



December 23, 2015

Subcommittee on Higher Education and Workforce Training  
2157 Rayburn House Office Building  
Washington, DC 20515

**Response to Question for Mr. Justin Draeger**  
President

National Association of Student Financial Aid Administrators

**Question from Chairwoman Virginia Foxx**  
Subcommittee on Higher Education and Workforce Training

Hearing: “Federal Student Aid: Performance Based Organization Review”

*1. When Congress designated FSA as a performance-based organization, it was done in such a way to ensure FSA would be separate from any political influences or from the ability to make policy. Can you provide examples where FSA has acted beyond its statutory authority and is actively setting policy? How have these overreaches ultimately affected schools and students?*

Thank you for your inquiry. While there are areas where we suspect FSA has wandered into policy territory, it is difficult to know when a requirement communicated by FSA is actually FSA acting independently, or is a result of a policy decision at the Office of Postsecondary Education (OPE) that FSA has been directed to implement. Unfortunately, transparency at the Department of Education does not extend so far as to make the originator of an initiative explicitly obvious.

FSA collects, stores, and recycles many types of data. At times, it seems that crossing lines between policy implementation and policy development involves use of data. An example is the Classification of Instructional Program (CIP) codes, which categorize fields of study. CIP codes were adopted for Title IV student aid purposes to determine whether a student’s major qualified for a National Science and Mathematics Access to Retain Talent (National SMART) Grant. This reasonable use of an existing classification system has since expanded to areas far less appropriate.

One of the strongest examples, as noted in our testimony, occurred in 2012 when Congress placed a limitation on how long students could receive subsidized loans. In order to meet the regulatory requirements of this provision, FSA believed that it needed to begin collecting CIP codes to categorize academic programs. Per the statutory requirement, this information was only

needed for students who were borrowing a subsidized loan. However, FSA requires that schools report CIP codes for *all* borrowers, including graduate students who are ineligible for subsidized loans. Further, as a result of using CIP codes as part of a unique program identifier, the NSLDS Enrollment Reporting Guide requires that “Whenever a student changes majors, the school should report the student as withdrawn from the previous program and enrolled in the new program on the next enrollment submission.”

Requiring significant amounts of new data that are not needed to implement a regulation, at a significant expense and burden to schools, is tantamount to policy, not operations. Collection of this information, coupled with data ED already has on file for thousands of financial aid recipients, veers closely toward collecting student unit level data, which is currently banned by law.

Subsequently, CIP codes were being used to define in part which Perkins borrowers qualify for grandfathering. Before the current extension, when the Federal Perkins Loan Program appeared to be at an end, the law allowed borrowers to continue to receive loans for up to 5 years for the purpose of completing their academic programs. ED decided that CIP codes should be used to define the student's program, so that a student in a baccalaureate program would have to continue with a major having essentially the same CIP code as the when the borrower received the last Perkins payment before grandfathering took effect. A change of major from English, for example, to economics would exclude the student from further Perkins Loans to complete the baccalaureate, regardless of any impact, or lack thereof, on normal completion time for the degree.

However, a grandfathered borrower who completed the baccalaureate degree and entered a Master's Degree program at the same school could continue to receive Perkins Loans as long as the CIP code was essentially the same. It seems unlikely that this line of reasoning is what Congress originally intended by extending loans beyond the program's expiration so that a student could complete an “academic program.” If Congress did not intend to fund a student's Perkins Loan eligibility beyond his current credential level, the use of CIP code is inappropriate as it does not reflect the student's credential level (e.g. baccalaureate, graduate, etc.). The use of CIP codes in this manner may allow some students to receive Perkins Loans beyond what Congress intended, and others to lose eligibility before completing their credential.

Students often change majors without changing their credential goal (e.g., BA), and without impact on time of completion. Many, if not most, students enter college without a clear idea of major or career goal. As they are exposed to more experiences and areas of knowledge, even those who thought they had identified a major preference may find an ability or liking for something else. Why would we not want to continue to support a student who has discovered a talent for economics, and a desire to make it a career, when his or her program credential will be a baccalaureate either way? Imposing a choice of changing to a better suited major at the expense of giving up financial aid is unconscionable.

The application of certain gainful employment metrics also uses CIP codes. ED treats all of an institution's undergraduate programs with the same CIP code and credential level as one "GE program," without regard to program length. As a result, a school may find that a successful program of one length is penalized by a less successful program of another length. The degree to which this approach plays out is yet to be seen.

In addition and more broadly, as we mentioned in our testimony before your subcommittee, FSA is responsible for a wide array of Department of Education activities. Implementation of OPE policy can become transmuted into policy interpretation, modification, re-direction, and heightened or lowered prominence as a result of systems development, contract negotiation and execution, audit or program review, and other impinging factors.

It appears to us that technology, functionality, and the availability or unavailability of data or tools at FSA often drive policy. It is disturbing when the exigencies of a systems process seem to have the final word, so that operational procedures in effect set policy.

In these examples, the overreaches have required significant amounts of time and resources from schools to implement, time and resources that could have been better spent working with individual students and families. When schools spend more time complying with federal requirements, particularly requirements created by FSA that are not necessarily needed to implement any federal statute, students ultimately pay the price through either higher tuition to cover institutional administrative expenses or less time with college counselors. Often, the price is some combination of both.

The line between implementing policy and setting policy can become blurred, given the range of activities performed by FSA. The extent to which FSA ultimately shapes policy may realistically only be fully assessed by examining their internal deliberations and communications. Short of such a review, we can only assess using our own judgment about perceived operational overreaches. What is certain is that we believe it is vital that all aspects of policy administration operate independently from FSA. This is one of the reasons why we believe that all policy-related functions currently resident with FSA should be reabsorbed into OPE.

Sincerely,



Justin Draeger  
President and CEO

National Association of Student Financial Aid Administrators (NASFAA)