NACUBO

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WRITTEN TESTIMONY

ON BEHALF OF THE

NATIONAL ASSOCIATION OF COLLEGE AND UNIVERSITY BUSINESS OFFICERS

SUBMITTED TO THE U.S. DEPARTMENT OF EDUCATION

IN CONJUNCTION WITH REGIONAL PUBLIC HEARINGS

JUNE 4, 2013

The National Association of College and University Business Officers (NACUBO) is pleased to have the opportunity to offer comments on the notice published in the *Federal Register* on April 16, 2013, announcing additional topics for consideration by a negotiated rulemaking committee that the Department of Education plans to convene this fall. NACUBO is a nonprofit association representing chief financial officers and business office staff at more than 2,100 public and nonprofit colleges and universities. We have participated with ED in numerous negotiated rulemaking committees over the last twenty years.

First, NACUBO is concerned that ED is proposing to add too many disparate topics for one negotiated rulemaking committee to consider in a thoughtful manner over a reasonable period of time. Given that some of these topics are both challenging and controversial, we are concerned that potentially important conversations will not get the time that they deserve. In addition, different expertise will be required to adequately represent stakeholder interests for several of the topics. The state authorization issue calls for the participation of state government representatives, for example. Similarly, the addition of changes to campus security regulations due to the reauthorization of the Violence Against Women Act to the agenda necessitates the inclusion of individuals with quite different interests and expertise than most of the others on the proposed agenda. Given that the overall size of each negotiating committee is restricted, we question whether it will be possible to convene a broad enough group of stakeholders to conduct meaningful discussions on so many topics. NACUBO urges ED to consider forming more than one committee.

CASH MANAGEMENT. Understandably, NACUBO is most interested in the Department's proposed addition of the cash management regulations to the negotiated rulemaking agenda. ED has raised the possibility of addressing a variety of cash management issues with little explanation as to why.

Credit Balance Time Frames. Current rules require institutions to pay any Title IV credit balance refund on a student's account within 14 days. While institutions often pay credit balances to students in less than 14 days, there are a number of reasons why this period of time is sometimes necessary and often beneficial. Schools use this time to:

- Confirm class attendance
- Check for schedule changes that may impact aid eligibility, particularly at the beginning of a term
- Check for other aid disbursements that may cause an overaward situation
- Allow students more time to sign up for direct deposit, if they haven't already done so
- Provide a cushion for exceptional circumstances (system problems, staff outages, etc.)

Shorter time frames would be especially difficult for small institutions with few staff members, as maintaining proper separation of duties is important when paying out federal monies. Larger institutions, especially those that serve high numbers of needy students or have more "churn" in class registration early in a term such as community colleges, would also be hard pressed to meet shorter deadlines.

It is important to remember that the 14 days are calendar, not business, days. This means that at least four days (and often five due to holidays that fall near the beginning of many terms) are taken up with weekends, effectively reducing the period to 9-10 days. According to a recent NACUBO survey, 60 percent of credit balance refunds in FY2011 were still made by issuing a paper check. At small institutions, 80 percent were paid by check. Institutions with limited staff often try to cut checks (which can be a labor-intensive endeavor) on a regular schedule, say once a week. This makes for a tight schedule for small schools that still use manual processes and may have only one staff member processing refunds. In addition, public institutions in some states are required to issue all checks through the state treasurer's office or another centralized point adding more processing time.

Institutions need to have enough time to ensure that they can exercise sufficient care in the disbursement of funds. Even colleges that use automated processes to issue credit balance refunds on a daily basis still sometimes need the full 14 days to deal with outliers that need individual attention.

Forcing schools to disburse cash hastily can lead to students owing money back to either ED or the institution and is antithetical to reducing fraud. Changes made to the cash management rules that took effect in 2011 already require institutions to provide a way for Pell-eligible students to buy their books and supplies no later than the end of the first week of classes, easing problems associated with any delay in paying credit balance refunds. Further changes are not warranted at this time.

Credit Balance Refunds. We are in a time of rapid change in consumer banking services, with a number of new options gaining acceptance in the marketplace. The movement away from paper checks as the standard method for making payments to electronic transfers is accelerating. Federal and state governments are in the forefront of this shift. All federal benefits are now paid electronically, either to the recipient's designated bank account or to a prepaid debit card. Payees no longer have the option of receiving a paper check. And, notably, the federally sanctioned Direct Express debit card is not free of fees—providing only one free ATM withdrawal per deposit—despite the federal government's enormous buying power.

While electronic banking is increasingly popular, the majority of credit balance refunds are still paid by check. According to the 2012 NACUBO Student Financial Services Benchmarking survey, in FY2011 direct deposits accounted for 30.3 percent of such payments by dollar volume made by responding institutions. The number was higher, 56.6 percent, at research universities. In contrast, small institutions still pay 80.8 percent of student refund dollars by paper check. Only 15.6 percent of refund dollars at small institutions and 25.1 percent at community colleges were direct deposits, but these proportions have been steadily growing. The dollar volume of credit balance refunds going to stored value or other transaction cards was quite small, ranging from 20.2 percent at community colleges to less than one percent at small institutions and 1.4 percent at research universities. NACUBO encourages colleges and universities to pay credit balance refunds to students by electronic funds transfer as a way to improve service, protect students, and streamline operations.

We also surveyed our members last summer about credit balance payments to students, options offered, and their use of third-party vendors. Slightly more than a quarter of the 412 responding institutions used a third-party to help process credit balance refunds. Of those, the majority used a competitive bidding process to select the vendor, and more than three-quarters considered fees imposed on students as part of the process. Overall, satisfaction was high with the services, with 80 percent reporting faster disbursement and lower costs, 71 percent had fewer lost checks, and 69 percent reported increased customer satisfaction. In December 2012, NACUBO released guidance to our members setting out voluntary standards for "Safeguarding Student Finances." This best practices document is attached to our testimony.

NACUBO believes that the time is ripe to allow colleges and universities to require students to receive credit balance refunds electronically. Direct deposit to a bank account or debit card is faster, safer, and more cost effective for both parties. We believe that students should have the right to select the account that they wish to use, but that schools should be able to specify a reasonable default option for those who fail to provide personal account information in a timely manner.

Student Authorizations. Whenever bursars and student accounting staff on campus are asked to name a burdensome regulation, the prohibition against paying more than $200 of prior-year charges with a Title IV credit balance tops the list. The policy confuses students who don't understand why their school would pay funds to them if they have an outstanding balance on their account, especially since that balance often keeps the student from being able to remain enrolled. Recognizing that the student can receive the credit balance payment and turn around and write a check back to the institution for the amount owed, students should have the option of authorizing the school to use the credit balance to pay the arrears directly.

Stewardship of Federal Funds. NACUBO was surprised to read that ED was considering new regulations "governing how an institution may use or invest Title IV Federal Student Aid program funds held in its federal or operating accounts or, if the institution transfers the funds to a third-party servicer to make disbursements to students, how those funds are managed by the provider." We know of no instance where Title IV funds have been lost due to poor investment choices by an institution and believe that current regulations adequately protect federal funds from risk. Colleges and universities are, by nature, cautious with their investments and are mindful of their fiduciary responsibilities. That said, prudent fiscal management requires that operating funds not sit idle.

The amount of time that colleges and universities hold Title IV funds before disbursement has shrunk over the last decade as processes have become more efficient. Many, if not most, schools drawdown and disburse on the same day or disburse before drawing down federal funds. Once Title IV funds have been disbursed to student accounts, they are not held in separate identifiable bank or investment accounts. When a school contracts with a third-party to act as its agent in disbursing credit balances to students, the institution retains responsibility for proper use of the funds and would be liable for any Title IV funds that were not appropriately paid to students. Title IV funds would not therefore be at risk.

Cash or treasury management is a responsibility all colleges and universities take seriously. For most colleges and universities, standard treasury management practice involves moving nonproductive cash in various accounts on a nightly basis into an account(s) that earns interest and, if applicable, meets FDIC limits, until the funds are needed for operations. In the current repressed interest rate environment, very little interest is earned. However, the time value of money demands that earning little interest is preferable to earning none.

If an institution misused these funds and was so pressed for cash that it couldn’t pay credit balances to students or returns to Title IV as required, it would be in violation of existing regulations. NACUBO does not believe that additional regulations micromanaging institutional stewardship of funds are warranted or desirable.

STATE AUTHORIZATION. NACUBO urges ED to hold off on negotiating language addressing state authorization for distance education. There is much work being done in this area that is likely to lead to the introduction of interstate reciprocity agreements, which are sorely needed, over the next couple of years. Given the length of time that it takes to move through the rulemaking process, chances are good that regulatory language negotiated in fall 2013 would be outmoded by the time final rules would take effect in 2015 or shortly thereafter.

RETURN TO TITLE IV. NACUBO agrees with the National Association of Student Financial Aid Administrators that ED ought to consider convening a separate negotiating committee to take up the rules governing return of Title IV funds when a student withdraws. This topic has often gotten short shrift when changes have been negotiated and the end result has been a complicated and confusing regulatory scheme that is challenging for schools to administer and for students to understand.

Respectfully submitted,

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Safeguarding Student Finances: Guidance for Campuses Offering Student Debit Card Options

The availability of campus-based banking options for students has grown significantly in recent years. Based on recent public interest and concerns about student debit cards, and a survey conducted by the National Association of College and University Business Officers (NACUBO) about student debit card options on college and university campuses, NACUBO recommends the following best practices for colleges and universities.

1. **Keep Students First.** In ongoing efforts to hold tuition and administrative expenses down, college administrators seek cost savings in a number of ways, including automating manual processes, contracting with private operators for support functions, and establishing new revenue streams. Institutions should put students' interests at the forefront, making business decisions to enhance services available to students—and not do so at their expense.

2. **Encourage Students to Use Financial Institutions.** Many students enrolling for the first time at a college or university have not yet established personal checking or savings accounts. However, those with bank accounts can typically better manage their money, do not have to carry large amounts of cash, and can benefit from the convenience of debit cards and transaction records. Additionally, most bank accounts are insured and offer fraud protection. Therefore, institutions should encourage students to use financial institutions.

3. **Offer Choices.** Students have the right to choose their banking relationships, and this should be unambiguous in campus communications. Campus communications should also clearly state that students who already have accounts can use them. Some students may not have or be eligible for a traditional bank account so may prefer a campus-affiliated debit card option. Institutions should ensure that students have sufficient information available to allow them to be informed consumers.

4. **Encourage Electronic Refunds.** Electronic transactions have become the norm in all aspects of consumer finance—from government payments to retail transactions—because they are faster, safer, less expensive, and more convenient. Schools should encourage students to receive their refunds electronically.

5. **Utilize a Competitive Process and Limit Exclusivity.** The financial services arena is a fast-changing world for both the industry and consumers, with new options regularly

Campus Debit Cards in Context

At colleges and universities, students who receive financial aid or make payments on their school account may receive credit balance refunds from the institution. After grants, loans, and payments are applied to tuition, fees, and other charges, the excess is refunded to students to use for books, off-campus housing, food, transportation, and other expenses. When a credit balance is created by federal aid, regulations strictly define when such credit balance payments must occur. Students may also be entitled to refunds when they drop classes or make other changes that affect their charges.

Many institutions have shifted these financial transactions from paper checks to electronic processes, often managed through third-party vendors. This allows students to receive refunds through electronic funds transfer (EFT), directly to their own bank accounts or, depending on specific options offered, to prepaid cards or new accounts with the vendor.

In addition, some institutions have opted to partner with financial institutions to associate checking or prepaid accounts with campus ID cards and allow the campus card to function as a debit card. Students are not required to enter into relationships with financial institutions, but many prefer the convenience of carrying only one card.

emerging in the marketplace. Students and institutions should not be limited by outmoded choices. When seeking a vendor for financial services, institutions should use a competitive selection or bidding process. Institutions should also limit contracts to no more than five years.

6. **Engage Students in the Vendor Selection Process.** Students are directly affected by campus contracts with financial institutions for student services, but are not always part of the decision-making process when a vendor is selected. Institutions should encourage student involvement in the process, which can include focus groups, representation on a selection committee, or consultation through student government.

7. **Comply with Federal and State Regulations.** Colleges and universities take seriously their compliance with the U.S. Department of Education's regulatory and administrative requirements for the Title IV federal student aid programs. Institutions should take steps to ensure that administrators, staff, and vendors comply with all applicable federal and state regulations.

8. **Negotiate Low or No-Fee Options and Convenient Services for Students.** Just as colleges and universities strive to provide high-quality academic experiences for their students, they must ensure that school-sanctioned services are also good consumer values. For example, school-endorsed financial institutions should provide adequate ATM access on campus or ensure that banking facilities are readily accessible on or near campus, offer low-cost student account options, educate students to be informed consumers of financial services, and publish clear and transparent fee schedules. Examples of fees and services institutions should pay particular attention to include:
    - Account fees—set-up, requesting a card, monthly service, minimum balance.
    - Spend fees—making a credit card or debit transaction at a point of sale.
    - Cash fees—ATM fees, available surcharge-free networks, cash back at point of sale.
    - Deposit fees—depositing money by ATM, ACH, direct deposit, teller.
    - Help fees and services—online help, voice help, live agent and/or teller options, balance inquiry.
    - Caution fees—inactivity, replacement, overdraft.
    - Bill payment options and fees—online pay anyone.

9. **Avoid Unscrupulous Marketing.** Institutions should use great discretion when agreeing to a communication plan to ensure that students are presented with a fair explanation of services and not with misleading, biased, or aggressive marketing schemes.

10. **Make Contracts Transparent.** Institutions should publicly disclose the terms of any agreements with third parties issuing debit cards to students.

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