Congress of the United States
Washington, DC 20515

October 5, 2015

The Honorable Arne Duncan
Secretary of Education
U.S. Department of Education
400 Maryland Avenue SW
Washington, D.C. 20202

Dear Secretary Duncan,

Last year we joined with leaders in the Senate to introduce the Campus CARD Act, legislation that would provide additional protections to students who are heavily targeted by banks; marketing on college campuses. We are encouraged that the Department of Education has suggested a number of serious reforms in its proposed rulemaking on cash disbursement. However, we believe the Department should be using this opportunity to address several other areas of concern that have been raised by Members of Congress, students, and financial reform advocates.

The Department has made great strides in providing protections for "Tier 1" accounts, which are created when a school contracts out its disbursement processing, but students would be better served by stronger regulation of fees under "Tier 2" accounts which, while not directly tied to the disbursement process, are aggressively marketed to students and still benefit schools financially through opaque compensation agreements.

Additional pre-account opening restrictions as well as strong public disclosure requirements will help students make smart financial decisions for both Tier 1 & Tier 2 accounts based on access to important information about account terms. Banning anti-competitive practices such as slowed disbursement processing for certain cards will help students make financial decisions based on long term financial health rather than short-term hardship.

However, the Department has missed an important opportunity to be a steward of government funds by limiting fees for Tier 1 but not doing so for Tier 2 accounts. The majority of funds deposited into Tier 2 accounts will almost certainly be the result of Title IV disbursements intended for textbook and other incidental purchases. Tier 2 accounts can also include provisions such as the school receiving a share of interchange fees, or bonus payments for inducing students to deposit Title IV funds into the account in the future. Overdraft fees, fees charged in the first 30 days after funds are disbursed, and point of sale fees all redirect money intended for students education needs to financial institutions instead. For these reasons, in order to best ensure Title IV funds are applied to educational expenses and not expensive account fees, the Department should strongly consider applying all consumer protections under the rule to accounts that currently meet Tier 1 or Tier 2 definitions.

Furthermore, it is imperative that the Department create public databases of account terms, fee structures and vendor agreements with schools that will allow outside experts to evaluate the impacts of educational institutions' marketing decisions on their students financial well-being, and publish data to assist student in their decision making process. Disclosure of compensation agreements between schools and vendors must be included so students can judge for themselves whether a schools partnership with a particular vendor has their best financial interests in mind. The Department's consideration of a tiered regime makes thorough disclosure of terms and fees in a reliably updated and readily searchable database an essential resource for financial counselors and students to evaluate and compare the costs of many financial products they may encounter on campus.

Finally, many consumer financial contracts contain "binding arbitration" provisions that limit consumers' access to the judicial system when predatory financial practices are uncovered. Consistent with our recommendations on all consumer contracts, we strongly encourage the Department amend its rule to ban any limitations on a student's access to the legal system, including "binding arbitration" clauses or limits on the use of "class actions."

As the many reports on the increasing burden of student debt have shown, our young adults are already graduating with enormous financial liabilities. Burdening students with additional expenses that bolster bank profits not only make college more costly, but limit the resources available to pay their bills. With college costs increasing and students mired in debt, we urge the Department to take all actions within it authority to ensure students are not exposed to unnecessary costs when pursuing higher education. Simply stated, failing to do so would merely undercut the next generation of America's leaders.

We appreciate your commitment to these issues, and look forward to your response to our suggestions.

Sincerely,

Maxine Waters
Ranking Member
Committee on Financial Services

Robert C. "Bobby" Scott
Ranking Member
Committee on Education and the Workforce

Peter Welch
Member of Congress

Anna Eshoo
Member of Congress

Judy Chu
Member of Congress

John Conyers, Jr.
Member of Congress

Mark Takano
Member of Congress

Keith Ellison
Member of Congress

Tim Ryan
Member of Congress

Raúl Grijalva
Member of Congress

Peter DeFazio
Member of Congress

Marcia Fudge
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Julia Brownley
Member of Congress

Suzanne Bonamici
Member of Congress