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To: Dr. Emily House
From: Doug Cullum, Director- Internal Auditor
Date: March 8, 2022
Subject: Audit of the Division of Postsecondary State Authorization

The Tennessee Higher Education Commission's Office of Internal Audit has completed a review of the Division of Postsecondary Education's (DPSA) Complaint Process. Our engagement was conducted to determine compliance with Tennessee Code Annotated 49-7-2011(a)(1) for Non-Optional Expedited Authorization (OEA) institutions which states:

- Any person claiming damage or loss as a result of any act or practice by a postsecondary institution or its agent, or both, that is a violation of this part of the rules and regulations promulgated under this part, may file with the commission a verified complaint against the institution or its agent, or both.

and Tennessee Code Annotated 49-7-2022(1) for OEA institutions which states:

- The commission may investigate any signed student complaint involving institutions authorized under this section; however, initial responsibility for the investigation and resolution of complaints shall reside with the institution against which the complaint is made. For complaints not resolved at the institution level, the commission may investigate and coordinate resolution of any student complaint with the assistance of other government agencies, as necessary.

Objective

To evaluate the DPSA complaint process and determine if it adequately addresses the rules and regulations outlined in the Tennessee Code Annotated sections for OEA and Non-OEA Institutions regarding complaints.

Methodology

We interviewed DPSA administration, reviewed complaint data in the DMS and POSTSEC data systems, reviewed the User Flowchart and included written guidelines for

the Complaint Process. We also reviewed the DPSA Complaint Form (HE-0037) for appropriate wording as prescribed under TCA. The review focused on 'Formal Complaints- Submitted to DPSA', those which were received in writing from the complainant. The DPSA data entry and document retention processes were reviewed for supporting entries and reconciliation measures as posted in the DMS and POSTSEC systems.

Scope

We reviewed specific details of Formal Complaints and supporting documentation for the period July 1, 2019 – September 30, 2021. There were ninety (90) complaints for this period, of which thirty-six (36) were 'Formal Complaints- Submitted to DPSA'. Support and entries were reviewed in the two (2) complaint data systems, DMS and POSTSEC, and reconciled to supporting files. The complaint time from the initial 'Open' to the final 'Closed' period was calculated to determine if complaints were processed in a timely manner. The number of OEA complaints versus Non-OEA was calculated. Complaint outcomes were reviewed and tabulated for all formal complaints of the review period. The number of documents and correspondence per complaint was tabulated in the DMS system. Written guidelines detailed in 'Policies and Procedures Complaint Process' were reviewed and reconciled to source documents.

The Observations and Recommendations discussed below did not warrant a finding but are included in this report because of their effect on the operations of DPSA and the citizens of Tennessee. A follow-up report will be made on these Recommendations in six (6) months.

Observations

- DPSA does not maintain written guidelines (User Manual) for entries in the DMS and POSTSEC data systems. Specific guidelines are necessary for making data entries and saving documents supporting complainant claims.
- The use of dual data systems was noted as requiring significant time for making separate entries and increasing the risk of errors and omissions.
- The Better Business Bureau (BBB), School and DPSA complaint coordination is lacking. The 2007 Comptroller Audit and 2021 THEC/TSAC Internal Audit found that the complete picture of the number of complaints is not be available.
- Any reference to retaliatory measures against students for filing complaints is lacking, as referenced in the 2007 Comptroller Audit.
- Quality assurance measures are not being performed. Independent complaint review for adherence to timelines, appropriate documentation and rule adherence is not being performed.
- Risk measures and compensating controls are not included in the annual Financial Integrity Act. The Financial Integrity Act is an annual comprehensive risk assessment for THEC/TSAC. Risks inherent for the complaint process are not being analyzed, reviewed and documented on an annual basis.

Recommendations

- We recommend that DPSA update the user procedures and include written User Guidelines for data entry in the DMS and POSTSEC data systems. Clear guidelines should be prepared addressing which documents must be retained for support. The guidelines should address user identification, job position data entry requirements and supporting documentation retention requirements for all complaints.

DPSA accepts the recommendation to update the user procedures and include written User Guidelines for data entry in the DMS and POSTSEC data systems but asks that the IA work with DPSA to achieve an appropriate resolution to this finding. The Complaint Process (Revised May 2021) is an ever-evolving process that is updated as needed to capture the best explanation of the process.

DPSA also believes it is important to recognize that the Comptroller of the Treasury has made positive comments concerning DPSA's complaint process and management as a whole. In the 2014 Performance Audit, the Comptroller of the Treasury determined:

“Since the last performance audit, the division has created a complaint-tracking database, established formal policies and procedures, made staffing adjustments, and enhanced the quality of the division's website. As a result, information surrounding the process is better communicated and potential complainants can more easily file a complaint. Additionally, a sample of complaint files over the last three years revealed a procedurally fair and adequate complaint-handling process with accurate documentation. (page 30)”

Further discussion is requested with the IA regarding the IA's recommendation that the complaint process “should address user identification, job position data entry requirements.” Currently, three DPSA staff are involved in the in-take, investigation, and resolution of complaints. All three staff members should be familiar with each step of the Complaint Process (Revised May 2021) as any of the three staff members may be called upon to act during any step of the process unless explicitly stated otherwise.

- The use of a single data system is advised which would eliminate the need of duplicate entries. Communications files, documents and other support should be retained in a single location.

DPSA does not oppose a single data system that will perform the functions of both DMS and POSTSEC; however, DPSA opines that the current use of DMS and POSTSEC for complaints is efficient and the need for duplicate entries is de minimus.

As DPSA indicated to the IA, the distinction between the two systems is that DMS is a document repository and workflow management tool and

POSTSEC is a data repository with reporting capabilities. Currently, there is very little workflow associated with the DMS complaint folders. DPSA hopes to make enhancements to DMS that will improve the DMS complaint workflow and reduce the time it takes to move a filing to DMS from either TNCloud or email.

- The BBB has been reported as uncooperative in granting complaint data to DPSA. This may be revisited at a later date to make certain all institution complaints are being reviewed. Institutions with numerous complaints should receive additional scrutiny and possible further review.

DPSA disagrees with this recommendation. In January 2021, DPSA decided to discontinue this practice after considering the 2007 audit language and current information. Collecting complaint information from BBBs is not a statutory or regulatory requirement, and since the 2007 audit, DPSA staff levels and resources have diminished greatly. Soon after starting the practice in 2008, one of the BBB agencies requested that DPSA not contact them. As to the remaining BBB agencies, DPSA did not receive any complaints in 2020 that were entered in POSTSEC. In 2019, five complaints were entered into POSTSEC. In each instance an email was sent to the student advising the student of our process and the complaint was later closed because of no response from the student. This task requires the use of our resources yet does not provide any fruitful results that further the mission of DPSA.

- DPSA policies should be developed to address retaliation by schools against students who exercise their right to complain.

This can be added to the rules during a future rulemaking.

- DPSA should use quality assurance assessments, as they enhance program value and enable the complaint activity to be evaluated for conformance to regulations and established guidelines. The quality assurance review should be scheduled and performed at least annually.

DPSA requests further guidance from the IA as to this recommendation.

- Risks and compensating controls of the complaint process should be reviewed and updated on at least an annual basis or as conditions warrant. This information should be included in the Financial Integrity Act each year.

DPSA requests further guidance from the IA as to this recommendation.

**THEC/TSAC Employee
PII Access**

As of : 01/20/22

<u>Division</u>	<u>Number Employees</u>	<u>Personal Data Detail</u>	<u>How Data is Protected</u>
Academic Affairs	1	Dr License- Acad Common Market	Secure File Server
Adult Learners	7	Name & SSN on FAST Salesforce & DOC docs	Encrypted Server
Compliance	4	Name, SSN, DOB, etc- TSAC Data System	Encrypted Server
FAST-Tech Team	16	Name, SSN, DOB, etc- FAST system contains student data of anyone submitting a FAFSA	Encrypted Server & STS Firewall
Grants & Scholarships	15	Name, SSN, DOB, etc- info on FAST	Encrypted Server
Legal-HR	2	HR Staff- access to all employee records	Encrypted Server & locked office/files
Post-Secondary	7	Name, SSN, DOB, etc- on DPSA applications, student records regarding complaints	Encrypted Server & locked office/files
Veteran Affairs	4	VA students names, SSN, school & employer	Encrypted Server & locked office/files
Research& Planning/SIS Team	11	Personal info-Name SSN-within FAST & SIS	Encrypted Server & VPN access
Student Access & Success	<u>13</u>	Name & SSN	Password & Encrypted server
Total		80	