



September 21, 2009

Ms. Jessica Finkel
U.S. Department of Education
1990 K Street, NW Room 8031
Washington, DC 20006-8502

Docket ID: ED-2009-OPE-0005

Dear Ms. Finkel:

I am writing to provide comments on behalf of the National Association of College and University Business Officers (NACUBO) on the notice of proposed rulemaking on General and Non-Loan Programmatic Issues published in the *Federal Register* on August 21, 2009. NACUBO represents chief financial officers and business office staff, including bursars and student financial services directors, at more than 2,100 public and independent colleges and universities. Our mission is to promote sound financial and business administration at institutions of higher education.

NACUBO appreciated the opportunity to participate in the negotiated rulemaking team for these proposed regulations. Although the team ultimately did not reach consensus on all issues before it, we believe that the effort contributed importantly to the drafting of reasonable regulations.

These comments focus on **Readmission Requirements for Servicemembers** under proposed §668.18. Although we understand that the Department is free to ignore tentative agreements reached on single issues if a negotiated rulemaking team fails to reach consensus on the entire package under discussion, NACUBO was surprised to see that ED had reversed its tentative agreement to drop the proposed provisions at §668.18(a)(2)(iii)(E) and (F) relating to institutional charges. No explanation of this deviation from the agreed-upon language was offered in the NPRM. This provision has no basis in statute and will be extremely difficult and burdensome for institutions to administer.

Statute. New Section 484C of the Higher Education Act prohibits discrimination against students who serve in the armed forces and requires institutions to readmit such students with the same *academic status* they had when they previously attended the institution. The lengthy and prescriptive legislative language never mentions institutional charges at all. Congress is not reticent to provide financial benefits to servicemembers and veterans and could certainly have included a stipulation regarding financial arrangements if that were its intention.

ED has stretched the meaning of “academic status” much further than warranted and well past any common understanding of the term. We can think of no other instance where academic status is taken to include institutional charges assessed.

Institutional Charges. There are some educational programs and some types of institutions that charge a set amount for a specific 14-month training program or an all-inclusive comprehensive fee per semester. For those, it probably wouldn’t be too hard to go back and figure out the applicable charges for some earlier year. In most cases, however, the assessment of institutional charges is far more complex and involves many, many data points, and an educational “program” is a broad designation allowing for much individual variation in course selection.

Institutional charges are the sum of:

- course-related tuition charges including lab, supplies, equipment fees,
- a wide-variety of institutional fees such as those for activities, transportation, health, technology, etc.,
- rooming charges which may vary by room type and building location, and
- cost of meal plans, again with many variations and choices.

Requiring institutions to maintain multi-faceted data tables over an undetermined number of years in order to be able to go back and figure out how much a student would have been charged defies commonsense. The administrative systems that calculate student charges are not designed to archive the data necessary to make these calculations years later.

Charges would, in all likelihood, need to be hand-calculated for each term and course registration monitored for any changes. Materials required for each course would have to be compared to what was in use years earlier to determine whether the student had already paid for them.

As we understand the proposed regulations, students who left school more than five years earlier or, in case of service-related injuries or other special circumstances, several more years, would be eligible for readmission with charges frozen for one year at the rate that would have been charged before the servicemember left school. The institution would not be able to simply keep a record of how much the student had been charged because (1) the institution won't necessarily know in advance which students are eligible for readmission since there are a number of exceptions to the notice provisions; (2) student financial records are not generally maintained for such long periods of time; and (3) individuals who had been admitted but left before enrolling (and incurring charges) are also eligible for reinstatement at prior rates.

ED estimates, in its submission to OMB under the Paperwork Reduction Act, that less than 1,500 servicemembers a year would be likely to take advantage of this provision at public and independent institutions. This averages to about one student every two years per institution. It is important to understand that all institutions would have to make administrative changes and take steps now to ensure their ability to comply with this provision years in the future, without knowing if any student might ever take advantage of it. With colleges and universities facing enormous financial and administrative challenges and concern about the cost of college and the burden of federal regulations on higher education institutions rising, how can the cost of this provision possibly be justified by its benefit? In addition, returning servicemembers receive a number of benefits that provide considerable assistance in paying for educational expenses so any additional impact of paying the current rates on the individuals is likely small.

NACUBO urges ED to adhere to the statutory language and eliminate §668.18(a)(2)(iii)(E) and (F).

NACUBO also endorses comments submitted by the National Association of Student Financial Aid Administrators addressing year-round Pell and other issues. We appreciate the opportunity to comment on these proposed rules. If you have any questions, please contact Anne Gross, vice president for regulatory affairs, at 202.861.2544 or anne.gross@nacubo.org.

Sincerely,



John D. Walda
President and Chief Executive Officer