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To: Program Integrity and Institutional Quality Committee
Date: January 17, 2024
Re: Books and Supplies as Part of Tuition and Fees (668.164(c) and (m))

The negotiators representing Public Four-Year institutions of higher education, request consideration of the following proposal addressing Cash Management, Books and Supplies as Part of Tuition and Fees (668.164(c) and (m)).

Institutions of higher education have long included books and supplies in their tuition and fees. For example, the University of Wisconsin-Stout established their fee-based program in 1891, which was then followed by several other UW institutions, while Southern Illinois University established their program in 1965. Today, more than 1,900 colleges and universities include course materials in tuition and fees through affordable access programs.

Prior to the growth of these affordable access programs, course materials purchasing was by and large effectively “opt-in,” putting the responsibility on students to find and purchase their own materials at retail prices increasing at a rate of 6% a year according to the Bureau of Labor Statistics. The emergence of “opt-out” affordable access programs gave institutions the bulk purchasing power to drive down costs and ensure course materials access for many students who might not otherwise obtain required course materials. The programs, over their lifetime, have saved students billions of dollars and ensured students have access to their course materials at the start of the term.

We are concerned with the proposed regulation’s unintended consequences that will reverse the significant progress institutions have made in leveraging their buying power to significantly lower costs for students and improve timely access to the required course materials they need to be successful.

Recommendations to the Department - Areas for Clarification and Alternate Language

As work begins on revisions to the current regulatory language, we believe that priorities should be on ensuring transparency, access, and low costs to students. As such, we offer the Department alternative language that focuses on three main areas of improvement:

- Increased timely access to materials: Ensure institutions provide students with the ability to obtain books and supplies in tuition and fees by the first day of class but no later than the seventh day of a payment period.
- Increased cost transparency: Require institutions to disclose to students the cost of the fee or the prorated amount if books and supplies are included in tuition.
- Expanded opt-out capabilities: Institutions must provide students ample time to opt out of affordable access programs. The regulation should allow students to opt out through the

institution deadline by which they must decide about enrollment in a course. We also support requiring institutions to have a web-based opt-out capability that is featured prominently for ease of access and usability through the add/drop period.

We also recommend:

- Reinforcing price disclosures. The regulations should remind institutions of their obligations under 20 U.S. Code § 1015b even when course materials are included in tuition and fees. This is the requirement for institutions of higher education, college bookstores and publishers to provide pricing and other critical information to help students purchase course materials.
- Preserving student choice. Preserve (m)(3) to ensure students continue to have the option of opting out of the method an institution provides for students to obtain or purchase books and supplies by the 7th day of the payment period. The Department’s reasoning for this provision in 2010 and affirmed in 2015 remains sound and the language should be retained.

We believe that this alternative language includes common-sense improvements to the current cash management regulations that will increase protections for and transparency to students while continuing to provide them with critically important course materials that are high-quality, affordable, and essential to being able to learn effectively from the first day of school.

Proposed Language:

(2) An institution may include the costs of books and supplies as part of tuition and fees under paragraph (c)(1)(i) of this section if —

(i) The institution—

(A) Has an arrangement with a book publisher or other entity that enables it to make those books or supplies available to students below competitive market rates.

(B) Provides a way for a student to obtain those books and supplies by [the first day of the payment period, but no later than](#) the seventh day of a payment period; ~~and~~

(C) ~~Has a policy under which the student~~ [Discloses to the student the cost of the fee or the prorated amount if books and supplies are included in tuition](#) ~~opt out of the way the institution provides for the student to obtain books and supplies under this paragraph (c)(2). A student who opts out under this paragraph (c)(2) is considered to also opt out under paragraph (m)(3) of this section);~~ [and](#).

(D) [Has a prominent, user friendly, web-based opt-out capability that is available to the student throughout the institutions’ course add/drop period;](#) A student who opts out under this paragraph (c)(2) is considered to also opt out under paragraph (m)(3) of this section).

Add rule of construction provision for tuition and fees where appropriate:

[Inclusion of books and supplies in tuition and fees under \(c\)\(1\)\(i\) does not release an institution from requirements of 20 U.S. Code § 1015b.](#)

Maintain (m)(3) Provisions for books and supplies:

(3) The institution must have a policy under which the student may opt out of the way the institution provides for the student to obtain or purchase books and supplies under this paragraph (m). A student who opts out under this paragraph is considered to also opt out under paragraph (c)(2)(i)(C) of this section;