June 12, 2017

Ms. Kathleen Smith
Senior Advisor to the Assistant Secretary and Acting Assistant Secretary
U.S. Department of Education
400 Maryland Ave, SW
Washington, DC 20202

Dear Ms. Smith:

On behalf of the National Association of Student Financial Aid Administrators (NASFAA), I am writing to request certain procedures during the wind down of the Federal Perkins Loan Program, should it cease to exist as scheduled on October 1, 2017. NASFAA represents financial aid administrators at 3,000 public and private colleges, universities, and trade schools across our nation. Collectively, NASFAA members serve 90 percent of undergraduate students and majority of graduate students studying in the United States.

Perkins Loans constitute the oldest federally funded student aid program; its original name--the National Defense Education Act--embodied the recognition that higher education is in the national interest. Perkins has been a successful example of institutional "skin in the game" due to its funding structure consisting of both institutional and federal funds. Thus, the long-term, low-interest loans with guaranteed protections made to students under the program are, essentially, jointly owned by the school and federal government. While it is our strong preference that the program continue until Congress can conduct a comprehensive review of the Title IV aid programs during reauthorization of the Higher Education Act we must take steps now to ensure a smooth and equitable close-out process in the event that the program ends.

Statutory Fund Distribution Provision

Upon dissolution of the program, the Higher Education Act of 1965, as amended, §466, specifies the distribution of assets in a participating school's Perkins Fund between the school and the federal government by dividing the loan fund according to the respective ratios of each party's capital contributions to the total capital contribution. This statutory process appropriately allows the institution to retain all institutional contributions, including those made in excess of the required institutional match (the institutional capital contribution, or ICC) or made when there was no new federal capital contribution (FCC).

A parallel process can be seen in ED's longstanding operational guidance for returning excess cash in a Perkins Loan Fund to the federal government uses "net" capital contributions in the ratio calculation. Net FCC equals FCC minus any excess cash returned to the federal government. Net ICC deducts from ICC any repayments of fund capital to the school, including short-term no-interest loans made by the institution to its loan fund that the institution subsequently redeemed. This approach—with one exception described next—will likely produce an equitable result for the majority of institutions.

Variations in Institutional Share

If an institution lent its own money on a short-term no-interest basis to its loan fund to provide for additional funding for loans to its students and subsequently repaid itself the lent amount, the institution will not receive an equitable share of the interest on the loan fund assets upon liquidation of its fund: the federal government will receive interest income on Perkins loans for which it provided zero financing at the time the loan was advanced, and which the institution essentially sold back to the federal government at face value at a loss of future earnings on that asset. When institutions put their own dollars at risk to provide loan funds to students, they deserve to receive 100 percent of the interest earned on those funds. As a possible solution, we propose that gross rather than net capital contributions be used in the ratio calculation.

Unreimbursed Cancellations

Since FY2009, the federal government has not reimbursed institutions for Federal Perkins Loans service cancellations granted as a borrower benefit under the terms of the program. We request that institutions receive reimbursements for these unreimbursed cancellations, which ensures that schools are not held liable for unfunded Perkins Loan reimbursements that resulted from legitimate Federal Perkins Loan cancellations.

Administrative Considerations

We are unclear as to the audit requirements that will apply at the point of Fund liquidation. If the school is voluntarily withdrawing from the program and liquidating its Fund, it must arrange for a close-out audit. If the same requirement will apply in the case of the program ending, a school that cannot time it to be combined with its usual annual audit, or that does not fall under the single audit act, will incur administrative costs. The cost of conducting a close-out audit should be chargeable to the Fund. Also, a school leaving the program voluntarily must submit a letter of audit engagement to the Department of Education (ED) within 45 days after the school's participation ends. Since all participating schools will be leaving the program simultaneously, we request an extension of the 45-day deadline.

Treatment of Outstanding Loans

Lastly, there are two methods to dissolve an institutional loan fund. The institution could transfer the current fund balance and assign all outstanding loans to ED, who would remit the funds owed back to the institution in an initial lump sum payment and then periodically as loan servicing continues. Alternatively, the institution could retain the portion of the fund balance to which it is entitled, retain loan servicing responsibilities for outstanding loans, and would remit the federal funds owed back to ED in an initial lump sum payment and then periodically as loan servicing continues.

An informal survey of NASFAA members revealed mixed preferences, with some schools preferring to assign all outstanding loans to ED and others preferring to retain servicing responsibilities for outstanding loans. Factors cited included portfolio size, existing servicer contracts, staffing issues, and alumni affinity programs. Because of this institutional variation, we request flexibility for institutions to decide whether to assign loans to ED or retain at the institutional level. Under such flexibility, we request the following:

When loans are assigned to ED, institutions should:

- Be allowed to assign loans to ED at any point in time
- Be allowed to continue to assign individual loans, e.g., defaulted loans, to ED without assigning all outstanding loans
- Retain their right to a share of collections by ED, since the institutions are not leaving the program voluntarily
- After assignment, receive their share of the continuing collections from ED on a reasonable, published schedule

When institutions choose to continue servicing their outstanding loans, institutions should:

- Be allowed to subtract collection costs and other related administrative expenses from the federal share remitted to ED
- Be subject to a reasonable schedule for remitting the federal share of the continuing collections to ED

We look forward to working with you to ensure an orderly and equitable distribution of schools' revolving Funds if the Federal Perkins Loan Program should cease. Please feel free to reach out to me with any questions.

Regards,

Justin Draeger, President & CEO

Cc: Mr. James Manning
Mr. Matthew Sessa