



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF POSTSECONDARY EDUCATION

September 7, 2016

GEN-16-16

Subject: Institutional Reporting of Fee Information under the New Cash Management Regulations

Summary: This letter provides guidance to institutions and financial account providers about complying with new provisions requiring institutions to publicly disclose information about the costs incurred by students who elect to use a financial account offered under a Tier One or Tier Two arrangement.

Dear Colleague:

On October 30, 2015, the U.S. Department of Education (Department) published Final Regulations in the *Federal Register* that amended Subpart K of the General Provisions regulations at 34 CFR 668.161 – 668.167. Among other things, the regulations established new requirements for institutions (and their third-party servicers) that enter into agreements to offer financial account products such as debit or prepaid cards as a way for students to receive their Title IV credit balance refunds. The Final Regulations established new regulatory requirements for financial products offered to students under specific kinds of contractual arrangements—Tier One (T1) arrangements and Tier Two (T2) arrangements.¹

This letter provides further detail about how an institution may comply with the disclosure provisions under 34 CFR 668.164(e)(2)(vii), (e)(2)(viii), (e)(3), (f)(4)(iv), (f)(4)(v), and (f)(5) that require an institution to publicly post information on its website related to the number of student account holders and the costs they incur.²

¹ For those unfamiliar with the new regulations and how a contract between an institution and financial account provider is designated as a T1 arrangement, T2 arrangement, or neither, we recommend reviewing the Final Regulations available at <http://ifap.ed.gov/fregisters/FR103015FinalRuleProgramIntegrityandImprovement.html> and <http://ifap.ed.gov/fregisters/FR040716ProgramIntegrityandImprovementRegCorrections.html>. We also recommend reviewing common questions and answers about the Final Regulations and recorded presentations that summarize the regulations, available at www.ifap.ed.gov.

² In addition to the public reporting requirements discussed in this letter, institutions having T1 or T2 arrangements are required to post the contracts establishing the T1 and/or T2 arrangements conspicuously on their websites.

400 MARYLAND AVENUE, S.W., WASHINGTON, DC 20202
www.ed.gov

The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.

Posting the accountholder and fee data

No later than September 1, 2017, any institution with a T1 arrangement and any institution with a T2 arrangement that meets or exceeds the credit balance thresholds under 34 CFR 668.164(f)(2)(ii) must post certain information prominently on the same website where the institution posts its full contract with a financial account provider. The institution must disclose:

- 1) The total consideration paid or received by the parties under the contract; and
- 2) For any year in which the institution's enrolled students open 30 or more financial accounts under the arrangement,
 - a) The number of students who had financial accounts under the contract at any time during the most recently completed award year; and
 - b) The mean and median costs incurred by those student accountholders.

Cost Disclosures

Since publication of the Final Regulations, the higher education community and several financial account providers have identified additional systemic processes that allow for reporting the required information in a manner consistent with the regulations. Because these approaches mitigate some burden associated with reporting this information and are consistent with the regulatory requirements, we are allowing institutions to use any of the three additional approaches we describe below to comply with the cost disclosure requirements.

However, we note that many existing arrangements already provide a convenient means by which the data required can be gathered. For example, under a T1 arrangement where a third-party servicer provides the financial accounts, the servicer will have the enrollment data necessary to determine the number of students with those accounts and the mean and median costs incurred by those students. The same may be true under a T2 arrangement where an account is marketed exclusively to an institution's students, or marketed in a way that identifies the individual opening the

annually beginning September 1, 2016, and provide the Secretary with an up-to-date URL for the contract(s). For more information, please see www.ifap.ed.gov/eannouncements/070116CashMgmtEA2ContractInfoProvidingContractURL.html or the Final Regulations at 34 CFR 668.164(e)(2)(vi), (e)(2)(viii), and (f) (4)(iii).

account as a student enrolled at the institution. In all cases, institutions are expected to use the method that is most accurate in light of the information they have.

For an institution that currently does not have an efficient or cost-effective way of calculating cost disclosure information, the institution may use one or more of the following approaches to comply with the cost disclosure requirements.

(1) Matching directory information. Under this approach, the institution would provide student-level directory information to its financial account provider. While an institution is generally not permitted to disclose a student's personally identifiable information from his or her education records to a financial institution before a student consents to open a financial account (or in the case of a T1 arrangement, before the student selects the account on the student choice menu), the institution may disclose the first and last names and dates of birth of its students under certain circumstances and subject to procedural requirements under the Family Educational Rights and Privacy Act (FERPA). The account provider would attempt to match this information to information it maintains to identify the accounts opened under the arrangement. To use this method, the institution will have to designate students' first and last names, birth dates, and dates of attendance as "directory information" in the public notice it provides to students under FERPA regulations found at 34 CFR 99.37(a)(1), and also include in that notice the student's right to opt out of disclosure of that information as required by 34 CFR 99.37(a)(2), and the period of time within which the student must notify the institution of his or her desire to opt out as required by 34 CFR 99.37(a)(3). The Department acknowledges that students who opt out will not be included in the cost disclosures. The Department notes that FERPA does not require public notice of the disclosure of "directory information," such as names, dates of attendance, and dates of birth of students who are no longer enrolled but that this information must not be disclosed for former students who opted out while enrolled unless these students subsequently rescinded their opt-out requests.

(2) Accounts linked to student IDs. Under this approach, because a student contacts the financial account provider under a T2 arrangement to link his or her institutional ID to the account, the provider can readily identify those accounts. While we acknowledge that some students will not elect to link their student IDs to accounts offered under these arrangements, we believe that disclosing costs tied to linked student ID cards will provide usable and representative information to current and prospective students.

(3) Revenue sharing. Under this approach, because an institution receives revenue, or may otherwise be compensated by the financial account provider, based in part

on the number of students who open a financial account under a T2 arrangement, the account provider can readily identify the accounts opened by students. These arrangements are often based on the number of enrolled students who elected to use the account in the previous award year.

If the T2 arrangement does not contain revenue-sharing provisions, the institution may use another reliable and systemic method for identifying and tracking students for cost disclosure purposes, such as analyzing bank systems data to positively identify student accountholders, so long as the method is not one designed to exclude data required by the regulations.

Regardless of the approach used, students with financial accounts under a T2 arrangement who are no longer enrolled at an institution beyond the award year (July 1 through June 30) for which the cost disclosures are required to be made should not be included in any subsequent cost disclosures. However, if it is not administratively feasible to remove from the calculation, in a timely manner, students who are no longer enrolled, we will allow the institution to include in the cost disclosures any student who held an account within the last two years. For example, the students identified by the institution as having an account under any of these approaches would be in a two-year cohort and the institution would disclose the number of students in that cohort and mean and median costs incurred by those students.

Institutions must document the approach or process used and show on request or review by the Department that the cost information was calculated in a reasonable and reliable manner.

If you have any questions about this guidance, please contact Nathan Arnold at nathan.arnold@ed.gov or Ashley Higgins at ashley.higgins@ed.gov.

Sincerely,



Lynn B. Mahaffie
Deputy Assistant Secretary for
Policy, Planning, and Innovation
Delegated the Duties of Assistant Secretary
for Postsecondary Education