

THE CALIFORNIA STATE UNIVERSITY
OFFICE OF THE CHANCELLOR

BAKERSFIELD

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CHANNEL ISLANDS

CHICO

MEMORANDUM

DOMINGUEZ HILLS

EAST BAY

TO: CSU Presidents

FRESNO

FROM: Charles B. Reed
Chancellor



FULLERTON

HUMBOLDT

SUBJECT: Student Loan Programs - Administrative Safeguards

LONG BEACH

LOS ANGELES

In recent weeks, we have seen intensified review at the national and state levels of college and university practices in the administration of student educational loan programs and associated activities, and relationships with providers of educational loan funds.

MARITIME ACADEMY

MONTEREY BAY

California State University (CSU) campus participation in the Federal William D. Ford Direct Student Loan (Direct) and the Federal Family Education Loan (FFEL) Programs is governed by federal statutory and regulatory provisions and guidance provided by the U.S. Department of Education. Loans, guaranteed by the federal government provided under these programs, include Subsidized and Unsubsidized Stafford Loans, Parent Loans to Assist Undergraduate Students (PLUS), Graduate PLUS, and the federal Consolidation Loan Program. In recent years, we have seen an increase in the number of students and their parents seeking additional education loans through private or alternative educational loan programs offered by a variety of lenders.

NORTHRIDGE

POMONA

SACRAMENTO

SAN BERNARDINO

SAN DIEGO

SAN FRANCISCO

Students frequently obtain alternative loans if they do not qualify for the federal student loan programs or have already borrowed the maximum amount (either annually or on a cumulative basis) for which they are eligible under the federal programs. The terms of these private educational loans vary and are generally less favorable to borrowers than the terms of federal student loans. Many of the lenders who offer private educational loans are eligible lenders for purposes of federal student loans. Marketing practices for private educational loans are not currently subject to the provisions applied for the federal student loan programs.

SAN JOSÉ

SAN LUIS OBISPO

SAN MARCOS

SONOMA

STANISLAUS

During 2005-06, educational loan programs designed to assist students and their parents represented over \$919 million of the \$1.7 billion in student aid funding received on behalf of students to finance their education at CSU campuses. Student financial aid programs, including educational loans, are critically important to the CSU's mission of ensuring access to postsecondary educational opportunities. While the state subsidy and low student fees at CSU help make our campuses affordable for a significant proportion of our students, over half receive loans to finance their education.

Campus eligibility to participate in federal and state student financial aid programs is essential to ensuring the availability of financial aid funding for students who enroll at the CSU. In addition it is critical that students and their families have confidence that the advice and assistance given by the financial aid office is provided in a fair and equitable manner with a commitment to the highest level of ethical behavior on the part of financial aid administrators.

The recent investigations into practices involving postsecondary educational institutions and lenders have identified a limited number of alleged conflict of interest situations and potential abuses in the administration of student loan programs. While the number of instances of alleged abuse is small, the public scrutiny and concern generated by these investigations clearly dictate the need for responsiveness on the part of educational institutions to ensure that appropriate safeguards are in place to maintain best practices and that the basis for those practices is transparent to students, their families, and the general public.

The Chancellor's Office has reviewed its campus student loan practices with the full cooperation of campus financial aid administrative officials. Our review has revealed no violations of statutory or regulatory provisions related to prohibited inducements or practices on the part of any CSU financial aid offices and personnel.

Even though we have not identified any violations of federal and state regulations, CSU supports the public call for more transparency about practices related to lender lists provided by campuses and the provision of loan program and debt counseling provided by campuses in conjunction with lending partners. The CSU will ensure that none of the practices at campus financial aid offices will contribute to a perception that campuses or campus personnel are subject to inappropriate influence of student loan providers.

The advice to campuses contained in this memorandum is not being provided as corrective action, but is intended to cultivate best practices that will instill and reaffirm confidence on the part of our student consumers that the information and assistance received from financial aid personnel and other officials of CSU campuses is provided without any overt bias or conflict of interest on the part of campus personnel.

Conflict of Interest (COI) Provisions

All employees of the CSU are covered by the Political Reform Act of 1974 and a general prohibition against public employees making, participating in the making of or in any way attempting to use their official positions to influence a decision in which they know or have reason to know they have a financial interest. This same act requires CSU to develop its own conflict of interest code that applies to designated employees and imposes annual disclosure requirements for those employees. Additional information on the Political Reform Act of 1974 and the CSU Conflict of Interest Code and disclosure requirements is located at www.calstate.edu/HRAdm/Policies/coi.shtml.

A review of the CSU campus designations for conflict of interest disclosures indicated that, at a number of campuses, the position of director of financial aid was not designated for required COI disclosure purposes. It is prudent to ensure that positions within campus financial aid offices with significant decision-making responsibility or the ability to influence the decision-making process, with respect to student loan programs and recommendations about lenders be subject to disclosure of any potential conflict of interest.

Since the deadline for campus submission of updates of designated position lists for incorporation in the CSU COI Code amendment to be effective for 2008 has already passed, I have requested that our systemwide office of Human Resources Administration ensure that the positions of director of financial aid and student loan coordinator are included on the designated position lists of all CSU campuses for purposes of the 2008 filing requirements. Responsible campus officials should anticipate reviewing the applicability of designated positions in the financial aid office in subsequent years.

Lender Lists

Federal statutes and regulations do not currently preclude postsecondary education institutions from making "lender lists" available to their students. Most postsecondary education institutions that participate in the FFEL Programs and those that have significant activity in private (alternative) loan programs attempt to provide a list of lenders, variously referred to as a "Preferred Lender List", "Recommended Lenders" or "Lender Partners", to prospective borrowers at their institution. With several hundred lenders eligible to participate in the FFEL Program, campus financial aid offices are in a position to assist prospective borrowers by directing their attention to lenders that offer particular borrower benefits either on the front end (by waiver of the origination fee) or on the back end by offering potential benefits for on-time, automatic or other repayment provisions. Campus financial aid offices also have knowledge about the track record of lenders with prior borrowers from that campus in terms of the level of service provided during the application, guarantee, disbursement, enrollment/deferment, and (to a more limited extent) the repayment processes.

Current statute, Section 432(m)(1)(B)(ii) of the Higher Education Act of 1965 (HEA), as amended, provides that FFEL applicants are to indicate a choice of lender. Regulations, 34 *Code of Federal Regulations* (C.F.R.) 682.603(e)(3) further preclude schools from engaging in any pattern or practice that results in denial of a borrower's access to a FFEL loan because of the borrower's selection of a particular lender or guaranty agency. While schools may recommend certain lenders, the ultimate selection of a lender and guaranty agency is left to the borrower and the school may not delay processing or funding of the borrower's loan based on the selection of the lender.

CSU campuses are advised to adhere to the following practices, ensuring that borrower interests take priority, in the administration of the FFEL Program and cooperation in providing assistance through provision of private loans:

- Information provided to prospective borrowers shall clearly state that the choice of a lender and guaranty agency is a decision and responsibility of the borrower;
- Campuses that elect to provide a lender list shall, as an introduction to the list, clearly state any and all criteria that the campus financial aid administration used for purposes of including lenders on the listing;
- The selection of lenders for inclusion on a list shall provide for a systematic and unbiased evaluation, according to uniform criteria and consistent information of the loan terms and potential benefits for borrowers as well as the quality of service provided to borrowers and the campus;
- In providing a listing of lenders, campus informational materials shall list the particular benefits offered by lenders on the list in a uniform fashion;
- Campuses are encouraged to utilize a Request for Information (RFI) or Request for Proposal (RFP) process in developing lists of lenders and evaluating the respective benefits and services provided by lenders;
- In the development of an RFI or RFP for lenders, campuses are encouraged to refer to the monograph on *Guide to Developing a Preferred Lender List* available from the National Association of Student Financial Aid Administrators (NASFAA), as well as to all applicable federal and state statutes and regulations, guidance from the U. S. Department of Education, and other pertinent guidance;
- No RFI or RFP for lenders shall include any solicitation to offer financial or other benefits to the campus, its personnel, or its borrowers in exchange for inclusion on the list or include any inference that inclusion on the campus list will result in a specified volume or dollar amount of loans on behalf of borrowers at that campus;

- The campus RFI or RFP process for lender lists should be completed at least once every three years and campuses should review and make appropriate updates to the lists and the respective benefits and services from each lender on an annual basis to ensure that the information provided to prospective borrowers remains accurate and current;
- Campus lender lists shall include no fewer than three (3) lenders who will make loans to students (or parents of students) enrolling at the campus;
- In making a lender list available to prospective borrowers, campuses should, to the extent practicable, randomize the order of the lenders listed in an effort to eliminate any perception that a given lender has precedence over others on the list;
- Where it is not possible to change the random order of lenders more frequently, campuses should re-order listings in advance of each academic term; and
- The campus shall not authorize the inclusion of any lender list in commercial publications or on a commercial website that is either sponsored or maintained by a lender or group of lenders for which the entity hosting the website receives a fee from lenders for support of the publication/website, or accepts fees for advertising from lenders.

Other Campus Practices Relative to Loan Programs and Lenders

In an effort to forestall even the perception of any conflict of interest or inappropriate influence in the course of campus administration of student loan programs, the Office of the Chancellor, in consultation with campus presidents, vice presidents of student affairs, and financial aid directors, is implementing the following additional safeguards designed to promote confidence on the part of our students, the campus community, and the general public that our programs are administered with the utmost respect for and attention to high ethical standards and best practices. These additional safeguards take into account current drafts of regulations that the Department of Education is considering proposing for the FFEL Program, the proposed Miller/Kennedy Student Loan Sunshine Act (H.R. 890 and S. 486), conflict of interest provisions applicable to the CSU, and best practices promoted by the National Association of Student Financial Aid Administrators (NASFAA).

Prohibited Practices

Campuses, the financial aid office, and other university personnel shall not:

- Solicit any student loan entity (lender, guarantor, or servicer) to offer financial or other benefits or services to the campus, its personnel, or its borrowers;
- Serve as a paid consultant to any lender entity (lender, guarantor, or servicer) or serve in a paid capacity on any advisory board or user group of lender entities;

- Accept from any student loan entity (lender, guarantor, or servicer) any of the following:
 - Payments or offerings of other benefits, including prizes or additional financial aid funds, in exchange for inclusion on a campus lender list;
 - Equipment or supplies (including computer software) as a gift or made available at below market rental or cost for use in student loan processing or other campus operations;
 - Payment of conference or training registration fees, transportation, or lodging costs for an employee of the campus or campus-affiliated organization;
 - Printing or distribution of college catalogs, financial aid handbooks, and other official university publications or materials at reduced or no cost;
 - Fees for advertisements in official publications of the campus or financial aid office that are designed to fulfill the institution's requirements to disclose financial assistance and institutional information to enrolled or prospective students;
 - Refreshments or meals for campus training meetings or other events; and
 - Services from a lender, or an employee or other representative of a lender, in providing entrance and exit counseling sessions to borrowers in compliance with federal requirements.

Permitted Practices

Campus, the financial aid office, and other university personnel may accept the following:

- Assistance from a student loan entity that is comparable to the kinds of assistance provided by the Department of Education to a school in the William D. Ford Direct Loan Program as identified by the Secretary of Education in a notice in the Federal Register;
- Staffing services from a student loan entity as a third-party servicer or otherwise on an occasional, short-term, emergency basis to assist with financial aid related functions;
- Collateral information materials provided by a lender entity that describe their products and services provided that the materials and their display or distribution on campus are in conformance with campus time, place and manner regulations governing commercial solicitation (*California Code of Regulations*, §42350.6);

- Collateral information materials and support services (e.g., training assistance) from guaranty agencies that provide institutional staff or borrowers with generalized information on debt management and default aversion;
- Services from a student loan service agency, as a third-party servicer, in providing entrance and exit counseling sessions to borrowers;
- Meals, refreshments, and receptions that are scheduled in conjunction with meeting, training or conference events if those meals, refreshments, or receptions are open to all meeting or conference attendees and the meeting or conference involves a broad (e.g. state, regional, national) base of representatives from postsecondary education institutions;
- Promotional prizes or items of nominal value that are offered as a form of generalized marketing or advertising or to create good will;
- Participation of representatives of a lender entity in university-sponsored outreach activities provided that participation is general in nature and the participation does not include marketing of loan-related services or products; and
- Prizes of student scholarship funds that are available to all registered participants at conferences of professional associations.

Questions related to student educational loan programs and recommendations related to student financial aid program administration may be directed to Allison G. Jones, Assistant Vice Chancellor, Academic Affairs, Student Academic Support, at (562) 951-4744 or ajones@calstate.edu or to Mary L. Robinson, Associate Director for Student Financial Aid, Academic Affairs, Student Academic Support, at (562) 951-4737 or mrobinson@calstate.edu. Questions regarding the designation of employees subject to conflict of interest provisions should be directed to Pamela Chapin, Senior Manager of Benefits and Human Resources Programs at (562) 951-4414 or pchapin@calstate.edu.

CBR:mlr

cc: CSU Provosts/Vice Presidents, Academic Affairs
CSU Vice Presidents, Administration
CSU Vice Presidents, Student Affairs
CSU Vice Presidents, Advancement
CSU Directors of Financial Aid
CSU Financial Aid Business Officers
CSU Human Resources Directors
CSU Conflict of Interest (COI) Officers