provided the information we used as support for both this finding and Finding No. 2 to CCC. At that time, CCC did not request additional clarification. By not making withdrawal determinations in accordance with the requirements presented in Finding No. 2, CCC exacerbated the untimely return of Title IV, HEA program funds. Therefore, regulations require CCC to post a LOC.

## **FINDING NO. 4 - Improper Disbursements to Students Who Withdrew**

CCC disbursed Title IV, HEA program funds to students who withdrew, disbursing amounts after the students' were no longer enrolled. We randomly selected 33 students from the universe of 321 students who received Title IV, HEA program funds and dropped out, withdrew, or were terminated during award year 2006-2007. For 20 of the 33 (61 percent), CCC made improper Pell or FFEL late disbursements, or both, between 3 to 105 days after the student's last date of attendance.

According to 34 C.F.R. § 668.164—

(b)(1) . . . Except as provided in paragraph (g) of this section, an institution may disburse title IV, HEA program funds to a student or parent for a payment period only if the student is enrolled for classes for that payment period and is eligible to receive those funds . . . .

(g) Late disbursements--(1) Ineligible student. For purposes of this paragraph, an otherwise eligible student becomes ineligible to receive title IV, HEA program funds on the date that—

(i) For a loan under the FFEL and Direct Loan programs, the student is no longer enrolled at the institution as at least a half-time student for the period of enrollment for which the loan was intended; or (ii) For an award under the Federal Pell Grant, FSEOG, and Federal Perkins Loan programs, the student is no longer enrolled at the institution for the award year. . . . (4)(ii) An institution may not make a second or subsequent late disbursement of a loan under the FFEL or Direct Loan programs unless the student successfully completed the period of enrollment for which the loan was intended. (iii) An institution may not make a late disbursement of a loan under the FFEL or Direct Loan programs if the student was a first-year, first-time borrower unless the student completed the first 30 days of his or her program of study.

CCC did not have procedures in place to verify students were still eligible before Pell and FFEL disbursements were made. Also, CCC's untimely determination of student withdrawal was a factor.

As a result of CCC disbursing funds after the students' LDA, students received Pell and FFEL amounts for which they were not eligible and were charged with responsibility for FFEL amounts that were prohibited. In addition, students and the government incurred and paid interest on FFEL amounts that should never have been disbursed. For the 20 students, CCC disbursed \$81,311 in Title IV, HEA program funds late. CCC disbursed \$17,625 in Pell and \$63,686 in FFEL loans late, including \$45,847 (72 percent) in FFEL loans that was prohibited from being disbursed because the student was enrolled for less than 30 days (\$29,618) or it was a second or subsequent loan disbursement (\$16,229). CCC returned all but \$7,345 (or 16 percent) of the prohibited loan disbursements. CCC returned ineligible funds an average of 84 days after the funds were disbursed. The returns ranged from 6 days before the disbursement (this appeared to be a timing issue due to CCC being on HCM2) to 252 days after the disbursements. Based on our sample results, we are 90 percent confident that CCC disbursed Title IV, HEA program funds late to students who withdrew, disbursing amounts after the students' LDA for at

least 144 (45 percent) of the 321 students who received Title IV, HEA program funds and withdrew during award year 2006-2007.

## **Recommendations**

We recommend that the COO for FSA require CCC to:

- 4.1 Identify all late FFEL disbursements made to students from July 1, 2004, to the present, including the late disbursements for the 20 students in our sample, and calculate and pay to the Department and FFEL Program lenders, as appropriate, the imputed interest and special allowance costs. Include the return of the remaining \$7,345 in prohibited loans kept by CCC that were disbursed late for the students identified in our sample.
- 4.2 Develop and implement policies and procedures to verify students are still eligible before Pell and FFEL disbursements are made.

## **CCC Comments**

CCC contends that the audit report contains a mistake regarding the OIG's claims that CCC made improper disbursements to students who had withdrawn from school. CCC claims that the OIG equates enrollment with attendance despite the fact that they are not the same. According to CCC, the date a school determines that a student should be withdrawn, the student is still enrolled. However, the OIG concludes that payments or disbursements of Title IV, HEA program funds cannot be made after the LDA. OIG maintains that CCC disbursed funds after students' LDA. CCC says that this statement may be true, but it does not comport with the regulations and does not establish a violation of the regulations. As a result, CCC comments that the conclusions and amounts identified in this finding are inaccurate and must be recalculated and presented on a student-by-student basis before CCC can provide a complete response. CCC stated that to the extent the OIG measured tardy disbursements from the LDA as opposed to the date of determination, it is almost certain that the OIG has overstated its case in the context of this finding. Therefore, CCC asserts that, if the OIG used the date that the funds were received by the school while it was on reimbursement, then the OIG incorrectly determined that the disbursements were late. The funds should have been considered disbursed when posted by the school to the student ledgers prior to submitting the HCM2 reimbursement request.

## **OIG Response**

We agree that the regulations allow for Title IV, HEA program funds to be disbursed as of the date of the institution's determination that a student withdrew. However, because CCC was not making those determinations within the required time frame, the funds were being disbursed after the 14 day determination window and well after the amount of time the Department – as stated in the Secretary's decision *In the matter of College America-Denver* – considers reasonable.

## **FINDING NO. 5 - Incorrect Prorating of Pell and FFEL**

CCC did not correctly calculate the amount of Pell and FFEL funds to which students were entitled to receive for their last payment periods. We randomly selected 33 students from the universe of 321 students who dropped out, withdrew, or were terminated during the audit period. Of those 33 students, 15 students' return of Title IV aid calculations used CCC's new academic year definition (30 weeks of instruction and 24 credit hours). CCC did not prorate Pell and FFEL for 3 of the 15 students (20 percent) who withdrew under the new academic year definition.

According to 34 C.F.R. § 690.63(e) and 34 C.F.R. § 682.204(a) and (d), an institution must prorate amounts for students who progressed at a greater than minimum full-time rate and have a remaining portion of the program to complete that is less than an academic year for both programs.

In January 2007, CCC changed its definition of an academic year to 30 weeks of instruction and at least 24 credits completed. This change caused the academic programs to extend over the original one- and two-year academic years, depending on the individual programs. With the new definition of the academic year, CCC considered students eligible for additional Title IV, HEA program funds because the programs extended into a third payment period for diploma programs and a fifth payment period for degree programs.

CCC should have prorated the amount of Title IV, HEA program funds available to the student in his/her last payment period. However, CCC did not have a process in place to identify students progressing at a greater than minimum full-time rate for prorating the Title IV, HEA program funds. Because it did not prorate the last disbursement, CCC disbursed \$2,461 more than it should have to 3 of the 33 students in our sample.

### **Recommendations**

We recommend that the COO for FSA require CCC to:

- 5.1 Review the records for all students who dropped out of school from July 1, 2004, to the present (excluding the 33 students in our sample), identify any who should have required Title IV, HEA program funds proration, and return any over awarded amounts owed to the Department or FFEL lenders, as appropriate. Include the return of \$2,461 for the students in our sample.
- 5.2 Develop and implement policies and procedures to identify students progressing at a greater than minimum full-time rate and prorate the Title IV, HEA program.

### **CCC Comments**

CCC finds the two referenced points contradictory. First, OIG states that CCC's programs are structured to earn one credit for each week of instruction; then, it alleges that CCC's programs are self-paced and allow students to attend and earn credits at their own pace. According to CCC, the self-paced conclusion is wrong. CCC contends that the OIG erroneously asserts that students earn one credit hour per week. While sometimes accurate, it is not uniformly accurate

because CCC's programs incorporate a number of courses of varying length. The regulations do not require institutions to use an academic year definition reflecting every possible program schedule. Rather, schools are required to define an academic year for each program that includes a minimum of 30 weeks and 24 semester credits are available for that period. CCC states that it meets that regulatory requirement.

Each alleged pro-rating error occurred during the period CCC was on HCM2. Therefore, CCC claims that the Department already reviewed and approved CCC's treatment in those instances. FSA would have to evaluate and approve those calculations before approving the related disbursements.

### **OIG Response**

We agree with CCC's assertions that its students can earn one credit hour per week and that the regulations do not require an academic year definition reflecting every possible program schedule. Therefore, we clarified the finding. The clarification does not change our conclusions or recommendations.

Under HCM2, only a sample of transactions is reviewed. There is no evidence that the students we include in this finding were part of the sample and subsequent approval.

### **FINDING NO. 6 - Improper Preparation of the 90/10 Rule Calculation**

CCC did not calculate the percentage of revenue derived from the Title IV, HEA programs for its fiscal year 2006 in accordance with federal regulations. In calculating the percentage, CCC included revenue of \$28,430 from Clary Sage College services in the denominator of the calculation even though Clary Sage College was not approved for certification and was not a participating institution. CCC also included revenue of \$83,921 from its child care center in the denominator of the calculation. However, CCC did not provide support that the childcare facility was used to provide educational instruction to those students in the Medical Assisting and Dental Assisting programs. In addition, CCC

- Misclassified \$40,803, (1) with \$11,675 representing Title IV, HEA program revenue/excess cash transactions treated as non-Title IV, HEA program revenue/excess cash and (2) \$29,128 representing non-Title IV, HEA program revenue/excess cash transactions treated as Title IV, HEA program revenue/excess cash;
- Included \$15,215 that was not accounted for on a cash basis; and
- Included \$6,225 of revenue that contained non-institutional charges (admissions testing fee).

### **Requirements for the 90/10 Rule Calculation**

Section 102(b)(1)(F) of the HEA provides that a proprietary institution must have "at least 10 percent of the school's revenues from sources that are not derived from funds provided under title IV, as determined in accordance with regulations prescribed by the Secretary." Pursuant to 34 C.F.R. § 600.5(a)(8), to be eligible to participate in the Title IV, HEA programs, a proprietary

institution must have “no more than 90 percent of its revenue derived from title IV, HEA program funds.”

The following formula for calculating the percentage for an institution’s latest complete fiscal year is found at 34 C.F.R. § 600.5(d)(1):

Title IV, HEA program funds the institution used to satisfy its students’  
tuition, fees, and other institutional charges to students.

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The sum of revenues including title IV, HEA program funds generated by the institution from: tuition, fees, and other institutional charges for students enrolled in eligible programs as defined in 34 CFR [§] 668.8; and activities conducted by the institution, to the extent not included in tuition, fees, and other institutional charges, that are necessary for the education or training of its students who are enrolled in those eligible programs.

Pursuant to 34 C.F.R. § 600.5(e)(1)(iii) and (v), “[t]he institution may not include as title IV, HEA program funds in the numerator nor as revenue generated by the institution in the denominator . . . (iii) The amount of institutional funds it used to match title IV, HEA program funds . . . or (v) The amount charged for books, supplies, and equipment unless the institution includes that amount as tuition, fees, or other institutional charges.”

The regulations at 34 C.F.R. § 600.5(d)(2) provide that “[a]n institution must use the cash basis of accounting when calculating the amount of title IV, HEA program funds in the numerator and the total amount of revenue generated by the institution in the denominator of the fraction . . .” According to 34 C.F.R. § 600.5(e)(2)—

[i]n determining the amount of title IV, HEA program funds received by the institution under the cash basis of accounting . . . the institution must presume that any title IV, HEA program funds disbursed or delivered to or on behalf of a student will be used to pay the student’s tuition, fees, or other institutional charges, regardless of whether the institution credits those funds to the student’s account or pays those funds directly to the student, and therefore must include those funds in the numerator and denominator.

The regulations at 34 C.F.R. § 600.5(e)(4) state that “With regard to the denominator, revenue generated by the institution from activities it conducts, that are necessary for its students’ education or training, includes only revenue from those activities that – (iii) Are required to be performed by all students in a specific education program at the institution.” In CCC’s case, the dental assisting students provided periodic dental hygiene instruction to the children in CCC’s child care center located on campus. However, CCC included all of the child care center’s revenue in its 90/10 calculation, not just the portion attributable to the dental assisting students’ work. CCC did not provide supporting documentation as to the amount of time the dental assisting students worked in the child care center, and CCC’s catalog does not indicate that providing the dental hygiene instruction is necessary to complete the program.

## **Inadequate Policies, Procedures, and Practices**

Errors in CCC's 90/10 Rule calculation occurred because CCC did not consistently code the transactions within its accounting system, resulting in funds being accounted for in an incorrect category. In addition, CCC officials stated they considered Clary Sage College revenues to be correctly included in the 90/10 calculations as generated from eligible programs, regardless that Clary Sage College was not approved for certification and was not a participating institution. CCC officials stated that they included the day care revenue because the dental assisting students worked with the children periodically about dental hygiene. CCC officials also relied on their independent public accountant's advice that Clary Sage College revenues as well as the revenues from the child care center were eligible to be included in the 90/10 calculations.

## **Improper Percentage of Revenue Reported to the Department**

As a result of improperly calculating the percentage of revenue derived from Title IV, HEA program sources, CCC reported inaccurate 90/10 Rule information in its 2006 financial statements. CCC reported that it derived 86.12 percent of its revenue from Title IV, HEA program sources for fiscal year 2006.<sup>7</sup> While the misclassifications, such as the Clary Sage services, child care center revenue, and the non-institutional charges in CCC's 90/10 calculation resulted in CCC understating its 90/10 calculation percentage, other errors we identified resulted in CCC overstating its percentage. Specifically, of the 11 misclassification errors, 9 (82 percent) mistakenly reduced student payments instead of reducing Title IV, HEA program funds. These errors decreased student payments in the denominator, when the amount of Title IV, HEA program funds in both the denominator and numerator should have been decreased. Considering all the errors disclosed by our review, we calculated a higher percentage of revenue that CCC derived from Title IV, HEA program sources for fiscal year 2006 (87.90 percent). Although we did not examine every transaction, we do not believe that CCC exceeded the statutory threshold to be eligible to participate in the Title IV, HEA programs for its fiscal year 2006.

## **Recommendations**

We recommend that the COO for FSA require CCC to:

- 6.1 Recalculate its 90/10 Rule percentage for its 2004, 2005, 2006, and 2007 fiscal years, report the percentage to FSA, and provide FSA with the revised calculation and the detail behind the revised calculation.
- 6.2 Develop and implement policies and procedures that ensure it will calculate the percentage of revenue derived from the Title IV, HEA programs in compliance with the requirements set forth in 34 C.F.R. § 600.5.

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<sup>7</sup> CCC reported that it derived 89.44 percent and 86.16 percent of its revenue from Title IV, HEA program sources for the 2004 and 2005 fiscal years, respectively.

## CCC Comments

CCC maintains that it has sufficient policies and procedures for ensuring compliance with the 90/10 requirements set forth in 34 C.F.R. § 600.5, and provided the following specifics regarding the 90/10 calculation:

- *Misclassified transactions.* The draft audit report contains no factual details supporting the conclusion that CCC misclassified cash transactions. CCC maintains sufficient internal controls to ensure that its payment transactions are properly coded and recorded based on their source. Finally, CCC has been provided with no support for the claim that it improperly coded transactions resulting in funds being accounted for in an incorrect category.
- *Clary Sage.* CCC properly included student cash payments occurring prior to the approval date of Clary Sage College's ("Clary Sage") Program Participation Agreement ("PPA") because the applicable regulations approve such treatment. Specifically, the regulatory guidance in FSA's Handbook allows Title IV aid to be disbursed retroactively for the payment period in which the PPA was approved. As a result, it is proper to include related cash payments received during the same payment period.
- *Child care facility.* CCC maintains cash revenue derived from its on-site childcare facility is properly included in its 90/10 calculations because the facility is used as clinic and training classrooms to provide necessary instruction to students. Furthermore, the childcare facility is used to provide educational classroom instruction in a number of programs, such as Early Childhood Education, Medical Assisting, and Dental Assisting.
- *Cash Basis.* CCC states that this assertion is simply inaccurate. CCC always calculates the percentage of revenue derived from the Title IV, HEA programs on a cash basis and the firm that audits CCC for its 90/10 calculation has certified its accuracy.
- *Admission testing fee.* CCC has never charged an admissions or testing fee. CCC collects a small cash payment during enrollment which is applied against the balance due in the enrollment contract. OIG made this finding because periodic vernacular references are made to an application fee but CCC's student account ledgers clearly and accurately reflect the amounts as payments of institutional charges. CCC is taking action to eliminate continued inaccurate references to the payment as an application fee.

## OIG Response

Following are our specific responses to CCC's comments on misclassified transactions, Clary Sage, child care facility, cash basis, and admission testing fee.

- *Misclassified transactions.* CCC's system of internal control allowed transactions to be misclassified. Four \$1,500 scholarships were classified as non-Title IV excess cash, a Pell grant was classified as student payment, and five return of Title IV aid checks were coded as non-Title IV excess cash.
- *Clary Sage.* CCC contends that revenue from Clary Sage was allowable because it was under an approved PPA for that year. However, CCC did not provide us with an approved PPA for Clary Sage for the year in question. The documentation provided to us during the audit showed that Clary Sage was not an approved participating institution during award year 2006-2007.

- *Childcare facility.* CCC contends that revenue from its on-site childcare facility is properly included in its 90/10 calculation because the facility is used as clinic and training classrooms to provide necessary instruction to students. However, CCC did not provide support that the childcare facility was used to provide educational instruction to students in the Medical Assisting and Dental Assisting programs. In addition, Early Childhood Education was neither an approved program during award year 2006-2007 nor listed in CCC's catalog as a program offered during award year 2006-2007.
- *Cash basis.* Two transactions within our sample were not cash basis transactions. Both transactions were tuition adjustments to the students' accounts. No payments were involved, and we could not trace the transactions through the financial records CCC provided.
- *Admission testing fee.* Prospective students were provided a packet of information and items needed prior to registering as a student. Prospective students are required to pay a \$15.00 application fee prior to enrollment. On the application is a note stating that the fee is "due prior to enrollment." Fees charged prior to enrollment cannot be considered institutional charges that are necessary for the education or training of students who are enrolled in eligible programs.

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## OBJECTIVES, SCOPE, and METHODOLOGY

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The objectives of our audit were to determine if CCC complied with selected provisions of the HEA and regulations governing (1) student eligibility, (2) recruitment of students and incentive compensation, (3) the return of Title IV aid, (4) disbursements, and (5) the percentage of revenue that may be derived from Title IV, HEA programs (90/10 Rule). Our audit covered award year 2006-2007.

To accomplish our objectives, we—

- Reviewed provisions in the HEA, regulations, and Departmental guidance applicable to our audit's objectives;
- Reviewed CCC's audited financial statements and *Compliance Attestation Examination of the Title IV Student Financial Assistance Programs* for the fiscal year ended December 31, 2006;
- Interviewed CCC officials;
- Obtained an understanding of CCC's system of internal control including policies and procedures regarding the 90/10 Rule calculation, return of Title IV aid, enrollment, disbursements, and incentive compensation;
- Reviewed CCC's bank statements for the period July 1, 2006, through June 30, 2007;
- Interviewed the independent public accountant regarding aspects of return of Title IV aid and CCC's compliance with the 90/10 Rule;
- Analyzed the composition of the numerator and denominator for CCC's 90/10 Rule calculation;
- Judgmentally selected, based on length of employment, two of seven admissions employees and reviewed their payroll records, and reviewed admission contest rules to test CCC's compliance with the incentive compensation regulation; and
- Randomly selected 25 students from the universe of 824 Title IV, HEA program funds recipients and reviewed their files to determine if CCC complied with the eligibility and disbursement requirements.
- Analyzed approximately 1,300 pages of exhibits provided by CCC in its response to the draft audit report.

To test CCC's compliance with the 90/10 Rule, we judgmentally selected a sample of 130 of 1,180 transactions from 10 revenue categories included in the 90/10 calculation. We selected 10 percent, or 25 transactions, and traced the transactions to student account records, original bank statements, deposit slips, Sallie Mae loan journals, Pell logs, and credit card receipts and deposits. We generally selected the largest dollar amounts and at least three entries per revenue category.

To evaluate the school's compliance with the return of Title IV aid requirements, we randomly selected 33 students from the universe of 321 students who received Title IV, HEA program funds and withdrew, dropped, or were terminated from the school during the period July 1, 2006, through June 30, 2007. The 33 students included 3 students with post withdrawal disbursements,

5 students for whom CCC calculated that no return of Title IV aid was due, and 25 students for whom calculated returns were due. Title IV, HEA program funds totaling about \$149,719 were involved in the 33 students' calculations.

We also relied, in part, on computerized data (student lists and accounting records)<sup>8</sup> provided to us by CCC officials and data we obtained from the Department's National Student Loan Data System (NSLDS). We used CCC's student roster lists for selecting our return of Title IV aid sample and the NSLDS data for selecting our student eligibility and disbursement sample. We verified the completeness, accuracy, and authenticity of the data by comparing the computerized data with source records and source records to computerized data. We tested the student lists for accuracy and completeness by comparing a sample of student information to selected source records. We tested the accounting records for accuracy and completeness by judgmentally selecting 10 percent or 25 of the larger transactions (whichever was lower) for each revenue category and tracing them to deposit slips, student records, and original documentation. In addition, we verified the Title IV, HEA program amounts in CCC's accounting records to the NSLDS data. Based on these tests, we concluded that CCC's student lists and accounting records and the NSLDS information were sufficiently reliable for the purpose of our audit.

We conducted our fieldwork at CCC's campus in Tulsa, Oklahoma, and our offices from July 2007 through June 2008. We held an exit conference with CCC officials on January 9, 2009.

Our audit was performed in accordance with generally accepted government auditing standards appropriate to the scope of the review described above.

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<sup>8</sup> The accounting records obtained included general ledger transactions related to student accounts, return of Title IV aid, institutional refunds, and the 90/10 Rule calculation.

**ENCLOSURE: CCC's Comments on the Draft Audit Report**

**COMMUNITY CARE COLLEGE'S RESPONSE  
TO THE OFFICE OF  
INSPECTOR GENERAL'S  
AUDIT REPORT  
ACN ED-OIG A06H0016**

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Community Care College (CCC)  
List of Exhibits

Exhibit 1	OIG Draft Audit Report, April 9, 2009
Exhibit 1.1	Dear Colleague Letter GEN-04-03 Revised (November 2004)
Exhibit 2	CCC Catalog 2006-2007 Award Year
Exhibit 2.1	Student Orientation Manual
Exhibit 2.2	Sample Student Schedule
Exhibit 2.3	Unofficial Withdrawal Policy
Exhibit 3	CCC Enrollment Agreement - 2006-2007 Award Year
Exhibit 4	CCC 90-10 Calculation with Transaction Detail (2006)
Exhibit 5	Disbursement Calculations for Students 1, 4, and 29
Exhibit 6	ABHES Accreditation Manual
Exhibit 7.0	May 2, 2005 Transfer to HCM2
Exhibit 7.1	Approval of Reimbursement Package - July 8, 2005
Exhibit 7.2	Approval of Reimbursement Package - August 15, 2005
Exhibit 7.3	Approval of Reimbursement Package - September 29, 2005
Exhibit 7.3a	Revised Instructions for Submission Requirements on HCM2, October 25, 2005
Exhibit 7.4	Approval of Reimbursement Package - November 3, 2005
Exhibit 7.5	Approval of Reimbursement Package-December 14, 2005
Exhibit 7.6	Approval of Reimbursement Package - January 20, 2006
Exhibit 7.7	Approval of Reimbursement Package - February 16, 2006
Exhibit 7.8	Approval of Reimbursement Package – April 6, 2006
Exhibit 7.9	Approval of Reimbursement Package - May 2, 2006
Exhibit 7.10	Approval of Reimbursement Package - June 8, 2006

Exhibit 7.11	Approval of Reimbursement Package - July 14, 2006
Exhibit 7.12	Approval of Reimbursement Package - August 18, 2006
Exhibit 7.13	Approval of Reimbursement Package - September 28, 2006
Exhibit 7.14	Approval of Reimbursement Package - October 23, 2006
Exhibit 7.15	Approval of Reimbursement Package-November 30, 2006
Exhibit 7.16	Approval of Reimbursement Package-December 28, 2006
Exhibit 7.17	Approval of Reimbursement Package - January 31, 2007
Exhibit 7.18	Approval of Reimbursement Package - March 13, 2007
Exhibit 7.19	Approval of Reimbursement Package - April 6, 2007
Exhibit 7.20	Removal from HCM2 dated April 19, 2007
Exhibit 8.1	Financial Statement for Year Ended December 31, 2008
Exhibit 8.1.a	Compliance Audit for Year Ended December 31, 2008
Exhibit 8.2	Financial Statement for Year Ended December 31, 2007
Exhibit 8.2a	Compliance Audit for Year Ended December 31, 2007
Exhibit 8.3	Financial Statement for Year Ended December 31, 2006
Exhibit 8.3a	Compliance Audit for Year Ended December 31, 2006
Exhibit 8.4	Financial Statement for Year Ended December 31, 2005
Exhibit 8.4a	Compliance Audit for Year Ended December 31, 2005
Exhibit 9	Provisional Certification Letter - September 26, 2008
Exhibit 10	Jones and Pullen Pell Return checks – April 27, 2009
Exhibit 11	Return Spreadsheet Analysis and Related Checks
Exhibit 12	List of Students by Draft Audit Finding
Exhibit 13	Student R2T4 Documentation (Redacted to eliminate personal information)

- Exhibit 14            Electronic mail - Martin Niforth, Atlanta Student Aid, Inc., to Brian Kerrigan, U.S. Department of Education
- Exhibit 15            Finding 4 Analysis
- Exhibit 16            Final Program Determination for Period July 1, 2001 – June 30, 2003 (August 18, 2006)
- Exhibit 17            Final Audit Determination for Period January 1, 2005 – December 31, 2005 (August 31, 2006)
- Exhibit 18            Program Review Report for Award Years 2001/2002, 2002/2003, and 2003/2004 (September 2, 2005)
- Exhibit 19            Unannounced Program Review Report (September 11, 2006)
- Exhibit 20            25% Letter of Credit Demand (September 26, 2006)
- Exhibit 21            Declaration - Marlene Holt-Flaherty, C.P.A.
- Exhibit 22            Declaration - Marie Ryczywot
- Exhibit 23            Resume – Martin W. Niforth
- Exhibit 24            Evidence of Professional Development and On-going Training of Financial Aid Staff

**COMMUNITY CARE COLLEGE'S  
RESPONSE TO THE OFFICE OF INSPECTOR  
GENERAL'S DRAFT AUDIT REPORT**

**I.  
PRELIMINARY STATEMENT**

The Office of Inspector General ("OIG") issued a draft audit report to Community Care College ("CCC", "School", or "Institution"), Audit Control Number ED-OIG/A06H0016 ("Draft Audit", *Exhibit 1*) on April 9, 2009. The Draft Audit covers the 2006-2007 Award Year (July 1, 2006 through June 30, 2007) ("Award Year"). In conducting the Draft Audit, OIG evaluated whether CCC satisfied Title IV, HEA regulations relating to student eligibility, student recruitment and incentive compensation, R2T4, disbursements, and compliance with 90/10. *See, Exhibit 1, Draft Audit at page 1 of 18.*

The Draft Audit contains six (6) findings.<sup>9</sup> Importantly, the Draft Audit makes no findings relating to perceived irregularities in student eligibility, recruitment of students, or incentive compensation. Furthermore, five of the six findings are at least partially dictated by the Draft Audit's inaccurate conclusion that CCC offers self-paced programs. That erroneous conclusion and the Draft Audit's apparent confusion as to the correct date of determination for making returns have significant implications to most of the findings in the Draft Audit. In addition to those inaccuracies, additional reasons resolve the first five findings in favor of CCC, as well.

The final finding (Finding 6) relates to alleged inaccuracies in the School's 90/10 calculation for the Award Year including claims that the School misclassified revenues, included revenues improperly, failed to limit the calculation to cash-based revenues, and included revenues containing non-institutional charges. CCC successfully refutes the allegations in Finding 6 as presented below.

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<sup>9</sup> It may prove helpful to refer to Exhibit 12 since it identifies the specific students involved in each of the Findings (1 through 5). However, even with student identification, the Draft Audit lacks specific support for the findings such that it remains difficult to evaluate the findings for purposes of this response.

## II. BACKGROUND

CCC is a proprietary institution of higher education with a main location in Tulsa, Oklahoma. The School was formed in 1995 and provides numerous diploma and Associate of Science degree opportunities in business administration, health service administration, medical assistant, early childhood education, dental assistant, fitness and health, massage therapy, medical billing and coding, pharmacy technology, surgical technology, and veterinary assistant. *Exhibits 2 & 3 and Exhibit 21, ¶¶ 4 and 5.*

The Institution expanded in 2007 to include a second non-main campus (Clary Sage College) (“Clary Sage”) also located in Tulsa Oklahoma offering diploma and an Associate of Occupational Science degree in various cosmetology-related industries. Clary Sage’s programs were approved for Title IV aid in July 2007. In March 2009, a third campus (Oklahoma Technical College) (“OTC”) was opened in Tulsa, Oklahoma, offering diploma and Associate of Applied Science degrees in automotive technology, light diesel, and welding. OTC’s programs have not been approved for Title IV as of this date. There are presently about 900 students enrolled in programs at the three campuses and about 160 people employed as faculty and staff. *Exhibit 6, ¶ 5 and Exhibit 21, ¶ 5.*

The Draft Audit follows a very unusual procedural history. The audit was issued almost 19 months after OIG initiated its audit and some 3 months after OIG conducted its exit interview. OIG’s audit commenced only three months after CCC was removed from Heightened Cash Monitoring, Level 2 (“HCM2”) in April 2007. *Exhibit 7.20.* CCC was placed on HCM2 in May 2005. *Exhibits 7.20.* Since the findings in the Draft Audit were delayed so long, it references a timeframe no longer relevant. CCC resolved most deficiencies occurring in the time frame of the Draft Audit during the HCM2 reimbursement process. CCC has been off HCM2 for over two years at this point. The Institution is and has been complying with Title IV regulations as reflected in its favorable audits for 2006, 2007, and 2008. *Exhibits 8.1, 8.1a, 8.2, 8.2a, 8.3, and 8.3a.*

It is significant to the context of the Draft Audit that CCC was subjected to extensive regulatory review prior to the Draft Audit. During the four years prior to the time OIG commenced its audit in July 2007, CCC received numerous regulatory reviews. CCC had its first ever program review by the U.S. Department of Education

("ED" or "Department") in August 2004. *Exhibit 18*. That program review covered award years 2001/2002, 2002/2003, and 2003/2004. The School also changed Title IV audit firms in 2005 after receiving guidance from the Department identifying firms with ample Title IV experience. That firm conducted an audit of 2005 resulting in numerous findings. *Exhibit 8.4a*. In that audit, the audit firm recommended a 100% file review of the School's 2005 R2T4 calculations. The School posted an irrevocable letter of credit in the amount of \$231,000 (October 2006) due to the results of the audit performed by its auditors in 2005. *Exhibits 8.1a, 8.2a, 8.3a, and 20*. The School also returned approximately \$2,050 as reflected in the Department's August 31, 2006, Final Audit Determination Letter following the audit of its R2T4 calculations. *See, Exhibit 17*.

CCC also endured an unannounced program review in July 2006, relating to the 2003/2004, 2004/2005, and 2005/2006 award years. That program review resulted in a mere \$755 adjustment for those three award years. *Exhibit 18*. In August 2006, CCC paid approximately \$51,000 to resolve the Department's Final Program Determination from the August 2004 program review. *See, Exhibit 16*.

In order to resolve the findings identified in the program reviews and audits of 2004 and 2005, CCC hired a CPA as its Chief Financial Officer ("CFO") in mid-2006. The CFO has over thirty years of management experience. Around that time, the School also hired a financial aid specialist having significant Title IV experience. That person has progressed to become the Director of Financial Aid and now has about 10 years of Title IV experience. *Exhibits 21 and 22*. The benefits of that experienced management team are objectively reflected in the results of its subsequent annual compliance audits. The School's Title IV accounting firm issued a zero-finding audit report in 2006 and its 2007 and 2008 audits contained only minimal findings. *Exhibits 8.1a, 8.2a, and 8.3a*. Furthermore, the School had about 19 reimbursement submissions scrutinized and approved between July 2005 and April 2007. *See, Exhibits 7.1 through 7.19*. CCC was released from HCM2 in April 2007. *See, Exhibit 7.20*.

For whatever reason, it is unlikely that any school received more regulatory scrutiny during that four-year period. Nonetheless, OIG asserts findings entirely inconsistent with the regulatory determinations by the Department and other industry experts over the relevant time frame and which, if accurate, would have been detected long before OIG conducted its audit.

Fundamental errors in OIG's interpretation of CCC's school operations and erroneous interpretations of the Department's regulations result in inaccurate conclusions in the Draft Audit unsupported by facts or regulation. For the reasons stated below, CCC requests that OIG withdraw its findings and issue a final audit determination without findings.

### **III.** **CCC DOES NOT OFFER SELF-PACED PROGRAMS**

A number of erroneous conclusions are evident in the Draft Audit. No single error has a greater ripple effect in the Draft Audit than the assertion that CCC offers self-paced programs. The Draft Audit's inaccurate determination that CCC provides instruction in self-paced programs affects the accuracy of most of the findings in the Draft Audit. Specifically, among other errors, the inaccurate determination that CCC provides self-paced programs results in additional erroneous conclusions that CCC: 1) incorrectly calculated Return to Title IV ("R2T4") (Finding 1); 2) made untimely determinations of student withdrawals (Finding 2); 3) returned Title IV funds in an untimely manner (Finding 3); 4) improperly disbursed funds to students after they withdrew (Finding 4); and 5) incorrectly pro-rated Pell and FFEL (Finding 5).

The characteristics of a self-paced program are described in the Federal Student Aid Handbook. *See, Volume 4, Processing Aid and Managing Federal Student Aid Funds, 2008-2009, at Chapter 2, page 4-45.*<sup>10</sup> Specifically, self-paced programs are defined as:

A self-paced program is an educational program without terms that allows a student – (1) to complete courses without a defined schedule for completing the courses; or (2) at the student's discretion, to begin courses within a program either at any time or on specific dates set by the institution for the beginning of courses without a defined schedule for completing the program. (Emphasis added).

Exhibits 2 and 3 (CCC's 2006-2007 Catalog and 2006-2007 Enrollment Agreement) clearly refute OIG's assertion that CCC offers self-paced programs. Each exhibit

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<sup>10</sup> Apparently, the only definition for a self-paced program in the regulations appears at 34 C.F.R. §691.75(e). That definition first appears in the regulations as of July 1, 2007. It is also noted that said definition is presented as applying to the associated section of the regulations relating to the administration of grant payments, specifically, Academic Competitiveness Grants (ACG) and so-called National Smart Grants in Part 691 of the Regulation.

reflects defined weekly periods for completing courses and programs. For example, the Dental Assistant program is shown in Exhibit 3 as having 734 Clock Hours over a 32-week period resulting in a total of 30 credit hours. This program is taught through a series of sequential modular-like course in which a student only receives a final grade at the end of each scheduled course.

In contrast, self-paced programs are characterized by programs of study in which there is no scheduled time frame for completing courses in the program. An example includes a program similar to that described above but without modules. Rather, students would merely take and complete lessons in a course at their own pace. In other words, the defining characteristic of a self-paced program is that students advance at varying rates through a program based on their ability to satisfy course requirements. That is not the case at CCC.

In a self-paced structure, a student may master the information in Course Number 1 on Tuesday, pass a related test, and proceed to Course Number 2. The student could complete Course Number 2 by Thursday of that same week and start Course Number 3 on Friday the same week. Another student may take the whole week to complete Course Number 1 despite commencing the program on the same date as the first student. As a result, it is characteristic of self-paced programs that one student may finish a 30-semester credit, 30-week program in 20 weeks while another student takes the full projected 30 weeks to complete the program even though both students are attending full time. Such programs are rare and normally occur in computer-based programs in which all lessons, courses, and exams are loaded on a computer so the student can go as fast or as slow as they wish.

The programs at CCC are easily distinguished from self-paced programs. At CCC, students are required to proceed through a program according to the schedules identified in their enrollment agreement and school catalog. *Exhibits 2, 2.1, 2.2, and 3.* Exhibit 2.2 is a sample student schedule clearly showing modules taken by the student as well as future modules to be taken. In each instance, the student's schedule reflects finite start and end dates for each modular course. Of course, students can possibly proceed through programs at varying rates if there are interruptions in their ability to attend courses, by failing a course, etc. However, CCC is undoubtedly a non-term

credit-based school providing education through a modular course structure as opposed to a school offering self-paced programs.

The Draft Audit confuses the fundamental elements of a self-paced program in rendering Findings 1 through 5 because it focused on interruptions in some student's studies. The Draft Audit seems to ignore the fact that all of the students in its sample withdrew from CCC at some point for various reasons. However, the vast majority of CCC's students proceed without such interruptions according to the schedule shown in their enrollment agreements, the school catalog, and individual student schedules such as Exhibit 2.2.

The characteristics of a non-term credit institution such as CCC can be explained in an example in which a program is offered over 30 weeks for which students earn 30 semester credits. Classes are taught in one-subject modules course each week. Some classes may have varying lengths, but the constant element is that students only receive a grade and credit for each course module at the end of the prescribed period. The structured module course system distinguishes these programs from self-paced programs. The fact that students start on the same date in the same program but ultimately conclude the program on different dates is not indicative of a self-paced program but merely evidence that some student's education is interrupted by events such as failing a course or having to take a leave of absence. It appears that OIG concluded, incorrectly, that such variance was evidence of self-paced programs.

As with term-based programs, students failing a course, receiving an incomplete grade, dropping a course, taking a leave of absence, or otherwise interrupting scheduled course will most likely have a different end date from students in the same program that complete all course work without extenuating circumstances that lead to interruptions. The same is true for students who transfer credits from another institution or return after a withdrawal, drop, leave of absence, or administrative leave. In each instance, students are likely to have a different schedule and end date from students who proceeded without interruption. Such interruptions do not make a program self-paced. The purported anomalies discussed in the Draft Audit certainly do not support OIG's conclusion that CCC offers self-paced programs. More accurately, CCC is a normal credit-hour, non-term school. It is evident from the erroneous conclusion that CCC provides self-paced programs that the reviewers are accustomed to evaluating

term-based institutions as opposed to schools like CCC that are non-term credit hours institutions.

It is clear that CCC's programs do not satisfy the definition of self-paced programs articulated in the Federal Student Aid Handbook and cited above. The following highlights why CCC does not satisfy the Federal Handbook's definition of a "self paced" program:

- a) At enrollment, each student at CCC signs an enrollment agreement identifying a definite program start and end date. The length of the program is based on the approvals by both the state licensing body and national accrediting agency. In addition, students are provided with a schedule, generated by the campus management software, identifying the sequential courses based on the program course requirements.
- b) Each individual course within a program has a specific start and end date with specific hours of required attendance. Students that do not attend a scheduled class are marked absent. If a student is not able to successfully complete a course by the course end date due to poor attendance or performance, they receive the grade earned and must pay to retake any failed course. The related grade also affects the student's qualitative and quantitative Satisfactory Academic Progress ("SAP") components.
- c) As in traditional term-based programs, students sometimes fail to start a course causing the course to be rescheduled for a later date. If, due to course rotation, that course is not immediately available, the student may have a break in schedule. That does not make the student self-paced according to the Federal Handbook definition. There is no regulatory prohibition against this type of break.
- d) Students completing courses as scheduled at enrollment will complete the program with the same cohort students they started with just as they would in a term-based modular structure.

It is also significant that CCC's accrediting agency does not consider CCC a self-paced institution. CCC is accredited by the Accrediting Bureau of Health Education Schools ("ABHES"). ABHES identifies a category of programs as "continuous term" for purposes of calculating credit-hour values in non-term programs. *Exhibit 6*. The OIG report also cites the institution's catalog reference to "continuous term" in support of their argument that CCC programs are self-paced. The term itself does not differentiate between self-paced and modular programs or any other type of non-term program. It certainly is not used by ABHES, nor does it imply that non-term means self-paced. The

term is nothing more than a category used by ABHES for calculating credit hour values in non-term programs.

**IV.**  
**CCC's POLICIES, REGULATORY INTERPRETATIONS, AND METHODOLOGIES**  
**HAVE BEEN EXTENSIVELY REVIEWED AND APPROVED BY ITS REGULATORS**

When evaluating the regulatory assertions in the Draft Audit, it is helpful to recall that CCC was subjected to extensive scrutiny by various regulators, such as the Department, and Title IV experts for the time period before, during, and after the 2006/2007 Award Year that is the subject of the Draft Audit. That scrutiny involved all aspects of Title IV compliance including Title IV policies, regulatory interpretations, and methods of implementing Title IV-related policies. As a result, CCC maintains that it is more likely that the conclusions in the Draft Audit are inaccurate since they are inconsistent with the review and approvals issued by its primary regulators and Title IV professionals who have significantly greater familiarity with CCC and similarly situated schools.

The Department's approval of each reimbursement submission by CCC after its HCM2 review process over a 20-month period from May 2005 through April 2007 (which covers the Award Year audited by OIG) is significant. Such evidence contradicts assertions in the Draft Audit that CCC's Title IV policy interpretations and applications are defective. Those recurring approvals in the context of the heightened scrutiny imposed by HCM2 refute many of the concerns in the Draft Audit about the efficacy of CCC's student withdrawal policy, for example. To the extent CCC applied the wrong withdrawal policy or improperly applied its withdrawal policy during the Award Year, the Department certainly would have detected those errors since student withdrawals result in returns and other adjustments relevant to the HCM2 reimbursement process. CCC made nine (9) HCM2 reimbursement requests during the Award Year evaluated by OIG. *See, Exhibits 7.11 through 7.19.* It is beyond unlikely that the Department would not have detected student withdrawal errors such as those alleged in the Draft Audit under such detailed reviews over such an extended period of time.

Furthermore, CCC's policies, procedures, and methodologies were reviewed and approved by the Department as part of the Program Participation Agreement

recertification process in 2008.<sup>11</sup> CCC received its recertification by letter dated September 26, 2008. *Exhibit 9*. For ease of reference, CCC attached electronic mail exchanges between the Department and representatives of CCC to Exhibit 9 by which CCC provided its SAP, unofficial withdrawal, R2T4, and admissions policies, among others, relevant to OIG's findings in the Draft Audit. Since the Department develops and routinely interprets and applies Title IV regulations, it is reasonable to conclude that its numerous approvals in the HCM2 reimbursement process and its evaluations in the recertification process provide compelling objective evidence that CCC's policies and its application of those policies were compliant during the Award Year audited by OIG.

CCC also maintained an appropriate system of internal controls during the Award Year to ensure compliance with Title IV regulations. To that end, CCC ensures that its staff completes R2T4 calculations properly by requiring adequate training in Title IV compliance. Furthermore, CCC received counsel and training from an experienced Title IV accounting and auditing firm considered experts in Title IV administration. *Exhibit 21, ¶6*. Those experts issued financial and compliance audit reports for the years ending December 31 for 2006, 2007, and 2008, the results of which revealed no significant deficiencies and certainly nothing like those in the Draft Audit. *Exhibits 8.1, 8.2, and 8.3*.

Management also routinely monitors staff performance to ensure compliance with Title IV, HEA program regulations and guidance provided by ED. The alleged errors cited in the Draft Audit result from differences between the Draft Audit's regulatory interpretation and those by the Department and other subject matter experts but they certainly do not result from CCC's failure to properly administer Title IV. CCC's SFA audit results belie the conclusions reached in the Draft Audit. *Exhibit 21, ¶6*.

In addition, the Institution invests significant resources in compliance. Those investments including tripling the size of its financial aid staff, hired a CPA as its Chief

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<sup>11</sup> CCC submitted an application to recertify its Program Participation Agreement (PPA) on February 19, 2008. In a telephone discussion with Deborah Tucker, U.S. Department of Education, on April 14, 2008, Ms. Tucker requested CCC's written policies and procedures regarding withdrawals, R2T4, and admissions in the context of her evaluation of CCC's application for recertification. Those policies were transmitted to her via electronic mail that same day. On May 27, 2008, Ms. Tucker sent an electronic mail request for additional information. *Exhibit 9, p. 9-4*. That additional information was transmitted to Ms. Tucker on May 29, 2008. *Exhibit 9, pp. 9-3 and 9-9 through 9-17*. The PPA verifying recertification was issued by the Department on September 26, 2008. *Exhibit 9-1 and Exhibit 22, ¶4*.

Financial Officer, hiring a new audit firm recommended by ED, investing in continuing education for its employees, and acquiring updated software and hardware technology to maintain compliance. See, *Exhibit 24*. Of course, CCC also relies heavily on guidance it receives from ED with respect to confirming its Title IV regulatory interpretation and application and, when appropriate, modifies its policies and procedures to be consistent with ED's guidelines. *Exhibit 21*, ¶ 7. The Institution should not be penalized now for interpretation differences between the OIG and ED or the fact that the OIG has taken almost two years to issue its report. As detailed above in Section II, below, CCC has received extensive oversight prior to and during the Draft Audit period. That oversight by ED and other industry experts was performed by parties far more familiar with CCC's operations than OIG. Furthermore, the objective evidence from the School's compliance audits and the results of the HCM2 submissions verify that CCC is a complying institution.

**V.**  
**SIGNIFICANT ERRORS EXIST IN FINDING 1 OF THE DRAFT AUDIT**

Finding 1 in the Draft Audit asserts six (6) deficiencies in calculations related to returning Title IV funds. OIG asserts that the most significant error it found in this regard was an alleged failure to use the correct payment period end dates. It also alleges that the School: a) incorrectly categorized Title IV funds as could have been disbursed or disbursed; b) incorrectly accounted for non-scheduled periods; c) incorrectly determined the last date of attendance ("LDA"); d) incorrectly calculated the days in institutional breaks; and 5) incorrectly calculated institutional charges. The Draft Audit's conclusion in this finding that CCC offers self-paced programs and its reliance on inapposite guidance from Dear Colleague Letter GEN-04-03, Revised (November 2004) ("DCL GEN-04-03") are unjustified and inaccurate as applied to CCC. *Exhibit 1.1*.

In and around the time the referenced Dear Colleague Letter was issued, Martin Niforth contacted Brian Kerrigan in the Policy Division of the Department via electronic mail.<sup>12</sup> See, *Exhibit 14*. In that electronic mail, Mr. Niforth confirmed a preceding

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<sup>12</sup> Mr. Niforth is an experienced Title IV consultant and former Training Officer for the U.S. Department of Education. Mr. Niforth assisted CCC in evaluating and responding to the Draft Audit given its focus on Title IV-related issues. Mr. Niforth's resumé appears as *Exhibit 23* to this response.

telephone discussion with Mr. Kerrigan and verified that, the example contained in DCL GEN-04-03 and quoted on page 6 of the Draft Audit, solely and specifically relates to self-paced programs. As a result of its reliance on the conclusion that CCC provides self-paced programs, as evidenced by its reference to the quoted portion of DCL GEN-04-03, those findings in the Draft Audit relying upon that conclusion fail to the extent CCC does not make such program offerings. That error eliminates any credibility in OIG's most significant assertion in Finding 1 and undermines its claim that the School failed to use the correct payment period end dates.

The balance of Finding 1 contains additional inaccurate conclusions about the structure of CCC's programs and related regulatory requirements as detailed in the following:

a) The Draft Audit alleges that the School incorrectly used the "Could Have Been Disbursed" aid classification in 11 of the 33 students contained in the sample with respect to their R2T4 calculations. CCC concedes that it incorrectly categorized aid with respect to 4 of the 33 sample students (12%). However, the return calculation for those four students did not involve any federal student loan disbursements in the "aid that could have been disbursed" category. Furthermore, the error was corrected after an April 2007 training conference in which CCC became aware it could include student loans in the return calculations for those who had not attended 30 days. *Exhibit 21, ¶ 8*. It is also significant that these errors actually resulted in returns of aid by CCC exceeding that required by regulation.

CCC contests the finding with respect to the remaining students alleged to have been improperly categorized. CCC relies upon the same analysis it provides with respect to Finding 2 to refute this portion of Finding 1. Specifically, the Draft Audit erroneously asserts that the School should have made earlier determinations to drop the students and that an earlier determination would have affected the relative aid classifications for those students. The Draft Audit relies entirely on DCL GEN-04-03 for its conclusions in this regard. However, DCL GEN-04-03 relates to determinations relating to R2T4 calculations but has no relevance to the issue of determinations of the particular date students should be dropped by the institution. Thus, the Draft Audit's references to CCC's withdrawal policies are inapposite to the issue of R2T4 and the

finding as to these seven students is incorrect. This provides another example of OIG's apparent lack of familiarity of the subject regulations and their proper application.

b) This portion of Finding 1 alleges that the Institution incorrectly accounted for non-scheduled periods in 10 of the 33 sample R2T4 calculations. The Draft Audit's position is that CCC improperly handled non-scheduled periods as institutional breaks instead of counting those periods as absences in the return calculation. Non-scheduled periods occur when extenuating circumstances interrupt students' ability to attend one or more of their originally scheduled course. In those instances, students request course rescheduling for a future date. There is no regulatory requirement that a student must be counted absent during periods they were not scheduled to attend in such instances. If students fail to attend a scheduled course, they are counted absent. However, they are not absent merely because they are not on campus during an arranged break while waiting for a future course. The students' schedules are revised in such instances to best match the remaining program requirements including taking into account course rotation and availability. Those factors impact the length of resulting schedule breaks. Of course, such rescheduling is also determined in the context of the School's Unofficial Withdrawal policy. *Exhibit 9 at p.9-13*. The Draft Audit's request for a different return calculation would only be justified if CCC offered self-paced programs but it does not.

c) Finding 1 also states that CCC incorrectly determined the LDA in 10 of the 33 sample R2T4 calculations. The ten students had periods of non-attendance due to a break in schedule between courses. Though not well articulated, CCC understands that the Draft Audit contends that the ten students should have been withdrawn and a return calculation processed. Apparently, the Draft Audit objects to students being allowed to subsequently resume their studies after a break in schedule even if the students make specific commitments to return to school. In most instances, students honor their commitment. *Exhibit 21, ¶9*. Furthermore, in all instances, CCC satisfied the regulatory requirements by using the actual LDA documented in its record maintenance system when performing any related R2T4 calculations.

d) CCC concedes it incorrectly calculated the number of institutional break days in 4 of the 33 sample calculations (12%). That oversight was discussed with OIG

during its July audit. CCC made immediate changes implementing corrective action. Prior to that change, CCC had not properly accounted for the days leading up to school breaks. Specifically, CCC was including Fridays, Saturdays, and Sundays occurring before breaks in the day count even though many classes ended on Thursdays. Fortunately, the error was infrequent because it only occurred in calculations involving schedule breaks during the withdrawal period.

e) The final portion of Finding 1 asserts CCC miscalculates institutional charges for 21 sample students. In fact, CCC accurately pro-rates the charges consistent with the guidance provided by the Department according to federal guidelines. Specifically, CCC relies on the Department's guidance appearing in the 2006-2007 Federal Student Aid Handbook relating to institutional charges in refuting this portion of Finding 1. Volume 5 of that Handbook for 2006/2007 at Chapter 2, at pages 5-25-26, states in pertinent part:

If a school with a non-term program chooses to base the Return calculation on a payment period, but the school charges for a period longer than the payment period (most likely the period of enrollment), there may not be a specific amount that reflects the actual institutional charges incurred by the student for the payment period. In this situation, the student's institutional charges for the payment period are the prorated amount of institutional charges for the longer period. (Emphasis added).

**Principle 1: Most costs charged by the school are institutional charges**

The most important principle to keep in mind is that all tuition, fees, room and board, and other educationally related charges a school assesses a student are institutional charges, unless demonstrated otherwise. If you want to exclude specific charges or costs from a calculation, you must document that the charges are not institutional charges.

*Exhibit 9 at p. 9-9*, provides the following relevant information about CCC policy.

**Institutional Policy: Return to Title IV procedure**

**Completing R2T4 Calculation Form** (Some data entered will automatically fill in subsequent sections of the calculation form):

1. Enter general student information (program, SS#, Name, Tuition Costs, etc.)

- Tuition costs are divided by the number of payment periods for which the student is charged on the enrollment agreement. Examples are:  
Medical Assistant: the enrollment agreement indicates one academic year of charges (the academic year consists of 2 payment periods). Therefore, we divide the charges by 2 payment periods.  
Associate of Dental Assisting: the enrollment agreement indicates 2 academic years of tuition charges. Therefore, we divide the charges by 4 payment periods.

Apparently, the Draft Audit maintains that pro-rated charges should be based upon each academic year of tuition, fees, and books as reflected on the enrollment agreement. The Draft Audit further maintains that the resulting amount should be divided into two payment periods since CCC utilizes two payment periods in its related policy. However, the Draft Audit fails to recognize that CCC posts all tuition, fees, and book charges to student accounts at the time of enrollment without regard of the number of payment periods in the student's program.

It is of further significance to the Draft Audit's finding in this regard that CCC recently completed its 2008 recertification process during which its policies and procedures were scrutinized and approved by the Department. In that process, the Department specifically indicated that CCC's policies and procedures were being reviewed to determine regulatory compliance. Since many of the same policies and procedures were scrutinized by the Department in the recertification process, it appears that OIG interprets the Department's regulations differently than the Department.

**VI.**  
**FINDING 2 DEMONSTRATES CONFUSION IN THE DRAFT AUDIT ABOUT THE REGULATIONS RELATING TO STUDENT WITHDRAWALS**

The Draft Audit demonstrates apparent confusion about the purpose and meaning of the 14-day rule discussed in the DCL GEN-04-03. *Exhibit 1.1*. The 14-day rule is used solely to determine the date of determination for R2T4 purposes. 34 C.F.R. §668.22. The purpose of DCL GEN-04-03 is made clear in its summary section on the first page of the letter.<sup>13</sup> Since the rule only has relevance in the context of

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<sup>13</sup> In pertinent part, DCL GEN-04-03 states: "Summary: This letter provides additional guidance on the application of the Return of Title IV Aid requirements." (Emphasis added). Thus, the letter has no relevance to the issues OIG raises in Finding 2 relating to when to drop students.

determinations of the amount and timing of any amounts due to be returned pursuant to R2T4, it remains unclear why the Draft Audit cites the letter in the context of Finding 2 but it is apparent that OIG erroneously concludes that it has relevance for use in determining if and when to drop a student. As a result, this finding should be removed from this report.

With respect to this finding, the Draft Report's fundamental observation is that it was unable to find documentation of the School's interaction with students in the context of determining withdrawals. The comments attributed to officials at CCC confirm those officials properly understand the requirements of unofficial withdrawal determinations. CCC's Title IV management and documentation capabilities have improved significantly with a centralized database for maintaining all student communications. The student records database also improves controls for monitoring and enforcing policies and procedures as recommended in the Draft Audit.

**VII.**  
**FINDING 3 DOES NOT JUSTIFY A LETTER OF CREDIT**

Finding 3 is inconsistent with information OIG provided CCC after the Draft Audit was issued. CCC requested the student detail information relating to Finding 3 in order to assist in this response. The information OIG provided appears as part of Exhibit 12 and it only identifies five students relevant to Finding 3. That information is inconsistent with Finding 3 in the Draft Audit which identifies ten students associated with alleged late returns. That inconsistency has not been resolved at any point in time by OIG. Since OIG provided the information appearing in Exhibit 12 after the Draft Audit was issued, it is reasonable to conclude that Finding 3 only involves five students as opposed to the ten to which reference is made in the Draft Audit.

The Draft Audit also asserts that corrections made by CCC in the context of its self-audit in the latter half of 2006 pursuant to which CCC updated return calculations and payments constitute late payments in the context of its request for a Letter of Credit ("LOC"). Such an assertion undercuts the credibility of its request for a LOC since it results in a situation in which CCC is being threatened with punishment for having acted responsibly and professionally in performing the self-audit. Such actions should be

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encouraged by OIG rather than discouraged and it is unreasonable to conclude that a LOC is necessary or justified under these circumstances.

Furthermore, the spreadsheet in Exhibit 11 verifies that only two students cited in the Draft Audit relate to late returns.<sup>14</sup> Because the School maintains that are only two late returns identified in this finding, there is no regulatory basis for the Draft Audit's request for a LOC. The Draft Audit states that 34 C.F.R. §668.173(c)(1)(i) requires posting a LOC if an audit detects late returns at or exceeding 5% of the audit sample. However, the Draft Audit fails to identify additional regulatory guidance appearing at page 2-195 of the Chapter 11 of Volume 2 in FSA's Handbook 2006/2007 stating the Department still considers a school to have timely paid its returns if there are no more than two late returns in the sample without regard to the number of percentage or late returns in the sample.

The request for a LOC is unjustified since CCC satisfies the regulatory requirement for timely returns.

#### **VIII.**

#### **FINDING 4's FOCUS ON LDA IS CONTRARY TO REGULATORY GUIDANCE**

The Draft Audit contains a mistake requiring a re-evaluation of its claims that CCC made improper disbursements to students who had withdrawn from school.<sup>15</sup> Specifically, the Draft Audit makes the following interpretative statement that is unsupported by the regulation:

CCC disbursed Title IV, HEA program funds to students who withdrew, disbursing amounts after the students' LDA. We randomly selected 33 students from the universe of 321 students who received Title IV, HEA program funds and withdrew during the 2006-2007 award year. For 20 of the 33 (61 percent), CCC made improper Pell and/ or FFEL late disbursements between 3 to 105 days after the students' last date of attendance.

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<sup>14</sup> One of the three returns for Jesse Allen was paid 3 days beyond the 45-day requirement of 34 C.F.R. §668.22(j)(1). The other two were each made on the forty-second day. The return for Autumn Wiedel was made 49 days after the date of determination on September 20, 2006. *Exhibit 11.*

<sup>15</sup> As with the other findings in the Draft Audit, the School is unable to provide a detailed student-by-student, finding-by-finding response because the Draft Audit only contains conclusions without such detail.

The Draft Audit also quotes portions of 34 C.F.R. §668.164, stating that a student must be enrolled in order to receive disbursements. Apparently, the Draft Audit equates enrollment with attendance despite the fact that they are not the same. Prior to the date a school determines that a student should be withdrawn, the student is still enrolled. Notwithstanding, the Draft Audit concludes that payments/disbursements of Title IV funds cannot be made after the LDA. Since the issue in this finding relates to R2T4, the following guidance in Volume 5, Chapter 2, at page 5-49 of the FSA Handbook for 2006/2007 is clear and unavoidable.

Generally, a student's Title IV funds are disbursed when a school credits a student's account with the funds or pays a student or parent directly with:

- Title IV funds received from the Department, or
- FFEL funds received from a lender, or **institutional funds used in advance of receiving Title IV program funds.** (Emphasis added).

The guidance continues:

A student's aid is counted as *aid disbursed* in the calculation if it is disbursed as of the date of the institution's determination that the student withdrew (see the discussion under *Date of the institution's determination that the student withdrew*). (Emphasis in original).

Therefore, the Draft Audit reflects confusion about a number of concepts critical to the finding that undermine the finding and require a re-evaluation of the finding altogether. Specifically, the Draft Audit confuses LDA with the date of determination. OIG maintains that CCC disbursed funds after students' LDA. This statement may be true but it does not comport with the regulations and certainly does not establish a violation of the regulations since the regulations are clear that Title IV aid is considered disbursed as of the date of the institution's determination that a student withdrew. By definition, the date of determination occurs after the LDA.

As a result, the conclusions and amounts identified in this finding are inaccurate and must be recalculated and presented on a student-by-student basis before CCC can provide a complete response. In any event, to the extent OIG measured tardy disbursements from the LDA as opposed to the date of determination as provided by

the regulations and related guidance, it is almost certain that OIG has overstated its case in the context of this finding.

The Draft Audit also fails to take into consideration the delay and impact HCM2 had on the timing of disbursements to the students in this finding. Exhibit 7.0 is the May 2, 2005, letter by which the Department transferred CCC to the HCM2 method of reimbursement. As stated in the first paragraph on page 3 of that letter, under HCM2, the Department will not release the funds until the school demonstrates it is entitled to the funds.

Furthermore, the Department only reimburses the School after the School provides documentation of student eligibility and demonstrates that it has expended the funds. In other words, the Department only reimburses the School after it shows a posting of the disbursement on each student's ledger card and submitted it with the HCM2 reimbursement request. Therefore, if OIG used the date that the funds were received by the School on reimbursement, they incorrectly determined that the disbursements were late because the funds are considered disbursed when posted by the School to the student ledgers prior to submitting the HCM2 reimbursement request.<sup>16</sup>

**IX.**  
**FINDING 5 – CCC's ACADEMIC YEAR SATISFIES THE REGULATIONS AND HAS BEEN REVIEWED AND APPROVED BY THE DEPARTMENT**

This finding was not presented or discussed at any time during the audit and was first mentioned during the exit interview in January 2009, some eighteen months after the audit. The Draft Audit references two elements in this finding. First, that CCC's academic year does not match its academic practice. Secondly, as a result of the first element and because the Draft Audit alleges that CCC allowed students to progress through programs on a self-paced basis, CCC should have prorated available Title IV funds during the students' last payment period.

The Institution finds the two referenced points contradictory. First, the Draft Audit states that CCC's programs are structured to earn one credit for each week of

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<sup>16</sup> It is also relevant to this analysis that certain delay is introduced through the HCM2 reimbursement process as shown on page 4 of Exhibit 7.0. Furthermore, the school can only submit one reimbursement submission every 30 days. As a result, even if CCC learned of information relevant to a student's status that may implicate issues relating to disbursement or returns, it has to wait until the Department processes a pending request before it can make a related adjustment.

instruction and then alleges that CCC programs are “self-paced” allowing students to attend and earn credits at their own pace. The self-paced allegation is simply wrong as shown above in Section III. The remaining point regarding academic year definition is addressed below.

CCC changed its academic year definition in 2007 for all programs based on advice from its Title IV accountants. CCC understands the change was made to facilitate better monitoring and management for all of its FSA programs. The School promptly informed its HCM2 Payment Analyst, Ms. Catherine Smoker, who in turn condoned the change. *Exhibit 22*, ¶8. Of course, the resulting academic year definitions (30 weeks and 24 credit hours) meets the minimum federal requirements discussed in the 2006-2007 Federal Student Handbook Volume 3 at pages 3-1 and 3-2. The School has followed the new academic year definition since the change was made.

#### **ACADEMIC YEAR REQUIREMENTS**

Every eligible program, including graduate programs, must have a defined academic year. A school may have different academic years for different programs. For example, a school may choose to define the academic year for a term-based program differently from a nonterm program. In some cases the definition *must* be different, such as in the case of a clock-hour program and a credit-hour program. For FSA purposes, the academic year is defined in weeks of instructional time and for undergraduate programs in credit or clock hours. It need not coincide with a program’s academic calendar. (Emphasis added).

#### ***Thirty-week minimum of instructional time***

There is a minimum standard of 30 weeks of instructional time for an academic year. In cases where the program uses an academic year that meets the standard for credit hours or clock hours, but the program provides less than 30 weeks of actual instructional time, Pell Grant awards and, in some cases, the annual loan limits for Stafford Loans must be prorated, as discussed in Chapters 2, 3 and 4. (Emphasis added).

#### ***Credit/clock hours in an academic year***

The law and regulations set the following minimum standards for coursework earned by a full-time student in an academic year in an *undergraduate* educational program:

- 24 semester or trimester credit hours or 36 quarter credit hours for a program measured in credit hours; or
  - 900 clock hours for a program measured in clock hours.
- (Emphasis added).

In support of the Draft Audit's assertion that CCC's academic year definition does not match its academic practice, the Draft Audit erroneously asserts that students earn one credit hour per week. While sometimes accurate, it is not uniformly accurate because CCC's programs incorporate a number of courses of varying length. Course lengths vary from one to sixteen weeks and possibly longer if an externship is involved. The credit value assigned courses also vary between one-half and eleven credits. Furthermore, student schedules rarely reflect the same sequential ordering of courses because the ordering of courses is largely dependent on when the student enters the program. These dynamics are the main reason why CCC changed its academic year definition to a standard 30-week, 24 semester credit academic year. Again, the change resulted in simplified administration and better management of the various programs. *Exhibit 21, ¶11.*

The regulations do not require institutions to use an academic year definition reflecting every possible program schedule. Rather, schools are required to define an academic year for each program and that a minimum of 30 weeks and 24 semester credits are available for that period. CCC meets that regulatory requirement.

As previously shown, CCC does not offer self-paced programs. Additionally, students do not begin a second academic year until satisfying academic year requirements both in credits and weeks. CCC calculated student aid on a pro-rata basis determined by the number of weeks and credits in the payment period, the academic year definition, an evaluation of how long full-time students would complete the weeks and credits, and according to the student's individual aid eligibility. CCC uses the Pell Formula 4 provided for by federal regulation. 34 C.F.R. §690.63(a) and (e).

Finally, each alleged pro-rating error in the Draft Audit occurred during the period CCC was on HCM2 such that ED already reviewed and approved CCC's treatment in those instances. The Payment Analyst would have to evaluate and approve those calculations before approving the related disbursements. In fact, the Payment Analyst specifically instructed CCC regarding its pro-ration of Pell on September 28, 2006, and CCC continued to use the equivalent of that formula throughout the Award Year.

*Exhibit 7.13.*

X.  
**CCC's 90/10 CALCULATIONS AND ITS RELATED POLICIES AND PROCEDURES  
ARE SUFFICIENT TO SATISFY 34 C.F.R. § 600.5**

CCC maintains sufficient policies and procedures ensuring compliance with the 90/10 requirements set forth in 34 C.F.R. § 600.5. Even with its alleged deficiencies, OIG concedes CCC satisfied 90/10 requirements in fiscal year 2006.<sup>17</sup> OIG contends that its audit detected five deficiencies in CCC's 2006 financial statements with respect to its 90/10 calculation. Unfortunately, in some instances OIG fails to provide sufficient detail supporting its conclusion such that CCC cannot provide a comprehensive response to the assertions. Each of the five alleged deficiencies is addressed in order below.

1. Misclassified \$40,803 in (1) Title IV, HEA program revenue/excess cash transactions as non-Title IV, HEA program revenue/excess cash and (2) non-Title IV, HEA program revenue/excess cash transactions as Title IV, HEA program revenue/excess cash.

The Draft Audit contains no factual details supporting the conclusion that CCC misclassified cash transactions. As a result, CCC cannot provide a detailed analysis and response to the claim. However, CCC maintains sufficient internal controls to ensure that its payment transactions are properly coded and recorded based on their source. *See, Exhibit 4.* Payment transactions are batch processed to prevent coding errors and reconciled monthly. Finally, CCC has been provided with no support for the claim that it improperly coded transactions resulting in funds being accounted for in an incorrect category.

2. Included revenue of \$28,429.69 from Clary Sage College services in the denominator of the calculation.

CCC properly included student cash payments occurring prior to the approval date of Clary Sage College's ("Clary Sage") Program Participation Agreement ("PPA") because the applicable regulations approve such treatment. Specifically, the regulatory guidance in FSA's Handbook referenced below allows Title IV aid to be disbursed retroactively for the payment period in which the PPA was approved. As a result, it is proper to include related cash payments received during the same payment period.

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<sup>17</sup> OIG also concedes that CCC relied on its Title IV accounting firm in determining to include revenue from the childcare center in its 90/10 calculation.

**Vol. 2 — School Eligibility and Operations, 2006-2007,  
Chapter 2 — Applying for Participation in the FSA  
Programs, Page 2-22**

**Effective date for participation**

The date the PPA is signed on behalf of the Secretary is the date the school may begin FSA program participation. Currently, there are additional steps that must be taken for participation in the Direct Loan Program. The Department's Program Systems Service and regional offices are notified, as well as state guaranty agencies, that the school is approved to participate in the FSA programs.

**Beginning to disburse funds**

A school may make Pell Grant disbursements to students for the payment period in which the PPA is signed. Schools receiving initial certification can participate in the Campus-Based programs in the next award year that funds become available. FFEL and Direct Loan program disbursements may begin in the loan period that the PPA is signed on behalf of the Secretary. (*Emphasis added*).

3. Included revenue of \$83,921.16 from the childcare center in the denominator of the calculation.

CCC maintains cash revenue derived from its on-site childcare facility is properly included in its 90/10 calculations because the facility is used as clinic and training classrooms to provide necessary instruction to students. Furthermore, the childcare facility is used to provide educational classroom instruction in a number of programs such as Early Childhood Education, Medical Assisting, and Dental Assisting. Specific regulatory approval for including the revenues in the 90/10 calculation appears in Chapter 1 at page 2-10 of Volume 2 in FSA's Handbook 2006/2007, which states:

**Revenues**

In figuring revenues generated by school activities, a school may include only revenue generated by the school from activities it conducts, that are **necessary for its students' education or training**.

The activities must be

- conducted on campus or at a facility under the control of the institution;
- performed under the supervision of a member of the institution's faculty; and

- required to be performed by all students in a specific educational program at the institution. (*Emphasis in original*).

In the margin of that page of the handbook FSA provides specific guidance with respect to revenues derived from clinics or services.

If a clinic or service is

- operated by the school;
- offered at the school;
- performed by students under direct faculty supervision; and
- required of all students as part of their educational program

then revenues from the clinic or service may be included in the denominator of the 90/10 calculation.

The instruction students receive in the childcare center is necessary to their education and training. The activities in the childcare center are conducted on CCC's campus and the facility is controlled and supervised by CCC and its employees. All students in the relevant programs are required to attend instruction at the childcare center in order to satisfy their program requirements. CCC's 90/10 calculation for the relevant period is accurate and properly includes revenue derived from its childcare facility because CCC satisfies each of the components required by the regulations as articulated in the referenced FSA Handbook.

4. Included \$15,215 that was not accounted for on a cash basis.

This assertion is simply inaccurate. CCC always calculates the percentage of revenue derived from the Title IV, HEA programs on a cash basis and the firm that audits CCC for its 90/10 calculation has certified its accuracy. *Exhibits 8.1, 8.2, and 8.3. Exhibit 21, ¶13*. Since OIG provides no detail in support of its claim regarding CCC's use of cash basis accounting, CCC cannot provide a more detailed response at this time.

5. Included \$6,225 of revenue that contained non-institutional charges (admissions testing fee).

This is another inaccurate statement. In fact, CCC has never charged an "admissions or testing fee". The Institution collects a small cash payment during enrollment which is applied against the balance due in the enrollment contract. OIG apparently made this finding because periodic vernacular references are made to an

“application fee” but CCC’s student account ledgers clearly and accurately reflect the amounts as payments of institutional charges. The School is taking action to eliminate continued inaccurate references to the payment as an application fee.

It is significant to Finding 6 that CCC’s annual 90/10 calculation and related internal controls have also been audited by an independent firm specializing in Title IV administration. In each instance, including the period relevant in the Award Year audited by OIG, CCC has satisfied its accountants as to its relevant accounting procedures and those accountants have certified CCC’s 90/10 calculation without reservation.

## **XI.** **CONCLUSION**

The above identifies significant errors in the Draft Audit justifying issuance of a final audit with no findings. However, even if OIG continues to maintain the merit of any of the findings in the Draft Audit, the recommended action is inappropriate under the circumstances given the delay associated with issuance of the Draft Audit and the fact that it seeks evaluation and modification of school records for award years occurring as much as five years ago. Those records have already been extensively reviewed by regulators and the School and significant liabilities and sanctions have been paid and incurred.

The Draft Audit covered the 2006-2007 award year. Significant changes improving Title IV compliance have occurred at CCC since the beginning of that award year. The CFO and Director of Financial Aid provide much improved knowledge of the requirements of Title IV and they have implemented policies and procedures the Draft Audit suggests may have been lacking during the Award Year two years ago. Furthermore, the School’s use of experienced Title IV auditors improved CCC’s compliance with Title IV. CCC’s financial and compliance audits for 2006, 2007, and 2008, provide objective evidence of CCC’s compliance with Title IV regulations. Recertification by the Department also provides objective evidence of the changes at CCC and of its on-going compliance with Title IV.

As a result, the requests in the Draft Audit for additional reviews relating to the Award Year and prior years is unnecessary given CCC’s documented compliance with Title IV regulations. If performed, the requests in the Draft Audit merely cause

unnecessary expense and diversion of time from the School's mandate to provide quality education while complying with the numerous regulatory layers intended to protect students and the public fisc. For these reasons and those provided above in response to the specific findings, CCC respectfully requests OIG to close its audit of the Award Year and issue no findings requiring any follow-up or action by the School.

Respectfully submitted on behalf of Community  
Care College,

/s/

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