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Action Item

LOAN ADVISORY COUNCIL

Approval of the Minutes of the March 13, 2007 Meeting

Recommended Action: The Loan Advisory Council is asked to approve the minutes.

CALIFORNIA STUDENT AID COMMISSION
LOAN ADVISORY COUNCIL
TELECONFERENCE MEETING

MINUTES
MARCH 13, 2007

A teleconference meeting of the California Student Aid Commission's Loan Advisory Council (LAC) convened on Tuesday, March 13, 2007 at the following locations:

California Student Aid Commission
Headquarters Executive Conference Room
10811 International Drive, Second Floor
Rancho Cordova, California

Glendale Community College
Financial Aid Office-SF1 10
1500 N. Verdugo Road
Glendale, California

Chair Steere-Salazar called the meeting to order at 1:21 p.m.

The following LAC Members were present:

Carrie Steere-Salazar, Chair
David Ambrose
Vince DeAnda
Robert Haushalter
Patricia Hurley (via telephone)
Dean Kulju
Dolores Niccolai
Audrey Tanner
Amy Tien-Gordon

The following LAC Members were absent:

Alan Crane, Vice Chair
Ben Chiu
Javier Gamboa
Greg Jaeger
Robert Johnson
Brian Jones
Kurt Schneiber
Ruth Tesfai

Commission Staff Present:

Diana Fuentes-Michel, Executive Director
Janet McDuffie, Acting Chief, Federal Policy & Programs (FPPD)
Bill Connor, Consultant, FPPD
Wendi Dodgin, Manager, FPPD
Kathleen Stanley, Associate Governmental Program Analyst, FPPD

EDFUND Staff Present:

Sam Kipp, President
Therese Bickler, Vice President, Loan Operations
David Reid, General Counsel and Vice President, Governmental Relations
Mary Anne Kelly, Assistant Vice President, Communications

Visitor Present:

Donna Huber, Past President, California Lenders for Education (CLFE)

PUBLIC COMMENT

There was no public comment.

AGENDA ITEM 1 – LOAN ADVISORY COUNCIL CHAIR'S REPORT

Chair Steere-Salazar requested that all members review their term dates, the majority of which will expire by the end of the year. She noted that members may be asked to serve an additional term and hoped that they would be interested. Since traveling to meeting locations may conflict with the Student Representatives' class schedules, the Chair asked that teleconferencing be offered as an alternative to them so that LAC may be able to reach a quorum without too much difficulty.

AGENDA ITEM 2 – EXECUTIVE DIRECTOR'S REPORT

Executive Director Diana Fuentes-Michel provided an update of the Commission's activities, including:

- Phase I of automating the Cal Grant system to a real-time database is in place, which will allow the Commission to access the Free Application for Federal Student Aid (FAFSA), download data, provide student eligibility information and provide disbursement information to the institutions.
- The Governor's Budget is proposing about a $900 million budget for both the Cal Grant and Specialized Programs.
- The Commission has two new loan forgiveness programs for nurses and has been approached by the Department of Mental Health to administer a loan forgiveness program for mental health professionals.
- Outreach efforts across the state have winded down with the March 2 Cal Grant deadline. The California Educational Financing Commission provided scholarship support for students participating in Cash for College. The Cal-SOAP projects also have been used to deliver many public awareness activities.
- The Commission does not have firm information on the number of applicants for the current year, but noted that the number of high school graduates is flattening, so institutions will be seeing a flattening of enrollment.
- The Commission is working through its roles and responsibilities in terms of determining the effective roles of both the Commission and EDFUND Board, and their respective managements.

AGENDA ITEM 3 – EDFUND PRESIDENT'S REPORT

EDFUND President Sam Kipp reported that every school, lender and guaranty agency is dealing with the challenges of making college affordable, and of dealing with a new Congress and a variety of initiatives. He noted that EDFUND is staying posted on developments as they arise and have placed EDFUND staff in Washington D.C. to monitor the activities more closely. President Kipp cautioned schools, lenders and guarantors to make sure their approach to doing things is above reproach. If they can do that, then the missteps of a few will not become a characterization for the whole industry, which has provided $60 billion in loan aid to millions of students at the lowest cost possible, and with the highest service levels available.

With regard to State representation, Executive Director Michel assured members that she and President Kipp have been in talks with the Secretary of Education, both former and current, and they are very much aware of the CSAC and EDFUND issues and the importance of the loan program to California.

AGENDA ITEM 4 – APPROVAL OF THE NOVEMBER 9, 2006 MEETING MINUTES

On **MOTION** by Member Niccolai, **SECONDED** and **CARRIED**, the Loan Advisory Council APPROVED by Roll Call Vote the November 9, 2006 meeting minutes, as presented.

AGENDA ITEM 5 – CONSIDERATION OF REPEALING SECTION 30901 OF THE CALIFORNIA CODE OF REGULATIONS, TITLE 5, DIVISION 4, CHAPTER 1, ARTICLE 16 REGARDING THE INSURANCE PREMIUM RATE AND FISCAL SOUNDNESS OF THE RESERVE FUND

Ms. Janet McDuffie presented Section 30901 of the California Code of Regulations, Title 5, Division 4, Chapter 1, Article 16 (5 CCR §30901), which requires the Loan Study Council or its successor, currently LAC, to annually review the insurance premium rate and make a recommendation to the Commission for consideration in resetting the rate. It also requires LAC to review the revenue and expenditure forecasts of the Commission's Federal Family Education Loan (FFEL) Program and make recommendations to the Commission related to the fiscal soundness of the reserve fund.

Ms. McDuffie explained that Section 30901 was established at a time when there was flexibility in the amount guaranty agencies were allowed to charge for the insurance premium fee. Additionally, it was established when the Commission was fairly new at administering the FFEL Program and lenders were concerned about the reserve fund's fiscal soundness and wanted LAC to review it periodically. However, *The Federal Deficit Reduction Act of 2005* now requires a mandatory deposit to the Federal Fund of a one percent Federal Default Fee (formerly known as the insurance premium fee). Furthermore, 2004 legislation defined the terms and conditions for conducting closed sessions of the Commission and the EDFUND Board. Discussing financial information and business decisions in a public forum would put the Commission and EDFUND at a disadvantage, so these issues are discussed in closed sessions. As a result, 5 CCR §30901 is now considered to be obsolete.

On **MOTION** by Member Niccolai, **SECONDED** and **CARRIED**, the Loan Advisory Council APPROVED by Roll Call Vote the recommendation to the Commission to repeal 5 CCR §30901 regarding the insurance premium rate and fiscal soundness of the reserve fund.

AGENDA ITEM 6 – CONSIDERATION OF REPEALING SECTION 30904 OF THE CALIFORNIA CODE OF REGULATIONS, TITLE 5, DIVISION 4, CHAPTER 1, ARTICLE 16 REGARDING THE TRANSMITTAL OF MANIFEST AND FEES, AND CANCELLATION OF NON-DISBURSED LOAN GUARANTEES BY THE COMMISSION

Ms. Therese Bickler, Vice President, EDFUND Loan Operations, presented Section 30904 of the California Code of Regulations, Title 5, Division 4, Chapter 1, Article 16 (5 CCR §30904), which requires lenders to submit to the Commission a manifest of loan transactions within 45 calendar days of the date a transaction occurs or the lender learns of the transaction. Lenders must submit insurance premium fees, along with the manifest, for all loans recorded as disbursements on the manifest, or submit the fees within 30 calendar days of the date an insurance premium fee billing is sent to the lender. The regulation further requires that a loan, which remains in a guaranteed, but non-disbursed status, on the Commission's database for more than 150 calendar days after the anticipated disbursement date shall have its guarantee canceled by the Commission. The lender is given 60 days to appeal the cancellation; however, after the 60-day period expires, it becomes very difficult to reinstate the guarantee.

Ms. Bickler added that EDFUND regularly sends the lenders a monthly Non-Disbursed Loans Report, which reflects the timeframe between the manifest and the anticipated disbursement dates in 30-day increments. She indicated that, for many years, the Commission waived the insurance premium fees so there was not much concern about collecting the insurance premium fees. There is also currently a good synchronization between the databases of lenders, the Commission and EDFUND, and the United States Department of Education (USED). However, lenders are concerned about the irrevocable cancellation of the guarantee as a loan may occasionally be canceled accidentally.

Ms. Bickler explained that if the regulation were repealed, a possible negative effect would be that lenders would not report their disbursement transactions timely and would not pay their default fee because the guaranty agency would not know that the lenders owe the default fee until they manifest the disbursement transaction. Additionally, the loan could remain on the USED's National Student Loan Data System (NSLDS) as an open guarantee. She clarified that the USED has a system edit in place that will cause the revenue payments to the guarantor to be discontinued after a certain point, approximately two or three years, and trigger the USED to examine and resolve the transaction. EDFUND would also resolve the transaction by matching queries between the information from the lender and NSLDS.

Ms. Bickler mentioned that there is some potential for a student to be harmed if this regulation stays in place. She explained that if a Stafford loan loses its guarantee, the borrower would continue to receive the benefit of having the interest paid by the lender. However, the situation creates much confusion for the borrower if he or she decides to consolidate because the lender must track which part of the consolidation loan has a guarantee and which does not. She suggested that LAC could also consider repealing the regulation and implementing a policy in which the Commission and EDFUND would cancel the guarantee on the loan 150 days from the anticipated disbursement date, but allow the guarantee to be reinstated after the 60-day period.

Member Niccolai referred to the California Lenders for Education (CLFE) position paper dated March 2007 which indicates that CLFE is in support of repealing 5 CCR §30904 for the following reasons:

- Improved technology and better reporting and controls have been in operation since this process was first implemented in 1992;
- The current administrative cancellation process is harmful to borrowers i.e.,
  - Loss of federal benefits, such as interest subsidies on Subsidized Stafford loans, the ability to include the loan as part of a Consolidation loan, and any deferment eligibility under any loans within the FFEL Program;
  - Loss of lender sponsored borrower benefits, such as interest rate reductions for on-time payments because that loan is no longer insured.
- The Commission is the only guarantor that permanently cancels guarantees on lender disbursed loans with restrictions on the reinstatement period. Other guarantors will cancel guarantees only for reasons within the confines of the federal FFEL Program rules and regulations and the Common Manual, not for reasons that are codified in state law.

Chair Steere-Salazar is concerned about making the process easier for non-compliant lenders to remain non-compliant. Ms. Bickler noted that this has become an exception to the rule. She suggested that members could also consider leaving the loans outstanding and have EDFUND create another version of the Non-Disbursed Loans Report, which reflects the data in EDFUND's records and asks the lenders to work the report and inform EDFUND of the status.

Executive Director Michel clarified that this option would be an EDFUND operational procedure, not necessarily a Commission policy. She indicated that it would be helpful if the Commissioners were provided with the written procedures that will replace this regulation to assist them in their decision-making and rule-making process. She clarified that the new procedures would not need to go through the EDFUND Board or the Commission since it is an operational issue.

Ms. Donna Huber, Past-President of the California Lenders for Education (CLFE), commented that from CLFE's standpoint, this is still bad policy if even one borrower is affected and needs to be repealed, so that the borrower always receives the benefit. This has been something that lenders have had to do in order to reconcile because the systems were not relating. However, CLFE wishes to change this from being a State-tied policy into policy that follows the federal guidelines, to keep it neutral.

Member Kulju expressed concern that repealing this regulation would remove any level of incentive for lenders to improve their reporting if the loan is guaranteed indefinitely. President Kipp responded that this would be addressed by the operational procedures. He explained that as schools examine the level of service they are receiving from lenders, this issue will become an even more intensive factor in their decision-making.

On **MOTION** by Member Niccolai, **SECONDED** and **CARRIED**, the Loan Advisory Council APPROVED by Roll Call Vote the recommendation to the Commission to repeal 5 CCR §30904 regarding the transmittal of manifest and fees, and cancellation of non-disbursed loan guarantees by the Commission, and for EDFUND to work with the lender community on a procedural process.

AGENDA ITEM 7 – UPDATE ON FEDERAL LEGISLATION AND CONSIDERATION OF GUIDING PRINCIPLES

Mr. David Reid, EDFUND General Counsel and Vice President, Legal Services and External Relations, provided an update on Federal legislative activities and initiatives, including *The College Student Relief Act of 2007* (HR 5), *The Student Debt Relief Act of 2007, The Student Aid Reward (STAR) Act* and *The Student Loan Sunshine Act*, among others.

In addition, LAC members reviewed the 2005 Guiding Principles for Reauthorization used by Commission and EDFUND staff in dealing with legislative matters. Members offered the following suggestions:

- Revise the title to encompass a broader area of federal legislative issues
- Revise the text regarding the Pell Grant to indicate that it should be an entitlement program, which is similar to other existing Pell Grant proposals.

On **MOTION** by Member Niccolai, **SECONDED** and **CARRIED**, the Loan Advisory Council APPROVED by Roll Call Vote the endorsement of the Guiding Principles, as amended, as good policy direction for use by the Commission and EDFUND now and in the future.

AGENDA ITEM 8 – CONSIDERATION AND DISCUSSION OF DIRECT-TO-CONSUMER MARKETING OF STUDENT LOANS

Due to time constraints, Chair Steere-Salazar deferred discussion of this item.

AGENDA ITEM 9 – CONSIDERATION OF TOPICS FOR THE NEXT MEETING

LAC members briefly discussed potential topics for the next meeting and suggested the following issues:

- Direct-to-Consumer Marketing of Student Loans
- Negotiated Rulemaking Update
- Advisory Body Attendance Policy
- Cost of Textbooks and Possible Subsidy

Due to changes in members' availability for the June 14, 2007 meeting, Chair Steere-Salazar requested that the meeting be rescheduled. She indicated that she would work with staff on developing the agenda.

There being no further business, the meeting of the Loan Advisory Council adjourned at 3:12 p.m.

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Carrie Steere-Salazar, Chair