

# Putting Financial Responsibility Agreements Into Action

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# Marist College

- Founded in 1929
- Located in New York's historic Hudson Valley
- Branch located in Florence, Italy
- Site located in Dublin, Ireland
  
- Enrollment 2017-2018
  - 5,037 Traditional Undergraduate
  - 1,354 Graduate and Adult



# Agenda

- Importance of Agreement
- Agreement Implementation Policy
- Applicable laws
- Marist College SFS Agreement Policy
- Student Federal Aid Policy
- SFS Policy/Procedure
- NACUBO Advisory Report 2018-1

# Disclaimer

- This presentation is only for the purpose of a collaborative discussion, and should not be relied upon, whatsoever, as legal advice. Before implementing a Student Financial Responsibility agreement please consult your institution's legal counsel.

# Student Financial Responsibility Agreement

- Student Financial Service best practice which protects the school, maximizes collections and provides an efficient process
- Ensures compliance with federal/state laws and regulations such as:
  - FDCPA (Fair Debt Collection Practices Act)
  - TCPA (Telephone Consumer Protection Act)
  - Title IV of the Higher Education Act
  - IRS notification requirements

***Seek advice from your legal department***

# Fair Debt Collection Practices Act

- Cannot communicate with debtors at any unusual time or place
  - Before 9am or after 8pm local time at consumer's location
- Cannot communicate if collector knows debtor is represented by attorney (consent needed)
- No communication with third parties (consent needed)
- No threats of violence/obscene language
- Cannot publish list of consumers refusing to pay debts
- Cannot contact repeatedly with intent to annoy/harass

# Fair Debt Collection Practices Act

## (contd.)

- No false or misleading representations
- Must disclose caller's identity
- Prohibits collection of fees/interest unless expressly authorized by agreement creating the debt
- Cannot communicate via post card
- Vague envelopes
- Notify to whom the debt is owed, amount, opportunity to dispute (30 days)
  - If disputed, collector must verify or cease collection

# Telephone Consumer Protection Act

- Prohibits calling/texting any number assigned to a paging service or cellular service using an automatic dialer or artificial/prerecorded voice
  - Consumers must provide express consent for cellphone calls
- Solicitors must provide their name, entity on whose behalf the call is being made and a telephone number or address at which that person or entity may be contacted.
- Autodialers permitted in emergencies
- Existing commercial relationship ≠ permission
- Consent cannot be a condition of a sale



# Title IV of the Higher Education Act

- Funds will be applied to student account as mandated by State or Federal Government
- Explanation of refunds from a previous financial aid year
  - Institution may automatically use current year for past year institutional charges up to \$200
  - Student is responsible for any remaining balance

# IRS Notifications

- Regulations stipulate students must opt in to electronic delivery
- Opt in may be part of blanket authorization
- Provide instructions for opting out of electronic notifications
- Can include language regarding TIN collection

# Student Financial Responsibility Agreement

- May utilize an electronic agreement located within the registration process
- Use an 'opt-in' format that incorporates check boxes to agree
- Opt-out instructions should clearly delineate the consequences of opting-out
- School should accurately implement/follow terms of the agreement

# Student Financial Responsibility Agreement

## Priority Terms

- Payment of fees/promise to pay
- Delinquent account/collection
- Communication

## Optional Terms

- Financial aid
- Method of billing
- Billing errors
- Returned payments/failed payment agreements
- Withdrawal
- Privacy rights
- Student Age



**Student Financial Services**

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# Student Financial Responsibility Agreement Implementation Process

- Depends on campus leadership, culture, level of IT support, advice of school's legal counsel
- Follow State Laws and comply with the Federal E-Sign Act
- Don't reinvent the wheel – ask other schools for examples
- Ensure financial services staff is prepared to respond to student inquiries

***Seek approval from legal before implementing an agreement***

\*Review suggestions in the NACUBO Advisory Report 2018-1

# Marist College Student Financial Responsibility Policy

- Philosophy and Policy Statement
- Student Account – FERPA
- Promise to Pay
- Misc. Payment Fees – Returned Check, Late Payment
- Past Due Notices
- Collection Costs
- 1098-T
- Rights and Regulations
- Training Staff, Including Students

# Student Financial Services Policy and Procedure

- Maintained and updated annually
- Staff responsible for updating sections applicable to their position
- Reviewed by auditors



# **SFS Philosophy, Policy, and Important Acknowledgements/Terms & Conditions**

- Acknowledgement of Responsibility for Financial Aid Requirements and Electronic Processes for Notifications and Authorizations
- Email Notifications
  - Billing notifications are sent electronically
  - Student Financial Services sends most notifications electronically via the Marist email system
- Title IV Recipient Refund Policy

# **SFS Philosophy, Policy, and Important Acknowledgements/Terms & Conditions (Contd.)**

- Excess Financial Aid
  - If a student is not permitted to return to Marist College for academic or disciplinary reasons or for an outstanding balance on the student's account, the student's financial award will become void
- Acknowledgment of Basic Student Accident and Sickness Insurance Plan
- Acknowledgement of Billing Terms and Promissory Note to Pay



**Student Financial Services**

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# Fees

- Fees charged are listed in the College Catalog
  - Return check fee
  - Late fees/interest charges have to be precise
  - Reinstatement Fee

# Collection Fees

- Cost of recovering debt when student has defaulted on debt obligation
- Can include fees charged by collection agencies or attorneys
- Assessing these fees:
  - Significant cost savings to the institution
  - Specific consequences to the student in the event of default

# Requirements to Assess Collections Fees

- Contracts with any agency must state collection fees will be assessed
- Student must acknowledge an agreement to accept full responsibility to pay collection fees
- Collection agency contracts may need to be updated

# Student Financial Services Best Practices

- Agreement provided at start of each academic year and renewed annually
- Maintain agreement on student portal
- Communicate with partner departments
  - Registrar's Office
  - Residential Life
  - Business Affairs
  - Athletics

# NACUBO Advisory Report 2018-1

- Best practices for financial responsibility agreements with students
- Communications
- Financial Aid
- Billing Method
- 1098-T
- Withdrawal



# Questions?

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