

# Senators press Department of Education

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WASHINGTON - U.S. Senators Dick Durbin (D-IL), Elizabeth Warren (D-MA), Jack Reed (D-RI), Richard Blumenthal (D-CT), and Sherrod Brown (D-OH) pressed Dr. Wayne Johnson, Chief Operating Officer of the U.S. Department of Education's Office of Federal Student Aid (FSA), for additional information on a proposed pilot program that would disburse student financial aid through a prepaid card product. In a letter to Dr. Johnson, the lawmakers expressed that if FSA proceeds with a pilot program, it will need to extensively detail how the program will protect students and prevent financial institutions from enriching themselves through inappropriate fees and practices.



“While we support efforts to improve the financial aid distribution process, we have serious concerns about your proposal given the poor track record of such cards in the past,” the members wrote. “History shows that in the absence of strict oversight and

safeguards, these card programs can leave students and taxpayers vulnerable to exploitation. Congress must be fully informed about how your proposed pilot program would impact our nation's 42 million student borrowers and federal student aid programs."

On November 29, 2017, FSA revealed that it is considering an "evolution" in Federal Student Aid through what it calls its Next Generation ("Next Gen") Financial Services Environment. Dr. Johnson told Politico that as a part of this new environment, by summer 2018 FSA intends to pilot "a new way to disburse student loans and Pell Grants to students" – a prepaid card product that would be used to disburse the student aid funds normally used for non-tuition expenses such as "books, off-campus housing and other living expenses." The FSA Q&A document indicates that the card would create a way to "manage, track and transmit" federal student aid funds to students.

In a 2012 report, the U.S. Public Interest Research Group revealed that financial institutions issuing prepaid or debit cards to college students were using a host of exploitative fees and practices. Students were taken advantage of through unreasonable and inappropriate fees which resulted in tremendous revenues for financial institutions while siphoning off student aid dollars from students and taxpayers.

In response to this exploitation, the Department of Education issued regulations in 2015 protecting students from the most egregious of these practices. These regulations require that schools working with financial institutions evaluate such agreements in light of the best financial interests of students, provide students with choice in how they receive their aid, ensure that students are not charged excessive and confusing fees to use these cards, require schools to provide students with options in how they receive their aid funds, and limit the information shared with third-party servicers offering financial products to protect student privacy.

Full text of the letter is available below:

Dear Dr. Johnson:

We write to seek information about a pilot program recently announced by the Office of Federal Student Aid ("FSA") that would disburse student financial aid through a prepaid card product. History shows that in the absence of strict oversight and safeguards, these card programs can leave students and taxpayers vulnerable to exploitation. Congress must be fully informed about how your proposed pilot program would impact our nation's 42 million student borrowers and federal student aid programs.

On November 29, FSA revealed that it is considering an "evolution" in Federal Student Aid through what it calls its Next Generation ("Next Gen") Financial Services

Environment. You told Politico that as a part of this new environment, by summer 2018 FSA intends to pilot “a new way to disburse student loans and Pell Grants to students” – a prepaid card product that would be used to disburse the student aid funds normally used for non-tuition expenses such as “books, off-campus housing and other living expenses.” The FSA Q&A document indicates that the card would create a way to “manage, track and transmit” federal student aid funds to students.

While we support efforts to improve the financial aid distribution process, we have serious concerns about your proposal given the poor track record of such cards in the past. In a 2012 report, the U.S. Public Interest Research Group revealed that financial institutions issuing prepaid or debit cards to college students were using a host of exploitative fees and practices. Students were taken advantage of through unreasonable and inappropriate fees which resulted in tremendous revenues for financial institutions while siphoning off student aid dollars from students and taxpayers. For example, the largest actor in the student debit card business, Higher One, made \$142.5 million from such fees, which accounted for 80 percent of its revenue in 2011. The U.S. PIRG report also raised concerns about how financial institutions were using students’ personal data for marketing and tracking purposes.

In response to this exploitation, the Department of Education (“the Department”) issued regulations in 2015 protecting students from the most egregious of these practices. These regulations require that schools working with financial institutions evaluate such agreements in light of the best financial interests of students, provide students with choice in how they receive their aid, ensure that students are not charged excessive and confusing fees to use these cards, require schools to provide students with options in how they receive their aid funds, and limit the information shared with third-party servicers offering financial products to protect student privacy.

If FSA proceeds with a pilot program, it will need to extensively detail how the program will protect students and prevent financial institutions from enriching themselves through inappropriate fees and practices. Any prepaid card disbursement program should provide transparency for students and taxpayers, protect students’ personal information, prohibit inappropriate fees, prevent conflicts of interest on the part of the persons and financial institutions involved, and be evaluated in light of the best financial interests of students. Department regulations that apply to institutional card agreements must be applied to any card pilot operated by FSA. Further, since the Treasury Department’s Bureau of the Fiscal Service already offers payment of many federal benefits on prepaid cards through the Direct Express program, any pilot program offered by FSA should provide equal or better terms for students as those offered under the Direct Express program.

In order to better understand this proposed pilot program, please provide answers to the following questions no later than January 30, 2018:

1. What data has FSA collected demonstrating the need for this prepaid card pilot program, including:
2. data regarding the number of students who lack access to an account in which their student financial aid can be deposited;
3. data regarding the effectiveness of the Department's existing cash management regulations and the benefits of those regulations for students; and
4. information about the existing options students have for student aid disbursement under the cash management regulations, including information about current account providers, the number of higher education institutions and students served by each of those account providers, the average fees paid by those students, and any other information about relationships between higher education institutions and account providers or any compensation paid by providers to institutions?

Please provide this data.

2. What data has FSA collected demonstrating that this pilot program will benefit students more than direct deposit of student financial aid into an account selected by the student? Please provide this data.
3. Please list the staffing and resources that FSA intends to devote to developing and implementing this pilot program. Please also describe how FSA will ensure that the fee information required under the Department's cash management regulations is accurately reported by colleges.
4. Will FSA or the Department hold any public hearings to gather input on the appropriate features of any prepaid card pilot program?
5. Will FSA utilize the Treasury Department's Direct Express card program for its pilot program, or is FSA considering a separate program? If a separate program, will the FSA program provide equal or better terms for students as those offered under the Direct Express program?
6. Will FSA consult with experts at the Consumer Financial Protection Bureau regarding the pilot program?
7. Will prepaid cards issued under the pilot program comport with the CFPB's Safe Student Account Scorecard?
8. Does FSA intend that its card would replace existing card options currently offered by schools or function alongside them? If FSA's card would replace existing card options, please describe FSA's authority for doing so and explain why students would benefit from such measures.

9. Does FSA intend to allow state and institutional aid to be disbursed on prepaid cards issued as part of this pilot program? If so, please describe FSA's authority for doing so and explain why students would benefit from such measures.
10. What steps will FSA take to ensure that any contracting with third parties to implement this pilot program will occur on a transparent and competitive basis?
11. Will FSA or the Department take any steps to prevent students from being steered or pushed into this prepaid card option, rather than giving students a clear option to have their funds deposited into the account of their choice?
12. Will FSA allow this pilot program to be used to restrict the ability of students to spend financial aid dollars for certain types of products or at certain types of merchants? If so, please describe FSA's authority for doing so and explain why students would benefit from such measures.
13. As you know, interchange fees and other card transaction fees that are imposed on merchants result in increased retail prices of consumer goods, such as college textbooks. Will FSA consult with merchants regarding the interchange fees and other fees that might be imposed on merchants that are involved in transactions under this pilot program to ensure that such fees are not unreasonable?
14. Will FSA allow industry providers of prepaid card services to engage in marketing or other efforts to encourage students to use FSA prepaid cards under this pilot program? If so, please describe FSA's authority for doing so and explain why students would benefit from such measures.
15. As part of this pilot program, will FSA allow industry providers of prepaid card services to use students' personal and financial information, including purchasing behavior, to market unrelated services or to sell such information to third parties without the students' knowledge and affirmative opt-in consent? If so, please describe FSA's authority for doing so and explain why students would benefit from such measures.
16. What steps will FSA take to ensure that the pilot program safeguards students' personal and financial information from fraud, data breach, and misuse?
17. What steps will FSA take to safeguard against conflicts of interest in the pilot program?
18. In order to provide transparency on any relationships FSA has initiated, or may initiate, with industry providers regarding this pilot program, please provide all data FSA has obtained from industry providers (including, but not limited to, Visa, MasterCard and American Express) regarding this pilot program.
19. Does FSA intend to use the data that it gleans from this pilot program to inform changes to other programs it manages, such as student aid funding? If so please identify the programs FSA plans to address using these data.

We look forward to your response to these important questions.

Sincerely,

