



Network Branded Prepaid Card Association

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201-746-0725

February 28, 2014

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

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

Re: Comments made during the Department of Education Negotiated Rulemaking
Committee Meetings on Program Integrity and Improvement

Dear Ms. McCullough and Ms. Moran:

This letter is submitted on behalf of the Network Branded Prepaid Card Association (“NBPCA”)¹ in response to discussions regarding the offering of financial products to students during the Cash Management portion of the U.S. Department of Education Negotiated Rulemaking Committee on Program Integrity and Improvement (the “Committee”) meetings held on February 19th through the 21st in Washington D.C. The NBPCA appreciates the opportunity to respond to comments made during the Committee’s discussions regarding some of these financial products, specifically those comments made 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. Current law mandates that extensive disclosures be provided to the student and/or parent prior to the time Title IV funds can be deposited into an account that is being established by or through the educational institution.**

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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Many comments made by Committee members during the cash management discussions focused on the legal protections afforded by Campus Cards. Notably, there appeared to be a misconception regarding the disclosures that must be provided to students before Title IV funds are deposited into an account established by or through an educational institution, including accounts underlying a prepaid card. 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 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



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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 that apply 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.

2. Current law protects the student interests by retaining a student's freedom of choice in selecting what payment method is best for them.

Current regulations maintain the freedom for students to choose the method of payment that best meets their individual needs. Thus, existing protections already ensure that students may not be required to open campus card accounts in order to receive Title IV student funds. In particular, the DOE's Cash Disbursement rules require that educational institutions obtain a student's or parent's affirmative consent before a campus card account can be opened. See 34 C.F.R. § 668.164(c)(3)(i).

Further, under CFPB Regulation E, 12 C.F.R. §1005.10, no person can require a consumer to establish an account (including a campus card) as a condition for receiving electronic fund transfers at a particular institution in order to receive a government benefit. See 12 C.F.R. § 1005.10(e)(2). Consistent with existing federal law, the NBPCA believes students should have a choice in how they receive disbursement of Title IV funds, as mandated by existing law. Given the costs and risks, both to the institution and the student, associated with the use of checks, however, educational institutions should have the ability to mandate the use of direct deposit for receiving Title IV funds, but provide students and their parents the option of how to receive the direct deposit, whether by a load to a Campus Card or to an account at a financial institution that the student selects. Students and their parents should thus have the option to enroll in a Campus Card program, or to elect to receive their funds into an account at a financial institution selected by the student/parent.

3. Colleges and universities should have flexibility and the freedom to decide what default payment option to provide students and where ATMs should be located on or adjacent to campus.

Participants during the Committee sessions also discussed whether to mandate default options for payment of Title IV funds at colleges and universities, as well as whether DOE regulations should expand upon what constitutes convenient ATM access on or adjacent to a college or university campus.



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In general, the NBPCA believes colleges and universities should have the flexibility and freedom to determine what default payment option best suits the school and its student body, as well as what locations are most convenient on or adjacent to school campuses for the placement of ATMs.

First, regarding the application of a default payment method, some members of the Committee stated the belief that the default payment method for Title IV funds should remain a written check. Such a position, however, does not account for the fact that a check 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, or they could head all over town to pay bill 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.

The better option would be for the educational institution to require that Title IV funds be disbursed to the student by direct deposit, either through a load to a Campus Card or an account the student selects at a financial institution of their choice.

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.



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- 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.

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

4. Current law and DOE regulations already impose significant limitations and disclosure requirements regarding the fees associated with Campus Cards and the industry has taken additional steps to assist students in both avoiding fees and limiting their impact.

A significant portion of the Committee's discussions focused on the fees associated with Campus Cards. Specifically, some committee members expressed concerns that Campus Cards are subject to high fees, hidden transaction costs, and insufficient consumer protections. These comments reflect common misconceptions regarding Campus Cards that are just not true.

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.



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Further, as stated in #1 above, 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 e-mail alerts to receive balance updates. Thus, numerous and substantial fee requirements already apply to Campus Cards and further regulation is unnecessary.

5. 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.

Several comments made during the Committee's discussions revolved around the DOE offering its own financial accounts and access devices (debit or prepaid) for students to receive Title IV funds. The NBPCA respectfully believes that the government's issuing of its own Campus Card is not advisable for several reasons.

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.



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Conclusion

The NBPCA appreciates the opportunity to comment on the important discussions that took place during the Committee's meetings on February 19th through the 21st. 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.

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

Sincerely,

Kirsten Trusko, Executive Director, NBPCA