



Network Branded Prepaid Card Association

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201-746-0725

April 22, 2014

Ms. Pam Moran
U.S. Department of Education
Office of Postsecondary Education
1990 K Street, N.W.
Washington, DC 20006

Re: Issue Paper 4, Program Integrity and Improvement Issues: Cash Management

Dear Ms. Moran:

This letter is submitted on behalf of the Network Branded Prepaid Card Association ("NBPCA")¹ in response to the Department of Education's ("DOE") Issue Paper 4 prepared for the third negotiated rulemaking session regarding Cash Management (the "Issue Paper"), which proposes several revisions to existing laws and regulations governing methods and procedures for educational institutions to disburse title IV funds to students. The NBPCA appreciates the opportunity to comment on some of the proposed revisions, specifically those revisions concerning network branded prepaid cards offered to students in connection with their tenure at a college or university ("Campus Card(s)") and their role on college and university campuses.

1. The proposed revisions limit student or parent's choice by requiring direct deposit of Title IV funds into existing accounts as a first option without presenting all the options available. Only after selecting direct deposit does a student or parent find out about the availability of a Campus Card in conjunction with a paper check or cash disbursement, even though an existing account, paper check, or cash disbursement may not be the best option for the student and may deprive the student of the significant benefits offered through a Campus Card.

The proposed regulatory revisions contained in the Issue Paper may deprive students of the significant benefits offered by Campus Cards by requiring the direct deposit of title IV funds into existing accounts. Specifically, § 668.164(d)(4) of the Issue Paper provides that, should an educational institution elect to make direct deposits of title IV funds through an Electronic Funds

¹ The NBPCA is a nonprofit, inter-industry trade association that supports the growth and success of network branded prepaid cards and represents the common interests of the many participants in this new and rapidly growing payments category. The NBPCA's members include banks and financial institutions, the major card networks, processors, program managers, marketing and incentive companies, card distributors, payment industry consultants and law firms. The comments made in this letter do not necessarily represent the position of all members of the NBPCA.



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Transfer ("EFT"), the institution must make the direct deposit to a student or parent's existing account or to an account opened by the student or parent without the assistance of the educational institution. Educational institutions may only present the Campus Card option as part of a neutral list of other options for receiving title IV funds to (i) students or parents who do not provide or have information about a financial account; or (ii) students or parents who have provided information about an existing financial account, but with no solicitation on the part of the educational institution for the student or parent to elect the Campus Card.

These proposed revisions in the Issue Paper do not take into account the substantial benefits Campus Cards offer to students. Under many programs, the Campus Card on which student Title IV funds are disbursed is the same as the ID card that students use to access dorm rooms or campus buildings, utilize campus transportation, buy books and other school supplies, and eat in campus cafeterias. With regard to Title IV funds, rather than receiving such funds by check and having to deposit or cash the check before utilizing the funds, Title IV funds can be disbursed directly to a campus card/student ID card and made immediately available to the student. Additionally, any work-study disbursements or wages that a student earns at an on-campus job can also be directly deposited into the account associated with the campus card/student ID card. The student has the convenience of having one account for all earnings and disbursements. A campus card program thus provides students the flexibility to pay for virtually anything a student needs on campus on one convenient device. The NBPCA believes that students should be made aware of these benefits and given the option to choose the disbursement method that best meets their individual needs. Under the DOE's proposed revisions, however, educational institutions are required to pay Title IV disbursements through direct deposit into an existing account, and are prevented from even discussing the benefits offered by Campus Card programs out of fear that they will be found to be soliciting students or their parents in violation of the DOE's proposed regulations. Thus, the DOE's proposed revisions contained in Issue Paper 4 force students to accept Title IV disbursements into pre-existing accounts, even if alternative payment options better suit the student's individual needs, and therefore limit student choice.

Furthermore, under the DOE's proposed regulations, if an educational institution offers a Campus Card program as an option for receiving Title IV funds, the educational institution must also offer either a paper check or a cash disbursement as an alternative option for the student to receive their funds. This proposed revision does not account for the fact that a check or cash disbursement is simply not the best option for every student. Many students will begin college without an existing banking relationship with a financial institution. For an unbanked student, they are faced with having to cash the check representing their Title IV funds at a check cashing location, where they will pay check cashing fees ranging from 3-5% of the amount of the check. After cashing the check, the student must then buy money orders to pay rent, bills, and utilities,



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or they could head all over town to pay bills in person with cash. If the student loses his or her wallet, the funds are gone, and the student has no way of recovering their loss. Packed with inconvenience, security risks, and the possibility for fraud and loss, a cash-based system for personal finances is probably the most expensive way to handle personal financial services.

As compared to a check, a Campus Card offers the following benefits:

- Current DOE regulations mandate that the student or parent not incur any cost in opening the account or initially receiving any type of debit card, stored-value card, other type of automated teller machine (ATM) card, or similar transaction device that is used to access the funds in the account.
- Current DOE regulations mandate that the educational institution ensure that the student has convenient access to a branch office of the bank or an ATM of the bank in which the account was opened (or an ATM of another bank), so that the student does not incur any cost in making cash withdrawals from that office or these ATMs. This branch office or these ATMs must be located on the institution's campus, in institutionally-owned or operated facilities, or immediately adjacent to and accessible from the campus.
- The funds are protected if lost or stolen. Like holders of debit cards, Campus Cards have the protections of Regulation E, as well as the zero liability policies of the card brands. Students are protected against lost or stolen cards, or unauthorized transactions.
- Access to funds is immediate. There is no need for the student to pick up their check and find transportation to a check cashing location prior to having access to their funds.
- Campus Cards make bill payments and online purchases easier for the student and provide access to the financial payments system.

Given the issues associated with disbursement of Title IV funds to checks or through cash, the NBPCA believes the better option would be for the educational institution to require that Title IV funds be disbursed to the student by direct deposit. The direct deposit disbursement should be through either a load to a Campus Card or an account the student selects at a financial institution of their choice without restricting the ability of the student and/or their parent to choose the deposit method that best suits their needs.

2. Proposed fee restrictions and ATM access requirements applicable to Campus Cards in the Issue Paper will make it difficult financially for educational institutions to offer Campus Card programs. Moreover, such restrictions are unnecessary as already



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covered by existing law and regulations, along with industry action, impose significant obligations and limitations regarding the fees associated with Campus Cards.

The proposed revisions in § 668.164(e) of the Issue Paper contain numerous fee restrictions, including a requirement that all fees be reasonable and prohibitions on fees related to opening an account, maintenance of an account, withdrawing and using funds from an account, and covering transactions where there are insufficient funds in an account. Furthermore, the proposed revisions require an association between Campus Cards and surcharge-free national or regional ATM network with ATMs on or near campus. The NBPCA believes the current laws and regulations as well as industry action adequately address both concerns over the fees associated with Campus Cards and ATM location on or near college campuses. Thus, the NBPCA believes that further regulation in these areas is unnecessary and may harm students by limiting their ability to elect a Campus Card program by making the offering of one financially difficult for educational institutions.

DOE regulations already ensure that neither students, nor their parents, incur any fee in opening an account, receiving a Campus Card, or in accessing funds at ATMs on or adjacent to campus. 34 C.F.R. §668.164 currently mandates the educational institution ensure that (1) the student or parent does not incur any cost in opening the account or initially receiving any Campus Card that is used to access the funds in that account, and (2) the student has convenient access to a branch office of the bank or an ATM of the bank in which the account was opened (or an ATM of another bank), so that the student does not incur any cost in making cash withdrawals from that office or these ATMs.

Further, as explained in more detail below, current disclosure requirements ensure that no hidden transaction costs can occur. Prior to opening an account, students or parents must be informed of the terms and conditions associated with accepting and using the account, including all fees. Any failure to properly disclose all fees that may be incurred through the use of a Campus Card would violate these laws, as well as potentially amount to an unfair or deceptive act or practice.

Moreover, industry members have taken additional steps to offer students clear guidance in how to avoid or limit fees. Such steps include providing location information for fee-free ATMs and directions for students on how to sign up for e-mail alerts to receive balance updates. Thus, numerous and substantial fee requirements already apply to Campus Cards and further regulation is unnecessary.

With regard to ATM access, under already existing DOE regulations, students must have convenient access to a branch office or an ATM to enable a student to make cash withdrawals



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without cost. This branch office or these ATMs must be located on the institution's campus, in institutionally-owned or operated facilities, or, immediately adjacent to and accessible from the campus. See 34 C.F.R. 668.164(c)(2)(v). The NBPCA believes that colleges and universities are in the best position to decide the locations on or adjacent to their campuses that are most convenient for the placing of ATMs. Colleges and universities have unique knowledge about their student bodies, including where their students tend to congregate on campus and where they tend to live and work off or near campus. Further, there is an expanding number of non-traditional students who do not live on campus. Expanding the existing DOE regulations in this regard would restrict the college or university's ability to select the most appropriate ATM location based on that institution's unique knowledge of, and relationship to, its unique student body. Expanded regulations could thus actually prevent a college or university from placing ATMs in locations that are most convenient for students.

3. Already existing federal law and regulations offer further protection to students by mandating extensive disclosure requirements prior to disbursing Title IV funds onto a Campus Card.

The DOE's revisions in § 668.164(e) of the Issue Paper also require educational institutions to provide a method for students and/or parents to withdraw or expend Title IV funds with no fees, along with clear instructions on how to do so. The NBPCA believes that the current laws and regulations already achieve this objective by requiring full disclosure of all terms and conditions prior to depositing funds onto a Campus Card and thus further regulation is unnecessary. Under federal law, students must be given clear disclosures regarding the terms and conditions under which an account is offered. For example, under the Department of Education's cash disbursement rules for Title IV funds, 34 C.F.R. Part 668, Subpart K, educational institutions that open a bank account (including a prepaid campus card) on a student's behalf must, before the account is opened "inform the student or parent of the terms and conditions associated with accepting or using the account." See 34 C.F.R. § 668.164(c)(3)(ii).

Further, under existing regulations issued by the United States Treasury's Fiscal Service, prepaid card accounts receiving Federal payments (including Federal student aid), must meet the following requirements:

- (A) The account is held at an insured financial institution;
- (B) The account is set up to meet the requirements for pass-through deposit or share insurance such that the funds accessible through the card are insured for the benefit of the recipient by the Federal



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Deposit Insurance Corporation or the National Credit Union Share Insurance Fund in accordance with applicable law (12 CFR part 330 or 12 CFR part 745);

- (C) The account is not attached to a line of credit or loan agreement under which repayment from the account is triggered upon delivery of the Federal payments; and
- (D) *The issuer of the card complies with all of the requirements, and provides the holder of the card with all of the consumer protections, that apply to a payroll card account under the rules implementing the Electronic Fund Transfer Act, as amended."*

31 C.F.R. § 210.5(b).

Thus, by virtue of the Treasury Federal Payments rule, prepaid card accounts that receive federal Title IV funds must provide initial disclosures of key terms and conditions, including fees, potential liability for unauthorized transactions, and error resolution rights, before a student agrees to enroll in a prepaid card account or before the first electronic fund transfer is made involving the consumer's account. See 12 CFR 1005.7.

Given the existing disclosure obligations applying to prepaid cards receiving federal Title IV funds under current DOE regulations and Regulation E, there is simply no need for the DOE to require that any additional disclosures be provided in connection with a Campus Card program because students and/or their parents are already provided with all the information needed to avoid any fee associated with a Campus Card program.

4. **The DOE should work with the industry to provide a convenient method of disbursement of Title IV funds, rather than displacing a competitive market and requiring a one-size fits all product.**

Under Section (d)(3) of the Issue Paper, the DOE proposes authorizing the Secretary of Education (the "Secretary") to pay Title IV disbursements directly to students or parents pursuant to regulations to be authorized or established by the Secretary and published in the Federal Register. The NBPCA respectfully believes that the government's direct payment of Title IV funds, including through the issuance of its own Campus Card, is not advisable for several reasons.



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First, Campus Cards already exist in an incredibly competitive market, where industry members compete with one another to offer students the most innovative and convenient financial services products. Supplanting this market with one government issued product would hurt students by eliminating competition and thereby stunting the growth of new and innovative products to offer to them.

Second, a government issued Campus Card attempts to make a one-size fits all product work for all colleges and universities and their students. The government Campus Card could thus not take into account the unique and individualized needs of the various colleges, universities, and student bodies that would be utilizing the product. By contrast, the current system allows schools to work with a myriad of businesses in order to tailor a Campus Card program that meets both that school's individualized needs and the unique needs of the school's student body. A government Campus Card is thus not in the students' best interests because it limits the ability of colleges, universities, and industry participants to tailor financial services products to meet unique and individualized needs of both students and their schools.

Third, at no point do the proposed regulations take into consideration the services provided to schools by Third Party Servicers and as written today may make it impossible for them to provide these services. Under existing contractual arrangements, Third Party Servicers provide check issuance and reconciliation, electronic fund transfer services including registration, verification and storage of bank information outside of campus systems and call centers with staff trained to answer student questions related to the status of their disbursement 24 hours per day, seven days per week.

Conclusion

The NBPCA appreciates the opportunity to comment on the proposed revisions to regulations applicable to the disbursement of Title IV funds contained in Issue Paper 4. The NBPCA recognizes that campus cards are not the right choice for every student. The NBPCA fully supports requirements for written authorization from students and/or parents prior to disbursing Title IV funds onto a campus card and the full disclosure of all terms and fees associated with a campus card. The NBPCA does not believe, however, that further regulation and limitation, including the use of a government issued Campus Card, is necessary in this area in order to protect the interests of students. As shown above, substantial regulations, as well as other existing consumer financial services regulations already apply to protect the interests of students and their parents and to ensure that Title IV funds are both managed and disbursed appropriately. The NBPCA thus believes that further regulation is not necessary and would harm students and parents by potentially restricting student choice in loan disbursement options and limiting the many benefits the campus cards currently offer.



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If you have any questions, please do not hesitate to contact me at **(201) 746-0725**.

Sincerely,

Kirsten Trusko, Executive Director, NBPCA