



NATIONAL ASSOCIATION OF STATE ADMINISTRATORS
AND SUPERVISORS OF PRIVATE SCHOOLS

2022 ANNUAL CONFERENCE

April 24 – 27

New Orleans, LA

FTC, DOE, Marketing and Recruiting

Presenters

- Professional Experience
 - 30 years of postsecondary legal and business experience.
 - Managed regulatory and litigation matters for Education Corporation of America, Kaplan, Sears Holdings, and GE Healthcare, among others.
 - Served as an Assistant State's Attorney for Cook County, Illinois, and am a Certified Public Accountant.
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John Carreon

GC & Chief Compliance Officer
Concorde Career Colleges

Presenters

- Professional Experience
 - Assist institutions of higher education to navigate challenging legal and regulatory matters.
 - Counsel schools regarding strategic planning, governance, and complex substantive changes.
 - Represent institutions in administrative proceedings before regulators.
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Aaron Lacey

Chair, Higher Ed. Practice
Thompson Coburn LLP

Syllabus

ED Circa 2021

The FTC Announcement

NegReg: Misrepresentation

NegReg: State Authorization

What's a School to Do?

TC Extra Credit

ED Circa 2021

ED Circa 2021

○ Miguel Cardona confirmed as Secretary on March 1, 2021.

○ Career spent in elementary and secondary education, most recently as Connecticut's education commissioner.

○ Additional new appointments announced throughout the year.

U.S. Department of Education

WASHINGTON – Today, the U.S. Department of Education announced senior political appointees who will lead various parts of the agency. These diverse and accomplished individuals will bring a wealth of knowledge and expertise to the agency and work to quickly advance key education priorities for the Biden-Harris administration.

Shella Nix, Chief of Staff
Shella Nix comes to the Department of Education after leading Task Philanthropies. She has nearly three decades of leadership in political, domestic policy, and innovative nonprofit operations. She recently worked on the Biden for President campaign as a senior advisor to then Sen. Kamala Harris. During the second Obama/Biden term, Nix served as the Chief of Staff to Dr. Jill Biden and as a Deputy Assistant to President Obama. In that position, she coordinated policy and communications for signature efforts serving veterans, teachers, students, and women and girls across the globe. Nix also served as Chief of Staff to then Vice President Joe Biden on the 2012 Obama/Biden campaign. She has helped develop policies on education, health care, and transportation as Deputy Governor of Illinois and as Chief of Staff to two U.S. Senators. In addition, Nix served as the U.S. Executive Director of Bond's ONE Campaign. She holds a law degree from the University of Chicago and a bachelor's degree from Creighton University.

Claudia Chavez, White House Liaison
Claudia Chavez most recently served as a member of the Education Agency Review Team for the Biden-Harris Transition and on the Biden for President campaign as Midwest Deputy Director. Prior to joining the Biden campaign, Chavez held different positions with Chicago Mayor Rahm Emanuel, including Deputy Director for Legislative Council and Government Affairs. Chavez is an Illinois native and graduate of Illinois State University.

Suzanne Goldberg, Deputy Assistant Secretary for Strategic Operations and Outreach, Office of Civil Rights (joining as acting Assistant Secretary)
Suzanne Goldberg previously served as the inaugural Executive Vice President for University Life at Columbia University and the Herbert and Doris Wechsler Clinical Professor of Law and founding director of the Columbia Law School's Sexuality & Gender Law Clinic, and co-director of the Center for Gender & Sexuality Law. Before Columbia, she was on the Rutgers-Newark Law School faculty and an adjunct faculty member at Fordham Law School. Goldberg began her legal career as a staff lawyer with Lambda Legal, working on a variety of LGBT law reform cases and legislative and public policy initiatives.

Ian Rosenblum, Deputy Assistant Secretary for Policy and Programs, Office of Elementary and Secondary Education (joining as acting Assistant Secretary)
Ian Rosenblum most recently served as the founding Executive Director of the Education (Ed) Trust-New York, a statewide policy and advocacy organization committed to educational equity. Prior to leading Ed Trust-NY, Rosenblum served in the administrations of New York Gov. Andrew Cuomo and former Pennsylvania Gov. Ed Rendell.

Emma Leahy, Principal Deputy General Counsel, Office of the General Counsel (joining as acting General Counsel)
Emma Leahy joins the Biden-Harris administration from the National Education Association (NEA), where she served in the Office of General Counsel. Prior to that, she was Chief Counsel of the California Teachers Association (Association). Before joining the Association in 2010, Leahy practiced education, labor, and employment law for a decade in a California law firm, where she rose to partner. A graduate of Brown University and Northeastern School of Law, Leahy began her career as a judicial clerk for the Honorable Warren J. Ferguson of the Ninth Circuit Court of Appeals and then as a Skadden Fellow, representing low-income parents pursuing higher education.

Donna Harris-Alexis, Senior Advisor for Policy and Planning, Office of the Secretary
Donna Harris-Alexis served as a member of the Education Agency Review Team for the Biden-Harris Transition and was a member of the Democratic National Convention Committee Platform Committee. She served as Senior Director for Education Policy and Practice at the National Education Association (NEA), where she advocated for students, educators, and working families to support equity and excellence in education, and to ensure working families had the right to organize and the opportunity to thrive in our global economy. Prior to joining NEA, Harris-Alexis served in leadership roles for the Service Employees International Union and Advance CTE and was an attorney in an education boutique law firm.

Ben Miller, Senior Advisor to the Chief of Staff
Ben Miller is a temporary appointment as a Senior Advisor to the Chief of Staff. Before joining the agency, he was the Vice President for Postsecondary Education at the Center for American Progress. He also previously served as a senior policy advisor in the Office of Planning, Evaluation, and Policy Development at the U.S. Department of Education.

Ben Halle, Deputy Assistant Secretary for Communications, Office of Communications and Outreach (joining as acting Assistant Secretary)
Ben Halle served as the Biden for President Communications Director in Michigan, where he led communications strategies and developed messaging for the President's winning campaign. Prior to that, Halle served in senior communications roles on campaigns and in the U.S. House of Representatives.

Rich Williams, Chief of Staff, Office of Postsecondary Education
Rich Williams has spent his career working on college affordability, student debt, and consumer protection policies. Most recently, he helped lead an initiative at Pew Charitable Trusts working to devise policies that better support struggling student loan borrowers. Prior to his work at Pew, Williams led efforts to strengthen consumer protections for college students at the Consumer Financial Protection Bureau and helped craft higher education policy and strategy at the Senior Higher Education Policy Advisor for the House Committee on Education and Labor. Williams is a first-generation college graduate who received a bachelor's degree in history from Northern Arizona University after attending Coconino Community College.

ED Circa 2021

- James Kvaal, Under Secretary of Education
 - Previously president of The Institute for College Access & Success and Deputy Director of Domestic Policy for Obama Domestic Policy Council.
- Ben Miller, Senior Advisor to the Chief of Staff, ED
 - Previously VP for Postsecondary Education at the Center for American Progress; senior policy advisor at ED under Obama.
- Richard Cordray, Chief Operating Officer of Federal Student Aid
 - **First director of the CFPB** and former Attorney General of Ohio.
- Toby Merrill, Deputy General Counsel, Office of the General Counsel
 - **Founded and directed the Project on Predatory Student Lending** at the Legal Services Center of Harvard Law School, which represents low-income student loan borrowers in litigation against for-profit colleges and against the policies that enable them.

ED Circa 2021

- On October 8, 2021, ED announced a refurbished Office of Enforcement within Federal Student Aid.
- Led by Kristen Donoghue, former enforcement director of the CFPB, will “coordinate with other state and federal partners. In particular, FSA plans to work closely with the Federal Trade Commission.”

U.S. Department of Education to Establish an Enforcement Office Within Federal Student Aid

Office will vigorously investigate and bring actions against schools that cheat students and taxpayers

OCTOBER 8, 2021

Contact: Press Office, (202) 401-1576, press@ed.gov

Today, the U.S. Department of Education announced the establishment of an Office of Enforcement within Federal Student Aid, reporting directly to the chief operating officer. The Office of Enforcement will strengthen oversight of and enforcement actions against postsecondary schools that participate in the federal student loan, grant, and work-study programs. Today's action restores an office that was first established in 2016, but deprioritized in the previous administration.

"Vigorously ensuring that schools are adhering to the federal student aid program rules and delivering quality education to students is critical in America's ability to build back better," said Under Secretary James Kvaal. "The Administration will prioritize Federal Student Aid's effective oversight and enforcement of postsecondary schools."

The Enforcement Office will be led by Kristen Donoghue, as the chief enforcement officer, who will report directly to FSA Chief Operating Officer Richard Cordray. Donoghue joined FSA in July as a senior advisor to the chief operating officer, bringing a wealth of enforcement and leadership experience. Donoghue previously served as the enforcement director of the Consumer Financial Protection Bureau (CFPB), where she led a 140-person office responsible for enforcement of federal consumer financial laws covering a range of financial services companies including the largest banks in the country.

Under her leadership, the CFPB pursued hundreds of investigations and filed numerous significant public enforcement actions, including obtaining the highest civil money penalty in the CFPB's history, a \$1 billion fine against Wells Fargo. Most recently, Donoghue served as a managing vice president at Capital One Bank, where she headed a team focused on legal and regulatory compliance.

"Kristen brings a strong enforcement track record to this role," said Chief Operating Officer Richard Cordray. "Her experienced leadership will drive greater accountability for schools and better educational outcomes for the students we serve."

The Enforcement Office will proactively identify and address major problems across institutions that pose widespread risks to students and taxpayers. The office will work closely with the Partner Participation and Oversight Office on a risk-based approach to oversight and compliance. It will comprise four existing divisions:

- **Administrative Actions and Appeals Services Group:** This group fines, limits, suspends, terminates, and imposes emergency actions against postsecondary institutions that participate in the federal student aid programs. The group also issues actions, such as revocations and recertification denials; initiates debarment and suspension proceedings against individuals and other parties; and resolves appeals of final audit and program review determinations.
- **Borrower Defense Group:** This group analyzes borrower defense to repayment claims and recommends appropriate dispositions to Department leadership. The group communicates with postsecondary institutions about borrower defense claims and coordinates across FSA and with investigative and enforcement divisions of federal and state agencies related to individual borrower defense claims.
- **Investigations Group:** This group evaluates indicators of potential misconduct or high-risk conduct by postsecondary institutions and third-party servicers, and investigates institutions' compliance with federal laws, regulations, and the terms of program participation. This group will collaborate with other agencies that have complementary enforcement resources, such as the Department of Justice, Consumer Financial Protection Bureau, Federal Trade Commission, and state attorneys general.
- **Resolution and Referral Management Group:** This group tracks and resolves referrals, reports of suspicious activity, allegations, and complaints about institutions and individuals that participate in the federal student aid programs. FSA receives feedback from sources that include the general public; students; school officials; individuals within FSA and the Department; and external oversight and higher education stakeholders, such as the Department's Office of Inspector General, U.S. Department of Defense, U.S. Department of Veterans Affairs, and Consumer Financial Protection Bureau.

As part of FSA's heightened enforcement activities and actions to uphold civil law and promote borrower protection, FSA will coordinate with other state and federal partners. In particular, FSA plans to work closely with the Federal Trade Commission, which earlier this week announced a major shift in its enforcement priorities to focus on postsecondary schools that illegally engage in unfair and deceptive acts or practices.

The FTC Announcement

FTC Press Release

- On October 6, 2021, the FTC placed 70 proprietary institutions “on notice” that it will investigate any false promises they make about their graduates’ job and earning prospects and other outcomes and will levy significant financial penalties against violators.

[Home](#) » [News & Events](#) » [Press Releases](#) » [FTC Targets False Claims by For-Profit Colleges](#)

FTC Targets False Claims by For-Profit Colleges

October 6, 2021

Commission resurrects use of legal tool to trigger steep penalties against lawbreaking colleges

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FOR RELEASE

TAGS: [deceptive/misleading conduct](#) | [Bureau of Consumer Protection](#) | [Consumer Protection](#) | [Advertising and Marketing](#) | [Advertising and Marketing Basics](#) | [Online Advertising and Marketing](#) | [Education](#)

The Federal Trade Commission put 70 for-profit higher education institutions on notice that the agency is cracking down on any false promises they make about their graduates’ job and earnings prospects and other outcomes and will hit violators with significant financial penalties.

The Commission is resurrecting its Penalty Offense Authority, found in Section 5 of the FTC Act, to ensure that bad actors pay a price when they break the law. By sending a Notice of Penalty Offenses to the institutions, which represent the largest for-profit colleges and vocational schools across the country, the companies operating these colleges will be on notice that they could incur significant sanctions for engaging in certain unlawful practices. The notice outlines a number of practices that the FTC has previously found to be unfair or deceptive, and notes that these practices could lead to civil penalties of up to \$43,792 per violation.

“For too long, unscrupulous for-profit schools have preyed on students with impunity, facing no penalties when they defraud their students and drive them into debt,” said FTC Chair Lina M. Khan. “The FTC is resurrecting a dormant authority to deter wrongdoing and hold accountable bad actors who abuse students and taxpayers. Working closely with our state and federal partners, we’ll be monitoring this market carefully.”

This broad-based initiative to deter for-profit college fraud marks the agency’s first use of its Penalty Offense Authority to protect students and their families. The Notice of Penalty Offenses allows the agency to seek civil penalties against a company that engages in conduct that it knows has been found unlawful in a previous FTC administrative order, other than a consent order.

Many of the practices outlined in the Notice relate to claims made by institutions about the career outcomes of their graduates, including whether a particular career field is in demand, the percentage of graduates who get jobs in their chosen field, whether the institution can help a graduate get a job, the amount of money a graduate can expect to earn and other related practices. Complaints to the FTC around education-related issues surged roughly 70 percent between 2018 and 2020, and the Commission is committed to rooting out practices that harm students and their families.

The Notice cites a number of administrative cases brought by the FTC against for-profit institutions in which the Commission found practices like those outlined in the Notice unlawful.

A full list of the institutions that received the Notice from the FTC is available on the FTC’s website. A school’s presence on this list does not reflect any assessment as to whether they have engaged in deceptive or unfair conduct.

FTC Press Release

- The FTC also expressly stated in the notice that “[t]his letter does **not** reflect any assessment as to whether you have engaged in deceptive or unfair conduct.”
- What was the point of the notice?



UNITED STATES OF AMERICA
Federal Trade Commission
Washington, DC 20580

Division of Financial Practices
Bureau of Consumer Protection

[DATE]

Via Federal Express
[NAME]

Re: Notice of Penalty Offenses Concerning Deceptive or Unfair Conduct in the
Education Marketplace

To Whom It May Concern:

I am enclosing a Notice of Penalty Offenses Concerning Deceptive or Unfair Conduct in the Education Marketplace (hereinafter, "Notice"). We recommend that you carefully review the Notice and take any steps necessary to ensure that your company's practices do not violate the law.

Receipt of this Notice puts your company on notice that engaging in conduct described therein could subject the company to civil penalties of up to \$43,792 per violation. See 15 U.S.C. § 45(m)(1)(B).

The Notice consists of Commission determinations in prior litigated cases that certain practices are deceptive or unfair and, thus, are unlawful under Section 5 of the Federal Trade Commission Act. As set forth in more detail in the Notice, these acts and practices include misrepresenting employment opportunities and other benefits.

This letter does not reflect any assessment as to whether you have engaged in deceptive or unfair conduct. We are distributing similar letters and Notices to companies across the country. Copies of the case decisions discussed in the Notice are available on the Commission's website at www.ftc.gov/education-notice.

If you have any questions about this letter or the enclosed materials, please contact Wendy Miller at wmiller@ftc.gov or (202) 326-3571.

Very truly yours,

Malini Mithal
Associate Director

FTC Press Release: Why Issue the Notice?

- The FTC highlighted in the press release that it will be relying on its **Penalty Offense Authority** to pursue bad actors, which is found in Section 5 of the FTC Act, [15 U.S.C. § 45\(m\)\(1\)\(B\)](#).
- Under this authority, if the FTC has determined in an administrative proceeding involving School A that a practice is unfair or deceptive, and issued a final cease and desist order to School A with respect to such act or practice, then in the future, the agency may seek a civil penalty against School B (or any other school or person) that engages in the same act or practice.

FTC Press Release: Why Issue the Notice?

- **However**, in order to exercise the Penalty Offense Authority, the FTC also must show that the alleged violator (School B) had “actual knowledge that such act or practice is unfair or deceptive and is unlawful” under the law.
- In order to strengthen its position that the 70 institutions on the list are aware of and have “actual knowledge” of the kind of conduct prohibited under the law, the FTC sent the 70 institutions the notice, which details acts and practices that have previously been found deceptive or unfair.
- Thus, there was a **very specific purpose** to the notice: to strengthen the ability of the FTC to use its Penalty Offense Authority against the institutions on the list.

FTC Wage Claims: Calling Out Schools

NegReg: Misrepresentation

Misrepresentation

- Any false, erroneous or **misleading statement** an eligible institution, one of its representatives, **or** any ineligible institution, organization, or person with whom the eligible institution has **an agreement** to provide educational programs, or to provide marketing, advertising, recruiting or admissions services makes directly **or indirectly** to a student, prospective student or **any member of the public**, or to an accrediting agency, to a State agency, or to the Secretary.
- A misleading statement includes any statement that has the **likelihood or tendency to mislead under the circumstances**. A statement is any communication made in writing, visually, orally, or through other means.
- Misrepresentation includes any statement that omits information in such a way as to make the statement false, erroneous, or misleading. Misrepresentation includes the dissemination of a student endorsement or testimonial that a student gives either under duress or because the institution required the student to make such an endorsement or testimonial to participate in a program.

34 C.F.R. § 668.71 (c).

Misrepresentation

- A misrepresentation need not be made by the institution directly. It could be made by any subcontractor providing educational programs, marketing, advertising, recruiting, or admissions services on behalf of the school.
- The misrepresentation can be made directly or indirectly to any member of the public, effectively meaning to any other party.
- The misrepresentation need not be intentional or inaccurate, so long as it has the tendency to mislead under the circumstances.
- To be a misrepresentation, it is not necessary for a party to rely upon the statement or that there be any harm.

Substantial Misrepresentation

- “Any misrepresentation on which the person to whom it was made could reasonably be expected to rely, or has reasonably relied, to that person’s detriment.”
 - A substantial misrepresentation does not require actual reliance or actual damages.
 - But it **does** require that the person to whom it was made could **reasonably** have been expected to rely on the misrepresentation **to their detriment**.

34 C.F.R. § 668.71(c).

Misrepresentation: Consequences

- If the Department determines that an institution has engaged in a **substantial** misrepresentation, it may:
 - Revoke a provisionally certified institution's program participation agreement;
 - Impose limitations on a provisionally certified institution's participation in the Title IV programs;
 - Deny participation applications made on behalf of an institution; or
 - Initiate a fine, limitation, suspension, or termination proceeding against an institution under 34 C.F.R. Subpart G.

34 C.F.R. § 668.71 (a).

Obama Borrower Defense Rule

- Borrowers may assert a borrower defense claim based on a **substantial misrepresentation** made by the school or any contractual partner.
- In individual claims, borrower must show **actual, reasonable reliance** to his or her detriment.
 - Presumption of reasonable reliance in group claims.

34 CFR § 685.222(d).

Rulemaking Tranches

Affordability and Student Loans Rulemaking

- Borrower Defense to Repayment
- Closed-school loan discharges
- Total and permanent disability discharges
- False certification discharges
- Loan repayment plans (income contingent repayment)
- Interest Capitalization on Federal Student Loans
- Pre-dispute arbitration and class action waiver clauses
- Pell Grants for Prison Education Programs
- Public Service Loan Forgiveness

Institutional and Programmatic Eligibility Rulemaking

- 90/10 Regulations
- State-defined processes for Ability to Benefit
- Certification procedures for Title IV participation
- Change of ownership and control process
- Financial responsibility
- Gainful employment
- Standards of administrative capability

Biden Proposals

- **Borrower Defense:** BDR claims may be brought if “The institution, any of its representatives, or any institution, organization, or person with whom the institution has an agreement to provide educational programs, or to provide marketing, advertising, recruiting, or admissions services, made a misrepresentation as defined in 34 CFR part 668, Subpart F.”
- **Certification:** If an institution is provisionally certified and “found to have engaged in misrepresentations to students” it may be required “to submit marketing and other recruiting materials for the review and approval of the Secretary.”
- **Administrative Capability:** An institution is administratively capable if it “[d]oes not engage in misrepresentation...”

NegReg: State Authorization

A Minor Revision to State Authorization...

(32) In each State in which the institution is located or in which students enrolled by the institution are located, ~~the institution is otherwise required to obtain State approval under 34 CFR 600.9,~~ the institution must ensure that each program—

(iii) Complies with all State consumer protection laws, including both generally applicable State laws and those specific to educational institutions, except where State requirements for obtaining authorization are inapplicable pursuant to a State authorization reciprocity agreement.

Draft 34 CFR § 668.14(32).

The AG Perspective

- “We are pleased to see that the Department of Education’s most recent version of Issue Paper 6 concerning certification includes a basic requirement that programs comply with consumer-protection laws applicable to higher education in the states where students reside (to be promulgated as 34 C.F.R. § 668.14(b)(32)).”
- “We wish to express... our strong disagreement with the notion that institutions soliciting enrollment online are subject to sufficient consumer protections under reciprocity arrangements.”

NC-SARA Perspective

- “This letter is in response to the March 8, 2022, Issue Paper 6: Certification Procedures – Session 3 regarding § 668.14 Program Participation Agreement, Subsection (32) (iii).”
- “The proposed change in language in this subsection would **significantly and negatively impact the efficacy of reciprocity** among the 52 states and territories that are members of State Authorization Reciprocity Agreements (SARA) and for the more than 2,300 participating institutions – the majority of which are public colleges and universities.”

What's a School to Do?

Creating a Compliance System

- An effective compliance system has four core components:
 - Policies
 - Training
 - Monitoring
 - Enforcement
- We're going to focus on six critical documents.

Admissions Personnel Code of Conduct

Admissions Personnel Code of Conduct

PURPOSE

Admissions Personnel employed by [insert school name] ("School") are charged with (1) recruiting quality prospective students to attend School, (2) communicating to such students pertinent information relating to the School's educational programs and services, and (3) assisting such students with completion of the enrollment process, should they choose to attend. It is School's policy that at all times these duties will be carried out with exceptional professionalism, honesty, and integrity. The purpose of this Admissions Personnel Code of Conduct is to ensure compliance with this policy by establishing standards of conduct for employees with responsibility for admissions. Violations of this Code of Conduct may result in disciplinary action, up to and including dismissal.

CODE OF CONDUCT

The following guidelines shall be adhered to by all Admissions Personnel through all phases of the admissions process:

1. Admissions Personnel shall carry out all duties in an honest and ethical manner, and strictly comply with all School standards, policies, and procedures, including those set out in this Admissions Personnel Code of Conduct.
2. Admissions Personnel shall annually review and familiarize with the rules and standards of the School's accreditor concerning admissions and recruiting practices.
3. Admissions Personnel shall maintain an exemplary level of professionalism, both in conduct and appearance, and provide prospective students with superior consideration and service.

Admissions Personnel Code of Conduct

14. [For schools participating in the federal financial aid programs] Admissions Personnel shall not (a) discuss federal financial aid beyond noting the availability of such aid for eligible students, (b) encourage a prospective student to obtain federal financial aid funds in any amount, or (c) delay or deny any prospective student access to the financial aid office. Under no circumstances may Admissions Personnel assist in the preparation of any application for financial aid.
15. Any Admissions Personnel directed by any School employee to depart from School policy or otherwise act in a manner inconsistent with this Code of Conduct is required to report that directive immediately to [insert appropriate senior School official].

By signing this statement, I acknowledge my understanding of and binding agreement to perform my duties in accordance with this Admissions Personnel Code of Conduct. I further acknowledge my understanding that violation of any of the terms or conditions may result in disciplinary action, up to and including dismissal.

Admissions Personnel Signature Date

Attested by School Director Date

Admissions Personnel **Printed** Name Date

School Director **Printed** Name Date

Pre-Enrollment Checklist

Prospective
Student
Signature

By initialing and signing this *Pre-Enrollment Checklist*, I acknowledge that the School has reviewed with me each of the items set out above, and agree that I have been provided with and understand the documentation and information discussed in each item to my full satisfaction. I further acknowledge and agree that the information provided to me orally by the School's representatives is entirely consistent with the information and documentation that has been provided to me in writing.

STUDENT Signature

Date

School
Representative
Signature

By initialing and signing this *Pre-Enrollment Checklist*, I acknowledge that I have reviewed with the Prospective Student each of the items set out above, and that my oral representations to the Prospective Student have been entirely consistent with the information and documentation that has been provided to the Prospective Student in writing.

SCHOOL REPRESENTATIVE Signature

Date

Enrollment Agreement

Enrollment Agreement (Contract)

Legal Name of Student

Last First MI

Personal Identification

SSN: _____ Date of Birth: ____/____/____ Driver's License: _____
Issuing State DL#

General Terms of Enrollment

This Enrollment Agreement, which is (5) five pages in its entirety, is entered into between the College campus specified below, known hereafter as COLLEGE, and the prospective student, or his or her parent or guardian if prospective student is under the age of 18, known hereafter as STUDENT. COLLEGE is certified to operate by the Missouri Department of Higher Education, and accredited by the Accrediting Commission of Career Schools and Colleges. Pursuant to this Enrollment Agreement, COLLEGE agrees to instruct STUDENT in the Program of Study designated below for and in consideration of the corresponding, stated Program Cost, provided STUDENT is able to satisfy all admissions requirements relating to the Program of Study. COLLEGE will furnish STUDENT with the credential designated below and a transcript upon (i) satisfactory completion of the Program of Study and all related graduation requirements, and (ii) successful payment of all amounts owed COLLEGE.

Campus Information

CAMPUS NAME			
CAMPUS ADDRESS		MO	
	<small>Street Address</small>	<small>City</small>	<small>State Zip Code</small>

Enrollment Agreement

Program Cost

TUITION	\$
REGISTRATION FEE	\$
LAB / TECHNOLOGY FEE	\$
ESTIMATED BOOKS & SUPPLIES	\$
ESTIMATED TOTAL PROGRAM COST	\$

The Estimated Total Program Cost set out above is an estimate and is subject to change. The actual Total Program Cost may vary depending on (1) the length of time it takes STUDENT to complete the Program of Study, or (2) changes to the price of Books and Supplies. Books and Supplies for the Program of Study shall be purchased from COLLEGE at the price of such books and supplies in effect at the time they are received.

Payment Terms

Program Costs are charged by the academic term and are due or accountable on the first day of class each term. An estimated account of the date and amount of payments due each term and the funding available for such payments is detailed in documentation provided STUDENT by COLLEGE's financial aid office. Program Costs charged each term are not specifically related to the instruction delivered, activities performed, or materials or technology used during such term, or in any particular class or lab during the term. Special financial arrangements with COLLEGE may be available to pay Program Costs. Should STUDENT take advantage of any such financial arrangements, he or she may be required to sign related documentation, potentially including a Retail Installment Contract. Any documentation concerning financial arrangements with COLLEGE to pay costs relating to the Program of Study would be part of this Agreement between STUDENT and COLLEGE.

Right to Cancel Enrollment Agreement

If STUDENT wishes to cancel this contract, and thereby cancel his or her enrollment in the Program of Study designated above, he or she should provide notice to the Registrar. COLLEGE will refund all monies paid if STUDENT cancels his or her Enrollment Agreement within three (3) days (until midnight of the third day, excluding Saturdays, Sundays and holidays) of the day he or she signed the Enrollment Agreement. COLLEGE will refund all monies paid, excluding the Registration Fee of \$100.00, if STUDENT cancels his or her Enrollment Agreement more than three (3) days after of the day he or she signed the Enrollment Agreement, but prior to the first day of class.

Enrollment Agreement

Student
Affirmation

STUDENT hereby affirms and agrees that he or she was completely satisfied with the enrollment process and was provided all information and documentation necessary to make an informed decision regarding whether to enroll at COLLEGE, including the information and documentation detailed in STUDENT's Pre-Enrollment Checklist. STUDENT further affirms and agrees that the information that has been provided to STUDENT orally by COLLEGE's representatives is entirely consistent with the information and documentation provided to STUDENT in this written Agreement. [STUDENT Initials _____].

Student
Signature

By completing this Enrollment Agreement, STUDENT certifies that he or she has (1) received a copy of this Agreement, (2) personally and thoroughly read this Agreement and understood the terms and conditions of enrollment at COLLEGE (3) authorized and agreed to the terms of this Agreement, and (4) provided complete and accurate information.

STUDENT Signature

Date

Parent or Guardian Signature (required if STUDENT is under 18)

Date

Admissions Personnel Signature

Date

Campus Director Signature

Date

Admission File Checklist

- Internal document, not provided to student
- Lists the documents and disclosures that must be signed and placed into the file
- Includes pre-enrollment checklist and enrollment agreement.

Marketing Materials Policy

- Requires that all marketing, advertising, or promotional materials relating to the school must be reviewed and approved by (1) marketing and (2) compliance.
- “Marketing, advertising, and promotional materials” would include any form of media created for the purpose of conveying to any prospective student, prospective employee, or other party external to the school, information relating to the school.

Marketing Best Practices

- Best Practices (not the same as the Marketing Materials policy)
- Purpose is to address common questions that may arise when drafting marketing, advertising, and promotional materials and to facilitate conformance with regulatory requirements.
- May be used by Marketing and Compliance Departments to guide approval processes and to facilitate consistency.

TC Extra Credit

Thompson Coburn LLP

- Full-service law firm with over 400 attorneys.
- Offices in Chicago, Los Angeles, St. Louis, Dallas, New York, and Washington, D.C.
- Higher education practice provides legal counsel, compliance, and training services to colleges and universities.



TC Extra Credit | REGucation (our blog)

REGUCATION

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Summer camps on campus: A risk management checklist for postsecondary professionals

 [Scott Goldschmidt](#)  [Hope Watson](#)  November 29, 2021



While the weather is cooling down, plans for summer camps are heating up. There are a number of benefits to postsecondary institutions hosting summer camps on campus, including community outreach, revenue generation, recruitment of potential students, and positive publicity. However, such programs can also expose the institution to risk and administrative burdens. [READ MORE](#)

TC Extra Credit | Webinars on Demand

TCLE(166)

Complying with the Revised FTC Safeguards Rule: Lessons from the New York Experience

February 16, 2022 | [Register](#)

Responding to Student Borrower Defense to Repayment (BDR) Claims

February 9, 2022 | [Register](#)

IRS Procedural Update; Buy-Sell Development; Loan Guarantees

January 25, 2022 | [View Recording](#)

The Higher Education Regulatory Outlook for 2022

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The Revised FTC Safeguards Rule - What It Means and Why It Is More Important Than You Might Think

Breaking Developments in Employee Benefits Plans

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TC Extra Credit | Training Series

The screenshot displays a YouTube video player interface. The main video area shows a man in a suit and glasses speaking, with a background of a large, ornate building. The video title is "An Introduction to Managing Title IX Sexual Harassment on Campus" by Thompson Coburn LLP, part of the Title IX Training Series from July 2020. On the right side, a playlist titled "Title IX Training Series" is visible, containing six modules. The first module, "Module 1 - An Introduction to", is currently selected and has a duration of 1:17:06. The other modules listed are: "Module 2 - Formal Complaints of Title" (46:21), "Module 3 - Title IX Investigations &" (1:27:38), "Module 4 - Title IX Hearings" (1:18:19), "Module 5 - Title IX Determinations" (52:01), and "Module 6 - Title IX".

Title IX Training Series
Thompson Coburn LLP - 1 / 6

Module 1 - An Introduction to
Thompson Coburn LLP
1:17:06

Module 2 - Formal Complaints of Title
Thompson Coburn LLP
46:21

Module 3 - Title IX Investigations &
Thompson Coburn LLP
1:27:38

Module 4 - Title IX Hearings
Thompson Coburn LLP
1:18:19

Module 5 - Title IX Determinations
Thompson Coburn LLP
52:01

Module 6 - Title IX

TC Extra Credit | Compliance Materials



Financial Responsibility Reporting Under the Borrower Defense to Repayment Rule

Last Updated: August 1, 2021

On September 23, 2019, the U.S. Department of Education published the final version of its 2019 "borrower defense to repayment" rule (the "2019 Rule"). The 2019 Rule, which took effect on July 1, 2020, revised the financial responsibility regulations that require institutions of higher education to report certain "triggering events" to the Department (located at 34 CFR 668.171). If an institution fails to make a required notification under the 2019 Rule, the Department may take administrative action against the institution, to include the initiation of a proceeding to fine, limit, suspend, or terminate the institution's participation in the federal financial aid programs.

On the following pages, we provide a chart that details the reporting obligations under the 2019 Rule. Pending further guidance from the Department, we suggest that institutions continue to submit financial responsibility notifications via email to FSAFRN@ed.gov.¹ The Department has not specified any required form or content for notices made under the 2019 Rule. However, in a Q&A document issued on June 3, 2019, the agency offered recommendations.² Institutions should continue to watch for updated guidance from the Department concerning the reporting of triggering events. The Department also has announced its intent to revisit the financial responsibility regulations in a forthcoming negotiated rulemaking.³

1. The Department established this email address for reporting purposes in guidance issued on March 15, 2019, detailing how institutions should report events under the 2016 version of the borrower defense rule (the "2016 Rule"). As of August 1, 2021, the Department has not issued any further guidance concerning how to report triggering events.
2. As of August 1, 2021, the Department has not issued any further guidance concerning the form or content of notices of triggering events.
3. Additional information regarding the Department's negotiated rulemaking agenda for 2021-2022 is located [here](#). It is unlikely that any new regulations concerning financial responsibility reporting would become effective prior to July 1, 2023.



Institutional Loans: Compliance Considerations

Last Updated: July 2021

For a wide range of reasons, institutions of higher education frequently determine to offer students the opportunity to finance all or part of their education using some form of institutional credit. These arrangements can vary greatly, from a simple, short-term, no interest payment plan to a fully-formed, traditional, interest-bearing loan. Schools should be aware, however, that in many cases, such arrangements will qualify as a "private education loan" under federal law, subjecting the institution to a multitude of federal regulations that must be followed. These arrangements also will frequently be subject to state consumer finance laws, and in some instances, to state laws governing the authorization of postsecondary institutions.

Staying apprised of these federal and state laws, and administering an institutional student loan program in accordance with their complex requirements, is a significant challenge. This is particularly true where institutions operate campuses in multiple jurisdictions, have students who reside in multiple jurisdictions, or offer a variety of student financing options (e.g., loans, payment plans, retail installment contracts). Compliance is critical, however, as the ramifications for non-compliance can be severe. Furthermore, federal and state regulators have made clear that they intend to aggressively enforce the regulatory framework that applies to student financing opportunities offered by schools.¹ Indeed, institutions of higher education that offer private education loans should expect meaningful and coordinated scrutiny from the U.S. Department of Education (the "Department"), the Consumer Financial Protection Bureau (the "CFPB"), state attorneys general, and other regulators.

The purpose of this memorandum is to provide an overview of certain significant federal requirements that institutions of higher education should consider when contemplating an institutional loan program, or any other student financing opportunity. **We strongly emphasize that this document does not provide an exhaustive list of all legal requirements related to the offering of such loans, and in particular, does not address applicable state laws and regulations, which vary based on the jurisdiction(s) in which an institution is operating.** We encourage institutions contemplating any form of student financing opportunity (even simple payment plans), to confer with counsel and other qualified advisors to determine whether the opportunity is subject to federal or state laws governing private education loans or other extensions of credit, and to develop a plan for compliance.

1. By way of example, in May 2021, the Biden Administration selected Richard Cordray, the former director of the CFPB to serve as the senior official overseeing the federal student aid programs.



Maintaining Compliance with the Evolving 90/10 Rule

Last Updated: April 2021

On March 11, 2021, President Biden signed into law the [American Rescue Plan Act of 2021](#) (the "Act"), a \$1.9 trillion stimulus package containing emergency pandemic relief and a number of provisions important to the higher education sector. Of particular significance to proprietary institutions is Section 2013 of the Act, which amends the longstanding and controversial "90/10 rule." Under the current 90/10 rule, to remain eligible to participate in the federal student aid programs, a proprietary institution must "derive at least 10 percent of its revenues for each fiscal year from sources other than Title IV, HEA program funds."¹ Section 2013 amends this language, requiring instead that covered institutions derive at least 10 percent of their revenue from sources other than "Federal education assistance funds." Federal education assistance funds are defined as "[f]ederal funds that are disbursed or delivered to or on behalf of a student to be used to attend such institution."

Pursuant to the Act, the earliest this revision to the 90/10 rule may take effect is for institutional fiscal years beginning on or after January 1, 2023. Congress has directed the U.S. Department of Education ("ED") to engage in a negotiated rulemaking before it implements the revision. It presently is unclear which federal funding programs will be deemed "Federal education assistance funds." However, we anticipate that during the negotiated rulemaking, the current administration will propose a broad interpretation, which will include GI Bill benefits for veterans, Military Tuition Assistance benefits for active military, and Trade Adjustment Assistance for workers, among others.

Given this imminent change to the 90/10 rule, and the challenge we expect it will create for many proprietary institutions, we determined to create this compilation of strategies we have seen used in the past for managing 90/10 rule compliance, and to include thoughts and considerations, as appropriate. We strongly emphasize that the compliance strategies detailed below should not be viewed as recommendations, and may not be appropriate for every institution. Each institution should consult its own legal advisors, accountants, and other trusted professionals to determine whether to employ any particular strategy for complying with the 90/10 rule.

1. 34 C.F.R. §668.14(a)(16); see also 20 U.S.C. §1094(a)(24).

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