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Winter is Coming ..So Are New Cash Management Rules

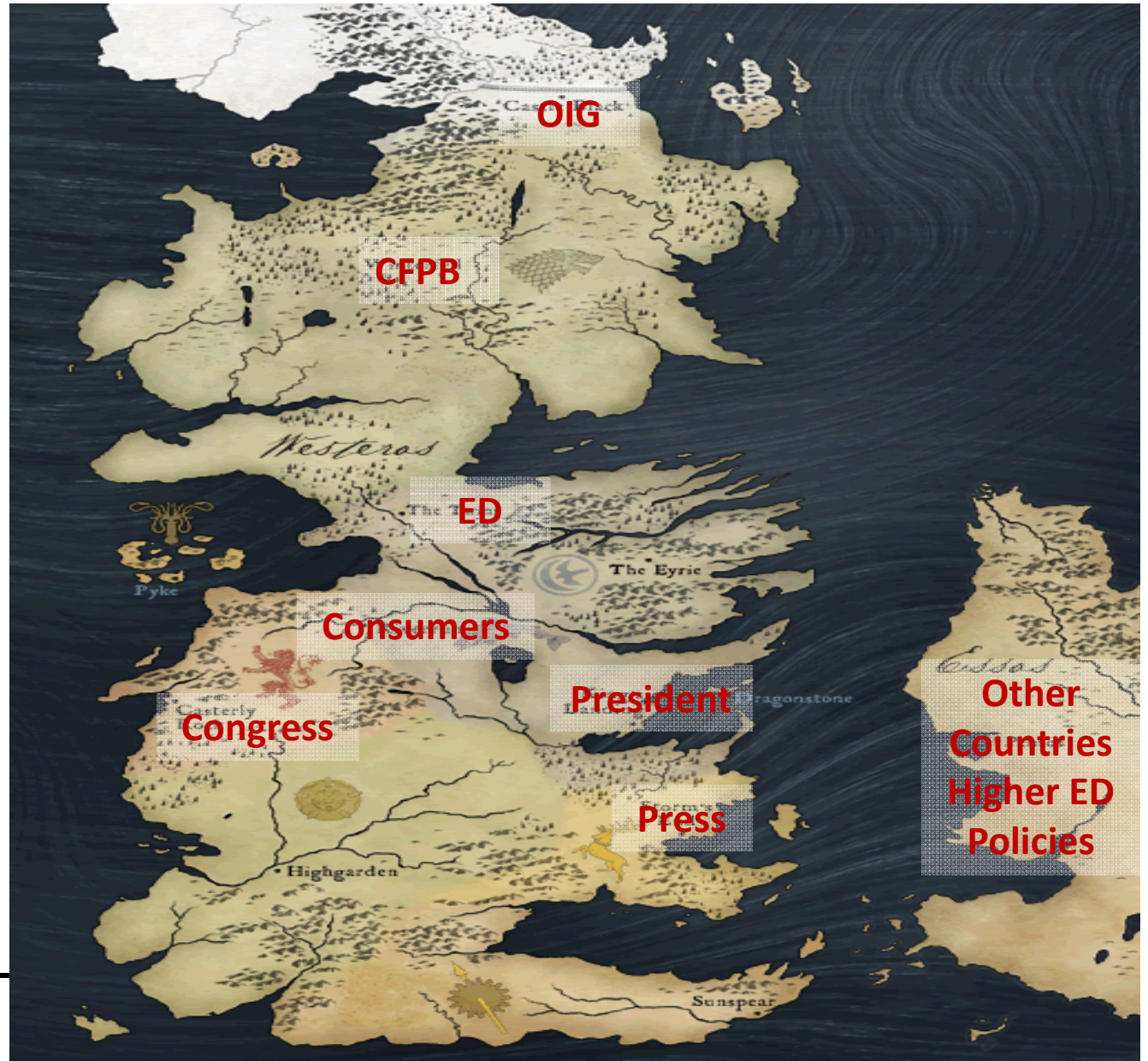
12.15.2015

A Title IV Regulatory Update By Betsy Mayotte
CAPFAA Winter Conference, 2015

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- Where We've Been
- Prior-Prior Year
- Cash Management
- REPAYE
- A Few More Odds and Bits
- Where We're Going

Where We've Been



- Current process uses the prior year, or last years income data for FAFSA purposes
- New process will use “prior-prior” year data – or – two years ago
- Allows more families to use the IRS Data Retrieval Tool (DRT)
- Debuts in October 2016, for aid applications for the 2017-18 award year – FAFSA will be available October 1st annually
- 2016-2017 Changes include:
 - ISIR no longer containing full school list and there will be warning about school order affecting some state awards
 - Automatic zero EFC increases to \$25K
 - Verification mostly the same – some changes to documentation requirements

Cash Management – Credit Balance

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- 2012 Higher One pays \$11 million fine levied by Federal Deposit Insurance Corporation (FDIC)
- Issues included:
 - Schools sharing student info with 3rd parties without student consent or choice
 - Activated cards being sent to students without request
 - Making cards appear to be quickest or only option for aid funds
 - Difficult to access in network ATM
 - Fees beyond industry norm
- New probe begun last year involving Federal Trade Commission over marketing and disclosures
- USPIRG, GAO, and OIG issued and confirmed a 2012 report on practices of concern
- Neg reg sessions winter, 2014; no consensus
- August 8, 2014 NPRM published
- Final rule published October, 2015

Tier One (T1) Arrangement:

- A school has contracted with a third party servicer (TPS) to do one or more of the functions associated with direct payments to students/parents and the payments are made by the TPS:
 - To an account offered as part of the contract or
 - To an account that is advertised directly to the student by the TPS or the school or someone else on behalf of the TPS

• Tier Two (T2) Arrangement:

- A school has a contract with a financial institution or an entity that offers financial accounts, but that is not a TPS and:
 - The school had one or more credit balance recipient in the last academic year and
 - The financial products have been marketed directly towards students
- T2H – for three of the most recent award years, either averaged 500 or more students with credit balances or at least 5% of enrolled students had them

Defining Direct Marketing to Students

A financial account is considered to have been directly marketed to students if:

- The school advises students/parents directly about the account and how to open it or
- The account or access device (ID card, debit card, etc) is co-branded with the schools name, logo, mascot or other affiliation or
- A card or tool given to the student for school purposes is linked to the account

- **Contract requirements:**

- Disclose the contract establishing the T1 or T2 relationship noticeably on the schools website
- Portions containing personal information, proprietary technology or information security may be redacted
- Must be in place no later than 9/16/16; then updated 60 days after the most recently completed award year
- Must provide the ED with URL in same timeframe – they will publish in central, public database.

- **Consent requirements:**

- School must obtain student/parent consent before:
 - An access device is sent to the student/parent
 - A card or tool given to the student for school purposes is linked to a financial account

- **Fees:**

- Student/parent may not be charged for opening account or initialing receiving device/card

- **Credit Cards:**

- Device or account can never be marketed as or converted into a credit card.

- **Student Choice:**

- For EFT payments, schools must develop a process where students actively choose one of several options for receiving payments
 - Not required to include checks/cash but schools must have the ability to issue checks if asked and may disburse cash
- First and prominent option must be student/parents own account. Rest of list must be clear, concise and neutral
- Must ensure that if a student/parent chooses their existing bank account or device, that it's at least as efficient and timely as an EFT directed to a T1 and T2 account
- Must include major features and common fees associated with each T1 and T2 account and a link to the terms for all accounts on the list.
 - ED will provide format for this by July 1, 2017

- **Student Choice:**

- List may also include other non-T1 and T2 options as long as they are FDIC insured.
- If student/parent does not make a choice, credit balance must still be paid via check, cash or EFT to existing account within required timeframe (usually 14 days)
- Student must be allowed to change options at any time as long as change is presented in writing within reasonable timeframe
- Terms and conditions of account must be presented to student before it can be opened
- Student must be told in writing they aren't required to open a new account to access their credit balance
- Consent to open account, or send an access device must be obtained in writing prior
 - Exception for school cards such as school ID cards. In this case school must get written consent prior to activating device

Display conspicuously on the institution's Web site—

- The total value paid or received to each party for the most recently completed award year, monetary and non-monetary, under the terms of the contract; and
- For any year in which the institution's enrolled students open 30 or more financial accounts marketed under the T2 arrangement, the number of students who had financial accounts under the contract at any time during the most recently completed award year, and the mean and median of the actual costs incurred by those account holders;
- Applies to T2H and T1 arrangements only
- Due by September 1, 2017 then no later than 60 days following the most recently completed award year
- ED will supply format. Must be displayed in same URL as contract disclosures

- Take “affirmative steps” via contracts with financial institutions and TPS to ensure that all regulatory requirements are met on all accounts offered under T1 and T2 arrangements
- Ensure terms of accounts are in best financial interest of students. Burden considered met if:
 - School documents that it performs reasonable due diligence at least every two years to ensure fees/terms are at or below market rates and
 - All contracts have provision for termination based on complaints received from students or school determination of fees/terms greater than market rates
 - T1 and T2H only

Further Requirements for T1 Schools – Info Sharing

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- Only PII that can be shared with third party prior to selection of financial account/access device is:
 - Directory information
 - Unique ID that does not contain SSN
 - Disbursement amount
 - Password/pin or other shared secret used to ID the student
 - Anything else allowed by the ED via federal register
- Info may only be used to direct payments and may not be shared other than for direct payment purposes

Further Requirements for T1 Schools – Fees and Access

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- Schools must ensure that funds are reasonably and conveniently available at surcharge free national or regional ATM's or branch office
 - Must be located on or adjacent to campus or in a school owned or operated facility
- No fees can be charged for:
 - Opening the account or obtaining the access device
 - For any point of sale transactions within the US
 - Balance inquires or withdrawals from fee free ATM's in the US
 - No overdrafts allowed other than inadvertent overdrafts in which no fees are assessed
 - Effective for full period of enrollment after funds deposited
 - Student must have access to full amount of credit balance

Further Requirements for T2 Schools

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- **Consent:**
 - No info may be provided to financial institution or agents prior to student/parent's consent to open account
 - Exception for directory information
- **Fees:**
 - No cost for opening account or receiving or validating access device
 - T2H – No fees for balance inquires or withdrawals from fee free ATM's in the US, which must be reasonably accessible and in sufficient numbers
- **Co-branding**
 - Schools with co-branding agreements with financial institutions or 3rd parties who state that account is not marketed mainly to students must maintain co-branding contract and documentation.

Revised Pay As You Earn (REPAYE)

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- Eligibility:
 - All Direct Stafford and Graduate PLUS loans.
 - All Consolidation loans that do not contain Parent PLUS
 - No defaulted loans
 - FFELP loans may consolidate into Direct Loans
- Terms:
 - No minimum or maximum payment amount
 - No partial financial hardship (PFH) required
 - Payment is 10% of discretionary income
 - Unsatisfied subsidized interest paid 1st three years. 50% paid after that
 - 50% of unsatisfied unsubsidized interest paid while loan is under REPAYE
 - Forgiveness after 20 years for borrowers with only undergraduate loans
 - Forgiveness after 25 years for borrowers with at least one graduate loan
 - Spouse's income included regardless of filing status (some limited exceptions)
 - Failure to renew places loans in "alternative repayment plan."

A Few More Odds and Bits

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- **SCRA changes**
- **Repeat coursework:**
 - Title IV may be used to pay for previously passed courses, but only once per course
- **Prior Year Charges:**
 - Schools may credit up to \$200 in prior year charges without student/parent consent.
 - Funds may only be applied to tuition, fees and school provided room and board
 - With student/parent authorization they can use these funds towards the allowable cost books and supplies
- **Books and Supplies:**
 - Expands requirements that schools issue credit balance to include all Title IV recipients
 - Includes those on heightened cash monitoring
 - Must be issued within 7 days into the payment period

- **Book and Supplies**

- Schools may include books and supplies as part of tuition and fees if:
- The school can supply these things below market prices
- Ensures students can receive them by the 7th day of the payment period
- Student must have a way to opt-out OR
- If there's a health and safety issue

- **Reaffirmation Agreement**

- **What's Coming**

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- **Reauthorization**

- **Negotiated Rulemaking Session**

- Borrower Defense Discharge

- **Election**

- Higher ED positions of Presidential Candidates

Prior Prior Year

<http://financialaidtoolkit.ed.gov/tk/announcement-detail.jsp?id=2017-18-fafsa-changes>

NAFSAA Cash Management Summary Chart

http://www.nasfaa.org/uploads/documents/updated_direct_disburse_chart.pdf

New Reaffirmation Agreement

<https://ifap.ed.gov/dpcletters/GEN1520.html>