

**FEDERAL BAN ON INCENTIVE COMPENSATION FOR STUDENT
RECRUITING ACTIVITIES OR THE AWARDING OF
FEDERAL FINANCIAL AID**

**[based in part, with permission, on
<http://www.uvm.edu/hrs/info/compensation/incentivecompguide.pdf>]**

Introduction

Section 487(a)(20) of the Higher Education Act (HEA) prohibits the college from providing incentive compensation to employees or third party entities for their success in securing student enrollments or the awarding of Title IV HEA program funds.

Background of the law

This strict ban on providing incentive compensation for performing these activities is part of a larger set of Program Integrity Rules issued by the Department of Education (DOE) in 2010 with an effective date July 1, 2011. These rules cover a broad array of issues intended to promote integrity in higher education programs by protecting students as consumers and by stemming perceived abuses of Title IV program funds perpetuated by a minority of institutions. The rules apply to all Title IV eligible institutions.

Definitions and scope:

Commission, bonus, or other incentive payment: Commission, bonus, or other incentive payment means a sum of money or something of value, other than a fixed salary or wages, paid to or given to a person or an entity for services rendered.

Covered individuals: Any person or entity engaged in restricted activities.

Restricted activities:

1. Recruiting or admissions activities related to success in securing student enrollments; and
2. Making decisions regarding the awarding of Title IV HEA program funds.

Ban on incentive compensation

Goucher may not provide any commission, bonus, or other incentive payment based in any part, directly or indirectly, upon success in securing enrollments or awarding of federal financial aid, to any person or entity engaged in any student recruitment or admissions activity or in making decisions regarding the award of Title IV funds.

Some examples of restricted activities for which incentive compensation is prohibited include, but are not limited to:

- providing recruitment information or solicitations targeted to individuals
- contacting prospective students personally
- making student enrollment or Title IV aid decisions
- aiding students in completing enrollment applications, and
- completing financial aid applications on behalf of prospective students.

Examples of activities that are exempt from the ban on incentive compensation as long as the employee is not also engaged in restricted activities include:

- advertising or marketing activities that provide college or program information to the public or groups of potential students
- collecting contact information
- providing student support services after the disbursement of financial aid such as career counseling, tutoring, online course support
- recruiting of foreign students residing in foreign countries who are not eligible to receive Title IV funds
- making policy decisions related to the manner in which recruitment, enrollment, or financial aid will be pursued or provided, such as, e.g., decisions to admit only high school graduates.

These rules apply to covered individuals performing restricted activities. Certain college departments such as the Admissions Office and Student Administrative Services will have a number of employees subject to the ban since these departments typically perform restricted activities. Higher-level employees may be covered individuals if they engage in restricted activities, such as making recruitment visits to high schools.

Additionally, these rules apply to ANY employee in any other department that is directly engaged in restricted activities, including athletics coaches. Special care should be taken when reviewing the performance of employees who may perform restricted activities as a nominal part of their work to ensure that compensation decisions are not made in relation to the success of these activities in securing student enrollment or the awarding of financial aid

Generally, these rules do not apply to senior level managers and executive employees who are involved only in the development of policy and do not engage in individual student contact related to the restricted activities.

Permissible bases for salary adjustments:

There are a number of standard evaluative factors that can be used to assess the performance of covered individuals in relation to the restricted activities, and to support incentive payments, including:

- job knowledge (knowledge of college programs, policies, and guidance)

- professionalism (providing quality customer service, respecting customer privacy demonstrating proper etiquette with students and co-workers, and inspires others to achieve positive results)
- analytic ability (ability to troubleshoot and solve problems)
- communication skills (written, verbal)
- use of technology (ability to use available technology to carry out duties)
- dependability (follow-through with customers, punctuality, low absenteeism)
- customer evaluations (feedback from students, parents, co-workers or other individuals/organizations the individual works with); and
- initiative (e.g., the extent to which an employee is a self-starter, shares new and better ways to do things, and is willing to assume additional duties)

With respect to athletic personnel, bonus or other incentive payments are typically permitted for successful athletic programs including compensation for a successful athletic season, team academic performance, or other measures of team success.

Agreements with third party vendors

These restrictions extend to payments to third party entities; however, specific rules may apply if a vendor is providing bundled activities that include restricted as well as other activities. All third party agreements must be approved by the Office of General Counsel to ensure they do not include incentive payments for restricted activities.

Questions about the application of this policy in particular cases should be directed to the Associate Vice President for Finance and Director of Human Resources, or the Office of General Counsel.