

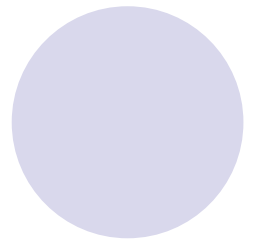
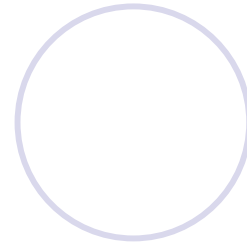
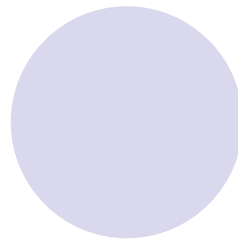
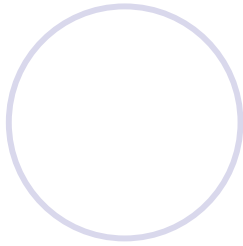
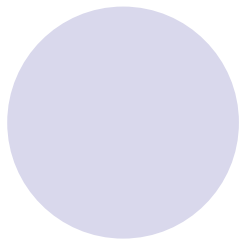


# Sorting Out Fact From Fiction What is Happening in Washington?

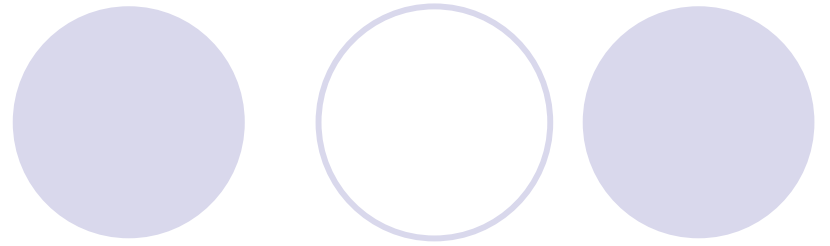
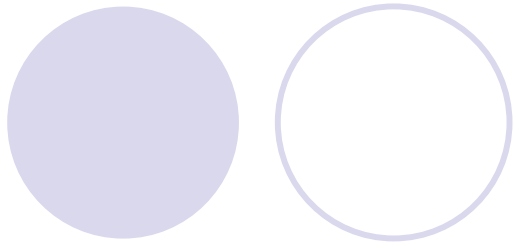
FASFAA Spring Conference  
May 23, 2007

Brett Lief, President

National Council of Higher Education Loan Programs



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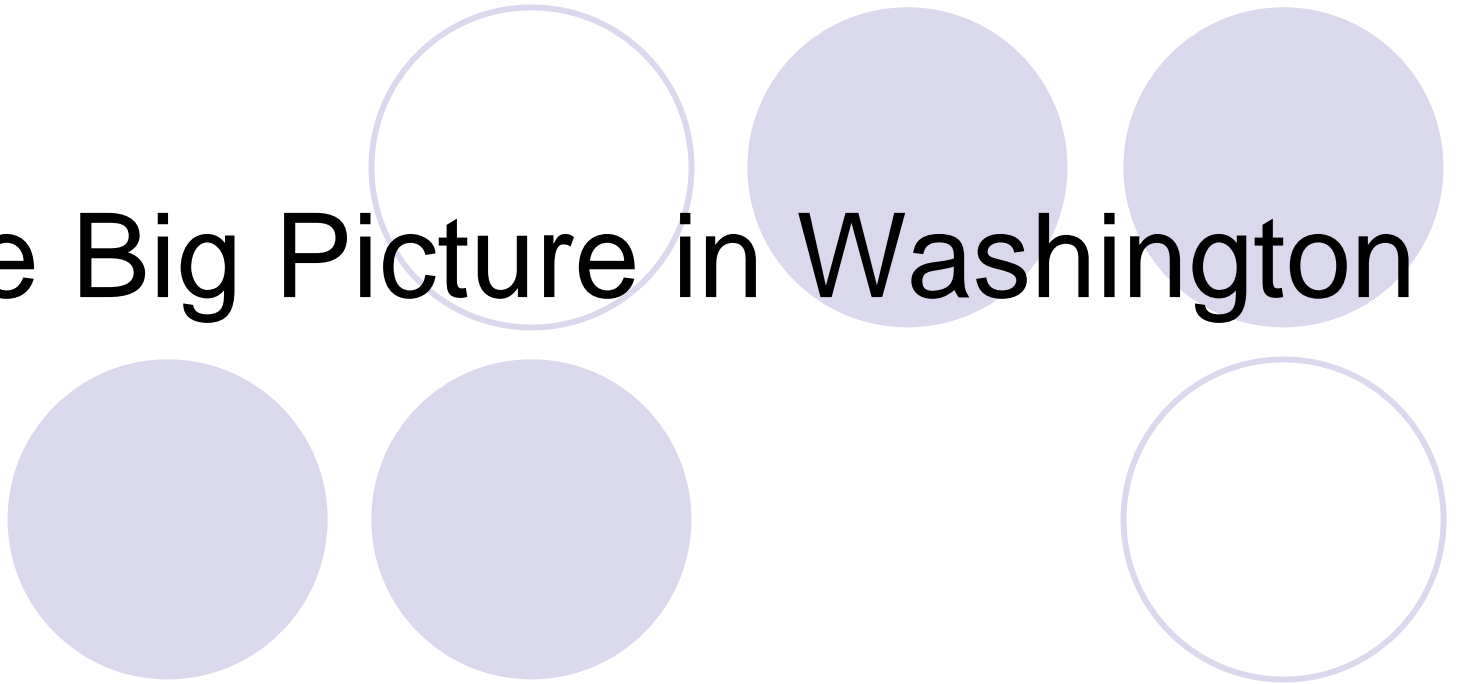
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# Overview

- The New Washington Landscape
- The Budget
- Proposed Legislation
- Student Loan Probes
- Changes at the Department of Education

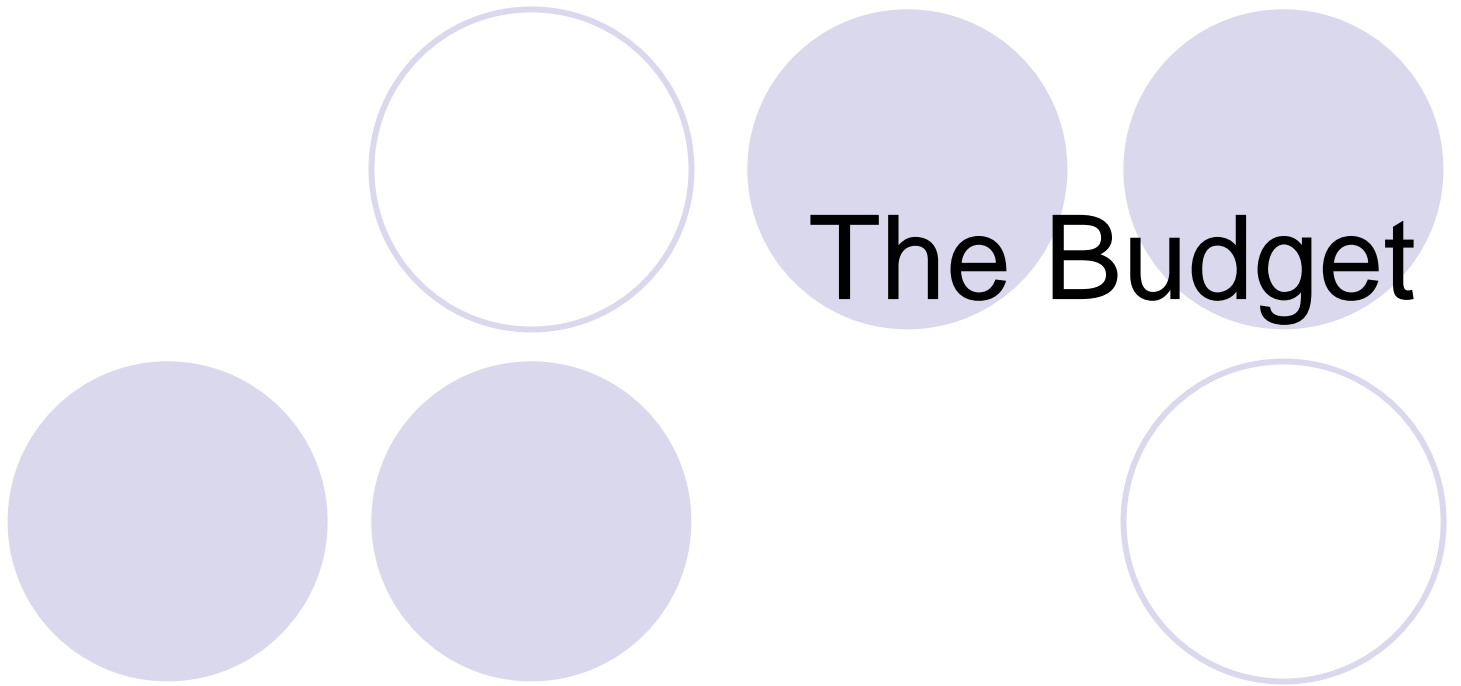
# The Big Picture in Washington



# New Landscape



- Congressional Democrats and the President
- Education Department in transition
- 2008 Presidential race underway



**The Budget**



# The Budget

- The Administration's FY 2008 Budget
- Congressional Budget Resolution



# The Budget – Robbing Peter

- Mandatory Savings
  - \$18.8 billion in FFELP Cuts
  - \$3.2 billion recouped from Perkins Loan Revolving Funds
- Proposed FY 08 Cuts

<b>Lender/Holder Cuts</b>	<b>5-Year Savings</b>
50 BP SAP Cut	\$12.4 B
2% Default Insurance Cut	\$1.6 B
One-time consolidation loan holder fee from .50 bp to 1%	\$ .85 B
<b>Total</b>	<b>\$14.85 B</b>

<b>Guarantor Cuts</b>	<b>5-Year Savings</b>
Guaranty agency default collection payments reduced from 23 to 16 percent	\$2.3 B
Account maintenance fees reduced by moving to “unit-cost” payment system	\$1.6 B
<b>Total</b>	<b>\$3.9 B</b>

# The Budget – Paying Paul

- Increased Grants and Loan Limits

	<b>5-Year Costs</b>
Raise maximum Pell by \$550 to \$4,600 in 2008; increase annually by \$200 from 2009 to 2012 when it reaches \$5,400	\$19.8 B
Raise maximum ACG levels by 50% for first-year students (\$750 to \$1,125) and second year students (\$1,300 to \$1,950)	\$1.0 B
Increase loan limits from \$5,500 to \$7,500 for third- and fourth-year undergraduates both dependent and independent	\$1.1 B
<b>Total</b>	<b>\$21.9 B</b>

# The Budget – Paying Paul

- Increased Aggregate Loan Limits

<b>Subsidized Stafford</b>	<b>Total</b>
Dependent Undergrad \$23,000 (\$30,500)	\$23,000 (\$30,500)
Independent Undergrad \$23,000 (\$30,500)	\$46,000 (\$53,500)
Graduate Students \$65,500 (\$73,000)	\$138,500 (\$156,000)

- PLUS Fix

	<b>FFEL</b>	<b>Direct Loan</b>
Current PLUS rate	8.5%	7.9%
Proposed PLUS rate	8.3%	8.3%

# Congressional Budget Resolution

- \$750 million higher education reconciliation instruction
- Provides for a total of \$954 billion for discretionary programs in FY08
  - \$85.9 billion in FY08 funding for federal education programs (\$5.6 billion above FY07 levels)
- Balances the budget by 2012 with no tax increases
- Restores pay/go rules in the Senate



**Proposed Legislation**



# Proposed Legislation

- H.R. 5 – College Student Relief Act
- S. 359 – Student Debt Relief Act of 2007
- H.R. 472 – College Affordability and Transparency Act
- S. 486/H.R. 890 – Student Loan Sunshine Act
- H.R. 1994 – Financial Aid Accountability and Transparency Act
- S. 1262 – Student Loan Accountability and Disclosure Reform Act
- S. 1400 – Student Information Means a Positive Loan Experience (SIMPLE) Act
- S. 1401 - Student Financial Data Privacy Protection Act

# H.R. 5 – College Student Loan Relief Act

- Passed House on January 17<sup>th</sup> by vote of 356 to 71
- Contains borrower benefits in the form of reduced interest rates on new subsidized Stafford loans to undergraduate students in FFEL and Direct Loan Programs
- Consistent with new pay-as-you-go rule, contains \$9 billion in reductions in payments to FFEL participants

# H.R. 5 – Interest Rate Reductions

- Borrower rates on subject loans reduced as follows
- Loans disbursed on or after January 1, 2012 will revert back to current 6.8% rate

Interest Rate	Rate reduction for loans disbursed begins
6.12%	7/1/07
5.44%	7/1/08
4.76%	7/1/09
4.08%	7/1/10
3.40%	7/1/11



# H.R. 5 – FFEL Cuts



- Lender insurance reduced to 95%
- Exceptional performer status repealed
- Lender paid origination fee on Stafford, PLUS and Consolidation loans increased from 0.5% to 1.0%
- SAP reduced by 10 basis points, with small lender exclusion

# H.R. 5 – FFEL Cuts



- Rebate fee on Consolidation loans increased by 25 basis points for lenders whose Consolidation loans exceed 90% of their loan portfolio
- Guaranty agency collection retention fee incrementally reduced from 23% to 20% to 18% to a percentage equal to average rate paid to collection agencies by Department of Education

# S. 359 – Student Debt Relief Act

- Introduced by Senators Kennedy, Mikulski, Lieberman, Schumer and Obama on January 22<sup>nd</sup>
- No direct cuts to FFEL, though Direct Loan enhancements are included

## S. 359 – Summary

- Contains interest rate cuts from H.R. 5
- Maximum Pell grant increased to \$5,100 for 2007-08, and in steps thereafter to \$6,300 for 2011-2012
- In-school consolidation reinstated
- Limitation on reconsolidation repealed

# S. 359 – Summary



- Fair payment assurance

- Borrowers can select to have monthly payment limited to 15% of the amount by which income exceeds 150% of poverty line applicable to borrower's family size (partial hardship deferment)
- Three year limit on hardship deferments eliminated
- FFEL or FDLP loans discharged after 25 years in standard repayment, hardship deferment, partial hardship deferment, or direct loan income contingent repayment

# S. 359 – Summary

- Direct Loan Enhancements

- Contains STAR Act

- FDLP origination fees reduced by 1%

- Forgiveness of direct loans to borrowers who make 120 payments under the income contingent repayment plan and who are employed full time during such period in public service

- College tuition deduction increased from \$4,000 to \$12,000 and student loan interest deduction changed to a tax credit

H.R. 472 –

## College Affordability and Transparency Act

- Introduced by Representatives Buck McKeon, Ric Keller, Michael Castle, and Richard Baker on January 16, 2007
- Similar to legislation introduced in the last session of Congress

# H.R. 472 –

## College Affordability and Transparency Act

- Creates website to include College Consumer Profiles to provide cost and comparison information in one place
- Holds schools accountable for cost increases
  - Establishes college affordability comparison tools
    - “Sticker Price” for school over three year period
    - “Net Tuition Price” (average cost minus average grant) over the same period of time
    - Percentage change over three years
    - Percentage change in the Consumer Price Index (CPI) over three years
  - Any school that raises tuition more than twice the rate of CPI will be required to provide a description of the factors impacting the increase
- Creates Task Force, Demonstration Project, and Best Practices Study on ways to enhance affordability



# Student Loan Sunshine Act

- Introduced February 1, 2007 in the Senate
- S. 486 – Sponsored by Senators Kennedy, Durbin, Clinton, Harkin, Rockefeller, Kerry and Schumer
  - Still pending
- H.R. 890 – Approved by the House on May 9, 2007 by a vote of 414-3
  - 19 cosponsors

# Student Loan Sunshine Act – Provisions

- Lender Prohibitions
  - No gifts to college employees, including gratuity, favor, discount, entertainment or hospitality
  - No branding of loan products with school name
  - No financial benefits to college employees for advisement
  - No college employee participation on lender advisory councils
  - “Opportunity Pools” prohibited
- Preferred Lender Lists
  - Requires institutions to disclose all relationships with lenders
  - Preferred lender lists allowed only on campuses with strict assurances that the list was created with the students' best interest in mind
  - Schools that maintain preferred lender lists must list no less than 3 unaffiliated lenders and must disclose the process for selecting such lenders.
- Ethics
  - Requires institutions and lenders to adopt strict codes of conduct

# Student Loan Sunshine Act – Provisions

- Information on Education Loan Arrangements, Loan Terms
  - Preferred lender arrangement defined as an “arrangement or agreement between a school and a lender under which the lender makes educational (including private loans) to students, and
    - The school recommends, promotes or endorses the loans, and
    - There is compensation
  - Lenders required to certify to the Secretary that its preferred lender arrangements comply with HERA provisions
  - Lenders cannot make private loans until school informs student of remaining Title IV availability

# Student Loan Sunshine Act – Provisions

- Loan Information
  - Each lender having an educational loan arrangement to file annual report with the school and ED
  - Each school to give ED and the public detailed explanation of why these terms are beneficial
- Private Loans
  - For school channel loans, schools must inform students of Title IV eligibility and the terms of private loans that are less favorable than federal loans
  - Lenders must disclose availability of Title IV loans, and describe interest rate and other features of private loans
  - Lenders must notify school of prospective loan and school must notify prospective borrower whether loan exceeds cost of attendance (after taking into consideration other aid)

# Congressional Oversight Hearings

- House Education and Labor Committee
  - April 25<sup>th</sup> —Attorney General Andrew Cuomo and others criticizes the Department of Education’s oversight of student loan programs
  - May 1st – Higher Education, Lifelong Learning and Competitiveness Subcommittee hearing on “Paying For a College Education: Barriers and Solutions for Students and Families,”
  - May 10<sup>th</sup> – Secretary Spellings testified on departmental oversight of college loan programs

# S. 1262 – Student Loan Accountability and Disclosure Reform Act

- Phases out “school-as-lender”
- Establishes Code of Conduct for institutions of higher education that prohibits colleges and their employees from receiving anything of value from any lender in exchange for advantages sought by the lender
- Prohibits institutions of higher education from designating “preferred lenders”
- Requires colleges to provide students and parents with a guide that enables them to do their own evaluation of the loan products, benefits, and services offered by the lenders
- Expands prohibitions on guaranty agencies and lenders, including provisions that prohibit the offering of any premiums, payments, prizes, and tuition payments
- Prohibits both lenders and guaranty agencies from sending unsolicited electronic mailings to potential borrowers

# S. 1400 -Student Information Means a Positive Loan Experience (SIMPLE) Act

- Extends repayment plans to borrowers who have at least \$20,000 in student loan debt, instead of current threshold of \$30,000
- Borrowers given the opportunity to pay only the interest on their loans for the first two years of repayment
- Lenders to provide borrowers whose loan payments are postponed with information on the total amount of principal and interest to be paid on the loan
- Revises the definition of economic hardship raising the eligibility cut off point to 150 percent of the poverty line
  - Takes family size into account
- Exit counseling must include a discussion of the different features of each available repayment plan, sample information showing the difference in interest paid and total payments under each plan, average anticipated monthly payment amounts, and the ability of the borrower to change repayment plans

# S. 1401 – Student Financial Data Privacy Protection Act

- Department of Education to establish protocols for limiting access to the database when there are suspicions that the system is being used inappropriately, and specific steps to be taken in order to restore access
- Department of Education to conduct a data security assessment of NSLDS to test the adequacy of the new protocols
- Requires the Department of Education, lenders and guaranty agencies to assist students and parents in better understanding how their sensitive, financial information is entered into the National Student Loan Data System and then accessed by thousands of lenders, consolidators and guaranty agencies across the country
- Prohibits nongovernmental researchers and policy analysts from accessing sensitive borrower-specific information
- Directs the Secretary of Education to explore ways to help students and parents control which lenders are accessing their sensitive, financial information



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# Student Loan Probes



# Student Loan Probes

- On-going New York investigation
- Formal notice of intent to sue sent to Education Finance Partners, a private loan lender
- Issues
  - Is it a deceptive practice not to disclose that referral fees are paid to schools?
  - Was the practice disclosed?
- Document request from Senator Kennedy
- Drexel University

# College Loan Code of Conduct

## 1. Revenue Sharing Prohibition

- Colleges are prohibited from receiving anything of value from any lending institution in exchange for any advantage sought by the lending institution. Lenders can no longer pay to get on a school's lender list.

## 2. Gift & Trip Prohibition

- College employees are prohibited from taking anything of more than nominal value from any lending institution. This includes a prohibition on trips for financial aid officers and other college officials paid for by lenders.

## 3. Advisory Board Compensation Rules

- College employees are prohibited from receiving anything of value for serving on the advisory board of any lending institution.

## 4. Preferred Lender Guidelines

- College preferred lender lists must be based solely on the best interest of the students or parents who may use the list without regard to financial interests of the college.

# College Loan Code of Conduct

## 5. Preferred Lender Disclosure

- On all preferred lender lists, the college must clearly and fully disclose the criteria and process used to select preferred lenders. Students must also be told that they have the right and ability to select the lender of their choice regardless of the preferred lender list.

## 6. Loan Resale Disclosure

- No lender may appear on a preferred lender list if the lender has an agreement to sell its loans to another lender without disclosing this fact. In addition, no lender may bargain to be a preferred lender with respect to a certain type of loan by providing benefits to a college as to another type of loan.

## 7. Call Center Prohibition

- Colleges must ensure that employees of lenders never identify themselves to students as employees of the colleges. No employee of a lender may ever work in or provide staffing to a college financial aid office.



# Unintended Consequences

- Biggest impact on neediest students
- More direct to consumer marketing
- More government between student and schools
- What could be next?

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**Department of Education**



# Department of Education

- Transition at the Department of Education
- NSLDS Shutdown
- Negotiated Rulemaking
- Internal Student Loan Task Force



# Department of Education in Transition

- Final twenty-one months of a second term presidency sees political appointees beginning to look for new opportunities
- Long-term career service staff sense a void and pursue their priorities that have been building up over the past six years
  - NSLDS Shutdown
  - 9.5% loans
  - Servicer errors
  - Improper payments
  - OIG review of FSA closed audits





# Department of Education in Transition

- Federal Family Education Loan Program is under-appreciated
  - FY2007 and 2008 budget cuts
  - Comments of senior officials
  - Failure to recognize successes
    - Uninterrupted source of low cost funds
    - Unparallel service to schools
    - 20 versus 80

# NSLDS Shutdown



- Restoration Begins
- Student Eligibility
  - Slows down processing when eligibility questions prohibit new aid
  - Ability to calculate cumulative loan amounts hampered—very important for calculating outstanding debt for consolidation
- Interim and Repayment Servicing and Default Prevention
  - Unable to research borrower enrollment—may create need to send inquiries or call to schools
  - Unable to research NSLDS errors and identifier conflicts or make online updates for borrowers or schools

# NSLDS Shutdown



- **Default and Post Default Servicing**
  - Could increase claim return/reject rates due to reliance on data to verify discrepant out of school dates
  - Increasing inquiries to schools regarding out of school dates
  - Claims will be returned to avoid 60-day turnaround time for responding to rejects
- **Service to Borrowers Hampered**
  - Responses to borrowers will be difficult when identification of outside loan holders are necessary
  - Will severely hamper ability to address loan repurchases, loan forgiveness, questions from borrowers and schools
- **Required Federal Reporting and Billing**
  - Staff will be unable to review, process and correct NSLDS level errors and unreported loans updates from lenders
  - Quarterly Guaranty Agency Financial Reporting (GAFR) reconciliation with NSLDS data will be virtually impossible

# Negotiated Rulemaking



- The Department Ends Loan Program Rulemaking Without Agreement
  - Establishes an internal student loan taskforce
  - Calls for extra negotiating session governing accreditation

# Federal Rulemaking – “The Biggies”

- Preferred Lenders Lists

- Prohibits

- Cash payments or compensating balance
- Servicing cost payments
- Stock exchange
- “payments made for other purposes”

- Penalty

- Fine of not more than \$10,000 and/or imprisonment of not more than one year

# Federal Rulemaking – “The Biggies”

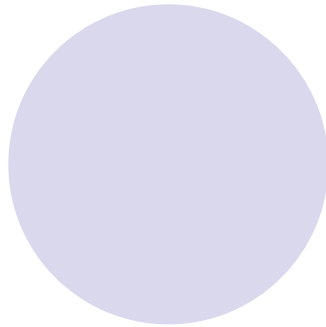
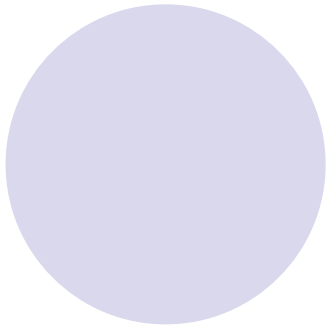
- Lender Prohibited Inducements
  - Payments, benefits or prizes to students or parents for applying for or accepting a FFEL loan
  - Payments or other benefits to a school, or school affiliated organization, in exchange for FFEL loan applications
  - Payments or other benefits to lender’s representatives who solicit borrowers to apply for FFEL loans
  - Payments of referral or processing fees to another lender that exceed reasonable compensation for the administrative handling and marketing of FFEL loans
  - Payments of conference or training registration, transportation, and lodging costs
  - Payment of entertainment expenses including private hospitality suites, tickets to shows or sporting events, meals, alcoholic beverages, and any lodging, rental, transportation, and other gratuities related to lender-sponsored social activities
  - Undertaking philanthropic activities, including providing scholarship, grants, restricted gifts or financial contributions in exchange for FFEL loan applications, refers or specific volume or placement on a schools list of recommended or suggested lenders

# Federal Rulemaking



- Consistent enrollment status definitions for all Title IV programs
- Consistent definitions for undergraduate, graduate and professional students and first-professional degree for all Title IV programs
- Treatment of term-based programs with multiple start dates for federal Pell grants
- Proration for federal Pell grant programs using clock or credit hours without terms
- Determining loan eligibility for non-standard term programs
- Non-term credit hour programs – use of completion of half the weeks of instructional time for timing of loan disbursements
- Definition of independent study
- Minimum period for certifying a loan
- Recovery of unclaimed funds
- Electronic disbursements, use of stored value cards, and issuing a check
- Definition of excess cash and excess cash allowances

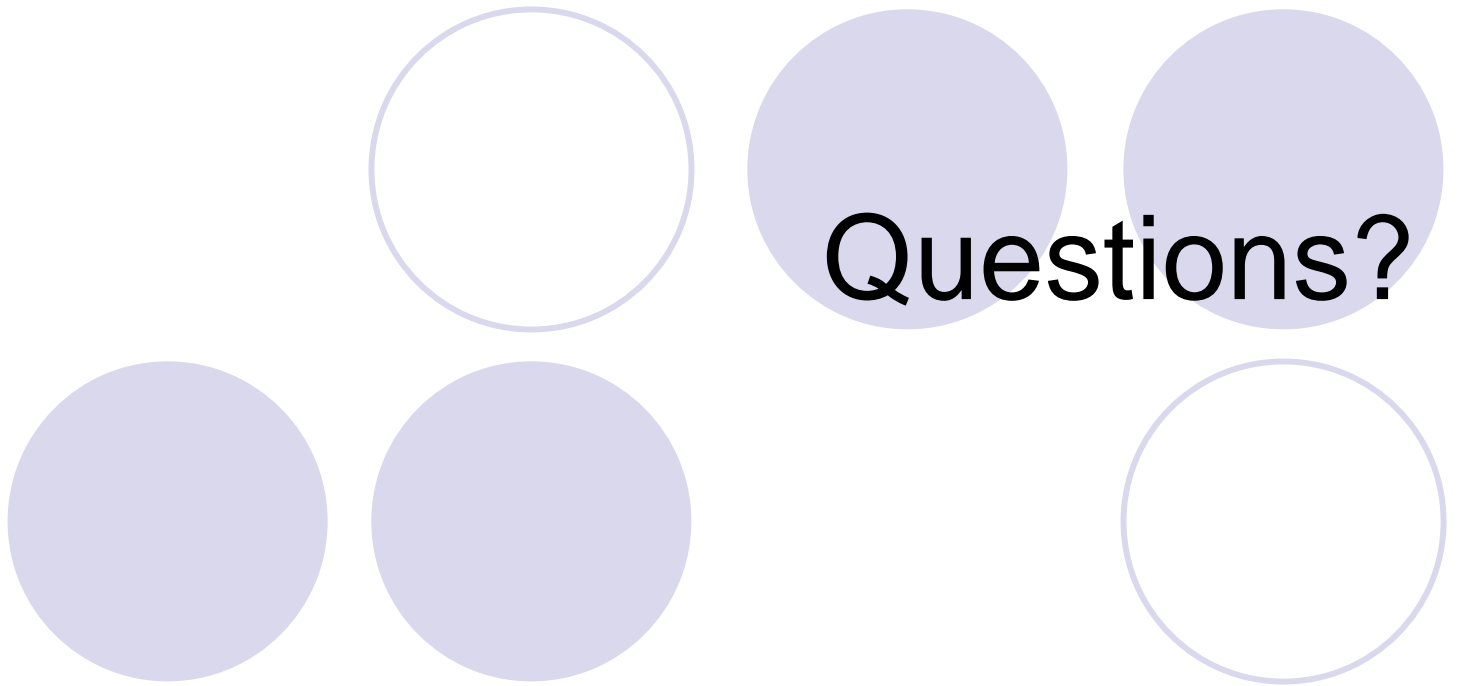
# Department of Education Internal Student Loan Task Force







# Prognostications



**Questions?**