



THE SECRETARY OF EDUCATION  
WASHINGTON, DC 20202

April 17, 2007

The Honorable Edward M. Kennedy  
Chairman  
Committee on Health, Education, Labor and Pensions  
United States Senate  
Washington, D.C. 20510

Dear Mr. Chairman:

Over the past two weeks, considerable attention has focused on the federal student financial assistance programs and the relationship between the Department of Education, which oversees the programs, and the schools and lenders that participate in them. I want to take this opportunity to respond to your April 15, 2007 letter to me regarding the National Student Loan Data System (NSLDS) while setting the record straight regarding it and related matters you may have read in the media.

Let me assure you that I hold the Department and the thousands of civil service professionals who administer these programs to the highest ethical standards. It is through their commitment and dedication that the Department today delivers more financial aid to more students at lower costs with greater accuracy and program integrity than ever before.

It is also our responsibility to ensure that all financial institutions and postsecondary institutions participating in the programs under Title IV, Part B of the Higher Education Act of 1965 meet program requirements. The American taxpayer expects - and I demand - that the relationships between schools, lenders and the Department be above reproach.

As you may have read over the past few weeks, there have been numerous reports of alleged violations of Title IV program requirements, and most disturbingly, the public trust. I want to state the facts surrounding these issues.

**The National Student Loan Data System (NSLDS):**

- Access to NSLDS is granted solely for the purpose of helping to determine the eligibility of an applicant for federal student aid and the collection of federal student loans and grant overpayments. This information may not be used for any other purpose, including the marketing of student loans or other products. The data contained in NSLDS is confidential and is protected by the Privacy Act of 1974, and other applicable statutes and regulations.

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- Borrower information residing on NSLDS may only be accessed by an approved user in possession of a borrower's social security number. Only after entering the borrower's social security number can an approved user access the NSLDS Web site and resident borrower information such as the name and date of birth. Contrary to what has been reported, NSLDS does not provide access to e-mail addresses, phone numbers or any other addresses of borrowers.
- The Department is vigilant in its monitoring for unauthorized use of NSLDS and closely safeguards access to the system. Since 2003, the Department's Office of Federal Student Aid has invested over \$650,000 in improved system security and monitoring tools and processes to ensure the integrity of student information. This has resulted in the revocation of over 52,000 user IDs. The majority of the revocations were due to user inactivity. Two hundred sixty-one user IDs were revoked due to suspicious activity although it has not yet been determined that access was not authorized by the borrowers. Of these, 246 user IDs belonged to lenders, loan holders, guaranty agencies and servicers, and 15 user IDs belonged to schools.
- The Department's Office of Inspector General (OIG) report issued on August 1, 2005 that was referenced in numerous press reports was an inspection of the documented Security Plan for NSLDS. It did not identify any specific misuse of NSLDS. Misuse of NSLDS was not the objective of the inspection. There were two express objectives of the inspection: to determine (1) whether the security rules and procedures in the written Plan complied with the Department's policies; and (2) whether contractor employees who have user access to NSLDS have the appropriate security clearances as required in the written Plan. With respect to the first objective, the OIG recommended that Federal Student Aid amend its Security Plan to: (1) provide a written timeline for new contractor employees to receive an IT awareness briefing; (2) include at least annual recertification procedures to identify and remove internal users who have left the organization, current employees whose duties no longer require system access, and users who have not accessed the system for a specified period of time; (3) extend minimum password length to eight alphanumeric characters and ensure the updated 90-day password aging time frame; (4) include language requiring that system log records are reviewed on at least a weekly basis and that Federal Student Aid improve oversight of contractor responsibilities and fulfillment of assigned tasks; and (5) incorporate written, formalized policy on account termination procedures for Department employees. With respect to the second objective, the inspection found that not all contractor employees had the appropriate security clearance for their position and recommended that appropriate security clearances be immediately obtained. It also recommended that contractor employees in certain high-risk positions not have access to the system until a preliminary clearance is received. In its July 8, 2005 response to the draft report issued by the OIG, Federal Student Aid agreed with all of the recommendations and implemented all of them by May 2006.
- As a result of the Department's specific monitoring of NSLDS usage, the Department issued a Dear Colleague Letter (GEN-05-06; FP-05-04) in April

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2005. This Dear Colleague Letter explicitly reminded program participants that failure to comply with NSLDS access and usage requirements may result in the organization's or individual's losing access to NSLDS and/or being subject to sanctions, including, but not limited to, the initiation of a limitation, suspension, or termination action or a debarment proceeding against the postsecondary institution or FFEL participant.

- Through the Department's ongoing and targeted monitoring of NSLDS, we observed a significant increase in usage by lenders, loan holders, servicers, and guaranty agencies. This was a matter of concern to us and we began deliberations on potential courses of action. After consideration of alternatives, the Department has temporarily suspended, effective April 17, 2007, access to NSLDS by lenders, loan holders, servicers, and guaranty agencies.
- During this temporary suspension of access, the Department, in consultation with the OIG, will conduct a review of the specific uses of NSLDS by these entities to determine if there has been unauthorized usage in addition to the 261 instances already acted upon for suspicious activity. Additionally, the Department will continue to educate students and families on the implications of providing others with permission to access NSLDS and view their private information. The Department will also review all guidance to determine whether updates are needed.
- Recognizing that students and families depend on vital financial aid dollars to support their education, the Department will work to minimize any disruption in service.

**The Department's role in ensuring lender and school compliance:**

- The OIG report issued on August 1, 2003 regarding a Review of Lender Inducements made two recommendations: (1) provide guidance on the growing market for private loans by clarifying the application of the anti-inducement provision to private loans; and (2) reevaluate the anti-inducement provision of Section 435(d)(5)(A) of the HEA and determine if statutory changes should be proposed in the upcoming reauthorization to include schools, lender affiliates and other necessary changes. With respect to the first recommendation, the Department has no authority over the private loan instruments and market and, therefore, guidance could not be provided. Regarding the second recommendation, reauthorization of the HEA is now underway. The Department's first opportunity to clarify and bolster the regulations began in December 2006, and the Department has offered as part of negotiated rulemaking revised language on inducements and preferred lender lists.
- The Department's Office of Federal Student Aid reviews complaints about lender inducements and determines what, if any, action is required. If it suspects violations, it evaluates the facts and takes appropriate action up to and including termination from participation in the FFEL Program and loss of insurance benefits on the particular loans involved.

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- Last year, the Department created an intra-departmental team to conduct targeted reviews and investigate complaints from students and lenders. Thus far we have found only a few cases where colleges and lenders may have violated the rules. Cease and desist letters have been issued to those entities that were found to be in noncompliance with the regulations.
- In November 2006, the Department announced it would be undertaking negotiated rulemaking on issues including strengthening regulations around preferred lender lists and prohibited inducements. The HEA currently prohibits a guaranty agency and lender in the FFEL program from: (1) offering, directly or indirectly, premiums, payments, and other inducements to any educational institution or its employees, or to other individuals in order to secure FFEL loan applications; (2) conducting unsolicited mailings of student loan applications, except to borrowers who have previously received loans through that lender or guaranty agency; and (3) engaging in fraudulent or misleading advertising.
- You may also be aware of the Review of Financial Partners' Monitoring and Oversight of Guaranty Agencies, Lenders, and Servicers issued by the OIG on September 29, 2006. The Department and Federal Student Aid take their responsibilities for fair and effective oversight very seriously. In fact, it is one of Federal Student Aid's core responsibilities. The Department welcomes recommendations on how we can improve our oversight and monitoring activities. We look forward to working with the OIG to improve the monitoring and oversight of guaranty agencies, servicers and lenders.
- The Department also reinforced to all 5,000 participants attending Federal Student Aid's annual training conferences (October and November 2006) the increased scrutiny by the Department for violations of the inducement and preferred lender regulations.

**Department oversight of the Federal Family Education Loan (FFEL) Program and the William D. Ford Direct Lending (DL) Program:**

- The Department's Office of Federal Student Aid is responsible for administering the student financial assistance programs authorized under Title IV, Part B of the HEA, as amended. As such, it is responsible for the administration of both the Federal Family Education Loan (FFEL) Program and the William D. Ford Direct Loan Program (DL) in an evenhanded manner.
- Both programs share the same goals, the same benefits and the same eligibility requirements. We firmly believe the FFEL and DL Programs have increased competition, improved customer service and lowered costs for students and taxpayers alike.
- Through our extensive outreach, the Department promotes awareness of and access to the resources provided through the Title IV programs. We do not endorse one program over another.
- The Department is responsible for designing, developing and delivering high-quality learning products, publications and Web products to both the FFEL and

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DL Program participants. Our annual training conferences serve over 5,000 participants of both programs.

- The Department is responsible for monitoring and overseeing both the FFEL and DL Programs. Federal Student Aid's Program Operations Division, under the Business Operations service area, is responsible for providing program management oversight as well as operations functions for the DL Program. Our Financial Partner Eligibility and Oversight Division, under the Program Compliance service area, provides oversight of approximately 3,200 lenders, guaranty agencies, secondary market lenders and third-party servicers participating in the FFEL program. In addition, our School Eligibility Division, also under the Program Compliance service area, provides oversight of more than 6,000 schools participating in the FFEL and DL Programs.
- The Department educates student borrowers about financial literacy, the student aid programs and how to borrow responsibly. Extensive delinquency and default prevention efforts by the Department have been instrumental in lowering default rates across both programs, reducing the incidence of default from a high of almost 23 percent in 1990 to approximately five percent today. Working with the FFEL community, we have taken targeted steps to reduce the default portion of the loan portfolio through delinquency assistance programs and increased default recovery efforts.
- Federal Student Aid's Office of the Ombudsman, now in its seventh year of operations, was established by the 1998 Amendments to the HEA. This office uses informal dispute-resolution processes to address complaints from those who receive assistance through both programs. Since its inception, the Office of the Ombudsman has handled over 100,000 complaints, including 16,893 in FY 2006.

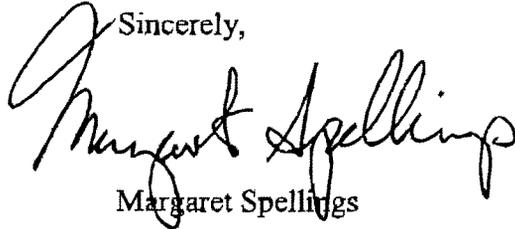
#### **Senior leadership of the Department and Federal Student Aid:**

- In 1996, the then-IG conducted a management review of the Department's personnel who oversaw the student loan programs and identified a shortage of qualified staff. Federal Student Aid was established by the 1998 Amendments to the HEA as a Performance Based Organization to bring the best private business practices and management policies to the administration of the Title IV student financial assistance programs.
- Since that time, Federal Student Aid has assembled a senior leadership team possessing over 300 years of experience in the private sector, the higher education community and in government. This team's leadership and expertise ensures Federal Student Aid achieves its strategic objectives, including annually delivering critical financial aid to millions of students and families and managing the inherent risks in the programs.
- As a result, the student financial assistance programs were removed, after 15 years, from the Government Accountability Office High-Risk list in January 2005. Additionally, Federal Student Aid has received unqualified audit opinions for the past five consecutive years.

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I consider the integrity of the student aid programs, the safeguarding of taxpayer funds and, most importantly, the best interests of America's students to be among my greatest responsibilities. I look forward to working with you to ensure the effectiveness of the student aid programs.

Sincerely,

A handwritten signature in black ink, reading "Margaret Spellings". The signature is written in a cursive style with a large initial "M".

Margaret Spellings

cc: The Honorable Michael Enzi  
The Honorable George Miller  
The Honorable Howard "Buck" McKeon