

Congress of the United States
Washington, DC 20515

July 29, 2015

The Honorable Arne Duncan
Secretary
U.S. Department of Education
400 Maryland Avenue, SW
Washington, D.C. 20202

Dear Secretary Duncan:

Safeguarding the best interests of students, families, and taxpayers is a priority we all share. As members of Congress, we have a responsibility to ensure any regulatory action taken by the Department of Education does not create unintended consequences for the very individuals we aim to protect. It is for this reason we write to express our concerns with the proposed cash management regulation published in the Federal Register on May 18, 2015, which would impose costly and unnecessary regulatory burdens on colleges and universities trying to help students manage their federal financial aid.

The department's regulatory proposal has numerous flaws that would make it harder for students to access affordable financial services on campus. For example, the proposed rule would hamper the ability of financial institutions to verify the identity of students receiving the credit balance of their financial aid, which would increase the risk of fraud, compromise the integrity of federal student aid programs, and delay the disbursement of student aid. The proposal also would impose on schools a new, duplicative compliance system and enforcement standards that would fail to recognize the unique needs of individual students. These and other controversial provisions would result in fewer financial institutions willing to serve students and leave students with fewer affordable and convenient banking options.

In fact, it appears that is precisely what the department anticipates as it reserves the right to act as a financial institution offering banking services directly to students. The department currently disburses financial aid to the college or university of the student's choice. Now, the department is contemplating providing remaining financial aid (after tuition, fees, and other expenses have been paid) directly to students through a debit card created and administered by the department. The department does not have the technical expertise or administrative capacity to pursue this type of activity. Furthermore, the *Higher Education Act* does not empower the department to disburse student loan dollars directly to individuals. Current policies exist to protect students and taxpayers, yet the department would circumvent the law through regulatory fiat.

The fundamental premise of this unprecedented regulatory proposal is questionable. A 2014 report by the nonpartisan Government Accountability Office (GAO) found fees on cards provided by financial institutions that disburse student aid refunds are generally comparable to traditional bank fees and lower than the fees of alternative financial products.¹ Far from protecting students, these regulations will limit their financial options and push students towards expensive check cashers or bad actors in order to access federal aid.


We strongly support responsible efforts that encourage transparency and protect students against predatory practices. Unfortunately, this regulatory proposal would do more harm than good by limiting student access to the best, most convenient banking services tailored to their unique needs. As you know, the department's foray into this issue began with a negotiated rulemaking panel established in November 2013. The fact the panel was unable to reach consensus demonstrates the magnitude and complexity of this issue.

However, the lack of consensus by the panel does not necessarily mean the department should impose its preferred approach through executive fiat. As is stated on the department's website:

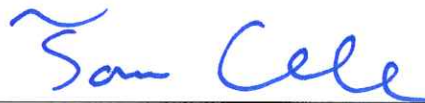
Under negotiated rulemaking, the Department works to develop an [Notice of Proposed Rulemaking] in collaboration with representatives of the parties who will be affected significantly by the regulations. This is done through a series of meetings during which these representatives, referred to as negotiators, work with the Department to come to consensus on the Department's proposed regulations.

Collaboration and consensus among those who will be significantly impacted by the regulation is the appropriate approach for an issue of this significance to our nation's students and families. We urge you to bring those affected by this proposal back to the negotiating table and work toward a consensus approach. This is the best way to ensure students have the protections they deserve and access to the affordable, financial services they need, and we stand ready to be a partner in that effort.

Sincerely,



JOHN KLINE
Chairman
Committee on Education and the Workforce



TOM COLE
Chairman
Subcommittee on Labor-HHS-Education
Committee on Appropriations

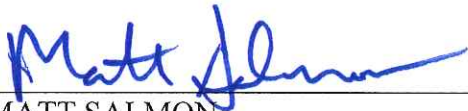
¹ "College Debit Cards: Actions Needed to Address ATM Access, Student Choice, and Transparency." Government Accountability Office. February 2014. P. 18.



VIRGINIA FOXX
Chairwoman
Subcommittee on Higher Education and
Workforce Training



PHIL ROE, M.D.
Member of Congress



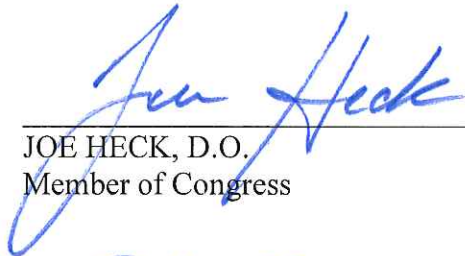
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Member of Congress



BRETT GUTHRIE
Member of Congress



TODD ROKITA
Member of Congress



JOE HECK, D.O.
Member of Congress



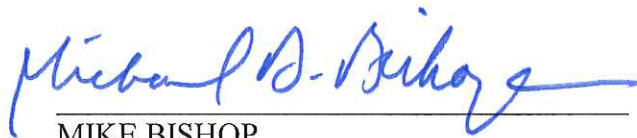
LUKE MESSER
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Member of Congress



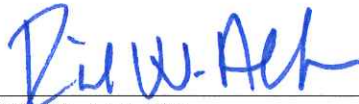
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