Federal Update

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2018 PRASFAA Annual Conference
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Regulatory Agenda
Regulatory Agenda

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Executive Order on Regulatory Review

- On Feb. 24, 2017, the President signed Executive Order 13777 to reduce regulatory burdens on the American people through regulatory reform.

- The Department created a Regulatory Reform Task Force (Task Force) to review regulatory and sub-regulatory guidance throughout the Department.
The Task Force is identifying regulations that:

- Eliminate jobs or inhibit job creation;
- Are outdated, unnecessary, or ineffective;
- Impose costs that exceed benefits; or
- Create a serious inconsistency or otherwise interfere with regulatory reform initiatives and policies.
Regulatory Reform

To obtain public input on the regulatory reform agenda, the Department:

• Held public hearings in Salt Lake City and Washington D.C in the Fall of 2017.

• Received and reviewed comments that were submitted by the public on a broad range of issues.
Elimination of outdated guidance:

- The Department identified outdated Dear Colleague Letters (DCLs) and marked them as “Maintained for Historical Purposes Only” in IFAP.
  - Institutions no longer need to follow this guidance.
- The Department will continue to identify additional outdated guidance.
Negotiated Rulemaking
Accreditation Innovation and Other Issues

- On July 31, 2018, the Department announced its intent to establish a negotiated rulemaking committee.

- The Committee will begin work in January to develop proposed regulations on Accreditation Innovation and other related issues.
The Accreditation and Innovation Negotiated Rulemaking Committee will address the Secretary's recognition of accrediting agencies and related institutional eligibility issues, including:

• Requirements for accrediting agencies in their oversight of member institutions and programs.

• Criteria used by the Secretary to recognize accrediting agencies.
Accreditation Innovation and Other Issues

• Simplification of the Department's recognition and review of accrediting agencies.

• Clarification of the core oversight responsibilities of each entity in the regulatory triad, including accrediting agencies, States, and the Department to hold institutions accountable.
Accreditation Innovation and Other Issues

• Clarification of the permissible arrangements between an institution of higher education and another organization to provide a portion of an education program.

• The roles and responsibilities of institutions and accrediting agencies in the teach-out process.
Accreditation Innovation and Other Issues

The Department also announced an intent to establish three subcommittees that would make recommendations to the Negotiated Rulemaking Committee on:

• Distance Learning and Innovation

• Eligibility of faith-based entities and activities

• TEACH grants
The Distance Learning and Educational Innovation Subcommittee will address:

- Simplification of State authorization requirements related to programs offered through distance education or correspondence courses, including disclosures about such programs to enrolled and prospective students and other State authorization issues.

- The definition of “regular and substantive interaction,” as that term is used in the definitions of “correspondence course” and “distance education”.
Accreditation Innovation and Other Issues

• The definition of the term “credit hour”.

• The requirement that an institution demonstrates a reasonable relation between the length of a program and entry-level requirements for the recognized occupation for which the program prepares the student.
Accreditation Innovation and Other Issues

The TEACH Grants Subcommittee will address:

- The simplification and clarification of TEACH Grant program requirements to:
  - Minimize the inadvertent grant-to-loan conversions; and
  - Provide opportunities to correct erroneous conversions.
TEACH Grant Operational Changes

In addition to the regulatory work on TEACH grants:

• The Department continues to review the TEACH Grant Program and will consider operational changes intended to improve outcomes for TEACH Grant recipients.
Accreditation Innovation and Other Issues

To obtain public input on the topics for negotiation:

• The Department held three public hearings this Summer in Wisconsin, Louisiana, and Washington D.C.

• The Department also accepted and reviewed written comments submitted by the public.
Accreditation Innovation and Other Issues

Through a notice in the Federal Register, the Department solicited representatives of various constituencies to serve as negotiators and subcommittee members.

- Nominations were due to the Department on Nov. 15th.

- The Department is now reviewing the nominations and expects to announce the committee membership later this year.
Accreditation Innovation and Other Issues

Main Committee Session Dates:

• Jan. 14–16, 2019
• Feb. 19–22, 2019
• March 25–28, 2019

Sessions will take place in Washington, DC. Specific locations will be announced in a Federal Register notice and on our website.

The Department will bring specific proposals to the first round of negotiations.
Accreditation Innovation and Other Issues

Subcommittee Session Dates:

• Jan. 17 – 18, 2019
• Feb. 12 – 13, 2019
• March 11 – 12, 2019

Subcommittee sessions will be livestreamed to provide public access.
Borrower Defense to Repayment (BDTR)

On Nov. 1, 2016, the Department published final regulations that were scheduled to take effect on July 1, 2017. The final regulations:

• Created a new Federal standard for BDTR
• Prohibited mandatory arbitration clauses
• Required loan repayment warnings under some circumstances
• Provided for automatic closed school discharges
• Updated false certification discharge regulations
Borrower Defense to Repayment

The Department formed a Negotiated Rulemaking Committee to negotiate the following issues:

- Federal Standard for BDTR
- BDTR Process
- Limited Aspects of Financial Responsibility and Administrative Capability
- Pre-dispute Arbitration Agreements, Class Action Waivers, and Internal Dispute Processes
- Closed School Discharges
- False Certification Discharges
- Guaranty Agency Collection Fees
- Subsidized Usage Period Recalculation
Borrower Defense to Repayment

• A Notice of Proposed Rulemaking (NPRM) was published July 31, 2018.
  • The Department received nearly 32,000 comments in response.
• The Department continues work on these regulations.
Borrower Defense to Repayment

• The Department published Federal Register notices to delay the effective date.

• In October 2018, the U.S. District Court for D.C. invalidated the delay and the 2016 Borrower Defense regulations became effective.
Gainful Employment

• A negotiated rulemaking committee was formed to consider the Gainful Employment rules.

• The committee met:
  • Dec. 4-7, 2017,
  • Feb. 5-8, 2018, and

• Negotiations concluded without consensus being reached.
Gainful Employment

• A Notice of Proposed Rulemaking (NPRM) was published Aug. 14, 2018.
  • The comment period ended on Sept. 13, 2018.
  • The Department received nearly 14,000 comments.
• A final regulation is under development.
Gainful Employment

- **June 18, 2018 GE EA #116**: Deadline to comply with requirements of 668.412 (d) and (e) delayed until July 1, 2019. Supersedes GE EA #106. Specifically these regulations require schools to:
  - Include the disclosure template, or a link thereto, in their GE program promotional materials; and,
  - Directly distribute the disclosure template to prospective students.

- Consistent with previous announcements, schools must comply with 668.412(a), (b), and (c) to post disclosures on their GE program webpages using the approved disclosure template provided by ED. The deadline for these actions was April 6, 2018.
Gainful Employment Disclosure

• Resources for 2018 GE Disclosure:
  - Office of Postsecondary Education (OPE) website
  - Gainful Employment Disclosure Template
    - GE Disclosure Template
    - GE Disclosure Template Quick Start Guide
  - Resources for 2019 GE Disclosure:
    - Coming soon!
Gainful Employment

• GE Reporting for the 2017-2018 award year was due Oct. 1, 2018 in the same format as last year.

• For assistance with reporting, contact the NSLDS Customer Support Center at 1-800-999-8219 or nslds@ed.gov.
Statutory Updates
Minibus Appropriations Bill

• On Sept. 28, 2018 the President signed the Department of Defense and Labor, Health and Human Services, and Education Appropriations Act, 2019 (H.R. 6157; Public Law No: 115-245) which impacted Federal student aid in several ways:
  • Increased Maximum Pell Grant awards
  • Level funding for FWS/FSEOG awards
  • Deferment for Cancer Treatment
  • FAFSA® Data Usage
  • Temporary Extended Public Service Loan Forgiveness (TEPSLF)
  • Public Service Loan Forgiveness (PSLF) Outreach
Maximum Pell Grant awards

• Maximum Scheduled Award: $6,195
  • Increase of $100 from 2018-2019
  • Able to receive up to 150% of scheduled Pell award
  • New payment schedules to be released in the upcoming weeks
No Change to FWS/FSEOG levels

• Campus-based appropriations have provided (with no changes from the previous award year):
  • $1,130,000,000 for the FWS Program
  • $840,000,000 for the FSEOG Program
Deferment for Cancer Treatment

• Direct Loan, FFELP, and Perkins Loan borrowers will become eligible for an interest-subsidized deferment for the period of time for which they are receiving treatment for cancer and for the 6-month period following the cessation of such treatment. The term “cancer treatment” is undefined.

• This provision is only available for loans that are disbursed on or after the date of enactment, Sept. 28, 2018, or loans in repayment on the date of enactment.

• Loans disbursed prior to Sept. 28, 2018 that have not yet entered repayment are not eligible for this benefit.
Deferment for Cancer Treatment

- Servicers are currently able to offer temporary forbearance for students who may be eligible for this benefit, at the student’s request.

- The Department provided servicers with appropriate guidance to help ensure consistent application.
FAFSA Data Usage

• The law permits, but does not require, schools to provide FAFSA data to a scholarship granting organization, or to an organization that assists the applicant in applying for and receiving Federal, State, local or tribal assistance if:
  • The applicant has provided explicit written consent, and
  • The disclosure is to assist the applicant in applying for and receiving financial assistance at that school.

• The organization cannot sell or otherwise share the FAFSA data they receive from schools under this section.

• This provision will remain in effect until the HEA is reauthorized.
PSLF

• The appropriations law sets aside an additional $2.3 million from the Student Aid Administrative account (same as in FY 2018) for FSA to perform outreach to all Direct Loan borrowers with respect to PSLF, particularly those who are not in qualifying repayment plans for PSLF.

• The law also permits FSA to spend these funds on enhancements to PSLF operations, such as the PSLF Help Tool.
PSLF

As of June 2018:

- 28,021 borrowers have applied for PSLF
- 96 borrowers have been approved to receive $5.52 million in loan forgiveness
- The remainder have been not been approved or are pending approval, primarily for not meeting program requirements (e.g. having a Direct Loan or making 120 qualifying payments)
- A significant minority were not approved because of incomplete applications (e.g. the Employer Identification Number was missing)
  - Attempts to get complete applications were unsuccessful
  - Borrower can resubmit, but still may not meet program requirements

Source: FSA Data Center, as of June 2018
The appropriations law provides a supplemental $350 million for the temporary expansion of PSLF for Direct Loan borrowers that was created in FY 2018, bringing the total appropriation to $700 million.

This expansion is available to those who do not otherwise qualify for PSLF solely because some or all of their payments were made on a non-qualifying repayment plan (such as the Extended Repayment Plan).

To qualify for the temporary expansion, a borrower must demonstrate that the payment they made 12 months prior to applying for the temporary expansion of PSLF and the payment they made immediately prior to applying for the expansion are at least as much as they would have paid under an income-driven repayment plan.
ED will reconsider borrower eligibility for Public Service Loan Forgiveness (PSLF) using an expanded list of qualifying repayment plans and some payments that don’t count toward PSLF may count toward forgiveness under TEPSLF.

Additional qualifying repayment plans include:
- Graduated Repayment Plan
- Extended Repayment Plan Consolidation Standard Repayment Plan
- Consolidation Graduated Repayment Plan

Refer to May 23, 2018 Electronic Announcement
TEPSLF

As of October 2018:

• We have received 33,947 TEPSLF email requests
• 7,138 requests are being or were reviewed for eligibility:
  • 26 have been approved ($1.4 million)
  • 3,824 have been not been approved:
    • Nearly two-thirds of borrowers haven’t been in repayment for 10 years,
    • One-fifth of borrowers didn’t have any Direct Loans
  • 3,288 are still being reviewed
• 22,872 requests are from borrowers who had not applied for PSLF or who had a PSLF application pending

Source: FedLoan Servicing, Oct. 16, 2018
Children of Fallen Heroes Scholarship Act

• On March 23, 2018 the President signed the Consolidated Appropriations Act, 2018, (H.R. 1625, Public Law 115-141)

• Amends Sec. 473(b) of HEA and expands special rule for “EFC shall be deemed zero”

• Student must be eligible to receive Pell Grant for the year in which eligibility determination is made beginning with 2018-2019 award year (EFC > 0 and ≤ the maximum EFC for Pell Grant)

• Parent or guardian actively serving as a public safety officer and died in the line of duty while performing as a public safety officer
Children of Fallen Heroes Scholarship Act

- At time of parent or guardian’s death student was:
  - Less than 24 years of age or;
  - Enrolled at an institution of higher education on a part-time or full-time basis
- Partial Pell Grant to full Pell Grant
- Zero EFC used for all other title IV aid
- Nov. 19, 2018 Electronic Announcement for Children of Fallen Heroes Scholarship Act
Perkins Loans
Perkins Loans

- Perkins Loan Program authority has expired; no more loans or disbursements can be awarded
  - [Dear Colleague Letter (DCL) GEN-17-10](#), published on Oct. 6, 2017
  - [Dear Colleague Letter (DCL) GEN-16-05](#), published on Feb. 17, 2016
Verification
Changes to IRS Tax Transcript

- The IRS recently announced changes to tax transcripts and third-party servicers. On Sept. 23, 2018, the current format of the individual tax return transcript(s) was replaced with an updated version that redacts sensitive personal identifying information of the tax filer.
- The Sept. 23, 2018 redactions apply to transcripts requested via 4506-T forms and IVES systems.
Changes to IRS Tax Transcript

• The IRS announced that the revised tax transcript will now display:
  • Last 4 digits of any SSN listed on the transcript (e.g. XXX-XX-1234)
  • Last 4 digits of any EIN listed on the transcript (e.g. XX-XXX1234)
  • Last 4 digits of any account or telephone number
  • First 4 characters of the last name of any individual
  • First 4 characters of a business name
  • First 6 characters of the street address, including spaces
  • All money amounts, including balance due, interest and penalties
Changes to IRS Tax Transcript

• Institutions should still be able to identify and match the tax payer information on the tax transcript with the FAFSA information on file either by use of the limited redacted information provided on the tax transcript or by use of the new “Customer File Number” available on the new transcript.

• As a result, the IRS tax transcript is still acceptable documentation for verification purposes.
Changes to IRS Forms 4506-T and 4506T-EZ

• Forms 4506-T and 4506T-EZ now provide an opportunity for the tax filer to provide a Customer File Number which is optional and available for the filer to use when using the form to request a transcript

• Starting early next calendar year, tax payers may also assign a Customer File Number to their tax transcript that they obtain through Get Transcript Online and Get Transcript by Mail (online).
  • Up to 10 numeric characters, such as a student identification number, can be included to better assist institutions in matching the tax transcript to the appropriate student

• Per the IRS, Customer File Numbers will reject if the Customer File Number provided matches an SSN associated with the tax transcript
Changes to Other IRS Tax Forms

• The recently passed tax reform law changes other IRS tax forms (e.g. Form 1040)

• The IRS released drafts of new tax forms in August 2018

• One major change is the elimination of tax forms 1040A and 1040EZ, and the creation of 6 new schedules

• FSA is reviewing these changes to see how these changes effect our forms and processes
DHS – SAVE Process

• Financial aid administrators now have access to the Department of Homeland Security’s (DHS) Systematic Alien Verification Entitlement (SAVE) system to verify citizenship status for students.

• Learn more about the DHS-SAVE by visiting the conference website and viewing Session 23 – Resolving Eligibility Issues for Citizens and Eligible Noncitizens.
FSA’s Next Generation Services Environment
NextGen Financial Services Environment

- Federal Student Aid (FSA) has defined the Next Generation Financial Services Environment with four primary goals.

1. World-class customer experience, grounded in a mobile-first, mobile-complete, and mobile-continuous environment, to improve customer outcomes
2. Greater operational flexibility to allow FSA to more rapidly integrate new capabilities and features
3. Reduce complexity, improve the stability and resiliency of our systems, and provide more cost-efficient solutions
4. Improve repayment outcomes and overall portfolio performance
The FAFSA is Now Mobile!

• Federal Student Aid is pleased to announce that students and parents now have two ways to complete the *Free Application for Federal Student Aid* (FAFSA®) form; a redesigned fafsa.gov website and a mobile app.

• These two improvements make it easier for students and parents to access and complete the FAFSA form on the device that works best for them, with a particular focus on improving the experience on mobile devices such as smartphones and tablets.
Federal Student Aid Updates and Reminders
Cohort Default Rates

- The Fiscal Year (FY) 2015 national federal student loan cohort default rate (CDR) decreased to 10.8 percent from the FY 2014 national rate of 11.5 percent. The FY 2015 CDR represents the lowest national cohort default rate since the three-year rate was first released in 2012.

- During the tracking period for the FY 2015 borrower cohort—from Oct. 1, 2014 to Sept. 30, 2017—more than 4.9 million borrowers entered repayment, and 531,653 of them, or 10.8 percent, defaulted on their loans. Those borrowers attended 6,155 postsecondary institutions across the nation.
Cohort Default Rates

Cohort Default Rates by Fiscal Year

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Default Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>FY 2011</td>
<td>13.70%</td>
</tr>
<tr>
<td>FY 2012</td>
<td>11.80%</td>
</tr>
<tr>
<td>FY 2013</td>
<td>11.30%</td>
</tr>
<tr>
<td>FY 2014</td>
<td>11.50%</td>
</tr>
<tr>
<td>FY 2015</td>
<td>10.80%</td>
</tr>
</tbody>
</table>
Disaster Assistance

• On Aug. 29, 2017, the Department released Dear Colleague Letter GEN-17-08 to help Title IV participants affected by a major disaster.

• On Sept. 28, 2018, the Department released an Electronic Announcement related to the 2018–19 Supplemental Campus-Based Funds and Hurricane Florence.

• The Department maintains resources for institutions impacted by Hurricanes Florence and Michael on the Hurricane Help page of ED.gov.

• The Department continues to provide waivers and assistance to schools impacted by hurricanes, typhoons, wildfires, and other disasters.
Disaster Assistance

- The Bipartisan Budget Act of 2018, enacted on Feb. 9, 2018, gave the Department broad authority to take steps that would assist both disaster-affected students and institutions. For Puerto Rico and the U.S. Virgin Islands, the Department intends to do the following this Winter:
  - Waive certain requirements for TEACH Grants and DL/Perkins teacher loan forgiveness
  - Forgive loans associated with the disaster period for students that did not complete the semester
  - Exclude the disaster period from consideration of Subsidized Usage Limit Applies (SULA) and Pell Lifetime Eligibility Use (LEU)
Third–Party “Debt Relief”

- The Department is aware of “debt relief companies” that charge borrowers large up-front or monthly fees for Federal student aid services offered by the Department and its student loan servicers for free. Such services include:
  - Consolidating federal student loans;
  - Changing repayment plans;
  - Resolving defaults;
  - Filing requests for borrower defense loan cancellation; and
  - Other benefits and services that students are entitled to receive at no charge.
Third – Party "Debt Relief"

• These “debt relief companies” may utilize sophisticated strategies to target unsuspecting borrowers and inappropriately use the Department of Education's logo or other identifying information to give the impression that they were working with or for the government.

• Institutions, students, and borrowers can file a complaint or report suspicious activity through the Federal Student Aid Feedback System for concerns related to third-party debt relief companies.
  • https://feedback.studentaid.ed.gov
Third–Party “Debt Relief”

• While we continue our work to ensure that student loan borrowers understand that these services are offered for free, we are asking institutions for their help in the following ways:
  • Provide warnings to students, including on institutional websites, about so-called debt relief companies.
  • Provide information to students indicating that they do not need to pay for loan benefits for Federal student loans.
  • Review institutional websites to ensure that they provide the most up-to-date information about the terms and conditions of federal student loans and the servicing of those loans.
Active Phishing Campaign

• Federal Student Aid (FSA) has identified a malicious phishing campaign that may lead to potential fraud associated with student refunds and aid distributions.

• On Aug. 31, 2018, FSA published an Electronic Announcement that outlined the problem, provided information to help protect institutions, and suggested remediation steps.

• FSA will continue to monitor this situation and will send out additional information as appropriate. That information may include additional examples of the phishing emails, training resources, and best practices about how to avoid falling victim to phishing attacks.
Active Phishing Campaign

• If you believe your institution has fallen victim to an attack, report the incident immediately to cpssaig@ed.gov and FSASchoolCyberSafety@ed.gov. Include the following:
  • Name of your institution
  • Date the incident occurred (if known)
  • Date the incident was discovered
  • Copy of the phishing email (if available)
  • Extent of the impact (number of students)
  • Remediation status (what has been done since discovery)
  • Institution point of contact
Data Security

• Schools must ensure that its third-party servicers use NSLDS® data only for the Title IV function for which the servicer is contracted to perform on behalf of the institution.

• Servicers are prohibited from using NSLDS data for any other purpose.

• NSLDS data includes but is not limited to:
  • Any borrower or loan-level information retrieved from NSLDS
  • Usage of the NSLDS websites
  • Receipt of data from NSLDS reports
  • Receipt of data from NSLDS batch distribution (ex. Enrollment Reporting, FAH, etc.)

• ED will initiate an administrative action against schools and their third-party servicer if a the servicer violates this prohibition.
Data Accuracy

- Data provided to the Department serves important purposes. It is imperative that the data be accurate.
  - COD
    - Student’s academic program information
  - NSLDS
    - Enrollment, including academic program
    - Perkins loan reporting
  - FISAP
    - Cumulative fields
As of Aug. 31, 2018, FSA no longer prints or delivers FSA publications (except for the FAFSA form).

Publications will still be available electronically.

- [https://financialaidtoolkit.ed.gov/tk/resources.jsp](https://financialaidtoolkit.ed.gov/tk/resources.jsp)
- [https://studentaid.ed.gov/sa/resources](https://studentaid.ed.gov/sa/resources)
- [https://ifap.ed.gov/ifap/](https://ifap.ed.gov/ifap/)
- [https://studentloans.gov/myDirectLoan/index.action](https://studentloans.gov/myDirectLoan/index.action)
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