

# United States Senate

WASHINGTON, DC 20510

March 8, 2018

The Honorable Betsy DeVos  
Secretary of Education  
U.S. Department of Education  
400 Maryland Avenue, S.W.  
Washington, D.C. 20202

Re: Docket ID number ED-2018-ICCD-0134

Dear Secretary DeVos:

We write to express strong concerns regarding the U.S. Department of Education's ("Department") Payment Vehicle Account Program Pilot. This pilot is intended to allow federal aid recipients at participating colleges the ability to open an account, and use a debit card, that is co-branded by Federal Student Aid (FSA) and a financial services institution.<sup>1</sup>

While we appreciate that the Department is pursuing a financial product with lower fees for student aid recipients, we are alarmed by the message the card sends to students that their spending habits are going to be monitored by the federal government, that the Department is essentially selling its services to corporate partners, and that the Department will have unprecedented access to student spending data under this program. As you move forward with the new pilot program, we request the Department ensure students have access to safe and affordable financial products by securing stronger consumer protections for students and safeguarding their privacy and data.

Thus far, the Trump Administration has shown an unwillingness to protect students and student borrowers, from rolling back protections for students who are victims of fraud and abuse at the hands of predatory colleges, to undermining the ability of states to protect their residents from substandard student loan servicing failures. Given the Administration's clear record of prioritizing the interests of financial institutions over the needs of our nation's students, we have concerns regarding the Department's proposed debit card program.

### ***Endorsing a financial institution***

The Department has recognized that federal student loans are often the first financial services product that students encounter and that a partnering financial institution for this debit card will have a "meaningful way to build a stronger, lifetime relationship with FSA's customers," through their collaboration with the government.<sup>2</sup> The Department also acknowledged that by

---

<sup>1</sup> Department of Education, Federal Student Aid, "Federal Student Aid's Next Generation Financial Services Environment – Payment Vehicle Account Program Pilot," Application to Pilot Notice, October 2018. [https://s3.amazonaws.com/public-inspection.federalregister.gov/2018-22646.pdf?utm\\_campaign=pi%20subscription%20mailing%20list&utm\\_source=federalregister.gov&utm\\_medium=email](https://s3.amazonaws.com/public-inspection.federalregister.gov/2018-22646.pdf?utm_campaign=pi%20subscription%20mailing%20list&utm_source=federalregister.gov&utm_medium=email)

<sup>2</sup> Department of Education, Federal Student Aid, "Federal Student Aid Next Gen Payment Card Program Pilot," January 18, 2018.

co-branding the card it is, “transferring a thing of value,” to a financial institution.<sup>3</sup> Given that the Department recognizes the significance of its proposal, it must more aggressively ensure that it is in the best interest of students.

We are troubled that under this “transaction,” the Department is offering up not only its implicit endorsement of the financial institution, but also marketing access to potentially millions of students.<sup>4</sup> Students should not be directed toward a financial product by the government; instead, the government should be protecting students, not selling a relationship to financial institutions. It is essential that the Department not allow financial services companies to continue using the debit card issued to students longer than six months following their most recent enrollment at the same institution of higher education, to ensure that the federal government is not giving corporate entities lifetime access to financial aid recipients.

### *Protecting student data*

Additionally, we are alarmed that the Department will collect data on student spending through its pilot—even in aggregate form. The Department’s purported purpose for collecting aggregate student spending information is to monitor for “compliance.” However, it is unclear what problem the Department is trying to solve, or what type of compliance it can monitor with such data. We are concerned the Department will abuse these students spending reports to attempt to restrict or criticize what qualifies as an educational expense under the *Higher Education Act*. It has long been a goal for some special interest groups to attack the recipients of federal aid to low-income individuals, including similar efforts in a variety of means-tested benefits programs. Students are already struggling with college expenses, and the last thing they need is additional government intrusion into their effort to survive. It is inappropriate for the Department to collect merchant category codes on student spending behavior, and the Department should not request, collect, or analyze such information. The pilot program’s forms and guidelines must contain these clear prohibitions.

While we appreciate the Department has expressed a desire to reduce fees paid by students on campus financial products, it can easily do so through better enforcement of the cash management regulations—and no such comparative analysis has been presented. Recent reports have indicated that students continue to be charged high fees, but the Department has done little in its power to stop this.<sup>5</sup> The Department has not aggressively cracked down on arrangements that are resulting in abnormally high fees to students. Instead of creating a massive new government program with significant risks for students, the Department must demonstrate that it has pursued alternative enforcement options.

Furthermore, the proposed debit card does not ensure that the companies collaborating with federal government will offer our nation’s students a safe financial product that operates in their

---

<https://www.fbo.gov/index.php?s=opportunity&mode=form&id=34ef48d8d69ba91d6f0c7e903e32b5b0&tab=core&view=1>

<sup>3</sup> Id.

<sup>4</sup> Department of Education, Federal Student Aid, “FY1 2017 Annual Report,” Report, November 2017, <https://www2.ed.gov/about/reports/annual/2017report/fsa-report.pdf>

<sup>5</sup> Berman, Jill, “Wells Fargo and other banks charged students \$27 million in fees, buried CFPB report reveals,” *marketwatch*, December 12, 2018. <https://www.marketwatch.com/story/after-controversy-trump-administration-releases-report-showing-deals-between-banks-colleges-cost-students-27-million-2018-12-10>

best interest. To safeguard students' privacy and financial choices, we request the Department address the following questions.

- 1) How is the Department currently selecting institutions or financial arrangements in its effort to enforce the cash management regulations?
- 2) How is the Department working with the CFPB to enforce the cash management regulations?
- 3) Has the Department requested the CFPB produce public annual reports on campus card account fees? If not, why not?
- 4) What problems has the Department identified in current disbursement practices that necessitate the development of the Payment Vehicle Account Program Pilot?
- 5) Which specific consumer protection laws does the Department believe apply to the Payment Vehicle Account Program Pilot?
- 6) What information is the Department looking to learn from receiving aggregate reports on student spending behaviors?
- 7) What level of detail will be reported in the aggregate data received by the Department?
- 8) Will the aggregate reports on student spending be shared outside of the Department? If so, with whom will the Department share these reports?
- 9) How will the Department ensure that no conflicts of interest are present in the agreements made under the Payment Vehicle Account Program Pilot?
- 10) How will the Department ensure that no data sharing will occur between the vendors for the Payment Vehicle Account and student loan servicers and other FSA contractors?
- 11) What restrictions will be placed on the financial institution(s) participating in the Payment Vehicle Account Program Pilot in regards to charging students fees after they leave school?
- 12) What disclaimers will the Department provide to ensure that no implied endorsement of a financial partner's other products, services, or practices is conveyed by the pilot?
- 13) How will the Department ensure that privacy of pilot participants will be protected within the MyStudentAid app or any other electronic payment platform, including ensuring that student location information will not be tracked?

Thank you for your attention to this matter. Please provide a response no later than March 27, 2019.

Sincerely,

  
Robert Menendez

  
Elizabeth Warren

  
Richard Blumenthal