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Via E-Mail (chipbloc@aol.com & craigbagemihl@gmail.com)

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RE: Issue #4- Cash Management Rules, Department of Education Negotiated Rulemaking on Program Integrity and Improvement

Dear Sirs:

We respectfully submit the following letter that outlines areas for consideration as the Department begins the process of drafting proposed rules regarding Title IV Cash Management under the Program Integrity and Improvement negotiated rulemaking. We hope the information contained herein is helpful to the Department in its efforts to improve upon the current regulations in this area.

Consideration for Unbanked Students

We would like to submit “The Assessment of Unbanked U.S. College Students and Use of Nontraditional Banking Products” study performed by GfK Research and commissioned by Higher One in January 2014 for review by the Department and distribution to members of the negotiated rulemaking committee. We have attached a copy of the GfK study as Exhibit A to this letter. The study was conducted using GfK’s KnowledgePanel®, a nationally representative, probability selected Internet panel used by several U.S. Government agencies and The Associated Press.

The study found that approximately 2.9 million college students, which is equal to approximately 16% of the college student population, do not have a checking or savings account in their own name. Among this unbanked student population, 35% have cashed a check at a place other than a bank. The use of non-banks to cash checks is not limited to college students without bank accounts. In fact, 19% of all college students surveyed in the study reported having gone to a place other than a bank to cash a check. College students cite convenience and the need to access money quickly as the main reasons they go to a place other than a bank to cash checks.

Unbanked college students are generally more vulnerable to fraud, theft, abuse and higher costs than those students with traditional financial products. In addition, students without access to traditional financial services lack consumer protections afforded to their banked counterparts.

As a result, we believe the Department should consider encouraging institutions to have at least two electronic options available to students for credit balance disbursement, namely, ACH to a bank account of the student's choice and an electronic alternative for students without a bank account. The electronic alternatives may take the form of a debit card linked to a checking or savings account, campus card linked to a checking or savings account, and/ or a general purpose reloadable prepaid debit card ("financial product").

In an effort to further protect unbanked students, we would ask that the Department, in addition to the other suggestions in this letter, consider the following requirements for any entity offering a financial product that students may use to receive federal student aid payments and that the institution recommends¹ to students:

- Such entity shall be prohibited from prequalifying the student or denying the student the option of using such a financial product due to credit worthiness and/or prior financial history. The student may be denied use of such a financial product for misuse or violations of terms and conditions subsequent to establishing the relationship with an entity.

Neutrality of Information and Disbursement Choices

The United States Government Accountability Office's ("GAO") report on College Debit Cards released in February 2014 recommends that the Department, "develop requirements that institutions and college card providers present students with objective and neutral information on their options for receiving federal student aid payments."²

In furtherance of the GAO's report and recommendations to improve the neutrality of information and choices presented to students, we would ask that the Department consider the following requirements for any entity offering a financial product that students may use to receive federal student aid payments and that the institution recommends to students:

- Such entity shall be required to prominently disclose to students, in any written or digital communications, that receipt of federal student aid payments is not conditioned on the use of any particular option and that students may choose any of the options provided for by their institution; and
- Any written or digital communications provided to students in connection with the disbursement of federal student aid payments shall:

¹ We suggest that the Department define "endorse" or "recommend" as "taking affirmative steps to promote" a given product. Thus, for example, if the institution affirmatively provides information about a product to students, or allows a company to promote a product on campus or through institution-hosted web-based platforms, that institution has endorsed the product. Also, implicitly, any contractor used by an institution should be deemed to be "endorsed" by that institution.

² Pg. 35, United States Government Accountability Office Report, GAO-14-91 College Debit Cards

- (i) Be in plain English;
- (ii) List each disbursement option separately;
- (iii) List each disbursement option with equal prominence and randomize the listing order of each disbursement option; and
- (iv) List the factual information associated with specific delivery vehicles used to disburse federal student aid payments, such as processing timelines, delivery timeframes and customer service information for each option next to that option.

Fee Disclosures

In regard to fees associated with financial products offered by entities disbursing federal student aid payments to students, the aforementioned GAO report states, “Most of the college card fees we reviewed generally were not higher, or in some cases were lower, than those associated with a selection of basic or student checking accounts at national banks.” It is important to note that third-party bank accounts to which students may have their financial aid payments direct deposited via ACH transfer have various fees associated with them. These fees may be higher than the optional financial products offered by entities disbursing federal student aid payments.

We believe that the transparency of fees and the manner in which they are disclosed is an important issue. We would ask that the Department consider the following fee disclosure requirements for any entity offering a financial product that the institution recommends to students:

- Such entity shall be required to disclose any and all fees associated with such a financial product using the standardized Pew Disclosure Form, a copy of which is attached as Exhibit B;
- Such entity shall be required to provide a link to the fee schedule(s) and any terms and conditions associated with the use of such a financial product on each page of the program/banking website;
- Access to such fee schedule(s) and terms and conditions shall be readily available to the general public and access shall not be limited to those students using such a financial product; and
- Such entity shall be required to provide the student with the fee schedule(s) and terms and conditions prior to the student agreeing to use such a financial product and shall require the student to acknowledge review of the fee schedule and terms and conditions as a condition of using such a financial product.

Fraud Mitigation and Security

The US Department of Education Office of Inspector General’s (“OIG”) final audit report, published on February 21, 2014, titled “Title IV of the Higher Education Act Programs: Additional Safeguards Are Needed to Help Mitigate the Risks That Are Unique to the Distance Education Environment,” states, “Current regulations are not sufficient to mitigate the risk of Title IV funds being paid to students who frequently enroll and do not intend to complete a course or program.”³ The OIG audit report further suggests, “The Department could reduce the

³ Pg. 2, US Department of Education Office of Inspector General Report, ED-OIG/A07L0001

likelihood of fraud schemes being successful by revising the regulations and requiring schools to use smaller, more frequent disbursements.”⁴

In an effort to mitigate risks and liabilities associated with fraud, we would ask that the Department consider the following requirements and recommendations for institutions, any entity offering a financial product that the institution recommends to students and third-party servicers:

- Institutions may elect to segment federal student aid payments into multiple disbursements;
- Such entity shall be required to verify the identity of a student and maintain records of such verification for a student using the entity’s financial product to receive federal student aid payments; and
- Third-party servicers processing disbursements on behalf of an institution shall guarantee that any credit disbursement be received by the student to whom it is owed, even if that means disbursing the funds to a students and then resolving any errors (whether or not originated by the student) or issues of fraud related to the disbursement of any federal student aid payments.

ATMs

The issues surrounding placement and convenient access to ATMs for entities offering a financial product that students may use to receive federal student aid payments are complex and varied. We would ask that the Department consider the unique campus environments of individual institutions in establishing regulations, i.e., two-year institutions compared to four-year institutions, residential campuses compared to commuter campuses, online and distance education programs compared to traditional on-campus programs.

We would ask that the Department consider the following definition for the term “campus” as it relates to the placement of surcharge-free ATMs by an entity offering a financial product that students may use to receive federal student aid payments and that the institution recommends to students:

- The word “campus” shall be defined as any institution location where a student may obtain all of the credits necessary to complete a degree.

⁴ Pg. 2, US Department of Education Office of Inspector General Report, ED-OIG/A07L0001

Revenue Sharing

We would ask that the Department consider the following revenue-sharing prohibition for any entity offering a financial product that the institution recommends to its students:

- Institutions shall be prohibited from entering into a revenue-sharing arrangement with an entity offering a financial product to students. For these purposes, the term “revenue-sharing arrangement” would have a similar meaning as set forth in 34 CFR 601.21(c)(1).

Consideration for New Technologies

As the process of drafting proposed rules moves forward, we would ask that the Department remain cognizant of emerging technologies and look to establish regulations that foster and promote innovation and preserve the significant enhancements to student convenience that have been achieved through past innovations. The advent of digital and mobile technologies has fundamentally reshaped the overall landscape of the financial services industry, and society as a whole. In such a fast-paced, rapidly evolving marketplace, progressive and flexible regulations can help ensure that innovation is embraced, not limited.

We appreciate your consideration of the aforementioned recommendations and topics for discussion. If you have any questions or require clarification, please feel free to contact me.

Sincerely,



Casey McGuane

CC: Carney McCullough, U.S. Department of Education
Pam Moran, U.S. Department of Education