

U.S. Department of Education Negotiated Rulemaking – Program Integrity and Improvement
Issue 4: Cash Management
Submission to the Department of Education
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The negotiators representing the New York and Massachusetts Attorneys General Offices in the Program Integrity and Improvement Negotiated Rulemaking commend the Department for issuing draft proposed regulations on Cash Management that offer strong, crucial protections for students and parents receiving title IV credit balances. We appreciate the Department’s attention to this issue and strongly support the draft provisions that require schools to provide students with the option of receiving title IV credit balances via direct deposit to students’ existing accounts; prohibit schools from steering students to school-sponsored accounts; and provide consumer protections and prohibit certain fees in connection with such accounts.

However, due to the fast-evolving nature of the financial services industry, it may not be possible to foresee all potential risks to consumers that could arise from arrangements between schools and third-party servicers and other financial entities to disburse title IV credit balances. Regulatory language requiring institutions to base decisions to enter into such arrangements *solely on consideration of the best interest of students* would help to address possible unforeseen changes in the industry by ensuring that no matter what financial services or products are offered, schools place students’ best interests above the schools’ interests. Additionally, a ban on revenue sharing arrangements between schools and financial service entities would help to align schools’ and students’ interests and would thus offer additional protection to students. Proposed language is included below.

Proposed language:

§ 668.161 Scope

(c) Standard of conduct. An institution must exercise the level of care and diligence required of a fiduciary with regard to managing **and disbursing** title IV, HEA program funds under this subpart.

§ 668.164 Disbursing funds.

(e) Sponsored account. If an institution located in any State, as defined in 600.2, establishes a process that a student or parent follows to open a financial account, either through a contract with a third-party servicer or through any arrangement with an entity under which any party to the arrangement exercises any control over the financial account into which the student’s title IV, HEA program funds are transferred or deposited, the institution –

- (1) **Shall determine whether to enter such an arrangement and shall evaluate the terms of such an arrangement based solely on consideration of the best interests of the students receiving title IV program fund credit balances;**

- (2) **Shall not receive as part of such arrangement a fee or other material benefit based on the number of sponsored accounts opened or the amount of funds transferred to such accounts;**