Historical Notes on Regulation in the Federal Student Assistance Programs

by Thomas A. Flint

Regulation of the federal student financial aid programs has grown and changed dramatically over the last thirty years. Regulations of particular importance to student aid administrators are highlighted. Two conclusions about the recurring concern of the deservedness of the beneficiaries of student aid are suggested.

Higher education has witnessed enormous growth in student financial assistance over several decades. In 1955 student aid from all sources was estimated to be less than $100 million, serving an estimated two hundred thousand students. By 1963-64, student aid from all sources was $500 million, and in 1970-71, it was $4.5 billion. Student aid was estimated to be $10.5 billion in the mid 1970s and $18 billion in 1981-82 (Griffith, 1986; Kramer, 1983). As the nation's investment in student assistance programs has grown, so has the complexity of the financial aid regulatory environment. The National Defense Student Loan (NDSL) Program was run from 1958 to 1965 with almost no formal federal regulation. A series of about a dozen administrative memoranda were sufficient in directing the 1,100 colleges and universities in the program to fairly distribute the initial $10 million to some 25,000 students nationwide (Moore, 1983). Some of the changes in regulation since the arrival of NDSL and the other federal student assistance programs are chronicled here.

Regulatory Growth: From Parsimony to Profusion

Predictably, it is easy in a history of regulation to cite statistics on the burgeoning volume of pages in the *Federal Register.* In a footnote, Chubb (1985) cites the fact that the number of pages printed annually in the *Federal Register* sextupled between 1949 and 1977. Yet, numbers alone do not tell the whole story. The length and complexity of student assistance regulations make both current research and practice very difficult. It is a truism now among financial aid administrators that "*nobody* out there is doing *everything* right." Whether an historian or a practitioner, one must exercise caution in using the periodic reprints of the *Federal Register* as source materials.

A first source of confusion, omission, or error for the historian or practitioner is the annual codification of the *Federal Register* into the *Code of Federal Regulations.* (In this article, regulatory citations will be to the *Federal Register* (FR) instead of the *Code of Federal Regulations* (CFR).) To begin, the volume numbering is not identical between these two sources. Generally, FR volume numbers are four more than the corresponding CFR volume numbers. Additionally, portions of regulations that have been deleted or superseded may nonetheless get reprinted when the Office of the Federal Register publishes the *Code of Federal Regulations.* Taking one example from

Thomas A. Flint is Vice-President of Enrollment Services at Robert Morris College in Illinois and a graduate student at the University of Illinois at Chicago. The author wishes to thank Professor Robert Crowson for helpful comments on an earlier version of this manuscript.

the area of student aid, the publication of the *Code of Federal Regulations* of July 1, 1988, contained twenty-two pages of tables of expected family contributions for determining Guaranteed Student Loan (GSL) need, despite the fact that the tables became obsolete on October 17, 1986.

A second source of trouble for researchers can be the federal agency promulgating regulations. Omissions and other errors may occur when the agencies themselves compile current regulations. An example was the February 1989 reprint of student aid regulations by the Division of Training and Dissemination within the Department of Education. The Dear Colleague Letter from the Department of Education accompanying this material asserted that it "completely replaces the August 1986 version. The new compilation contains all Title IV and related final regulations published through June 1988." However, the National Association of Student Financial Aid Administrators (NASFAA) noted in its March 22, 1989, newsletter that some of those regulations were superseded by federal statute, citing a series of other Dear Colleague Letters as far back as 1986. One example NASFAA cited was the $30,000 income cap for subsidized student loans (referred to above) that also still appeared in the *Code of Federal Regulations.*

A reliable source of data on important regulatory changes is NASFAA's *Federal Monitor* series. Since its inception in 1978, its focus has been on proposed and final rules governing the operation of Title IV programs. Table I shows the number of pages of proposed and final rules printed in the *Federal Monitor* series since 1980. Despite an anti-regulatory climate in Washington, D.C., during most of the 1980s, the student financial aid administrator had to read and interpret over 1,300 pages of rules in order to anticipate and implement the shifting policies and practices of the profession. The Appendix lists some of the earliest regulations in federal student aid that precede NASFAA's practice of publishing regulations in its *Federal Monitor.*

TABLE I
Volume of Regulations Published in NASFAA *Federal Monitor*

Calendar Year	Pages of Proposed Rules	Pages of Final Rules
1980	89	11
1981	88	45
1982	94	30
1983	85	33
1984	29	56
1985	108	106
1986	144	28
1987	166	31
1988	62	14
1989	40	21
Total	905	375

Federal student assistance programs began with an intentional lack of regulation (Brooks, 1986). National Defense Student Loans (NDSL) were established at a time when there was no federal definition of financial need, and both Congress and the Executive Branch were relying on colleges and universities to determine financial need in appropriate ways. Following the passage of the National Defense Education Act in 1958, the Office of Education issued four brief pages of regulations governing the NDSL program, which included this statement of purpose:

"Nobody out there is doing everything right."

> . . . National Defense Student Loan Funds will be established at participating institutions of higher education throughout the United States for the purpose of making long-term, low-interest loans to qualified students who are in need of such financial assistance in order to pursue a full-time course of study at such institutions. The program includes provisions designed to encourage education in science, mathematics, engineering and modern languages. The Program also includes provisions designed to attract an additional number of superior students to the teaching profession for service at the elementary and secondary school levels (24 FR 3235).

Sciences were defined to include physical and biological sciences, but not social sciences. Thirteen other sections discussed definitions, accrediting agencies, allotments of funds to states, institutional applications, loan agreements, payments of federal funds, eligibility and selection of recipients, loan advances and repayments, oath and affidavit, loan cancellations, fiscal matters, compliance by institutions, and the jurisdiction of the Commissioner of Education. Apart from the annual notices for institutions on the deadlines for application to participate, that was all the regulation needed for more than seven years, when the regulations on NDSL were republished in 1966.

Among other changes, references to special groups were removed. Instead, it was said that "special consideration shall be given to students with superior academic backgrounds" and the rules included the potential of making awards to half-time students (31 FR 7466). The pages on NDSL grew only from four to six. In that same year, when the GSL Program came into being, the Office of Education needed no more than four pages of regulations on April 21, 1966, for the new program (31 FR 6109-6112). In the subpart on general provisions for GSL, only four columns of text were needed, more than half of which were merely definitions. The original Basic Educational Opportunity Grant (BEOG) regulations of November 6, 1974, took slightly over eight pages of text, including opening supplementary information about the rules, definitions, and an appendix (39 FR 39412-39420). This was followed by a little more than two pages on December 2, 1974 (39 FR 41800-41802) on the administration of payments, but by January 25, 1979, BEOG regulations required twenty-seven pages (44 FR 5260).

When the Office of Education published its compendium of federal regulations in 1980, the collection of federal student aid programs was basically the same as in the mid-1970s, but regulations now required a total of 238 pages of text. A 1984 *Index of Regulations* published by NASFAA catalogues fifty-five sets of regulations and lists 361 subjects, cross-referenced to six award programs as well as the general provisions affecting them all. What had changed since 1965 was an increased willingness by Congress to write more details into the law and even political maneuvering between rival presidential administrations, such as between the Carter and Reagan administrations (Brooks, 1986).

In the early years of federal student assistance the dearth of regulations was remedied by program manuals. By means of handbooks and manuals, as well as its regional training activities, the Office of Education provided specific guidance that was missing from the pages of the *Federal Register.* For example, the Basic Grant program manual published in Spring 1974 had 163 pages, compared to eight pages of original BEOG regulations. The manual detailed operations of the program for institutions, including sections on general administration (13 pages), applications (23 pages), determination of eligibility (37 pages), the student's Student Eligibility Report (15 pages), and disbursement (27 pages).

Need Analysis

The foundation of financial need analysis rests on determination of any given family's ability to contribute towards the costs of education. Since student assistance in higher education precedes the entry of the federal government in the late 1950s, it is instructive to note that as early as 1954 some colleges had begun to meet to discuss how to determine most appropriately a family's ability to pay. Financial aid administrators from twenty-three colleges are reported to have been meeting annually at Wellesley College in Massachusetts for the purpose of comparing notes on their mutual aid applicants, especially on the family contribution amount, although these activities are now under investigation for potential anti-trust violations (Putka, 1989).

The formation of the College Scholarship Service (CSS) in 1954 was also tied to determining a standard for assessing need. Lawrence Gladieux says the 97 founding member institutions, "banded together in 1954 to stem mutually unproductive efforts at buying students and to allocate limited resources in ways that would help equalize opportunities for higher education" (1983, p. 80).

When the NDSL program was created, its regulations addressed the issue of need analysis in a broad, terse statement:

> In determining a student's need for a loan from the Fund, the institution shall take into consideration: (1) the income, assets, and resources of the applicant, (2) the income, assets, and resources of the applicant's family, and (3) the cost reasonably necessary for the student's attendance at that institution, including any special needs and obligations

which directly affect the student's financial ability to attend such institution on a full-time basis.

In a section on "Special Considerations," the rules stated:

> In the selection of students to receive loans from the Fund, special consideration shall be given to students with superior academic backgrounds who express a desire to teach in elementary or secondary schools, and to students whose academic background indicates a superior preparation in science, mathematics, engineering, or modern foreign language (24 FR 3238).

"Federal student assistance programs began with an intentional lack of regulation."

Given the absence of regulation at the outset, one is not surprised to learn that it could be claimed in 1974, that "There are some 600 methods of need analysis approved by the U.S. Office of Education for use by institutions in distributing federal funds" (Office of Education, 1974, p. ii). This was at the outset of the Basic Grant program with its national formula for family contribution. After noting the similarities underlying these many systems and the fact that specific needs of individual students could be met, the Office of Education nonetheless conceded that need analysis "is more of an art than a science." (1974, p. iii).

The original NDSL regulations made clear that this program was intended for "young" men and women, more or less taking for granted a dependent student model for need analysis, but in the GSL regulations of 1966, one finds official recognition for the exclusion of parental data " . . . if the borrower is not and has not, during the 12 months preceding the determination, (1) been residing with, (2) been claimed as a dependent for Federal income tax purposes by, nor (3) been the recipient of an amount in excess of $500 from, such parent or parents" (31 FR 6110). This definition of the independent student would be in effect for years to come. Moreover, this rule also provided for the exclusion of spousal data " . . . where there has been a legal separation approved by a court or a separation which has, in fact, existed for 12 months or more" (31 FR 6110). Notwithstanding these apparently "nontraditional" student features, the GSL Program had been intended at the outset as program for middle-income families (Moore, 1983; Morehouse, 1988).

In 1975 the National Task Force on Student Aid Problems repeated the frequent complaint of an absence of any accepted standard for determining a student's need, and urged the American College Testing Program and the College Scholarship Service to adopt and refine the common standard of need analysis that the Task Force proposed (Keppel, 1975). That standard, known as the Uniform Methodology for Measuring Ability to Pay, did in fact become the standard for need analysis. Yet even in 1976, after the passage of the Education Amendments of 1976, when some members of the higher education community urged the Commissioner of Education to make the Uniform Methodology the only acceptable method of need analysis, the suggestion was refused, claiming " . . . the Office of

Education does not want to mandate the use of the Uniform Methodology to the exclusion of all other systems" (41 FR 51950). In 1986, however, Congress implemented the Congressional Methodology, patterned after the Uniform Methodology, thereby setting the matter of need analysis into both law and regulation, just as the Pell Grant Program had been since its inception in 1973.

Congress had intended for the GSL Program to be a loan source primarily for middle-income families (Morehouse, 1988). On its way to an eventual conversion to a need-based program, though, the GSL Program had a unique need analysis system for a few years, one which demonstrated the foibles of writing need analysis into regulation. Series of family contribution tables were published into regulation for families with incomes between $30,000 and $75,000 for use in special circumstances. The family contribution schedules published March 31, 1986, were ill-fated because they contained numerous errors. It seems that in the process of typesetting the thousands of numbers in its many tables, many were mistyped. The Department moved quickly to resolve the quandary for financial aid administrators, who were just beginning the busiest time of year for processing loans, by republishing the tables (as photocopies of the original computer printouts) on April 15, 1986. These same family contribution tables are the ones cited earlier in this paper, languishing in the pages of the *Code of Federal Regulations* long after they became obsolete.

Oaths, Affidavits, and Other Declarations

The earliest recipients of National Defense Student Loans took an oath in lofty language reminiscent of the Presidential oath of office:

> I, [name of recipient], do solemnly swear (or affirm) that I will bear true faith and allegiance to the United States of America and will support and defend the Constitution and laws of the United States of America against all enemies, foreign and domestic.
>
> I, the above-named, do solemnly swear (or affirm) that I do not believe in, and am not a member of and do not support any organization, that believes in or teaches, the overthrow of the United States Government by force or violence or by any illegal or unconstitutional methods . . . (24 FR 3238)

Notwithstanding this noble pledge, apparently it was not long until evidence surfaced that such oaths may be made expediently. In 1963, the Commissioner of Education added to an identical rule in the National Defense Education Act (NDEA) graduate fellowship program an additional provision that stated:

> An NDEA Fellowship Award will be denied or discontinued where: (1) The oath or affirmation of allegiance was not taken or cannot be taken in good faith; or (2) there is (i) a conviction of a crime involving moral turpitude, or (ii) conduct involving moral turpitude, unless it is established

> that the applicant or fellowship holder is, nevertheless, now a person of good moral character (28 FR 8409).

The crimes and conduct involving moral turpitude were not enumerated, nor were the steps by which one re-established good moral character after such transgressions.

Following the Education Amendments of 1972 (PL 92-318), the Office of Education proposed a new certification statement:

> I affirm that any loan proceeds obtained as a result of this application will be used solely for expenses related to attendance at the educational institution named on the attached application.

The regulation required that the affidavit be signed in the presence of a notary or other person who is legally authorized to administer oaths and who does not take part in the recruiting of students for enrollment at the eligible institution which the student intends to attend or is attending (37 FR 23153). Needless to say, upon taking effect, this regulation was sufficient cause for thousands of financial aid staff across the country to become notary publics. The notarization requirement was eventually dropped, but new certifications were eventually required. The Education Amendments of 1976 required the student to declare that he did not owe refunds on federal grants nor was he in default on federal loans at his institution. Effective January 1, 1986, the declaration was extended to *any* institution of higher education that the student had attended.

In 1988, Congress passed a wide range of anti-drug laws. Beginning with the 1989-90 award year, recipients of Pell Grants must certify that: "I will not engage in the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance during the period covered by my Pell Grant." Since few persons would be likely to admit to such nefarious activities, one must be skeptical about the worth of this pledge when given by those not inclined to honor it. Few people believe that a mere promise is enough to inhibit unlawful acts. One may safely predict that if a survey were taken of student aid administrators today, most would concur that the far simpler statement for students to certify would be, "I will sign any statement I have to in order to get the money I need in order to pay for my education."

Validation and Verification

The roots of current verification practices of student application data stem from no more than six lines comprising a single sentence on Certification of Information in the first Basic Grant regulations in 1973:

> The applicant, and where relevant, the applicant's parents or spouse, shall provide, if requested, any documents, including a copy of their Federal Income Tax Return, necessary to verify information submitted on the application form (39 FR 39415).

Within five years of its first operation, however, the verification of the accuracy of Basic Grant data became problematic. A 1976-77 validation study found that some 17 percent of students submitting changes to their original application data were modifying data elements integral to the calculation of eligibility. Applicants who had initially been ruled ineligible were found to have increased their eligibility significantly through ostensible "corrections," and from that fact the Office of Education concluded that the application process was being misused. In response, the Office of Education installed edits in the computerized application processing system to identify potential errors and also required institutions to validate selected applicants' data prior to payment of funds.

"From the outset of student assistance programs, Congress intended to support students who were both needy and worthy."

During the 1978-79 application processing cycle, the government targeted less than 10 percent of all applicants (200,000 of 2.7 million eligible students in an applicant pool of 4.5 million) for selection for validation (Office of Education, 1978, p. 4). In the following year, 1979-80, the pool of selected applicants expanded to 300,000; in 80-81 and 81-82 to 350,000; in 82-83 to 1.7 million. The surge in volume was "to reduce the total errors attributable to misreporting by students" (Office of Student Financial Assistance, 1986, p. i.). The government's commissioned study of the 1982-83 year involved about 4,000 students' records from 317 institutions and showed that Pell Grant recipients in 1982-83 were given 13 percent more than their true entitlement, despite the best efforts of validation, but that student and institutional errors were lower than in 1980-81. Institutions complied with the new requirements, and the upward trend in error rates noted in 1980-81 was reversed.

While overawards decreased, underawards also increased (Advanced Technology, 1983). In the next two years, no fewer than one million students were selected. For 1985-86, approximately half of all grant recipients were selected for verification. The ever-widening application of the verification regulations was not without considerable cost to the government. Jenkins (1982) reported that the Office of Management and Budget and the Department of Education asked Congress for authority to spend $3 million in funds earmarked for use as student financial assistance to pay for the cost overruns associated with printing Pell Grant Program validation requirements on the reports sent to students.

In July, 1985, the government proposed to expand the verification requirements to all federally-assisted grant and loan programs. By the time verification was implemented to cover all Title IV programs and was assigned as an institutional responsibility in March, 1986, the topic now required no less than 28 pages in the *Federal Register* and over 5,000 lines of print. (51 FR 8946).

The regulations were sufficiently complex to prompt the Department of Education to issue a *1986-87 Verification Guide* of over 200 pages in three volumes to explain the requirements and provide reference material to beleaguered financial aid administrators. By contrast, the original *BEOG Validation Procedures Handbook* published on March 15, 1978, required only 34 pages in total. The sole

reference to the Federal Income Tax Return found in the 1974 regulation was expanded, for example, to cover six additional documents which could be accepted as substitutes—under one of four specified conditions.

NASFAA President Dallas Martin, wrote to college presidents on August 5, 1986, about the "potential and very real cash flow problems your students may encounter." He reported that more time-consuming verification of student applicant data was extending processing time for awards "by as much as two months." *The Chronicle of Higher Education* reported doubling of paperwork, costly computer upgrades, hiring of extra shifts, and more than semester long delays of student aid delivery starting in the summer of 1986 (Wilson, 1986).

In an effort to relieve the burden on institutions, the Department of Education sought to mitigate the damage by repealing parts of the regulation on August 15, 1986. Students living with married parents would not have to explain who the three people living in the family were, and a married independent student living in a two-person household would not have to declare that the other person was, in fact, his or her spouse.

Nonetheless, quality control proved to be an elusive goal. A private study contracted by the Department of Education of the 1985-86 award year, immediately preceding the expanded 1986-87 regimen, found substantial improvements in the rates of student and institutional errors. Yet the contractor estimated that 54 percent of Pell Grant (formerly BEOG) recipients still received incorrect awards totaling some $763 million, or about 21 percent of all Pell Grant funds that year. Some 20 percent of insured loan recipients were estimated to have incorrectly certified need, and in the campus-based programs, some 77 percent had erroneous data used in determining awards, which in 22 percent of the cases exceeded financial need. The latter errors were estimated to have cost $338 million and $265 million, respectively (Advanced Technology, Inc. and Westat, Inc., 1987). The contractor concluded:

> Error continues to be high in spite of corrective actions taken. Yet the corrective actions the Department has taken have nearly exhausted the options for using mechanical approaches to reducing error in individual data items. The Department must either accept error rates of the magnitude that currently exist, by relying on costly after-the-fact inspection techniques, or accept the challenge of restructuring the delivery system itself to design error out of the process (Advanced Technology, 1987, p. 4-12).

Satisfactory Academic Progress

Ironically, the lack of educational accomplishment is now regulated in assistance programs whose original goal was to give "special consideration" to students with "superior academic background." Nonetheless, even the original 1959 NDSL regulation included a definition of "satisfactory standing" or "good standing":

> The terms "satisfactory standing" and "good standing" mean the eligibility of a student to continue in attendance at the institution where he is enrolled as a full-time student in accordance with the institution's standards and practices (24 FR 3236).

The GSL regulation of 1966, by contrast, bypassed the notion of academic standing for an amorphous definition mixing the concepts of degree attainment, time limit, and enrollment status:

> "Full-time student" means a student who is enrolled in, and is carrying a sufficient number of credit hours or their equivalent to secure the degree or certificate toward which he is working in no more than the number of semesters or terms normally taken thereof at the institution at which he is enrolled (31 FR 6109).

"Even if higher education institutions are generally esteemed by the public, their integrity is no longer taken for granted by the federal government."

Common to both definitions, though, was the element of local institutional standards and practices.

Title IV regulations in the 1970s refined the notion of "good standing" as one of the student eligibility criteria and carried at least two aspects: 1) the student was eligible to continue enrollment based on institutional standards and practices; and 2) the student was making measurable progress toward the completion of the course of study. Even as late as 1977, though, the Office of Education's proposed rules still suggested the vague though noble sentiment that the eligible student is one who "shows evidence of academic or creative promise" (42 FR 18739).

In 1976, Congress enacted amendments to the Higher Education Act of 1965 that required a student to maintain satisfactory progress in the course of study under the standards and practices of the student's institution. In Congress' view, many institutions either had no standards of progress or were inadequately enforcing them. A 1979 General Accounting Office (GAO) study heightened their interest in the problem.

When the GAO looked at institutional practices resulting in inequities in the distribution of federal student financial assistance funds, it concluded that Congress should go beyond merely specifying the required data elements of a satisfactory academic progress policy. It recommended that if Congress gave the Education Department the statutory authority, then regulations should be published to establish a minimum grade point average, a minimum number of credits earned during each enrollment period, and similar measures.

The Congressional Conference Committee reviewing the 1980 Education Amendments recommended that the issue of satisfactory progress be studied by the National Commission on Student Financial Assistance. A number of higher education associations took these issues and made a joint statement which later became a joint self-regulation standard (NASFAA, 1982).

Not until a 1982 Notice of Proposed Rulemaking did the Department of Education specify the elements of a complete satisfactory academic progress policy. When the final rule was published on

October 6, 1983, it required that an institution's policy: 1) conform with those requirements of the institution's accrediting agency; 2) be the same as or stricter than those standards applied to students in the same academic program *not* receiving federal assistance; 3) include normative factors such as grades; 4) specify a maximum time frame determined by the institution for completion of the student's educational objective (given the student's enrollment status).

The regulation further specified no less than annual evaluations of students by institutions, clear policies dealing with such contingencies as incompletes, withdrawals, repetitions, noncredit coursework, as well as appeal procedures for adverse determinations.

Even in the presence of regulation, though, evidence has mounted that many students and institutions are not complying. In 1984, the General Accounting Office issued a report on 761 student academic records in 35 proprietary schools randomly selected from a universe of 1,165. They found in the Pell Grant Program that 83 percent of the schools did not consistently enforce academic progress requirements. They estimated that over 27,000 students nationally were allowed to remain in such schools despite making little academic progress, while receiving an estimated $68 million in federal assistance (Comptroller General of the U.S., 1984). Findings such as these have prompted many to believe, as Gladieux described, that "Student aid has become vaguely implicated in what many view as a general decline in academic standards" (1983, p. 76).

Limitation, Suspension & Termination

The original NDSL regulations contained a mere fifteen lines in a paragraph on "compliance by institutions." It was stated, in effect, that violations of the provisions of the program would result in a suspension of new Federal Capital Contributions. On August 10, 1978, the Office of Education gave ten full pages of proposed General Provisions for Student Assistance Programs, making clear the need for regulation. Specifically cited were the growth of federal subsidies, concern over misuse and abuse of federal student financial aid programs by institutions and schools, and the rise in the student loan default rate. PL 94-482 authorized controls such as fiscal audits of eligible institutions having GSL loans; standards of "financial responsibility" and "administrative capability" for proper administration of the award programs, and the limitation, suspension, or termination of institutions "engaged in substantial misrepresentation of the nature of its educational program, its financial charges, or the employability of its graduates" (43 FR 35624).

Two justifications were entered into the need for regulation. First, the Senate report on PL 94-482 was quoted:

> The Education Amendments of 1972 authorized the Commissioner to limit, suspend, or terminate institutional participation in the Guaranteed Student Loan Program, in a provision similar to that in the committee bill. After a number of years, the Office of Education has finally issued regulations to implement that provision, and the committee hopes that it will have a significant effect on weeding out

those schools which do not have the fiscal stability or administrative competence to participate successfully in the loan program. The committee bill would extend this protection to the Basic Grant, College Work-Study, and National Direct Student Loan programs (43 FR 35624-35625).

Also cited was a surge in federal costs to cover defaults in NDSL and GSL, which "... soared from $31 million in 1972 to $177.5 million in 1976, representing nearly a sixfold increase during a period when loan volume remained relatively stable" (43 FR 35625). Among the new provisions: fidelity bonding of college and university financial staff, "... in response to several incidents where student assistance funds were embezzled by employees of an institution" (43 FR 35625).

Also among the new provisions were rules discussing the factors of administrative capability, including benchmark student loan default rates, set at a rate of more than 20 percent of the principal of the loans. The defaulted loan issue had become problematic by 1988. Loan defaults were estimated to cost the federal government $1.6 billion in 1988 and as much as $2.0 billion by 1990, making federal payments for this purpose the third most expensive program in the Department of Education. What changed was not so much the default rate itself, which has been fairly steady over the years, nor inflation, which could have pushed interest rates up, thereby obligating the government to higher costs of subsidizing the loans at an attractive rate to lenders, but rather the loan volume itself (Morehouse, 1988).

The latest salvo in the regulatory war against defaulted student loans seems to have taken aim at institutions. In regulations published September 16, 1988, the outgoing Secretary of Education William Bennett proposed harsh measures for limitation, suspension, or termination of schools whose default rates exceeded his benchmarks. Further, the regulations proposed a pro-rata refund policy on institutional charges for students who dropped out or were expelled. As a result of these new rules, some institutions have considered removing themselves from participation in the student loan programs (DeLoughry, 1989; Mensel, 1989).

Trends and Future Implications

As was clear from the outset of student assistance programs, Congress intended to support students who were both *needy* and *worthy*. Originally, worthiness was cast in terms not only of "superior academic background" but also of patriotism and good moral character.

Notwithstanding the perennial concern of student financial aid professionals over the vagaries of need analysis and ability to pay, congressional concern with student worthiness has never diminished. In recent years it has surfaced in the form of the "good moral character" associated with registration with the Selective Service System, with the avoidance of activities associated with illegal drugs, and with the repayment of prior student loans.

Additionally, certain categories of citizens have been singled out for special treatment in need analysis. Despite the continuing ambi-

guities in the definitions of the classes of displaced homemakers and dislocated workers, these groups receive special treatment when analyzing their ability to pay. Furthermore, proposals have been advanced in Congress to favor students who have participated in various forms of national service. Given a current national political climate in which Congress debated a constitutional amendment to prohibit flag-burning and acted to deny National Endowment for the Arts grants to "obscene" works, we may remain skeptical that Congress will be any more inclined in the near future to concern itself *exclusively* with the financial needs of student aid recipients. Student financial aid professionals who advocate a greater role for professional judgment in need analysis, without addressing the concern of worthiness as well as neediness, may find their arguments less than convincing outside the profession.

Parallel to the concern of student worthiness is a second trend whose focus is upon the worthiness of higher education institutions themselves. If the federal student aid programs are particularly vulnerable to fraud, waste, and abuse, then institutions will be hard pressed to maintain the posture of "innocent bystanders." Starting from only the threat of denial of access to new loan capital in the original NDSL program in the late 1950s, the federal government has issued increasingly specific rules to govern what institutions can and cannot do, backed by large civil penalties against the institution for each separate infraction of any regulation.

Even if higher education institutions are generally esteemed by the public, their integrity is no longer taken for granted by the federal government that now dictates minimal academic standards, compliance certifications on a host of federal laws, biennial audits, student consumerism disclosures, and refund standards to the institution's former students. The challenge to higher education institutions is not merely to adequately respond to the demands made from the public, but to find ways for their institutions to act to benefit the public interest and their students' interests *before* the demand arises from elsewhere. ✦

Appendix:
Some Early Student Financial Assistance Regulations, 1959 - 1978

(These regulations precede the publication of NASFAA's *Federal Monitor*)

April 25, 1959	National Defense Student Loan Program (24 FR 3235)
Sept. 29, 1959	National Defense Graduate Fellowship Program (24 FR 9289-9292)
August 16, 1963	Procedures and Criteria for Resolving Questions Involving Moral Character or Loyalty of Applicants for and Holders of NDEA Fellowships (28 FR 8409)
April 21, 1966	Federal State, and Private Programs of Low-Interest Loans to Students in Institutions of Higher Education (31 FR 6109-6112)

May 24, 1966	National Defense Student Loan Program (31 FR 7463-7468)
November 26, 1966	Federal, State, and Private Programs of Low-Interest Loans and Direct Federal Loans to Vocational Students (31 FR 14942-14945)
June 30, 1966	Federal, State, and Private Programs of Low-Interest Loans to Students in Institutions of Higher Education (31 FR 9003-9004)
January 10, 1968	Federal, State, and Private Programs of Low-Interest Loans to Students in Institutions of Higher Education (33 FR 371-374)
October 28, 1972	Guaranteed Student Loan: Application for Federal Interest Benefits and Affidavit (37 FR 23152-23153)
July 13, 1973	Basic Educational Opportunity Grant Program: Proposed Rules (38 FR 1778 et seq.)
November 6, 1974	Basic Educational Opportunity Grant Program: Scope, General Definitions, Application Procedures, and Allowable Educational Costs (39 FR 39412-39420)
December 2, 1974	Basic Educational Opportunity Grant Program: Administration of Payments (39 FR 41800-41802)
March 7, 1975	Coordination with Bureau of Indian Affairs Grants-in-Aid: Proposed Rules (40 FR 10686)
October 14, 1975	NDSL Loan Program: Proposed Rules (40 FR 48252-48264)
August 10, 1976	Basic Educational Opportunity Grant Program: Eligibility of Part-Time Students and Method of Calculation (41 FR 33868-33871)
August 27, 1976	SEOG Program: Final Regulation (41 FR 36320)
September 1, 1976	CWS Program: Issuance of Guidelines (41 FR 36872-36895)
November 24, 1976	NDSL Program and SEOG Program: Interim Regulations (41 FR 51946-51982)
November 29, 1976	Student Assistance Programs: Proposed Rules (41 FR 52410)
April 8, 1977	Student Assistance Programs: Proposed Rules (42 FR 18738-18752)
August 10, 1978	Student Assistance Programs: Proposed General Provisions (43 FR 35624-35634)

References

Advanced Technology, Inc., and Westat Research, Inc. (1983). *Preliminary Report on Assessment of 1982-83 Pell Grant Validation Procedures,* Reston, VA: Advanced Technology, Inc.

Advanced Technology, Inc., and Westat, Inc. (1987). *Title IV Quality Control Study, Stage 2, Final Report, Executive Summary,* Reston, VA: Advanced Technology, Inc.

Brooks, S. (1986). *NASFAA - The First Twenty Years: An Organizational History of the National Association of Student Financial Aid Administrators, 1966-1986,* Washington, DC: NASFAA.

Bureau of Student Financial Assistance. (1978, March 15). *Basic Educational Opportunity Grant Validation Procedures Handbook,* Washington, DC: U.S. Department of Health, Education, and Welfare.

Chubb, J.E. (1985). "Excessive Regulation: The Case of Federal Aid to Education." *Political Science Quarterly,* 100, 287-311.

Comptroller General of the U.S. (May 11, 1979). *Inconsistencies in Awarding Financial Aid to Students under Four Federal Programs.* (HRD-79-16). Washington, DC: General Accounting Office.

Comptroller General of the U.S. (1984). *Many Proprietary Schools Do Not Comply with the Department of Education's Pell Grant Program Requirements.* (HRD-84-17). Washington, DC: General Accounting Office.

Davis, J.S. and Johns, K. (1982). "Low Family Income: A Continuing Barrier to College Enrollment?" *Journal of Student Financial Aid.* NASFAA, Washington, DC: 12, 5-10.

DeLoughry, T. (1989, July 19). "Exasperation, Confusion Follow Education Department's Release of Student-Loan Default Rates and Rules to Curtail Them." *Chronicle of Higher Education,* p. A15.

Fitzgerald, B. & Harmon, L. (1988). *Consumer Rights and Accountability in Postsecondary Vocational-Technical Education: An Exploratory Study.* Washington, DC: Pelavin Associates.

Gladieux, L.E. (1983). "The Issue of Equity in College Finance." *Proceedings of the Academy of Political Science,* 35, 72-83.

Griffith, S.R. (1986). "Title IV of the Higher Education Act of 1965, as Amended: An Evaluation of Its Effectiveness in Terms of Access and Cost." *Journal of Student Financial Aid.* NASFAA, Washington, DC: 16, 3-13.

Guthrie, M. (1989). "Responses to Default Reduction Initiatives." *NASFAA Newsletter* (March 22, 1989), 21, p.5.

Hansen, W.L. (1983). "Impact of Student Financial Aid on Access." *Proceedings of the Academy of Political Science,* 35, 84-96.

Hills, D., Harris, P. & Stacey-Clemons, J. (1987). "Verification 1986-87: The Impact on Financial Aid Offices in the WASFAA Region." *Journal of Student Financial Aid.* NASFAA, Washington, DC: 17, 15-21.

Jenkins, R.E. (1982, May). "Student Financial Aid Deregulation: Rhetoric or Reality?" *Business Officer,* Washington, DC: National Association of College and University Business Officers.

Jennings, J.F. (1989, Winter). "The Curtain Rises on the 'Education President," *Student Aid Transcript,* 1, 4-7. Washington, DC: National Association of Student Financial Aid Administrators.

Keppel, F. (1975). *Report of the Task Force on Student Aid Problems.* Washington, DC: U.S. Department of Health, Education, and Welfare.

Kramer, M. (1983). "A Decade of Growth in Student Assistance." *Proceedings of the Academy of Political Science,* 35, 61-71.

Mensel, F. (1989, Dec. 6). "Community Colleges Should Abandon the Guaranteed Loan Program." *Chronicle of Higher Education,* p. A40.

Moore, J.W. (1983). "Purposes and Provision of Federal Programs." In Fenske, R.H., Huff, R.P. and associates. *Handbook of Student Financial Aid.* San Francisco, CA: Jossey-Bass.

Morehouse, M. (1988). "Student Loan Defaults: A $1.6 Billion Drain." *Congressional Quarterly Weekly Report,* 46, 1368-1372.

Mortenson, T. G. (1988). "Refocusing the Pell Grant Program from Poverty to Higher Income Applicants 1979-80 to 1988-89." *Journal of Student Financial Aid.* NASFAA, Washington, DC: 18, 5-11.

National Association of Student Financial Aid Administrators. (1982, April). *Standards of Satisfactory Academic Progress to Maintain Financial Aid Eligibility - A Self-Regulation Initiative.* (NASFAA Monograph Series, Number 1). Washington, DC.

Office of Education. (1974) *Basic Grants Handbook.* Washington, DC: U.S. Department of Health, Education, and Welfare.

Office of Education. (1978) *Basic Educational Opportunity Grant Validation Procedures Handbook.* Washington, DC: U.S. Department of Health, Education and Welfare.

Office of Student Financial Assistance. (1986). *1986-87 Verification Guide* (Volume 1: An Overview; Volume 2: Verification Procedures; Volume 3: Background). Washington, DC: U.S. Department of Education.

Office of Student Financial Assistance. (1984). *Quality in the Pell Grant Delivery System.* (Volume 1: Findings; Volume 2: Corrective Actions; Volume 3: Procedures and Methods. Final Report.). Washington, DC: Advanced Technology, Inc.

Putka, G. (1989, May 2). "Do Colleges Collude on Financial Aid?" *The Wall Street Journal,* p. B1.

Riddle, W. (1986). "A Discussion and Analysis of the 'Ability to Benefit' Provisions in Title IV." *Journal of Student Financial Aid,* NASFAA, Washington, DC: 16, 4-16.

Saunders, C.B. (1983). "Reshaping Federal Aid to Higher Education." *Proceedings of the Academy of Political Science,* 35, 119-134.

Wilson, R. (1986, August 6). "New Federal Rules Snarl Student Aid for Fall; Paperwork Swamps Colleges." *Chronicle of Higher Education,* p. A9.