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July 2, 2015

The Honorable Arne Duncan
Secretary of Education
c/o Gail McLarnon
U.S. Department of Education
1990 K Street NW, Room 8026
Washington, DC 20006

**RE: Proposed Rule in Program Integrity and Improvement
Docket ID: ED-2015-OPE-0020**

Dear Secretary Duncan:

I write to you today to express my support for the Department of Education's Proposed Rule related to Program Integrity and Improvement. I want to commend the Department for its thoughtfulness in drafting much needed student protections in the area of institutional cash management. These changes will go a long way in providing transparency and fairness to students entitled to a credit balance of Title IV student aid.

In speaking with former and current students across Massachusetts, my office has found that students are naturally trusting of their colleges and universities, and excited about pursuing higher education. Yet, some of these institutions have contracted with third-party servicers and financial institutions who have used the college name and branding to steer students, including those students receiving credit balances, to accounts which may bear excessive fees and unfair terms. The changes contained in the Department's Proposed Rule appropriately reflect that Federal Student Aid is aid for students, not schools, and emphasize the importance of consumer protections and students' best interests in the administration of this aid. I want to highlight my support for several particularly relevant provisions, and offer a few suggestions for strengthening the Proposed Rule.

Student Choice and Neutral Presentation of Credit Balance Options
§ 668.164 (d)(4)(i)

I applaud the Department for prohibiting the pre-mailing of debit cards to students, before they have made their credit balance selections, as an important safeguard to avoid the impression of endorsement by schools of certain financial products – schools which students trust.

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Importantly, schools and their cash management partners would be required, under the Proposed Rule, to provide a list of account options that a student may choose from to receive his/her credit balance, with each option presented in a neutral manner and the student's preexisting bank account (if any) listed as the first, most prominent, and default option. This is vital, as too often we have seen students steered into accounts with higher fees and greater restrictions than those accounts students already have through banking relationships established prior to enrollment.

The Proposed Rule would ensure that electronic payments of credit balances made to a student's preexisting account are as timely as, and no more onerous than, payments deposited to an account marketed to students pursuant to an arrangement with a cash management provider. This is critical, as keeping these payments timely can mean the difference between a student being able to pay his or her bills or falling behind. Financial distress upon beginning coursework can too often be a huge distraction and interfere with academic success. Students should not have to choose between quick access and affordable access.

Further enabling student choice, the Proposed Rule would require transparency: each school would have to disclose on its website (1) the agreement and (2) a summary of the contract (including total consideration for the award, monetary and non-monetary, and the number of student and parents who had financial accounts in the most recent year, along with the average costs incurred by those account holders). Both components are critical: full contracts are necessary to ensure that the summaries are honest and the summaries are important in providing ease of reference for students and parents trying to make an informed choice.

Limitations on Fees - §§ 668.164 (e) and (f)

Under the Proposed Rule, schools would have to ensure that students are not charged for opening an account and that they have convenient access to ATMs on a surcharge-free network. §§ 668.164 (e)(2)(iii)(A) and (B)(1) and 668.164 (f)(4)(v) and (ix). US PIRG has detailed situations where students have lacked adequate access to funds due to ATMs being located in buildings locked at certain hours or containing insufficient stores of cash.¹ Rather than establish a single minimum number of ATMs or cash holdings per ATM under this provision, I urge the Department to issue guidance to institutions, informing them that the Department (and its partners at the state and federal levels) will monitor cash availability and access and, as appropriate, require changes of institutions on an individual basis. Schools and their cash management providers are in the best position to know the number of account holders at their schools and the magnitude of these account holders' balances, and can best respond to changes in the demand for ATM availability. By setting a minimum, the Department could risk creating an artificially low bar which would provide cover to schools and their cash management partners while not actually ensuring convenient access.

¹ See RICH WILLIAMS & ED MIERZWINSKI, U.S. PIRG, THE CAMPUS DEBIT CARD TRAP 16 (2012), available at http://www.uspirg.org/sites/pirg/files/reports/thecampusdebitcardtrap_may2012_uspef.pdf

Two Tiers for Arrangements with Financial Account Providers
§§ 668.164 (e) and (f)

I generally support the Department's two-tiered approach to address financial account providers in the Proposed Rule, as it strikes an appropriate balance of oversight, considering the past conduct of certain servicers that process direct payments.² The Proposed Rule provides strong protections, especially for the T1 arrangements, where consumer advocates, US PIRG, Consumers Union, the GAO, and the OIG have noted troubling practices, including misleading marketing and excessive fees. Specifically, I support the prohibition on the point-of-sale fee as an overdue measure to bring these accounts for students in line with accounts offered to regular banking customers. § 668.164 (e)(2)(iii)(B)(2) And because not every fee that a T1 or T2 provider could possibly charge can be known at the time of this Proposed Rule, I stand behind the provision requiring that all schools—with either a T1 or T2 arrangement—establish and evaluate the contracts governing those arrangements in light of the best financial interests of students. However, I would urge the Department to explicitly include a limitation or ban on overdraft fees for T2 accounts, in addition to T1 accounts. See § 668.164 (e)(2)(iv)(B). Existing technology enables a financial institution to limit an accountholder's ability to overdraw his or her account. Indeed, the Department acknowledges this by imposing the ban on T1 accounts. While schools can and should provide opportunities for students to learn financial responsibility, tacking on fees to an already depleted account is not a financial lesson our colleges and universities should tolerate.

Level of Care and Diligence Required of a Fiduciary with regard to Managing Title IV, HEA Program Funds - § 668.161 (c)

I support this provision, both because Federal Student Aid is for students, not for schools, and to protect the taxpayers' investment in continuing education. Specifically, our office stands behind the measure in the Proposed Rule requiring conservative maintenance of funds by an institution within an insured depository account. Schools should not be placing funds held in trust for students into sweep accounts or any other accounts subject to risk of loss. While the risk of loss may be remote, funds held in trust for students should be held in accounts insured by the FDIC or NCUA as an additional safeguard, in part because of the rigorous regulatory requirements FDIC and NCUA impose on these financial institutions.

² The Department has tailored the Proposed Rule to provide greater oversight over those schools partnering with financial institutions that process direct payments of Title IV HEA program funds (T1) while maintaining separate requirements for schools under agreement with financial institutions offering or marketing financial accounts without the Title IV direct payment processing component (T2).

Right of the Secretary to Establish a Method of Direct Payment of Credit Balances
§ 668.164 (c)(3)

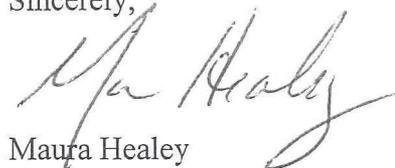
I also support the Department's explicit reservation of this right and urge the Secretary and the Department to expedite this process. Decreasing the number of unbanked young people is an important goal, but having a centralized, fair means of distributing funds to the unbanked remains critical. Direct pay has been a great success for Treasury for the distribution of Social Security payments since 2013 and there is no reason why the Department cannot and should not implement a similar model.

Books and Supplies - § 668.164 (c)(1) & (2)

The Proposed Rule would allow an institution to include the cost of books and supplies as part of tuition and fees, so long as the school provides a breakdown of those charges and explains how they are in students' best financial interests. § 668.164 (c)(2). I applaud this effort to prevent schools from automatically lumping books and supplies into tuition and fees, when to do so simply increases the amount of money that the school gets to keep before supplying the credit balance to the student. This provision will provide students with needed transparency about precisely what is being charged by their school. If a school cannot devise a plausible best financial interest for including the books and supplies as part of tuition and fees (*e.g.*, because the school is providing the materials at below market cost or the provided materials are generally not otherwise available), then the school will not be able to include these costs and they will be treated in the traditional manner as part of the additional cost of attendance and forwarded to the student accordingly. I would recommend to the Department that these disclosures be made at the time of enrollment and then again at the beginning of each payment period.

Again, I thank the Department for its efforts in drafting this Proposed Rule. It should provide students and parents with the tools to make informed decisions about student banking in relation to Federal Student Aid. These protections should also ensure that student accounts do not bear excessive and unfair fees, targeted at students who are among the most financially vulnerable at our nation's schools. Thank you for striving to ensure that schools put students and their needs first.

Sincerely,



Maura Healey