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DOCUMENTS

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CORRESPONDENCE AND OTHER DOCUMENTS

RELATING TO

STUDENT AID OFFICERS' RESPONSIBILITIES UNDER THE GUARANTEED STUDENT LOAN PROGRAM

SPECIAL SUBCOMMITTEE ON EDUCATION

COMMITTEE ON EDUCATION AND LABOR

HOUSE OF REPRESENTATIVES

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CARL D. PERKINS, *Chairman*

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CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
COMMITTEE ON EDUCATION AND LABOR,
SPECIAL SUBCOMMITTEE ON EDUCATION,
Washington, D.C., August 2, 1973.

Hon. CARL D. PERKINS,
Chairman, Committee on Education and Labor, Rayburn Building,
Washington, D.C.

DEAR MR. CHAIRMAN: We are writing this letter to report to you, and through you, to the House and the student aid community on a situation which has arisen in the implementation of the 1972 amendments to the Guaranteed Student Loan Program.

As you know, the staff of the Committee has recently conducted a study, the Special Subcommittee on Education has held hearings, and we have exchanged letters with the Office of Education in an effort to meet some of the problems.

While problems clearly remain, we think we have achieved some improvement through these procedures, and we are happy to submit this progress report, which, with the approval of a majority of the members of the subcommittee, we request be printed for distribution.

I—THE PROBLEM

In the Education Amendments of 1972 (P.L. 92–318), the Congress changed the requirements for eligibility for interest subsidy benefits on Guaranteed Student Loans. Prior to the 1972 amendments, any student whose adjusted family income was below $15,000 could qualify for interest subsidies. After the effective date of the 1972 amendments, students whose adjusted family incomes were over $15,000 could also qualify for interest benefits, but, regardless of the size of the adjusted income, a needs analysis must be conducted by the institution, and the institution must make a recommendation to the bank as to the size of the loan needed by the student to meet his educational costs.

The 1972 amendments give both the educational institution and the lending institution substantial flexibility in the size of the recommendation. The relevant language of the statute is as follows:

HIGHER EDUCATION ACT OF 1965, AS AMENDED

* * * * * * *

FEDERAL PAYMENTS TO REDUCE STUDENT INTEREST COSTS

SEC. 428. (a) (1) Each student who has received a loan for study at an eligible institution—

(A) which is insured by the Commissioner under this part;

(B) which was made under a State student loan program (meeting criteria prescribed by the Commissioner), and which

was contracted for, and paid to the student, within the period specified by paragraph (4); or

(C) which is insured under a program of a State or of a nonprofit private institution or organization which was contracted for, and paid to the student, within the period specified in paragraph (4), and which—

(i) in the case of a loan insured prior to July 1, 1967, was made by an eligible lender and is insured under a program which meets the requirements of subparagraph (E) of subsection (b)(1) and provides that repayment of such loan shall be in installments beginning not earlier than sixty days after the student ceases to pursue a course of study (as described in subparagraph (D) of subsection (b)(1)) at an eligible institution, or

(ii) in the case of a loan insured after June 30, 1967, is insured under a program covered by an agreement made pursuant to subsection (b),

shall be entitled to have paid on his behalf and for his account to the holder of the loan a portion of the interest on such loan (in accordance with paragraph (2) of this subsection) only if at the time of execution of the note or written agreement evidencing such loan his adjusted family income is—

(I) less than $15,000 and the eligible institution at which he has been accepted for enrollment or, in the case of a student who is attending such an institution, at which he is in good standing (as determined by such institution)—

(α) has determined the amount of need for such loan by subtracting from the estimated cost of his attendance at such institution (which, for purposes of this paragraph, means the cost, for the period for which the loan is sought, of tuition, fees, room and board, and reasonable commuting costs) the expected family contribution with respect to such student plus any other resources or student aid reasonably available to such student, and

(β) has provided the lender with a statement evidencing the determination made under clause (I)(α) of this paragraph and recommending a loan in the amount of such need; or

(II) equal to or more than $15,000 and the eligible institution at which he has been accepted for enrollment or, in the case of a student who is attending such an institution, at which he is in good standing (as determined by such institution)—

(α) has determined that he is in need of a loan to attend such institution,

(β) has determined the amount of such need by subtracting from the estimated cost of attendance at such institution the expected family contribution with respect to such student plus any other resources or student aid reasonably available to such student, and

(γ) has provided the lender with a statement evidencing the determination made under clause (II)(β) of this paragraph and recommending a loan in the amount of such need.

(20 U.S.C. 1078(a). As amended by Sec. 132C of Public Law 92–318 June 23, 1972, 86 Stat. 262)

Reports from throughout the country indicated that in this first year of its operation under the 1972 amendments, the number and dollar volume of Guaranteed Loans with interest subsidies may be 40% less than at the comparable period last year. A great many observers have contended that the needs analysis requirement of the 1972 amendments is wholly to blame for this drop-off, and they have proposed to the Committee that the law be again amended to eliminate the needs analysis requirement for all students whose adjusted family income is below $15,000, and who are borrowing no more than $1,500.

II—SUBCOMMITTEE ACTION

In order to ascertain the scope and nature of the problem, and to ascertain the recommendations of student aid officers, lenders and loan guarantee agencies, members of the Committee staff were sent to several regional offices of HEW to conduct interviews with such persons.

The staff filed the following report:

"STAFF REPORT, FIELD TRIP INVESTIGATING GUARANTEED LOAN PROGRAMS

"Pursuant to the instructions of the Chairman of the Subcommittee, the Chairman of the full Committee, and the ranking minority Member of the full Committee, several members of the staff visited seven regional offices of the Office of Education during the period July 16–23, to inquire into reports of problems with the Guaranteed Loan program.

"The staff members traveling and their itinerary was as follows:

"*Kansas City, Mo., July 16.*—A. C. Franklin, Subcommittee Counsel; William H. Cable, Full Committee Counsel; Christopher Cross, Minority Legislative Associate.

"*Atlanta, Ga., July 17.*—Franklin and Cable.

"*Dallas, Tex., July 18.*—Jim Harrison, Subcommittee Staff Director; Robert Andringa, Minority Staff Director.

"*San Francisco, Calif., July 19.*—Harrison, Cable, Andringa.

"*Seattle, Wash., July 20.*—Andringa.

"*New York, N.Y., July 20.*—Franklin, Cross, and William Gaul, Full Committee Associate Counsel.

"*Boston, Mass., July 23.*—Harrison and Andringa.

"In all seven of these site visits, the format was similar. School aid officers, officials of lending institutions, and officials of State Guarantee Agencies were invited to come to the regional office to talk frankly with the staff members and to answer questions and express their own concerns. No effort was made to summon a representative cross-section of the various communities, nor was there a formal transcript made of any of the meetings. The staff has kept lists of names of those in attendance, but they have deliberately not been included in this report, because the persons in attendance were urged to speak in an individual, rather than a representative capacity. In some of the meetings, the staff met with the school and bank officials simultaneously; in others, separately. At some of these meetings, HEW officials were present. At others, they were not. It is the unanimous observation of the staff that the substance of the meetings and cooperative spirit displayed were much the same whether or not the various groups were together.

"We also believe it would be useful to say for the record that the attitude of the agency officials and the other persons invited to the meetings was uniformly constructive, helpful and primarily concerned with getting at the facts. Some of the participants were more obviously there as advocates than were others, but at no time did point-making take precedence over efforts to help us find the facts.

"The following observations are generally subscribed to by all the staff members who participated in these sessions. Not all of us would subscribe to every letter of what appears in this report, but none of us discern major errors of reporting.

"The staff members do not believe we were commissioned to make recommendations for legislative solutions to any of the problems we observed, and we have sought to avoid that in this report.

"I—SCOPE OF THE PROBLEM

"1. Before we departed Washington, all of us had been told that the loan volume—so far in 1973—i.e. amount of money lent and the number of borrowers having loans approved—was down substantially from last year's corresponding period. Although an occasional lender or school felt the figure too high, it was the clear consensus of those to whom we talked in the field that the program was "down" 40% or more as compared to this time last year. Unusual backlogs of applications are on the desks of some student aid officers, but no one asserted that this accounted for the major part of the drop-off. The field trip confirmed that in Calendar 1973 dollar volume is generally lower, month-by-month, than for any year since 1970.

"2. Unsubsidized loans are being made only rarely, but this is not inconsistent with the general pattern of lending institutions in earlier years. So we found evidence neither of any drop-off in unsubsidized loans nor that unsubsidized loans were taking up the slack.

"3. Most lenders decline as a matter of policy to make 'split loans'—a subsidized loan for the amount recommended by the institution and an unsubsidized loan for the remainder of the student's request.

"4. While everyone felt that the net volume of the program would decline this year, there was some disagreement as to the precise mathematics of the decline. It was widely believed by those to whom we talked that the situation would improve. However the number of borrowers would be less than before and that amounts of individual subsidized loans would be reduced. Yet statistics provided us by OE suggested that the "average loan" was actually going up by a few dollars.

"II—EFFECT OF THE DECLINE

"1. In each of the meetings, the participants were asked if this year's decline represented an actual drop in the number of students who would be attending school—or merely a drop in the number who would do so with the help of guaranteed loans. The reactions to this question were not uniform. In Atlanta, Dallas, San Francisco, Kansas City and New York, aid officers felt strongly that some rejected borrowers would be unable to attend the schools they chose initially, but the aid

officers were reluctant to assert that substantial numbers of students would be out of school. In Boston, however, the aid officers did assert that a "substantial" number of students would be unable to register in the fall. All of the officers questioned felt that the difficulty in obtaining loans would work a hardship on many students and their families.

"2. There was a general belief—attested to by both student aid officers and lenders that the most serious reductions in previous loan levels are being felt by students whose adjusted family incomes are $10,000 and up. Although there were horror stories told of students from families having lesser incomes being found lacking in need for any loan, the persons to whom we talked felt that the largest number of turn-downs were in the "middle-income" bracket.

"3. While some student aid officers and most lenders admitted their own and complained of each other's unwillingness to exceed the recommendations produced by the need analysis computer—or received by the bank from an aid officer—they repeatedly suggested that the recommended amount least likely to be changed was one assessed by the computer as zero. In other words, student aid officers occasionally, and banks very rarely, were willing to increase a small recommendation, but they were almost never willing to grant any loan to a student with a zero recommendation, treating the zero recommendation virtually as a barrier to a subsidized loan.

"4. Many lenders have selective policies, refusing to lend to freshmen, or to students who had no previous customer relationship with the bank. The lenders did not seem inordinately distressed to learn that such policies might make them ineligible for participation in SLMA.

"III—REASONS

"*A. Program-related reasons*

"1. (a) The most frequently and urgently stated reason for the decline, was the needs analysis requirement. "You have changed the program", one could paraphrase much of what was said, "from loans of convenience to loans of necessity. It is no longer a program for middle-income people. It is now for those who can demonstrate need."

"(b) A frequently voiced complaint was that the needs test multiplied the paper work involved and tripled application processing time.

"(c) By those participants who agree to a needs analysis in principle, there was substantial criticism of the existing needs analysis systems as leading to results which were variously described as ranging from unfair to absurd.

"2. (a) Paradoxically, although no one had a good word for the needs analysis systems, almost no one was willing to depart from the needs figures that system prescribed. There were, in each of the regional meetings, aid officers who claimed a willingness to depart from the needs analysis result, and some lenders who said they were willing to exceed the recommendation of the loan officer. But they were a minority.

"(b) It was not always immediately apparent, but careful questioning elicited in each meeting a deep underlying apprehension about the fate of an institution whose aid officer regularly exceeded even

patently absurd needs analysis computations at the hands of some future HEW or GAO auditor. Audits of the recent past have left discernible psychic scars on aid officers.

"3. There was some ambivalence as to where the participants wanted the responsibility for choice actually lodged. Some aid officers and some bankers indicated that they felt they were professionally competent to make those judgments, and just didn't want Big Brother and his auditors second-guessing them. Others—aid officers and bankers alike—argued that they did not, in fact, know their clients personally and well enough to make these judgments and they wanted further guidance in writing from the government. It seemed to us that those who wanted authority and responsibility were substantially outnumbered by those who did not.

"4. Bankers who were willing to exceed the institution's recommendation did ask for access in some manner to the kind of data available to the student aid officers through the Parents' Confidential Statement. They were of course, wholly respectful of the confidential nature of the PCS, and did not expect to be shown it. But they did think that a synopsis of the information it contained would enable them to make better judgments as to the adequacy or inadequacy of the aid officer's judgment.

"5. There was widespread criticism of HEW because of:

"(a) The absence of a program manual.

"(b) Inadequate guidance as to what constitutes 'adequate documentation' for a recommended increase over the needs analysis figures,

"(c) Apparent ambivalence in OE as to the relationship between the expected family contribution and the guaranteed loan itself.

"(d) What some viewed—rather convincingly—as the fallout from an internal struggle within the Office of Education between those who wanted the Guaranteed Loan program to be strictly needs-oriented, and those who thought of it as a liberalized version of what had begun as the "middle-income family's student aid."

"6. It was repeatedly asserted that OE had departed from Congressional intent. Floor comments about the "presumption of need" for persons with income of under $15,000 were cited, and those citing them felt that the program as administered (or perhaps the statute as written) had not reflected that kind of assumption.

"7. OE's delay in announcing the latest special allowance was cited once or twice.

"8. The great delay in announcing the 1973 allocations and guidelines for other student aid programs was cited repeatly as adding to to the slowness and possibly to the decline in loan applications and approvals.

"*B. Non-program related reasons*

"1. A general decline in the number of loan applications was cited by several, but not all, aid officers.

"2. In one meeting, at least, the commercial bankers affirmed that the fact that, notwithstanding the special allowance, they could make more money in other areas tended to discourage them from active participation in this program—even if it were further "sweetened". In the same meeting, in fact, the commercial bankers participating were

unanimous that they lost money on the program. Some asserted they were in it *only* for reasons of community service or to create good will. (One banker used the phrase "to recruit customers".) The motivations of other types of lenders were varied.

"3. Frequent staff changes at aid offices and in lending institutions, and the low priority college administrators put on staffing the loan offices were both mentioned as slowing down the work of these offices.

"4. A lack of direct contact between schools and prospective borrowers and lenders and prospective borrowers was mentioned.

"5. With the end of the draft, with the inflation of educational costs, and for other, perhaps deeper reasons, there seems to be a gradual lowering of the value people are putting on higher education. A parent who would use his savings a few years ago to send his child to college, or a student who would mortgage his own future earnings to enter or remain in college is not as frequently encountered today.

"IV.—A RECOMMENDATION, AFTER ALL

"Having at the outset piously eschewed any intention or authority to make recommendations, the staff members who made these trips do have one recommendation which we believe should be implemented whatever the legislative or administrative action taken to meet the existing situation.

"We found in region after region that meetings like ours, bringing student aid officials and lenders together in large numbers were infrequent. For each group, the other was, prior to our meetings, an anonymous group of shadow figures at the other end of a paper chain or a telephone. But they did take advantage of the opportunity to exchange views and they appeared to benefit substantially from meeting together. And we think they should be brought together to discuss their common problems—and the problem of their mutual clients—the student and the student's family."

On July 26, the Special Subcommittee on Education held an open hearing in which the staff study was presented to the Subcommittee, and in which representatives of all interested groups, and of the Office of Education conducted a round-table discussion of the problem. The findings of the staff study were largely confirmed in that discussion.

Although considerable support for a legislative remedy was expressed in that hearing, it was obvious from a quick look at the calendar that, assuming a remedy is desirable, it could only be obtained through unanimous consent if it were to be effective for loans this fall. With the Administration and a substantial segment of the interested community opposed to legislative change, it was clear that unanimous consent could not be obtained.

III.—ADMINISTRATIVE ACTION

As pointed out above, the statute does give the student aid officers and the lending institutions each considerable flexibility. They are not required to abide by the computed results of a needs analysis in determining the actual amount of student need for a subsidized loan. On July 23, the Office of Education, in an effort to cope with what seemed to be a reluctance on the part of both to utilize this flexibility, sent out

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letters to aid officers and lenders. The texts of those letters are as follows:

DEPARTMENT OF HEALTH, EDUCATION, AND
WELFARE, OFFICE OF EDUCATION,
Washington, D.C., July 23, 1973.

BULLETIN TO ALL STUDENT FINANCIAL AID OFFICERS

THE GUARANTEED STUDENT LOAN PROGRAM

During the last few months, there has been a marked decline in both the number and dollar volume of loans to students as compared to a year ago. We feel that this reduction may be due, in part, to a need for further clarification as to program procedures and the options available to educational institutions in the administration of the program.

By way of background, the Education Amendments of 1972 (P.L. 92–318) specified that in order for a student to be eligible for payment of Federal interest benefits on a guaranteed loan, the student must submit to the lender a recommendation by the educational institution as to the amount needed by the student to meet his educational costs. In making this determination, the school must subtract from the cost of education, the expected family contribution plus any other resources or student aid which the institution determines to be *reasonably available* to the student during the period of the loan.

It must be emphasized that the sole purpose of the school's recommendation is to help determine if the student will qualify for Federal interest benefits. Any student, regardless of need, may still receive an unsubsidized loan if the lender is willing to assist that student.

Furthermore, lenders may make a subsidized loan in excess of the school's recommendation (including $0 recommendation) provided that the lender has reason to believe, based on his specialized knowledge of the family's financial situation, that the school's determination of the expected family contribution is not realistic.

The following guidelines are provided to student financial aid officers to assist them in the administration of the Guaranteed Student Loan Program and its relationships to other student aid programs:

1. Student financial aid officers are permitted to adjust the expected family contribution where, in their judgment, the amount of the computed family contribution does not realistically indicate what the family can contribute to the cost of education. We strongly recommend that the financial aid officer exercise this option by carefully evaluating the results of the needs test in order that the most equitable judgment be exercised in the processing of the student's application. Schools have been provided, in the instructions to FORM OE 1260 "Student Loan Application Supplement," 7 codes they may use where the computed need, as determined by the needs analysis system, is not reasonable. Schools should document their files as to the basis for using one of these codes. If reasonable documentation exists, there should be no concern as to exceptions that may be taken in the future by auditors.

2. If the student is not applying for Federal interest benefits, there is no requirement that an assessment of the student's expected family

contribution be made. In such cases, the student need complete only the affidavit portion of Form OE 1260. Of course, the school will still have to certify the student enrollment, cost of education, and other aid received on the regular application form. In the case of loans guaranteed by State or private guaranteed agencies, these procedures may vary somewhat.

3. The total of all aid made available to and received by a student may not exceed his cost of education, regardless of when he receives such aid.

4. If the student receives a guaranteed loan before the institution has awarded aid, the institution must treat the guaranteed loan as a resource available to the student towards meeting the cost of education.

5. As previously indicated, lenders may make a subsidized loan to a student that exceeds the school's recommendation. Where this happens, the lender has, in effect, determined a new "*expected family contribution.*" If the student receives a guaranteed loan (subsidized or not) after the aid package has been awarded by the school, there is no requirement that the aid package be adjusted, provided that the total aid, including the guaranteed loan, does not exceed the cost of education.

S. W. HERRELL,
Acting Deputy Associate
Commissioner for Higher Education.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, OFFICE OF EDUCATION,
Washington, D.C., July 23, 1973.

BULLETIN TO ALL LENDING INSTITUTIONS—THE GUARANTEED STUDENT LOAN PROGRAM

PROGRAM OPERATIONS

During the last few months, there has been a marked decline in both the number and dollar volume of loans made to students as compared to a year ago. We feel that this reduction may be due, in part, to a need for further clarification as to program procedures and the options available to lenders in the administration of this program.

By way of background, the Education Amendments of 1972 (P.L. 92–318) specified that in order for a student to be eligible for payment of Federal interest benefits, the student must submit to the lender a recommendation by the educational institution as to the amount needed by the student to meet his educational costs. In making this determination, the school must subtract from the cost of education, the expected family contribution plus any other resources or student aid which the institution determines to be reasonably available to the student during the period of the loan.

It must be emphasized that the sole purpose of the school's recommendation is to help determine if the student will qualify for Federal interest benefits. Any student, regardless of need, may still receive an unsubsidized loan if the lender is willing to assist that student.

Furtherfore, lenders may make a subsidized loan in excess of the school's recommendation (including a $0 recommendation) provided that the lender has reason to believe, based on his specialized knowledge of the family's financial situation, that the school's determination of the "expected family contribution" as reported in Part B–Section III of OE Form 1260 (Student Loan Application Supplement) is not realistic. Where the lender makes a subsidized loan that exceeds the school's recommendation, the lender has, in effect, adjusted the "expected family contribution." Lenders should indicate in their files the basis for exceeding the school's recommendation.

Lenders are encouraged to exercise this option by carefully evaluating the school's recommendation coupled with other information available to them in order that the most equitable judgment be exercised in the processing of the student's application. Lenders have been previously provided detailed instructions relating to procedures for utilizing the school's recommendation to determine a student's eligibility for Federal interest benefits. Additional copies of these instructions may be obtained from the nearest regional office of the Office of Education or the appropriate guarantee agency.

SPECIAL ALLOWANCE

The Secretary of Health, Education, and Welfare has approved the Special Allowance at the rate of 1¾ percent per annum for the quarter ending June 30, 1973. It will be applied to the average quarterly balance of loans made since August 1, 1969, and still outstanding. All such loans are eligible for the special allowance, whether or not the loans are eligible for Federal interest benefits and regardless of whether the students are in school, grace, deferred or repayment periods.

Lenders are reminded that this rate is, by law, determined retrospectively. That is, the rate reflects the economic conditions that existed during the period April 1 through June 30. Thus, the effective rate of interest on guaranteed loans during that period is 8¾ percent. The note evidencing the loan, however, may not reflect a rate higher than 7 percent.

STUDENT LOAN MARKETING ASSOCIATION (SALLIE MAE)

On July 16, 1973, Mr. Edward A. Fox, President of the Student Loan Marketing Association, announced plans to offer 700,000 shares of common stock to eligible financial and educational institutions, raising $105 million for the initial capitalization of Sallie Mae. In order to acquaint eligible holders more fully with Sallie Mae and this offering, all lenders have been invited by Sallie Mae to a number of presentations being held throughout the country. Members of Sallie Mae's management and representatives of the several underwriters will conduct these information meetings.

Sallie Mae's objective is to provide liquidity to the student loan market. Caspar W. Weinberger, Secretary of Health, Education, and Welfare (HEW), declared that "Sallie Mae is a milestone in the Government's Guaranteed Student Loan Program (GSLP)." Sallie Mae

is empowered to provide liquidity through secondary market activities which can involve the direct purchase and sale of student loans as well as the issuance by Sallie Mae of commitments, guarantees, or other undertakings with respect to student loans. In addition, Sallie Mae can engage in warehousing operations which involve the making of loans to lenders secured by student loans. Advances made in warehousing operations may not exceed 80 percent of the face amount of the student loan collateral and proceeds from such warehousing advances are required to be invested in additional insured student loans.

WILLIAM M. SIMMONS, JR.,
Director, Division of Insured Loans.

These letters did not seem to have the desired effect. So, subsequent to the hearings on July 26, the Subcommittee met informally with Office of Education officials and sought to make the aid officers' flexibility and his protection from audit exceptions more explicit. After that meeting, we sent a letter to Commissioner of Education John Ottina, seeking confirmation of our discussions, and on August 1, a response was received from Commissioner Ottina. The text of both of these letters follows:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
COMMITTEE ON EDUCATION AND LABOR,
SPECIAL SUBCOMMITTEE ON EDUCATION,
Washington, D.C., July 27, 1973.

Hon. JOHN R. OTTINA,
Commissioner of Education, Office of Education,
Washington, D.C.

DEAR COMMISSIONER OTTINA: On July 23rd, Mr. Herrell of the Office of Education sent student aid officers throughout the nation a letter in which he assured them of their ability to use the flexibility the law affords them with respect to adjusting the amount of need which the aid officers recommend to lending institutions under the Guaranteed Loan Program.

In that letter, Mr. Herrell assures student aid officers that they can indeed exercise their flexibility, and that "if reasonable documentation exists, there should be no concern as to exceptions that may be taken in the future by auditors."

This sentence has, apparently, not had the full effect intended. Aid officers are vividly aware of previous HEW and GAO audits, and of strong exceptions taken by auditors with respect to awards made in alleged "excess of need."

If the student aid officers are to be expected to exercise the discretion the law gives them, and Mr. Herrell's letter urges upon them, they must be given some degree of assurance that they can carry out their professional duties reasonably free from auditors' second guessing.

Toward the end of our July 26 hearing on this subject, you were present when Peter Muirhead engaged in a colloquy with committee members over what constituted "reasonable documentation."

Our hearing was forced to recess before we could work out satisfactory questions and answers clarifying and expanding OE's instructions. Education and Labor Committee staff met subsequently with Mr. Muirhead and discussed such instructions further. This letter seeks to put into concrete form the results toward which that colloquy and subsequent discussions were tending.

If an aid officer (1) has before him the results of a needs analysis showing a computed need of substantially less than the student is asking to borrow, and (2) has in his files a statement by the student and/or his family setting forth, in a manner which does not on its face suggest fraud or misrepresentation, an explanation for being unable to meet part or all of the computed expected family contribution, and (3) that reason is consistent with the economic facts of life within that family's income bracket and region and (4) the aid officer's decision to adjust the amount of need is not clearly unrelated to those facts—may the aid officer have your commitment that your auditors will be instructed to recognize the student aid officer's authority to make an adjustment on that given loan application?

In short, given the circumstances outlined above, may the aid officer feel assured that he will not be held accountable by a future audit, even in situations where the student or the student's family have not correctly stated material facts concerning their situation?

Naturally, we are asking for no such immunity as to the student or his family. We are seeking to hold innocent aid officers harmless, not to shield intentional efforts to defraud the United States.

We would also like you to clarify the kinds of documentation that would be considered adequate to support aid officers' decisions of this kind. Would a letter from a student or from a member of his family be sufficient documentation if the student aid officer noted thereon or in a separate document that he had relied upon the information so furnished by the student or his family? Would such a letter received from a lending institution from whom the student sought a loan be equally acceptable in the same circumstances? Would a notation, however informal, written by a student aid officer to record information furnished him in a telephone communication with a student or his family or with an official of a lending institution similarly be deemed adequate documentation?

We would appreciate an immediate response to these questions. If your answers are in the affirmative, we will undertake to secure the same instructions to the GAO auditors.

Chairman Perkins of the House Committee, and members of the Senate Labor and Public Welfare Committee have indicated to you and to us their deep interest in a speedy resolution of this problem.

Very truly yours,

JAMES G. O'HARA,
Chairman.

JOHN DELLENBACK,
Ranking Minority Member.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE,
Washington, D.C., August 1, 1973.

Hon. JAMES G. O'HARA,
House of Representatives,
Washington, D.C.

DEAR MR. O'HARA: Thank you for your letter of July 27, 1973, in which you set forth many of the questions and concerns regarding current procedures for the Guaranteed Student Loan Program which were raised at the July 26 hearing and in further discussions with Mr. Muirhead. I am hopeful that the information which follows will clarify the position of the Office of Education with respect to the total process of determining need, including the adjustments which can be made and the documentation required.

I should point out that the determination of need under all the financial aid programs has traditionally involved an adjustment process. The existing needs analysis services such as those provided by the College Scholarship Service and the American College Testing Program, the two largest systems, provide only an estimate of a family's ability to pay. The judgment of the financial aid officer is indispensable in determining the amount of financial support that can be contributed for a specific individual. The inherent flexibility in needs analysis is well stated in the instructions provided for the College Scholarship system:

"Although accurate, objective data constitute the basis for systematic need analysis, the resulting expected contribution should not be considered scientifically accurate. Complexities in an individual's financial circumstances and difference in attitudes toward education will require that an aid officer make adjustments in order to determine the appropriate contribution from the student. In doing this, he must evaluate both the objective and subjective information available to him from all sources. *A system of need analysis must always be a guide for judgment, not a substitute.* A financial aid officer has a professional responsibility to make equitable judgments about each individual. If he simply accepts the computed need as an "answer" from a systematic need analysis, he shirks his responsibility to the institution and the student."

On Section III A of form 1260 the amount of a student's family contribution as computed by a uniformly applied needs analysis system is entered and no further documentation is required. Section III B is provided to permit a student financial aid officer to exercise his judgment and take into account the individual circumstances of a student or his family.

The circumstances in which the financial aid officer is permitted to make adjustments are basically those provided in the 7 codes in the instructions to Form OE 1260. For code 6, "cannot meet expected contribution from income", the situation you have outlined on the top of page two of your letter would certainly be reasonable. In this case, there would be no question that the Office of Education would support

the institution in any case where an auditor took exception to the action of the student financial aid officer.

There are any number of ways in which such adjustments can be documented. For example, letters from a student or from a member of his family would be sufficient documentation if the student aid officer noted thereon or in a separate document that he had relied upon the information so furnished by the student or his family; or a letter received from a lending institution from whom the student sought a loan would be equally acceptable in the same circumstances. A notation, written by a student aid officer to record information furnished him in a telephone communication with a student or his family or with an official of a lending institution would similarly be deemed adequate documentation provided the financial aid officer also wrote a letter of confirmation of the conversation to the appropriate party.

While the financial aid officer must always be the final authority in any system of needs analysis, he can only do this based on the information provided by the student and his family. The student is now required to execute an affidavit stating that the loan proceeds are to be used solely for expenses related to attendance at the education institution. The federal warning clause on both the application and the supplementary form applies to the student and his family. Naturally, the financial aid officer would not be held accountable if there were fraud on the part of the student or his family.

In conclusion, let me emphasize that the Office of Education is prepared to support the institution in any exception taken in the future by auditors where the financial aid officer has exercised his professional judgment and provided reasonable documentation of the type which I have described above for adjustments in the amount of family contribution. You have my full assurance in this regard.

Best wishes,

Sincerely,

JOHN OTTINA,
Commissioner of Education-designate.

cc: John Dellenback.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
COMMITTEE ON EDUCATION AND LABOR,
SPECIAL SUBCOMMITTEE ON EDUCATION,
August 3, 1973.

Hon. ELMER B. STAATS,
Comptroller General of the United States,
Washington, D.C.

DEAR MR. STAATS: Enclosed is an exchange of correspondence between us and Commissioner of Education John Ottina. In these letters, we have sought to obtain an explanation of OE policy toward the exercise of the discretion which Section 428(a) of the Higher Education Act as amended vests in student aid officers at postsecondary education institutions.

In our opinion, Commissioner Ottina's August 1 letter, in which he responds affirmatively to the question we posed in our letter of July 27,

faithfully reflects the intention of the Congress in enacting Section 428. And it will give student aid officers confidence that their professional judgment will not lightly be set aside by HEW auditors.

In our letter to the Commissioner, we said that if he could give us an affirmative answer, we would seek to secure similar instructions to the General Accounting Office.

The purpose of this letter, in summary, is to advise you of the interpretation which the Chairman and Ranking Minority Member of the Special Subcommittee on Education have put upon Section 428—an interpretation with which the Office of Education concurs—and to urge that GAO auditors be advised of these views whenever they undertake any audits of the Guaranteed Student Loan Program.

Very truly yours,

JAMES G. O'HARA,
Chairman.
JOHN DELLENBACK,
Ranking Minority Member.

In summation, Mr. Chairman, while the problem with the Guaranteed Student Loan Program is by no means solved. We do believe that the negotiations concluded between the Committee and the Office of Education may have helped bring the loan approval process back a little closer to the original intent of the Congress. We feel that Commissioner Ottina's letter of August 1 should be particularly helpful in emphasizing for financial aid officers the procedures and flexibility available to them in determining the eligibility (and realistic level of need) of qualified applicants for interest subsidies.

It is the Chairman's intention to ask the Special Subcommittee on Education to thoroughly examine the Guaranteed Student Loan Program, as a part of our upcoming review of student assistance programs and in preparation for their expiration in 1975.

Very truly yours,

JAMES G. O'HARA,
Chairman.
JOHN DELLENBACK,
Ranking Minority Member.

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