

## PI REGULATORY GUIDANCE

**GEN-11-05:** Dated March 17, 2011, this DCL provides guidance in a Q and A format on state authorization [superseded by GEN-11-11], incentive compensation and misrepresentation. Note that the incentive compensation prohibition applies to all employees, regardless of position. However, ED has clarified that “Senior managers and executive level employees who are only involved in the development of policy and do not engage in individual student contact or the other covered activities listed in Table 1 will not generally be subject to the incentive compensation ban.”

**GEN-11-06:** Dated March 18, 2011, this DCL provides guidance to both schools and accrediting agencies on the definition of a credit hour, allowing some relief for both from the July 1, 2011 implementation deadline: “For the 2011-2012 award year, as long as an institution or accrediting agency is in the process of complying with these provisions, we will consider the institution or accrediting agency to be making a good-faith effort to comply, and Department staff will take this effort into consideration when reviewing an institution's or accrediting agency's implementation of the regulations. Accrediting agencies and State approval agencies whose written policies, procedures, criteria, and materials are not finalized prior to July 1, 2011, may make reasonable allowances in their review of institutions during the 2011-2012 award year.”



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## TAGGART LETTER TO SCHOOL PRESIDENTS



The Chief Operating Officer for Federal Student Aid, William Taggart, sent a letter addressed to College and University Presidents in early April. The letter describes the smooth transition to Direct Lending, at a time of “an unprecedented increase in student aid applications,” as well as new financial aid regulations. The letter closes by reminding schools of the requirements for adequate and qualified staffing to administer financial aid and to provide adequate financial aid counseling to students. Mr. Taggart encourages schools to provide the necessary support to financial aid offices.

## FY 08 THREE-YEAR TRIAL CDR RECALCULATED

An electronic announcement posted April 21<sup>st</sup> describes FSA's error in their initial calculation of the three-year trial cohort default rates for FY08. The error incorrectly inflated some schools' trial rates. Institutions can see the corrected rates on NSLDS, and the rates are posted publicly on the Federal Student Aid Data Center website ([www.FSADataCenter.ed.gov](http://www.FSADataCenter.ed.gov)).

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**GEN-11-10:** Dated April 20, 2011. This DCL provides additional guidance on the GE disclosures and reporting requirements. Schools should note that the disclosure item median loan debt must be institutionally calculated until ED has data available. The GE reporting will be via the Enrollment Reporting Process on NSLDS; the attachment to the DCL provides data item descriptions and field lengths. The DCL also discussed adding new programs—any new program with a start date of October 1, 2011 or after must comply with the new supporting documentation requirement, the 90 day advance notice requirement, and must specify the date classes will begin. New programs with a start date on or after July 1, 2011, but before October 1, 2011, must comply with the documentation requirement and specify the date classes will begin.

**GEN-11-11:** Dated April 20, 2011. This DCL provides relief for the requirement in the PI regs that schools offering distance education must be licensed or authorized in all of the states of residence of the students enrolled in the distance education coursework. ED will not “initiate any action to establish repayment liabilities or limit student eligibility for distance education activities undertaken before July 1, 2014, so long as the institution is making good faith efforts to identify and obtain necessary State authorizations before that date.” The DCL identifies four different items that could comprise good faith efforts. ED indicates in the DCL that they are committed to working with various parties to develop a comprehensive directory of state requirements, and supporting state coordination of requirements, including the development of model reciprocal agreements, common applications, or other methods.



## ED PREPARING FOR NEW ROUND OF NEG REG

On April 29, 2011, ED posted an electronic announcement of three public hearings “at which interested parties may suggest issues that should be considered for action by the negotiating committees as well as policy roundtable discussions.” To register to speak at a public hearing, send an email to [negreg.2011@ed.gov](mailto:negreg.2011@ed.gov). To register to participate in a roundtable discussion, email [HigherEducationRoundtable.2011@ed.gov](mailto:HigherEducationRoundtable.2011@ed.gov). The email should list the party’s name and affiliation, and indicate which policy discussion he or she would like to participate in, and at what location. ED will publish a notice in the Federal Register regarding the establishment of one or more negotiated rulemaking committees. The announcement has a link to a Q and A document with general information on the negotiated rulemaking process.



### Public Hearings and Roundtable Discussions

All public hearings will be held from 9:00 a.m. - 4:00 p.m., local time.

Roundtable discussions will be held from 9:00 a.m. to 1:00 p.m., local time.

May 12, 2011 - Tennessee State University, Nashville, TN 37209 (roundtable only)

May 16-17, 2011 - Pacific Lutheran University, Tacoma, WA 98447

May 19-20, 2011 - Loyola University, Lake Shore Campus - Chicago, IL 60660

May 26-27, 2011 - College of Charleston, Charleston, SC 29424

## IRS DATA RETRIEVAL

ED published DCL GEN-11-03 on February 23, 2011, discussing enhancements to the FAFSA-IRS Data Retrieval process. ED states that 84% of FAFSA filers are now able to use the data retrieval process in completing FAFSA on the web.



**2010-2011:** Institutions can consider an applicant's or parent's use of the IRS Data Retrieval process to be "acceptable documentation" for verification of AGI, US taxes paid, and untaxed income items as reported on the tax return. The ISIR code must show that the information was retrieved from the IRS and has not been changed.

**2011-2012:** The IRS Data Retrieval process was available in January 2011. Applicants can use it in FOTW or in making corrections on the web. Applicants who file their taxes electronically (more than 70%, according to the IRS estimate) will see their tax return information available for transfer within two weeks of filing. Applicants who filed paper tax returns should see the data available within eight weeks of filing.

**2012-2013:** Beginning in January 2012, all 2012-2013 FOTW applicants who have filed their tax returns prior to completing the FAFSA and meet the eligibility criteria to use it will be directed to use the IRS Data Retrieval process. Applicants who choose not to use the IRS Data Retrieval process, or subsequently change the data "will be subject to being selected for verification based upon the risk they pose to federal funds and, if they are selected, will be required to support their reported FAFSA data with information obtained directly from the IRS."



Applicants who have not yet filed their taxes when they complete the FAFSA will receive reminders from FSA to use the IRS Data Retrieval process via COTW.

## IRS DATA *Continued from Previous Column*

Applicants and parents selected for verification who do not use the IRS Data Retrieval process, or who did but changed the data, will be required "to provide an official IRS transcript of their Federal income tax information."

## OFFICE OF CIVIL RIGHTS DCL

On April 4, 2011, the Office of Civil Rights (OCR) published a Dear Colleague Letter on institutional compliance with Title IX of the Education Amendments of 1972, which prohibits discrimination on the basis of sex in education programs or activities operated by recipients of federal funding.

Institutions have long been required to have a sexual harassment policy based on the guidance from OCR issued in 2001, *Revised Sexual Harassment Guidance*. The 2011 DCL includes sexual violence in the definition of sexual harassment, and "explains that the requirements of Title IX pertaining to sexual harassment also cover sexual violence, and [the DCL] lays out the specific Title IX requirements applicable to sexual violence."



## 2011-12 FINAL CB FUNDING

On April 1<sup>st</sup>, FSA posted the 2011-2012 campus-based program authorizations to the eCB website. However, the FY11 funding was not final until Congress passed the

Department of Defense and Full-Year Continuing Appropriations Act on April 15, 2011. This legislation included a reduction of over \$21 million for FSEOG and almost \$2 million for FWS. FSA will be posting revised allocations for 2011-2012 to the eCB website on May 9, 2011. The majority of schools will see a reduction in their FSEOG allocation.



## FERPA NPRM PUBLISHED

On April 8<sup>th</sup>, ED published an NPRM to amend the FERPA regulations. The amendments allow for improved access to student data in statewide longitudinal data systems (SLDS). The proposed revisions would permit state and local educational authorities, and organizations conducting studies, increased access to the SLDS data.

The current definition of directory information would also be revised to include a student ID number or other unique personal identifier, provided “the identifier cannot be used to gain access to



education records except when used in conjunction with one or more factors that authenticate the user’s identity, such as a PIN, password, or other factor known or possessed only by the authorized user.” If a student’s SSN is used as the ID number, that number may be not be designated as directory information.

The proposed regulations would provide that students may not use their right to opt out of directory information disclosures “to prevent an educational agency or institution from requiring students to wear or otherwise disclose student ID cards or badges that display information that may be designated as directory information. . .” These changes are intended to facilitate security measures and communication among school officials, students, alumni and others. The regulations would also permit schools to specify in the notice it provides to students that the disclosure of directory information will be limited to specific parties or for specific purposes, or both; this is a limited directory information policy.

## PELL GRANT PROGRAM GUIDANCE: P-11-02

On April 27, 2011, ED released DCL P-11-02, providing guidance to institutions about the effect of the Department of Defense and Full-Year Continuing Appropriations Act (PL 112-10) on the Pell Grant program.

- The 2011-2012 Pell Grant Program Disbursement Schedule published on February 2, 2011 remain unchanged; the appropriations legislation fully funded the maximum Pell award for 2011-2012.
- For 2010-2011 two Pell Grant awards in an award year is still effective.
- For 2011 crossover payment periods, an institution may choose the award year to which they assign the payment period for Pell Grant award processing. The regulations requiring assignment of the payment period to the award year in which the student receives the greater payment have been waived. Schools can assign the 2011 crossover payment period to the 2010-2011 award year for all students (trailer), make the assignment on an individual student basis, or assign the 2011 crossover payment period to the 2011-2012 award year (header).
- For 2011-2012, the provision to allow two Pell Grant awards in one award year is repealed. If a student’s summer 2011 crossover payment period is paid from 2011-2012, this will affect the student’s Pell award amount available for spring or summer 2012 disbursements.

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*Any opinions expressed herein are solely those of  
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