



May 8, 2023

Manager of the Strategic Collections and Clearance Governance and Strategy Division
U.S. Department of Education
400 Maryland Ave. SW, LBJ, Room 6W203
Washington, DC 20202-8240

Docket ID ED-2023-SCC-0044

To whom it may concern:

On behalf of the National Association of Student Financial Aid Administrators (NASFAA), we respectfully submit to the U.S. Department of Education (ED) our comments on ED's proposed Revocation of Consent to Share Federal Tax Information Form (Docket ID ED-2023-SCC-0044).

NASFAA's membership consists of more than 29,000 financial aid professionals at nearly 3,000 colleges, universities, and career schools across the country. NASFAA member institutions serve nine out of every 10 undergraduates in the United States.

We eagerly anticipate full implementation of the FUTURE Act to simplify both the application process for federal student aid as well as enrollment and re-enrollment in federal student loan income-driven repayment (IDR) plans. We also understand and respect individuals' right to revoke consent for inter-agency sharing of their personal data and agree with the need for a simple and straightforward process by which they can do so.

We believe it is reasonable to provide an opportunity to revoke consent to share federal tax information (FTI) for IDR purposes because there is no clear end date for the use of FTI in this case. However, consent to share FTI for FAFSA purposes does have a clear end date since consent is provided only for the aid year for which the FAFSA is submitted. As such, we do not believe a consent revocation process is necessary for FAFSA purposes.

If, as we believe, a consent revocation process for sharing FTI for FAFSA purposes is not required by law, ED should avoid developing such a process. Permitting applicants or other parties completing the FAFSA to revoke consent to share FTI would be extremely disruptive to students and financial aid administrators alike, especially after an aid disbursement has been made. Even in cases where a student's aid had been fully disbursed prior to revocation of consent, financial aid administrators would presumably

have to cancel the student's aid because they would be prohibited from using FTI for mandatory reporting on that aid such as to the Common Origination and Disbursement (COD) system, IPEDS, the FISAP, or for audit purposes. Not even the most carefully worded disclosures on the consent revocation request could prepare students to lose their already-disbursed student aid in such instances.

If the department persists in allowing individuals to revoke consent for inter-agency sharing of their personal data for purposes of applying for federal student via the FAFSA, we urge FSA to take into consideration the following suggestions to improve clarity, accuracy, consistency, and ease of completion. Throughout the form, ED uses language that fails to recognize the potential universe of individuals who will use this form to revoke consent for disclosure and use of FTI. ED should carry language from the first section of the form to later sections to ensure it is clear the form also applies to parents and stepparents of dependent students and students' spouses, as well as to acknowledge that the form might be used to revoke consent for either FAFSA purposes, for IDR plan enrollment and re-enrollment, or both.

For instance (emphasis added below):

- "...the Secretary of Education will be unable to calculate **my** eligibility for federal student aid."
- "...student aid programs (including federal work-study) administered by **your** college,..."
- "...income-driven repayment plans for repaying **your** outstanding federal student loans..."
- "...**your** eligibility to participate in the student aid and loan repayment programs outlined on page 1..."
- "...impact **your** eligibility to participate in such programs in the future..."
- "...**I** will no longer be able to participate in the following:..."

ED uses appropriate language in the first section of the form, noting FTI is used for "determining the eligibility for, and amount of, federal student aid of yourself **or of others on whose behalf you shared your FTI...**" and, "... your FTI (**or, if you are married, your spouse's FTI**) ..." (emphasis added). ED should repeat this bolded language throughout the form wherever it mistakenly refers to only the student or borrower to acknowledge that others may be revoking consent.

Privacy Act Statement

Inclusion of the FAFSA Privacy Act Statement on the consent revocation form will undoubtedly confuse individuals completing this form because certain language, such as State Certification language and the Paperwork Reduction Act burden estimate of 1.5 hours, is specific to a financial aid applicant completing the FAFSA. If the Privacy Act Statement must appear on the form, ED must either:

- Add text about the Privacy Act as applies specifically to revocation of consent and provide a link to the Privacy Act Statement for individuals who want to read it in full,
- Add introductory language explaining the purpose of the Privacy Act Statement and the fact that the Revocation of Consent form copies Privacy Act language directly from the FAFSA, and as a result the wording is specific to FAFSA completers only, or

- Add introductory language explaining the purpose of the Privacy Act Statement and change wording in the Privacy Act Statement to accommodate parents and stepparents of dependent students and spouses of students or borrowers who may also be reading this information.

Consequences of Revocation of Consent on Student Aid Eligibility

ED must make several corrections to clarify that revocation of consent to share FTI will only definitively result in loss of eligibility for federal student aid. ED states on page 1 that revocation of consent to share FTI will lead to loss of eligibility for “future financial aid or any other aid programs as determined by an institution of higher education, state higher education agency, and/or designated scholarship organization that used FTI for the awarding of student aid” but states in the same section, “Your consent and approval are a condition of eligibility for federal student aid...” without mention of other aid sources. ED must reconcile these contradictory statements. Further, we do not believe ED can presume loss of eligibility for non-federal aid programs when consent to share FTI is revoked.

Current wording on the Revocation of Consent form implies the loss of federal student aid eligibility is permanent when consent is revoked. ED must make clear on the FAFSA consent revocation that it applies only to the current award year.

Examples include:

- “...will no longer be eligible for future federal student aid...”
- “... thereby impact your eligibility to participate in such programs in the future...”
- “...Education will be unable to determine your eligibility for, or repayment obligations under, such plans now or in the future...”

Other Areas for Clarification

- ED indicates on the Revocation of Consent form that revocation is effective once the form is processed by ED. ED should add an estimated processing time to the bottom of page 2 where it states processing will be confirmed by mail. ED should also update its supporting statements where it incorrectly indicates revocation is effective when the form is received. ED must also accommodate processing time by institutions when determining when revocation of consent becomes effective. Institutions will be considered to be using FTI every time they package student aid, perform professional judgment, adjust financial aid packages at a student’s request or due to receipt of outside assistance, originate a loan, disburse aid, pay Federal Work-Study (FWS) wages, and comply with mandatory reporting requirements, to name just a few everyday functions related to Title IV student aid administration. These are distinct processes performed by many individuals in different campus offices. To expect that institutions will be able to add a process to verify in COD that consent has not been revoked before performing any of these functions places an unrealistic burden on institutions. We recommend that ED update its

instructions to indicate that revocation of consent is effective when the processed request is received by the institution.

- At the beginning of page 2, ED states that revocation of consent will cause the completer to be unable to participate in “the following,” after which it provides a bullet point for student aid programs and one for IDR plans. As written, this implies the individual completing the form will lose access to both, whereas the form allows the completer to choose one or the other. An “or” should be added to the end of the first bullet for clarity.
- ED estimates 4.7 million students, parents, and spouses will revoke consent annually. We ask ED to provide more information about how it arrived at this estimate and to distinguish between those expected to revoke consent for the FAFSA versus for IDR enrollment or re-enrollment. ED must also add a burden estimate for institutions of higher education. Financial aid administrators will need to add procedures for identifying and tracking applications with withdrawn consent, adjust student aid packages, communicate loss of eligibility to students, and comply with any other requirements ED imposes.

Online Revocation of Consent Form

ED’s screenshot of the proposed online consent revocation form only provides an example of revoking consent for IDR purposes. We ask ED to provide its example for consent revocation for FAFSA purposes as well, so we may have an opportunity to comment. Without the benefit of a screenshot of the consent revocation for FAFSA purposes, we ask ED to apply all of our comments from the paper form to the online form.

Broadly, the online IDR consent revocation form fails to acknowledge that a borrower’s spouse may be revoking consent, so ED must update all language referring to “I,” “you,” and “your” to account for the possibility of a spouse revoking consent.

The form indicates that revoking consent to use FTI to determine eligibility for an IDR plan results in future ineligibility for a Direct Loan. We ask ED to correct this language since Direct Loan eligibility should be tied only to consent to disclose FTI for FAFSA purposes, not for IDR enrollment purposes.

Questions for ED to Address in Future Guidance

While not specific to the form itself, revocation of consent to share FTI raises new complications in processing federal student aid. We ask ED to provide guidance to institutions as soon as possible about the implications of revoked consent, especially if it occurs within a payment period when aid may have already been disbursed or is eligible to be disbursed. For instance:

- How will financial aid administrators be notified consent has been revoked?
 - Will a new ISIR transaction be issued removing FTI for the party that revoked consent?
 - Will all non-FTI information for that party remain on the ISIR?

- How will students be notified if parents, stepparents, or spouses have revoked consent? This burden should be assumed by ED, not institutions.
- How will financial aid administrators know for which aid year consent is revoked? Application cycles overlap significantly; would it be assumed that revocation of consent applied to all active cycles?
- ED indicates future federal student aid eligibility is impacted if consent to use FTI is revoked. How do the limitations of FTI use apply when consent is revoked after other types of aid eligibility (institutional, state, private) have been determined?
 - Would a non-federal entity be considered to be using FTI without authorization by allowing a previous eligibility determination to stand after consent was revoked?
- How will institutions document that they did not use revoked FTI for the purpose of the application for, awarding, or administering of financial aid after they received notification of revoked consent?
 - ED must clarify what is considered “use” of FTI. For instance, if an institution, state, or private entity determined eligibility for their own aid programs using FAFSA data while consent was in place, they should presumably be able to permit the student to retain eligibility for that aid after revocation of consent, provided the institution did not use the FTI for those purposes after consent was revoked.
 - So, for instance, if consent were in place on the date aid was awarded but consent was later revoked, the institution should be able to disburse institutional aid provided it didn’t involve using FTI to confirm eligibility after consent was revoked but prior to disbursing that aid.
 - Will institutions be required to delete FTI from their Student Information Systems when any party revokes their consent?
- How does revoked consent impact past, pending, and future federal student aid disbursements in the award year in which the revocation was requested?
 - If students were eligible for disbursements made prior to the revocation, how would institutions comply with required reporting such as COD and with audits and program reviews, given that the FTI upon which eligibility was established is no longer available?
 - Or, could institutions report a post-revocation disbursement as having been paid on a previous ISIR transaction when consent was still in place?
 - If ED determined that past disbursements of aid would have to be canceled if consent is revoked, what would happen to Federal Work-Study funds the student had already earned but were not paid out prior to the revocation of consent?
- If consent is given by one party on a joint tax return, can the other individual revoke consent?
 - If not, ED must make clear that the revocation of consent form cannot be submitted by such individuals.

Direct inter-agency data sharing is a powerful tool for ensuring equitable access to federal student aid and affordable student loan repayment plans. However, students, borrowers, parents, stepparents, and spouses must have access to a simple way to revoke their consent for their personal information to be shared this

way. We look forward to ED's revisions in the upcoming 30-day comment period as we work together to develop a consumer-friendly form.

We appreciate the opportunity to comment on this information collection. If you have any questions regarding these comments, please contact me or NASFAA Senior Policy Analyst Jill Desjean at desjeanj@nasfaa.org.

Regards,

A handwritten signature in black ink, appearing to read "J. Draeger", with a long horizontal flourish extending to the right.

Justin Draeger, President & CEO