



★ FROM THE OFFICE OF THE PRESIDENT ★

February 23, 2012

The Honorable Arne Duncan
Secretary of Education
400 Maryland Ave. SW
Washington, DC 20202

Dear Secretary Duncan:

On behalf of the National Association of Student Financial Aid Administrators (NASFAA), and the 3,000 institutions that we represent, I write to request that schools be held harmless for any inadvertent Federal Pell Grant overpayments that might be made to students who are not properly identified by the Department of Education (ED) as having reached new Pell limits by the time a disbursement is made.

In December, Congress passed an omnibus spending bill for fiscal year (FY) 2012 that made eligibility changes to the Federal Pell Grant Program. One of those changes reduced the duration of eligibility for the Pell Grant Program from the equivalent of 18 full-time semesters to the equivalent of 12 full-time semesters. The legislative text that grandfathered students who received Pell prior to July 1, 2008 was removed, resulting in a situation where all students who have *ever* received a Pell Grant or a Basic Educational Opportunity Grant (BEOG) could potentially be impacted.

We appreciate ED's efforts to implement statutory changes in record speed. We also applaud ED for undertaking the responsibility of tracking Pell usage, and notifying students and schools when limits are approached or reached. However, processing for the 2012-13 year has already begun, which means some students will lose all or a portion of their Pell Grant after being told they qualify by the Department and their school. If the determination that a student has exceeded the new lifetime Pell limit is made after the student has already received more Pell funds (when, for example, additional prior disbursement information comes in to the Common Origination and Disbursement system), the student could face an unanticipated outstanding balance or other financial hardship. In such a case, the institution would have made the disbursement that exceeded the limit in good faith, and the student would likely have accepted the funds believing him- or herself eligible.

Recent ED guidance has helped clarify a number of issues (e.g., DCL GEN-12-01 and the electronic announcement released on Feb. 17), but there are still too many unknowns and variables to expect schools to perform accurate audits of past grant usage. In addition, several scenarios require additional clarification from ED. I've provided examples at the end of this letter for your review. Other questions will undoubtedly arise.

For these reasons we request that the Department hold schools harmless for any overpayments that might be made to students who, at the time of disbursement, had not been identified by the Department as having reached the new Pell limit, regardless of information that might be contained in past years' records. We also request that repayment not be required of these students, who are the neediest of our student population, and that their general Title IV eligibility not be adversely affected.

Sincerely,



Justin Draeger,
President & CEO

CC: *Dr. Martha Kanter, Georgia Yuan, James Runcie, Dr. Eduardo Ochoa*
Encl: *Examples & Questions for Additional Guidance*

EXAMPLES & QUESTIONS FOR ADDITIONAL GUIDANCE

1. **Institutional liability for overpayments and the institution's responsibility to search out conflicting information.**

There are many factors which, when combined, make it impossible for schools to accurately assess a student's entire past Pell Grant or Basic Educational Opportunity Grant usage, including:

- a limited span of record retention requirements,
- transfer student issues,
- increased demand for retraining, bringing individuals back to school,
- software design, and
- the timing of disbursement reporting.

Schools are already pushed to their limits in trying to award and disburse financial aid for the 2012-13 year; expecting them to dig through literally decades' worth of past grant information—where it is even available—that is not accurately compiled in a centralized way is impractical for the relatively small number of students this provision will likely affect.

Affected students who apply within the first few months of the processing cycle will receive conflicting information about their Pell Grant eligibility. They will have planned on the resources they were initially told to expect.

2. Payment calculation and disbursement issues.

Examples of unresolved questions include:

- Could a student for whom funds were returned due to withdrawal have a more unusual percent usage, based on the amount actually retained?
- How should a student's remaining eligibility be disbursed?

For example, suppose a student is enrolled full-time for the two-semester academic year but only has 60 percent of one scheduled award remaining (having used 540 percent of their annual grant limit). We assume that for payment period calculation purposes, the student's annual award would still be 100 percent of the amount on the payment schedule for that year, so that the student would receive a full payment for fall, and his remaining eligibility (10 percent) for spring.

- With regard to effective date, if a summer 2012 cross-over payment period is designated by the school as part of the 2011-12 award year, will the student be able to receive any remaining portion of the 2011-12 scheduled award, regardless of the new limit?