
**INTERACTIVE LEARNING SYSTEMS’
ADMINISTRATION OF THE TITLE IV STUDENT
FINANCIAL ASSISTANCE PROGRAMS**

FINAL AUDIT REPORT



*Control Number ED-OIG/A06-A0001
July 2001*

*Our mission is to promote the efficiency,
effectiveness, and integrity of the
Department’s programs and operations.*



*U.S. Department of Education
Office of Inspector General
Dallas, Texas*



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF INSPECTOR GENERAL

JUL 20 2001

THE INSPECTOR GENERAL
Control Number ED-OIG/A06-A0001

Mr. Elmer R. Smith, President
Interactive Learning Systems
5303 New Peachtree Road
Chamblee, GA 30341

Dear Mr. Smith:

This is our final audit report, **Interactive Learning Systems' Administration of the Title IV Student Financial Assistance Programs**. The report incorporates the comments you provided in response to a draft report which was provided to you. 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 U.S. Department of Education official, who will consider them before taking final Departmental action on the audit:

Mr. Greg Woods, Chief Operating Officer
Student Financial Assistance
ROB-3, Room 4004
7th and D Streets, SW
Washington, DC 20202-5132

Office of Management and Budget Circular A-50 directs Federal agencies to expedite the resolution of audits by initiating timely action on the findings and recommendations contained therein. Therefore, we request receipt of your comments within 30 days.

In accordance with the Freedom of Information Act (5 U.S.C. §552), reports issued by the Office of Inspector General are made available, if requested, to members of the press and general public to the extent information contained therein is not subject to exemption in the Act.

Please refer to the above audit control number in all correspondence relating to this report.

Sincerely,

Lorraine Lewis

Enclosure

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EXECUTIVE SUMMARY

Interactive Learning Systems (ILS), a proprietary school headquartered in Dallas, Texas, disbursed Federal Pell Grants for students attending two locations that did not qualify for participation in the Title IV student financial assistance programs. To participate in the Title IV programs, institutions must be accredited by a nationally recognized accrediting agency. Despite being notified in writing by its accrediting agency that its Pasadena, Texas, location was not accredited, ILS disbursed Federal Pell Grants for students at the location for over three years prior to being accredited. ILS also disbursed Federal Pell Grants for students at a location in Houston, Texas, that its accrediting agency was neither aware of nor accredited before it closed in August 1997.

From July 1996, through December 8, 1999, ILS disbursed \$871,815 in Federal Pell Grant funds for students enrolled at the Pasadena location. ILS also disbursed an estimated \$102,920 of Federal Pell Grants for students who attended its unaccredited Houston location from August 1995 to August 1997.

As a result of management control weaknesses, ILS disbursed Title IV funds for ineligible students, failed to determine the correct award amounts, failed to calculate refunds correctly, and failed to make refunds timely. ILS' failure to comply with the Title IV requirements resulted in an additional \$16,093¹ of unallowable Title IV disbursements. ILS complied with the 90 Percent Rule requirement.

We recommend that the Chief Operating Officer for Student Financial Assistance:

1. Require ILS to return \$990,828 in Title IV funds.
2. Initiate appropriate administrative action in accordance with Title 34, Code of Federal Regulations (CFR), Part 668, Subpart G.
3. Require ILS to strengthen management controls to ensure it adheres to all Title IV requirements in administering the Title IV programs.

¹The \$16,093 is unduplicated dollars. Total unallowable disbursements for this audit finding are \$24,312, which includes \$ 8,219 of unallowable disbursements included in our finding on unaccredited locations.

4. Require ILS to perform a 100 percent review of Title IV disbursements from July 1, 1998, forward; return to the Department of Education any additional inappropriate disbursements; and have its Independent Public Accountant verify ILS' review of Title IV disbursements for accuracy.
5. Require ILS to post a letter of credit equal to 25 percent of the refunds that were made or should have been made during its most recently completed fiscal year due to the school's failure to make timely refunds.

ILS provided narrative comments and exhibits containing over 400 pages of documentation in response to our draft report issued in February 2001. ILS' narrative comments are included in their entirety in Appendix C. We summarized ILS' comments and provided our response following each finding. The exhibits have been provided to the Department of Education Action Official. Based on our analysis of ILS' comments and the documentation provided to support those comments, we reduced the Title IV liability amount for Finding Number 2 by \$6,150 to \$16,093 and changed our recommendation to reflect that reduction. Our analysis did not persuade us to change our overall conclusions or any other recommendations contained in the draft report. We have added a recommendation to the *MANAGEMENT CONTROL WEAKNESSES LED TO OTHER NON-COMPLIANCE* section of the report.

AUDIT RESULTS

FINDING NUMBER 1 ILS DISBURSED GRANTS FOR STUDENTS ATTENDING TWO LOCATIONS NOT ACCREDITED

ILS disbursed Federal Pell Grants for students who attended two locations when those locations were not accredited. A campus located in Pasadena, Texas, was not an eligible Title IV location from its inception in July 1996 until it was accredited on April 13, 2000. ILS disbursed \$871,815 in Federal Pell Grants for students enrolled at the location for over three years until the Department instructed ILS on December 9, 1999, to cease awarding and disbursing Title IV funds for students at that location. ILS also disbursed an estimated \$102,920 of Federal Pell Grants for students who attended an unaccredited Houston location from August 1995 to August 1997.

Requirements for Title IV Program Participation

Section 102(b)(1)(D) of the Higher Education Act of 1965, as amended (HEA), specifies that a proprietary institution of higher education that is eligible to participate in the Title IV programs is one that “is accredited by a nationally recognized accrediting agency”

This institutional eligibility requirement is codified in 34 CFR § 600.5(a), which states: “A proprietary institution of higher education is an educational institution that . . . (6) Is accredited”

Regarding the eligibility of additional locations, 34 CFR § 600.32(a) states: “to qualify as an eligible location, an additional location of an eligible institution must satisfy the applicable requirements of this section and . . . [§] 600.5”

To begin participating in the Title IV programs, the Department must certify a school. After being initially certified by the Department, schools must apply for recertification at intervals up to six years apart. To apply for initial participation and recertification, a school must submit an Application for Approval to Participate in the Federal Student Financial Aid Programs (Application) to the Department. The school’s Application must identify the location of the main campus and all additional locations and submit proof of accreditation by a nationally recognized accrediting agency for each location identified. Based on its review of the Application and documents submitted, the Department either sends the school copies of a Program Participation Agreement (PPA) to sign or notifies the school that its Application is not approved. The school must sign and return the PPA to the Department. The PPA must then be signed on behalf of the Secretary and dated. That date is the date the school may begin participating in the Title IV programs.

ILS Locations and Educational Programs

In June 1996, ILS consisted of a main campus in Dallas and three additional locations – two in Houston and one in Pasadena, Texas. The Commission of the Council on Occupational Education (COE) accredited the Dallas main campus and one Houston location at 10200 Richmond Avenue (Houston Richmond Avenue). These two locations offered various occupational training programs. COE never accredited the other Houston location at 6440 Hillcroft Avenue (Houston 6440 Hillcroft Avenue), which offered only an English as a Second Language (ESL) program. This location opened in August 1995 and closed in August 1997. COE did not accredit the Pasadena location until ILS added occupational training at the location in April 2000. ILS had previously offered only an ESL program at the location.

COE standards do not provide for accrediting institutions or locations that do not offer occupational training. Prior to opening the Pasadena location in July 1996, ILS advised COE in a June 1996 letter that it planned to offer occupational training at the location in 12 to 18 months. In a July 1996 letter, COE notified ILS that: “Your **PLAN** to establish this branch campus has been approved effective July 1, 1996. You are reminded that this approval applies only to the **PLAN** for the branch campus, not to the branch campus itself.” After visiting the Pasadena location, COE notified ILS in a June 1998 letter that: “The decision of the Commission Executive Committee was to DEFER approval . . .” of the Pasadena location until ILS began offering occupational training there. See Appendix A for copies of these two COE letters.

Department Records Do Not Contain COE Notifications

In June 1996, ILS submitted to the Department an Application for recertification to participate in the Title IV programs. The Application identified four locations in Texas – a main campus in Dallas and three additional locations (Houston Richmond Avenue, Houston 6440 Hillcroft Avenue, and Pasadena). ILS submitted proof of accreditation for the Dallas main campus and the Houston Richmond Avenue location that offered occupational training, but did not submit proof of accreditation for the Houston 6440 Hillcroft Avenue or the Pasadena locations which offered only ESL. Department records did not contain a copy of COE’s July 1996 letter in which COE advised ILS that the Pasadena location was not approved. The Department provisionally certified all four locations to participate in the Title IV programs through September 30, 1999.

In June 1999, prior to the expiration of its provisional certification, ILS submitted to the Department its Application for recertification to participate in the Title IV programs. The Application identified three locations, the Dallas main campus, a Houston location at 6200 Hillcroft Avenue (formerly the Houston Richmond Avenue location), and the Pasadena location. The Application noted that the Houston 6440 Hillcroft Avenue location closed in August 1997. Our search of the Department’s records disclosed ILS had submitted proof of accreditation for the Dallas main campus and the Houston 6200 Hillcroft location (formerly the Houston Richmond Avenue location). The records did not contain the June 1998 COE letter that advised ILS that the Pasadena location was not accredited. The Department certified all three locations identified in the Application to participate in the Title IV programs.

ILS Disbursed Federal Pell Grants for Students at the Pasadena and Houston 6440 Hillcroft Locations without Accreditation

ILS disbursed \$871,815 of Federal Pell Grants for students enrolled at ILS' Pasadena location from July 1, 1996, through December 8, 1999. This occurred even though ILS had been notified by its accrediting agency on two separate occasions that the location was not accredited.

Based on our analysis of ILS disbursement records and National Student Loan Data System (NSLDS) records, we estimate that ILS disbursed \$102,920 of Federal Pell Grants for 56 students who attended the unaccredited Houston 6440 Hillcroft location from August 1995 until it closed in August 1997.

RECOMMENDATIONS

We recommend that the Chief Operating Officer for Student Financial Assistance:

- 1.1 Require ILS to return \$974,735 of unallowable Federal Pell Grants.
- 1.2 Initiate appropriate administrative action against ILS in accordance with 34 CFR, Part 668, Subpart G, for disbursing Federal Pell Grants for students who attended the two locations without accreditation.

ILS' COMMENTS TO THE DRAFT REPORT AND OIG'S RESPONSE

ILS' comments did not persuade us to change our conclusions or recommendations.

ILS disagreed with our conclusion that the two locations were not accredited. ILS stated that the Department had duly approved the locations based on its review of all pertinent data and that we had no basis for suggesting rescission or reversal of the longstanding approvals. ILS' specific comments are summarized below followed by our response.

Pasadena Location Not Accredited

ILS Comments. The OIG misinterpreted and ignored correspondence that demonstrated COE approved the Pasadena location beginning in July 1996. The OIG relied on two prior COE letters to support its contention that the location was not accredited. COE accreditation involves a two-step approval process. The first step requires COE initial approval after its review of a school's business plan and supporting documentation for a location. The second step requires COE final approval after a team visit and the school's resolution of any problems noted by the team at the location.

ILS complied with these COE procedures. It received COE initial approval in July 1996 and final approval in April 2000 after the school began offering occupational training at Pasadena. This final COE approval completed the second step of the process and clarified that the location was duly accredited at all relevant times (i.e., since the initial approval in July 1996).

The OIG erroneously contended that the initial approval in July 1996 did not constitute an approval of the Pasadena location. COE Standards of Accreditation make it clear that “approval of the plan does constitute an approval of the site – specifically, an initial approval.” ESL programs also fall within the scope of COE accreditation and COE has accredited locations that offer only ESL programs. The two letters the OIG relied on for its conclusion, when read in context with COE Standards and the entire sequence of submissions to and from COE, demonstrates that COE granted interim and ultimately final approval to the location beginning in July 1996.

OIG Response. The two letters are clear that COE’s approval applied only to ILS’ plan for the location and that the location itself was not accredited. The two letters are included in Appendix A to this report. COE Standards of Accreditation do not support ILS’ contention that the initial accreditation date for a location is the date COE approves a school’s business plan. The COE Standards do not provide for interim or pre-accreditation or for accreditation of locations that offer only ESL or non-occupational training.

COE had not accredited the Pasadena location before April 2000 because ILS had not complied with the requirement in its approved plan to offer occupational training at the location. COE had no reason to act sooner because it did not accredit locations at which no occupational training was offered. COE’s April 2000 letter to ILS cited the effective date of its decision to accredit the location as April 13, 2000. Although COE’s April 2000 letter also stated that the decision to grant approval was effective July 1, 1996 (the date it received ILS’ application for the location), this statement has no bearing on our finding. ILS should not have disbursed any Title IV aid to students before the school complied with COE Standards and COE made its final decision to accredit the location.

Houston 6440 Hillcroft Avenue Location Not Accredited

ILS Comments. Correspondence between COE and ILS support that ILS requested approval to offer “a partial ESL stand-alone program” at this location and COE deemed the location to be an extended classroom. (ILS referenced but did not provide a copy of a July 31, 1995, letter in which ILS said it notified COE of its plan for the location.) The OIG misinterpreted a July 17, 1996, COE letter advising ILS that it needed to submit a branch application for the location. This letter did not affect the location’s status as an extended classroom site.

OIG Response. ILS did not provide any support that COE accredited the location. COE letters to ILS dated October 11, 1995, and July 17, 1996, and our discussion with COE officials, demonstrate that ILS had not complied with COE’s accreditation requirements and COE had not accredited the location. The 1995 COE letter states that COE deferred action on ILS’ “request to

offer ESL as an avocational program at various sites in Georgia and Texas.” The 1996 COE letter responds to an ILS July 1, 1996, letter requesting that COE approve the location based on its plan to add an occupational program in 12 months. The letter states that ILS must submit an application for the location, the location must be designated as a branch of the main campus in Dallas in accordance with COE policies, and submission of the application must be delayed until COE has taken action on ILS’ application for the Pasadena location (COE policies limit an institution to only one branch or extension application at a time). ILS never submitted an application to COE for the location and the location was never accredited. Appendix A includes copies of these letters.

Department Approval of Locations

ILS Comments. The Department approved the Pasadena and Houston 6440 Hillcroft Avenue locations after thorough review and consideration of ILS’ application and with full knowledge of their accreditation status. The OIG workpapers support that the Department had access to all pertinent accreditation correspondence, followed its mandatory internal control procedures in reviewing the documentation, and documented its review by completing a recertification application checklist that indicated accreditation was affirmed. The draft report presents no rationale for retroactively rescinding the Department’s approvals.

OIG Response. ILS provided no documentation to support that it provided the letters contained in Appendix A to the Department. The Department’s files on ILS also did not contain the letters nor any record that showed the Department considered those letters in its recertification application reviews. The Department’s checklist for its 1996 application review included a note that it needed accreditation data for the additional locations, but the checklist does not show any data was received or considered. The Department did not follow its control procedures and erred when it approved the two locations without receiving proof of their accreditation. However, the Department’s failure to follow its procedures does not relieve ILS from its statutory and regulatory responsibility to obtain accreditation for all locations that participated in the Title IV programs. Furthermore, 34 CFR § 600.40(c)(1) provides that if the Department designates a location as eligible on the basis of inaccurate information or documentation, the designation is void from the date made, and the location never qualified as eligible.

ILS Comments. Rescission of the Department’s approvals of the Pasadena and Houston 6440 Hillcroft Avenue locations is barred by the presumption of regularity. The approvals are entitled to a presumption of regularity in the absence of proof that they were arbitrary and capricious. The OIG’s workpaper and other documentation “establish precisely the opposite – that the site approvals were the product of a fully documented, properly executed recertification process.”

OIG Response. A presumption of regularity does not apply in this case. The regulations provide that the Department is not bound by an erroneous designation of eligibility. The presumption is also rebutted by the fact that the Department was not fully informed by ILS. ILS did not submit to the Department the letters in Appendix A that demonstrate the two locations were not accredited.

Without those letters, the Department was unable to properly review ILS' applications and make the correct approval determinations.

ILS Comments. Because only a partial program was offered at the Houston 6440 Hillcroft Avenue location, 34 CFR § 600.10 placed the burden on the Department to seek an application from ILS for that location. ILS notified the Department of the location, but the Department never requested an application. The OIG finding is arbitrary and capricious because it seeks a disallowance of funds based on purported inadequacies in the application process when in fact no application was required.

OIG Response. Our finding is with ILS' failure to obtain accreditation for the location, not with the application process. The fact that ILS did not submit an application in 1995 when the location was established did not relieve ILS of its responsibility to obtain accreditation for the location before disbursing Title IV funds. ILS did submit an application in 1996 but did not submit proof of accreditation for either the Pasadena or Houston 6440 Hillcroft Avenue locations because those locations were not accredited.

ILS Comments. The finding ignored the fact that the Department and ILS were parties to a fully executed PPA that included eligibility for the Pasadena and Houston 6440 Hillcroft Avenue locations. Pursuant to this contract, ILS used Department funding to train numerous students. Any attempt to disallow and collect from ILS Title IV funds that these students have long since spent would constitute a breach of the contract agreed to by the Department and ILS five years ago.

OIG Response. ILS agreed to comply with all applicable statutory and regulatory provisions when it signed the PPA. ILS failed to comply with the basic statutory and regulatory requirement that all of its locations be accredited.

<p style="text-align: center;">FINDING NUMBER 2 MANAGEMENT CONTROL WEAKNESSES LED TO OTHER NON-COMPLIANCE</p>
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As a result of management control weaknesses, ILS disbursed Title IV funds to ineligible students, failed to make correct refunds, and did not pay refunds timely. ILS' lack of management controls caused it not to comply with HEA provisions and regulations resulting in \$24,312 of unallowable Title IV disbursements for the award year ended June 30, 1999. ILS disbursed \$945,424 of total Title IV funds for that award year.

Table I summarizes the non-compliance issues, their frequency, and the amount of questioned costs per issue based on our sample review of 100 students (Appendix B provides additional details for each issue).

TABLE I
NON-COMPLIANCE ISSUES
See Appendix B for an Explanation of Each Issue

<i>Issue</i>	<i>Occurrences</i>	<i>Amount</i>
1. Ineligible Ability To Benefit (ATB) Students	5	\$8,445
2. Student Did Not Meet Citizenship Requirements	4	6,821
3. Refunds Miscalculated	15*	3,234
4. Pell Overawards	5	4,187
5. Verification Not Completed	1	1,625
6. Reasonableness of Reported Information	9	0
7. Refunds Not Made Timely	23*	0
TOTAL	62	\$24,312

Note: We identified more than one issue for some students. The 62 occurrences involved 44 of our 100 sample students.

*ILS calculated refunds were due for 30 students in our random sample.

The \$24,312 consists of \$23,342 of Federal Pell Grant and \$970 of Federal Supplemental Educational Opportunity Grant (FSEOG) disbursements. This amount includes unallowable disbursements questioned in the previous finding.

RECOMMENDATIONS

We recommend that the Chief Operating Officer for Student Financial Assistance require ILS to:

- 2.1 Return \$15,123 of Federal Pell Grant and \$970 of FSEOG funds that were inappropriately disbursed. These amounts recommended to be recovered are unduplicated amounts, not included in Finding 1.
- 2.2 Strengthen management controls to ensure it adheres to all HEA provisions and regulations regarding administering Title IV funds.
- 2.3 Perform a 100 percent review of Title IV disbursements from July 1, 1998, forward and return to the Department any additional inappropriate disbursements.
- 2.4 Have its Independent Public Accountant verify ILS' review of Title IV disbursements for accuracy.
- 2.5 Post a letter of credit equal to 25 percent of the refunds that were made or should have been made during its most recently completed fiscal year due to the school's failure to

make timely refunds (ILS did not make timely refunds for 77 percent of 30 sample students who were due a refund).

ILS' COMMENTS TO THE DRAFT REPORT AND OIG'S RESPONSE

Based on our review of ILS' comments and documentation, we eliminated one issue (Missing ISIR/Invalid SSN) that was included in Table 1 of the draft report, reduced the Title IV liability amount that should be returned by \$6,150 to \$16,093, and renamed the finding to more clearly identify the cause of the Title IV non-compliance. Our analysis of ILS' comments did not convince us to make other changes.

ILS had the following comments for each of the eight issue areas identified in Table 1 of the draft report. Our response follows ILS' comments for each issue.

1. Ineligible ATB Students

ILS Comments. ILS agreed that a liability of \$2,773 existed for three of the five students because the students had not received a passing score on an Ability-to-Benefit (ATB) test. For the fourth student, ILS acknowledged that the student had not passed an ATB test but asked that the \$4,200 liability be removed because the student graduated. For the fifth student, ILS said the \$1,472 liability should not be required because the student passed an ATB test after Title IV aid was disbursed.

OIG Response. We have not changed our finding. The regulations are clear that students without a high school diploma or its equivalent must receive a passing score on an approved ATB test before Title IV aid is disbursed.

2. Student Did Not Meet Citizenship Requirements

ILS Comments. The Immigration and Naturalization Service (INS) confirmed that various documents presented by the students to establish their Title IV eligibility were valid. ILS relied on the regulatory guidance available at the time.

OIG Response. We have not changed our finding. We agree that INS confirmed the documents were valid but the documents do not support the students were eligible for Title IV aid. The documents, which consist of INS employment authorizations effective for a one-year period, demonstrate that the students were not eligible because they were not permanent residents or otherwise eligible under § 484(a)(5) of the HEA.

3. Missing ISIR/Invalid SSN

ILS Comments. ILS provided a copy of the Individual Student Information Report (ISIR) that was missing. For the student with an invalid social security number (SSN), ILS provided a copy

of the ISIR showing the correct SSN and a copy of the student's social security card, INS registration card, and driver's license.

OIG Response. Based on our review of these documents, we dropped this issue from the report.

4. Refunds Miscalculated

ILS Comments. ILS disagreed with our refund calculations. ILS said we should have used COE's refund policy rather than the Federal refund policy in calculating refunds for ESL students who withdrew, did not correctly consider charges for books and administrative fees, and used hours or partial weeks completed rather than the correct credit hour refund policy of whole weeks completed.

ILS stated that: "Once these discrepancies are removed, it is obvious there are few errors, involving very small dollar amounts . . ." ILS calculated the refund liability to be \$600.

OIG Response. We did not use the wrong refund policy in calculating refunds for ESL students. Pursuant to 34 CFR § 668.22(b)(1), we used the pro rata refund policy for first time ESL students and either the Federal refund policy or the school's refund policy for all other ESL students because those policies resulted in larger refunds to students. We did not use COE refund policies because the Department had not approved any accrediting agency refund policies [34 CFR § 668.22(b)(1)(ii)]. We also did not use Texas Workforce Commission (TWC) refund policies for ESL students because those policies did not apply (the ESL programs were exempt from TWC licensing requirements).

Based on ILS' comments about the administrative fee and book charges, we recalculated the refund amounts due for the 24 students. We determined that there was no refund liability for nine students. For the remaining 15 students, we determined the refund liability either decreased (11 students), increased (one student), or did not change (three students). We changed the finding to reflect unpaid refunds of \$3,234 for the 15 students.

Our recalculations are based on scheduled hours of instruction for non-ESL students and scheduled whole weeks of instruction for ESL students in accordance with the required refund policies for those students.

5. Pell Overawards

ILS Comments. ILS agreed that two students received \$750 in Federal Pell Grant overawards. ILS said it correctly calculated the Federal Pell Grant for one student based on a Financial Aid Transcript from a previous school that showed the student received a \$1,500 Federal Pell Grant rather than basing the award on the student's ISIR that showed a different amount (i.e., \$2,500). ILS did not agree that overawards occurred for the remaining three students and provided data (hours enrolled, Expected Family Contribution, and awards by semester) as support that the awards were correct.

OIG Response. We reduced the total overaward amount by \$862 for two students. For one student, we determined the correct overaward was \$375 rather than \$750 (ILS agreed to the \$375 overaward). For the second student, we determined from a review of the data provided by ILS that the \$487 overaward had not occurred (we removed the student and overaward from our finding).

We did not make any changes for the remaining four students. The Financial Aid Transcript for the one student was not from the previous school the student attended (it was actually one that ILS had provided to another school). Based on the financial aid history on the student's ISIR that showed the student received a \$2,500 Federal Pell Grant from another school, we determined that ILS disbursed a \$1,000 overaward to the student. Overawards occurred for the three students because ILS based the awards on the total classroom hours it credited to the students' accounts. ILS did not provide any training for some of the hours because the students either tested out of the hours or transferred the hours from another school.

6. Verification Not Completed

ILS Comments. Verification for one student was completed correctly. Verification of the other student's 1998-99 application was not required.

OIG Response. We did not change our finding for the first student because ILS did not obtain a signed copy of the parent's income tax return even though the student's application indicated a return had been filed. We dropped the second student and reduced the liability amount for this issue by \$3,000 because the student's application was selected for verification on a subsequent transaction that was after ILS disbursed Federal Pell Grant funds to the student.

7. Reasonableness of Reported Information

ILS Comments. ILS said it was unsure how to respond to this finding since there was no regulatory basis for it. ILS commented that "foreign students bring with them some very unusual situations . . ." and asked the question "how far can the institution go in interrogating the student, when there is no factual or documentable basis for doing so?"

OIG Response. Our report cited the regulatory requirement that is the basis for this finding. All nine students reported zero income and zero assets on their 1998-99 applications. This should have caused ILS to require the students to verify the reported information.

8. Refunds Not Made Timely

ILS Comments. The OIG calculations were not done according to school policy. The OIG used an incorrect withdrawal date for ESL students. ILS said it used the correct withdrawal date to determine that only seven refunds were late.

OIG Response. We did not change our finding. Our calculations were based on ILS' written policy that required all students be terminated after consecutive absences of 10 classroom days. After allowing for intervening weekends, we determined that ESL students should have been terminated 14 days after their last day of attendance. ILS should have paid the required refunds no later than 30 days after the date that it determined a student's termination date, or 44 days after the student's last day of attendance.

ILS had an incorrect policy of establishing the "official withdrawal date" as the last date of attendance plus either 30 or 21 days. ILS stated that during our audit period it had changed from using 30 days to using 21 days. ILS contended that the 30 day limit for timely refunds begins on its established "official withdrawal date." Even if this contention was accepted by us, ILS would still not meet the standard for timely refunds, with 23 percent of the refunds under ILS' methodology as untimely.

The regulations require that refunds be made within 30 days after the earlier of: the date the institution determines that the student dropped out, the expiration of the academic term in which the student withdrew, or the expiration of the period of enrollment for which the student has been charged. In order for ILS to determine its "official withdrawal date" (the last date of attendance plus 21 or 30 days), it had to determine the student's last date of attendance in advance of the "official withdrawal date" in order to calculate the 21 or 30 day period. The last date of attendance and the date that ILS determined the student dropped out were therefore known to ILS prior to the "official withdrawal date." ILS' termination policy also required an earlier determination of the last date of attendance. ILS, by this practice, gave itself an improper extension on when refunds needed to be paid.

OTHER MATTERS

The OIG notified the Department of the unaccredited Pasadena location. In response, the Southwest Case Management Division, Student Financial Assistance, sent ILS a letter dated December 14, 1999, that stated "it has been determined that an additional location in Pasadena, TX is not and has never been accredited by the institution's accrediting body, . . . therefore, [it] does not meet the definition of an eligible location." The letter also stated that a member of the Southwest Case Management Division had informed ILS on December 9, 1999, to "immediately cease awarding and disbursing Title IV funds to students enrolled . . . at the Pasadena location." ILS complied with the Department's instructions and ceased awarding and disbursing Federal Pell Grants to Pasadena students on December 9, 1999.

In April 2000, ILS began offering occupational training at the Pasadena location. COE notified ILS that as of April 13, 2000, its Pasadena campus was approved with an effective date of July 1, 1996. A COE official stated that it was COE's long standing practice to make the effective date of accreditation for a campus retroactive to the date it approved a school's plan for that campus. Neither COE's written standards nor its written policies and procedures include provisions for retroactive accreditation.

The Department was concerned with COE's decision to grant retroactive approval of the Pasadena location. On May 22, 2000, the Department's Accreditation and State Liaison Division notified COE that its decision to grant a nearly four-year retroactive approval of ILS' Pasadena location was unacceptable, since it granted approval to a time when the location was ineligible for accreditation because it did not offer any vocational program.

BACKGROUND

ILS is a proprietary institution with a main campus in Dallas, Texas, and additional locations in Houston and Pasadena, Texas. Interactive Learning Systems, Inc., located in Chamblee, Georgia, owns ILS as well as other schools in Kentucky and Georgia. In 1986, Interactive Learning Systems, Inc., purchased Revisions Unlimited in Grand Prairie, Texas. Revisions Unlimited was renamed ILS and the school moved to Dallas, Texas. ILS opened the Houston Richmond Avenue location in 1987 (relocated to 6200 Hillcroft Avenue in 1998), the Houston 6440 Hillcroft Avenue location in 1995 (which closed in 1997), and the Pasadena location in 1996.

ILS was initially approved to participate in the Title IV programs on September 30, 1987. ILS' accrediting agency is the COE. Among the vocational programs offered by the institution are Administrative Support Systems, Computer Application Specialist, Accounting and Automated Office Systems, and Computer Programming and Operations. ILS also offers an ESL program.

From July 1, 1996, through December 31, 1999, ILS disbursed approximately \$3 million in Federal Pell Grant, Federal SEOG, and Federal Work Study program funds.

OBJECTIVE, SCOPE AND METHODOLOGY

The objective of our audit was to determine whether ILS administered the Title IV programs according to the HEA and regulations. We reviewed (1) institutional and program eligibility and (2) selected administrative and compliance requirements including student eligibility, Title IV disbursements, and refunds.

To accomplish our objective we obtained background information about the school. We reviewed 100 randomly selected student files and related records from the universe of 471 students for whom ILS disbursed \$945,424 of Title IV aid. The 471 students represent all students who were disbursed Title IV aid for the award year ended June 30, 1999, at ILS' main campus in Dallas, the Houston 6200 Hillcroft location, and the Pasadena location. We reviewed ILS' corporate financial statements and the most recent Title IV compliance audit reports. We also conducted interviews with ILS, COE, TWC, and Department officials.

We obtained information from ILS' student files, which are maintained at the individual locations, to review the eligibility of each student in the random sample. The reliability of the school's computerized records was tested by verifying selected data with other sources such as student files

and data obtained from the NSLDS. We concluded that the data was sufficiently reliable for the purposes of our audit. We also reviewed accreditation documentation provided by the school to determine the eligibility of ILS' four locations. We obtained and reviewed data applicable to the school from the Department's NSLDS, Payment Management System, and Grants Administration and Payment System. We also reviewed ILS files maintained by Case Management and Oversight in Dallas, Texas, and Washington, D.C.

Our review initially covered the period July 1, 1998, through June 30, 1999. The period was expanded to August 18, 1995, through December 8, 1999, for our finding pertaining to the unaccredited locations. All work pertaining to the 90 Percent Rule covered the school's fiscal year ended December 31, 1998. We performed fieldwork from November 30, 1999, through March 9, 2000, at ILS locations in Dallas, Houston 6200 Hillcroft, and Pasadena. A follow up visit was made to the Houston 6200 Hillcroft location on October 30, 2000. Our audit was performed in accordance with generally accepted government auditing standards appropriate to the scope of the review described above.

STATEMENT ON MANAGEMENT CONTROLS

As part of our review, we assessed the system of management controls, policies, procedures, and practices applicable to ILS' administration of the Title IV programs. Our assessment was performed to determine the level of control risk for determining the nature, extent, and timing of our substantive tests to accomplish the audit objectives. For the purpose of this report, we assessed and classified the significant controls into the following categories: (1) institutional and program eligibility, (2) student eligibility, (3) Title IV disbursements, and (4) calculation and payment of refunds.

Due to inherent limitations, a study and evaluation made for the limited purpose described above would not necessarily disclose all material weaknesses in the management controls. However, our assessment disclosed weakness in the school's procedures relating to institutional eligibility and the school's capability to adequately administer Title IV programs. These weaknesses are discussed in the AUDIT RESULTS section of this report.



41 Perimeter Center East, NE
Suite 640
Atlanta, Georgia 30346

770-396-3898
800-917-2081
FAX 770-396-3790

REVISED

July 17, 1996

Ms. Martina Gonzalez
Director
Interactive Learning Systems
8585 North Stemmons Freeway
M-50 Twin Towers
Dallas, Texas 75247

Dear Ms. Gonzalez:

This letter supercedes my letter dated July 2, 1996, pertaining to the same subject.

Your plan and supporting documentation for Interactive Learning Systems, 8585 North Stemmons Freeway, M-50 Twin Towers, Dallas, Texas 75247, to establish a branch at 1001 East Southmore, Suite 701, Pasadena, Texas 77502, has been received and reviewed by the Accrediting Commission of the Council on Occupational Education. Your PLAN to establish this branch campus has been approved effective July 1, 1996. You are reminded that this approval applies only to the PLAN for the branch campus, not to the branch campus itself.

A site visit to the branch campus and the main campus will be scheduled within ninety (90) days after the branch campus becomes operational. The Commission office needs to be informed by you immediately upon the beginning of instruction with students at the branch campus. Following the site visit, your application, the site visit report, and the institutional response to the team report, if any, shall be taken to the Commission for review and action.

A condition stipulated by Interactive Learning Systems is that initially only the English as a Second Language Program will be offered at the branch site as an avocational program. Therefore, it is our understanding that requirements of the Texas Proprietary School Act do not apply under those conditions. Based on a letter dated June 4, 1996, from Mr. Elmer R. Smith, Interactive Learning Systems will implement a Computer Applications Program at the branch campus within twelve to eighteen months. At that time, licensure by the Texas proprietary school licensing agency will be required.

Feel free to contact me or other staff at the Commission's office if we can assist you at any time.

Sincerely,

Harry L. Bowman
Executive Director
Accrediting Commission
Council on Occupational Education

July 2, 1996

Ms. Martha Gonzalez
 Director
 Interactive Learning Systems
 8585 North Stemmons Freeway
 M-50 Twin Towers
 Dallas, Texas 75247



41 Perimeter Center East, NE
 Suite 640
 Atlanta, Georgia 30346

770-396-3898
 800-917-2081
 FAX 770-396-3790

Dear Ms. Gonzalez:

Your plan and supporting documentation for Interactive Learning Systems, 8585 North Stemmons Freeway, 50 Twin Towers, Dallas, Texas 75247, to establish an extension at 1001 East Southmore, Suite 701, Pasadena, Texas 77502, has been received and reviewed by the Accrediting Commission of the Council on Occupational Education. Your PLAN to establish this extension campus has been approved effective July 1, 1996. You are reminded that this approval applies only to the PLAN for the extension campus, not to the extension campus itself.

A site visit to the extension campus and the main campus will be scheduled within ninety (90) days after the extension campus becomes operational. The Commission office needs to be informed by you immediately upon the beginning of instruction with students at the extension campus. Following the site visit, your application, the site visit report, and the institutional response to the team report, if any, shall be taken to the Commission for review and action.

A condition stipulated by Interactive Learning Systems is that initially only the English as a Second Language Program will be offered at the extension site as an avocational program. Therefore, it is our understanding that requirements of the Texas Proprietary School Act do not apply under those conditions. Based on a letter dated June 4, 1996, from Mr. Elmer R. Smith, Interactive Learning Systems will implement a Computer Applications Program at the extension campus within twelve to eighteen months. At that time, licensure by the Texas proprietary school licensing agency will be required.

Feel free to contact me or other staff at the Commission's office if we can assist you at any time.

Sincerely,

Harry L. Bowman
 Executive Director
 Accrediting Commission
 Council on Occupational Education



41 Perimeter Center East, NE
Suite 640
Atlanta, Georgia 30346
770-396-3800
800-917-3000
FAX 770-396-1790

June 19, 1998

Mr. Wynn Blanton, Director
Interactive Learning Systems
8585 North Stemmons Freeway
#C-15 Twin Towers
Dallas, TX 75247

Dear Mr. Blanton:

The Commission Executive Committee of the Council on Occupational Education reviewed at its meeting on June 5-6, 1998, the application with supporting documentation that was submitted for the new branch campus of Interactive Learning Systems.

The decision of the Commission Executive Committee was to DEFER approval of the new branch located at 1001 East Southmore, Suite 701, Pasadena, Texas 77502 until an occupational program is being offered. As stated in a letter dated June 4, 1996 from Mr. Elmer Smith, Interactive Learning Systems was to have implemented a Computer Applications program at this branch within twelve to eighteen months. As of this date, our records indicate that an occupational program is not being offered at this branch. Please notify the Commission when an occupational program is being offered at this branch at which time your application will be reconsidered.

The effective date of this decision is June 6, 1998.

Please be assured that the Commission stands ready to assist you and your institution in its effort to improve occupational education. Do not hesitate to call on us if we can be of service.

Sincerely,



Harry L. Bowman
Executive Director
Commission of the
Council on Occupational Education

HLB/sd

APPENDIX A



41 Perimeter Center East, NE
Suite 640
Atlanta, Georgia 30346

770-396-3898
800-917-2081
FAX 770-396-3790

October 11, 1995

Mr. Elmer Smith
President
Interactive College of Technology
5600 Roswell Road, N.E., Prado Mall
Atlanta, Georgia 30342

Dear Mr. Smith:

The Accrediting Commission of the Council on Occupational Education met in regular session on September 30 through October 3, 1995, at Charleston, South Carolina, to review accreditation matters. The Commission reviewed your request to offer English as a Second Language (ESL) as an avocational program at various sites in Georgia and Texas. It is understood that the students attending these sites would be using primarily PELL grant funds for tuition. Further, these sites would not offer occupational programs along with the ESL program.

It is the opinion of the Commission that these sites cannot be identified as instructional service centers, since these centers must be joint ventures between the institution and an employer or another educational agency. Relief agencies would not qualify. (See *Handbook of Accreditation, 1995 Edition*, hereinafter *Handbook*, page 23 for definition.)

The use of Pell grant funds to operate these sites brings such activities within the purview of the Accrediting Commission's oversight; federal regulations and U.S. Department of Education recognition of this Council mandate that we exercise this responsibility. Were you to offer avocational ESL through a separate entity of the corporation and apart from Interactive College of Technology (the institution), then this Commission would have no concerns or jurisdiction. It appears, however, that the basis upon which you qualified for Pell fund approval was because Interactive is an institution accredited by an agency recognized by the Secretary of the U.S. Department of Education.

The Commission, therefore, DEFERS action on this matter, effective October 3, 1995. Further, the Commission requests that should Interactive College of Technology wish to establish any ESL program site like those described in your letters to the Commission, then the institution must

Mr. Elmer Smith
October 11, 1995
Page 2

provide the Commission with a plan to establish either an extension or a branch in accordance with the policies set forth in the *Handbook*, pages 22-24.

The Commission also wishes to caution Interactive against attempting to accomplish too many expansions at one time, given that this institution is on Continuing Financial Review Status. The recent change of scope and approval of plan in June, 1995, to offer applied associate degree programs suggests prudence when planning additional activities. Please know that while the Commission does not discourage sound planning and enterprise, any new applications submitted will receive careful attention relative to financial capability.

If you have any questions concerning this matter, please let me know.

Sincerely,



Harry L. Bowman
Executive Director
Accrediting Commission of the
Council on Occupational Education

HLB/bc



**COUNCIL ON
OCCUPATIONAL
EDUCATION**

41 Perimeter Center East, NE
Suite 640
Atlanta, Georgia 30346

770-396-3898
800-917-2081
FAX 770-396-3790

July 17, 1996

Ms. Martha Gonzalez
Director
Interactive Learning Systems
8585 North Stemmons Freeway
M-50 Twin Towers
Dallas, Texas 75247

Dear Ms. Gonzalez:

This letter is in response to a letter dated July 1, 1996, from Mr. Elmer R. Smith regarding a change in status of the Hillcroft extended classroom site of Interactive Learning Systems, 8585 North Stemmons Freeway, M-50 Twin Towers, Dallas, Texas 75247.

Three points need to be made with regard to the potential change of status of the Hillcroft site. First, the change in classification will require an application from the institution to the Accrediting Commission of the Council on Occupational Education. (A copy of the appropriate form is enclosed, but a current form should be requested when the institution is ready to file an application.) Second, the Hillcroft site must be designated as a branch of the main campus in Dallas, TX, because policies of the Commission require that an extension must (1) be located within a fifty (50) mile radius of the main campus and (2) be supervised directly and controlled from the main campus (*Handbook of Accreditation 1996*, page 23, lines 27-28). Third, the submission of an application to establish a branch at the Hillcroft site must be delayed until the Accrediting Commission has taken action on the current application for establishment of a branch at Pasadena, Texas, because Commission policy limits an institution to only one active branch or extension application at a time (*Handbook of Accreditation 1996*, page 21, lines 44-47).

If you have questions or need assistance on this matter, feel free to contact me or other staff at the Commission's office at any time.

Sincerely,

Harry L. Bowman
Executive Director
Accrediting Commission
Council on Occupational Education

Enclosure

Other Non-Compliance Issues

1. **Ineligible ATB Students.** Pursuant to 34 CFR § 668.32(e), students must have a high school diploma or its equivalent or obtain a passing score specified by the Secretary on an independently administered ability-to-benefit (ATB) test within 12 months before the date the student initially receives Title IV aid. According to 34 CFR § 668.154(c), an institution can be held accountable for Title IV funds if the institution is unable to document that the student received a passing score on an approved test. Five students who were disbursed Title IV funds did not have a high school diploma or its equivalent, and did not receive a passing score on an approved ATB test prior to receiving Title IV aid.
2. **Students Did Not Meet Citizenship Requirements.** To be eligible to receive Title IV aid, students must be a U.S. citizen, permanent resident of the U.S., or intend to become a permanent resident or a citizen [34 CFR § 668.33(a)]. Subpart I of 34 CFR Part 668 addresses eligibility determinations of non-citizen applicants, including who must produce evidence from INS that they are permanent residents of the U. S., or are in the U. S. for other than a temporary purpose with the intention of becoming citizens or permanent residents. Documents in the files for four students consisted of temporary work permits that did not support that the students were eligible for Title IV aid.
3. **Refunds Miscalculated.** An institution is required to have a fair and equitable refund policy under which the institution makes a refund of unearned tuition, fees, room and board, and other charges to a student who received Title IV funds [34 CFR § 668.22(a)]. For 15 students, ILS miscalculated the required refund amounts. The miscalculations occurred, in part, because ILS did not use the required refund policy that would have resulted in a larger refund to the students or calculated the refunds based on an entire program instead of only one semester.
4. **Pell Overawards.** Pursuant to 34 CFR § 690.65(a), when a student enrolls at a second institution during a single award year, the students may receive a Federal Pell Grant at the second institution if (1) the student submits a valid SAR to the second institution; or (2) the second institution obtains a valid ISIR. The second institution is required by 34 CFR § 690.65(c) to adjust the Federal Pell Grant award to ensure that the award does not exceed the student's Scheduled Federal Pell Grant for that award year. ILS disbursed a Federal Pell Grant overaward for one student because it did not adjust the award by the amount the student had already received at the other institution. For four students who were enrolled less than full time, ILS disbursed Federal Pell Grants over the maximum allowed for the students' enrollment status for the award year.
5. **Verification Not Completed.** According to 34 CFR § 668.54(a)(2)(i), an institution shall require each applicant whose application is selected for verification on the basis of edits specified by the Secretary, to verify all of the applicable items specified in 34 CFR § 668.56 (i.e., adjusted gross income, U.S. income tax paid, number of family members in the household, number enrolled in college, social security benefits, child support, U. S. income tax deduction made for payments to individual retirement accounts, interest on tax-free

APPENDIX B

bonds, and all other untaxed income). Of the 24 sample students who were required to verify their application data, we found ILS disbursed Federal Pell Grants for one student who did not complete the required verification process (the student's file did not contain a copy of the tax return).

6. **Reasonableness of Reported Information.** Pursuant to 34 CFR §§ 668.54(a)(3) and (5), if an institution has reason to believe that any information on an application used to calculate an Expected Family Contribution is inaccurate, it shall require the applicant to verify the information that it has reason to believe is inaccurate. We identified nine students who reported zero total income and zero assets for the year. One of the nine students also reported 11 family members in the household. The remaining eight students reported a household size that ranged from one to five members. Although such information should have caused ILS to question the accuracy of the data reported by the students, ILS did not require the students to verify the reported income, assets or number of family members in the household.
7. **Refunds Not Made Timely.** According to 34 CFR § 668.22(j)(1), a student's withdrawal date is the earlier of the date of withdrawal specified by the student, or the last recorded date of class attendance as documented by the institution if the student drops without notifying the institution. A timely refund payment for a student who drops out is defined by 34 CFR § 668.22(j)(4)(ii) as a payment made within 30 days of the earliest of the "(A) Date on which the institution determines that the student dropped out; (B) Expiration of the academic term in which the student withdrew; or (C) Expiration of the period of enrollment for which the student has been charged . . ." Title 34 CFR § 668.173(b)(1) provides that an institution has not made timely refunds when five percent or more of the students in the audit sample had late refunds. Title 34 CFR § 668.173(c) requires that the institution post a letter of credit equal to 25 percent of the refunds that were made or should have been made. ILS' 1998-1999 Student Catalog states that when notification of withdrawal is not provided, refunds will be made 30 days from the date the school determines the student to be withdrawn. In evaluating refunds for students who did not officially withdraw, we considered the refunds to be untimely if not made within 44 days for ESL students, or 46 days for non-ESL students from a student's last day of attendance (14 days for ESL students or 16 days for non-ESL students to allow for consecutive absences in accordance with the school's policy for terminating students, plus 30 days to make the refund). The institution did not make timely refunds for 23 sample students out of 30 students in the sample requiring a refund or 77 percent of the sample students. On average, the 23 refunds were 28 days late.

March 30, 2001

Ms. Sherri L. Demmel
Regional Inspector General for Audit
U.S. Department of Education
Office of Inspector General
1999 Bryan Street
Suite 2630
Dallas, Texas 75201-6817

**Re: Draft Audit Report – ILS
ED-OIG/A06-A0001**

Dear Ms. Demmel:

Enclosed you will find the institution's response to the draft report of the above referenced audit. As you are aware, considerable time and expense have been put into the preparation of our response, including our review of the auditor work papers and consultation with counsel. Also, as you are aware, we strongly disagree with Finding Number 1. In regard to Finding Number 2, we were perplexed on a number of the issues until reviewing the work papers. These work papers revealed a number of incorrect policy interpretations on the part of the audit team. This is not to imply anything other than the complexities of the regulations and their application. The team was very thorough and obviously put forth significant time and effort.

**INTERACTIVE LEARNING SYSTEMS' PRELIMINARY RESPONSE
TO THE DRAFT AUDIT REPORT ISSUED BY THE
OFFICE OF INSPECTOR GENERAL**

INTRODUCTION

This submission constitutes the preliminary response by Interactive Learning Systems, a postsecondary educational institution with its main campus in Dallas, Texas ("ILS"), to the February 2001 Draft Audit Report (the "Draft Report") issued by the Office of Inspector General of the United States Department of Education (the "OIG") under Control Number ED-OIG/A06-A0001. For all of the reasons that follow, ILS denies the conclusions presented in the two potential findings in the Draft Report. Furthermore, no substantial basis exists to support the draft recommendations presented with the two findings.

- I. ILS RESPONSE TO FINDING ONE: THE DEPARTMENT APPROVED THE PASADENA AND HILLCROFT SITES AFTER THOROUGH REVIEW AND CONSIDERATION OF ILS' APPLICATION. BOTH SITES CONFORMED TO ALL COE REQUIREMENTS AND WERE DULY ACCREDITED AT ALL**

APPENDIX C

RELEVANT TIMES. THE DRAFT REPORT PRESENTS NO REASONABLE GROUNDS FOR REVERSAL OF COE AND ED'S AUTHORITATIVE LONGSTANDING APPROVALS. FINDING ONE SHOULD BE WITHDRAWN.

A. PASADENA AND HILLCROFT WERE DULY APPROVED BY ED, AND THE DRAFT REPORT PRESENTS NO RATIONALE FOR RETROACTIVELY RESCINDING THOSE APPROVALS.

- 1. ED Duly Concluded That Pasadena and Hillcroft Were Eligible. The OIG's Workpapers Prove That ED Carefully Considered ILS' Application And Accreditation Status. The Draft Finding Presents No Substantial Grounds For Rescission Of ED's Approvals Five Years After They Were Issued.**

The Draft Report concedes that, after reviewing ILS' 1996 recertification application, the Department certified the Pasadena Texas location ("Pasadena") and the 6440 Hillcroft Avenue, Houston location ("Hillcroft") for participation in the Title IV, HEA programs, and that the Department again certified Pasadena in response to the 1999 application.¹ Draft Report at 3. The Report nonetheless contends that such approvals should now somehow be deemed to be null and void, ostensibly because the accreditation procedures of the Council on Occupational Education (the "COE") that ILS clearly followed were somehow inadequate.

Finding One's incorrect contention that the two ILS sites were unaccredited is refuted in Section II of this submission below. However, regardless of whether COE's review and approval of ILS comported with the new set of accreditation standards that OIG now seeks to impose, that question is moot. The approvals that the United States Department of Education (the "Department," or "ED") issued to ILS establish conclusively that Pasadena and Hillcroft were duly approved for program participation, and the Draft Report presents no substantial basis for rescission or reversal of those longstanding approvals.

On or about December 11, 1996, in response to ILS' complete Application for Renewal of Program Participation Agreement, ED issued an updated Program Participation Agreement and Eligibility and Certification Approval Report that expressly approved the Pasadena and Hillcroft locations and the English as a Second Language Program offered at those sites, and certified them, along with the other ILS campuses and programs, through September 30, 1999. ED again renewed the approvals² in November 1999.

Finding One's proposed repudiation of ED's repeated and express approvals on the grounds that ED purportedly lacked notice of the COE accreditation status at those sites is contradicted by the record, inconsistent with the routine application procedures that ED followed, and contrary to the applicable regulations. ILS disagrees with the Draft Report's speculation that ED may have processed and approved the Pasadena and Hillcroft sites without knowledge of the form and content of those sites' accredited status, for numerous reasons, including the following:

¹ Hillcroft was by then relocated. See footnote 9.

² As previously indicated, the 1999 approval excluded the Hillcroft location, which had relocated in the interim.

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First, the Department had access to all pertinent accreditation correspondence in conjunction with its recertification applications. Indeed, as will be shown, any presumption that ED acted without reviewing the sites' accredited status³ is contradicted by the Department's mandatory internal operation procedures and by the procedures that are described in the Draft Report. The OIG workpapers reflect that ED followed those very procedures when it reviewed and approved the sites.

Second, as the Draft Report itself points out at page 2, the recertification process necessarily entails a review by ED of the requisite proof of accreditation status for each location. The Department would have, should have, and did in fact review the accreditation status of each location before issuing its express approvals for those locations. It is illogical to assume - as does Finding One - that ED approved the sites without reviewing the approvals.

Third, the OIG's own workpapers confirm that, as a matter of course and as a standard required procedure, ED officials charged with recertification responsibilities did in fact review the appropriate accreditation paperwork. On August 7, 2000, in response to an inquiry on this subject from the OIG's auditors, the Dallas Team Co-Leader stated in email correspondence that "The case team does not act on a school's application for eligibility without sufficient documentation from the accreditor." See OIG Workpapers at section D-10. Similarly, on August 30, 2000, an ED Team Analyst in the Southwest Case Management Team reported to the OIG that "All locations entered onto the Application require the same level of documentation as does the principal location." See OIG Workpaper D-10-6

Fourth, the OIG's workpapers establish that the Department did in fact review and approve the accreditation status of Pasadena and Hillcroft when the Secretary recertified ILS. On October 24, 1996, an ED recertification analyst completed an "EAAB Checklist For Application" after reviewing the ILS recertification application, and entered a checkmark affirming that ILS had met the requirement for "accreditation approval without stipulations & supporting documentation." Based upon that determination, she signed the "Analyst's Decision" approving the provisional certification that followed. A copy of those workpapers is attached to this response. The Secretary reaffirmed those approvals in the formal Eligibility and Certification Approval Report ("ECAR") issued December 11, 1996. That ECAR listed Pasadena and Hillcroft as "Approved" and set forth an "Initial Approval Date" for each of the two locations as October 24, 1996 - the same date that the recertification analyst had affirmed that the two sites were accredited and approved. The matching date on the ECAR confirmed that when the ED recertification analyst reviewed and approved ILS' accredited status on October 24, 1996, she did so with specific reference to Pasadena and Hillcroft. Those two sites, and those two sites only, were designated with an "Initial Approval Date" of October 24, 1996 on the ECAR. Accordingly, when the EAAB analyst reviewed and affirmed ILS' accredited status on October 24, she did so with specific reference to Pasadena and Hillcroft, because those same two sites were designated with the October 24 Initial Approval Date.

³ Of course, if ED did neglect to review the accreditation status of Pasadena and Hillcroft, that omission is the fault of ED, not ILS. In any event, such omission would not have mattered; as established in Section II below, those sites enjoyed the requisite accredited status.

APPENDIX C

Fifth, the OIG workpapers further establish that the accreditation approval issued by the recertification analyst was the product of particularized research into the accreditation status of ILS' additional locations. That research predated issuance of the affirmations of accreditation that were detailed in the preceding paragraph. The workpapers contain an October 11, 1996 notation, entered by the same analyst stating, "need accreditation update for Add'l location." That notation establishes that the analyst sought, and apparently obtained, reviewed and approved, the requisite accreditation approval paperwork before the two additional locations at issue could have been, and were in fact, approved three weeks later. A copy of the analyst's notation is attached to this Response.

The foregoing evidence establishes that ED's approvals of Pasadena and Hillcroft were the product of the Department's detailed review and resulting approval of all the required elements of ILS' recertification application, including the accreditation element. Yet, Finding One now seeks to advance a recommendation that the ED Office of Student Financial Assistance – i.e., the same agency that issued the approvals five years ago – should effectively rescind and repudiate those determinations and demand that ILS return substantial monies that were long since utilized to provide valuable educational services to socioeconomically and culturally disadvantaged students. Notably, nowhere does the Finding question the eligibility of those students for the funds that they duly received, nor does it question the value, quality, or content of the educational services that ILS provided as those students worked towards and achieved their occupational goals.

Rescission of the Pasadena and Hillcroft approvals is barred by the presumption of regularity. This long-established axiom of administrative law is routinely invoked by ED, by other federal agencies, and by our court system, and it is of equal application here. Under the doctrine, the ED approvals are entitled to a presumption of regularity in the absence of proof that the approval decisions were arbitrary and capricious. Here the OIG's own workpapers, and the extensive COE/ILS correspondence establishing the accredited status of Pasadena and Hillcroft (described in Section II below), plainly establish precisely the opposite – that the site approvals were the product of a fully documented, properly executed recertification process.

ED approved these sites, and Finding One presents no substantial basis to justify retroactive rescission of those approvals five years later.

2. The Applicable Regulations As Well As The Parties' Contract Further Establish That The Department's Longstanding Eligibility Determinations Cannot Now Be Reversed Or Rescinded.

At all times pertinent to draft Finding 1, ED's regulations have provided as follows with respect to the eligibility of additional locations:

Sec. 600.10 Date, extent, duration, and consequence of eligibility.

APPENDIX C

For purposes of participating in a title IV, HEA program, if an eligible institution seeks eligibility for a location or educational program not previously designated eligible, and the Secretary determines that the location or educational program satisfies all the statutory and regulatory eligibility requirements, the Secretary considers the location or program to be eligible to participate in that title IV, HEA program as of the date the Secretary certifies that location or program to so participate.

34 C.F.R. 600.10(a)(2). The Draft Report expressly acknowledges that the Secretary certified the eligibility of Pasadena and Hillcroft for the applicable time periods. Moreover, as has been discussed and proven, the OIG's workpapers further establish that said approvals were the product of a comprehensive review of the ILS recertification application, including the accreditation status of the two sites. The above-quoted provisions demonstrate that the Secretary properly certified the eligibility of the two sites. These regulations further establish that each site was properly considered by both ED and ILS to be included within the scope, extent, and duration of ILS' overall Title IV eligibility.

The OIG disallowance recommendation, if sustained, would seek to have the Secretary reverse himself and proclaim the two sites to have been ineligible, as if the procedures expressly set forth in the regulations had never been written, and as if those same procedures had never been followed by the Department. Yet, the rules were unquestionably in effect, and the record establishes that the prescribed procedures were followed. Finding One does not explain why, or how, the Department should now ignore its rules, the facts of this case, and the final, unequivocal, longstanding determination by the Secretary that the two sites were approved and eligible.

Moreover, in the case of the Hillcroft site – where ILS offered only a partial program – the rules placed a burden on the Department to affirmatively seek an application from ILS upon notification that ILS sought approval for that location. ED never sought any such application from ILS. The pertinent regulation stated as follows with respect to partial programs:

Sec. 600.10 Date, extent, duration, and consequence of eligibility.

(b)(3) Eligibility does not extend to any location that an institution establishes after it receives its eligibility designation if the institution provides at least 50 percent of an educational program at that location, unless –

- (i) The institution has notified the Secretary of that location in accordance with Sec. 600.30(a)(3); and
- (ii) The Secretary does not require the institution to submit an eligibility application for that location under Sec. 600.21(c).

34 C.F.R. 600.10(b)(3)(July 1, 1996).

In contrast, with respect to locations offering 100% of a program, the regulations stated as follows:

Sec. 600.20 Application procedures.

- (c) An institution must apply if it wishes to—
- (3) Include in its eligibility designation a location that is not currently included in that designation, if—
 - (i) The institution offers 100 percent of an educational program at that location; or
 - (ii) The institution offers at least 50 percent of an educational program at that location, and the Secretary requires the institution to apply for eligibility ...

34 C.F.R. 600.20(c)(3) (July 1, 1996).

These rules plainly stated that once ILS notified ED of the partial program at Hillcroft,⁴ it was incumbent upon ED to determine whether any further application process would be required. ED apparently determined that none would be required, and chose to instead approve Hillcroft and include it along with Pasadena in the ILS Program Participation Agreement and ECAR, without the need for any further application activity. Draft Finding One is arbitrary and capricious inasmuch as it seeks to recommend the disallowance of funds based upon purported inadequacies in the ED application process for that site, when in fact no application was required, and ED never opted to exercise its discretion to demand such an application.

Lastly, Finding One ignores the fact that the Department and ILS were parties to a fully executed Program Participation Agreement that expressly provided for the eligibility of Pasadena and Hillcroft. Pursuant to this valid and enforceable contract, ILS trained – and ED funded -- numerous eligible and deserving students, enabling them to pursue their chosen occupations. Nowhere in Finding One or the accompanying recommendations does the Draft Report justify the proposed retroactive repudiation of contract terms under which ED and ILS jointly agreed that ILS would administer Title IV funding for these eligible students. Any attempt to now disallow and collect from ILS Title IV funds that these students have long since spent on tuition and educational living expenses would constitute an attempt to breach a contract agreed to by ED and ILS five years ago.

B. THE DRAFT REPORT'S ASSERTION THAT PASADENA AND HILLCROFT LACKED ACCREDITATION IS INCORRECT

1. Finding One Misinterprets And Ignores Correspondence That Demonstrates That COE Has Approved Pasadena Since July 1, 1996.

⁴ The Draft Report expressly acknowledges that ILS so notified ED, and that ED in turn approved the site. Draft Report at 3. Moreover, on August 11, 1995, ILS notified ED of the “partial program of study in English as a Second Language at 6440 Hillcroft...”. That ILS letter further confirmed to ED that “we have previously been informed since less than a complete program is being offered at this site, an eligibility application is not required.” ED then approved Hillcroft. A copy of the August 11, 1995 ILS letter is attached to this Response.

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On April 13, 2000, COE issued the last in a series of letters dating back to July 2, 1996 that conclusively demonstrate that COE has approved Pasadena since July 1, 1996. COE explicitly stated in that April 13 letter that its final approval of Pasadena was "effective July 1, 1996." This letter standing alone warrants withdrawal of Finding One with respect to Pasadena. Yet, Finding One ignores and makes no reference to COE's determination of site approval as of July 1, 1996. Draft Report at 2-4.⁵

Instead, Finding One seeks to rely selectively on two prior COE letters in support of its contention that COE had notified ILS that Pasadena was not accredited. As detailed below, neither of those letters is at odds with COE's determination of Pasadena's approval since July 1, 1996. When read in context with applicable COE Standards of Accreditation and the entire sequence of correspondence and submissions to and from COE, both letters demonstrate further that COE granted interim and ultimately final approval to the site beginning in July 1, 1996.

a. COE Properly Approved Pasadena In Accordance With The Two-Step Approval Process Established In Its Then-Existing And Current Rules

Both current COE standards and procedures and those in effect in 1996 establish a two-step process for the approval of a branch campus. See 1996 COE Handbook of Accreditation ("1996 Handbook") at 24-25; September 2000 Procedures Required To Establish A New Branch Or Extension. The first step requires advance submission of a business plan and the issuance of an initial approval by COE after review of the supporting documentation. The second step involves a team visit well after the branch begins its operations and culminates in a final approval after resolution of any deficiencies identified during the visit. As detailed below, ILS followed these procedures in seeking approval of Pasadena. COE properly provided initial and final approvals to Pasadena in accordance with these procedures. Neither OIG nor ED should or can disturb these valid and fully supported determinations by the accrediting body.

ILS commenced the process by submission of an application to open Pasadena with ESL-only instruction, with occupational programs to be added at a future date. The application included a business plan with the required supporting documentation itemized in COE's Standards. 1996 Handbook at 24. Based on its review, COE issued an initial approval to Pasadena by letter dated July 2, 1996 (as amended by letter dated July 17, 1996). The initial approval completed the first step of the branch campus approval process.

Once approved, Pasadena commenced operations and notified COE of its operational status by letter dated July 7, 1996. From that time forward throughout the second stage of the approval process, ILS kept COE apprised of Pasadena via annual reports, a team visit, and ongoing correspondence to the Council. For example, in October 1997, COE requested additional information from ILS regarding the Pasadena branch, which information ILS promptly provided

⁵ The Draft Report inexplicably relegates this decisive determination to a back section separate from the other findings and entitled "Other Matters." Draft Report at 7.

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to COE. ILS made clear that it continued to offer its ESL classes at the approved Pasadena branch. COE did not object or contend that ILS was operating an unapproved site.

In May of 1998, COE conducted a new branch team visit and furnished ILS with its report. The contents of the report demonstrated that ILS operated the branch in compliance with Commission standards. After ILS responded to the team visit report, COE issued a letter dated June 19, 1998 deferring final approval of the branch pending addition of an occupational program. Once ILS commenced operation of occupational programs at the site, COE issued its final approval on April 13, 2000, with an effective date of July 1, 1996. This final approval completed the second step of the approval process and clarified that Pasadena was duly accredited – initially, then finally – at all relevant times.

In short, the correspondence makes clear that COE properly approved Pasadena in 1996 and again in 2000 based on a thorough review of documentation submitted by ILS and the completion of an on-site team visit. The initial and final approvals were in full accord with COE's existing and current standards of accreditation. These established facts undercut the underlying premise of Finding One that COE purportedly did not approve Pasadena. The findings and recommendations in Finding One of the Draft Report should be withdrawn with respect to Pasadena.

b. Finding One Is Premised On A Misinterpretation of the July 2, 1996 Initial Approval and the June 19, 1998 Deferral of Final Approval.

Finding One erroneously contends that the July 2, 1996 initial approval letter did not constitute an approval of Pasadena because it refers to an approval of the "plan," rather than the "site." The Finding mistakenly concludes that COE did not provide any kind of approval to the site when it approved the "plan." As COE Standards make clear, the approval of the plan does constitute an approval of the site – specifically, an initial approval.

Both the 1996 Handbook and the current standards as clarified last year confirm that the approval issued during the first step in the branch campus approval process is an initial approval of the branch campus. Both sets of procedures require advance submission of a business plan with an itemized list of supporting documentation for COE review and action. The 1996 Handbook refer to the approval that results as an approval of the "plan for the new branch;" the 2000 Standards clarify the terminology by referring to the approval as an "initial approval of the branch." The 2000 Standards thereby underscore that the consideration of the business plan and the approval that results at that stage does constitute an initial approval of the branch.

Finding One apparently seeks to rewrite the Standards to prohibit any approvals of a branch campus until a final approval is issued, long after the branch commences operations. That contention is not a reasonable interpretation of the Standards in that it would render the first step of the two-step process meaningless and contradict commonly accepted accreditation practice. The purpose of the advance application package submitted as part of the first step of the approval process is to obtain an initial approval of the branch that would provide the accreditation

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necessary to begin operations of the branch pending final approval. Under the Finding's interpretation, the "approval" of the "plan" would serve no purpose and would leave the branch in the same position as before it submitted its plan.

Moreover, as with other accrediting agencies, the final approval of a new branch will not issue until completion of an on-site team visit and the resolution of any issues raised during that visit. That process generally does not even begin until several months after the branch commences operations and can run for several months. If upheld, Finding One would ignore the initial COE determination and deem every new branch unauthorized until completion of an approval process that takes the better part of a year or longer to complete. That interpretation is simply not reasonable or consistent with the purpose of the two-step approval process.

Moreover, it is a commonly accepted accreditation practice to grant initial approvals of new branches, changes in ownership, and other substantive changes pending final approval of that change at a much later date, after team visits and further exchanges of reports and responses. The U.S. Department of Education routinely accepts initial approvals from state and accrediting agencies as sufficient for purposes of issuing its own Title IV-related approvals. Thus, for all of these reasons, Finding One's interpretation of the July 2, 1996 initial approval letter should and must be reversed.

Finding One also alleges that the June 16, 1998 letter deferring final approval of the site until an occupational program is offered somehow constitutes notice that the site lacked an initial approval. That contention is incorrect and ignores the interim approval already granted in connection with Pasadena on July 2, 1996. Under COE Standards, a deferral maintains the existing status quo (i.e., Pasadena continued to operate under its existing initial approval). 1996 Handbook at 20. The status quo was the existing initial approval and a pending application for final approval. The letter did not rescind the approval or state that the site was now no longer approved. Indeed, the OIG's own audit workpapers demonstrate that COE's Executive Director made this same point to an OIG auditor in a telephone conversation:

I asked **EDITED** about the 6/19/98 COE letter to ILS wherein COE defers accreditation of the Pasadena branch until an occupational programs [sic] is started?

EDITED stated the letter does not mean that the Pasadena branch is not accredited. It does mean that the campus, at the time of the letter, met all the COE requirements for accreditation and should be accredited once an occupational program is offered.

OIG Workpaper D-2-2. This discussion reinforces the point that the June 19 letter did not constitute a notice that the site was not accredited, nor that the existing interim approval had been withdrawn. Accordingly, Pasadena remained authorized under its interim approval.⁶

⁶ It should also be emphasized that COE's final determination of April 13, 2000 resolves any alleged ambiguity in any of the prior correspondence or in the COE standards. That determination explicitly states that the Pasadena site was accredited as of July 1, 1996. The determination does not constitute a retroactive approval, but simply a reaffirmation and finalization of the initial approval granted in July 1996. Even if one erroneously deemed the April 13, 2000 a retroactive determination, the Finding fails to cite to any explicit prohibitions on retroactive approvals either in COE's standards, the Higher

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- c. **The Pasadena branch was eligible to be an accredited branch during the period in which it offered ESL programs.**

The Draft Audit Report incorrectly suggests that Pasadena was ineligible for accreditation prior to April 2000 because it did not offer any programs that fell within the scope of COE accreditation. That suggestion is incorrect for several reasons. First, COE did and does accredit ESL programs and ESL-only sites. For example, COE issued a May 6, 1993 letter to ILS stating that it had approved ESL programs to be offered at the main campus in Dallas and at the 10200 Richmond Avenue site in Houston, Texas. COE did not condition the approval of the ESL program at these locations upon a requirement that ESL students also take occupational courses at the site. Moreover, COE granted initial approval in July 1996 to the exclusively-ESL Pasadena site.

Second, Finding One does not cite to any authority that expressly prohibits the accreditation of ESL programs or sites that offer ESL instruction exclusively. The Draft Report does not cite to any standard from prior or current COE Standards of Accreditation that impose such limitations on COE or its institutions. Moreover, the Report does not cite to any statutory or regulatory provisions that prohibit COE from extending accreditation to ESL programs or ESL-only sites.

Third, ESL programs did and do fall within the scope of COE accreditation. For example, the 1996 Handbook of Accreditation states that:

[T]he primary mission of an occupational education/military training institution shall be to instruct students to such competency levels that they are qualified for employment and/or advancement in existing or potential occupational fields ...

1996 Handbook at 45. In order to qualify for the Title IV programs, the ESL program was offered to students with already existing skills to provide them with the language skills necessary for them to make productive use of their skills in the workforce. 34 C.F.R. 668.8(j). Such students came to the site with a need to gain competency levels in the English language that were a precondition to them becoming qualified for employment in an occupational field. Given the makeup of its student enrollment, the Pasadena ESL program does fall within the scope of a COE accredited institution's mission. Accordingly, Pasadena was eligible for COE approval with or without other occupational programs.⁷

Education Act, or the Department's regulations. Moreover, the Department has acknowledged and accepted retroactive accreditations and approvals by both state and accrediting agencies in connection with other institutions.

⁷ ILS does not concede that accrediting agency approvals were even required for the ESL program or the ESL-only Pasadena site. Arguably, ESL programs are exempt from COE accreditation just as they are from Texas state licensure.

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3. Finding One Misinterprets COE Correspondence With Respect To The 6420 Hillcroft Avenue Location In Houston – COE Deemed That Location As An Extended Classroom.

Finding One erroneously alleges that COE never requested accreditation for and COE never accredited the site at 6420 Hillcroft from August 1995 through August 1997. Both contentions are contradicted by correspondence to and from COE. ILS requested approval to offer a portion of an ESL program at Hillcroft. COE correspondence confirms that the Council subsequently deemed the site to be an extended classroom. Consequently, Finding One's findings and recommendations with respect to Hillcroft should be withdrawn.

ILS did request accreditation for Hillcroft. By letter dated July 31, 1995, ILS notified COE of its plan to offer a partial ESL stand-alone program at Hillcroft. ILS identified the site as either an instructional service center or an extended classroom. COE subsequently notified ILS that the site did not meet the definition of an instructional service center. COE instead deemed Hillcroft to be an extended classroom site (with portions of its ESL program being taught at the approved 10200 Richmond Avenue branch campus in Houston).⁸

Finding One's erroneous assumptions may arise out of a misinterpretation of a July 17, 1996 letter issued by COE in response to a never-implemented proposal by ILS to change the status of Hillcroft from an extended classroom site to a branch campus. COE responded that such a "change of status" could not take place until ILS filed a new branch application. It appears that Finding One may have interpreted this letter as a disapproval of Hillcroft. That is incorrect. COE merely stated that Hillcroft could not change its status to a branch without filing an application.⁹ The letter did not in anyway undo the status of Hillcroft as an extended classroom site.¹⁰ Indeed, that letter explicitly refers to Hillcroft's current status as an "extended classroom site." Accordingly, Finding One must be withdrawn with respect to the Hillcroft site.

⁸ COE standards define an extended classroom as a site that provides part of the total program of the main or branch campus.

⁹ Finding One mistakenly refers to "closure" of Hillcroft in August 1997. On the contrary, 10200 Richmond and the extended classroom site at Hillcroft moved in the Fall of 1997 to 6200 Hillcroft Avenue in Houston. ILS notified COE of the change in location of both facilities to 6200 Hillcroft. COE approved this new site as a branch campus. The merger into a new site with COE approval similarly affirms the ongoing conformance of Hillcroft to COE Requirements.

¹⁰ Unlike the Pasadena site, Hillcroft only offered a portion of the ESL program. The remainder of the program took place at the 10200 Richmond Avenue site in Houston. COE correspondence makes abundantly clear that the 10200 Richmond Avenue site was approved during the August 1995 through August 1997 period, and that its list of COE-approved programs included the same ESL program. Thus, regardless of the accredited status of Hillcroft, the ESL program was covered by the COE accreditation of the 10200 Richmond Avenue site and the ESL program.

Finding No. 2 – Administrative Capability**INTRODUCTION**

Prior to our reviewing the auditor work papers, we were having significant difficulty determining how or why certain students or certain issues were contained in this finding. After reviewing these work papers, there are several errors in how these determinations were reached, and when what we believe to be the correct policy or interpretation is applied, a large number of the individual student issues will be eliminated.

The work papers are very thorough and detailed, but just as Title IV is complicated to administer, it is also difficult to always apply the correct policy, particularly with the diversity of our programs. As you know, the Business/Computer programs are regulated by TWC, whereas ESL is not. In these programs, we rely on accrediting agency policy and federal regulations.

The three areas where incorrect or inappropriate policies, rules, or regulations have been applied are in the area of refund calculations and timeliness for ESL students, and the calculation of textbook charges. In the detail of each category and each student, we have reviewed the work paper detail, and the student file, as well as pointing out where we have determined the audit team is in error.

We will address the issues in consecutive order of the spreadsheet columns (left-right), as well as identify the campus attended.

I. Ineligible ATB Student(s)

As outlined in the previous response, the institution uses the CELSA Examination for the admission and placement of all ESL students. This examination is a Department Approved ATB test with a prescribed ATB Cut Score on the CELSA I of 21% or 22 correct answers. The audit team determined that appropriate ATB test procedures and the use of outside independent proctors were in compliance. Also, when the student certifies he/she is a high school graduate and the test is administered only for the purpose of placement or advanced standing, it is scored by the academic staff. There are five students listed in the draft report:

Student No.

1. **EDITED** – Pasadena - The student was tested on August 12, 1998 and did not achieve the required cut score. A Pell refund of \$1,500 is due.
2. **EDITED** – Pasadena - This student originally enrolled in December 1998, took the ATB test with a cut score of 21, rather than 21% or 22 correct answers, which is one answer shy of the required score. He received a \$1,500 Pell disbursement.

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He withdrew on January 8, 1999 and the institution refunded \$909. An additional refund of \$591 is due. He later enrolled in September 1999 and achieved a passing score and graduated.

3. **EDITED** – Pasadena – This student was tested on September 15, 1997. He did not achieve the required cut score and should have either not been admitted or re-tested. He did, however, graduate from the program. In the past, the Department has not required a refund if the student graduated, and it was an isolated occurrence. We ask for consideration of this fact for this student.
4. **EDITED** – Pasadena – The student was tested on August 12, 1998 and did not achieve the required cut score. A Pell refund of \$682 is due.
5. **EDITED** - Houston – This student certified she was a high school graduate when she enrolled in the ESL program, and at that time achieved a cut score of 46 on the CELSA I test. She graduated from the ESL program in 1999. She then enrolled in the Computer Applications Program on July 28, 1999. When told she either had to submit a diploma or GED per TWC regulations, she then admitted she was not a graduate. She was immediately scheduled to take the required ATB test on August 27. She took the test and achieved the required passing score. We agree the Pell should have been refunded when we learned she was not a graduate. However, it would have been re-disbursed three weeks later after she passed the Wonderlic Basic Skills Review. A refund should not be required in this instance because eligibility was established within the first thirty days of enrollment.

We believe these errors are isolated and were caused by the proctor signing off incorrectly or inadvertently on the two tests that were administered in August 1998. The December 1998 student scored a 21 cut score, which is 20%, and the proctor scored this number of correct answers as 26%, which was a passing percent.

Summary

The institution agrees with the liability of \$2,773, and requests the graduation of Student No. 3 **EDITED** be considered for the removal of this proposed liability.

II. **FAILURE TO DOCUMENT CITIZENSHIP STATUS**

Student No.

1. **EDITED** – Houston

The file contains a G-845 confirming the documents are valid.

2. **EDITED** – Pasadena

Same as No. 1.

3. **EDITED** – Houston

The file contains a G-845 confirming the documents are valid. Title IV disbursement was submitted to the Department of Education as documentation for a reimbursement payment, and subsequently disbursed.

4. **EDITED** – Houston

Same as No. 3.

Summary

These four students presented various documents attempting to establish their eligibility for Title IV assistance. In each case, the documents submitted for review were confirmed as being valid, by relying on a secondary confirmation.

During this period, the USDE regulations indicated that employment authorization was in and of itself “inconclusive” in establishing eligibility. Also, there was no prescribed procedure for achieving a secondary confirmation. Also, **EDITED** and **EDITED** were processed and approved when the institution was on reimbursement.

Current regulations now state that employment authorization by itself cannot establish eligibility, and the student must provide other documents that he/she meets other specific categories of eligibility, and the institution follows the required documentation procedures.

We feel we relied upon the language contained in the regulations at that time and performed a secondary confirmation by receiving a confirmed G-845 back from INS.

These students should be given consideration based on the regulatory guidance available at the time they enrolled in 1997-1998.

III. MISSING ISAR / INVALID ISIR

EDITED

– Houston - A valid 1998/1999 ISIR is in the student file. The 1999/2000 ISIR was selected for verification and all elements of verification have been met. The reviewer may have noted that there are four in household without an EIC. A student cannot claim EIC if only one is claimed in the tax return. The student had a valid 1999/2000 ISIR before disbursing Title IV funds.

EDITED

– Pasadena – The 1998/1999 ISIR was corrected to reflect the student's correct Social Security number. On the 02 ISAR transaction, the correct Social Security number is reflected on page 2. Therefore, the Social Security verification was met and the student has a valid ISAR.

SUMMARY

This category should be removed from the finding.

IV. **DIFFERENCE IN REFUND CALCULATION**

This area is of particular concern because findings weigh heavily in determinations of administrative capability. During the audit process, we discussed two issues with the team: (1) that during a brief period (a week or two), one of our Admissions staff incorrectly used the Occupational or TWC regulated enrollment agreement for a few ESL students. However, in all cases, we applied the correct refund policy upon the student's withdrawal; (2) there was a discrepancy or disagreement between our SFA auditors and a program reviewer as to how to determine the correct administrative fee. Based on a program review, we believed we were using the correct calculation, but changed to agree with our SFA auditor later. Although we agreed and did change, we still believe the program reviewer is correct.

Prior to receiving the work papers, we thought the administrative fee calculation was the discrepant issue in most of these 24 students. However, we now know this is not the case.

In several cases, the auditor applied the FEDERAL REFUND POLICY to ESL students. This is incorrect. Since ESL is not regulated by TWC, the institution was required to follow its accrediting agency policy and has done so, charging by semester rather than program, which is also generally more favorable. However, it appears the accrediting agency policy appears to be the same as the Federal Policy.

The second error in the auditor calculations is based on assessment of book charges. In a number of instances, the auditor simply applied a pro-rata charge for textbooks.

Our institution separates book charges from tuition, and charges the student for precisely the textbook and materials issued. This is the appropriate, fair and correct method of assessing these charges. In the work papers, there are notes of a conversation between TWC and the auditor. TWC affirmed that if the institution separates and documents charges for textbooks, the required and correct method is to charge the student for what he received. ESL students are charged for materials on a course or class by class basis. Again, the most fair method.

Thirdly, in some cases, the auditor has calculated ESL refunds on hours or partial weeks, rather than the correct credit hour policy of whole weeks (at least one day of attendance within the seven-day period).

For each student, we have outlined or summarized our findings, and when comparing the work papers, have detailed the auditor error.

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Student No.

1. **EDITED** – Pasadena – As noted earlier, there were a few instances of the incorrect enrollment agreement being used, as in this case. It is understandable that the auditor noted that a 50% refund was due, because this student was in the second 25% of the semester. The TWC policy assesses tuition charges by program, up to twelve months in length. This ESL student was in the 6th week of the semester and was charged correctly at 75% of the semester. Attempting to apply the TWC policy would not only have been incorrect, it would have resulted in much higher charges. The correct refund was made.
2. **EDITED** – Pasadena – The work papers indicate the auditor based the calculation on hours. As a credit hour program, the correct refund calculation is based on weeks of attendance within the fifteen-week semester. In this case, the student attended the fourth week and should have been charged 40%, rather than 30%. An error was made in the student's favor of \$142.
3. **EDITED** – Houston - The correct refund was made on January 6, 2000. However, we agree with the auditor determination of lateness. A review of the file shows this refund was not made when the student withdrew on April 9, 1999, and when he returned to enroll on December 15, 1999, we immediately realized this fact and processed the proper refund.
4. **EDITED** – Pasadena – The institution charged the student 30% and the charges should have been 40%. The institution refunded \$149 in excess Pell. However, this is a mute point since the \$591 of Pell retained is part of the Ability to Benefit category.
5. **EDITED** – Pasadena – The institution calculated the refund correctly according to its accrediting agency policy.
6. **EDITED** – Houston – The correct pro-rata refund was made.
7. **EDITED** - Houston – Agree – An additional refund of \$354 is due.
8. **EDITED** – Dallas – The student originally matriculated on August 12, 1998 and attended through September 8, 1998 and was terminated for excessive absences on September 25, 1998. The account balance was <127.22>. She appealed the dismissal and re-entered on December 9, 1998. The total charges for the cumulative attendance period* should have been 20% according to Federal Pro-Rata requirements, or:

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Reg. Fee	50.00
Tuition	1,281.16
Books/Supplies	337.55
Admin. Fee	64.08
Loan	<u>86.10</u>
 Total	 1,818.89
 Aid Disbursed	 2,550.00
Student Payments	<u>120.00</u>
	2,670.00
 Prior Refund	 <364.00>
Additional Refund Due	487.11

*Combining the periods is the most favorable to the student and meets the requirements of TWC.

9. **EDITED** – Dallas – The correct pro-rata refund was made.

10. **EDITED** – Houston – The correct refund was made. The audit work papers are incorrect in that the institution applied its required refund policy for the second semester only.

11. **EDITED** – Houston – The correct refund was made applying the required refund policy.

12. **EDITED** – Pasadena – The correct refund was made applying pro-rata. The student attended in the fifth week of a fifteen-week semester, or 33%. The pro-rata refund is 60%.

13. **EDITED** – Dallas – The student attended eight weeks and the 60% tuition charge is correct. The correct refund was made.

14. **EDITED** – Houston – The work papers indicate that book charges were pro-rated in the auditor calculations. Pro-rating textbooks would violate TWC regulations because in this case, the student would be charged more than the actual texts received ($675 \times .20 = 135.00$). The student was charged \$127 (or for the actual materials received). The charges and refund were completed correctly.

15. **EDITED** – Houston – The work papers indicate the student was charged by the program, rather than by semester as required. This is incorrect. The student was charged for the first semester, which was completed and 75% of the second semester. The correct refund was made.

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16. **EDITED** – Houston – Agree – The scheduled hours were 175.5 or 23% of the program, and the tuition charge should be 25%, and the total charges are \$1703. No refund is due. (See student documents.)
17. **EDITED** – Houston – The correct refund was made. The student attended four weeks, which was into the second 25% of the semester, resulting in a 75% tuition charge or 25% refund.
18. **EDITED** – Dallas – The auditor is incorrect in several points. The correct tuition was calculated. The actual book charges were added, and the \$150 loan payment is included in the refund calculation. Other than the administrative fee issue, which has previously been discussed, the refund calculations were done correctly.
19. **EDITED** - Houston – The correct refund was made. Textbooks were charged as issued to the student.
20. **EDITED** – Pasadena – The refund was calculated correctly.
21. **EDITED** – Pasadena – The institution refunded Pell excess of \$99.
22. **EDITED** - Houston – The correct refund was made.
23. **EDITED** – Dallas – The correct refund was made.
24. **EDITED** - Houston – The correct refund was made.

SUMMARY

Throughout our review of the auditor work papers, it is evident that efforts were made to reach accurate conclusions. However, it is fortunate that we had the opportunity to review this information, because we otherwise would not have known how the auditor reached these determinations, and hopefully will now agree to apply the correct policies and procedures in these discrepant areas.

Once these discrepancies are removed, it is obvious there are few errors, involving very small dollar amounts, although we always endeavor to eliminate or minimize any errors.

Other than the administrative fee issue, which is explained below, there are additional refunds due of 354,487 <42<99> = \$600, which excludes the \$591 for **EDITED** because this amount is contained in the ATB category.

Several students' discrepancies were in the administrative fee area. As stated in the pre-draft institutional response, one of our other institutions had a program review in 1998. The administrative fee calculation was reviewed specifically and determined to be correct. In 1999

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our SFA auditors disagreed. This finding and a full explanation were disclosed in the SFA audit in 1999. The Department did not require further action, but after being made aware of the issue, the institution took the appropriate corrective action. For the students in this category, the total variance is \$483. We still believe the SFA auditors were and are incorrect (although we agreed to the charge). We are attaching the federal regulations that address the calculation and retention of the administrative fee, which is 5% or \$100, whichever is less. One of the examples provided is an instance where there is a 100% refund – less the administrative fee. If the SFA auditor was correct, there would be no administrative fee charged. Therefore, the institution's previous calculation appears to be done correctly. These students should be removed from the finding.

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V. PELL OVERAWARDS

In comparing the draft report to the pre-draft, it appears that all but one **EDITED** ESL student has been removed and the computer/business students are still in the finding. While the institution defines itself as a credit-hour institution, all aid is awarded based on the clock hours for which the student is registered for each semester.

Student No.

1.	EDITED	– Dallas		
			<u>Enrollment Status</u>	<u>Aid Award</u>
	Semester I	11 crs / 275 Clock Hrs.	¾ Time	EFC 0 = 1013
	Semester II	15 crs / 295 Clock Hrs.	¾ Time	EFC 0 = 1012
	Semester III	14 crs / 300 Clock Hrs.	¾ Time	EFC 0 = 1125
	Semester IV	10 crs / 203 Clock Hrs.*	½ Time	EFC 0 = 1125

*Paid at ¾ time, over-award \$375

2.	EDITED	- Houston		
	Semester I	12 crs / 360 Clock Hrs.	Full-Time	EFC 0 = 1500

For the award year 1998/1999, the student received \$1,500 from another institution, leaving \$1,500 to be disbursed. The student was eligible for max Pell \$3,000. The institution relied on a Financial Aid transcript received from the previous institution. The difference between NSLDS could be downsizing not completed by the previous institution. Therefore Title IV funds were disbursed properly. (See F.A.T. from Houston Community College.)

3.	EDITED	– Dallas – (The work papers are incorrect.)		
	Semester I	11 crs / 270 Clock Hrs.	¾ Time	EFC 0 = 1013
	Semester II	15 crs / 305 Clock Hrs.	¾ Time	EFC 0 = 1012
	Semester III	7 crs / 240 Clock Hrs.	½ Time	EFC 723=513

All aid was awarded correctly.

4.	EDITED	– Dallas – (The work papers are incorrect.)		
	Semester I	12 crs / 360 Clock Hrs.	Full-Time	EFC 0 = 1350
	Semester II	12 crs / 365 Clock Hrs.	Full-Time	EFC 0 = 1350
	Semester III	6 crs / 225 Clock Hrs.	½ Time	EFC 0 = 750
				(98/99 Award Yr.)

APPENDIX C

The student is dependent. The information on the FAFSA and ISIR do match, since Title IV Wan accepts a blank as a zero. The student was awarded properly in both 1997/1998 and 1998/1999 award years.

5. **EDITED** – Houston

Semester I	10 crs / 225 Clock Hrs.*	½ Time	EFC 0 = 750
Semester II	13 crs / 270 Clock Hrs.	¾ Time	EFC 0 = 1125

*Agree – An overaward of \$375 occurred.

6. **EDITED** – Houston

Semester I	13.5 crs / 270 Clock Hrs.	¾ Time	EFC 0-C = 1125
Semester II	13.5 crs / 275 Clock Hrs.	¾ Time	EFC 0-C = 1125
Semester III	No Award		
Semester IV	No Award		

The student's 1998/1999 ISIR transaction 03 has an EFC of zero. This ISIR supercedes all previous print reports and ISIR's. Therefore the student was awarded properly.

Summary

Two students received an overaward of \$750.

VI. VERIFICATION NOT COMPLETED

Student No.

1. **EDITED** - Dallas

1998/1999 award year, the student did not work. His father, **EDITED**, did work but did not complete a tax return. The Verification Worksheet was completed, but the student checked the incorrect box in Section C. When completing the FAFSA, he inadvertently inserted his parents' income on the student's portion of the form. The input of the FAFSA was submitted correctly to CPS, but the planner neglected to have the student correct and initial the FAFSA. Verification for this student was completed.

2. **EDITED** - Houston

The student was not selected for verification.

The 1998/1999 ISIR had a comment. INS did not confirm her citizenship. Her citizenship was confirmed with attached Certificate of Naturalization. The 1999/2000 ISIR had the same comment, which was satisfied. Verification of the comment was completed.

Summary

Verification or answers to comments were completed on both students. The Planner has since attended a workshop and subsequent training.

REASONABLENESS OF INFORMATION

The institution is unsure precisely how to respond to this issue since we can find no regulatory basis for this finding and cannot discern any guidance in reviewing the I.G. audit guide. We are aware of our responsibilities to complete verification and/or to resolve “any conflicting information” and we believe we are diligent in the process.

We have learned over the years that foreign students bring with them some very unusual situations: 1) They tend to be part of very close-knit ethnic communities that all have their own social service and support agencies. 2) They tend to be part of very large extended families that share and help each other.

We believe most informed sources would feel the verification process is intended to “flush out the unusual,” in addition to the random aspect of the procedure.

At least two of our three aid officers have significant experience and are diligent in trying to ensure the students’ information is rational, but when an applicant is not selected for verification, and there are no conflicting data elements, how far can the institution go in interrogating the student, when there is no factual or documentable basis for doing so?

In the pre-draft report, there were ten students in this category; nine of the ten were removed after our response. However, eight additional students have been added.

1. **EDITED** – Houston

1999/2000 ISIR was not selected for verification. Therefore, the student’s responses did not have to be challenged. 2000/2001 ISIR was selected for verification. Verification worksheet shows correct number in household of eight. Taxes also agree with ISIR. Therefore, information has been verified.

2. **EDITED** – Houston

It seems the low income is questioned as being unreasonable, although there is not conflicting information to the contrary. The student was not selected for verification. We also received a financial aid transcript on this student attending a community college before attending ILS and receiving Federal Funds.

3. **EDITED** – Houston

It seems the low income is being questioned as unreasonable, although there is no conflicting information to the contrary, and the student was not selected for verification.

4. **EDITED** – Houston
Same as No. 3.
5. **EDITED** – Dallas
Same as No. 3.
6. **EDITED** – Houston
Same as No. 3.
7. **EDITED** – Houston
Same as No. 3.
8. **EDITED** – Houston
Same as No. 3.

SUMMARY

While we understand the auditor’s concern, we feel we have complied with applicable regulations in this area.

VII. REFUNDS NOT TIMELY

The institution wishes to express its strongest objection to this finding, because the team did not complete the finding according to institutional policy. During the fieldwork,

EDITED requested clarification of the withdrawal policy for ESL. He was informed that ESL was not subject to TWC rules and regulations, and that during most of the review period, we had followed the federal policy of determining the withdrawal date thirty (30) days from LDA, although in late 1999, we began to reduce the timeline to 21 days for the determination of withdrawal (in the absence of earlier notification from the student), because this timeline was compatible with our other operations.

In the draft and this pre-final report, the team made an arbitrary determination to use forty-four days from LDA as the due date for refunds for ESL students. There is no basis for the use of this timeline. It is not based on regulation, or institutional policy or procedure. For the students subject to TWC rules and policies, sixteen calendar days plus thirty is appropriate because TWC requires dismissal after absences totaling ten class days and/or 20% of the program hours during the first 75% of the total program.

We have reviewed each student in the finding and listed the correct WD date determination. Several student information sheets have been corrected to show the correct WD date. Both the original and corrected student information sheets are attached.

We respectfully request the finding be corrected to the policy that was provided during the fieldwork and that complies with all required federal and accrediting agency regulations and standards.

APPENDIX C

Name	Location	Last Date of Attendance	Official Withdrawal		Date of Refund
NAMES EDITED	Pasadena	10/22/98	11/20/98		12/16/98
	Houston	04/11/98	05/10/98		01/06/99 *1
	Pasadena	01/08/99	02/07/99	Corrected from 03/12/99	03/15/99*
	Pasadena	02/03/99	03/05/99	Corrected from 03/12/99	04/01/99
	Houston	10/14/99	11/05/99		12/02/99
	Dallas	06/18/99	07/12/99	Corrected from 06/23/99	08/03/99
	Houston	10/14/99	11/04/99	Corrected from 10/21/99	12/02/99
	Pasadena	01/04/99	02/03/99	Corrected from 03/12/99	03/15/99 *
	Pasadena	01/12/99	02/11/99	Corrected from 03/12/99	03/15/99 *
	Houston	04/02/99	04/27/99		05/24/99
	Dallas	05/21/99	06/18/99	Corrected from 06/03/99	07/16/99
	Houston	07/30/99	08/20/99	Corrected from 08/31/99	09/15/99
	Houston	10/05/99	11/04/99	Corrected from 10/15/99	12/04/99
	Dallas	07/14/99	08/03/99	Corrected from 07/14/99	09/02/99
	Houston	12/13/98	01/18/99	Christmas Break extended the official date	03/15/99 *
	Pasadena	07/29/99	08/20/99	Corrected from 08/01/99	09/15/99
	Pasadena	09/02/98	10/02/98	Corrected from 10/19/98	11/02/98
	Houston	03/03/99	03/26/99		04/19/99
	Dallas	08/28/98	09/24/98		10/23/98
	Houston	05/28/99	06/18/99		07/16/99
Houston	11/13/98	12/13/98		02/19/99 *	
Dallas	12/15/98	01/22/99		05/04/99 *2	
Pasadena	09/08/98	10/08/98		11/07/98	

1. The WD date does not show on the transcript because of re-entry and subsequent graduation. The refund was discovered unmade when the Pell award was submitted for payment the last semester when the student re-entered.
2. This refund was determined and reported during the 1999 annual SFA audit.

ANALYSIS

The above analysis shows six refunds were made late as follows:

Two refunds, **EDITED** and **EDITED**, that were significantly late – a total of \$716.

*The remaining five late refunds averaged 17 days, with three being ten days or less.

Also, it should be noted that five of the seven late refunds occurred within a thirty-day period in January-February 1999 when there was a Financial Officer change at the Pasadena location.

APPENDIX C

It would seem this supports the fact the institution is very diligent in ensuring refunds are made timely. The prior SFA audits demonstrate responsibility and diligence in this very important area. We treat refund timeliness with extreme seriousness and feel that overall our administrative procedures ensure reasonable and expected compliance.

OVERALL SUMMARY

Finding No. 2 – Subject to consideration for the one ATB student who graduated, and the explanation of citizenship status, the institution has determined the total liability from this finding is:

\$2,773	for ATB students (3 students)
600	for additional refunds (2 students)
<u>750</u>	Pell overaward (2 students)
\$4,123	TOTAL

In closing, subject to the reasonable and thorough review of the institution's response and supporting documentation, the number of instances will be reduced to around twenty.

When considering the complexities of the extensive Title IV regulations and the unique challenges presented by this student population, we believe the record demonstrates an institution that strives for a high degree of compliance and takes its responsibility to both the student and the regulatory agencies very seriously.

We are anxious to bring this matter to a mutually acceptable closure. If you have any questions or require further information you may reach me or Ms. Fluehr at 770-216-2960.

Sincerely,



Elmer R. Smith
President

cc: Stanley A. Freeman

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OFFCODE:

06

AUDIT TYPE:

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A C N: A0001

PROJ MGR#

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Proj Audits of Selected Postsecondary
Name: Institutions

AWPI

ASD

STATEGIC GOAL #:

2

TITLE:

Interactive Learning Systems

STATE

TX

(1, 2, 3)

PERIOD
AUDITED:

FROM

7/1 /98

TO

6/30/99

AUD SCOPE:

4

PROGRAM OFFICE:

3

DIRECT TIME (Y/N):

Y

JOB STATUS CODE:

6

ENTITY CODE #:

63

PLANNED START DATE:

1/2000

DATE NEEDED BY

AUDIT PLAN BUDGET:

(STAFF DAYS)

FY

1ST YR

INITIAL
SURVEY

AFTER
SURVEY

REVISED

2ND YR

TOTAL

350

LEAD AUDITOR:

Emp#: 2238

Name: James Seeburger

CFDA CODE:

	<u>Planned Date</u>	<u>Actual Date</u>
1. Assignment Start		10/4/99
2. Planning Conf.	10/25/99	11/29/99
3. Entrance Conf.	11/30/00	11/30/99
4. Survey Complete	1/21/00	1/21/00
5. Team Complete	5/12/00	9/8/00
6. Draft Report	6/19/00	2/15/01
7. Comments Rec'd	7/11/00	4/3/01
8. Final Report	7/28/00	7/20/01

FINAL REPORT (Check One)

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DATE

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