Dear colleagues,

I wanted to bring to your attention some recent changes in Federal Regulations that will impact the universities’ ability to provide Title IV funding to students in the event we have audit findings in this area.

Scholarships & Financial Aid requests your cooperation and understanding to ensure compliance to avoid jeopardizing the approximate amount of 200 million dollars in federal aid we award to students (undergraduates, graduates and professional).

It is imperative that we are compliant and ensure our Title IV eligibility remains in tack for Texas A&M students. Please review your job descriptions, and evaluations for any staff member who works in a recruitment role for the university to ensure there is no incentive compensation, actual or perceived provided to that staff member.

I have included in this email several items for your review in regards to these regulation changes: background and definition, who this applies to and a two part test to determine compliance for Incentive Compensation.

Incentive Compensation background and definition:

**Background:**

Regulations related to incentive compensation appeared in the 1992 Higher Education Act (HEA) and prohibited incentive payments specifically to those involved in recruitment and admissions; however, in 2002, a set of 12 “safe harbors” were added to the regulations to specify certain payments and compensations that could be paid to these individuals. During negotiated rule making for the Higher Education Opportunity (HEOA) Act of 2008, the Department of Education received complaints from students and enrollment advisors about high pressure sales tactics of some postsecondary institutions.

As a result of the complaints, the October 29, 2010 final Integrity regulations related to Incentive Compensation:

- removed all the safe harbors for incentive compensation,
- expanded the type of institutional positions covered by the incentive compensation regulations and
- expanded the enrollment activities covered.
34 CFS 668.14 (b) 22) (i) Incentive Compensation:

- An institution “will not provide any commission, bonus, or other incentive payment based in any part, directly or indirectly, upon success in securing enrollments or the awarding of financial aid, to any person or entity who is engaged in any student recruitment or admissions activity, or in making decisions regarding the awarding of Title IV, HEA program funds.”

- **Covered persons:** “Any employee who undertakes recruiting or admitting of students or who makes decisions about and awards Title IV aid, plus any higher level employee with responsibility for recruitment or admission of students, or making decisions about awarding Title IV funds.” This includes managerial employees and can apply “all the way to the top” of the institution. College presidents “could potentially” come within the scope, along with athletic department staff. The prohibition of incentive compensation also applies to third party servicers who are hired to work in any of the enrollment-related activities noted. Anyone on campus, regardless of their title, who is involved in enrollment-related activity, is covered under these provisions.

- **Covered activities** go beyond financial aid and what we think of as enrollment-related activities such as recruitment or admissions activities. Incentive compensation cannot be paid for improvement in retention rates, completion rates, graduation rates, diversity, or job placement rates for employees who are involved in recruitment-related activity or in the awarding of financial aid. Activities also include compensation and performance-related processes like merit pay and other performance-related activity.

**Two Part Test:**

**Part 1:** Determine if the payment or compensation is a commission, bonus, or other incentive payment, based on the above definition.

**Part 2:** Determine if the commission, bonus, or other incentive payment is provided to any person based in any part, directly or indirectly, on success in securing enrollments or the award of financial aid, based on the above definitions.

**Result:** If both of these determinations are affirmative (meaning the answer is yes), the commission, bonus, or incentive payment is not permitted.