NASFAA
NATIONAL ASSOCIATION OF STUDENT FINANCIAL AID ADMINISTRATORS

COMPILED HIGHER EDUCATION ACT REAUTHORIZATION RECOMMENDATIONS

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Introduction

The last comprehensive reauthorization of the Higher Education Act of 1965, as amended (HEA) occurred in 2008. Over the last decade, higher education has seen major changes, including more innovative learning models, diversity in delivery of instruction, shifting demographics, and piecemeal congressional and executive actions. The COVID-19 pandemic also forced higher education institutions and students into rapid change, in many cases accelerating ideas and innovation that may previously have taken years to occur, into only several months. For all of these reasons, it's prudent, and also well overdue, for Congress to update the law that governs higher education.

The National Association of Student Financial Aid Administrators (NASFAA) has worked on reauthorization for more than a decade. Below we offer recommendations, organized by topic, to modernize the HEA so that it meets the needs of today's students and institutions. This latest compilation updates the original 2013 Reauthorization Task Force (RTF) report — as well as updates from 2016 and 2019 — and includes the work of more than15 member-led policy development task forces.

Background

In 2012, NASFAA embarked on an ambitious effort to develop recommendations for lawmakers in anticipation of the reauthorization of the HEA. The NASFAA Board of Directors convened the RTF to produce proposals for reauthorization that:

- Promote access to postsecondary education;
- Provide simplicity, consistency, flexibility, and program integrity in the delivery of student financial aid; and
- Represent the diverse needs of the association and its membership.

As a result, the RTF held close to 40 listening sessions with NASFAA members at conferences across the country. The NASFAA Board of Directors adopted 57 recommendations from the task force. In July 2013, NASFAA published the Preliminary Report of the NASFAA Reauthorization Task Force to the Membership. This report was shared with key staff on Capitol Hill and became the basis for NASFAA's reauthorization-related policy work.

To date, HEA reauthorization remains an unfinished endeavor in Congress. Since 2013, the changes to higher education delivery and instruction, along with piecemeal modifications to the student aid programs through other laws, regulation, and executive action, have required a continual review of our initial recommendations. As a result, in 2016, NASFAA staff published an updated version of the 2013 RTF report, providing updates on progress toward achieving some of the recommendations and including work from a variety of subsequent NASFAA policy task forces convened to examine specific policy issues. In 2019, NASFAA convened a working group to assemble additional HEA recommendations that have surfaced since the RTF published its report in 2013.

Though Congress has made some progress on HEA reauthorization, observers have yet to see comprehensive bipartisan legislation. In December 2017, the House of Representatives Committee on Education and the Workforce cleared the Promoting Real Opportunity, Success, and Prosperity through Education Reform (PROSPER) Act, a comprehensive HEA reauthorization bill proposed by then-Chairwoman Virginia Foxx (R-N.C.), on a party-line vote; however, the bill was never considered on the House floor. Following the 2018 midterm elections, House Committee on Education and Labor Chairman Bobby Scott (D-Va.) introduced Democrats' comprehensive reauthorization proposal, the College Affordability Act (CAA). The CAA passed through committee along a party-line vote, but was never brought up for a vote on the House floor. In the Senate, neither party has produced a comprehensive HEA reauthorization bill, despite several hearings held by the Health, Education, Labor, and Pensions (HELP) Committee. In September 2019, then-HELP Committee Chairman Lamar Alexander (R-Tenn.) introduced the Student Aid Improvement Act (SAIA), a scaled-back HEA proposal that focused largely on Free Application for Federal Student Aid (FAFSA) simplification.

Despite the absence of a comprehensive bipartisan proposal, there have been signs of bipartisan cooperation in recent years, and NASFAA is pleased to report that since our update to these recommendations in 2019, several recommendations have been accomplished. The Fostering Undergraduate Talent by Unlocking Resources for Education (FUTURE) Act — which provided permanent mandatory funding to minority serving institutions (MSIs) and allowed for direct data-sharing between the Internal Revenue Service (IRS) and the Department of Education (ED) to simplify the financial aid application and student loan repayment processes — was passed by Congress with strong bipartisan support in December 2019. And although the SAIA as a whole faced opposition from Senate Democrats, several of the bill's provisions related to simplifying the FAFSA, along with parts of the FAFSA simplification proposal from House Democrats' CAA, were included in the bipartisan FAFSA Simplification Act signed into law in December 2020 as part of the Consolidated Appropriations Act of 2021.

Though the prospects of HEA reauthorization remain hazy, NASFAA continues to advocate for financial aid administrators on Capitol Hill and remains prepared for reauthorization whenever it may occur.

About NASFAA

The National Association of Student Financial Aid Administrators (NASFAA) is a non-profit membership organization that represents more than 32,000 student financial aid professionals at nearly 3,000 colleges, universities, and career schools across the country. Collectively, NASFAA member institutions serve nine out of every 10 undergraduates in the United States. For over 50 years NASFAA has worked to amplify the voices of student financial aid administrators in the nation's capital. NASFAA is the largest postsecondary education association with institutional membership in Washington, D.C., and the only national association with a primary focus on student aid legislation, regulatory analysis, and training for financial aid administrators in all sectors of postsecondary education. No other national association serves the needs of the financial aid community better or more effectively. For more information, visit www.nasfaa.org.

NASFAA's Core Advocacy Principles

NASFAA's advocacy efforts are guided by a set of core principles. These principles help NASFAA determine what policies to support and are the drivers of our policy work. NASFAA adheres to the following core principles, and affirms that student financial aid should:

1. Promote fairness and equity for students across all sectors of postsecondary education, with a particular emphasis on low-income, underrepresented and underserved students;
2. Stress the primacy of need-based aid;
3. Support policies that address the needs of disadvantaged students;
4. Advocate accountability;
5. Encourage simplicity and predictability;
6. Empower student financial aid professionals and their schools with the flexibility to respond to the specific needs of their students;
7. Recommend policies that accommodate the diversity of academic delivery models;
8. Encourage the use of technology wherever possible;
9. Eliminate statutory requirements that use financial aid to enforce unrelated social policies; and
10. Validate proposed recommendations with research and data analysis wherever possible.

Contents

This document includes recommendations from seven core NASFAA issue areas:

1. Strengthening need-based aid;
2. Improving and simplifying the federal financial need analysis and aid application process;
3. Promoting opportunity and innovation in education;
4. Curbing excessive student indebtedness;
5. Reforming student loan repayment;
6. Reforming student loan default;
7. Improving information for students and families; and
8. Enhancing student aid delivery and innovation.

Strengthening Need-Based Aid

NASFAA strongly supports the primacy of need-based aid: the idea that a qualified student should not be denied higher education because of a lack of financial resources. The rising cost of college coupled with state disinvestment and limited federal aid dollars place a strain on many students and families attempting to pursue higher education today. As costs rise, many low- and middle-income students face a difficult dilemma: do they choose to put everything on the line and pursue a postsecondary credential or do they enter the workforce directly after high school so they can provide for themselves and for their families? Existing need-based federal student aid programs in the Title IV section of the HEA play an important role in college access and success.

Federal Pell Grant Program

The Federal Pell Grant Program remains the foundational federal student aid program. Without it, thousands of students every year would miss out on the benefits of a college education. The program has benefited tremendously from small changes over the years, including the expansion to allow students to pursue their education year-round and the now-expired inflation-adjusted add-on to the maximum award, but there's more to be done to improve the program designed for the nation's neediest students.

1. **Double the maximum Pell Grant.** Despite the increased attention to the importance of college affordability, today's Pell Grant maximum award remains at a level similar to fiscal year (FY) 1978 when adjusting for inflation.[1] The 2020-21 maximum Pell Grant covers only 26% of the average cost of tuition, fees, room and board at a public four-year institution, while it covered more than three-quarters in 1975.[2] The time has come for Congress to make a substantial investment in the program by doubling the maximum Pell Grant, a proposal that President Joe Biden campaigned on and has been supported by many in the higher education community. The current maximum is increasingly insufficient to move the needle on college access, leaving low-income students to borrow high amounts or, worse yet, not attend postsecondary education at all. Doubling the maximum Pell Grant will provide myriad benefits not only to our nation's lowest-income students, but also to the federal government and broader society. Students who persist in higher education are more likely to be employed, tax-paying, productive members of society.[3]

   Doubling the maximum Pell Grant will not only greatly increase the grant's value for current Pell recipients, but will also expand eligibility to new recipients who do not currently qualify for the grant, most of whom would be of moderate income.[4] This expansion of eligibility would deliver much-needed resources to middle-income students that currently struggle to pay for college amid rising costs, and are often left with limited need-based aid as they currently fall just out of Pell eligibility range.

   Perhaps most importantly, the program plays a critical role in ensuring college access for many traditionally underserved student populations. In 2015-16, 58% of Black undergraduates and 47% of Hispanic undergraduates received a federal Pell Grant, compared to 32% of white undergraduates.[5] The program also benefits our nation's lowest-income students the most. Just over 80% of 2017-18 recipients had a family income of less than $40,000.[6] A policy like doubling the Pell maximum is not just an investment, it is an act of racial and social justice.

   In addition to doubling the maximum Pell Grant, Congress should reinstate an automatic inflation adjustment to the maximum award. From FY 2014 to FY 2017, the Pell Grant maximum award was indexed to the Consumer Price Index for All Urban Consumers (CPI-U); however, that small boost, which averaged only $69 per year, expired at the end of FY 2017. Once the maximum Pell Grant has been doubled, indexing the maximum award to inflation will deliver the sustained and certain annual increases needed to ensure the grant maintains its purchasing power. These predictable, set increases to the maximum award will also assist financial aid offices, and students and families, in determining a student's ability to pursue higher education.

[1] "Trends in Student Aid, 2019" The College Board

[2] https://www.nasfaa.org/uploads/documents/Issue_Brief_Double_Pell.pdf

[3] https://research.collegeboard.org/pdf/education-pays-2019-full-report.pdf

[4] https://www.nasfaa.org/uploads/documents/Issue_Brief_Double_Pell.pdf

[5] https://nces.ed.gov/pubs2019/2019487.pdf

[6] https://research.collegeboard.org/pdf/trends-college-pricing-student-aid-2020.pdf

2. **Restore the 5% minimum Pell award to smooth out steep eligibility cliffs that would result from doubling the Pell Grant.** Prior to the Higher Education Opportunity Act of 2008, the statutory minimum Pell Grant award was equal to 5% of the maximum award. Along with doubling the maximum Pell Grant to $13,000, NASFAA recommends lawmakers restore the minimum Pell Grant award of 5% of the maximum award (rather than the current 10%). This would allow students who qualify for at least 5% of the maximum award to receive a grant, maintaining the minimum award closer to its current level and removing the possibility of a steep eligibility cliff for students whose EFCs fall just outside of the Pell-eligible range.
3. **Shift the Federal Pell Grant Program to full mandatory funding.** The Pell Grant Program already functions like an entitlement, in that a student who meets eligibility criteria receives a Pell Grant at their applicable award amount, regardless of whether sufficient levels of funding have been appropriated. The annual federal budget and appropriations process adds unnecessary uncertainty to a program that plays a vital role in the lives of thousands of students every year. Pell Grants should be protected from the annual appropriations process by moving the funding stream from the discretionary year-to-year allocation to total mandatory funding.
4. **Extend Pell Grant eligibility to Deferred Action for Childhood Arrivals recipients.** Congress should extend Pell Grant eligibility to Deferred Action for Childhood Arrivals (DACA) recipients. While 54% of the U.S. population between ages 15 and 32 has some college experience, just 36% of the DACA-eligible population in the same age range are either enrolled in college, have completed some college, or have earned a bachelor's degree.[7] NASFAA applauds the Biden administration's commitment to supporting DACA and its recipients, particularly including a provision in its FY 2022 discretionary budget proposal to make DACA recipients Pell eligible, as well as the 2019 College Affordability Act's expansion of Pell Grant eligibility to DACA recipients. Providing access to Pell Grants is a critical step in providing this population with access to affordable higher education opportunities.
5. **Provide for additional Pell Grant eligibility beyond the maximum Lifetime Eligibility Used (LEU), determined on a case-by-case basis, if a student can complete his or her degree program within one additional period of enrollment.** Congress should provide the ability for a financial aid administrator to extend Pell Grant eligibility to a student close to completing his or her program, similar to the flexibility within Satisfactory Academic Progress (SAP) requirements.
6. **Eliminate the statutory language that bars participation in the Federal Pell Grant Program for schools that have been rendered ineligible to participate in the Direct Loan Program due to high default rates.** Currently, an institution loses its eligibility to participate in the Federal Pell Grant Program if the institution loses its eligibility to participate in the Direct Loan Program as a result of a final default rate determination above a certain percentage. High-need students should have access to Federal Pell Grant funding irrespective of the actions of former students who may not be fulfilling their obligations as borrowers. Schools that have small populations of Title IV student loan borrowers risk placing their participation in the Federal Pell Grant Program in jeopardy should even a small number of borrowers default on their Title IV loans. The higher education community is currently engaged in valuable debates, conversations, and analyses about appropriate institutional accountability metrics related to borrower repayment. While those debates continue, the tie between a school's Title IV cohort default rate and the Pell Grant places institutions that admit a high percentage of high-need students at a decided disadvantage, dissuades some schools from participating in the Direct Loan Program altogether, and should be discontinued.
7. **Authorize a demonstration project to permit Pell Grant funding for enrollment in short-term programs.** Today's students and employers need and demand shorter-term credentials to either complement or replace traditional degree programs. Modern careers require lifelong learning to advance in their roles, or in some cases to even keep up with the changing demands of their existing roles. Allowing Pell Grants for short-term programs, with appropriate protections in place to protect taxpayer dollars, could allow for smaller bursts of learning throughout an individual's career. NASFAA conducted a national landscape analysis of existing short-term programs and found that outcomes data — such as earnings, employment in field of study, and success on certification exams — is lacking, partly because there is no national source of short-term program data. While ED recently concluded a short-term Pell project using its authority under the Experimental Sites Initiative, it also did not provide the full picture of data that would either support or discourage expanding Pell Grant eligibility to short-term programs.[8] Congress should authorize a demonstration project to explore this expansion, and should require a comprehensive study of student outcomes.

[7] https://www.migrationpolicy.org/research/education-and-work-profiles-daca-population

[8] https://www.newamerica.org/education-policy/edcentral/short-term-pell-evaluation-report-leaves-policymakers-and-observers-shrugging/

Campus-Based Aid Programs

The campus-based aid programs include the Federal Supplemental Educational Opportunity Grant (FSEOG) and the Federal Work-Study (FWS) programs. These programs require a non-federal match of federal funds and are administered at the institutional level. FSEOG provides additional grant aid to low-income undergraduate students, oftentimes on top of a Pell Grant award. Federal Work-Study provides aid to both undergraduate and graduate/professional students with need in the form of wages from on- or off-campus employment. The Federal Perkins Loan Program provided loans out of institutionally based revolving funds to needy students but expired in 2017.

1. **Revise the campus-based aid allocation formula.** Due to the antiquated design of the funding formula, today's allocation of campus-based aid largely reflects a 40-year-old distribution of funds, where institutions receive a "base guarantee" of funding. Currently based on FY 1999 expenditures, the base guarantee was intended to be a temporary measure to mitigate losses to individual institutions as a result of radical fluctuations in funding. Due to the static nature of the formula, for most schools, the prior year expenditure is linked to its program participation in the 1970s. Growing schools that are serving needier student populations cannot increase their funding because other institutions' funding levels are largely protected, regardless of institutional need. NASFAA recommends phasing out the base guarantee portion of the allocation formula over 10 years; thus, allocations would be based only on a "fair share" formula. The College Affordability Act (CAA), introduced in 2019 by Rep. Bobby Scott (D-Va.), phases out the base guarantee over five years.
    - **FSEOG:** The fair share formula for FSEOG funding should be based on the amount of Pell Grant funds an institution's students receive rather than the current institutional need formula that is largely based on the Cost of Attendance (COA). The formula would take into account each school's total Pell Grant funds received relative to total Pell Grants funds awarded nationally. This formula change will direct more of the federal grant funds to the poorest students. The CAA would amend the FSEOG allocation formula by basing it 50% on the institution's share of Pell Grant funds awarded nationally, keeping the remaining 50% based on an institutional need formula.
    - **FWS:** For FWS, the formula to calculate institutional need assumes 25% of the COA is financed via self-help aid for all undergraduate students. While NASFAA believes that the underlying cost/need formula in the current fair share formula is an appropriate method to allocate funds for these programs, data demonstrate that the current self-help percentage is much closer to 35%. NASFAA recommends that the 25% assumption for self-help be updated to 35%, along with a 10% phase-in provision. While the CAA would not change the self-help percentage, it would amend the FWS allocation formula by basing it 50% on the institution's share of Pell Grant funds awarded nationally, keeping the remaining 50% based on an institutional need formula.
2. **Increase flexibility in FWS.** With institutions located in a variety of geographic regions and locales, rigid, one-size-fits-all requirements for FWS positions can prevent some schools from awarding all of the program dollars available or offering high-value positions to students.
    - **Eliminate the private sector employment cap.** NASFAA supports the elimination of the private sector employment cap. Schools should be able to place students wherever quality employment opportunities are available and reasonable. This recommendation would not change any of the current caveats surrounding private sector placement, including the requirement that private sector jobs be academically relevant to the student's program.
    - **Modify the community service requirement.** NASFAA supports the elimination of the community service set-aside in FWS in favor of a voluntary approach where 7% of the annual appropriation is put into a community service component program under FWS, for which institutions could apply separately. Many schools have a strong, broad-based commitment to community service. Other schools are located in areas where qualifying community service positions are not readily available. Eliminating the requirement will not lead to the elimination of community service positions altogether; instead, institutions will be better able to tailor their FWS program to the individual characteristics of their school, students, and the surrounding community.

In addition, NASFAA recommends allowing institutions to count, for community service purposes, FWS employment in on-campus child care facilities provided no formal rule denies child care to the community-at-large other than a preference to serve the institution's faculty, staff, and student community needs first due to limited space and/or staffing resources. Many campus-based child care facilities have waiting lists that never get filled due to the demand from the school's employees and students for affordable and convenient child care. Other members of the community-at-large are thus unable to use these services because students or employees have first priority. Consequently, many campus-based child care facilities fail to meet the strict definition of community service, even though faculty and staff are themselves members of the larger community, as are adult students living off campus.

3. **Revise the transfer authority between campus-based aid programs.** Currently, the law allows an institution to transfer up to 25% of its campus-based aid allotment between programs, such as from FWS to FSEOG or vice-versa. NASFAA supports increasing the transfer authority threshold from 25% to 50% to support institutional flexibility in serving students.
4. **Increase awarding flexibility in FSEOG.** Currently, FSEOG must be awarded first to students with exceptional need, with priority given to Pell Grant recipients. The law defines "students with exceptional need" as students with the lowest expected family contributions at the institution. Congress should retain the tie between the FSEOG program and the Pell Grant program, but NASFAA supports prioritizing FSEOG awards to students whose Expected Family Contribution (EFC) falls into the Pell eligibility range, rather than the student's actual receipt of a Pell Grant. Effective July 1, 2012, Congress imposed a lifetime eligibility limit of six scheduled awards on Pell Grant recipients. Due to the very limited nature of FSEOG funding, the requirement that FSEOG be awarded first to Pell Grant recipients effectively causes a loss of FSEOG funding once a student reaches his or her Pell lifetime eligibility used (LEU) limit. In addition, the "lowest EFC" order of awarding should be eliminated. Students whose EFCs would enable them to receive Pell Grants are in fact the neediest students. Further defining an order within that range seems unnecessarily redundant. Schools should be able to establish their own packaging policies within the EFC priority range to best support their students with need.

Improving and Simplifying the Federal Financial Aid Need Analysis and Application Process

NASFAA has long been interested in ways to make the FAFSA and the overall application process simpler and more efficient for students and families. NASFAA has offered recommendations to simplify the form and has been generally pleased by the improvements over the past several years, including "smarter" skip-logic on the form and the implementation of the IRS Data Retrieval Tool (DRT), and the passage of the 2019 Fostering Undergraduate Talent by Unlocking Resources for Education (FUTURE) Act, which allows for direct data sharing between ED and IRS. The use of more information obtained directly from the IRS, as authorized by the FUTURE Act, will allow for a simpler application and reduced burden for applicants, while still retaining a high standard of accuracy. Expanded data sharing will also simplify the process of verification, as well as income-driven repayment application and recertification. Most recently, the FY 2021 omnibus signed into law in December 2020 included FAFSA simplification legislation that will simplify the federal student aid application process by eliminating certain FAFSA questions, modify the Federal Methodology and expand Pell Grant eligibility, and allow students to better predict their Pell Grant eligibility. Although these recent changes will deliver much-needed simplification to the aid application process, there is still progress to be made.

1. **Ensure smooth implementation of the FUTURE Act and FY 2021 omnibus FAFSA simplification provisions.** Once implemented, the FUTURE Act data-sharing provisions and the FAFSA simplification provisions included in the FY 2021 omnibus will work in tandem to provide students with a simpler, more streamlined aid application process. To ensure these changes result in the positive change they were designed to deliver, Congress should ensure that ED executes a smooth implementation that offers ample opportunities for stakeholder feedback and encourages meaningful collaboration among federal agencies and the financial aid community. A successful implementation should also allow sufficient time for institutions to make necessary adjustments to their own processes, prioritize clear communication, and conduct proactive outreach to students and families. Ensuring appropriate oversight, as well as providing ED with the resources required to put these important provisions into effect, are both critical to ensuring a smooth and timely implementation.
2. **Codify the October 1 release of the FAFSA.** In October 2015, President Barack Obama and the ED announced their intention to use their authority under the HEA to use income information from two years' prior — the prior-prior year (PPY) — for the purpose of need analysis. The change, supported by NASFAA, allowed the FAFSA to be available starting October 1, instead of January 1. The shift to using PPY data, which was codified in the FAFSA Simplification Act, and the October 1 release of the FAFSA represent first steps in simplifying the federal aid application process. However, the FAFSA Simplification Act requires only that the FAFSA be released no later than January 1, rather than requiring the October 1 release that many students and families have come to expect. However, to solidify this progress, Congress should codify the October 1 FAFSA release date into statute.
3. **Revise the Master Calendar to better accommodate the aid application and processing schedule.** The use of PPY income information and the earlier availability of the FAFSA better-aligns the admissions and financial aid processes and provides students and families important information sooner. To fulfill the intent of these changes, the Master Calendar should require ED to publish the paper and online versions of the FAFSA by October 1. Additionally, the Master Calendar outlined in HEA Sec. 482(F) requires the Secretary to distribute the final Pell Grant payment schedule by February 1. Financial aid offices use the Pell Grant payment schedule to determine a student's Pell Grant award. Without timely information from ED, institutions have to provide estimates to students and families. Congress should modify this timeline to account for the earlier information intended with the change to Early FAFSA by revising the Master Calendar to require earlier release of the final Pell Grant payment schedule, such as by November 1.
4. **Eliminate the list of prescribed FAFSA questions in the HEA.** The Consolidated Appropriations Act, 2021, incorporated a prescribed list of FAFSA questions to Section 483 of the HEA, which may restrict ED's ability to design the FAFSA in the most efficient and streamlined manner. For example, ED may be unable to add certain screening questions as part of skip logic, if those screening questions are not allowable per Section 483. NASFAA recommends that Congress revert to its previous approach of dictating FM in the law (the "what"), and allowing ED to implement FM through appropriate FAFSA design (the "how"). If there are specific questions that Congress wants on the FAFSA that are unrelated to FM, those can be individually specified in the HEA, without a comprehensive, exhaustive list.

5. **Reflect regional cost of living in the Income Protection Allowance.** Currently, the same income protection allowance (IPA), which is based in part on family size, is used nationwide, though there is great variation in cost of living across the country. A 2009 Government Accountability Office report states that "while data suggest that the cost of living is higher in some areas than in others, the current aid formula accounts for these differences in only a limited way. How these differences affect a family's ability to pay for college is unclear, in part because no official measure of geographic cost-of-living differences exists."[9] The need to adjust the IPA for regional cost of living differences will become even more pronounced after implementation of the FAFSA Simplification Act, which eliminates the state and other tax allowance against income — currently the only place in the FM formula that accounts for regional cost of living differences — meaning that the FM formula will no longer account for cost of living differences at all. Congress should explore the possibility of adjusting the IPA on a regional basis with periodic cost of living adjustments based on regional variations.

6. **Include certain business, capital, and/or other losses in need analysis.** "Paper" losses allowed as part of the federal tax code artificially reduce income and, as a result, artificially reduce a student's EFC. NASFAA supports adding back any business, capital, and other losses that do not represent a real loss of income when determining the parents' and student's income for need analysis purposes.

7. **Modernize COA and include prior learning assessments.** Costs that may be included in an institution's COA for Title IV student aid purposes, such as tuition and fees, technology, and transportation expenses are prescribed by Part F, Section 472 of the HEA. A student's financial need is calculated by subtracting the EFC from COA. Title IV aid should be allowed to pay for costs associated with prior learning assessment preparation. Many prior learning assessments require the student to spend a considerable amount of time preparing materials for the assessment, which can create a financial burden without financial aid funding to cover the related costs. This change might encourage more students to apply their prior learning towards the completion of a program.

8. **Regulation of COA.** The Coronavirus Response and Relief Supplemental Appropriations Act, 2021 (CRRSAA) makes two significant changes to the COA. First, it permits the Secretary of Education to regulate all components of the COA, except tuition and fees. Second, it prescribes more specificity for how several existing COA components can be determined by institutions. As it relates to the CRRSAA modifications, NASFAA recommends the following:

   - Repeal ED's authority to regulate COA components. NASFAA understands the importance of transparency and consistency as it relates to COA, but has concerns about the unintended consequences of ED regulating in an area that has historically been institutional purview.

   - In place of giving ED authority to regulate COA, add institutional requirements that increase transparency about how COAs are developed:

     - Require institutions to disclose their COA methodology. In order to ensure full transparency, institutions should be required to disclose their COA methodology for each component (or a link to it) wherever their COA is disclosed. This will allow students and families, peer institutions, and the federal government to fully understand how the COA is derived.

     - Require institutions to update the dollar amounts for each COA component per their disclosed methodology on a reasonable, set schedule. Some methodologies used by schools are time-intensive, so institutions should have the ability to set a rotating schedule, updating different components each year, as opposed to each component each year.

   - Repeal the requirement that the cost of professional licensure be included in the COA for all students in programs that lead to licensure, and instead require this cost to be included in the COA only upon student request. Require that institutions conduct outreach to students enrolled in programs that require professional licensure about the ability to include related costs in the COA. Upon request of an affected student, the institution must include the one-time cost of obtaining the first professional licensure to the student's COA. By mandating the inclusion of these costs in the COA for affected students who request it, this approach ensures that students who need to borrow to cover such costs have the ability to do so but requiring that the COA be increased by these costs for all students in a program requiring professional licensure, certification, or a first professional credential, as required by CRRSAA, may inadvertently lead to unnecessary borrowing by some students.

[9] "Federal Student Aid Formula: Cost-of-Living Adjustment Could Increase Aid to a Small Percentage of Students in High-Cost Areas but Could Also Further Complicate Aid Process," GAO, August 2009, (https://www.gao.gov/products/GAO-09-825).

9. Enhance dependency status determinations.

- **Clarify the definition of legal guardianship for dependency status.** Current law allows a student to be independent (i.e., not provide parental information on the FAFSA) if the student "is, or was immediately prior to attaining the age of majority, an emancipated minor or in legal guardianship as determined by a court of competent jurisdiction in the individual's State of legal residence."[10] The term "legal guardianship" has been narrowly defined to include this term only and excludes "legal custody," "care, custody, and control," and other terminology used in various jurisdictions. Different states and courts use different terms to mean that a child has been removed from his/her parents' home and placed in the care of a third party. For example, "legal guardianship" is most commonly used in probate court, and "legal custody" or "care, custody, and control" are more commonly used in family court. All of the terms, when used in this context, mean that a child is no longer in the care of his/her parents by court order. The narrow use of the term "legal guardianship" places an unnecessary burden on students whose state or court did not use this term when removing them from their parents' care. These students are forced to pursue a dependency override, which typically requires additional and annual paperwork beyond the submission of a court order. Congress should allow for variances between courts and states to accommodate other terminology for legal guardianship and revise criteria for independent status to include other terminology that is interchangeable with legal guardianship.

  In July 2019, *ProPublica,*[11] and *The Wall Street Journal,*[12] reported parents giving up legal guardianship of their children in an attempt to become eligible for additional federal, state, and institutional aid. While NASFAA will continue to work separately with Congress and ED to find ways to mitigate this activity, this recommendation focuses on streamlining the legal guardianship process to capture students who may have circumstances similar in nature to the existing process for legal guardianship, but are instead forced to jump through additional hurdles.

10. Provide the Secretary of Education with discretion to exclude certain sub-groups from the IRS/ED data sharing. Because the FUTURE Act provides no exceptions to the direct data sharing, the FAFSA must be modified to require every sub-group of individuals whose financial information is reported on a FAFSA to use the IRS/ED data sharing. This will lead to FAFSA complexity and additional questions, as every individual will need to create an FSA ID, provide consent to the data sharing, and provide information about any filed tax returns. Instead of streamlining the FAFSA and eliminating FAFSA questions, the language of the FUTURE ACT will, in effect, do the opposite. Legislative changes in the FUTURE Act that grant ED the discretion to exclude certain sub-groups from the IRS/ED data sharing would allow both entities to work within their operational parameters and applicable IRS rules to build a IRS/ED data sharing solution that has the most benefit for the majority of FAFSA applicants. Without such a change, the FUTURE Act will never live up to its promise and will instead lead to a more complex and burdensome FAFSA for certain populations.

11. Provide the Secretary of Education with flexibility to further streamline application and processing in a manner that optimizes the efficient and effective use of technology. The FUTURE Act illustrates how technology can be leveraged to help simplify the financial aid application process for students and their parents. It also can help policymakers think about ways to improve financial aid program design and delivery. ED should not be in the position of waiting for statutory change to catch up with technological innovation. Rather, Congress should encourage the secretary to engage stakeholders as well as technology experts in discussions to explore ways the FUTURE Act model could be extended to other federal agencies, states and institutions. However, a statutory change might be needed to allow the sharing of data collected on the FAFSA with third parties. Nevertheless, it is critical to establish an appropriate framework for an aid application process that is characterized by online activity between the applicant and a variety of aid providers — chiefly the federal government, states and institutions.

[10] Higher Education Act 1087vv(d)(1)(c)

[11] "Parents Are Giving Up Custody of Their Kids to Get Need-Based College Financial Aid," *ProPublica,* July 2019.

[12] "College Financial-Aid Loophole: Wealthy Parents Transfer Guardianship of Their Teens to Get Aid," *Wall Street Journal,* July 2019.

In particular, Congress should ensure that the Secretary is able to utilize existing, emerging, and as-yet-undeveloped technologies to simplify and streamline the process for applying for financial aid irrespective of the source of that aid. ED's successful implementation of the IRS DRT function in the FAFSA, and ongoing implementation of the FUTURE Act, provide a helpful way to think about the broad goals Congress should articulate for an aid application process that can shed the limits of a paper-bound process and take full advantage of technological innovations. Such goals could include:

- Supporting the concept of a "one-stop" financial aid application process;
- Identifying where various data needed for federal and nonfederal aid eligibility determinations currently reside;
- Encouraging all financial aid providers to embrace a student-centric approach as a replacement for the current program-centric model;
- Ensuring that third-party aid providers agree with and adhere to a common understanding of broad financial aid policy objectives and methodology; and
- Authorizing near-term/start up expenditures to help engage third-party aid providers.

11. Update the treatment of unmarried partners or same-sex couples.

- **For the parents of dependent students, allow married partners who live together, regardless of sex, to be counted as a parent on the FAFSA regardless of whether they are the dependent student's legal parent.**

  On April 29, 2013, ED announced a change in the way it views unmarried parents of dependent students for the purpose of completing the FAFSA. Since the 2014-15 award year, income and other information from both of a student's legal parents has to be provided on the FAFSA if those parents live together, regardless of marital status or gender. Legal parents are defined as biological or adoptive parents. This approach reflects a policy change that considers the parent's relationship to the student, rather than the parents' relationship to each other. ED constructed this approach under the constraints of the Defense of Marriage Act (DOMA). Since then, in June 2013, the U.S. Supreme Court ruled that DOMA is unconstitutional.

- **For students, treat couples, regardless of gender, in any form of state-recognized relationships (same-sex marriage, civil union, domestic partnership, or other identified arrangement) as married and calculate need on combined incomes and total household size.**

  NASFAA's Reauthorization Task Force (RTF) proposed a recommendation that takes the issue further. The RTF believes that an amendment to Title IV of the HEA should state that, notwithstanding any other federal law, both the parent of a dependent student and that parent's partner through marriage, regardless of gender, should be treated the same as opposite-sex married couples. Since the stepparent in an opposite-sex marriage does not have to adopt the applicant, neither should the stepparent in a same-sex couple. Students in a state-sanctioned, same-sex marriage or other state-recognized domestic arrangement should also be treated the same as an opposite-sex married couple.

- **Clarify in the dependency override and professional judgment sections of law that financial aid administrators may adjust any application information, including marital status, to reflect domestic arrangements that, for all intents and purposes, mirror marriage, even if the applicant's state does not recognize it.**

  In order to assess family financial strength more accurately, the reality of current living situations must be recognized. For parents of dependent students, all unmarried partners, regardless of gender or state laws, would be treated the same as married couples. Unmarried students with partners would be treated the same as married couples if they have gone through some formal commitment process sanctioned by a state; this includes considering otherwise dependent students as independent by virtue of marriage. If a student has not gone through a state-sanctioned process, aid administrators could consider professional judgment actions to override dependency and/or make other adjustments.

Promoting Opportunity and Innovation in Education

The federal student aid programs provide an opportunity for students to improve their lives regardless of financial circumstances. Over time, certain barriers have limited the ability of the student aid programs to fully support low-income and first-generation students and promising innovative program designs. Making several modifications can have important implications on students, communities, and the nation.

1. **Ensure smooth implementation of Pell eligibility restoration for incarcerated students.** The Consolidated Appropriations Act, 2021 restored Pell Grant eligibility for incarcerated students, a step that will expand postsecondary access to millions of students whose Pell eligibility was restricted by the 1994 Violent Crime Control and Law Enforcement Act. Now that eligibility has been restored, Congress should work with ED to ensure a smooth implementation that addresses the unique challenges experienced by incarcerated students navigating the financial aid application process, and ensure this student population is provided with high-quality education programs. The implementation effort should prioritize eliminating barriers frequently experienced by incarcerated students throughout the FAFSA completion process, including limited access to personal records and difficulty resolving defaulted loans. In addition to working with ED to accomplish the recommendations outlined in NASFAA's Pell for Incarcerated Students Working Group report, Congress should take the following actions to support a successful implementation that promotes postsecondary access for incarcerated students:

   - Pass legislation exempting incarcerated students from signing the Statement of Educational Purpose in order to be eligible to receive a Pell Grant.
   - Pass legislation allowing a student's Pell Lifetime Eligibility Usage (LEU) to be adjusted if they are unable to complete a course due to a correctional facility transfer outside of their control.
   - Consider making statutory changes that allow married incarcerated students to be considered single when completing a FAFSA.

2. **Ensure that any accountability proposal considers risk institutions already assume and considers the potential impact on low-income students and under-resourced institutions.** While policymakers continue to emphasize the need for additional "skin in the game" for institutions, schools already take on significant risk when dedicating scarce resources to students who have been deemed at risk. Institutions admit at-risk students and provide remediation for students who need extra investment to benefit from higher education. In addition, colleges and universities provide — whenever possible — generous grant aid and participate in the campus-based aid programs, which entail risk-sharing in the form of institutional contributions and administrative expenses. Policymakers should take caution to avoid unintended consequences and perverse incentives for institutions that could incentivize serving fewer at-risk students.

   Institutions have a vested interest in the success of their graduates. Some higher education accountability proposals would tie an institution to the repayment behavior of its former students. Proposals like these can be problematic. For example, some institutions, particularly community colleges, have "open enrollment" policies and do not select which students are admitted, and therefore, have little control over their student body and its level of preparation for higher education. Further, once a student leaves an institution, schools have no control over the actions or inactions of servicers in the repayment process.

   A poorly designed risk-sharing system could increase the number of institutions (most likely community colleges) that choose not to participate in the federal loan programs, as some institutions have already chosen to do since high cohort default rates can put institutions at risk for losing all federal student aid funding. This could result in reduced access for students and/or a greater reliance on private borrowing where consumer protections are inconsistent. Instead, Congress should attempt to work within existing institutional risk-sharing parameters or consider "carrot" versus "stick" approaches to accountability if developing new models.

3. **Authorize a demonstration project to permit Pell Grant funding for enrollment in short-term programs.** Today's students and employers need and demand shorter-term credentials to either complement or replace traditional degree programs. Modern careers require lifelong learning to advance in their roles, or in some cases to even keep up with the changing demands of their existing roles. Allowing Pell Grants for short-term programs, with appropriate protections in place to protect taxpayer dollars, could allow for smaller bursts of learning throughout an individual's career. NASFAA conducted a national landscape analysis of existing short-term programs and found that outcomes data — such as earnings, employment in field of study, and success on certification exams — is lacking, partly because there is no national source of short-term program data. While ED recently concluded a short-term Pell project using its authority under the Experimental Sites Initiative, it also did not provide the full picture of data that would either support or discourage expanding Pell Grant eligibility to short-term programs. Congress should authorize a demonstration project to explore this expansion, and should require a comprehensive study of student outcomes.

Curbing Excessive Student Indebtedness

While media depictions of the nation's student debt center on graduates of elite institutions with six-figure debt loads, borrowers with small amounts of debt without a college degree reflect the real student debt crisis today. Pursuing higher education while amassing some student debt is an important and responsible investment because the consequences of not pursuing a degree or credential can be devastating.

1. **Eliminate federal student loan origination fees.** Deemed the "student loan tax," loan origination fees are a relic of the 1980s, when additional revenue was necessary to offset loan subsidies in the now-defunct Federal Family Education Loan Program (FFELP). Though FFELP no longer exists, origination fees remain. Origination fees withhold a portion of a student's loan proceeds while still requiring repayment with accrued interest of the full loan amount before the deduction of fees, thereby masking the borrower's true loan cost and compounding the confusion surrounding federal student loans. Under mandatory sequestration, loan fees are modified based on an annual adjustment percentage determined by the Office of Management and Budget (OMB). Though origination fees serve as a revenue generator for the federal government, the federal budget should not be balanced on the backs of students and families.

   The average undergraduate borrower in a four-year program will pay an estimated $239 in origination fees and associated interest if enrolled in a standard 10-year repayment plan, while the average graduate student in a two-year program pays about $1,334 in fees and interest on those fees if repaying over 10 years.[13] There were bipartisan bills to eliminate loan origination fees in both the House and the Senate during the 116th Congress. The Student Loan Tax Elimination Act of 2019 was introduced by Senators Braun (R-Ind.), Sinema (D-Ariz.), Scott (R-Fla.), and Coons (D-Del.) in June 2019, and the Eliminating the Hidden Student Loan Tax Act was introduced by Congresswoman Susan Davis (D-Calif.-53) and Congressman Lloyd Smucker (R-Pa.-11) in July 2019. The removal of student loan origination fees was also included in the College Affordability Act, the comprehensive HEA reauthorization proposal introduced by House Democrats in October 2019.

2. **Provide financial aid offices with more tools to curb student indebtedness.** As it stands now, institutions have little control over the borrowing behavior of their students, even though they are held responsible for their cohort default rates (CDRs). Financial aid administrators want to be good stewards of federal funds, but more importantly, they want to ensure their students avoid accruing unnecessary or excessive debt and are able to repay their loans.

   - **Provide schools with the authority to set lower loan limits for specific populations, academic programs, credential levels, or other categories established by the school.** Because of the entitlement nature of the Direct Loan program, a school cannot impose across-the-board restrictions on borrowing institution-wide or even by program, enrollment status, dependency status, or any other parameters. On a case-by-case basis a school can deny a loan to a student, but financial aid offices are reluctant to exercise this authority to deny or restrict borrowing because they may be subject to legal action. In addition, institutions may be hesitant to offer innovative (especially lower-cost) programs when students have access to the full annual maximum federal loan amount and the outcomes of that program are not yet known. Congress should allow schools to set lower loan limits for specific populations based on academic program, credential levels, or other categories established by the school and allow aid administrators to increase a particular student's loan from the school's imposed limit, up to the regular applicable statutory limit, on a case-by-case basis under professional judgment.[14]

     This recommendation essentially reverses current policy, which allows reduction of loans only on a case-by-case basis, with individual documentation. With the authority to set limits by program, dependency status, living arrangement, enrollment status, or other parameters, schools could notify students earlier of the reduced loan amount and of the school's process for exceptions, if any, to the policy. Many NASFAA members have requested this authority as a tool to help their students avoid incurring unnecessary debt and reaching aggregate loan limits before the program of study is completed. Allowing institutions to measure outcomes and adjust loan limits to levels appropriate to those outcomes protects students and taxpayers.

[13] "Issue Brief: Origination Fees," NASFAA, April 2021, (https://www.nasfaa.org/uploads/documents/Issue_Brief_Origination_Fees.pdf).

[14] "Report of the NASFAA Task Force on Student Loan Indebtedness," NASFAA, February 2013, (https://www.nasfaa.org/Report_of_the_NASFAA_Task_Force_on_Student_Loan_Indebtedness).

- **Provide schools with the authority to mandate additional loan counseling.** Furthermore, institutions do not even have the authority to require additional loan counseling or documentation supporting a request for loan funds. To ensure students are well-educated about their borrowing and future repayment obligation, Congress should provide institutions with the authority to mandate additional counseling for students borrowing federal student loans, if the school believes their student population would benefit from additional counseling. Providing this authority will allow institutions to tailor counseling requirements to meet the unique characteristics of their students, rather than having to comply with a one-size-fits-all annual counseling requirement that would result from a federal mandate.

3. **Modify the current structure of loan limits.** The current structure of annual and aggregate loan limits for Direct Loans reflects piecemeal changes to the loan programs over time and does not necessarily work effectively or efficiently for today's students. Undergraduate subsidized annual loan limits have not increased since 2007-08. Beginning July 1, 2007, loan limits increased from $2,625 to $3,500 for first-year undergraduate students, and from $3,500 to $4,500 for second-year students. Prior to this increase, loan limits had not been raised since 1993. The annual limit for the remainder of undergraduate education was raised from $4,000 to $5,500 in 1993 and has remained at that level. More reliance on unsubsidized loans was reflected in increases in 2008.

   Congress should:

   - **Establish one, annual subsidized limit by eliminating differences based on year in school.**
   - **Increase annual and aggregate loan limits to a more realistic level.**
   - **Step aggregate limits so that a lower limit applies to undergraduate students who have not yet successfully completed the second year of an undergraduate program.**
   - **Simplify the subsidized/unsubsidized structure of loan limits.**

NASFAA's Annual and Aggregate Loan Limits Recommendation:

Current Undergraduate	Year 1	Year 2	Year 3+	Total Aggregate
Sub	$3,500	$4,500	$5,500	$23,000 Sub
Unsub	$2,000	$2,000	$2,000	$31,000 Sub and Unsub
Yearly Total	$5,500	$6,500	$7,500	
Additional Unsub for Independent Students and Dependent Students with Parent PLUS Denials	$4,000	$4,000	$5,000	$57,500
Yearly Total	$9,500	$10,500	$12,500	

Proposed Undergraduate	Year 1	Year 2	Year 3+	Total Aggregate for Students Through 2nd Year	Year 3 and Beyond	Total Aggregate
Sub	$5,500	$5,500	$5,500	$16,500 Sub	$5,500	$33,000 Sub
Unsub	$2,000	$2,000	$2,000	$22,500 Sub and Unsub	$4,500	$45,000 Sub and Unsub
Yearly Total	$7,500	$7,500	$7,500		$10,000	
Additional Unsub for Independent Students and Dependent Students with Parent PLUS Denials	$5,000	$5,000	$5,000	$37,500	$6,000	$75,000
Yearly Total	$12,500	$12,500	$12,500		$16,000	

Current Graduate	Annual	Annual Addtl Unsub*	Annual Addtl Unsub**	Total Aggregate
Sub	$0			$138,500 $224,000 if former HEAL eligible
Unsub	$20,500	$16,667	$26,667	
Yearly Total	$20,500	$16,667	$26,667	

Proposed Graduate	Annual	Annual Addtl Unsub*	Annual Addtl Unsub**	Total Aggregate
Sub	$0			$169,000 ($274,000 if former HEAL eligible
Unsub	$25,000	$20,326	$32,521	
Yearly Total	$25,000	$20,326	$32,521	

* For Graduate in Public Health; Dr. of Pharmacy or Chiropractic; Dr. Degree in Clinical Psychology; Masters or Doctoral Degree in Health Administration.

** For Doctor of Dentistry, Veterinary Medicine, Optometry, Allopathic Medicine, Osteopathic Medicine, Podiatric Medicine, Naturopathic Medicine, or Doctor of Naturopathy.

- **Permit institutions meeting certain CDR threshold criteria the opportunity to increase loan limits for students beyond NASFAA's proposed loan limits.** NASFAA proposes giving certain exceptional-performer schools the ability to increase loan limits beyond NASFAA's proposed limits.[15] Exceptional performers would be defined as those whose most recent CDR is no more than 75% of the national average CDR or, for institutions with low borrowing rates, the product of its most recent CDR and its percentage of borrowers is no more than 50% of the national average CDR. Students at exceptional performer schools would have the ability to borrow an additional $5,000 annually. It is important to note that this bonus borrowing would not affect an undergraduate student's ability to receive the additional $5,000 outlined in NASFAA's recommendations for independent students or dependent students whose parents are unable to obtain a PLUS loan. Increased aggregate limits would apply for students with bonus borrowing. Bonus borrowing should be prorated based on enrollment status. Finally, bonus borrowing would not be required; institutions meeting the CDR threshold could choose whether they wished to take advantage of bonus borrowing.

4. **Restore graduate and professional student eligibility for subsidized loans.** Undergraduate students with demonstrated financial need are eligible for Federal Subsidized Direct Loans. Eligible students do not have to pay the accrued interest on subsidized loans while they are enrolled at their institutions at least half-time, but the Budget Control Act of 2011 eliminated graduate student eligibility for the in-school interest subsidy as a means of reducing the federal budget deficit. With no access to federal grants, the elimination of the in-school interest subsidy harms low-income students in their pursuit of an advanced degree and leads to increased debt. Benefits for graduate and professional students are often the first targeted in the federal budget process, which leads to higher debt loads and a growing utilization of private loans with inconsistent consumer protections. Congress should pass the Protecting Our Students by Terminating Graduate Rates that Add to Debt (POST GRAD) Act, a bill supported by NASFAA that would restore the in-school interest subsidy for graduate students.

[15] "Discussion Draft: Dynamic Loan Limits Working Group Proposal," NASFAA, July 2016, (https://www.nasfaa.org/uploads/documents/Dynamic_Loan_Limits_Discussion_Draft.pdf).

5. **Maintain a single loan program for graduate/professional students with borrowing limits that allow students to borrow up to the in-state cost of attendance at public institutions, with the additional borrowing allowed based on program's earnings data or a debt to income ratio.** Eliminating the Grad PLUS loan program would create a single federal loan program for graduate and professional students. This single program would be the only option available for graduate/professional students to borrow, but would remain separate from the program available for undergraduate borrowing. There should be a borrowing limit on the loan program which should be high enough to cover the costs of public, in-state cost of attendance in the state the institution is located in, regardless of a student's state of residence and whether they are charged at the in-state or out-of-state rate. These limits should be determined by ED and should be sufficient to cover the full cost of in-state attendance, including tuition, fees, living expenses, and other non-tuition costs. A student wishing to attend a program at a private institution may borrow up to the average in-state cost of attendance (including the tuition and fee rate for in-state students) for comparable programs at public institutions in that state. These caps would be set by ED and would vary by program and state.

   Students should be allowed to borrow beyond the annual limit if they can demonstrate they will be able to repay. Students may be approved for additional borrower by passing one of two assessments: First, a debt to income ratio that determines the amount of additional debt that a borrower can responsibly take on based on their current income level. Second, a review of program earnings data that demonstrates whether the borrower will have the means to repay the amount borrower in excess of the aggregate cap based on their anticipated future earnings, with the additional amount that can be borrowed beyond the standard cap increasing as expected earnings increase. To take the review onus off of financial aid officers, ED could use scorecard data to approve additional borrowing amounts by program.

6. **Reform the Parent PLUS program by using a debt-to-income ratio to meaningfully assess how much a parent can responsibly borrow, and provide forgiveness of loan debt for parent borrowers who received PLUS loans when their incomes were at or near the poverty level.** There should be reasonable restrictions on Parent PLUS borrowing to manage excessive overborrowing and more meaningfully assess whether parents can repay their loans. We do not recommend setting a specific annual limit, but instead propose using a debt-to-income threshold to allow for variable limits based on a parent's income. This ratio should be added to parent PLUS underwriting and should be strong enough to protect parent borrowers, while still being more generous than the private student loan market. Currently, students whose parents are denied a Parent PLUS loan can borrow an additional $4,000 to $5,000 in unsubsidized federal student loans depending on their academic level. This policy should be maintained to ensure students whose parents are not approved for PLUS borrowing have access to additional resources to support their enrollment. In the case that a parent is approved for some (but not all) of the loan amount they requested based on their debt to income ratio, their dependent student may borrow an additional amount that is the difference between the independent student maximum and the amount the parent was approved for. For example, if a parent applied for $10,000 but was only approved for $7,500, their dependent student could borrow an additional $2,500 in unsubsidized student loans. The additional amount that a student could borrow if their parent is denied for a parent loan (in part or in full) would be capped at the $4,000-$5,000 depending on their academic level. In an effort to hold harmless parents who have been adversely impacted by the current Parent PLUS system, FSA should institute a process to review and provide forgiveness of loan debt for borrowers who received PLUS loans when their incomes were at or near the poverty level and should have never been approved for the loans.

7. **Enhance flexibility for students nearing the end of their program.**

   - **Eliminate proration for final periods of programs that are at least one year in length.** Annual loan limits for undergraduates must be prorated if the student is enrolled in a program that is shorter than one academic year, or if the student is enrolled in a program that is an academic year or longer but the student is borrowing for a final period of enrollment that is less than a full academic year in length. By contrast, a student enrolled for a full year but less than full-time, or for a single term that is not the final term in the academic program, is eligible to borrow the full annual amount. Proration for students in a final period of enrollment is inconsistent with other loan limit policies. Proration penalizes students who are about to complete their program of study and may drive students to seek alternative financing options. Proration of loan limits would be retained, however, for programs that are less than an academic year in length.

- **Provide institutions with the authority to allow students who are enrolled less-than-half-time in their last term of enrollment to receive federal student loans in order to complete their degree.** Improving program completion is an important policy priority. To better assist program completion, Congress should establish enrollment flexibility for students who are enrolled less-than-half-time in their last term of enrollment. This recommendation would support providing institutions with the ability to allow students enrolled less-than-half-time in their last term to receive federal student loan funds to support their education, should the institution choose to exercise this authority.

  Currently, annual loan limits for undergraduates must be prorated if the student is enrolled in a program that is shorter than one academic year, or if the student is enrolled in a program that is an academic year or longer but the student is borrowing for a final period of enrollment that is less than a full academic year in length. These same students, if Federal Pell Grant eligible, can get some aid to support final term costs. This recommendation would provide consistency across federal aid programs.

- **Allow schools to originate loans up to 30 days after the student's last date of enrollment, or change to an ineligible enrollment status, to cover costs incurred before loss of eligibility.** Currently, loans may not be originated once the enrollment period has ended, the student withdraws, or the student's enrollment status drops to less-than-half-time. This recommendation would allow schools to assist students who were unable to complete the loan application process prior to ceasing enrollment or who anticipated resources that did not materialize. The proposed option may reduce the use of less beneficial private education loans. It would provide the late-applying student access to federal Direct Loans to resolve institutional debt so that the student can re-enroll and go on to successfully complete his or her program. This recommendation would not change the current prohibition against late disbursement of second or subsequent installments.

8. **Revisit institutional requirements for private loans.** The rules applicable to private education loans can benefit from review and adjustment.

   - **Consider the types of loans that should be classified as private education loans.** Today, a number of federal, institutional, and state loans are considered private education loans for the purposes of statutory and regulatory requirements, such as the Truth in Lending Act disclosures. Congress should review the types of loans that should be classified as private education loans, specifically excluding federal health professions loans and state-sponsored and institutional loans that meet criteria acceptable to the secretary of education.

   - **Reform the requirements for preferred lender lists (PLL) and provide schools some ability to counsel students.** A large, unintended consequence of current PLL requirements is that these rules prevent the entire financial aid community from giving reasonable advice to families who seek professional assistance from the student aid office. Today, the financial aid community is well aware that institutions cannot gain any benefit from the business their students do with private lenders. Nevertheless, the PLL requirements inhibit their ability and willingness to recommend only those lenders who offer good rates and good service, or to share with current students their knowledge of past students' experiences. The result is that students often are swayed by marketing and advertisements. Institutions should be allowed to provide more useful and comparable information on private loans to students based on loan terms and conditions, the lender's history of service, and past students' experience without being tied to the litany of PLL rules.

     Congress should allow institutions to give basic information about lender availability or display lender brochures as long as they do not actually recommend any particular lenders or products. In addition, schools should be able to share summaries of previous students' experiences or satisfaction with lenders without that summary being considered a preferred lender arrangement. Provisions in the current law and regulations that deal with the code of conduct, disclosure of the criteria used to develop a PLL, and assurances that families may also choose a lender not on the list must be retained. In addition, Congress should eliminate the model disclosure form provision, a requirement ED has yet to produce.

   - **Replace student self-certification with full school certification of private education loans.** Replacing student self-certification with full school certification of private loans would give institutions the opportunity to ensure that a student is aware of the benefits of federal loans before the student commits to a less favorable private loan. Although most private lenders have moved to full school certification in practice in recent years, we recommend codification of this practice into law as a requirement to ensure it is implemented by all lenders.

- **Improve the efficiency of private loan counseling requirements.** As part of a concerted effort to improve information provided to students and families, Congress should eliminate duplicative loan counseling and disclosures provided to students. Congress should replace lists of disclosures in the law with more general goals and objectives of disclosure, and direct the secretary of education to set specific disclosures through negotiated rulemaking. The responsibility for disclosing terms and conditions of loans should be the responsibility of private lenders, not institutions. Only the lender should describe the terms and conditions of the loans it offers. Institutions should have the ability to direct students to the lender's materials or website for such information.

9. **Allow unequal disbursements to accommodate unequal costs or resources.** Currently, loans must be disbursed in equal installments under rules specified by law. This rule prevents adjustment of disbursements, as may be done for FSEOG, to address situations where there are unequal resources or costs among payment periods. For nonstandard term programs, it results in different disbursement times for Direct Loans than for other types of Title IV aid, and prevents alignment of loan disbursement with terms. This recommendation would facilitate disbursement by term in nonstandard term programs and allow disbursements to occur at the same time across all Title IV programs.

Reforming Student Loan Repayment

According to the Congressional Research Service, there are over 50 loan forgiveness and loan repayment programs currently authorized, with at least 30 operational as of October 1, 2017. Of these, there are eight widely available repayment plans, including five income-driven repayment plans, the most recent being the "Revised Pay As You Earn" (REPAYE) plan, which first became available to borrowers in December 2015. Understandably, this creates a great deal of complexity for borrowers seeking to navigate the variety of loan repayment options. Through HEA reauthorization, Congress has several opportunities to improve and simplify student loan repayment for borrowers. These recommendations come at a time when the total U.S. federal loan debt has reached $1.54 trillion with over 42 million borrowers,[16] and nearly 20% of those borrowers are in default,[17] all while pushes by ranking congressional members for federal student loan forgiveness are at an all time high. The complexity of these repayment programs only adds additional pressure to an already fragile student financing system.

1. **Consolidate the existing repayment plans into three options: a single IDR plan, a standard 10-year repayment plan, and an extended 25-year plan. Transition all borrowers into one of these three plans and sunset all other existing repayment plans.** Existing IDR plans need to be consolidated into a single income-driven repayment plan that borrowers can easily understand and navigate. Maintain a standard 10-year repayment plan and an extended 25-year repayment plan. The standard 10-year plan should be available to all borrowers, and the extended 25-year plan should be available to only borrowers who have more than $30,000 in Direct Loans (this is the same eligibility requirement as the current extended repayment plan). The option of a 25-year fixed repayment plan is essential for borrowers with higher debt, but with incomes that fall outside of IDR plan eligibility. While their income alone may indicate an ability to service their debt on a fixed 10-year plan, they may have significant expenses such as dependent care that hinder their ability to afford high monthly student loan payments. If those borrowers are willing to assume a higher total cost of repayment in exchange for lower monthly payments, they should have that option.

   The single IDR plan should be the default option for borrowers entering repayment, and allow borrowers to opt into a standard/extended plan if they do not want to be in an IDR plan. Borrowers with a tax return on file could be seamlessly enrolled in the IDR plan. Borrowers who do not have tax returns on file would be given the opportunity to self-certify their income. If a borrower without a tax return on file does not self-certify their income in the first 6 months after their enrollment ends (i.e. during their grace period), they will be automatically placed into an IDR plan and given a $0 payment for the first 6 months of repayment. If, after 6 months of the $0 IDR payment and 12 months after their last date of enrollment, the borrower still has not self-certified their income, they would be transferred to the standard repayment plan.

   To ensure borrowers understand their repayment options, ED, through exit counseling, and servicers, through communications sent during a borrower's grace period, should notify borrowers of both the monthly and total amount they would pay under each plan. In addition to these personalized estimates, these communications should direct borrowers to resources, such as online calculators, that will help them understand their repayment options. ED should also ensure that borrowers are able to easily and quickly move between plans if they wish to do so.

   Congress and ED should take whatever steps are necessary to transfer all borrowers into one of the three plans proposed above (the single IDR plan, the standard 10-year plan, and the extended 25-year plan), ensuring to the greatest extent practicable that borrowers are not worse off in one of these three options than they are in their original plan. Once all borrowers have been transferred to one of the three plans, Congress/ED should sunset all other existing repayment plans to ensure all borrowers are able to benefit from the streamlined and simplified repayment system. This process should prioritize communication with borrowers and allow borrowers to select which of the three plans they would like to enroll in. ED and servicers should provide borrowers with information on each of the three plans and notify them of which plan is most similar to the plan they are currently enrolled in. Borrowers should be provided with sufficient time to opt into their plan of choice, and sent frequent reminders about the deadline to select a plan. If a borrower does not opt into a new plan after sufficient time and notification to do so, they should be placed into the plan that will be most generous for them.

[16] Office of Federal Student Aid, "Federal Student Loan Portfolio," U.S. Department of Education, Q3 2020, https://studentaid.ed.gov/sa/about/data-center/student/portfolio.

[17] Office of Federal Student Aid, "Federal Student Loan Portfolio," U.S. Department of Education, https://studentaid.ed.gov/sa/about/data-center/student/portfolio.

2. **Design a single IDR plan.** The previous recommendation proposes consolidating the existing IDR plans into a single income-driven repayment plan, which would be the default options for borrowers entering repayment who do not opt into either the standard or extended plan. When developing this single IDR plan, policymakers should include the following provisions:
    - Raise the poverty thresholds used to determine a borrower's discretionary income from 150% to 200% of the federal poverty guideline.
    - Assess borrower's income above 200% but less than/equal to 300% of the federal poverty guidelines at a rate of 5%, and assess borrowers' income greater than 300% of the federal poverty guidelines at a rate of 10%.
    - Eliminate negative amortization for all borrowers, ensuring that borrowers who are making payments on an IDR plan do not see their principal balance grow.
    - Provide forgiveness of the loan's outstanding balance after 10 years for borrowers who have had a $0 IDR payment for 120 consecutive months, and after 20 years (240 monthly payments) for all other IDR borrowers.
    - Allow IDR payments made before a borrower consolidates to count towards IDR forgiveness.
    - Allow all undergraduate and graduate borrowers to access the single IDR plan. Parent borrowers would be able access Economic Hardship Deferments but would not be eligible to enroll in IDR.
    - Mandate that all student loan debt forgiven or discharged under IDR plans is free from taxation.

NASFAA is closely monitoring the Department of Education's activity related to repayment plans, including through the rulemaking process, and if needed, will modify this recommendation to ensure it maximizes benefits for borrowers.

3. **Explore ways in which interest could be reformed to better align the federal student loan program with its purpose of expanding postsecondary access.**
    - **Drastically lower interest rates for all types of federal direct loans (subsidized, unsubsidized, parent PLUS) to advance the program's primary goal of promoting postsecondary access.** One option to do this is by tying federal student loan rates to the rate at which the federal government borrows and lower the maximum rate that federal student loan interest rates may not exceed specified in the HEA.[18] Further investigation is also needed to determine the appropriate level for interest rate caps. When determining how to amend the current caps, one important consideration is setting a limit that is low enough to achieve the goal of providing relative consistency in interest rates for those who borrow at different times. There will, of course, be annual fluctuations that will result in a lower or higher interest rate for different borrowers who take out loans several years apart, but the difference should be nominal. A student who borrows $10,000 should not be expected to repay a substantially higher amount than a student who borrows the same amount 10 years later simply because government borrowing rates happened to be significantly higher when the student enrolled. When evaluating where to set an appropriate limit on interest rates, historical trends in Treasury rates should be considered to ensure the new cap provides meaningful consistency between students who borrow at different times and allows for only reasonable fluctuation year over year. Achieving these goals will help avoid a return to the large disparities in interest rates currently seen between individuals who borrowed federal loans at different points in time, making proposals to allow borrowers to refinance their loans into the future unnecessary
    - **Once the lower interest rates recommended above are implemented, automatically adjust all outstanding federal student loans with interest rates higher than the new rate to match the new lower rate.** This one-time reset will get all borrowers to the new, lower interest rate, and the revised cap on interest rates will ensure that future refinancing opportunities are not necessary. This adjustment should be made automatically for all borrowers for whom the new rate would be lower, and should not require action from borrowers in order to access the lower rate. The intent of the first recommendation in this section is to ensure that there is minimal fluctuation in interest rates from year to year, and any difference in rates based on when a loan was originated are nominal. Should the revised cap on interest rates not fulfill its intent of reducing interest rate disparities and there continues to be substantial variation from year to year, borrowers should be provided with the opportunity to refinance their loans if rates decrease by a specified amount.

[18] Currently, as specified in the HEA, maximum interest rates may not exceed 8.25% for Direct Subsidized/Unsubsidized undergraduate loans, 9.50% for Direct Unsubsidized graduate loans, and 10.50% for Direct parent/graduate PLUS loans. See https://fsapartners.ed.gov/knowledge-center/library/electronic-announcements/2021-05-19/interest-ratesdirect-loans-first-disbursed-between-july-1-2021-and-june-30-2022-ea-id-loans-21-06

- **Eliminate negative amortization for all borrowers.** Borrowers whose monthly payment is less than the amount they are charged in interest should have their monthly accrued interest charge reduced to an amount that is equal to their monthly principal payment.
- **Eliminate interest capitalization for all borrowers.** Interest may accrue but should never be capitalized into the principal.

4. **Strengthen Public Service Loan Forgiveness.** PSLF encourages students to pursue and commit to vital public service careers without fear that their student loan payments will follow them for decades. The program is of high value to both students and society, but needs to be evaluated and strengthened in order to ensure it is the most efficient, simple, fair program for borrowers working in public service. Congress should reform the PSLF program by updating the timeline for PSLF forgiveness to provide rolling forgiveness opportunities, forgiving $5,000 in debt after each 2 years of time in public service For borrowers who still have loan debt left after 10 years of working in public service, their remaining balance would be forgiven as it is under the current system. The average borrower graduates with $34,000 in student loan debt. Under this rolling forgiveness proposal, they would see their loan debt shrink to $10,000 after 10 years of service, giving them reduced payments and less accrued interest during their 10 years of service until their debt is ultimately forgiven.

   Congress should also allow all FEEL borrowers who consolidate into the Direct Loan program to count previous payments towards PSLF forgiveness. Currently, in order to participate in PSLF, borrowers with FFEL loans must consolidate into the Direct Loan program, and any payments made prior to the consolidation do not count towards PSLF. PSLF was initially restricted to Direct Loans to encourage schools to participate in the Direct Loan program, an incentive that is no longer necessary. From a servicing perspective, it is most practicable for borrowers with FFEL loans to consolidate into the direct loan program in order to participate in PSLF, but these borrowers should be held harmless and be able to count their previous payments towards forgiveness.

   With regard to implementation, the effectiveness of PSLF could be improved by strongly encouraging the submission of annual employment certification forms and emphasizing increased outreach to borrowers about the program. Additionally, Congress should encourage ED to increase outreach to eligible employers and, to the greatest extent possible, to use administrative data to automate the enrollment process, including maintaining a database of eligible employers. Congress should also encourage the Department to provide more publicly-available data about the PSLF program's cost, effectiveness, and integrity.

5. **Exempt all loan forgiveness from the calculation of gross income for income tax purposes.** Loan forgiveness and discharge under the vast majority of federal student aid programs and provisions must be included as income for income tax purposes. Temporarily, due to borrower relief provisions related to the COVID-19 pandemic that were included in the American Rescue Plan (ARP) signed into law March 11, 2021, any federal student loan debt discharged through 2025 will be forgiven without any tax implications.[19] However, unless Congress chooses to extend or make permanent this provision, this benefit will expire December 31, 2025. NASFAA recommends making this provision permanent.

   Taxing borrowers on the amount of forgiveness received is counterintuitive, as it provides both a disincentive for high-debt borrowers to take advantage of forgiveness programs and creates a sudden financial hardship for borrowers receiving forgiveness. At the moment borrowers should finally be emerging from their debts, they are abruptly faced with a significant lump-sum cost. It could be argued that in certain cases this is a more calamitous financial event than simply remaining in repayment.

[19] United States, Congress, House, Budget Committee. American Rescue Plan Act of 2021. Congress.gov, https://www.congress.gov/bill/117th-congress/house-bill/1319/text. 117th Congress, 1st session, House Resolution 1319, became public law 11 March 2021.

6. **Reform student loan servicing.** In July 2016, Undersecretary of Education Ted Mitchell sent a memorandum to the ED's Office of Federal Student Aid (FSA) outlining policy direction on federal student loan servicing.[20] Many of the priorities outlined in the memo match recommendations made in NASFAA's servicing issues task force report, including the creation of a universal loan portal, increasing standard consumer protections for borrowers, and removing servicer branding from communications with borrowers.[21] Since 2016, the Department has released multiple plans for reforming loan servicing, scrapping the idea for a universal loan portal, instead allowing servicers to maintain their own websites, and rolling out new responsibilities for Business Process Operation (BPOs), who would manage all speciality loan program accounts like, PSLF and TEACH Grant recipients. Items like, improving cybersecurity and holding servicers accountable still remain in step with NASFAA's positions.

   - **Create a universal loan portal for students.** ED is in the midst of creating a single student portal where students can access their federal loan information. However, Congress should mandate the creation of a single web portal where students can go to easily access information about all of their loans — federal, private, and institutional. This would allow all educational loans from the federal government, private lenders, and colleges and universities to be reported to one central database. The creation of such a resource could result from the expansion of the data collected by the National Student Loan Data System (NSLDS).

     Students need an accessible "one-stop shop" where they can manage their student loans. Many borrowers have multiple loans with different loan holders that may be in various stages of repayment. Having a central website where borrowers could access information about all of their loans would significantly help students as they manage their borrowing and repayment. Under such a scenario, all students would have access to their entire debt portfolio in real time, enabling them to calculate a more accurate monthly repayment amount based on a variety of potential circumstances.

     It should be underscored that a central component of this recommendation is the need for students to have access to not only their federal loan information, but also their private loan information. It is critical that students be able to obtain and monitor all of their loan information in one central database, regardless of their loan's origination, rather than having to pull information together in a piecemeal fashion. The latter creates the opportunity for important information to fall through the cracks. Currently, NSLDS only partially serves this purpose as it includes only some federal loans, and it does not include health professions loans made through the Department of Health and Human Services (HHS), private loans, or institutional loans. A universal loan portal would capture all of these loans.

   - **Standardize loan servicing policies and procedures.** The current Direct Loan program is one where students borrow directly from the federal government. The intent of the program was for students to have one lender and one servicer with standardized processes. However, the government is parceling out loans to various servicers, and some borrowers are confused because not all servicers are handling standard issues in the same manner. Borrowers cannot choose or switch their loan servicer, so they are subject to varying administrative procedures without any recourse. The lack of standardization also hinders financial aid administrators' efforts to accurately counsel students on what they can expect when they enter repayment. To alleviate confusion and differential treatment, Congress should direct ED to standardize the process for placing a student in the various repayment plans, including acceptable documentation to be used by all servicers, the repayment start date, and the timing and method for capitalization of interest on federal student loans. In addition, Congress should require FSA to develop and implement a comprehensive manual of student loan servicing practices and require adherence to the guidance by all student loan servicers by adding an amendment to the loan servicing contracts containing the details of the manual. NASFAA recognizes the considerable work that ED has made towards fulfilling this recommendation with their Next Gen Federal Student Aid (Next Gen FSA) initiative, in which one of the priority objectives is the implementation of standard training materials for all customer service vendors.

[20] "Policy Direction on Federal Student Loan Servicing," Memorandum from Ted Mitchell, ED, to Jim Runcie, FSA, July 20, 2016, (http://www2.ed.gov/documents/press-releases/loan-servicing-policy-memo.pdf).

[21] "NASFAA Task Force Report: Servicing Issues," NASFAA, February 2016, (https://www.nasfaa.org/Servicing_Issues).

- **Permit the use of innovative technologies in order to allow servicers to more efficiently and effectively communicate with borrowers.** Servicers should be permitted to use new technologies to experiment with developing innovative and effective performance-based delinquency and default prevention activities in lieu of certain current prescribed requirements. Currently, servicers are subject to prescriptive due diligence and restrictions requirements that can stifle innovation and experimentation with the most effective ways in which to reach borrowers, and at what point in time. For example, servicers are required to send borrowers delinquency notice between days 1-15 of delinquency status. However, servicers can identify borrower repayment habits through their data analytics, and in some cases can determine that a borrower is a "slow payer" and will always pay on a certain day later in the month. In such instances, it would be more useful for the servicer to put time, resources, and efforts into borrowers identified as truly being at-risk of default. In addition, allowing flexibility from the current prescriptive student disclosure requirements would allow servicers to provide borrowers with the right information at the right time, and in the right amount. This would include allowing servicers to disseminate certain disclosures together and make their own determination of the best point in time for the information to be distributed.

- **Provide standard consumer protections for federal student borrowers that are in line with other consumer financial products.** Most consumer credit products (mortgages, credit cards, car loans, etc.) are governed by federal consumer laws that dictate servicing standards and processes. While federal student loans contain some borrower protections, there are fewer than almost every other consumer financial product. Federal student loans and their servicing should contain an enumerated, standardized set of consumer protections.

  Typical consumer credit protections include standardized processes for statements and payment handling, servicer transfers, error resolution, delinquency servicing, and military service, just to name a few. There is no such set of enumerated protections for federal student loan borrowers. Borrower protections should also include the right to escalate an issue to higher authorities within ED and the right of the borrower to question certain policies and procedures, or request assistance or accommodation if necessary. The loan servicer should be responsible for communicating this right, and the process to invoke this right, on written communications with the borrower. As with other consumer financial products, ED should, in collaboration with the Consumer Financial Protection Bureau (CFPB), require basic consumer protections for student borrowers and ensure that their contractors comply with those protections.

- **Reinstate ED's authority to offer repayment incentives, if there is evidence of effectiveness and cost neutrality.** The Budget Control Act of 2011 prohibited ED from authorizing or providing repayment incentives on new loans disbursed on or after July 1, 2012, except that an interest rate reduction may be provided to a borrower who agrees to automatically debit electronic payments. NASFAA supports the ability to offer repayment incentives as long as incentives do not have a net cost.

- **Request GAO to perform a review of FSA's procurement function to determine if it is effectively using its procurement flexibility and if additional flexibility is necessary.** Congress should ask GAO to review FSA's procurement processes and specifically how FSA is leveraging the flexibilities provided by the HEA. GAO should also comment on whether they believe additional flexibilities are warranted. In addition, Congress should consider passing legislation preventing future legislators from using its legislative or appropriations authority to affect the federal procurement process. Part D of Section 141 of the HEA clearly states under the PBO functions that FSA shall be responsible for "all aspects of contracting for the information and financial systems supporting the Federal student assistance programs authorized under title IV." There have been multiple instances since 2008 where Congress has dictated procurement strategy to FSA. Language in SAFRA required ED to contract with not-for-profit servicers which added complexity to the loan servicing environment. ED also received instructions through the 2015 appropriations process to evaluate all of the servicers using the same metrics under the same pricing schedule despite the loan portfolios having significantly different characteristics. Congress also directed ED in 2017 to "…ensure that the new student loan servicing contract includes the participation of multiple student loan servicers, each responsible for all aspects of servicing loans…" when devising the new loan servicing contracts, which put the single-system and specialty servicing concepts into question.

- **Provide consistent, high-quality servicing to simplify and streamline transitions between the repayment and default systems.** Borrowers should not be moved to a different servicer simply because of going into default status, and should remain with the same servicer throughout their entire time in repayment, including during periods where the borrower is in default or rehabilitation, unless the servicer is not adequately supporting the borrower. ED should ensure defaulted borrowers receive high-quality servicing and effective support by:
    - Developing specific ways to monitor and measure the ability of servicers to work with and assist defaulted borrowers, paying special attention to re-default rates and IDR re-enrollment rates for previously defaulted borrowers.
    - Providing consistent direction, such as a common manual, for serving this population of borrowers.
    - Having a mechanism to remove borrowers from servicers who do not show the ability to consistently and effectively assist defaulted borrowers.

7. **Maintain a loan consolidation option.** NASFAA supports maintaining a loan consolidation program, separate from refinancing, to allow borrowers with multiple loans to have a single holder and a single payment. Consolidation should also continue to be used to prevent defaults. The interest rate should remain the weighted average of the loans being consolidated, although a modest basis point increase could be applied to consolidation loans to help reduce the consolidation loan subsidy that might be better used to offset other program costs.

Reforming Student Loan Default

More than seven million Americans are in default on their student loans, representing roughly one in six of the nearly 43 million Americans holding federally managed student debt and one in five of those with loans who have entered repayment. In the year prior to the COVID-19 pandemic, more than one million Direct Loan borrowers defaulted and—although many do exit default—in FY2017, more than 100,000 borrowers defaulted for at least the second time. The challenges surrounding student loan default are extensive and emblematic of "deep structural inequities, discrimination, and racism not only in our system of higher education but also in the foundation of how families access capital and build wealth."[22]

This section includes recommendations to improve the default system. These recommendations are primarily grounded in three principles. First, guardrails should be in place to help struggling borrowers avoid entering default altogether and make it easier for those who do default to return to good standing. Second, default should be less punitive and should both minimize additional hardship and maximize support for struggling borrowers. And finally, borrowers who are able to meet their obligations should be incentivized to make monthly payments.

1. **Moving forward, automatically enroll delinquent borrowers in income-driven repayment before they enter default, whenever possible.** We have previously proposed providing borrowers with three repayment plans to choose from: a single IDR plan, a standard 10-year plan, and an extended 25-year plan (borrowers with graduate debt only). The default is the IDR plan. For borrowers enrolled in a standard or extended plan that become delinquent, ED should begin the process of automatically enrolling the borrower in the IDR plan. When a borrower is 60 days delinquent, ED uses their income information on file at the IRS to send a personalized notice informing the borrower:

    - of the lower monthly payments available to them under IDR
    - that they may apply for an economic hardship deferment, which would also pause their interest
    - that their credit will be negatively impacted after 90 days of delinquency, at which time their loan servicer will report the delinquency to the three major national credit bureaus.
    - that they have 60 days to either enroll in an IDR plan or make payments on their current plan; if they don't take any action by day 120 of delinquency (60 days after receiving the notice), they will be automatically enrolled in IDR.

    If the borrower has not acted on this information and is continuing to progress towards default by the time they are 120 days delinquent, they are automatically placed in an income-driven repayment plan. Once enrolled in IDR, if the borrower has a payment amount >$0, they will be given 60 days to make a payment on their new IDR plan. If they have not made a payment in the first 60 days that they are enrolled in IDR (by day 180 of delinquency), they will be sent another notification about the opportunity to apply for an economic hardship deferment. If they still have not taken action by day 240, they will receive a final notification that they will enter default on day 270. If there is no action by, the borrower will enter default after day 270.

    For borrowers enrolled in the IDR plan that become delinquent, ED will begin sending notices no less than every 60 days reminding the borrower about the opportunity to apply for an economic hardship deferment. If there is no action on the borrower's part by day 270, they enter default. These notifications sent to delinquent borrowers by ED should be in addition to outreach sent by student loan servicers. To the extent possible, loan servicers should be enabled to access borrower contact information (such as address) from the IRS to facilitate successful borrower contact.

[22] https://www.barrons.com/articles/a-path-forward-for-the-one-in-five-student-loan-borrowers-in-default-51636123063

2. **Develop additional safety nets for struggling borrowers who are still at risk of falling into default despite being enrolled in IDR.** ED should increase the flexibility of IDR and the Economic Hardship Deferment to ensure that it is available to assist struggling borrowers in unique circumstances who are not able to make their monthly payments but either do not qualify for a $0 payment through the standard IDR formula, or are not eligible for IDR (i.e. parent borrowers). These flexibilities should help to prevent default for borrowers who have legitimate reasons for not being able to make payments, while having enough guardrails to prevent fraud and abuse. ED should:

   - Create a process for IDR borrowers struggling to make monthly payments to request an adjustment in their monthly payment amount due to unique circumstances. Although there is an existing process for IDR borrowers with reductions in income to request a change in their monthly payment amount, ED should expand this process to allow for consideration of costs that can be prohibitively expensive, such as medical bills or child/elder care, and allow a borrower's IDR payment to be adjusted to an amount that is reasonable based on their circumstances, including as low as $0. The Economic Hardship Deferment should also be modified to allow for consideration of expenses that impact a borrower's ability to make their monthly payments.

   - Improve outreach and communication to ensure delinquent borrowers, as well as relevant state entities who assist struggling borrowers, are made aware of and able to easily request a special circumstances IDR review or an economic hardship deferment.

   - Ensure borrowers whose circumstances justify an economic hardship deferment continue to receive credit towards IDR forgiveness for each month they are in the deferment. This is currently happening, as specified in regulation, and should continue as a facet of a simplified, streamlined IDR system.[23]

   - Ensure that interest does not accrue for the duration of the deferment when a loan is placed in an economic hardship deferment. This should be the case for all loans, regardless of the type of loan and whether or not it is subsidized.

   - Reevaluate borrowers in an economic hardship deferment annually to determine whether their circumstances justify remaining in deferment status.

3. **Allow defaulted borrowers who enroll and make a payment in IDR to immediately exit default.** Borrowers in default, who currently do not have access to IDR, should be able to enroll in income-driven repayment plans. We propose a new path for exiting default that allows defaulted borrowers to enroll in IDR. Under this plan, a defaulted borrower may enroll in an IDR plan and will be automatically removed from default status as soon as they make their first required payment. Once the borrower exits default, their Title IV eligibility will be restored and any use of Administrative Wage Garnishment or Treasury Offset Program will cease. The borrower must make 9 monthly payments in their first 10 months in the IDR program in order for the record of their default and default-related negative credit reporting to be removed from their credit history. Borrowers determined to have a $0 IDR payment should automatically have the default and other default-related negative credit reporting immediately removed from their credit history because they will not be expected to pay any amount during their first 10 months.

   If a borrower does not successfully make 9 payments within the 10 month period (i.e. misses more than one monthly payment), they will return to default status, though they will not have a new default appear on their credit history. The original default will remain on the borrower's credit history and will appear as if the borrower never exited default at all, similar to borrowers who begin but do not successfully complete loan rehabilitation. We propose that this new pathway, which allows borrowers to exit default immediately by enrolling in and making a payment through an IDR plan, be available to borrowers only once. If a borrower does not make 9 payments within the first 10 months and returns to default, or defaults again in the future, they will be able to use other pathways to exit default, such as rehabilitation and consolidation. Providing this pathway out of default for borrowers who make a required IDR payment minimizes barriers that could be especially challenging for borrowers with limited resources.

[23] https://www.law.cornell.edu/cfr/text/34/685.209

4. **Remove the one-time limit on rehabilitation of defaulted loans.** Borrowers should be allowed to rehabilitate their loans more than once, without (or with minimal, standardized) fees. Rehabilitation should remain as a pathway out of default for borrowers who first use the new IDR pathway proposed above but do not make 9 payments within the first 10 months and return to default, or those who do not wish to enroll in IDR to exit default. The one-time rehabilitation limit was not introduced until the 2008 reauthorization of the Higher Education Act, which also included the change to allow defaults to be removed from a borrower's credit history after rehabilitation. Before this time, borrowers were not subject to a limit on the number of times they could rehabilitate a loan.[24] If maintaining borrower engagement is a primary goal of the repayment system, borrowers deserve more than one opportunity to exit default through rehabilitation.

5. **Make the default system more borrower-friendly.**

   - Eliminate acceleration of loan balances and use collections mechanism only in extreme circumstances. As proposed above, borrowers should be allowed to enroll in income-driven repayment and should pay no more under default than they do in an IDR plan. To achieve this goal, Treasury Offset Program (TOP) should be used only in extreme circumstances, and borrowers with student loans in default should never experience a reduction or elimination of tax refunds intended to support low-income families and low-income workers, including the Child Tax Credit (CTC) and Earned Income Tax Credit (EITC). The use of Administrative Wage Garnishment (AWG) should be limited, ensuring funds are only taken once borrowers have received a living wage.

   - Delay credit reporting of default status to provide borrowers with additional time to return to good standing. Currently, a borrower's default status is typically reported to national credit bureaus after Day 425. This credit reporting should be delayed for an additional 305 days so that the default is not reported until 2 years (730 days) after the borrower becomes delinquent.

   - Remove default from the credit history of any borrowers who exits default, and remove all default-related negative credit reporting the first time a borrower completes rehabilitation on a defaulted loan or exits default through the IDR pathway proposed above.

     o Borrower who exit default through the IDR path proposed in recommendation #4 should have the default and default-related negative credit reporting removed from their credit history if they make 9 monthly payments within the first 10 months. Borrowers opting for this path who are determined to have a $0 IDR payment should automatically have the default and other default-related negative credit reporting removed from their credit history immediately after enrolling in the IDR plan.

     o Default should be immediately removed from the credit histories of all other borrowers once they exit default, whether through rehabilitation, consolidation or fully paying off their balance.

     o Borrowers should have other default-related negative credit reporting, such as delinquencies, removed from their credit history after the first time they rehabilitate their loans.

   - Streamline, standardize, and reduce collection fees. When borrowers default, they can be charged collection fees as high as 24 percent of their loan balances.[25] ED should, at a minimum, ensure that collections fees are lowered and streamlined to be less punitive towards borrowers. ED could also consider replacing the existing variety of penalties with a flat fee that would be consistent across all borrowers, or consider eliminating collection fees entirely.

6. **Automatically enroll borrowers exiting default through consolidation into IDR before they return to repayment.** Similar to borrowers entering repayment for the first time, borrowers who are exiting default and returning to repayment through consolidation should be automatically placed into an income-driven repayment plan, unless they opt-out of IDR and select a different plan.

[24] https://www.studentloanborrowerassistance.org/wp-content/uploads/File/student-loan-default-trap-report.pdf

[25] https://www.aei.org/wp-content/uploads/2018/08/Federal-Student-Loan-Defaults.pdf

Improving Information for Students and Families

With a complicated federal student aid system, Congress and ED should prioritize providing simple, consumer-tested information to students and families as they begin the federal student aid process and as they navigate the entire student aid lifecycle.[26] While improved consumer information is not a silver bullet; students with limited financial literacy skills may not have the capacity or desire to understand the information presented to them. Better, more targeted information and counseling will improve decision making.

1. **Develop and consistently use a consumer-testing model when implementing any new consumer information requirements.** Moving forward, no new consumer information requirement should be imposed without prior consumer testing, which should then inform subsequent congressional or departmental action. Required testing of consumer information disclosures would provide an opportunity to improve the final product based on the input of the very consumers the disclosures are meant to assist.

2. **Consider the intended audience when developing consumer information requirements.** Requirements to provide consumer information should distinguish between undergraduate and graduate students. Information that is not relevant to, or does not use data pertaining to, graduate students should be restricted to undergraduates — and vice versa.[27]

3. **Repeal the ban on a federal-level student unit record.** Currently prohibited, a limited federal student unit record would allow student-level data to be sent to ED, rather than the current system of aggregated institutional data captured in the Integrated Postsecondary Education Data System (IPEDS). For purposes of postsecondary education, a student unit record would allow for the assessment of, among other things, student success (including transfer rates), completion rates, and salaries by major or program. It could also follow students as they move through and between postsecondary institutions and into the workforce. More importantly, it would address current shortcomings with IPEDS. Acknowledging concerns over privacy, as higher education policy is increasingly focused on student success, completion, and outcomes, it becomes increasingly critical to have robust data that gives an accurate picture to students, families, and policymakers.

   Repealing the federal student unit record ban has gained strong support from members of Congress on both sides of the aisle in recent years. The College Transparency Act, a bill supported by NASFAA that would repeal the ban and create a secure, privacy protected student-level data network, had over 35 bipartisan Senate sponsors and more than 230 bipartisan House sponsors during the 116th Congress. The College Transparency Act was also included in the College Affordability Act, House Democrats' HEA reauthorization proposal.

4. **Standardize financial aid offer elements and terms.** Financial aid administrators value the importance of clear, concise, accurate information for students and parents, and recognize there are ways to improve financial aid offers. To provide students with transparent information on costs and aid, NASFAA supports standardizing core elements and terminology on an aid notification and communications. Since 2014, NASFAA has included aid offer requirements in its Code of Conduct, and in June 2018, NASFAA's Board of Directors voted to support federal policies that would require institutions to include standard elements, terminology, and definitions in their aid offers.

   In addition to revising its Code of Conduct, NASFAA has endorsed the bipartisan Financial Aid Communication and Transparency (FACT) Act introduced by Reps. Lori Trahan (D-Mass.) and Lloyd Smucker (R-Pa.) in September 2019 which would improve financial aid offers by requiring institutions to include on their aid offers consumer-tested standard terms and definitions, certain elements such as an itemized COA and aid broken down by type, and explanatory notes about each type of aid, among other information. Many of the elements that the bill would require institutions to adopt closely align with those included in NASFAA's revised Code of Conduct, such as requiring an institution to include an itemized list of its COA components, and that grants be listed separately from other types of aid, such as loans. This bill aligns with NASFAA's recommendation that Congress should maintain institutional flexibility to design aid offers in a way that best meets the needs of each school's specific student population to help maximize the effectiveness of aid offers and avoid unintended, negative consequences of overly prescriptive standardization.

[26] "NASFAA Task Force Report: Consumer Information," NASFAA, June 2014, (https://www.nasfaa.org/Consumer_Information_Report).

[27] "NASFAA Consumer Information and Law Student Indebtedness Task Force Report: Focusing Federal Aid Websites on Graduate and Professional Students," NASFAA, March 2016, (https://www.nasfaa.org/consumer_info_law_student_indebtedness_tf).

5. **Review existing consumer information requirements.**

- **Require a study to review the effectiveness of current consumer information requirements.** Congress should require a study of consumer information and disclosure requirements in terms of content (student understanding of significance), volume (how much is too much), delivery (use of current technologies), timing (linked to student and family decisions about attendance and financial aid), and responsibility (ED vs. the school). The objective of the study would be to determine whether: (1) current requirements are effective and can be made more so; (2) leveraging existing report standardization could allow the federal government to take over the responsibility of disclosing institution-specific consumer information to the general public, and prospective and continuing students; (3) updating for current technology can establish more commonality in methods of reporting. Simply put, if information is available at ED, then schools should simply link to it, not replicate it in another way. Reducing duplication of information will eliminate confusion among students and reduce the multiple efforts currently taking place with ED and individual institutions. This study should be conducted by an independent, non-partisan firm with expertise in consumer testing for effective communication.
- **Eliminate certain disclosures not related to financial aid from Title IV administration.** Consumer information needs to be usable, easy to understand, and make an impact on student choice. Currently, information provided is too complex and includes provisions for consumer information disclosures that have no relationship to federal student aid eligibility. Disclosures related to Constitution Day, athletics, voter registration, among others should not be tied to the administration of the federal student aid programs.
- **Conduct a study to determine the usefulness and utility of the Campus Security Report, Fire Safety Report and the Fire Log, and Drug and Alcohol Prevention Information.** Today, it is unclear if an institutional disclosure is the most effective way to communicate campus safety information, or if the preponderance of students and families, prospective and current, find this information useful for making safe and informed choices. Considering the not insignificant burden involved in gathering this information and issuing these disclosures, these are questions that should be studied. While NASFAA strongly supports the availability of this information to prospective and current students, the scope of these disclosures goes beyond financial aid recipients and has no direct correlation to receiving financial aid. This consumer information must currently be received by all students; as such, they should be relocated to an area of compliance that more holistically assesses an institution's general fitness for serving a student population. Additionally, the office(s) on campus responsible for sending out these types of non-Title IV disclosures should have a mission more directly correlated with the safety and well-being of all students at an institution.
- **Make ED and loan servicers responsible for developing and distributing loan-related consumer information, including debt management.**
- **Require ED to provide information about state grant assistance.** Congress should eliminate the requirement that schools provide information about state grant assistance to all eligible Direct Loan borrowers in favor of information maintained by the ED on a website that is also linked to the FAFSA.

6. **Use an existing consumer-facing ED website, such as an improved College Navigator, to aggregate disclosures.** The College Navigator website may be a more efficient means of distributing the disclosures and information currently addressed by the annual notice that institutions must distribute to each enrolled student, as well as retention and graduation/completion rates. Institutions already report the majority of the required consumer information in the annual IPEDS Survey which is, in turn, displayed on the College Navigator website for use by students, their parents, and other members of the public. The College Navigator is a viable platform that could be enhanced to serve as the central point of reference for participating institutions' student consumer information. Expanding the institution-specific information available on the College Navigator to include all required disclosure items would eliminate the need to send a separate notice to students and would permit institutions to provide a link to the College Navigator as the single source of standardized information for prospective and continuing students.

Enhancing Student Aid Delivery and Innovation

Federal mandates and requirements, though often justified on their own, have combined to place serious regulatory strain in terms of both time and money on colleges and universities nationwide. Sometimes minor changes to the federal student aid programs in statute lead to burdensome implementation when the regulations are released. Though compliance with federal regulations remains a top priority for financial aid administrators, many would prefer to spend the time now allocated to compliance on counseling students and families. Finding a balance between federal objectives and unnecessary burden should guide policymakers on this issue moving forward. NASFAA supports the recommendations of the bipartisan Task Force on Federal Regulation of Higher Education.[28]

1. **Improve the operational efficiency of ED's Office of Federal Student Aid.** Tasked with implementing the federal student aid programs, ED's Office of Federal Student Aid (FSA) was structured as a performance-based organization (PBO) in 1998 with expanded administrative autonomy in exchange for increased oversight and accountability. In the time since the designation of FSA as a PBO, little oversight of the agency has occurred, and financial aid administrators feel that FSA acts more as a watchdog than as a partner in the administration of the student aid programs. NASFAA urges Congress to prioritize accountability and oversight of FSA, particularly in meeting basic customer service objectives in its interaction with schools. NASFAA also suggests increasing the involvement of stakeholders in the FSA strategic planning process, introducing additional performance metrics, and establishing an FSA Oversight Board.
   - **Require ED to provide the final report for a Program Review to an institution within 60 days after receipt of the institution's response.** Inordinately long delays in receipt of the final program review report create uncertainty and potentially increase liabilities for the school because it does not know what is required to resolve problems or continue funding in Title IV programs. While FSA is extremely vigilant about ensuring schools meet deadlines it is not uncommon for an institution to have to wait months, and in some cases years, to hear back from FSA on important items like program reviews. These delays detrimentally affect not only the school but also the students it serves, especially with respect to changes or additions to programs eligible for Title IV aid.
   - **FSA's Chief Operating Officer (COO) should report directly to the Secretary as part of an Oversight Board, and collaborate with the Undersecretary.** Today, the FSA chief operating officer (COO) and other senior FSA leaders are not confirmed by the Senate nor are they accountable to students, institutions, or taxpayers. As designed in statute, the FSA COO reports directly to the secretary of education, but according to multiple government oversight reports, this reporting structure does not appear to be increasing accountability or leading to improvements. After benchmarking against other federal PBOs (which have oversight boards), interviewing former federal officials and employees, and examining complaints from federal partners, Congress, the Government Accountability Office (GAO), and other federal watchdog groups, it has become clear that that FSA is not always meeting its original congressional objectives and increasing accountability. FSA is in need of legislative reform that increases accountability through the Secretary and an oversight board, with Senate confirmation.
2. **Simplify the return of Title IV funds (R2T4) calculations and process for withdrawing students.** When a student with federal student aid withdraws from college before completing a term, an institution is obligated to calculate the amount of aid the student earned and possibly return those dollars to the federal government; however, the process is entirely too complex and burdensome for institutions to execute. In response to requests for input on regulatory relief, financial aid administrators mentioned R2T4 more than twice as often as any other topic area.[29]

[28] "Recalibrating Regulation of Colleges and Universities: Report of the Task Force on Federal Regulation in Higher Education," ACE, February 2015, (https://www.acenet.edu/news-room/Documents/Higher-Education-Regulations-Task-Force-Report.pdf).

[29] NASFAA letter to ED on regulatory relief solicitation, September 2017, (https://www.nasfaa.org/uploads/documents/ResponsetoEDSolicitationof6-22-17.pdf).

Under current law, a student who withdraws before completing the period for which he or she has received Title IV student aid funds is currently considered to have "earned" the right to those funds on a prorated basis. A student who has completed more than 60% (in time) of the payment period has earned 100% of aid that was or may still be disbursed. Up through the 60% point, aid is earned in proportion to the percentage of time enrolled as measured by the length of the entire payment period. Thus, a student who was enrolled for 60% of the payment period earns 60% of aid, while a student who was enrolled 61% of time earns 100% of aid. A student who was enrolled even one day earns a portion of his or her aid, which must be disbursed or at least offered. Under current regulation, these calculations are performed in days for credit hour programs (with scheduled breaks of at least five days excluded) or in scheduled hours for clock-hour programs.

The lynchpin of the calculation is determining the student's withdrawal date. Schools must have a withdrawal process that students can easily access. A withdrawal date can be identified for students who follow those procedures, although there are complications even in that aspect of the rules. Students who drop out without notifying the school are far more difficult to treat, unless the school takes attendance, which is a matter of academic purview unless an accrediting agency or state licensing agency requires it. The law differentiates between schools that are or are not "required to take attendance" in defining withdrawal date, but ED has gone far beyond that simple distinction in defining what is meant by "required to take attendance."

While the basic concept underlying R2T4 is quite straightforward, the details have become so complicated that it has become very burdensome to explain to students and to administer. Even ED needs over 200 pages in the *Federal Student Aid Handbook* to describe and illustrate this process. Errors are virtually inevitable in such a complex set of rules. Further, given the wide range of program formats, individual student circumstances, and other factors, it is very difficult to address all scenarios that arise logically under a "one size fits all," highly regulated approach.

The law should lay out the basic requirements and parameters of an R2T4 policy, which schools must fill in but have some discretion over. The law should clearly identify those areas over which the institution has sole discretion. While NASFAA has several recommendations to improve the process, Congress and ED should consider eliminating the requirement altogether, devising a new set of rules (perhaps through a dedicated negotiated rulemaking session), or fixing the current process.[30]

If seeking opportunities to reform R2T4, Congress should:

- Restrict law and regulation to undergraduates. Leave treatment of graduate students to institutions. Graduate students are not eligible for Pell Grants or subsidized loans. Institutional investment in graduate students is generally much higher and selection for admission more rigorous. Thus, the law should address only undergraduates, and ED should not regulate R2T4 policy for graduate students.
- Narrow the definition of schools that are required to take attendance: only if they are required to take attendance for all students in a given academic program throughout the entire payment period by the accrediting or state licensing agency. Allow schools that are not required to take attendance to use a documented last date of attendance or other academic activity for any student at the school's option.
- Continue to require that schools have an accessible, publicized withdrawal procedure that recognizes the student's withdrawal date as the date the student initiates that procedure. (The school continues to define what constitutes the beginning of the withdrawal process.) Eliminate the "intent to withdraw" rules. Eliminate rules concerning students rescinding their decision to withdraw and leave that entirely up to school policy.
- For students who do not follow the school's official withdrawal procedure (mostly students who drop out without notifying the school), allow a school that is not required to take attendance to set the withdrawal date under its own defined policies. (Unofficial withdrawals would thus not be regulated by ED.) This would also allow the institution complete discretion to set the withdrawal date if the student could not follow official procedures because of illness etc.

[30] "Return of Title IV Funds Task Force: Report to the Board," NASFAA, July 2015, (https://www.nasfaa.org/Return_of_Title_IV_Funds_Task_Force_Report_to_the_NASFAA_Board).

- Follow the current modified pro-rata approach, but simplify the rules as follows: Establish weekly increments based on calendar time rather than the day-by-day calculation that excludes certain days under certain conditions. Fractions of weeks would be rounded up: attendance on any day of the week counts that week. Retain 60% as the point at which all aid is earned, but express it as attendance in 60% of the weeks (so that fractions count as a week). Until that point, for each week at least started by the student, aid is earned in proportion to the number of weeks constituting 60% (that would avoid the "cliff effect" currently seen). An example of the proposed modifications to the pro-rata calculation of earned/unearned aid would be as follows: A semester runs from September 3–December 13, which is 15 weeks by the calendar. A student earns all aid by remaining enrolled in 60% of the weeks in a payment period — 0.6 x 15 = 9 weeks regardless of any breaks. The ninth week begins October 27. A student who withdraws anytime during the week of October 27 has earned all aid. For the 15-week semester, a student who withdraws any time during the first week earns one-ninth of aid. A student who withdraws anytime during the eighth week earns eight-ninths of aid.
- Restore authority for post-withdrawal disbursements to be at the discretion of financial aid administrators based on publicized institutional policy (i.e., not necessarily on a case-by-case basis; schools can set parameters). Retain the rule that the school should ask the student first if a loan disbursement should be made and extend that to Pell as well.
- Modify the assumption that Title IV aid is applied to institutional charges first. Allow aid that is specified for a particular COA (e.g., tuition) and that will not need to be returned under the source's rules to be deducted from institutional charges when determining the amount of unearned aid that must be returned by the institution.
- Allow more time for schools to process R2T4 by increasing from 45 days to 60 days the period of time the institution has to return funds.
- Amend the order of return language. Make the order of return subject to regulation but specify TEACH Grant and loans first, with a directive to repay least advantageous loans first. Remove references to FWS.
- Direct ED to seek public input on ways to decrease the burden and complexity of R2T4 regulations and procedures within a set period of time after enactment, and to conduct a subsequent negotiated rulemaking session devoted solely to R2T4.
- Require ED to report to Congress by a certain date, detailing ways in which R2T4 can be made less burdensome, including treatment of various program formats, such as modules. The report should include an evaluation of new rules regarding modules that were effective July 1, 2021. Allow an exemption from R2T4 requirements for institutions that implement smaller, more frequent disbursements
- Revise the order of the funds to be returned by the school in step six to allow for the Grad PLUS loan to be returned prior to the Unsubsidized Loan. Revised order would be Direct Grad PLUS Loan, Unsubsidized Direct Loan, Subsidized Direct Loan, then Direct Parent PLUS Loan.

3. **In competency-based education, disburse funds to cover direct costs as a student demonstrates competency mastery.** Congress should allow for a "pay as you go" disbursement process within competency-based education, similar to the Competency-Based Education Experimental Site Initiative, which disburses funds to cover direct costs as a student demonstrates competency mastery. With this model, higher education institutions should work with the student to "earn" the financial aid funding by providing periodic or incremental delivery at specific success points as the student works toward their educational goal. While ED took steps toward improving the disbursement process for competency-based education in its 2018 negotiated rulemaking session,[31] Congress should codify language that permits maximum flexibility for student aid disbursements to allow for existing and emerging innovations in educational delivery modalities.
4. **Establish a common overaward tolerance of $500 in cases where the student receives additional resources after packaging.** In the event a student receives more financial aid than his or her financial need or COA, the result can be an "overaward." Institutions must then adjust the student's financial aid package by cancelling or reducing awards in the package. Each institution should be allowed to determine the order in which aid is adjusted in the event of an overaward, which reflects the current practice that allows schools to determine the order in which aid programs are awarded to the student in packaging. Direct Loan overawards that remain after applying the overaward tolerance and adjusting the aid package should be repayable under the terms of the promissory note, as is currently the case under R2T4 rules. This recommendation seeks to ensure consistent treatment of students across the student aid programs.

[31] https://www2.ed.gov/policy/highered/reg/hearulemaking/2018/index.html

Currently, once a Direct Loan has been fully disbursed, there is no concept of an overaward; loan funds do not have to be returned. Before disbursement has occurred, however, a school must adjust the loan (or, under certain circumstances, other aid in the student's package) to the dollar for any unanticipated additional aid the student is awarded. By contrast, in the campus-based programs there is a $300 tolerance, a provision which dates to 1995.

For example, a student who is fully funded through campus-based and other aid but without a Direct Loan receives a $300 scholarship. That student's package is not required to be adjusted. Another student who was not fully funded but covered all of his unmet need with a Direct Loan also receives a $300 scholarship, before the loan is disbursed; his package must be adjusted for the full $300. Further, if the school has the loan funds in hand (but has not yet disbursed them to the student), the loan must be adjusted ahead of any campus-based aid. A third student's package contains FWS funds in addition to a Direct Loan; because of the FWS award, he may have a $300 tolerance applied and the loan does not have to be adjusted even if it was not yet disbursed. Consistency in the overaward provisions would reduce student confusion and provide a fairer approach among students with different aid packages.

5. **Standardize the rules surrounding the regaining of student eligibility.** Under current rules, a student may be paid a Pell Grant, campus-based aid, and TEACH Grant only for the payment period in which he or she gains eligibility but may receive Direct Loans for the entire loan period. For certain causes of ineligibility, the student can receive Title IV aid for the entire award year once the ineligibility is resolved. Requiring different administrative approaches depending upon which Title IV program is affected is neither administratively efficient nor easily understood by students and families. For most causes of ineligibility, this recommendation would reinstate a student's eligibility retroactively to the beginning of the award year (or loan period). For satisfactory academic progress (SAP) issues, reinstatement would affect only the current payment period, but that point in time would apply to all of the federal student aid programs.

6. **Reform ED's Experimental Sites Initiative.** The Experimental Sites Initiative (ESI) was designed to inform ED and Congress of the impact of potential policy changes. The authority allows ED to grant flexibility to institutions of higher education to test and evaluate alternatives to existing regulations. To date, ED has launched approximately 30 experiments. The evaluation and transparency of the outcomes of these experiments has been extremely limited. Too often, the experiments were launched with no evaluation plans, ambiguous data and reporting requirements, and no final reports.

For experimental sites to inform sound policy, there is a need for stronger research design and protocols, more rigorous data assessment, and greater transparency in disseminating the results of each experiment. Stakeholder input in experimental design is key to ensuring that experiments are relevant to the challenges institutions face in delivering Title IV aid, especially in the innovative learning models space where new challenges are most likely to surface.

As constructed today, the ESI program is antithetical to innovation. Experiments take too long to launch, participant selection is not transparent, and the linkage to student success is tenuous. Experiments are also too often constructed such that institutions may not have the capability to participate — either due to unrelated conditions (such as program review findings), experiment parameters, or their own internal resources. Historically, ESIs have functioned more as long-term regulatory relief instead of a pathway to meaningful change. Yet the program has great potential. The "try before you buy" approach can inform both policymakers and institutions, minimizing risk and, ultimately, enabling more thoughtful and meaningful policy changes. The program can be substantially improved through more rigorous construction and evaluation requirements which can be designed to provide earlier and regular feedback on the progress of the experiment. These requirements can be designed such that smaller, institution-proposed experiments can be launched that are timelier and that fully support innovation.

Congress should require ED to conduct an experimental design consultation with the Institute of Education Sciences (IES) prior to the start of an experiment, require greater transparency in communicating the outcomes of completed experiments, permit institutions of higher education to propose potential experiments to ED, and require that ED collaborate with IES on evaluation of all experiments. NASFAA also supports public, annual reporting on the progress and outcomes of ongoing and completed experimental sites.

7. **Create a demonstration project or develop funding streams to support grants for institutions to partner with Student Information System (SIS) providers to enhance their products to accommodate innovative learning models.** Technology is frequently cited as a barrier for institutions attempting to administer federal student aid for innovative learning models. Currently, SIS providers are incentivized to enhance their products to be compliant with new laws and regulations, or to offer new features (such as student portals) that reflect trends that are likely to be adopted by a significant number of institutions. SIS providers are unlikely to invest in their product to support innovative learning modalities with an uncertain market. As a result, proven and effective innovations may not be widely adopted because there is no technology solution to implement them. Well-resourced institutions can adopt workarounds (often manual), but those have shortcomings, including increasing compliance risk and incomplete assessment of innovation pilots. Lesser resourced institutions typically walk away from the opportunity. In short, institutions need technological enhancements before they can adopt innovative learning models, but software providers need a critical mass of institutions to adopt innovative learning models before they create technological enhancements. Federal funding can ameliorate some of the implementation costs required to modify systems, encouraging SIS providers to better support innovative learning models. Safeguards should be put in place to ensure that federal funds are not simply enabling a SIS provider to cover costs that would be a normal part of its development work.

Conclusion

These recommendations serve as a roadmap for our discussions and will remain "living" in nature, in that NASFAA will continue to revisit and refresh to reflect any new developments on Capitol Hill, the broad field of higher education, or long-term impacts from COVID-19. The need to modernize federal higher education law to ensure that all students have the opportunity to access and succeed in higher education has never been greater. NASFAA looks forward to continuing to work with lawmakers to make progress toward a full reauthorization of the Higher Education Act, and to engaging our membership — financial aid administrators with boots on the ground — on these recommendations.

The National Association of Student Financial Aid Administrators (NASFAA) provides professional development for financial aid administrators; advocates for public policies that increase student access and success; serves as a forum on student financial aid issues; and is committed to diversity throughout all activities.

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