

Wednesday, April 2<sup>nd</sup>, 2014

**TO:** Department of Education negotiators  
**FROM:** Maxwell John Love  
Vice President, United States Student Association  
**RE:** Recommendations for the Department of Education Negotiated  
Rulemaking Committee on Title IV Program Integrity and  
Improvement: Cash Management

Student aid is intended to help students afford rising costs of college. As one of the student negotiators, the United States Student Association is engaging in this process to ensure that the handling of these funds meets the necessarily high standards of integrity, so that students can fully benefit from limited aid dollars. On behalf of students across the country, I am writing with several recommendations for the draft regulations.

While the draft regulations go a long way in delivering on integrity, a key vulnerability remains. Many current third party servicers who market financial products to students and handle disbursement of Title IV funds have a documented history of negligence that undermines program integrity standards.

Institutions of higher education should not partner with financial institutions engaged in flagrant violation of the law. Recently, a number of financial institutions have been caught.

**Higher One:** According to an order from the FDIC, the FDIC imposed monetary penalties and obtained restitution payments for 60,000 students due to Higher One's misconduct. The FDIC order indicates that Higher One was engaged in unfair and deceptive practices by charging students multiple nonsufficient funds fees from single transactions, in violation of the Federal Trade Commission Act.<sup>1</sup>

**Wells Fargo:** Less than a year ago, the United States District Court ordered Wells Fargo to pay \$203 million back to customers that they cheated. The Court found that Wells Fargo acted in an "unfair" and "fraudulent" manner, in violation of the California Business and Professions Code.<sup>2</sup>

US Bank notified 2.7 million individuals that they would pay out \$55 million as part of a settlement related to overdraft practices. PNC Bank will pay out \$90 million for improper treatment of its debit card users—unfortunately the list goes on and on.

For the aforementioned reasons the United States Student Association proposes that **the Secretary should ban colleges and universities from allowing law-breaking financial institutions and third party servicers from handling Title IV funds, unless the school files a formal petition for an exemption.**

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<sup>1</sup> FDIC Press Release (Aug. 8, 2012), <http://www.fdic.gov/news/news/press/2012/pr12092.html>

<sup>2</sup> See *Gutierrez v. Wells Fargo*, ruling by the District Court of the Northern District of California on May 14, 2013.

If the Department seeks to reduce fraud and harm to students, then it is completely inappropriate to permit Title IV funds to be handled by companies that have violated money laundering, consumer protection, or privacy laws. Any company that has been found by a court of law to be negligent, or entered into a settlement related to violation of these laws in the last six years, should be banned from handling Title IV funds. In rare cases, the Secretary can make exceptions after the filing of a formal petition with a detailed justification on how the institution will monitor the servicer to ensure that Title IV funds are safeguarded and students are not harmed.

The regulations can be amended as follows:

Insert new subsection under “§668.164 Disbursing funds:”

*Institutions of higher education may not utilize the services of a third-party servicer or enter into an agreement with a financial institution offering a sponsored account when there has been a finding by any federal or state Court or agency that the third-party servicer or financial institution has violated laws or regulations in the previous six calendar years related to money laundering, consumer protection, or privacy, unless the Secretary grants an exception after the filing of a petition.*

In summary, students across the country are frustrated that their colleges enter into agreements with companies that break the law. These provisions would contribute to the standards of integrity by providing an incentive for schools to do their homework before entering into agreements with companies who jeopardize the security of Title IV funds that undermine the privacy of student aid recipients, and subvert the rights of students as consumers.

Thank you for your consideration.