Issue Paper #1

Team I – Program Integrity Issues

Issue: Definition of High School Diploma for the Purpose of Establishing Institutional Eligibility to Participate in the Title IV Programs, and Student Eligibility to Receive Title IV Aid

Statutory cites: HEA sections 101(a)(1), 101 (b)(2), 102(b)(1)(B), 102(b)(2), 102(c)(1)(B), 102(c)(2), and 484(d)

Regulatory cites: 34 CFR 600.2, 600.4(a)(2), 600.5(a)(3), 600.6(a)(2), and 668.32(e)

Summary question(s): How can we develop regulations that define a "high school diploma" for the purpose of establishing eligibility to participate in the Federal student aid programs and to ensure that only eligible students receive Federal student aid; and what steps should we take to combat the use of diplomas obtained through diploma mills?

Summary of issue: The Higher Education Act of 1965, as amended, requires an institution of higher education participating in the Federal student aid programs to admit as regular students only persons who have obtained a high school diploma or its recognized equivalent (or are beyond the age of compulsory school attendance). In order to be eligible to receive Title IV aid, a student must have a high school diploma or its recognized equivalent, have completed secondary school in a home school setting or pass an independently administered examination approved by the Secretary. Receipt of a high school diploma or its recognized equivalent or completion of secondary schooling through home schooling provides an indication that the student is qualified to begin study at the postsecondary level. There is a regulatory definition of the "recognized equivalent of a high school diploma," but the term "high school diploma" is not defined in regulations.

A student may self-certify on the FAFSA that he has received a high school diploma or GED or that he has completed secondary school through homeschooling as defined by state law. Basically, if a student does not have a high school diploma or GED and has not completed secondary school through home schooling, the student will have to pass an Ability-to-Benefit test to qualify for student aid. If a student indicates that he has a diploma or GED, the postsecondary institution isn't required to ask for a copy. If, however, the institution requires one for admission, the institution must rely on that copy of the diploma or GED and not on the student's certification alone. Confirming the authenticity of a student's high school experience has become more difficult in part due to the proliferation of high school diploma mills. Institutions that have concerns about the validity of a diploma from a particular school often check with the department of education for the state in which the school is located. If the department has jurisdiction over the high school, it can confirm whether a diploma from the school (which does not have to be accredited) is recognized by the state. However, some states do not have a

means of recognizing even all the legitimate high schools operating in their state, particularly private high schools.

Comments and questions: Institutions of higher education are concerned about several issues. One involves the administrative burden related to researching the legitimacy of the high school diploma a student presents. An additional concern relates to situations in which Title IV participating institutions direct students without high school diplomas to high schools with which they appear to have a business relationship.

The Government Accountability Office, in an August 2009 report, recommends that the Department have a clearer, official policy about high school diploma mills. This could take the form of revised regulations. Furthermore, GAO recommends that the Department use information that is already available, such as lists published by States, to provide guidance to institutions of higher education in confirming the validity of high school diplomas.

- How can institutions best confirm the authenticity of a student's high school experience whether it be through the receipt of a high school diploma, homeschooling credentials, diplomas obtained from online training or private schools? Should a high school's recognition by a State agency be required? Should accreditation play any role?

- If States are relied upon to determine a school's legitimacy, how can the Department assist colleges in confirming a diploma's authenticity and the school's approval by a state?

- How can institutions determine the equivalency of high school diplomas received at foreign schools to those obtained in the US?

- Is the FAFSA self certification regarding the receipt of a high school diploma adequate or should it be strengthened?

- Are there certain types of relationships between colleges and high schools that should be prohibited, at least as far as diploma recognition is concerned?

Issue Paper #2

Team I – Program Integrity Issues

Issue: Ability to Benefit

Statutory cites: HEA section 484(d)

Regulatory cites: 34 CFR 668.32(e)(2) and subpart J

Summary question(s): How do we address concerns raised by the Government Accountability Office (GAO) about the analyses ability-to–benefit (ATB) test publishers prepare and submit to the Department? What should we consider as we implement a new ATB provision included in the Higher Education Opportunity Act (HEOA)?

Summary of issue: Students who have neither a high school diploma nor its equivalent may demonstrate their ability to benefit from the education provided, and receive Federal student financial aid funds, by taking a Department-approved ATB test or, as added by the HEOA, by satisfactorily completing six credits of college work that are applicable to a degree or certificate offered by the institution.

ATB Test Requirements

The Department is responsible for overseeing the ATB test publishers, who are responsible for certifying and monitoring test administrators to ensure the independent and proper administration of ATB tests. Test publishers are required to conduct and submit an analysis of test scores every three years to identify any test irregularities that would suggest ATB tests are not being administered in accordance with test rules.

In August 2009, GAO issued a report which cited the Department for weak oversight of the ATB test requirements and recommended that the ATB regulations be revised to strengthen controls over the ATB testing process. GAO identified the following problems with the current regulations:

(1) The regulations require test publishers to conduct test score analyses only every three years. This means it is possible for test administrators who are administering tests improperly to go undetected for up to three years.

(2) The regulations do not specifically require test publishers to follow up on test score irregularities or report any corrective actions to the Department. Therefore, the Department has no way of knowing whether actual violations occurred or how the test publishers dealt with any violations they identified.

(3) While the current regulations require that test publishers decertify test administrators who fail to administer tests properly, the regulations do not require test publishers to report to the Department on implementation of their decertification process. This means the Department has no assurance that test administrators who violate test rules are decertified. Further, the Department has no way of determining if test administrators decertified by one publisher are administering tests for other publishers.

Unlike ATB tests submitted for approval by test publishers, if a State submits its ATB test and the Secretary approves it, the test is approved for use until that approval is

revoked. In addition, under current regulations, States are not required to submit 3-year test anomaly studies in the same way that test publishers are.

States also have the option of seeking approval from the Secretary for a State process that is an alternative to achieving a passing score on an approved, independently administered test. Once a State has had its process approved, there is no requirement that the State's process be reevaluated.

It has been fourteen years since subpart J was published. In the intervening time, some of the terminology used in the subpart has changed, and we are using technology to a larger extent. We have also identified some definitions which should be modified to reflect statutory changes to other laws, such as the Individuals with Disabilities Education Act (IDEA). We plan to incorporate necessary updates to reflect these changes.

Completion of Six Credit Hours

The HEOA added a second method for students to show that they have the ability to benefit. Students who satisfactorily complete six credits of college work, or the equivalent amounts of coursework, that are applicable to a degree or certificate offered by the school qualify to receive title IV aid.

For the purpose of implementing this provision, there needs to be a determination of the appropriate number of clock hours a student in a clock hour program needs to complete that is equivalent to six credit hours. There are at least two ways of determining equivalency:

225 hours: 6 credit hours is one-fourth of the minimum 24 credit hours that qualifies as full-time enrollment over one academic year. The minimum clock hours for a full academic year is 900. One-fourth of 900 is 225 hours.

180 hours: Under the clock hour/credit hour conversion formula one semester credit equals 30 clock hours. Multiplying six units times 30 yields 180 hours.

Comments and questions:

- Should more frequent reports be required of ATB test publishers?
- Should State ATB tests also be submitted for periodic review instead of being approved indefinitely? How frequently?
- Should the requirement that test publishers submit 3-year test anomaly studies be extended to include State ATB tests, as well?
- Is there adequate assurance that test administrators are sufficiently independent from the schools that use their services?
- In addition to determining the clock-hour conversion, what additional clarifications are needed to effectively implement the six-credit provision?

Issue Paper #3

Team I – Program Integrity Issues

Issue: Misrepresentation of Information to Students and Prospective Students

Statutory cites: HEA section 487

Regulatory cites: 34 CFR 668.71-75

Summary question(s): Should the Department revise the regulations or provide additional guidance about the types of statements and communication that could constitute "misrepresentation"?

Summary of issue: Choosing a college or job training program is increasingly a high-stakes decision for consumers. The choice can be costly both in terms of the prospective student's time as well as the tuition, fees and other expenses incurred. Furthermore, the student may be taking on debt that will be more burdensome if the education or training does not meet the student's expectations or fails to lead to hoped-for employment.

ED regulations currently prohibit any "substantial misrepresentation made by [an] institution regarding the nature of its educational program, its financial charges or the employability of its graduates." Additional detail in the rule provides further guidance to institutions.

The Federal Trade Commission (FTC) publishes guidelines for consumers to use to avoid deceptive advertising and promotional, marketing, and sales practices by vocational training providers, at 16 CFR 254. The FTC Guides, which include references to other guidelines, such as those regarding the use of endorsements and testimonials, are considered administrative interpretations of the statutes that the FTC is charged with implementing. Conduct that is inconsistent with the Guides may result in corrective action by the FTC if a school is found to be in violation of the law. For example, the provisions caution industry members against engaging in any activities such as using any name, label, logo, etc. that would mislead a student as to the nature of the school, its accreditation, programs, or methods of teaching. The FTC updates its Guides periodically.

The Federal Register notice requesting public comments on the Federal Trade Commission Guides is located at 16 CFR Part 245:
http://www.ftc.gov/os/fedreg/2009/july/090730privatevocationalschool.pdf

While the Guides are helpful, the FTC has jurisdiction over only for-profit entities and it does not extend to degree-granting institutions.

Comments and questions: The Department anticipates that the FTC Guides will be included as part of the discussion as it develops a regulatory approach to address misrepresentation of consumer information.

Current regulations describe the parties to whom false, erroneous or misleading statements may not be made. The parties include prospective and enrolled students or their families, or the Secretary. Should the parties be expanded, to possibly include state agencies or accreditors?

To what extent should the Department's regulations on misrepresentation be harmonized with the FTC's guidelines?

Are there other clarifications that should be considered?

Issue Paper #4

Team I – Program Integrity Issues

Issue: Incentive Compensation

Statutory cites: HEA section 487(a)(20)

Regulatory cites: 34 CFR 668.14(b)(22)

Summary question(s): Should the "safe harbors" be reexamined?

Summary of issue: The HEA provides that to be eligible to participate in the Federal student financial aid programs authorized under title IV, an institution must enter into a program participation agreement with the Secretary. The agreement includes a number of conditions with which an institution must comply to be granted initial and continuing eligibility to participate. Among those conditions is a prohibition on institutions providing any commission, bonus, or other incentive payment based directly or indirectly on success in securing enrollments or financial aid to any individual or entity engaged in recruiting or admission activities or in making decisions regarding the award of title IV, HEA program funds. This prohibition does not apply to the recruitment of foreign students residing in foreign countries who are not eligible to receive title IV funds.

The regulations implementing this provision of the HEA specify 12 types of payment and compensation plans that do not violate this statutory prohibition. The first safe harbor explains the conditions under which an institution may adjust compensation without that compensation being considered an incentive payment.

The remaining 11 safe harbors describe the conditions under which payments that could potentially be construed as based upon securing enrollments or financial aid are nonetheless not covered by the statutory prohibition.

The payment or compensation plans covered by the safe harbors cover the following subjects:

1. <u>Adjustments to employee compensation</u>. Under this safe harbor, an institution may make up to two adjustments (upward or downward) to a covered employee's annual salary or fixed hourly wage rate within any 12-month period without the adjustment being considered an incentive payment, provided that no adjustment is based solely on the number of students recruited, admitted, enrolled, or awarded financial aid. One cost-of-living increase that is paid to all or substantially all of the institution's full-time employees will not be considered an adjustment under this safe harbor. In addition, with regard to overtime, if the basic compensation of an employee is not an incentive payment, neither is overtime pay required under the Federal Fair Labor Standards Act.
2. <u>Enrollment in programs that are not eligible for title IV, HEA program funds</u>. An institution may provide incentive compensation to recruiters based upon their

recruitment of students who enroll only in programs that are not eligible for title IV, HEA program funds.

3. Contracts with employers to provide training. This safe harbor addresses payments to recruiters who arrange contracts between an institution and an employer, where the employer pays the tuition and fees for its employees (either directly to the institution or by reimbursement to the employee). As long as there is no direct contact by the institution's representative with prospective students, and as long as the employer is paying at least 50% of the training costs, incentive payments to recruiters who arrange for such contracts are not covered by the incentive payment prohibition, provided that the incentive payments are not based on the number of employees who enroll, or the amount of revenue generated by those employees.
4. Profit-sharing bonus plans. Profit-sharing and bonus payments to all or substantially all of an institution's full-time employees are not incentive payments based on success in securing enrollments or awarding financial aid. As long as the profit-sharing or bonus payments are substantially the same amount or the same percentage of salary or wages, and as long as the payments are made to all or substantially all of the institution's full-time professional and administrative staff, compensation paid as part of a profit-sharing or bonus plan is not considered a violation of the incentive payment prohibition. In addition, such payments can be limited to all or substantially all of the full-time employees at one or more organizational levels at the institution, except that an organizational level may not consist predominantly of recruiters, the admissions staff, or the financial aid staff.
5. Compensation based upon program completion. Compensation that is based upon students successfully completing their educational programs, or one academic year of their educational programs, whichever is shorter, does not violate the incentive compensation prohibition. Successful completion of an academic year means that the student has earned at least 24 semester or trimester credit hours or 36 quarter credit hours, or has successfully completed at least 900 clock hours of instruction at the institution. (Time may not be substituted for credits earned.) In addition, the 30 weeks of instructional time element of the definition of an academic year does not apply to this safe harbor. Therefore, this safe harbor applies when a student earns, for example, 24 semester credits, no matter how short or long a time that takes.
6. Pre-enrollment activities. Generally, clerical pre-enrollment activities are not considered recruitment or admission activities. Accordingly, an institution may make incentive payments to individuals whose responsibilities are limited to pre-enrollment activities that are clerical in nature. However, soliciting students for interviews is a recruitment activity, not a pre-enrollment activity, and individuals may not receive incentive compensation based on their success in soliciting students for interviews. In addition, since a recruiter's job description is to recruit, it would be very difficult for an institution to document that it was paying a bonus to a recruiter solely for clerical pre-enrollment activities.
7. Managerial and supervisory employees. This safe harbor recognizes that the incentive payment prohibition applies only to individuals who perform activities related to recruitment, admissions, enrollment, or the financial aid awarding

process and their immediate supervisors. Direct supervisors are included in this prohibition because their actions generally have a direct and immediate impact on the individuals who carry out these covered activities.

8. Token gifts. Under this safe harbor, the regulations provide that a token gift not to exceed $100 may be provided to an alumnus or student provided that the gift is not in the form of money and no more than one gift is provided annually to an individual. The cost basis of a token noncash gift is what the institution paid for it. The value is the fair market value of the item. The fair market value of an item might be considerably greater than its cost. A high value item for which the institution paid a minimal cost would not be considered a token gift.
9. Profit distributions. Profit distributions to owners are not payments based on success in securing enrollments or awarding financial aid. Therefore any owner, whether an employee or not, is entitled to a share of the organization's profits to the extent they represent a proportionate share of the profits based upon the employee's ownership interest.
10. Internet-based activities. This safe harbor permits an institution to award incentive compensation for Internet-based recruitment and admission activities that provide information about the institution to prospective students, refer prospective students to the institution, or permit prospective students to apply for admission online.
11. Payments to third parties for non-recruitment activities. This safe harbor recognizes that the incentive payment prohibition applies only to activities dealing with recruiting, admissions, enrollment, and financial aid. Therefore, an institution may make incentive payments to third parties for other types of services, including tuition sharing arrangements, marketing, and advertising that are not covered by the incentive compensation prohibition.
12. Payments to third parties for recruitment activities. If an institution uses an outside entity to perform activities for it, including covered activities, the institution may make incentive payments to the third party without violating the incentive payment prohibition as long as the individuals performing the covered activities are not compensated in a way that is prohibited by the incentive payment compensation rule. For example, if an institution established a group of employees who provided the institution with a series of services, and one of those services was recruiting, the incentive compensation prohibition would preclude only the individuals doing the recruiting from being paid on an incentive basis. If that institution hired a contractor to provide these services, the same rules would apply. The outside entity could not pay the individuals performing the recruiting services on an incentive basis, but it could pay the other employees performing non-recruiting activities on an incentive basis.

Comments and questions

The Department has received complaints from students and enrollment advisors about the high-pressure sales tactics of some postsecondary institutions. Some argue that tying staff compensation to the number of students enrolled is an inherent conflict of interest and that the safe harbors undermine the statutory ban on incentive

compensation. The Department has also heard from a number of educational institutions that the lack of clear guidance prior to establishment of the safe harbors made it very difficult for institutions to be confident of their compliance with the rule.

Should the safe harbors be maintained, amended, or eliminated in whole or in part from the regulations?

Issue Paper #5

Team I – Program Integrity Issues

Issue: State authorization as a component of institutional eligibility

Statutory cites: HEA sections 101(a)(2); 102(b)(1)(B); 102(c)(1)(B)

Regulatory cites: §600.4(a)(3); §600.5(a)(4); §600.6(a)(3)

Summary of issue: To begin and continue to participate in the title IV student aid programs, the HEA requires an institution (with the exception of a foreign institution) to be legally authorized to provide a postsecondary educational program within the State in which it is located.

The State's legal authorization is the legal status granted to an institution through a charter, license, or other written document issued by an appropriate agency or official of the State in which the institution is located. It may be provided by a licensing board or educational agency. In some cases, the institution's charter is its legal authorization. An institution must have evidence that it has the authority to operate in a State at the time the institution applies to be certified or recertified to participate in the title IV programs.

State law governs the licensure or authorization of institutions that operate in the State. States structure their oversight and regulatory agencies in various ways, and may have significantly different requirements that institutions must meet to be legally authorized to provide an educational program. (One indicator of this variation in State requirements is the penchant of substandard institutions and diploma mills to move from State to State in response to changing requirements. These entities set up operation in States that provide very little oversight, and if a State strengthens its licensure law, they simply move to another State and begin operation there.)

Over 35 years ago, the Department determined that institutions were authorized by the State by virtue of the State's decision not to have any oversight over them. This precedent was called into play when a situation emerged more recently in California. California's Bureau for Private Postsecondary and Vocational Education serves as the State's oversight and regulatory agency for private proprietary postsecondary institutions. Disputes led to an impasse over the continued existence of the Bureau. Because the Department informed the State that the institutions in question would remain eligible for Federal aid even if the Bureau was eliminated (based on the earlier precedent), there was no pressure for the State to maintain its role. The establishing legislation for the Bureau, the Private Postsecondary and Vocational Education Reform Act, became inoperative on June 30, 2007 and was repealed on January 1, 2008. Recently, California created a new State bureau with oversight responsibility for private postsecondary institutions. During the period when there was no State agency authorizing private postsecondary institutions, they continued to participate in the Federal student aid programs.

A second issue is that some States are deferring to accrediting agencies for approval of educational institutions or are providing exemptions for a subset of institutions for other reasons. Since accrediting agencies generally require that an

institution be legally operating in the State, the checks and balances provided by accreditation and State legal authorization are undermined. For example, institutions in California that are accredited by the Western Association of Schools and Colleges had a complete exemption from the now-expired California law, and proposed legislation in California for a new licensing regime contains the same exemption.

The Veteran's Administration relies upon State Approving Agencies (SAA) to review, evaluate and approve quality programs of education and training under State and Federal criteria for the veterans' education benefits programs it oversees. The SAAs are funded through the Post-9/11 G.I. Bill. Each State approaches this responsibility in its own way. Some States have one agency to approve all programs in postsecondary educational institutions, another agency to approve all on-the-job training programs, and then possibly a third agency to approve flight schools. In general, the VA requires programs offered by institutions of higher education to be accredited by an accrediting agency recognized by the Secretary of Education.

Comments and questions

- Should institutions be allowed to participate in the title IV programs if a State does not license or otherwise authorize an institution to offer postsecondary programs in the State?

What should constitute State authorization? Should there be any minimum standards for State authorization for purposes of determining institutional eligibility to participate in the title IV programs? Is it adequate for title IV purposes for a State agency to rely solely on accreditation as the determinant of State authorization?

Issue Paper #6

Team I – Program Integrity Issues

Issue: Gainful Employment in a Recognized Occupation

Statutory cites: HEA sections 101(b)(1); 102(b)(1)(A)(i); 102(c)(1)(A)

Regulatory cites: §600.2; §600.4(a)(4)(iii); §600.5(a)(5); §600.6(a)(4); §668.8(c)(3); §668.8(c)(3); §668.8(d)(1)(iii); §668.8(d)(2)(iii); §668.8(d)(3)(iii); §668.8(g)(1)(ii); §668.8(g)(2)

Summary of issue: Some programs and institutions are eligible for Federal financial aid by virtue of the fact that they "prepare students for gainful employment in a recognized occupation." The regulations currently define a recognized occupation as an occupation listed in the latest edition of the *Dictionary of Occupational Titles* published by the Department of Labor (DOL). This dictionary has been replaced by DOL's on-line Occupational Information Network (O*NET) (http://online.onetcenter.org/) that relies on DOL's Standard Occupational Classification (SOC) system. The Department of Education has not, in the past, worked with the DOL to make the link between institutions' programs and the occupations recognized by the Secretary of Labor.

Furthermore, there is no standard for what constitutes "gainful employment."

To better link programs with occupations, one approach could be to require institutions offering occupational training programs to provide the Department and prospective students with the occupation names and SOC codes (http://www.bls.gov/oes/current/oes_stru.htm). Institutions could link directly to the occupational profile (for example, see the overview of the job tasks and salary for energy auditors) at http://online.onetcenter.org/link/summary/13-1199.01.

In considering possible definitions for "gainful employment," the relationship of student debt levels of recent graduates of an institution or program to expected earnings could be a consideration in determining a program's eligibility. Alternatively, a reasonable relationship between the tuition costs incurred by students and expected earnings could be considered.

Comments and questions

- Should the Department require that institutions cite the occupational names and codes for occupational training programs, and if so, how should the disclosure be made?

Should "gainful employment" be defined? And if so, what should be the relationship between tuition and fee charges (and/or loan debt) and expected earnings? For programs where this relationship is not reasonable, when and how should the Department no longer consider the program to be an eligible program for title IV purposes?

Issue Paper #7

Proposed Regulatory Language

Team I – Program Integrity Issues

Issue:	Definition of a credit hour
Statutory cites:	HEA Sec. 481(a)(2) definition of academic year; 481(b) definition of eligible program; 484(b)(3) and (4) and 401 requirement to be enrolled half-time for loan eligibility; 496(a)(5)(H) accreditation standards
Regulatory cites:	34 CFR 668.2(b) definition of full-time student and definition of half-time student; 668.4 Payment period; 686.22 Calculation of a TEACH Grant for payment period; 690.63 Calculation of a Federal Pell Grant for a payment period; 691.63 Calculation of an ACG or National SMART Grant for payment period; 668.8(k) and (l) Clock hour/credit hour conversions
Summary of issue:	Credit hours are used to measure degree completion and to award title IV aid, but there is no commonly accepted definition of a credit hour

A credit hour is a unit that gives weighting to the value, level, or time requirements of an academic course taken at an educational institution. At its most basic, a credit hour is a proxy measure of student learning. A credit hour is not consistently related to time or workload within institutions or between different types of institutions. Most postsecondary institutions do not have policies or even criteria that explain the basis for assigning credit hours to course work. When the measure is defined, it is usually as a measure combining a student's seat time in the classroom and outside-of-class work. Commonly used definitions are: one hour per week in class plus another two hours of study outside of class for 15 weeks equals one semester hours of credit; 12 hours per week in class equals a minimum full-time load; 120 credit hours equals a baccalaureate degree at an institution that uses semester hours. Although the metric purports to gauge faculty effort and student accomplishment, it does not measure learning based on specific goals or results.

The United States does not currently have any common frameworks for defining student outcomes for various degree levels (e.g., the associate, baccalaureate, masters and doctorate). Accrediting agencies and States to varying extents establish standards and criteria for degree levels. The HEA and implementing regulations require that, to be recognized by the Secretary, an accrediting agency must have standards to evaluate an institution's or program's "measures of program length and the objectives of the degrees or credentials offered." The Department has relied on accrediting agencies to make a judgment about program length and the amount of credit an institution or program grants for course work. Accrediting agency standards related to program length differ significantly in their specificity and their standards generally do not define what a credit hour is. This lack of specificity in standards covering student achievement and program length has inherent limitations. The lack of a definition of a credit hour may be the basis for abuse by institutions in determining sufficient course content for a credit hour. Such

abuse is likely to be encouraged by the availability to a student of two Federal Pell Grants in an award year.

Over the last seven years, the Department's Office of the Inspector General (OIG) has conducted a number of reviews of accrediting agencies' standards for program length. These reviews have led the OIG to be concerned about the Department's total reliance on accrediting agencies for assessment of a factor that is a component of Title IV aid. However, if the Department does decide to define a credit hour for the purposes of Title IV aid, the definition cannot involve determinations of academic quality, as that is an area in which the relevant statutes look to accrediting agencies and exclude the Department.

The credit hour is used for Title IV purposes to define an eligible program, and academic year; and to determine enrollment status and the amount of student financial aid that may be disbursed per payment period. Neither the HEA nor implementing regulations include a definition of credit hour, though there are numerous references to credit hours and program length in both the statute and regulations. The HEA and regulations define "academic year" and "eligible program" in relation to credit hours or clock hours.

Section 481 of the HEA defines an academic year as requiring a minimum of (a) 30 weeks of instructional time for a course of study that measures its program length in credit hours; or a minimum of 26 weeks of instructional time for a course of study that measures its program length in clock hours; and (b) for an undergraduate course of study, 24 semester or trimester hours or 36 quarter credit hours in a course of study that measures academic progress in credit hours or 900 clock hours in a course of study that measures academic progress in clock hours. For most student financial aid programs, section 481 of the HEA defines an eligible program as a program of at least

- 600 clock hours, 16 semester hours, or 24 quarter hours, offered during a minimum of 15 weeks, in the case of a program that—
    - provides a program of training to prepare students for gainful employment in a recognized profession; and
    - admits students who have not completed the equivalent of an associate degree; or
- 300 clock hours, 8 semester hours, or 12 quarter hours, offered during a minimum of 10 weeks, in the case of an undergraduate program that requires the equivalent of an associate degree for admissions; or a graduate or professional program.

The regulations do provide formulas for the conversion of clock hours to credit hours. A school must determine if an undergraduate program qualifies as an eligible program after using the required formulas unless the school offers an undergraduate program in credit hours, and the program is at least two academic years in length and provides an associate degree, a bachelor’s degree, a professional degree; or each course within the program is acceptable for full credit toward that institution’s associate degree, bachelor’s degree, professional degree, and the degree offered by the school requires at least two academic years of study. The regulations were adopted prior to the change in the definition of an academic year for clock-hour programs to provide for a minimum of

26 weeks of instructional time as opposed to the 30 weeks of instructional time required for credit-hour programs.

Many American colleges and universities have developed weekend programs, accelerated programs, and other innovative ways to serve students for whom the more traditional calendar is not convenient. Distance education and other non-traditional modes of instruction, such as competency-based learning, are increasingly prevalent across postsecondary education. These ways of structuring and delivering education challenge the concept of "seat time" measures associated with credit hours.

In contrast to the United States, the Europeans have a way of awarding credits that is linked to student learning and is worth examining. The European Credit Transfer and Accumulation System (ECTS) is a standard for comparing the study attainment and performance of students of higher education across the European Union and other collaborating European countries. For successfully completed studies, ECTS credits are awarded. One academic year corresponds to 60 ECTS-credits that are equivalent to 1500–1800 hours of study in all countries irrespective of standard or qualification type and is used to facilitate transfer and progression toward a degree throughout the Union.

The ECTS must be placed within the context of the ongoing Bologna Process, which is the process of creating the European Higher Education Area (EHEA) and is based on cooperation between ministries, higher education institutions, students and staff from 46 countries, with the participation of international organizations. A key component of the effort is the establishment of qualifications frameworks at two levels. National qualifications frameworks describe what learners should know, understand, and be able to do on the basis of a given qualification, as well as how learners can move from one qualification to another within a system. National qualifications frameworks are developed to be compatible with the overarching framework of qualifications of the European Higher Education Area, which was adopted in 2005 and consists of three cycles (e.g. bachelor, master, doctorate). The overarching framework makes recognition of qualifications easier since specific qualifications can be related to a common framework.

Comments and Questions

Several commenters urged the Department to establish minimum standards to define a credit hour for title IV purposes. Some expressed concern that the definition not be so narrow as to stem the tide of important innovations such as weekend courses, distance learning, and a variety of alternative schedules. Others strongly argued that accrediting agencies can best determine whether academic outcomes are being achieved and that they should be relied upon for determining whether an institution is appropriately awarding credits.

Should there be a regulatory definition of a credit hour for title IV purposes? Would a different definition be needed for postsecondary vocational education, for undergraduate education, and for graduate study? What about for distance education and other nontraditional programs? What relationship would such a title IV definition have to accrediting agencies standards for program length?

Issue Paper #8

Team I – Program Integrity Issues

Issue: Agreements between Institutions of Higher Education

Statutory cites: N/A

Regulatory cites: 34 CFR 668.5

Summary question(s): Should the provisions on agreements between two eligible institutions of higher education be changed to limit the amount of instruction that may be offered away from the "home" institution? Should additional limitations be placed on such agreements involving an ineligible institution?

Summary of issue: Two or more institutions may enter into a consortium or contractual agreement so that a student can continue to receive title IV funds while studying at an institution or organization other than his or her "home" institution, or while enrolled in a program that is offered in part by another institution at the student's "home" institution.

The current regulations cover written agreements between institutions in three different situations: (1) consortium agreements, which are written arrangements between eligible institutions; (2) contractual agreements, which are written arrangements between an eligible institution and an ineligible institution or organization; and (3) study abroad arrangements, which involve either a written contractual or consortium agreement between two or more institutions. The underlying assumption of all these agreements is that the home institution has found the other institution's or organization's academic standards to be equivalent to its own, and an acceptable substitute for its own instruction.

For institutions that enter into a contractual agreement, i.e., an agreement between an eligible institution and an ineligible institution or organization, there is a limit on the portion of the program that can be provided by the ineligible entity. If both the "home" institution and the ineligible institution or organization are owned or controlled by the same individual, partnership, or corporation, no more than 25% of the educational program may be provided by the ineligible entity. If the eligible institution and ineligible entity are separately owned or controlled, the ineligible institution or organization may provide up to 50 percent of the educational program. However, the "home" institution's accrediting agency or state agency (in the case of a public postsecondary vocational institution) must determine and confirm in writing that the agreement meets its standards for contracting out educational services.

In a consortium agreement, i.e., a written arrangement between eligible institutions, there is no limit on the portion of the educational program that may be provided by eligible institutions other than the "home" institution. The current regulations provide that under a consortium agreement, eligible institutions other than the "home" institution may provide all or part of the educational program, and the Secretary considers that educational program to be an eligible program as long as it satisfies the definition of an eligible program under §668.8.

Comments and questions:

- Should an institution be permitted to confer a degree or certificate bearing its name when it has provided none of the instruction and conducted none of the evaluations to determine if the student has satisfied the requirements of the program?
- Should institutions be required to provide a least a minimum portion of a program if they are to award the degree or certificate?
- Should accrediting agencies be required to review consortium agreements if all or a majority of an educational program is being provided by institutions other than the "home" institution?
- If the arrangement is between an institution that has not been approved by its accrediting agency to offer distance education programs and one that has been approved for distance education, should the first institution be allowed to offer a distance education program?
- Should different limitations be imposed when both institutions are under the same ownership?

Issue Paper #9

Team I – Program Integrity Issues

Issue: Verification of Information Included on Student Aid Applications

Statutory cites: HEA, Title IV, Part F

Regulatory cites: 34 CFR 668, Subpart E (§§668.51 through 668.61)

Summary question(s): How can the current verification regulations be modified to align them with recent changes to the need analysis provisions in the statute and with operational improvements in the application processing system.

Under current regulations, an institution is required to verify the application information of no more than 30 percent of its total number of applicants for assistance under the Federal Pell Grant, ACG, National SMART Grant, Federal Direct Stafford/Ford Loan, campus-based, and Federal Stafford Loan programs in an award year that are selected by the Secretary based on edits specified by the Secretary to ensure that Federal aid applicants have accurately submitted the information used to determine their eligibility for financial aid. An institution may only include those applicants selected for verification by the Secretary in its calculation of 30 percent of total applicants. Complying with the verification provisions does not reduce or remove the requirement that an institution resolve conflicting information before it disburses aid. An institution may choose to verify more than 30 percent of its applicants.

An institution must require an applicant selected for verification to submit acceptable documentation that will verify or update the following information used to determine the applicant's EFC:

(1) Adjusted gross income (AGI) for the base year if base year data was used in determining eligibility, or income earned from work, for a non-tax filer.

(2) U.S. income tax paid for the base year if base year data was used in determining eligibility.

(3) The aggregate number of family members in the household.

(4) The number of family members in the household who are enrolled as at least half-time students in postsecondary educational institutions if that number is greater than one.

(5) Untaxed income and benefits for the base year if base year data was used in determining eligibility.

An institution or the Secretary may require an applicant to verify any data elements that the institution or the Secretary specifies.

The Department believes that simplifying the FAFSA and permitting data importation from the IRS make a comprehensive review of the verification process advisable at this time. Because it will take some time for some changes to be effective and for some systems changes to be made, it makes sense, in revising the verification regulations, to write them so they are flexible enough to accommodate ongoing changes and yet also provide an acceptable level of assurance that the students who are receiving Federal funds are eligible to receive them. Although many changes on the horizon may permit a reduction in items verified, Department experience with inappropriate designations of dependency status and other concerns suggests that perhaps there should be additions to the verification requirements in addition to possible deletions or restructuring of requirements.

Comments and questions: During the public hearings held last summer, and in written comments submitted to the Department, some in the financial aid community expressed concern that the verification process is complicated, difficult to understand and invasive for many families. One area that poses particular challenges to the successful completion of the verification process is the level of expertise relating to the federal tax code that financial aid officers are expected to have in order to resolve discrepancies such as determining whether the student and his or her family filed their income taxes properly if required to file. Many of the financial aid administrators who testified or provided comments said that tax filing status, and appropriate reporting of income pose particular problems. If the applicant needs to file or amend a tax return before verification can proceed, it can be a very lengthy process.

There was also concern expressed that requiring large numbers of students to go through an extensive verification process can reduce the odds of the students completing the process and receiving aid in a timely manner. Low income students are frequently chosen for verification because they have more difficultly completing the application; to the extent that they do not complete the process and do not enroll, the aid programs are not serving their intended purpose.

It was pointed out that simplification of the FAFSA is one important way to reduce the number of items that require verification. In simplifying the FAFSA, the Department can carefully examine each data element to determine whether it is really necessary in order to determine eligibility for student financial aid funds.

Another commenter stated that the Higher Education Opportunity Act (HEOA) of 2008 authorizes the Secretary to pre-populate the FAFSA with tax data from the Internal Revenue Service (IRS) with the applicant's consent. This would relieve applicants of the burden of reviewing, correcting and resubmitting much of the most error-prone information on the FAFSA, while reducing and simplifying the verification process for schools. Beginning in January 2010, applicants will have the ability to import IRS tax data into their electronic FAFSA which eliminates the need to verify those data elements imported.

Clearly, setting appropriate verification policy means addressing conflicting goals: ensuring that the right students receive the right amount of money at the right time while reducing improper payments to ineligible students. In consideration of these multiple, sometimes conflicting goals, and building on the comments received during the hearings and comment process, the following questions are offered as a starting point for discussion.

- Instead of specifying that five items, as applicable, must be verified for each applicant, should the regulations be revised to say that the Secretary will specify the items that must be verified for an applicant on the applicant's ISIR? The five items in current regulations might be listed, but wording changed to allow for the following changes in policy and procedures:
  - The AGI and income taxes need not be verified for those applicants who have imported IRS data without modification.
  - At such time as the Department is able to isolate the particular item or combination of items that suggested a potential problem and triggered a verification request, such as number in household or number in postsecondary education, the verification requirement could be limited to one or two items.
  - If assets are eliminated from the computation, but students and families above a certain net worth threshold are ineligible for Federal need-based aid, it may be necessary to leave a door open for some kind of verification. Until there is a statute to implement, this provision is necessarily nebulous. But it speaks to the need to allow for flexibility in tailoring items to be verified.
- Should additional potential verification items, such as dependency status, which has generated some concern since it was eliminated as a verification item, be added to the list?
- Should some general language be added requiring verification of other items, as identified by the Secretary?
- Should all first time applicants be verified? This might help first time students through the process and reduce the need for verifying their applications in future years.
- The provision that institutions are required to verify no more than 30% of applicants was originally based on a statutory provision that has since been removed. Should the 30% limitation be revisited?

If the regulations are restructured so that institutions are required to verify fewer data elements, should institutions be required to verify a higher percentage of applicants?

Issue Paper #10

Team I – Program Integrity Issues

Issue: Satisfactory Academic Progress

Statutory cites: HEA sections 484(a)(2), 484(c)

Regulatory cites: 34 CFR 668.16(e), 668.32(f), and 668.34

Summary question(s): Should we modify and strengthen the satisfactory academic progress (SAP) regulations to ensure that students who are receiving Title IV aid are truly progressing in their academic program in a reasonable time period?

Summary of issue: To be eligible for Federal financial aid, a student must make satisfactory academic progress, and the school must have a published policy for monitoring that progress. A SAP policy is considered reasonable if it contains both qualitative (grade-based) and quantitative (time-related) standards. It must apply the policy consistently to all educational programs and to all students within categories e.g., full-time, part-time, undergraduate, and graduate students. The policy must be at least as strict as the school's standard for students enrolled in the same educational program who are not receiving Title IV aid. It must provide for schools to check qualitative and quantitative components of the standards at the end of increments that cannot be longer than half the program or one academic year, whichever is less. Increments generally coincide with payment periods. The policy must provide specific procedures under which a student may appeal a determination that the student is not making satisfactory progress. This is not to say that a school must provide for appeals; a school's policy may be that it does not entertain appeals. The policy must also provide specific procedures for a student to re-establish that the student is making satisfactory progress. Review of institutional policies shows that an institution can have a policy that meets all of our criteria, but due to automatic probationary periods, a student may receive aid for as long as 24 months without further review of his progress.

Comments and questions

<u>Effect of retaking courses on meeting qualitative standards</u>. Under current regulations, the school's written policy must explain how it handles course repetitions, such as whether only the highest or most recent grade counts. While the school can exclude grades for prior attempts (repeat/delete) when calculating a student's GPA, the school must include the credits from all attempts when assessing if the student meets the quantitative SAP standard. Should this provision be reconsidered? Should students be permitted to use title IV funds to retake courses to get a better grade?

<u>Increments</u>. Some schools monitor SAP on an annual basis. Many of the individuals who provided public comments on SAP recommended that regulations governing SAP be changed to require SAP reviews more frequently than once each year.

Cumulative completion and GPA requirements. We need to make it clear that the standards must lead to successful completion of the program in the timeframe.

Requiring a "C" average of all students. The only reference to a "C" average in regulations is in §668.34(c). The requirement currently applies only to students enrolled in programs of two years or longer. If there is a change made in the frequency of SAP review, should this provision be revisited as well?

Probationary periods. The current regulations do not require a school's SAP policy to specify if and how probationary periods will be accommodated. As a result, some students are permitted to remain on probation continuously even if their cumulative GPA and/or completion rate does not meet standards. One question for consideration is whether to add some specificity to the regulations regarding probationary periods.

Appeals. Under current regulations, a school enrolled in programs of less than two years may have an appeal process under which an appeal is granted for any reason as long as the student completed the process. Should §668.16(e) be amended to require schools' appeal policies comport with §668.34(c)?

Graduate programs. The current regulations are written primarily for undergraduate programs. What changes are needed to ensure that SAP standards for graduate programs are sufficient?

Issue Paper #11

Team I – Program Integrity Issues

Issue: Retaking Coursework

Statutory cites: N/A

Regulatory cites: §668.4(f)

Summary of issue: There are no program regulations that specifically govern retaking coursework but the Department is examining inconsistencies in this area as they relate to the treatment of students who are enrolled in certain clock-hour or nonterm credit-hour programs. The provisions of the payment period definition in §668.4(f) relate to retaking coursework in a clock-hour or nonterm credit-hour program in the case of readmissions and transfer students.

Students in term-based credit-hour programs may retake courses that they fail and get paid for retaking those courses as long as:

- The credits are in addition to, not as a replacement for previously earned credits, e.g., repeating a failed course, and
- The students meet the institution's overall satisfactory academic progress standards.

Students in other programs (e.g., clock-hour programs and nonterm credit-hour programs) generally must successfully complete (i.e., pass) the coursework for which they are paid before becoming eligible for a subsequent payment. Students are generally not allowed to be paid for retaking courses that they have already passed – for example for retaking courses for which they have received a passing grade, but for which they wish to retake to get a higher grade. Under the payment period definition, in some instances, a student may be paid for repeating coursework.

Although students cannot be paid to retake part of a clock-hour or nonterm credit-hour program that they have already successfully completed, they are allowed to be paid for retaking an entire program that has already been successfully completed. This circumstance might occur when a student needs to retake an entire program after having been out of the field for a number of years during which the knowledge base of the program has changed. However, we have not established any minimum length of time that must transpire between the completion of the program and the retaking of the program.

Comments and questions: Should the Department harmonize the treatment for retaking coursework between term-based credit hour programs and other programs? If so, we should consider not paying for repeating coursework for any program. This approach may affect the payment period definition. As an alternative, we could codify current guidance.

Should the Department require schools to assess a student before the student is allowed to repeat coursework after an extended absence?

How should the Department treat a student enrolled in a term-based program that is treated as a nonterm program for purposes of FFEL and Direct Loans?

What is the impact on nonterm programs of the reenrollment requirements for clock-hour and nonterm credit-hour programs in the payment period definition?

Issue Paper #12

Team I – Program Integrity Issues

Issue: Return of Title IV Funds**:** Term-based programs with modules or compressed courses

Statutory cites: None

Regulatory cites: The regulations do not specifically address the treatment of term-based module programs under the return of title IV funds calculation. However, Dear Colleague Letter GEN-00-24 addresses the issue of whether a student is considered to have withdrawn from a standard term-based module program for purposes of the return calculation in §668.22. We have also extended this guidance to certain nonstandard term programs.

Summary of issue: Should we modify our policy that a student who completes only one module or compressed course, in a term in which he or she is expected to continue attendance in additional coursework, is not considered to have withdrawn for purposes of the return calculation?

When a recipient of title IV aid withdraws from an institution, the institution must determine the amount of title IV aid that the student earned for the period the student has attended. For term-based programs, a student is paid aid for each term. The regulations address the institution's and the student's responsibilities when a student does not finish the term (i.e., withdraws from all courses in the term) and how much aid the student has earned for attendance for the part of the term attended prior to withdrawal. Typically in a term-based program, a student takes several courses concurrently throughout each term and, thus, can drop all courses but one and not be considered to have withdrawn from the term.

However, in some programs with modules or compressed coursework, courses are offered over periods of time that cover less than the length of the term. The courses may be taken in a consecutive fashion where each course is taken and completed in a module before a subsequent course is taken in a subsequent module or in overlapping timeframes. In some of these programs the institution will group several modules or courses together to make up a term. In these term-based programs with modules or compressed courses, we have established a policy that equates the completion of one course or module to the completion of one course taken over an entire term in a term-based program where courses are taken concurrently over the span of the term. In other words, when a student is scheduled to take several courses in one of these programs and drops out before the term has ended (for example after 5 weeks of a 15-week term) but has completed one course, we have not traditionally viewed that student as having withdrawn from the term. Thus, while we require the school to recalculate the student's enrollment status under §690.80(b)(2)(ii) for his or her Federal Pell Grant payment when he or she does not begin courses in subsequent modules, we have not required that there be a return calculation for that student under §668.22 when the student has completed at least one course. We have viewed the completion of one course taken in a term-based program with courses offered as modules or compressed courses to be equivalent to completing one course in a term-

based program based on the fact that a student has completed the same amount of education in each instance in the term in which the student was enrolled. We have taken this position despite the fact that the student in the term-based module program may have attended only 5 weeks (or less) out of the 15-week term, while the student in the term-based program has attended for the full 15 weeks of the term.

Comments and questions: For a number of reasons, we might want to reconsider this position. First, a student's aid for a term is based on, and intended to cover, in whole or in part, not only tuition and fees for the term, but the student's living expenses for the term. Second, a student in a module-based term who only attends one module and then ceases to be enrolled without attending other modules or courses he or she is expected to attend in the term really is withdrawing before the term is completed. And third, there is more than the potential for some abuse as a number of institutions have structured module-based term programs where the first module is very short, with perhaps only a one credit course taken in it.

The result of this policy is that a student who attends only a week or two of a 15-week term and then withdraws from the term can end up with a completed (one-credit) course for the term. This position then, under our current withdrawal policy, translates into a determination that the student has not withdrawn from the term, and allows the institution and/or student to keep aid intended for a 15-week period of time when the student has only attended school for as little as one week.

Issue Paper #13

Team I – Program Integrity Issues

Issue: Return of Title IV Funds: taking attendance

Statutory cites: HEA section 484B(c)(1)

Regulatory cites: §668.22(b) and (c)

Summary question(s): Are modifications needed to the requirements for return of title IV funds related to taking attendance?

Summary of issue: Generally, the HEA requires institutions and students to return unearned portions of title IV grant or loan assistance (other than funds received under the Federal Work-Study Program) when a student withdraws during a payment period or period of enrollment. The statute defines the term "the day the student withdrew" to be the date the institution determines:

(A)(i) The student began the withdrawal process prescribed by the institution;

(ii) The student otherwise provided official notification to the institution of the intent to withdraw; or

(iii) In the case of a student who does not begin the withdrawal process or otherwise notify the institution of the intent to withdraw, the date that is the mid-point of the payment period for which assistance under this title was disbursed or a later date documented by the institution; or

(B) For institutions required to take attendance, is determined by the institution from such attendance records.

The regulations further specify the distinction between (1) the withdrawal date for a student attending an institution that is *required* to take attendance and (2) the withdrawal date of a student attending an institution that is *not required* to take attendance.

Under the current regulations, an institution is required to take attendance if an outside entity, such as the institution's accrediting agency or a State agency, requires that the institution take attendance. If this is the case, the student's withdrawal date is the last date of academic attendance, as determined by the institution from its attendance records.

By contrast, at institutions not required to take attendance, the student's withdrawal date may be:

- The date, as determined by the institution, that the student began the institutionally prescribed withdrawal process;
- The date, as determined by the institution, that the student otherwise provided official notification to the institution of his or her intent to withdraw;
- If the student failed to provide official notification to the institution of an intent to withdraw, the mid-point of the payment period of period of enrollment;

- If a circumstance beyond the student's control (such as an illness or accident) precludes a student or an individual acting on the student's behalf from initiating the institution's withdrawal process or otherwise providing official notification of the student's intent to withdraw, the date, as determined by the institution, that is related to that circumstance;
- If the student does not return from an approved leave of absence, the date, as determined by the institution, that the student began the leave of absence; or
- If the student takes a leave of absence that does not meet the requirements of §668.22(d), the date that the student began the leave of absence.

In lieu of any of the above, the institution may use the student's last date of attendance at an academically-related activity, if the institution documents both that the activity is academically related and the student's attendance at the activity.

Comments and questions: The withdrawal date for institutions that are not required to take attendance can be much less precise than the withdrawal date at an institution that is required to take attendance, potentially leading to an abuse of Federal funds. For example, at an institution that is not required to take attendance, for a student who withdraws without providing notification, the withdrawal date may be assumed to be the 50 percent point, even if the institution has attendance records and knows exactly when the student last attended. Thus, a student could earn 50 percent of his or her aid when the school knows that there was only one day of attendance. It would be more equitable to require schools that have attendance records to use them, rather than allowing institutions to choose a different date, despite having these records. Pursuant to the statute, we cannot require the school to use its attendance records if it is not "required to take attendance." However, we can remove from the regulations the provision that an institution must take attendance only if it is required to by an outside entity. We can also consider that an institution is required to take attendance if it is required to document that a student complete a certain number of clock hours and the institution cannot demonstrate that it can comply with that requirement in some way other than taking attendance.

Issue Paper #14

Team I – Program Integrity Issues

Issue: Disbursements of Title IV funds

Statutory cites: HEA sections: 401(a); 420M(b); 428G; 452(c)

Regulatory cites: §668.164; §668.165; §685.301(e); §686.37(b); §690.76

Summary of issue: Should we establish disbursement procedures that limit how long an institution may delay disbursing Federal Pell Grant funds?

Should we revise the disbursement reporting requirements of the Direct Loan and TEACH Grant programs?

<u>Delayed Federal Pell Grant disbursements</u>

Although the regulations permit an institution to disburse Federal Pell Grant funds in a manner that best meets the needs of the student, we have identified situations where institutions delay disbursing funds for an extended time (some wait until the student has earned all the Federal Pell Grant funds for the payment period), make partial disbursements that cover specific costs, or condition the timely receipt of funds. In these instances, because students do not have the benefit of those funds in a timely manner, they may have to pay for educational costs with loans or personal funds that would otherwise be paid by Federal Pell Grant funds, or do without needed items (for example, books and supplies) or services until the institution makes the funds available. The delay in disbursing Federal Pell Grant funds has resulted in students withdrawing, receiving only loans after the calculation of the return of title IV, and not being eligible for any postwithdrawal disbursement of their Federal Pell Grants. These practices do not comport with either the intent of the program or with the intent of the regulations that allow an institution to budget a student's funds to best meet the needs of the student.

<u>COD reporting requirement</u>

The Direct Loan and TEACH Grant regulations currently require institutions to submit a record to the Common Origination and Disbursement system (COD) no later than 30 days after making a disbursement, adjustment, or cancellation of a Direct Loan or TEACH Grant. We could replace this requirement with a provision to publish the COD reporting requirements in a Federal Register notice. Changing this provision would bring the Direct Loan and TEACH Grant programs in line with the other title IV programs that report student-level disbursement data. This change would give the Department administrative flexibility in adjusting the reporting requirements to take advantage of changing technology and to improve funds management.

Comments and questions

Delayed Federal Pell Grant disbursements

- Should the regulations provide that an initial Federal Pell Grant disbursement to an eligible student must be made no later than the first week of a term or payment period? For, example, the initial disbursement amount could be, at a minimum, the amount of the allowance included in the student's cost of attendance for books and supplies. Subsequently, the remaining funds could be paid no later than, for example, the end of the drop/add period for all students in a term-based program with a drop/add period no greater than 14 calendar days after the start of classes or 14 calendar days after the start of classes for other programs including clock-hour or nonterm credit-hour programs.

- Should the regulations establish time points during a payment period where a minimum or pro rata portion of a Federal Pell Grant must be paid to a student? For example, an institution could be required to pay not less than one-third of the Federal Pell Grant funds at the beginning of a payment period, one-third no later than the end of the first 25 percent of the calendar time of the payment period, and the remaining third no later than the 50 percent of the calendar time in the payment period.

- Should the regulations provide that an institution must disburse all of the title IV funds a student is eligible to receive at or before the beginning of a payment period? Of course, this requirement would not include disbursements that the student is not yet eligible to receive.

COD reporting requirement

Should the Direct Loan and TEACH Grant programs be subject to the same requirements as other title IV programs reporting student-level data?