



Presidencia

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EXECUTIVE ORDER ADM. 14-02

January 27, 2014

DEANS
DIRECTORS OF ACADEMIC COLLEGES
DIRECTORS OF ADMINISTRATIVE OFFICES

POLICY OF PROHIBITION OF INCENTIVES OR COMPENSATION FOR RECRUITMENT

Introduction

Bayamón Central University establishes the Policy of Prohibition Incentives or Compensation for Student Recruitment in compliance with the Federal Student Aid, 2013-2014 Volume II of School Eligibility and Operations, Incentive Compensation Prohibition which states: "Colleges cannot provide any commission, bonus or other incentive based directly or indirectly on securing enrollment or financial aid to any person or entity engaged in recruitment or admission, and activities related to the decision on the award of FSA program funds."

Bayamón Central University, in compliance with this regulation, prohibits compensation, bonus or incentive of any kind to ensure student enrollment or financial aid.

Applicability of Policy

This policy applies to BCU personnel, advertising agencies and other agencies offering registration services to our students.

Effective Date

This policy is in effect immediately and repeals any previous guidelines, rules, policies or procedures conflicting with what is provided herein.

Approved:


Lillian Negrón-Colón, Ph. D.
President

Incentive compensation in the law & regulations

The prohibition of incentive compensation appears in Section 487(a)(20) of the HEA and in the Student Assistance General Provisions regulations at 34 CFR 668.14(b)(22).

On 3/22/2013 the Department published a revision to the preamble of the 10/29/10 final regulations in accordance with the remand in "Association of Private Sector Colleges and Universities v Duncan" 683F.3d 427 (D.C. Cir. 2012).

Definitions

See Table 3 for regulatory definitions of

- Commission, bonus, or other incentive payment
- Securing enrollments or the award of financial aid
- Entity or person engaged in any student recruitment or admission activity or in making decisions about the award of financial aid
- Enrollment

"Safe harbors" exceptions

Regulations issued on October 29, 2010, eliminated the safe harbors effective July 1, 2011.

Incentive compensation

On March 17, 2011, the Department issued additional guidance on incentive compensation. In addition to the tables included in this text, that Dear Colleague Letter provided examples of how the incentive compensation rules are applied, as well as guidance on "tuition sharing" and "profit sharing" and other forms of compensation. Since that time, the Department posted additional related questions and answers to address study abroad situations for Title IV-eligible students and to clarify when bundled services provided by a third party are subject to the incentive compensation ban. See GEN-11-05 and the webpage at www2.ed.gov/policy/highered/reg/hearulemaking/2009/compensation.html.

INCENTIVE COMPENSATION PROHIBITION

Schools may not provide any commission, bonus, or other incentive payment based directly or indirectly on success in securing enrollments or financial aid to any individual or entity engaged in recruiting or admission activities or in making decisions about awarding FSA program funds.

As stated previously, only two types of activities are subject to the incentive compensation ban: securing enrollment (recruitment) and securing financial aid. No other activities are subject to the ban.

The incentive compensation prohibition applies to all individuals with responsibility for recruitment or admission of students or making decisions about awarding FSA funds. As shown in Table 1, the Department draws a distinction between recruitment activities that involve working with individual students and policy-level determinations that affect recruitment, admission, or the awarding of FSA funds. The Department expects that employees who have titles such as enrollment counselors, recruitment specialists, recruiters, and enrollment managers have sufficiently direct involvement in recruitment that the incentive compensation ban applies to them. Senior managers and executive level employees who are only involved in the development of policy and do not engage in individual student contact or the other covered activities listed in Table 1 will not generally be subject to the incentive compensation ban.

When other activities are coupled with recruitment or securing financial aid, a school must consider how they compensate persons or entities to avoid payments that are prohibited. Table 1 illustrates how these principles would be applied to activities that schools carry out in support of recruitment and financial aid. Payments to persons or entities that undertake or have responsibility for recruitment and decisions related to securing financial aid are subject to the incentive compensation ban even if their work also includes other activities.

Schools may use factors such as seniority or length of employment as a basis for compensating employees covered by the incentive compensation prohibition. Many other qualitative factors may also be used so long as they are not related to the employee's success in securing student enrollments or the award of financial aid. These factors may include such things as job knowledge and professionalism; skills such as analytic ability, initiative in work improvement, clarity in communications, and use and understanding of technology; traits such as accuracy, thoroughness, dependability, punctuality, and adaptability; peer rankings; student evaluations; and interpersonal relations.

Table 1 : Activities covered by prohibition on incentive compensation	
Covered Activities	Exempt Activities
<p><i>Activities that are ALWAYS subject to the ban on incentive compensation</i></p>	<p><i>Activities NOT subject to the ban on incentive compensation include the following, unless the activities of the employee or entity also involve a covered activity</i></p>
<p>Recruitment activities, including:</p> <ul style="list-style-type: none"> • Targeted information dissemination to individuals; • Solicitations to individuals; • Contacting potential enrollment applicants; aiding students in filling out enrollment application information 	<p>Marketing activities, including:</p> <ul style="list-style-type: none"> • Broad information dissemination; • Advertising programs that disseminate information to groups of potential students; • Collecting contact information; • Screening preenrollment information to determine whether a prospective student meets the requirements that an institution has established for enrollment in an academic program; • Determining whether an enrollment application is materially complete, as long as the enrollment decision remains with the institution
<p>Services related to securing financial aid, including completing financial aid applications on behalf of prospective applicants (including activities that are authorized by the Department, such as the FAA Access tool, which can be used to enter, correct, verify, or analyze financial aid application data)</p>	<p>Student support services offered after the point at which financial aid is allowed to be disbursed for a payment period, including:</p> <ul style="list-style-type: none"> • General student counseling; • Career counseling; • Financial aid counseling, including loan management; • Online course support—both professional services and computer hardware and software; • Academic support services, including tutoring, aimed at student retention, whether that support is provided prior to attendance in classes or after attendance has begun.
	<p>Policy decisions made by senior executives and managers related to the manner in which recruitment, enrollment, or financial aid will be pursued or provided, such as decisions to admit only high school graduates</p>

Two-part test to evaluate if a payment is incentive compensation

1. Is the payment a commission, bonus, or other incentive payment, defined as an award of a sum of money or something of value paid to or given to a person or entity for services rendered?
2. Is the commission, bonus, or other incentive payment provided to any person based, in any part directly or indirectly, upon success in securing enrollments or the award of financial aid?

If the answer to each question is “yes,” the payment would be prohibited.

See Session 25: General Provisions and Non-Loan Program Issues—Institutional, FSA Conference, December 2010.