Updated Report of the NASFAA Reauthorization Task Force

July 2016

NASFAA ADVOCACY

NASFAA
NATIONAL ASSOCIATION OF STUDENT FINANCIAL AID ADMINISTRATORS

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Forward to the July 2016 Update:

The Higher Education Act (HEA) of 1965 is the main authorizing legislation that sets forth the federal student aid programs for higher education. Like all legislation that creates and maintains federal programs, its life progresses in 4 to 6 year periods of relative stability, after which Congress re-examines the programs to determine whether they are still serving their purposes and whether those purposes needs adjustment. In the case of the HEA, this process of reauthorization has occurred multiple times, with varying degrees of timeliness.

Although Congress intended to reauthorize the HEA in 2014, little progress has been made in any comprehensive way as of July 2016. Several bills have been introduced that show the direction in which certain members of Congress would like to take reauthorization, but none has progressed past the introduction phase.

NASFAA originally released its reauthorization recommendations in 2013, based on work of a member-constituted Reauthorization Task Force (RTF) and approved by the NASFAA Board of Directors. NASFAA remains committed to the recommendations and principles outlined in the original 2013 RTF report. The Association has continued those efforts by convening several policy-oriented task forces and working groups to expand or enhance the RTF recommendations or to develop additional legislative recommendations. The Board has reviewed and, in most cases, approved the recommendations included in the subsequent task force reports.

The purpose of this report is to incorporate the work of the subsequent task forces into the original RTF report to form a comprehensive working document, and to update the membership on the recommendations of the following subsequent task forces and working groups:

- Campus-Based Aid Allocation Formula Task Force, June 2014
- Consumer Information Task Force, June 2014
- Public Service Loan Forgiveness Task Force, June 2014
- Servicing Issues Task Force, February 2015
- Innovative Learning Models Task Force, June 2015
- FAFSA Working Group, July 2015
- Return of Title IV Funds (R2T4) Task Force, September 2015
- Consumer Information and Law Student Indebtedness Task Force, March 2016

In this report, recommendations formulated subsequent to the original RTF report are identified by a blue "ADD" notation. Congressional or other activity that has occurred since July 2013, and is still active, is shown in a blue-shaded box following the recommendation to which it is relevant.

The NASFAA Staff
Washington DC, July 2016

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Introduction to the Original July 2013 Report:

NASFAA's Board of Directors convened a Reauthorization Task Force in March 2012 to produce a set of proposals for the reauthorization of the Higher Education Act 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.

In doing so, the task force was directed to consult with NASFAA's membership and to incorporate the following guiding principles:

- Promote fairness and equity for students across all sectors of postsecondary education;
- Promote policies that address the needs of disadvantaged students;
- Promote accountability;
- Encourage simplicity;
- Provide schools with the flexibility to respond to the specific needs of their students;
- Promote the primacy of need-based aid;
- Recommend policies that accommodate the diversity of academic delivery models;
- Promote the use of technology wherever possible;
- Eliminate statutory requirements that use financial aid to enforce unrelated social policies;
- Support recommendations with research and data analysis wherever possible; and
- Promote programs and efforts that encourage student financial and academic preparation at an early age.

Accordingly, the task force held almost 40 listening sessions at conferences across the country. Member comments were analyzed and condensed into recommendations. In addition, recommendations from the prior (2003) reauthorization task force were revisited and, where necessary, updated. This process resulted in 61 recommendations, presented to the Board in a condensed format in March 2013. One recommendation was rejected, three were returned to the task force for further development, and 57 were accepted.

This report presents the accepted recommendations in fuller detail, and expanded discussions of the three issues still pending Board approval.

General Provisions

1. Date of Issuance of Final Report for a Program Review

Recommendation

- **Require the Department of Education to provide the final report for a Program Review to an institution within 60 days after receipt of the institution's response.**

Statutory Citation

Master Calendar	Program Participation Agreements (hearings; audits)	Program Review
HEA §482	HEA §487(b), (c)	HEA §498A
[20 U.S.C. 1089]	[20 U.S.C. 1094]	[20 U.S.C. 1099c–1]

Background, Rationale, and Implementation Considerations

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. There have been instances of years-long delays.

The RTF has heard that delays are sometimes due to reviewers trying to get a policy question resolved to the school's benefit. However, if existing rules and guidance are unclear or insufficient enough to cause the program reviewer to seek further guidance, the school should not be held to account either.

2. Overaward Tolerance

Recommendation

- **Establish in the General Provisions section of law a common overaward tolerance of $500 in cases where the student receives additional resources after packaging, applicable to the campus-based and Direct Loan Programs.**

Statutory Citation

FFELP (overawards, applicable to DL)
HEA §428G(d)(2)
[20 U.S.C. 1078–7(d)(2)]

FWS (tolerance for earnings above need)
HEA §443(b)(4)
[42 U.S.C. 2753(b)(4)]

Background, Rationale, and Implementation Considerations

This recommendation seeks to ensure consistent treatment of students across the Title IV programs (other than Pell Grant, which is not subject to overawards resulting from other resources). The amount of Pell Grant actually disbursed or expected to be disbursed should be used to determine overawards, to account for the student's ability to postpone receipt to later terms in view of new lifetime limits. The school should be allowed to determine the order in which aid is adjusted (reflecting 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 tolerance and adjusting the aid package should be repayable under the terms of the promissory note, as is currently the case under Return of Title IV Funds rules.

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 (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.

The FSA Handbook advises that "When a student's aid package includes assistance from multiple programs and those programs have different overpayment regulations/requirements, a school must apply the most stringent/restrictive requirements."

The RTF believes that consistency in the overaward provisions would reduce student confusion and provide a fairer approach among students with different aid packages.

3. Ability to Benefit

Recommendation

- **Allow a student who does not have a high school diploma or its recognized equivalent, and was not home-schooled, to meet the general student eligibility requirement concerning academic credentials by completing, with the equivalent of a grade of C or better, at least 6 credit hours of college coursework (or the equivalent) that is applicable toward a degree or certificate.**

Statutory Citation

General Student Eligibility
HEA §484(d)
[20 U.S.C. 1091(d)]

Background, Rationale, and Implementation Considerations

The Consolidated Appropriations Act for fiscal year 2012 barred students without either a high school diploma or its recognized equivalent (generally a General Education Development (GED) credential), unless homeschooled, from receiving federal student aid, effective July 1, 2012. Previously, students could also receive Title IV funds if they demonstrated the ability to benefit (ATB) from the education offered. Traditionally, the eligibility of students without a high school diploma or GED was based on the results of ED-approved tests that were developed to measure ATB. In August 2008, based on a successful Experimental Sites project, Congress added to the law a provision that allowed students to demonstrate the ability to benefit by satisfactory completion of six credit hours or the equivalent, if applicable toward a degree or certificate offered by the institution. That amendment was effective upon enactment; governing regulations became effective July 1, 2011. Thus, this provision was in place for a relatively short span of time before it was knocked out by a general rescission of the ATB concept.

Forcing students to first get a GED and then enroll in a postsecondary degree or certificate program prolongs their time to degree completion and in many cases impacts their ability to obtain well-paying jobs and support their families.

The RTF recommends that the six-credit provision be reinstated, with some modification. A student who does not have a high school diploma or its recognized equivalent, and was not home-schooled, could meet the general student eligibility requirement concerning academic credentials by successfully completing, with the equivalent of a grade of C or better, at least 6 credit hours of college coursework that is applicable toward a degree or certificate.

July 2016 Update

Congressional Action in the 114th Congress (2015-2016)

One piece of legislation enacted into law impacts this recommendation:

- Consolidated Appropriations Act, 2016 [P.L. 114-113]: amends the definition of career pathways program to align with Workforce Innovation and Opportunity Act (WIOA). While this change is a step forward, NASFAA's recommendation differs substantially from the new version of ability to benefit.

One bill has been introduced that would impact this recommendation:

- Restoring Investment in ATB Student Education (RISE) Act [H.R. 4158]: would include a closer version of NASFAA's recommendation.

4. Selective Service Registration

Recommendations

- **Eliminate the provision requiring institutions to monitor and enforce selective service registration (assign the responsibility for determination to Selective Service).**
- **Consider a path that allows students who failed to register, but who are past the age of registration, to regain eligibility (possibly through community service or federal awards restricted to the cost of tuition and fees only).**

Statutory Citation

General Student Eligibility
HEA 484(n)
[20 U.S.C. 1091(n)]

Military Selective Service Act
50 U.S.C. Appendix, 462(f)

Background, Rationale, and Implementation Considerations

The RTF recommends elimination of the requirement to be registered with Selective Service from the general student eligibility criteria. This recommendation has been made repeatedly for a long time. At the very least, responsibility for determining whether a failure to register was knowing and willful should be shifted back to Selective Service and some path be constructed that allows students who knowingly failed to register, but who are past the age of registration, to gain eligibility (possibly through community service or federal awards restricted to the cost of tuition and fees only).

July 2016 Update

Congressional Action in the 114th Congress (2015-2016)

Several bills have been introduced that would impact the Selective Service:

- To Repeal the Military Selective Service Act [H.R. 4523]: would eliminate Selective Service entirely and would prohibit denial of rights, privileges, benefits, or employment on the grounds of failure to register for the Selective Service prior to the repeal
- Draft America's Daughters Act of 2016 [H.R. 4478]: would require females between the ages of 18 and 26 to register for the Selective Service, effective 90 days after passage
- National Defense Authorization Act for Fiscal Year 2017 [S. 2943]: would require females to register with the Selective Service who turn 18 on or after January 1, 2018

5. Drug-related Ineligibility

Recommendation

- **Eliminate the tie between student eligibility and drug convictions.**

Statutory Citation

General Student Eligibility
HEA § 484(r)
[20 U.S.C. 1091(r)]

Background, Rationale, and Implementation Considerations

A federal or state drug conviction—if reported by the student—can disqualify a student for federal student aid if it occurred during a period of enrollment for which the student was receiving federal student aid. Convictions occurring outside enrollment periods as an aid recipient do not count, unless the student was denied federal benefits for drug trafficking by a federal or state judge. Additionally, a conviction that was reversed, set aside, or removed from the student's record does not count, nor does one received when the student was a juvenile count, unless he or she was tried as an adult.

Many if not most schools currently have admissions and student conduct rules which address drug use. Institutions generally have internal policies and procedures that would result in suspension or expulsion of students who are convicted of drug abuse while enrolled.

The RTF believes that financial aid should not be used to enforce social policies. Individuals cannot receive federal financial aid while incarcerated in federal or state facilities. Once released and again possibly eligible for aid, these individuals have already satisfied punishment imposed for conviction; education may be their best route to rehabilitation.

July 2016 Update

Congressional Action in the 114th Congress (2015-2016)

Two different bills have been introduced that would modify or repeal this provision:

- Fair Access to Education Act [H.R. 3561]: would exclude a misdemeanor charge for possession of marijuana from its current classification as a "drug-related offense"
- Stopping Unfair Collateral Consequences from Ending Student Success (SUCCESS) Act [H.R. 4004/S. 2557]: would completely repeal the drug-related ineligibility provision

6. Reinstatement of student eligibility

Recommendation

- **Standardize the rules surrounding the regaining of student eligibility across the Title IV programs to the extent possible.**

Statutory Citation

General Student Eligibility
HEA §484(j)
[20 U.S.C. 1091(j)

Background, Rationale, and Implementation Considerations

Under current rules, a student may be paid 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 the recipient of the Title IV assistance.

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 TIV programs.

7. I-9 Employment Eligibility Verification

Recommendation

- **Include the results of database matches as acceptable in lieu of documents used to establish employment eligibility for employment.**

Statutory Citation

HEA §484(g)(2)

Background, Rationale, and Implementation Considerations

Currently, schools are required to collect copies of Social Security Cards, Alien Registration Cards, citizenship documents, or passports even though citizenship, social security and INS matches are performed in the federal student aid application process. This recommendation would simplify the process without compromising the law's intent of verifying identity and eligibility for employment.

8. Non-automatic Allowable Charges (Cash Management)

Recommendation

- **Allow schools to use Title IV funds to pay all allowable education-related costs charged to the student's institutional account without any additional authorization, unless the student acts to place restrictions on automatic payment for certain charges.**

Statutory Citation

This is essentially a regulatory issue, based on very general authority to regulate provided by HEA §487 (20 U.S.C. 1094).

Background, Rationale, and Implementation Considerations

Currently, the Department of Education (ED) requires a school to obtain a student's permission to credit Title IV funds to charges beyond the automatically allowable costs of tuition, fees, institutionally contracted room and board, and, for Pell Grant recipients, bookstore charges related to the requirement to provide a means of obtaining books and supplies early in the payment period. Schools can use Title IV funds to pay other education-related costs charged to the student's institutional account only if the student authorizes it (i.e., only if the student opts-in to such use of Title IV funds by the school).

The RTF recommendation reverses that process. A school would have to inform students of its policy and provide an opt-out by which the student could restrict automatic application of Title IV funds to only tuition, fees, institutionally contracted room and board, and early bookstore charges, unless the student has authorized payment of other charges.

Currently, the Department of Education (ED) requires a school to obtain a student's permission to credit Title IV funds to charges beyond the automatically allowable costs of tuition, fees, institutionally contracted room and board, and bookstore charges related to the requirement to provide a means of obtaining books and supplies early in the payment period. Schools can use Title IV funds to pay other education-related charges only if the student authorizes it (i.e., only if the student opts-in to such use of Title IV funds by the school). NASFAA's Reauthorization Task Force (RTF) recommends reversing that process by allowing schools to use Title IV funds to pay all allowable education-related costs charged to the student's institutional account. Schools would have to inform students of this policy and provide an opt-out by which the student could restrict application of Title IV funds to only tuition, fees, and institutionally contracted room and board unless the student has authorized payment of other charges.

Students and families do not understand the options currently available or the requirement that schools disburse funds to students even if there are outstanding charges on the student's account. An "opt-out" process is less cumbersome for the student. Since this requirement is a student account function, this requirement should not be tied to the financial aid awarding process.

The FAFSA and/or award notice would include a statement that funds will be credited to incurred institutional charges unless the student opts out of certain ones.

9. Pay-as-you-go disbursement for competency-based education

ADD

Recommendation

- **In competency-based education, disburse funds to cover direct costs as a student demonstrates competency mastery.**

Background, Rationale, and Implementation Considerations

This recommendation was put forward by the Innovative Learning Models Task Force in June 2015. The task force recommends a "pay as you go" disbursement process within competency-based education, similar to the current 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.

10. Hybrid/mixed modality for direct assessments

ADD

Recommendation

- **Allow direct assessment components within traditional learning programs to qualify as eligible for Title IV funds.**

Background, Rationale, and Implementation Considerations

This recommendation was put forward by the Innovative Learning Models Task Force in June 2015. The task force is encouraged by the current Experimental Site Initiative allowing mixed modality programs to receive federal financial aid funds, and recommends a change to both HEA section 481(b)(4) and 34 CFR 668.10(a)(1), which currently require a program utilizing direct assessment to use direct assessment for the entire program. This change would allow students to move more quickly through the areas in which they are knowledgeable and receive a more traditional educational experience in those areas which may be new or challenging.

Need Analysis

1. Prior-Prior Year (PPY) Data

Recommendation

- **Implement the use of income data from the second prior year, commonly referred to as prior-prior year, as the basis for the EFC calculations, across the board.**

Statutory Citation

Need Analysis Definitions (total income)
HEA §480(a)(1)(A)
[20 U.S.C. 1087vv(a)(1)(A)]

Background, Rationale, and Implementation Considerations

Prior-prior year (PPY) data provides more accurate income data in greater detail, with a higher likelihood of availability from the IRS data retrieval tool. Earlier availability of income for need analysis allows earlier notification to, and planning by, students and their families. Schools would retain professional judgment authority to treat individual circumstances.

The use of PPY data can enhance verification efforts. It facilitates a better alignment of the aid application process and the admissions application process for new students. As a result, it offers more time for students to evaluate the awards from institutions to make an informed decision about net costs for attendance at the respective institutions.

NASFAA conducted a study to determine whether basing need analysis on prior-prior year data rather than immediately prior year data would significantly affect the distribution of federal student aid funds, particularly Pell Grant funds.

July 2016 Update

This recommendation was reinforced by NASFAA's FAFSA Working Group and received widespread support from other organizations.

Utilizing existing legislative authority, President Obama announced via executive authority in September 2015 that the Department of Education (ED) would adopt PPY for all applicants beginning with the 2017-18 award year FAFSA.

A report detailing the NASFAA study results, *A Tale of Two Income Years: Comparing Prior-Prior Year and Prior-Year through Pell Grants Awards*, was published in October 2013. A second report, *Great Expectations: Implications of Implementing Prior-prior Year Income Data for the FAFSA*, released by NASFAA in May 2015, presented further implications and analysis from a working group of representative higher education professionals.

In October 2015 NASFAA established a PPY Implementation Task Force to run through March 2017. The task force will:

(1) Proactively identify implementation issues and work through the NASFAA staff and collaborate with the US Department of Education on ensuring a successful rollout of PPY;
(2) Solicit and deliver feedback from the NASFAA membership and board of directors on PPY rollout;
(3) Identify best practices, Q&As, and trainings related to PPY for the NASFAA membership;
(4) Identify and address any issues impacting financial aid computer systems during a PPY transition;
(5) Facilitate collaborations with other key stakeholders invested in PPY, including the admission and state grant agency communities; and
(6) Conduct a post-mortem as PPY is rolled out, delivering final recommendations on the evolution of PPY going forward.

Congressional Action in the 114th Congress (2015-2016)

Three different bills have been introduced that would codify this change into law:

- Simplifying the Application for Student Aid Act [H.R. 3177]: would make PPY permanent
- Simplifying Financial Aid for Students Act [S. 1872/H.R. 3446]: would make PPY permanent
- Simplifying the Application for Student Aid Act [H.R. 5528]: would make PPY permanent and would also modify a small provision in current law that will facilitate the earlier release of final Pell Grant numbers from the Department of Education (ED), allowing colleges to provide accurate scholarship and grant information much earlier. Supported by NASFAA, this bill passed out of the House Committee on Education and the Workforce on June 23, 2016.

2. Auto Zero – Dislocated Worker Qualification Criterion

Recommendation

- **Eliminate the dislocated worker criterion as an automatic qualifier for the auto-zero computation.**

Statutory Citation

HEA § 479(c)
[20 U.S.C. 1087ss(c)]

Background, Rationale, and Implementation Considerations

Use of the dislocated worker criterion to qualify for a zero "EFC" has unintended effects, distorting and significantly reducing EFC for families where the income of the dislocated worker is not representative of the family's finances. The appropriate vehicle for consideration of reduced income and the impact of the reduction is the discretion of the financial aid administrator authorized in HEA section 479.

An automatic zero expectation can be a severe understatement of family ability to pay for educational expenses, if substantial family assets that would significantly increase the EFC are ignored because of this provision. While other qualification criteria for the auto-zero computation require relatively simple family circumstances reflected in the use of simpler versions of the IRS Form 1040, the receipt of federal means tested benefits, or an income sufficiently low as to not require filing an income tax return, the dislocated worker criterion can permit a family with extremely high levels of assets to qualify for a zero EFC. This outcome distorts the purpose of "need" analysis, and gives an unfair advantage to some families that are actually more able to contribute than others.

July 2016 Update

NASFAA established a FAFSA Working Group in July 2015 to develop a model that would simplify the application process while still ensuring program integrity and accurate targeting of federal funds. The resultant proposed model does not consider dislocated worker status.

Congressional Action in the 114th Congress (2015-2016)

One bill has been introduced that would impact dislocated worker qualification criterion:

- Financial Aid Simplification and Transparency (FAST) Act [S. 108]: would radically alter the methodology for determining Title IV aid eligibility, simplifying the process to very few data elements, to be retrieved from the IRS, thus eliminating the need for alternate qualifications or calculations

3. FAFSA Simplification: Auto Zero

Recommendations

- **Add receipt of SSI, TANF or General Relief benefits as sole qualifiers for an Auto Zero EFC determination.**
- **Students/parents who respond that they receive or received these benefits would not have to complete any questions on the FAFSA regarding income or asset information.**
- **Verification of benefits would be conducted either though a database match (SSI) or at the school.**

Statutory Citation

HEA § 479
[20 U.S.C. 1087ss]

Background, Rationale, and Implementation Considerations

Recipients of these benefits have already completed a need analysis process for a governmental agency and should not have to prove again that they are needy. This recommendation would allow students who have, or whose families have, already demonstrated high need to auto-qualify for maximum federal student aid and would reduce the FAFSA to personal identity and non-income eligibility questions.

July 2016 Update

NASFAA established a FAFSA Working Group in July 2015 to develop a model that would simplify the application process while still ensuring program integrity and accurate targeting of federal funds. The resultant proposed model would assign maximum Pell Grant eligibility to any applicant whose parent (if dependent) or household member (if independent) receives Supplemental Nutrition Assistance Program (SNAP) and/or Supplemental Security Income (SSI) benefits.

Effective with the 2017-18 FAFSA, the Department of Education added Medicaid to the list of means-tested benefits which help an applicant qualify for the simplified needs test or for an automatic zero EFC.

Congressional Action in the 114th Congress (2015-2016)

One bill has been introduced that would impact this recommendation:

- Financial Aid Simplification and Transparency (FAST) Act [S. 108]: would use means-tested federal benefits to automatically qualify a student for Pell Grant. For all other applicants, it would radically alter the methodology for determining Title IV aid eligibility, simplifying the process to very few data elements, to be retrieved from the IRS, thus eliminating the need for alternate qualifications or calculations

4. Simplified Needs Test

Recommendation

- **Eliminate the simplified needs test.**

Statutory Citation

HEA § 479(b)
[20 U.S.C. 1087ss(b)]

Background, Rationale, and Implementation Considerations

Determination of eligibility is complex enough to confuse applicants and be difficult to explain, especially with regard to tax forms that *could have been* filed. In some cases, the exclusion of substantial assets causes unnecessary expenditures which could be targeted at needier applicants. The exclusion of home equity and retirement/pension plans from the definition of assets and the asset protection allowance already provide relief within the formula.

Retaining a properly designed and updated auto-zero EFC option should be sufficient to identify populations for whom assumptions of maximum need are appropriate.

As an alternative approach, increased data availability from the IRS data retrieval tool may allow for an appropriate flow of questions during the application process to determine whether a collection of asset information is necessary based on the analysis of appropriate income items from tax filings.

July 2016 Update

NASFAA established a FAFSA Working Group in July 2015 to develop a model that would simplify the application process while still ensuring program integrity and accurate targeting of federal funds. The resultant proposed model creates three paths for assessing financial need, incorporating the concept that families with certain financial characteristics need not be asked a full range of income and asset information. A graphic representation of the model is attached to this report as Appendix B.

Effective with the 2017-18 FAFSA, the Department of Education added Medicaid to the list of means-tested benefits which help an applicant qualify for the simplified needs test or for an automatic zero EFC.

Congressional Action in the 114th Congress (2015-2016)

One bill has been introduced that would impact this recommendation:

- Financial Aid Simplification and Transparency (FAST) Act [S. 108]: would radically alter the methodology for determining Title IV aid eligibility, simplifying the process to very few data elements, to be retrieved from the IRS, thus eliminating the need for alternate qualifications or calculations

5. Cost of Attendance

Recommendations

- **Clarify institutions' authority to reduce non-tuition cost of attendance (COA) components for factors identified by the institution, such as less-than-full-time enrollment or distance education.**
- **Delete other references to cost determinations for telecommunications and distance education.**

ADD • **Include prior learning assessments in the cost of attendance.**

Statutory Citation

HEA § 472
[20 U.S.C. 1087ll]

Conforming amendments to delete 472(10) and 484(l)(2)
[20 U.S.C. 1087ll(10) and 20 U.S.C. 1091(l)(2)]

Background, Rationale, and Implementation Considerations

Current statute refers to enrollment status distinctions only in the tuition and fees category of COA components. The law excludes certain categories of cost components altogether for less-than-half-time enrollment. The Department of Education (ED) interprets these aspects of the law as an indication that Congress did not intend living expenses to be reduced based solely on part-time enrollment statuses of half-time or greater, even though the law gives institutions the authority to determine allowances ["an allowance (as determined by the institution) for room and board costs incurred by the student.."]. Consequently, students enrolled at half-time or above, but less than full-time may receive up to maximum annual loan amounts while making slow progress towards completing their programs of study, accruing larger debt and potentially exhausting federal loan eligibility before completing their program and over-borrowing in terms of their capacity to repay their loans from future earnings.

An institution should be able to set allowances and policies that are relevant to its student demographics and mission. Thus, if a school's part-time population consists overwhelmingly of adult learners who are employed full-time, the school can adjust its cost of attendance allowances to recognize that those students do not need extra assistance to subsist. Professional judgment could still be used to increase the COA for those students legitimately needing the maximum resources while enrolled less than full-time.

ADD Title IV aid should be allowed to pay for costs associated with prior learning assessment preparation. The Innovative Learning Models Task Force put forward this recommendation. 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 funding to cover the related costs. This change might encourage more students to apply their prior learning towards the completion of a program. An Experimental Site Initiative permits Title IV aid to cover some varieties of prior learning assessments.

July 2016 Update

Congressional Action in the 114th Congress (2015-2016)

- One bill was introduced, the Flexibility to Innovate for College Affordability Act [H.R. 3372], that allows prior learning assessments to be included in COA.

6. Independent Student Definition Related to Homelessness

Recommendation

- **Eliminate homelessness from automatic independent criteria and move to override authority as an example.**

Statutory Citation

Need Analysis Definitions (independent student)
HEA § 480(d)(1)(H) and (I)
[20 U.S.C. 1087vv(d)(1)(H) and (I)]

Background, Rationale, and Implementation Considerations

The complexity of the definitions and determinations of homelessness has resulted in misunderstanding and inaccuracies observed by aid administrators in the answers to the FAFSA dependency question.

7. Reflect regional cost of living in Income Protection Allowance (IPA)

Recommendation

- **Direct ED to study, and report back to Congress, the possibility of adjusting the IPA on a regional basis with periodic COLA adjustments based on regional variations in the COLA.**

Statutory Citation

This recommendation would likely be incorporated into the reauthorizing legislation.

Background, Rationale, and Implementation Considerations

Currently the same income protection allowance (based on family size and number in college) is used nationwide, though there is great variation in cost of living across the U.S. A Government Accountability Office report, GAO-09-825, 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. We identified three possible COLA options that could be used in the federal aid formula. These COLAs could increase Pell Grants and other financial aid for a small percentage of students from high-cost areas but could also further complicate the process for calculating and administering federal student aid." This text suggests that further study is needed.

8. EFC Formula – Foreign Income Exclusion

Recommendation

- **Report the amount of foreign income exclusion as untaxed income on the FAFSA.**
- **Expand the IRS data retrieval tool to include this data element.**

Statutory Citation

Need Analysis Definitions (untaxed income and benefits)
HEA § 480(b)(2)
[USC 1087vv(b)(2)]

Background, Rationale, and Implementation Considerations

The federal tax code allows qualified individuals to exclude certain forms of income earned in another country. The need analysis formula does not utilize "excluded" foreign income. However, the primary purpose of need analysis is to determine a family's financial strength and ability to contribute to educational expenses. In many instances, income earned in another country may be the individual's major or only source of income. Excluding it presents an inaccurate picture of the family's financial strength relative to other FAFSA applicants.

9. EFC Formula –Business Losses/Capital Losses/Other Losses Resulting in Negative Adjusted Gross Income

Recommendations

- **Add 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 Federal Methodology (FM) need analysis purposes.**
- **Utilize the IRS data retrieval tool to identify that income.**

Statutory Citation

Need Analysis Definitions (untaxed income and benefits)
HEA § 480(b)
[20 U.S.C. 1087vv(b)]

Background, Rationale, and Implementation Considerations

The FM need analysis formula determines a family's financial strength and ability to contribute to educational expenses, and facilitates comparison of one family's need to another's. "Paper" losses allowed as part of the IRS tax code artificially reduce income and, as a result, artificially reduce EFC. ED would need to determine, in consultation with IRS and representative schools that have experience in this practice, which losses should be included in income and how to capture that information through the IRS data retrieval tool.

10. Federal Methodology (FM) EFC Formula – Business and Farm Assets

Recommendations

- **Eliminate the small business exclusion (count business assets regardless of the number of employees).**
- **Eliminate the exclusion of farm value from assets.**

Statutory Citation

Need Analysis Definitions (assets)
HEA § 480(f)(2)
[1087vv(f)(2)]

Background, Rationale, and Implementation Considerations

The threshold for defining a "small" business is 100 employees, which seems excessive. FM already adjusts business equity downward on a sliding scale to protect the income-producing capacity of the asset. It may make more sense to reassess the adequacy of the protection allowance than exclude businesses altogether.

The nature of family farms has changed and is more akin to a business. If assets from "small" businesses are reinstated in the need analysis, so should farm assets. Farm assets (other than investment farms) are adjusted in the same way as business value, using the same sliding scale (one table is used for both in the EFC formula). As for businesses, the adequacy of the farm asset adjustment might need to be reviewed. The value of a family home situated on a farm could and should be excluded.

11. IRS/FAFSA Data Exchange

Recommendation

- **Direct the Secretary to continue to expand and refine the IRS/FAFSA data exchange process to include all current FAFSA data elements that can be obtained from the federal tax return, to support a more robust FM need analysis formula (e.g. interest/dividend income, IRS distributions, social security income, certain forms of untaxed income, etc.).**

Statutory Citation

Need Analysis Definitions (total income)
HEA §480(a)(1)(B)
[1087vv(a)(1)(B)]

Background, Rationale, and Implementation Considerations

Now that the IRS/FAFSA Data Exchange process has been implemented, the number of tax return data elements collected could be expanded significantly in an effort to increase the accuracy of currently required FM data elements. The possible inclusion of new tax return data elements could also be considered.

The accuracy of the financial information collected from families to determine their expected contribution toward educational expenses and eligibility for federal forms of financial aid is paramount to a fair and equitable process. The addition of an expanded number of data elements supports this goal and reduces the verification burden on colleges and universities. The addition of an expanded set of tax return data elements would support a more robust need analysis formula.

July 2016 Update

NASFAA's FAFSA Working Group reinforced this recommendation, and recommended expansion of the IRS DRT to include all line items of the 1040 and W2 information.

Congressional Action in the 114th Congress (2015-2016)

Three bills have been introduced that would encourage expansion of the IRS Data Retrieval Tool (IRS DRT):

- Financial Aid Simplification and Transparency (FAST) Act [S. 108]: would retrieve all income information for financial aid applicants from the IRS
- Student Financial Aid Simplification Act [H.R. 3265]: would allow the Department of Education to collect more information from the IRS, reducing the number of questions of the FAFSA by 31
- Simplifying the Application for Student Aid Act [H.R. 5528]: would encourage ED to continue to enhance the IRS/FAFSA data exchange through automatically populating information and skip logic

12. Utilize the 1040 as the Federal Student Financial Aid Application

Recommendations

- **Direct the Department to perform a feasibility study with the IRS to develop a process in which the tax return is the primary federal financial aid application vehicle.**
- **Amend both HEA and tax law to authorize use of the tax return in this way.**

Statutory Citation

HEA § 483(f)
[20 U.S.C. 1090(f)]

Background, Rationale, and Implementation Considerations

Currently most of the financial data used to complete the FAFSA comes from the tax return. The IRS data retrieval tool provides direct population of those items, and ED is moving significantly towards mandatory use through the verification process. However, filing a FAFSA is still a separate process from filing the tax return and requires the student and family to initiate the student aid process on an entirely different website. The aid application process could be merged with the tax return process by providing a financial aid application section on or with the 1040 as an option for applying for federal student aid. This could eliminate the FAFSA application for students and parents who file tax returns.

This idea builds on the success of the FAFSA/IRS data retrieval tool by making filing taxes and applying for financial aid one process. If prior-prior year need analysis is adopted, some of the timing issues would be eliminated. In that case, the check off would actually be for the previous year's tax return data.

For example, families could indicate on the 1040 that they want to apply for federal aid by checking a box or completing a supplemental 1040 form. The FAFSA would still be needed as an option for families that do not file tax returns or will not file by institutional deadlines and as a form that could be updated or corrected.

July 2016 Update

Congressional Action in the 114th Congress (2015-2016)

One bill has been introduced that would impact this recommendation:

- Simplifying the Application for Student Aid Act [H.R. 5528]: would require ED to examine whether a tax return can be used to generate an EFC without additional action on the part of the student

13. Single Methodology and Application Limits Use of FAFSA Data by States and Institutions

Description of Issue

In response to widespread concern about the actual and possible proliferation of need analysis application forms and the associated family/student burden in filing multiple forms, the 1992 HEA Amendments mandated a single methodology as well as a single, no-charge application form (FAFSA) for determining Title IV eligibility. Congress also provided the Secretary with authority to include a limited number of data elements to the FAFSA that were not required to determine federal eligibility, but that could be included as an incentive for states and institutions to use the FAFSA and Federal Methodology for awarding their own aid.

Given that aid application was a paper-based process, such concerns about respondent burden were not unreasonable. However, today the vast majority—at least 98 percent according to recent public statements by FSA—of Title IV aid applicant file their FAFSAs electronically. Thus, concerns regarding the need for families to complete multiple applications in hard copy formats—with much of the same household and financial information collected multiple times—are outdated. In fact, today's FAFSA on the Web (FOTW) encourages applicants to complete a separate form—via the Data Retrieval Tool (DRT)—at the IRS website. Arguably, then, FOTW is a multi-form financial aid application process—while in the FOTW session, an applicant can initiate a second session at the IRS website. Today it is more appropriate to think about the aid application process as a series of concurrent online sessions instead of physically distinct application forms.

Recommendation

At this time the RTF is not recommending a statutory provision to direct the Secretary to use technology in a more useful and efficient manner. The RTF does not want the Department to 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 IRS-DRT 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 within the HEA an appropriate framework for an aid application process that is characterized by on-line activity between the applicant and a variety of aid providers—chiefly the federal government, states and institutions.

Section 483 of the HEA prescribes the forms that are to be used by students and their families to apply for federal financial aid. The breadth of the statutory prescription extends to specifying both paper-based and electronic FAFSA forms. The proposed revision to the application process envisions a scheme wherein the completion and submission of an aid application "form" is accomplished in an online "session."

In particular, Congress should use the statute to 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. Outmoded references to paper FAFSAs must be eliminated. It is also imperative for third-party financial aid providers (and their agents) to have access to federal applicant information. An existing statutory provision—HEA 483(a)(10)—permits the sharing of federally-collected financial aid application data with states and institutions.

Specific and/or optimal operational features are not discussed here. However, the Department's successful implementation of the IRS DRT function in the FOTW application provides 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.

Congress should not be overly prescriptive with regard to the financial aid application process. Congress should, however, provide the Secretary with flexibility to execute Congress' policy objectives in a manner that optimizes the efficient and effective use of technology.

Rationale for Recommendation

The IRS-DRT 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. Although the IRS-DRT is essentially a solution developed and agreed to by two federal agencies, standards currently exist to facilitate sharing of information in a non-proprietary fashion. An application programming interface (API) is a readily available and common way in which various software components (e.g. FOTW and the IRS-DTR, or www.twitter.com and the various Twitter apps for tablets and smart phones) communicate with each other. It seems a similar solution could be found to facilitate communication between the federal government and various third parties in the aid application context.

14. Treatment of Unmarried Partners or Same Sex Couples

Recommendations

- **For the parents of dependent students, allow unmarried partners who live together, regardless of sex, to be counted as a parent on the FAFSA ("Parent 1" and "Parent 2"), to accord those partners the same treatment as married couples and calculate need on combined incomes and total household. The FAFSA question on "married" would have to be altered to accommodate these situations.**
- **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.**
- **Adjust the FAFSA process so that the IRS data retrieval can accommodate such couples filing separately.**
- **Clarify in the dependency override and professional judgment sections of law that FAAs 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.**

Statutory Citation

Need Analysis Definitions (family size)
HEA § 480(l)
[20 U.S.C. 1087vv(l)]

Background, Rationale, and Implementation Considerations

On April 29, 2013, the Department of Education (ED) announced a change in the way it views unmarried parents of dependent students for the purpose of completing the FAFSA. Beginning with the 2014-15 award year, income and other information from both of a student's legal parents will have 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, the U.S. Supreme Court ruled that DOMA is unconstitutional.

Meanwhile, the 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, 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.

The RTF seeks to recognize the reality of current living situations and to assess family financial strength more accurately. 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 have to 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.

According to the Williams Institute (UCLA School of Law), based on the U.S. Census, there are nearly 650,000 same-sex couples in the United States, of which approximately 114,100 are legally married and over 108,600 are in civil unions or registered domestic partnerships. As of 2011, about one in five same-sex couples are raising children under age 18.

According to the National Council of State Legislatures, twelve states (Connecticut, Delaware, Iowa, Maine, Maryland, Massachusetts, Minnesota, New Hampshire, New York, Rhode Island, Vermont, Washington) plus the District of Columbia allow same-sex marriages as of May 2013. An additional four states allow civil unions that afford all state-level spousal rights to same-sex couples. Several other states grant varying degrees of state-level spousal rights to unmarried couples in domestic partnerships. Polls conducted by the Pew Research Center show that public support for single-sex marriage has increased from 35% in 2001 (with 57% opposed) to 49% in March 2013 (44% opposed).

July 2016 Update

As a result of the Supreme Court's 2013 *United States v. Windsor* decision invalidating part of the Defense of Marriage Act (DOMA), any legal marriage that is recognized by the jurisdiction in which the marriage was celebrated is recognized for Title IV HEA program purposes regardless of sex of partners. Resulting ED guidance applies only to same-sex marriage and excludes other relationships recognized under state law such as registered domestic partnerships, civil unions.

NASFAA recommends that PJ should include adjusting any application element, including marital status, for domestic arrangements that mirror marriage, even if applicant's state does not recognize it.

15. Household Size—Definition of Dependents

Recommendations

- **Remove the automatic inclusion in household size of children or others based on providing 50% of support.**
- **Allow inclusion in household size of children who meet the definition of dependent student (i.e., are not or would not be considered independent for Title IV purposes).**
- **Base inclusion of other individuals in the household size on IRS rules for claiming dependents on the tax return.**
- **Use the IRS data retrieval process to verify household size whenever possible.**
- **Make the same changes to the definition of dependent for independent students.**
- **Add to the statutory examples of allowable professional judgment the ability to adjust household size to include individuals who were not, or could not be, claimed on the tax return if the aid administrator determines that it would be appropriate to do so.**

Thus, include in household size for a dependent student the following:

1. **Student;**
2. **Parent(s), in accordance with Recommendation 10;**
3. **Children who can answer "no" to all of the dependency questions (i.e., children under the age of 24 who do not otherwise meet the Title IV definition of independent), if they live in the household;**
4. **Other individuals who were claimed by the parent(s) on the base year income tax return (exclusive of children who would be dependent under Title IV but who do not live in the household);**
5. **Other individuals for whom the aid administrator makes a documented decision that, due to unusual circumstances, inclusion in household size is appropriate.**

Background, Rationale, and Implementation Considerations

The Federal Methodology (FM) set in law allows children to be counted in household size as long as they live with the applicant's parents and the parents provide more than 50% support. There are no other restrictions, although household size is a big factor in determining EFC. Thus, children who are independent students can be counted in the parent's household size for a dependent sibling, and older non-student children living at home, regardless of employment status, can be counted if the parents claim they provide more than half support.

The support test also applies to other individuals living in the household. There is no rule of thumb regarding determination of half support for children or other individuals, and this determination can vary greatly across different economic strata.

Verification of household size can only be accomplished by collecting a signed statement from either the parents in the case of a dependent student or from the independent student, generally relying on those individuals to determine what "half support" means.

The FAFSA instructions currently direct dependent applicants to include in household size:

- The applicant him- or herself, even if the applicant does not live with the parents;
- The applicant's parents;
- The parents' other children if (a) the parents will provide more than half of their support between during the award year, or (b) the children could answer "no" to every one of the dependency questions on the FAFSA;
- Other people if they live with the parents at the time of application, the parents provide more than half of their support and the parents will continue to provide more than half of their support during the award year.

The RTF believes that the determination of "dependent" should be more standardized and verifiable. The RTF also believes that children who are receiving financial aid as independent students should not be counted in the household size used to determine aid for other children who are dependent. With regard to siblings who are not students, especially adult children, there should be a defined cut-off point for the expectation that those siblings can still increase the size of the parents' household with regard to aid determinations for dependent applicants. While the willingness of some parents to keep caring for older children is laudable, that is a private decision that should not result in increased public support of younger children whose turn it is to attend college.

The RTF recommendation to use IRS definitions of who can be claimed on a tax return is meant to tighten the rules and provide more consistency surrounding the definition of dependents for household size purposes. The IRS test to claim an individual as an exemption provides a more defined approach to assessing what constitutes half support. The recommendation will also open another avenue for verification through the IRS data retrieval tool.

A dependent applicant's sibling who is receiving aid as an independent student is benefiting from publically funded benefits. The independent student's cost of attendance used to calculate aid includes room and board and other allowable living expenses for the period of enrollment, typically 9 months. Regardless of the form of the federal aid (grant, loan, or work), public funds are involved. Allowing that same student to reduce the EFC for a younger dependent sibling in effect allows the family to "double dip" into public support.

Under IRS rules, a child aged 24 or over (whether or not a student and whether or not living with the parents) could be claimed as an exemption on the tax return and therefore still be included in household size if that child has gross income under $3,800 and the parents provide more than half of his or her support. (Gross income includes certain scholarship and fellowship grants. Scholarships and fellowships received by degree candidates and used for tuition, fees, supplies, books, and equipment required for particular courses generally are not included in gross income.)

As is currently the case, an aid administrator can adjust household size under professional judgment, by either including additional individuals or excluding individuals. The RTF recognizes that there are situations where household size should be increased. For example, a grandparent may be supported by the applicant's parents (whether living in the parents' home or in some other facility) but due to the gross income test, the parent may not be able to claim the grandparent as a dependent on the tax return. An older sibling who does not meet the IRS tests could nevertheless be included in the household if deemed appropriate by the FAA, but the reasons for that sibling's continued dependence on the parents would have to be documented and would have to be differentiated by special circumstances from other families with older children still in the home (these are currently the general principles of professional judgment).

The RTF also seeks to ensure that, for divorced parents, a dependent sibling who lives in the household of the applicant's custodial parent could not also be counted in the other parent's household under the "other individual" category, hence the parenthetical *"exclusive of"* caveat in item 4 under the recommendations.

IRS Publication 17 gives detailed information on who can be claimed. A condensed description of the rules and the applicable pages from Publication 17 are attached to this report as Appendix A.

July 2016 Update

Congressional Action in the 114th Congress (2015-2016)

One bill has been introduced that would impact this recommendation:

- Financial Aid Simplification and Transparency (FAST) Act [S. 108]: would radically alter the methodology for determining Title IV aid eligibility, simplifying the process to very few data elements, which would include income and family size to be retrieved from the IRS

16. Rename the results of FM with a term that reflects its index nature rather than "EFC"

ADD

Recommendation

- **The result of the Federal Methodology should be an index that ranks applicants according to their financial strength, rather than an expected financial contribution.**

Statutory Citation

HEA § 473 and throughout Part F; § 483
[20 U.S.C. 1087 and throughout Part E; 20 U.S.C. 1090]

Background, Rationale, and Implementation Considerations

This recommendation was put forward by the FAFSA Working Group in July 2015. The working group feels strongly that, because the Federal Methodology (FM) has been modified over the years to accommodate political whims and cost concerns, the term "Expected Family Contribution" is now a misnomer that misleads and confuses students and families. Rather than representing a financial contribution by the applicant, the result of the FM functions more as an index that ranks applicants according to their financial strength. The name of the index should be changed to reflect that reality.

Federal Direct Loan Program

1. Interest Rates

Recommendations

- **Establish variable-fixed interest rates that are reflective of market rates, but allow refinancing.**
- **For Parent PLUS loans, link interest to a Treasury bill instrument, with an added percentage that reflects the cost to the government of borrowing money and servicing the loans.**
- **For Grad Student PLUS loans, discount the rate slightly by a smaller added percentage than is applied to Parent PLUS, and establish an interest rate cap.**
- **For Stafford loans, discount the rate more by a smaller added percentage than is applied to Grad PLUS, and establish a lower interest rate cap. Subsidized loans should carry a lower interest rate than unsubsidized loans.**

Statutory Citation

Terms and Conditions of Loans (interest rate)
HEA §455(b)
[20 U.S.C. 1087e(b)]

Background, Rationale, and Implementation Considerations

The RTF believes that a long-term fix to Direct Loan interest rates is needed; this recommendation expands on one made by NASFAA's Student Loan Indebtedness Task Force (ITF). An instrument should be established that will measure a fair market value of interest rates for student loans and the cost to administer the program, which can have a shared risk for both the taxpayer and the student. This rate would be established on July 1 and carry forth for the terms of the loan ("variable-fixed"). The rate determined on any July 1 would apply to all loans made within the ensuing year until the next July 1 determination. When a borrower has multiple loans with different rates, the monthly repayment amount could be determined as a weighted repayment of the separate loans.

For Parent PLUS loans, the RTF recommends linking the interest rate to market rates, such as a Treasury bill (T-bill) rate plus an additional percentage that reflects the cost to the government of borrowing money and servicing the loans.

For Grad PLUS loans, discount the interest rate slightly (i.e., add a smaller percentage to the T-bill rate) and establish a cap over which the interest rate may not go. The premise here is that although profit should not be an objective of the student loan program, graduate students have a larger personal gain at stake from their advanced education and so should bear slightly more of the program cost.

For Stafford loans, discount the interest rate further and establish a lower cap over which the interest rate may not go, on the premise that the federal government should help finance undergraduate education, which results in a more significant societal gain, by making loans affordable. If subsidized loans continue to be authorized, subsidized loans should be made at a lower interest rate than unsubsidized loans as there is a demonstrated need component.

Finally, if market interest rates decrease by some specified amount from the rate at which a borrower's loans were made, the program should allow refinancing, subject to a refinance fee. Refinancing would be separate from consolidation provisions.

July 2016 Update

In August 2013, the Bipartisan Student Loan Certainty Act of 2013 [P.L. 113-28] was signed into law. The legislation ties annual interest rates on Direct Loans to the rate on high-yield 10-year Treasury notes plus an add-on percentage within a specified cap.

Loan Type	Add-On Percentage	Interest Rate Cap
Direct Stafford Loans	2.05%	8.25%
Direct Unsubsidized Loans (Undergraduates)	2.05%	8.25%
Direct Unsubsidized Loans (Graduate and Professional Students)	3.6%	9.5%
Direct PLUS Loans	4.6%	10.5%

Congressional Action in the 114th Congress (2015-2016)

Several bills have been introduced that would affect loan interest rates, including the issue of refinancing:

- Student Loan Refinancing Act [H.R. 649]: would allow students to refinance Direct Loans at the interest rate at the time of the modification
- Fairness in Student Loan Lending Act [H.R. 1141/S. 729]: would allow student loan borrowers in good standing to refinance their loans to a rate equal to the 10-year Treasury note on the last day of business of the previous month plus one percent
- Bank on Students Emergency Loan Refinancing Act [S. 793/H.R. 1434]: would allow eligible student loan borrowers to refinance their federal loans to lower interest rates
- College for All Act [S. 1373/H.R. 4385]: would cut interest rates and impose a cap of 8.25% and allow borrowers to refinance loans at the current interest rates
- Student Borrower Fairness Act [H.R. 3675]: would allow borrowers to refinance their student loans at the interest rates offered to banks by the Federal Reserve
- Federal Student Loan Refinancing Act [H.R. 3751]: would automatically refinance interest rates on all federal student loans to four percent
- Parent PLUS Loan Improvement Act [H.R. 4661]: would lower interest rates on PLUS loans made on behalf of a dependent student
- In the Red Act [S. 2677]: would allow eligible student loan borrowers to refinance their federal loans to lower interest rates
- Student Loan Refinancing and Recalculation Act [H.R. 5274]: would allow for refinancing of both Direct Loans and FFELP Loans and would lower the percentage add-on to the 10-year Treasury bill in the calculation of interest rates to one percent for undergraduate, graduate, and parent borrowers
- Student Loan Fairness Act [H.R. 5487]: would cap new Direct Loan interest rates at 3.4 percent

2. Loan Fees

Recommendation

- **Eliminate the loan fee currently charged to students.**

Statutory Citation

Terms and Conditions of Loans (loan fee)
HEA §455(c)
[20 U.S.C. 1087e(c)]

Background, Rationale, and Implementation Considerations

Loan fees were introduced to help offset loan subsidies in the FFEL Program. The origination fee was intended to be temporary when it was imposed on student borrowers in the early 1980s as a budget measure, but is essentially a tax on students collected by withholding a portion of the student's proceeds, but requiring repayment of the full loan amount before deduction of fees. Loan fees thereby mask the borrower's true loan cost and effective interest rate: After taking into account loan fees, the annual percentage rate on federal loans is higher than the advertised interest rate.

July 2016 Update

Congressional Action in the 114th Congress (2015-2016)

Three bills have been introduced that would eliminate loan origination fees:

- Eliminating the Hidden Student Loan Tax Act [H.R. 1285]: would eliminate origination fees on all Direct Loans
- Parent PLUS Loan Improvement Act [H.R. 4661]: would eliminate origination fees on PLUS loans made on behalf of a dependent student
- Student Loan Refinancing and Recalculation Act [H.R. 5274]: would eliminate origination fees on all Direct Loans

3. School Authority to Reduce Loan Amounts

Recommendations

- **Allow schools to set lower loan limits for specific populations, academic programs, credential levels, or other categories established by the school.**
- **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.**
- **Retain the authority for schools to deny loans on a case-by-case basis.**

Statutory Citation

Loan Limits
HEA §428(b)(1)
[20 U.S.C. 1078(b)(1)]

Professional Judgment
HEA §479A(c)
[20 U.S.C. 1087tt(c)]

Background, Rationale, and Implementation Considerations

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 for some time as a tool to avoid incurring unnecessary debt, reaching aggregate loan limits before the program of study is completed, and losing the interest subsidy before completing the program of study. The ITF made a similar recommendation.

If Congress does not adopt this recommendation, the RTF believes other measures would be needed to control borrowing, such as mandated reduction of annual loan limits based on enrollment status.

July 2016 Update

Congressional Action in the 114th Congress (2015-2016)

One bill has been introduced that would impact this recommendation:

- Financial Aid Simplification and Transparency (FAST) Act [S. 108]: would allow an institution to set a lower loan limit for students in programs of study identified by the school if certain conditions are met, with a provision for increasing that limit for individual students in the program under special circumstances

4. Proration of Annual Loan Limits for Remaining Portions of Programs

Recommendation

- **Eliminate Direct loan proration for final periods of programs that are at least a year in length.**

Statutory Citation

Loan Limits
HEA §428(b)(1)
[20 U.S.C. 1078(b)(1)]

Background, Rationale, and Implementation Considerations

Annual Stafford 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 policy. Proration penalizes students who are about to complete their program of study and may drive students to borrow from a private lender. Proration of loan limits would be retained, however, for programs that are less than an academic year in length.

July 2016 Update

Congressional Action in the 114th Congress (2015-2016)

One bill has been introduced that would impact this recommendation:

- Financial Aid Simplification and Transparency (FAST) Act [S. 108]: would require proration based on actual enrollment status

5. Separate the Grad PLUS and Parent PLUS Programs from Each Other

Recommendations

- **Establish a separate loan program for graduate borrowers that mirrors the current Grad PLUS program but identifies this program specifically as a loan for graduate/professional students.**
- **Retain adverse credit rules for student borrowers but conduct the credit check only for first-time borrowers at the school.**
- **Direct ED to phase in revised underwriting standards for parent borrowers to reflect a more realistic assessment of ability to repay.**
- **Direct ED to publish annually, and solicit public comment on, the underwriting standards to be applied to parent borrowers.**

Statutory Citation

Authority for PLUS Program
HEA §428B
[20 U.S.C. 1078-2]

Loan Types Included Under PLUS Program Umbrella
HEA §455(a)(2)
[20 U.S.C. 1087e(a)(2)]

Background, Rationale, and Implementation Considerations

Currently, there is one PLUS Loan program available to both parents (Parent PLUS) and graduate students (Grad PLUS). Although the typical borrowing profiles of parents and graduate/professional students are very different, the same credit standards apply to both parent and graduate/professional borrowers (i.e., PLUS borrowers must have no adverse credit history in order to borrow). The term "no adverse credit history" is not a strict measure of underwriting, yet borrowers under both Parent PLUS and Grad PLUS can borrow up to the cost of attendance, which can be tens of thousands of dollars. Separating the Grad PLUS and Parent PLUS programs allows for variations, such as credit standards, loan limits, and interest rates (as proposed in Recommendation #1 above) that are tailored to the differences between these two distinct types of borrowers.

In determining credit worthiness, parent eligibility credit criteria should include some measure of likely ability to manage their debt and repay the loan, such as a debt-to-income measure, use of FICO scores, or another test of adequate resources. Currently, financial aid administrators are allowed to evaluate a borrower's ability to repay a PLUS loan through debt-to-income measures. However, financial aid administrators have little loan underwriting expertise and are reluctant to use this authority. Further, a more comprehensive means of assessing the ability to manage debt and the willingness and track record to repay debt is needed.

Any changes made to parent eligibility criteria should be applied to new borrowers only, to protect current borrowers already in the Direct Loan system. As more credit restrictions are imposed, more grant support needs to be created for schools serving underrepresented and disadvantaged populations and their students.

6. Annual and Aggregate Loan Limits

Recommendations

- **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.**

Statutory Citation

Annual and Aggregate Loan Limits
HEA §428(b)(1)(A) and (B)
[20 U.S.C. 1078(b)(1)(A) and (B)

Additional Unsubsidized Loan Limits
HEA §428H(d)
[20 U.S.C. 1078–8(d)

Background, Rationale, and Implementation Considerations

The RTF would eliminate differences in annual loan limits based on year in school, and would step aggregate limits so that a lower aggregate limit applies to undergraduate students who have not yet successfully completed the second year of an undergraduate program. Stepping the aggregates would be similar to the Perkins Loan limit structure.

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.

Full-time limits need to be structured to account for inflation (for example, keyed to the Consumer Price Index) to avoid loss of buying power and to reflect realistic expenses.

The structure of loan limits is difficult to explain and needs to be simplified. The current structure of base limits divided between subsidized and unsubsidized amounts plus additional unsubsidized amounts, all of which vary by year in school, reflects piecemeal changes to the loan programs.

The chart on the following page summarizes the loan limit recommendation.

July 2016 Update

Congressional Action in the 114th Congress (2015-2016)

One bill has been introduced that would impact this recommendation:

- Financial Aid Simplification and Transparency (FAST) Act [S. 108]: would eliminate variances in annual limits by year in school and increase annual and aggregate loan limits; however, it would not step aggregate limits

Current Undergraduate	Yr 1	Yr 2	Yr 3 and Beyond	Total Aggregate
Sub	$3,500	$4,500	$5,500	$23,000 Sub $31,000 Sub and Unsub
Unsub	$2,000	$2,000	$2,000	
Yearly Total	$5,500	$6,500	$7,500	
Additional Unsub for Indep Students or PLUS Denials	$4,000	$4,000	$5,000	$57,500
Yearly Total	$9,500	$10,500	$12,500	

Proposed Undergraduate	Yr 1	Yr 2	Yr 2+	Total Aggregate for Students through 2nd Year	Yr 3 and Beyond	Total Aggregate
Sub	$5,500	$5,500	$5,500	$16,500 Sub $22,500 Sub and Unsub	$5,500	$33,000 Sub $45,000 Sub and Unsub
Unsub	$2,000	$2,000	$2,000		$4,500	
Yearly Total	$7,500	$7,500	$7,500		$10,000	
Additional Unsub for Indep Students or 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 [1]	Annual Addtl Unsub [2]	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	

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

[2] For Doctor of Dentistry, Veterinary Medicine, Optometry, Allopathic Medicine, Osteopathic Medicine, Podiatric Medicine, Naturopathic Medicine, or Doctor of Naturopathy.

Proposed Graduate	Annual	Annual Addtl Unsub [1]	Annual Addtl Unsub [2]	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	

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

[2] For Doctor of Dentistry, Veterinary Medicine, Optometry, Allopathic Medicine, Osteopathic Medicine, Podiatric Medicine, Naturopathic Medicine, or Doctor of Naturopathy.

7. Loan Disbursement

Recommendation

- **Allow unequal disbursements to accommodate unequal costs or resources (as may be done for FSEOG and Perkins Loans) and to facilitate disbursement by term in nonstandard term programs.**

Statutory Citation

Multiple Disbursement Requirement
HEA §428G(a)
[20 U.S.C. 1078–7(a)]

Background, Rationale, and Implementation Considerations

Currently, loans must be disbursed in equal installments under rules specified by law. This rule prevents adjustment of disbursements 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 Title IV programs, and prevents alignment of loan disbursement with terms.

This recommendation would allow disbursements to occur at the same time across all Title IV programs.

8. Repayment Incentives

Recommendation

- **Reinstate the Department of Education's (ED) authority to offer repayment incentives, if there is evidence of effectiveness and cost neutrality.**

Statutory Citation

Interest Rate (repayment incentives)
HEA §455(b)(8)
[20 U.S.C. 1087e(b)(8)]

Background, Rationale, and Implementation Considerations

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. As long as incentives do not have a net cost, why not allow them?

9. Late Origination

Recommendation

- **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.**

Statutory Citation

Participation Agreement (authority to originate loans to eligible students)
HEA §454(b)
[20 U.S.C. 1087d(b)]

Background, Rationale, and Implementation Considerations

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 reenroll 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.

10. Consolidation

Recommendations

- **Maintain a loan consolidation program to allow borrowers with multiple loans to have a single holder and a single payment.**
- **Continue to allow consolidation to prevent borrower defaults.**
- **Separate refinance options from consolidation, so that consolidation retains its original purposes. (See Recommendation #1)**
- **Retain an interest rate that considers the weighted average of the loans being consolidated.**
- **Apply a modest basis point increase to consolidation loans.**

Statutory Citation

Consolidation Loans
HEA §428C, §455(g) & various other sections
[20 U.S.C. 1078–3, 1087e(g)]

Background, Rationale, and Implementation Considerations

The RTF recommends that the loan consolidation program be maintained 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.

Refinancing options should be allowed as noted in Loan Recommendation #1, but should be kept separate from consolidation, so that consolidation retains its original purposes.

The interest rate for consolidation loans should track the interest rate for Direct Loans, but needs further study to determine the appropriate interest rate. A premium in the form of 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 costs to gain other benefits, such as increased loan limits or elimination of the origination fee.

11. Loan Subsidies

Recommendations

- **Continue need-based borrower subsidies during in-school, grace, and deferment periods.**
- **Remove the 150% limit on the interest subsidy.**

Statutory Citation

Interest Subsidies (suspension of subsidy during grace periods)
HEA §428(a)(3)(A)(i)
[20 U.S.C. 1078(a)(3)(A)(i)]

Termination of Subsidies for Graduate Students
HEA §455(a)(3)
[20 U.S.C. 1087(a)(3)]

150% Limitation
HEA §455(q)

Background, Rationale, and Implementation Considerations

The ITF recommended rethinking the Direct Loan subsidy structure to explore the efficacy of front-end subsidies and whether there are better ways to target those resources. One such alternative recommended by the ITF is a back-end subsidy that utilizes automatic income-based repayment for all borrowers. This debate between front-end and back-end subsidies, which seem to be viewed as mutually exclusive due to budgetary constraints, has received much attention and continues to do so.

Meanwhile, loan subsidies have been incrementally eroded as Congress looks for sources of funds both to support the Pell Grant Program and to help alleviate the general budget deficit. The RTF is concerned that needy students are caught between lost buying power of grants, which have not kept pace with inflation and rising costs, and loss of beneficial loan terms. The RTF is also concerned with the impact that loss of interest subsidies may have on access to higher education and increased costs of borrowing.

July 2016 Update

Congressional Action in the 114th Congress (2015-2016)

Several bills have been introduced that touch on subsidy and automatic income-based repayment issues:

- Earnings Contingent Education Loans Act [H.R. 3695 and H.R. 3752]: would eliminate the Direct Loan Program and instead establish an "Income Dependent Education Assistance (IDEA)" Loan Program. The new program would include a universal income-based repayment component with automatic wage withholding as the mechanism for repayment.
- Protecting Our Students by Terminating Graduate Rates that Add to Debt (POST GRAD) Act [H.R. 4223]: would restore graduate and professional student eligibility for the in-school interest subsidy
- Simple Income-Based Repayment Act [H.R. 4256]: would automatically enroll all new borrowers of federal student loans (except Parent PLUS) into income-based repayment (IBR)
- Dynamic Repayment Act [S. 2456]: would replace current loans, subsidies, deferments, forbearances, and repayment options with a single loan called the Income Dependent Education Assistance (IDEA) Loan and would be repaid through income-based repayment

12. Create a Universal Loan Portal for Students

Recommendation

- **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.**

Statutory Citation

Establishment of NSLDS
HEA §485B
[20 U.S.C. 1092b]

Background, Rationale, and Implementation Considerations

The task force recommends that Congress mandate the creation of a single web portal where students can easily access information about all of their student loans. 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 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.

ADD To achieve this recommendation, ED could expand their existing studentloans.gov website. Students are currently accessing www.studentloans.gov to complete entrance and exit counseling, view repayment options and cancellations, sign the Master Promissory Note and complete consolidation requests. By enhancing the current website of studentloans.gov into the single portal, ED could make use of existing infrastructure while enhancing and streamlining the borrower experience.

July 2016 Update

In February 2015, the Servicing Issues Task Force reiterated this recommendation using the results from a survey of NASFAA membership that included more than 2,2000 financial aid administrators at over 1,500 unique institutions.

On March 13, 2015, President Obama issued a "Student Aid Bill of Rights to Help Ensure Affordable Loan Repayment." Under this initiative, ED is directed to establish a centralized point of access for all Federal student loan borrowers in repayment, including a central location for account information and payment processing for all Federal student loan servicing, regardless of the specific servicer.

In April 2016, ED announced "a new vision for serving student loan borrowers" through a new customer service model that includes a "streamlined borrower experience via a single web portal."

In July 2016, ED released the list of vendors who met the technical capabilities to begin building the new system, which includes the single servicing platform.

Congressional Action in the 114th Congress (2015-2016)

Two bills has been introduced that would impact this recommendation:

- Simplifying Access to Student Loan Information Act [S. 445]: would require private education loans to be recorded in NSLDS
- Student Loan Bill of Rights [S. 840]: would require ED to develop a centralized point of access for all borrowers for account information, payment processing, and all other loan servicing activities

13. Standardize Loan Servicing Policies and Procedures and Process for Repayment Options

Recommendation

- **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.**

Statutory Citation

Simplification of Lending Process for Borrowers
HEA §485C
[20 U.S.C. 1092c]

Background, Rationale, and Implementation Considerations

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, the direct loan program should have a standardized repayment process, communications, and forms, regardless of the servicer.

July 2016 Update

ED issued a solicitation, with responses due May 8, 2016, for a single servicing solution for the federal loan portfolio. Among the objectives for this initiative are: a common borrower experience, fewer account transfers, common servicing practices and branding, improved oversight, greater cost efficiency, and improved data collection and analysis.

Congressional Action in the 114th Congress (2015-2016)

One piece of legislation enacted into law impacts this recommendation:

- Consolidated Appropriations Act, 2016 [P.L. 114-113]: includes language in the bill's joint explanatory statement requesting ED to publish a "common policies and procedures manual for servicing that applies to all Direct Loan servicers"

One bill has been introduced that would impact this recommendation:

- Student Loan Bill of Rights [S. 840]: would address servicing by standardizing certain disclosures and other actions

14. Revisit Institutional Requirements for Private Lender Lists

Recommendation

- **Streamline statutory and resulting regulatory provisions related to Preferred Lender Lists (PLL) to encourage more widespread use by schools without compromising their original purpose.**

Statutory Citation

Program Participation Agreements (preferred lender list requirements)
HEA §487(h)
[20 U.S.C. 1094(h)]

Background, Rationale, and Implementation Considerations

The RTF adopts this ITF proposal #8, which would be accomplished by taking the following steps:

- Review types of loans that should be classified as private education loans.
  - Exclude federal health professions loans from the definition of private education loans.
  - Eliminate state-sponsored loans that meet criteria acceptable to the U.S. Secretary of Education from the definition of private education loans.
  - Give the Secretary authority to determine, through regulation, whether institutional loans must be considered private education loans.
- Narrow the definition of a preferred lender arrangement to reduce the circumstances under which a PLL is required.
  - 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.
  - Allow institutions to share summaries of previous students' experiences or satisfaction with lenders without considering that summary a preferred lender arrangement.
- Improve the efficiency of loan counseling requirements.
  - Eliminate duplicative loan counseling and disclosures, and broaden the method of making disclosures including the allowable sources of disclosure.
  - 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.
  - Shift responsibility for disclosing terms and conditions of loans from school to lenders, and require Truth in Lending Act disclosures only of lenders.
- Eliminate duplication of information provided by the lender and the institution by requiring only the lender to describe the terms and conditions of the loans it offers and allowing the institution to direct students to the lender's materials or website for such information.
- Delete reporting requirements in favor of adherence to a code of conduct, disclosure to students and families of the criteria used to develop a preferred lender list, and assurance that borrowers may choose any lender without penalty, regardless of whether the lender appears on the list.
- Eliminate the model disclosure form provision (ED has not produced a model).
- Replace student self-certification with full school certification of private education loans.
- Streamline, clarify, and better align the PLL requirements of 34 CFR 601.10 (a)(2), HEA section 128(e), and HEA sec. 153.

Provisions in the current law and regulations that deal with code of conduct, disclosure of the criteria used to develop a preferred lender list, and assurances that families may also choose a lender not on the list must be retained.

Institutions are not required to have a PLL. However, a school that chooses to publish a PLL is required by the Higher Education Opportunity Act (HEOA) to create and annually update that list with information on the listed lenders and loans, including:

- Terms and conditions of the loan;
- The reason the school entered into an arrangement with that particular lender;
- A student's ability to choose a lender that is not on the list; and
- The method and criteria used for selecting the lenders.

A private education loan PLL must also contain at least two unaffiliated lenders. Affiliations of any other lenders on the list must be disclosed and described.

With the elimination of FFELP, the rules applicable to private education loans can benefit from review and adjustment. The worst of the practices that gave rise to the current rules were limited to only a few institutions and related largely to FFELP, but a large, unintended consequence of these rules prevents 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.

In addition to removing impediments to responsible use of PLLs, the current private education loan application process should be revised to counter the impact of lender marketing. Replacing student self-certification with full school certification 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.

15. Continue Public Service Loan Forgiveness with Modifications

ADD

Recommendations

- **Commit to continuing the Public Service Loan Forgiveness (PSLF) Program, retaining current eligibility criteria.**
- **Institute limits on the amount of forgiveness.**
- **Keep Public Service Loan Forgiveness untaxed.**
- **Make Public Service Loan Forgiveness Program data public.**
- **Strongly encourage annual submission of employment certification forms.**
- **Increase communication about the Public Service Loan Forgiveness Program.**

Statutory Citation

Repayment plan for public service employees
HEA §455(m)
[20 U.S.C. 1087e(m)]

Background, Rationale, and Implementation Considerations

The Public Service Loan Forgiveness Task Force put forward these recommendations in June 2014. Concern over the potential cost of PSLF has generated uncertainty for the continuation of the program among higher education professionals and students. In this environment, the task force feels it is important to reiterate a commitment to supporting the forgiveness program and the students it will serve. In the absence of robust and readily available data about the potential participation in the PSLF program, the definitions of qualifying full time work, qualifying employment, qualifying monthly payments, qualifying loan types, and length of service should remain unchanged.

The task force recommends allowing forgiveness of up to 100 percent of a qualifying loan balance that does not exceed the undergraduate aggregate Stafford Loan limit (currently $57,500) and allow additional forgiveness of 50 percent of any remaining qualifying loan balance, conditioned that total forgiveness cannot exceed the graduate aggregate Stafford Loan limit (currently $138,500). Additionally, borrowers with a balance remaining after receiving PSLF forgiveness should be allowed to continue utilizing an income-based repayment plan to pay their remaining balance, and potentially could qualify for additional loan forgiveness under the income-based repayment plan. Structuring the forgiveness cap in this manner will create "skin in the game" while also addressing concerns about borrowers potentially receiving excessive forgiveness for the pursuit of multiple advanced degrees, or for an extreme amount of debt incurred pursuing a single degree. A cap on the maximum amount of forgiveness will ensure that students are discouraged from over-borrowing.

Taxing borrowers on the amount of forgiveness received is counterintuitive, as it both provides a disincentive for high-debt borrowers to take advantage of the program and creates a sudden financial hardship for borrowers receiving forgiveness. At the moment they 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. It is likely that many borrowers would need to pay this cost in installments, meaning they will have simply moved from making monthly payments to a student loan servicer to making monthly payments to the IRS, who does not offer the borrower protections and benefits found in the student loan program.

The designated PSLF servicer should make public, data and information collected in the administration of the PSLF program. Analysis of such data would allow interested constituencies the opportunity to

more accurately evaluate the forgiveness program, its effectiveness as an incentive to pursue public service work, and the cost of the program.

Borrowers may complete an employment certification form at any time during their public service employment. There are several possible negative consequences if borrowers wait until the end of the 10 years of qualifying employment to begin providing employment certification. As such, strongly encouraging borrowers to complete the employment certification form annually will ensure that the designated PSLF servicer can monitor an eligible borrower's repayment and employment.

The PSLF program should be more widely publicized by the Department of Education and the loan servicers as an incentive for borrowers and those considering enrollment in higher education to enter public service work. Owing to the broad nature of the program, communication about the program should be increased and the type and timing of information made available to the public should be expanded to ensure awareness of the program.

July 2016 Update

Congressional Action in the 114th Congress (2015-2016)

Several bills have been introduced that would either expand eligibility or modify PSLF:

- Young Farmer Success Act [H.R. 2590]: would add new and beginning farmers to the Public Service Loan Forgiveness (PSLF) program
- Adjunct Faculty Loan Fairness Act [S. 1556]: would allow part-time faculty members to qualify for PSLF
- Teach Our Teachers Act [H.R. 3366]: would allow teachers to qualify for both teacher loan forgiveness and public service loan forgiveness
- Student Loan Debt Protection Act [H.R. 3634]: would allow borrowers to qualify for some version of PSLF after five years of public service work
- Strengthening Forgiveness for Public Servants Act [S. 2463]: would remove the "all or nothing" component of PSLF and allow borrowers employed in public service jobs to receive a percentage of forgiveness if employed in a public service job for less than 10 years. The percentage of the loan that is cancelled varies: for 2-5 years, 15%; for 6-9 years, 20%; and for 10 years, 30%.
- Teacher Debt Relief Act [H.R. 4933]: would allow teachers to qualify for both Stafford loan teacher forgiveness and forgiveness under PSLF
- Fairness in Forgiveness Act [H.R. 5274]: would expand eligibility for PSLF to current and former employees at all 16 privately operated Department of Energy National Laboratories
- Student Loan Fairness Act [H.R. 5487]: would expand PSLF to include physicians in Medically Underserved Areas

16. Clarify and improve servicer communication with borrowers

ADD

Recommendations

- **Remove servicer branding from communication with borrowers.**
- **Permit the use of innovative technologies in order to allow servicers to more efficiently and effectively communicate with borrowers.**

Statutory Citation

Contracts under the Direct Loan Program
HEA §456
[20 U.S.C. 1087f]

Background, Rationale, and Implementation Considerations

The Servicing Issues Task Force proposed these recommendations in January 2015. Loan servicers co-brand their own logo with ED's logo on all correspondence with students; this leads to considerable confusion among borrowers about who is the actual holder and servicer of their loan, and the mistaken categorization of the communication as junk mail or spam. In order to provide clear, unambiguous information to borrowers, the only branding on communication to the borrower should be from ED.

The task force recommends that ED permit the use of new technologies and supporting data to allow servicers 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.

July 2016 Update

In related activity, the Obama Administration published a Student Aid Bill of Rights on March 13, 2015, directing ED to find the most innovative and effective ways to communicate with borrowers, leverage the latest research identifying key factors that influence borrower repayment, and monitor key trends in the student loan portfolio to improve loan servicing.

ED issued a solicitation, with responses due May 8, 2016, for a single servicing solution for the federal loan portfolio. Among the objectives for this initiative are a common borrower experience and branding, greater cost efficiency, and improved data collection and analysis. The solicitation states: "While individual borrowers typically deal with only one servicer, the lack of a single interface and common branding may lead to confusion among borrowers, schools, and consumer advocates. Under the planned contract, FSA will create a single web portal clearly labeled as representing the Department of Education through which all borrowers can access information, make payments, apply for benefits, and manage their accounts. Borrower correspondence, call center contacts, and other outreach materials will also be consistent and clearly labeled as coming from the Department of Education."

17. ED should develop a policies and procedures manual for servicing

ADD

Recommendation

- **Direct ED to provide an overview of standardized loan servicing practices through an online federal servicing policies and procedures (P & P) manual.**

Statutory Citation

Contracts under the Direct Loan Program
HEA §456
[20 U.S.C. 1087f]

Background, Rationale, and Implementation Considerations

The Servicing Issues Task Force recommended in January 2015 that ED provide an overview of standardized loan servicing practices through an online federal servicing policies and procedures (P & P) manual. While the task force understands the competitive nature of the servicer contracts, a P & P manual would offer standardization in areas where there is a financial impact, or risk, for the borrower. The task force report details nine areas where standardization could benefit borrowers, schools, and the servicers themselves.

July 2016 Update

ED issued a solicitation, with responses due May 8, 2016, for a single servicing solution for the federal loan portfolio. One goal is to establish common servicing practices; ED acknowledged, "Department servicers currently each have their own processes, call scripts, and other unique procedures. In addition, borrowers have to adjust to new systems and a different experience when accounts are transferred. Under the planned contract, all borrowers will have access to a single set of consistent processes and practices."

Congressional Action in the 114th Congress (2015-2016)

One piece of legislation enacted into law impacts this recommendation:

- Consolidated Appropriations Act, 2016 [P.L. 114-113]: includes language in the bill's joint explanatory statement requesting ED to publish a "common policies and procedures manual for servicing that applies to all Direct Loan servicers" by March 1, 2016. As of July 1, 2016, this request has not been met.

18. Provide standard consumer protections for federal student borrowers

ADD

Recommendation

- **Provide standard consumer protections for federal student borrowers that are in line with other consumer financial products.**

Statutory Citation

Contracts under the Direct Loan Program
HEA §456
[20 U.S.C. 1087f]

Background, Rationale, and Implementation Considerations

The Servicing Issues Task Force made this recommendation in January 2015. 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.

July 2016 Update

The Obama Administration issued a Student Aid Bill of Rights in March 2015 that includes a centralized student complaint system. Comments on a proposed system were solicited in December 2015. This initiative requires enhanced disclosures and strengthened consumer protections and assessment of the applicability of consumer protections in the mortgage and credit card markets to student loans.

Congressional Action in the 114th Congress (2015-2016)

One bill has been introduced that would impact this recommendation:

- Stop Debt Collection Abuse Act [S. 2255]: would amend the Fair Debt Collection Practices Act (FDCPA) to clarify that the protections from overly aggressive debt collection practices also apply to debt collection agents hired by the federal government, including servicers of federal student loans

Federal Pell Grant Program

1. Make Federal Pell Grant a True Entitlement

Recommendations

- **Make Federal Pell Grant a *true* entitlement program with 100% mandatory funding.**
- **Apply the inflation adjustment to the entire award.**

Statutory Citation

Award Amount
HEA §401(b)(2)
[20 U.S.C. 1070a(b)(2)

Funding
HEA §401(b)(7)
[20 U.S.C. 1070a(b)(7)

Background, Rationale, and Implementation Considerations

The RTF proposes that the Federal Pell Grant become a *true* entitlement program. This concept has been a NASFAA goal for many years.

Currently, the funding that makes up most of a Pell Grant comes from the discretionary side of the budget, which must be appropriated every year and is subject to politics and budgetary machinations. A small amount of Pell Grant awards is set in law as mandatory funding, that is, automatic spending that is not subject to annual appropriations fights. For 2013-14, the maximum award of $5,645 is made up of $4,860 from the annual appropriation; the balance of $785 is the mandatory funding portion. The increase of $95 from the 2012-13 maximum award is obtained by applying an inflation adjustment derived from the Consumer Price Index (CPI) to only the mandatory funding portion of the 2012-13 maximum award.

Due to the fact that the Federal Pell Grant Program remains tied to a cyclical appropriations process, the amount of support that a high-need student can expect from this program remains uncertain from year to year. When making plans to attend an institution of higher education a level of certainty in regard to the continuing availability of financial aid resources is especially critical to low-income students. The annual uncertainty of Federal Pell Grant awards also impacts institutions in providing accurate information about net costs to low-income students in a timely fashion.

Transforming the Federal Pell Grant Program into a true federal entitlement program would provide a level of certainty to high-need students.

July 2016 Update

Congressional Action in the 114th Congress (2015-2016)

Several bills have been introduced that include provisions related to mandatory Pell funding and the Pell inflation adjustment:

- Pell Grant Protection Act [S. 1060/H.R. 1956]: would change the Pell Grant Program's funding to solely mandatory funds
- Pell Grant Cost of Tuition Adjustment Act [S. 1061/H.R. 1957]: would annually apply an inflation adjustment increase to the entire maximum award
- Middle Class Creating Higher Education Affordability Necessary to Compete Economically (CHANCE) Act [S. 1998/H.R. 5310]: would permanently extend the annual inflation adjustment to the Pell Grant maximum award
- Pathways to an Affordable Education Act [H.R. 4386]: would change the Pell Grant Program's funding to solely mandatory funds and would permanently extend the annual inflation adjustment to the Pell Grant maximum award
- In the Red Act [S. 2677]: would annually apply an inflation adjustment increase to the entire Pell Grant maximum award

2. Institutional Ineligibility for Pell Grant Due to Loan Default Rates

Recommendation

- **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.**

Statutory Citation

Institutional Ineligibility Based on Default Rates
HEA §401(j)
[20 U.S.C. 1070a(j)

Background, Rationale, and Implementation Considerations

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.

The RTF believes that high-need students should have access to Federal Pell Grant funding irrespective of the actions of former students who are not 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 tie between a school's Title IV cohort default rate and the Federal Pell Grant places institutions that admit a high percentage of high-need students at a decided disadvantage and dissuades some schools from participating in the Direct Loan Program.

3. Federal Pell Grant Eligibility Beyond 6 Year LEU

Recommendation

- **Allow additional Federal Pell Grant eligibility, determined on a case-by-case basis by the aid administrator, if student/school can demonstrate that the student can complete his or her degree program within one additional period of enrollment.**
- **Sunset this authority so that it is essentially a grandfather provision for students already enrolled when limits were imposed.**

Statutory Citation

Period of Eligibility for Grants
HEA §401(c)(5)
[20 U.S.C. 1091(c)(5)

Background, Rationale, and Implementation Considerations

When Pell limits were originally imposed at 18 semesters, students who were already Pell Grant recipients were excluded from the limitation. The grandfathering clause was deleted when the limit was subsequently further reduced to 12 semesters. This recommendation would provide a way for FAAs to help students who have not had the opportunity to plan for a precipitous loss of Pell Grant eligibility but are very close to completion of a degree program. At some point, however, the limits should become absolute as students have had adequate time to prepare for that, so the authority to extend eligibility would end at a reasonable point in time.

4. Flex Pell

Recommendations

- **Reinstate student access to two scheduled awards in an award year but without the acceleration clause.**
- **Clarify that assignment of cross-over periods is institutional policy and prohibit ED from regulating.**
- **Ensure Pell utilization status with information about Pell limits is readily available to students.**
- **Reinforce students' right to decline Pell payments to save funds for future use.**

Statutory Citation

Purpose and Amount of Grants
HEA §401(b)
[20 U.S.C. 1070a(b)]

Background, Rationale, and Implementation Considerations

Students have access to a lifetime limit of the equivalent of six full-time academic years' worth of Federal Pell Grants. Students are currently restricted to one scheduled award for each award year, generally payable over the number of payment periods that make up an academic year. The way the student uses that grant within the award year can vary depending on the student's enrollment pattern.

For a brief period of time between 2009 and 2011, prior to the lifetime limit, Congress authorized payment of a second Pell Grant scheduled award within the same award year ("year-round Pell") if receipt of funds from the second scheduled award permitted the student to accelerate his or her academic program. The definition of "accelerate" was left up to the Department of Education (ED). The result was essentially a case-by-case evaluation, as each student's progress had to be assessed to satisfy the acceleration criterion. At the same time, ED introduced a regulatory change that dictated how to assign a summer payment period to an award year when the payment period crossed over July 1. This regulatory initiative was also highly manual in that it had to be determined for each student individually, sometimes more than once if additional information was received before a certain date. The combination of the two changes—one statutory, one regulatory, but both labor-intensive—created an administrative nightmare. All of these regulations were removed when year-round Pell was rescinded.

The RTF proposes that a variation of year-round Pell be reinstituted, but without the acceleration clause. With the lifetime limit on Pell Grant, persistent economic problems, and increasingly flexible program formats, students need more flexibility and control over how and when they access their resources. The RTF believes a student should be able to utilize grant resources when he or she needs them. Current rules regarding disbursement by payment period and calculation of payment period award amounts would continue to apply. The satisfactory academic progress rule that limits overall Title IV eligibility to 150% of program length would still apply. Payment period rules for clock hour programs, non-term programs, and certain nonstandard term formats that require work covered by a payment of Title IV funds to be completed before the next payment may be made would also remain unchanged.

The recommendation to allow students more control recognizes that a student may have greater need earlier in his or her pursuit of higher education, especially if the student needs some time to "gear up" to the college level experience. Also, the student's goal might not be a four-year degree, so preserving funds for later study would not be to the student's advantage. The increasing population of non-

traditional students and a greater variety of non-traditional program formats also necessitate a different view of Pell Grant utilization.

A student could run out of Pell Grant funds before completion of a baccalaureate. However, the student would still have access to loan funds and would probably have a stronger ability to repay those loans the further along towards baccalaureate completion he or she is before having to resort to loans.

A student's ability to assume more control over his or her resources does require solid academic and financial counseling, which would be left up to the school to design and accomplish. ED should be required to provide additional information about Pell Grant limitations and usage to students and in materials that schools can use in counseling. The student should also be able to decline using a Pell award in any given payment period. The student would need to be aware of the implications for taking or not taking the payment.

This recommendation has parallels to other concepts that have been discussed in the broader higher education community, especially the "Pell Well" which are featured in the Reimagining Aid Design and Delivery (RADD) project.

July 2016 Update

Congressional Action in the 114th Congress (2015-2016)

Several bills have been introduced that expand Pell beyond a single scheduled award in an award year, with varying provisions:

- Financial Aid Simplification and Transparency (FAST) Act [S. 108]: would allow a student who has completed coursework equivalent to one academic year before the end of an award year access to a second award
- All-Year Affordability for Constant and Continual Education to Enhance Student Success Act (ACCESS) Act [S. 242]: would reinstate access to a second scheduled award in an award year without an acceleration clause and would allow institutions to assign crossover periods
- Access to Education and Training Act [H.R. 1064]: would reinstate the year-round Pell Grant with the original language, including the acceleration component, found in the 2008 Higher Education Opportunity Act [P.L. 110-315]
- Year-Round Pell Grant Restoration Act [S. 1062/H.R. 1958]: would reinstate access to a second scheduled award in an award year without an acceleration clause and would allow institutions to assign crossover periods
- Flexible Pell Grant for 21st Century Students Act [H.R. 3180]: would reinstate access to a second scheduled award in an award year if a student is "accelerating progress toward a degree or certificate" and would allow institutions to assign crossover periods
- Middle Class Creating Higher Education Affordability Necessary to Compete Economically (CHANCE) Act [S. 1998/H.R. 5310]: would reinstate access to a second scheduled award in an award year without an acceleration clause and would allow institutions to assign crossover periods
- Pathways to an Affordable Education Act [H.R. 4386]: would reinstate access to a second scheduled award in an award year without an acceleration clause and would allow institutions to assign crossover periods
- FY 2017 Appropriations for the Departments of Labor, Health and Human Services, and Education, and Related Agencies Act [S. 3040]: would reinstate access to a second scheduled award in an award year without an acceleration clause and would allow institutions to assign crossover periods

Campus-Based Programs

1. Allocation Formulas

ADD

Recommendations

- **Reconstruct the income bands used to determine institutional need for campus-based programs to more accurately report student need.**
- **Eliminate the Base Guarantee and include phase-in protection so that no institution has a decrease or increase of more than 10% per year.**
- **Restructure the FSEOG formula to be based on the amount of Pell funding received by the institution, including a phase-in provision whereby no institution has a decrease or increase of more than 10% per year.**
- **Increase the percent of self-help assumed in the undergraduate institutional need calculation of the Federal Work-Study and Perkins Loan formulas to 35% self-help, including a phase-in provision whereby no institution has a decrease or increase of more than 10% per year.**

Statutory Citation

Federal Supplemental Educational Opportunity Grant Allocation of Funds
HEA §413D
[20 U.S.C. 1070b-3]

Federal Work Study Allocation of Funds
HEA §442
[42 U.S.C. 2752]

Federal Perkins Loans Allocation of Funds
HEA §462
[20 U.S.C. 1087bb]

Background, Rationale, and Implementation Considerations

The RTF Task Force believes that the current allocation formulas are inequitable due to the fact that, over time, the campus-based funding formula has not been adjusted to reflect the demographic redistribution of needy students that has occurred across the nation.

In 2014, The Campus-Based Aid Allocation Task Force developed the recommendations in this section.

The Fair Share formula used to determine an institution's allocation of campus-based funds, first calculates each recipient institution's need for funding, and then aggregates those individual amounts to establish the national need for program funds. The current schema is largely insensitive to income changes in the lower income levels and not sensitive enough at the higher income levels. In addition, the income levels themselves have not kept pace with national average income levels.

The base guarantee of funding, currently based on FY 1999 expenditures, 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 1970's. Thus, today's allocation of campus-based funds largely reflects a 40-year-old distribution of program funds.

This situation is inequitable because growing schools, serving needier student populations, cannot increase their funding because other institutions' funding levels are largely protected. The task force recommends eliminating the base guarantee portion of the allocation. Thus, allocations would be based only on a fair share formula. To avoid large swings in allocations from year to year, a phase-in protection would ensure that no institution's allocation would increase or decrease by more than 10% per year.

The task force recommends that the fair share formula for FSEOG funding 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. The formula would take into account each school's total of 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.

For Federal Work-Study, the formula to calculate institutional need assumes 25% of the cost of attendance is financed via self-help aid for all undergraduate students. While the task force 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%. The task force recommends that the 25% assumption for self-help be updated to 35%, along with a 10% phase-in provision.

2. Transfer of Campus-Based Program Funds

Recommendations

- **Allow transfer of 15% of current year Perkins collections to FSEOG or FWS.**
- **Allow 50% of FWS allocation to be transferred to FSEOG or Perkins.**
- **Allow 50% of FSEOG allocation to be transferred to FWS.**

Statutory Citation

Transfer of allotments
HEA §488
[20 U.S.C. 1095]

Background, Rationale, and Implementation Considerations

Currently, the law allows an institution to transfer up to 25% of its campus-based allotments as follows:

- From FWS: 25% of allotment to FSEOG or Perkins
- From FSEOG: 25% of allotment to FWS
- From Perkins: 25% of allotment to FSEOG or FWS; however, no allocation of new Perkins Loan funding has been made in recent years, so this transfer option has not been available.

Carry forward/back provisions would remain as they are currently.

3. Distribution of Perkins Fund Assets if Program Ceases

Recommendation

- **Amend the distribution of an institution's Perkins Fund in the event the program ceases to exist to:**
  - **Instruct the Secretary to offset the amount of federal capital contributions (FCC) to be returned to the federal government by the aggregate amount of unfunded reimbursement for cancellations.**
  - **Ensure that institutional contributions made in excess of the FCC or made when there was no new FCC are also offset so that the amount due the federal government is not overestimated.**

Statutory Citation

Distribution of Assets from Student Loan Funds
HEA §466
[20 U.S.C. 1087ff]

Background, Rationale, and Implementation Considerations

In the event that the Federal Perkins Loan Program ceases to exist, the law specifies how to distribute the assets of the school's Perkins Fund between the school and the federal government (which has an investment through federal capital contributions—FCC—over the years).

Although the law provides for reimbursement to the school for Federal Perkins Loans service cancellations, the federal government has not provided such reimbursement in recent years. In the event that the current campus-based form of the Federal Perkins Loan Program ceases to exist, schools will, most likely, be required to return a portion of their Perkins Fund that represents the federal capital contributions it received throughout the years from the federal government. Further, no new FCC has been provided in recent years.

The RTF recommends that distribution of Fund assets should include an offset for unfunded reimbursements for required loan cancellations. In addition, the process should take into account any institutional contributions made in excess of the FCC or made when there was no new FCC.

Schools should not be held liable for unfunded Perkins Loan reimbursements that resulted from legitimate Federal Perkins Loan cancellations.

July 2016 Update

Congressional Action in the 114th Congress (2015-2016)

- Federal Perkins Loan Program Extension Act of 2015 [P.L. 114-105]: (1.) eliminates Perkins loan eligibility for new graduate students beginning in the 2016-17 year; (2.) requires schools to award all subsidized and unsubsidized Direct loans prior to awarding Perkins for new undergraduate Perkins borrowers; and (3.) ends all Perkins loan authority effective September 30, 2017, thereby discontinuing any grandfathering beyond that date

4. Expand Definition of Community Service for FWS Program

Recommendations

- **Allow 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/student community needs first due to limited space/staffing resources.**
- **Revise definition of community service to acknowledge that the "community" includes faculty, staff, and students residing off-campus (within the commonly understood concept of community).**

Statutory Citation

"Community services" defined
HEA §441(c)(1)
[42 U.S.C. 2751]

Background, Rationale, and Implementation Considerations

Current law includes "child care services provided on campus that are open and accessible to the community" in the definition of community service. 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.

The RTF recommends an amendment to clarify the definition of community service with regard to on-campus child care facilities that, while open to the community at large, give preference to students and faculty, and, due to limited resources, are filled by their children. At the heart of this recommendation is the belief that college faculty and staff, as well students residing off campus, are in fact members of the surrounding community. Faculty and staff in particular are often long-term residents, indistinguishable from other members of the community who happen to work for an employer other than the college.

Similar recommendations have been made in the past. Attempts to resolve this issue through regulation have not been successful in the negotiated rulemaking process.

5. Set-Aside for Community Service

Recommendation

- **Replace the current community service requirement with a voluntary approach where 7% of the annual appropriation is put into a community service component program under FWS, for which institutions would apply separately.**

Statutory Citation

Participation Agreement
HEA §443(b)(2)
[42 U.S.C. 2753(b)(2)]

Background, Rationale, and Implementation Considerations

The RTF recommends replacing the current community service requirement with a voluntary approach where 7 percent of the annual appropriation is put into a community service component program under FWS, for institutions to apply for separately.

Many schools already had strong, broad-based commitments to community service before it was incorporated as a requirement under FWS. Other schools are located in areas where they find placement in qualifying community service positions difficult. Under the recommended approach, the bulk of the FWS appropriation would go to schools with no community service strings attached. Schools would have the option of applying for as much additional community service FWS as they think they could use, with no minimum percentage of their overall allocation required.

6. Private Sector Employment Cap

Recommendation

- **Eliminate the 25% cap on private sector employment.**

Statutory Citation

Private Sector Agreement
HEA §443(c)(2)
[42 U.S.C. 2753(c)(2)]

Background, Rationale, and Implementation Considerations

Schools should be able to place students wherever jobs 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.

7. FSEOG Eligibility and Pell LEU

Recommendations

- **Restrict FSEOG to students whose EFC falls into the Pell eligibility range, but eliminate the tie to actual receipt of a Pell Grant.**
- **Eliminate order of awarding by lowest EFC.**

Statutory Citation

Selection of Recipients
HEA §413C(c)(2)
[20 U.S.C. 1070b-2(c)(2)]

Background, Rationale, and Implementation Considerations

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.

Effective July 1, 2012, a lifetime eligibility limit of 6 scheduled awards has been imposed 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.

The RTF recommends that FSEOG be awarded to students whose EFCs fall into the Pell Grant range, regardless of whether the student actually receives a Pell Grant, and that the "lowest EFC" order of awarding 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 eligibility range.

Consumer Information

1. Effectiveness of Current Requirements

Recommendations

- **Require a study to review the effectiveness of current consumer 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)**
  - **Responsibility [the Department of Education (ED) vs. the school]**

ADD

- **Eliminate the annual notice and use the College Navigator as the primary way to disseminate information to students and parents**
- **Allow schools to satisfy completion/graduation rate and retention rate disclosures with a prominent link from the school's website to the College Navigator**

Statutory Citation

Institutional and Financial Assistance Information for Students
HEA §485
[20 U.S.C. 1092]

Background, Rationale, and Implementation Considerations

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. Everything should be web driven.

Thus, one goal of the study should be to determine whether provision of certain elements by ED would benefit students by standardizing presentation and delivery, and facilitating cross-school comparisons. The study should also examine the most effective timing of information delivery with regard to the various stages of school selection, application for admission, application for financial aid and borrowing decisions, decisions regarding attendance, and enrollment. The provision should not allow ED to construe that more information must be proactively provided to students individually rather than posting it on the school's website and pointing to where that is.

The RTF believes that reducing duplication of information will eliminate confusion among students and reduce the multiple efforts currently taking place with ED and individual institutions. One source, such as ED, will result in making the financial aid process less confusing for students and families.

Under such an approach, institutions would report to the federal government the details of consumer information requirements. A federal governmental entity would then serve as the distributer of the required consumer information disclosures. For example, for each school listed by a student on his/her

FAFSA, this governmental entity could provide a side-by-side comparison of consumer information for each of the listed institutions. By driving the information to the student and centralizing it to one agency, the consumer would benefit from a standardized approach. This may require the broadening of data elements that an institution reports to ED. A possible vehicle for the widening of required data elements is through the current IPEDS Survey. In this vein, the delivery of nearly all Title IV disclosure requirements to students and to the public would shift from the institution's responsibility to the federal government's responsibility, using a standardized format.

By assuming responsibility of providing consumer information to continuing students, ED could also offer a more student-centric approach by complementing institutional disclosure information with student-specific data already associated with the student within NSLDS and COD.

This study should be conducted by an independent, non-partisan firm with expertise in consumer testing for effective communication.

ADD In June 2014, the Consumer Information Task Force expanded and refined this concept, specifically recommending that College Navigator be used as 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. The task force report observes that 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 task force's review of websites hosted by ED showed that 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. Enhancements to the data provided by institutions would eliminate the need to send a separate notice to students with the same information and would permit institutions to provide a link to the College Navigator as the single source of standardized information for prospective and continuing students. The task force report recommends a number of enhancements that could be made to the College Navigator.

2. Intended Audience

Recommendation

- **Restrict to undergraduate students the required provision of consumer information regarding metrics and other information generally inapplicable to graduate students.**

Statutory Citation

Institutional and Financial Assistance Information for Students (information dissemination activities)
HEA §485(a) [Specifically paragraphs (L), (N), (Q), (R) as regards undergraduate students, (S), (U)]
[20 U.S.C. 1092(a)]

Background, Rationale, and Implementation Considerations

Requirements to provide consumer information should distinguish between undergraduate and graduate students. Required provision of information that is not relevant to, or does not use data pertaining to, graduate students should be restricted to undergraduates.

July 2016 Update

In March 2016, NASFAA's Consumer Information and Law Student Indebtedness Task Force proposed that ED reorganize its websites by creating landing pages to direct users down relevant pathways customized to meet the specific needs of intended audiences.

3. Loan Consumer Information

Recommendations

- **Make ED and loan servicers responsible for developing and distributing loan-related consumer information, including debt management.**
- **Better align the timing of information with the need for it.**
- **Retain the requirement that schools have counselors available to answer questions.**
- **Require ED to appoint an advisory panel for the purpose of assessing and making recommendations on the quality, sufficiency, and processes for providing debt counseling. Panel membership should include representatives from financial services organizations, institutions of higher education and consumer advocacy organizations.**

Statutory Citation

Loan counseling
HEA §485(b), (l)
[20 U.S.C. 1092(b), (l)]

Background, Rationale, and Implementation Considerations

The Department has traditionally crafted these materials, media, and processes with a one-size-fits-all approach, which rarely fits most. This process needs a better quality assurance process. Better timing would provide "just-in-time" counseling on options available at the time they are meaningful to the borrower, something schools generally have no control over. This recommendation would complement Indebtedness Task Force recommendations #5 and #7.

July 2016 Update

In January 2015, the Servicing Issues Task Force recommended embedding the regulatory requirements of entrance and exit counseling into ED's Financial Awareness Counseling Tool (FACT) in order to educate and empower borrowers in a comprehensive way about borrowing and repayment.

Congressional Action in the 114th Congress (2015-2016)

- Student Loan Borrower Bill of Rights [S. 840]: would require lenders to provide information and disclosures at designated points in the repayment process

4. Decouple Constitution Day, Voter Registration, Athletic Disclosures

Recommendation

- **Eliminate non-Title IV related requirements concerning Constitution Day, Voter Registration, and Athletic Disclosures from compliance within Title IV administration.**

Statutory Citation

Constitution Day
Section 111 of Division J of Pub. L. 108-447, the Consolidated Appropriations Act, 2005, 12/8/04; 118 Stat. 2809, 3344-45 (Section 111) [Federal Register: May 24, 2005]

Voter registration:
HEA §487(a)(23)
[20 U.S.C. 1094(a)(23)]

Athletic disclosures:
HEA §485(a)(5), §485(e)
[20 U.S.C. 1092(a)(5), 1092(e)]

Background, Rationale, and Implementation Considerations

Consumer information needs to be usable and easy to understand, and needs to make an impact on student choice. Currently, consumer information compliance is too complex and includes provisions for consumer information disclosures that have no relationship to Title IV eligibility. These provisions specifically have no bearing on Title IV student financial aid but instead contribute to the confusion.

5. Eliminate Requirement To Provide Information About State Grant Assistance

Recommendation

- **Eliminate the PPA requirement that schools provide information about state grant assistance to all eligible Direct Loan borrowers in favor of information maintained by ED on a website that is also linked to the FAFSA.**

Statutory Citation

Program Participation Agreement
HEA §487(a)(9)
[20 U.S.C. 1094(a)(9)]

Background, Rationale, and Implementation Considerations

This information should be available on the ED website, but current technology also allows ED to display this information when a student completes the FAFSA.

6. Re-examine consumer disclosures not related to Title IV

ADD

Recommendation

- **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.**

Statutory Citation

Institutional and financial assistance information for students
HEA §485(a),(f),(i),(k)
[20 U.S.C. 1092(a),(f),(i),(k)]

Background, Rationale, and Implementation Considerations

The Consumer Information Task Force made this recommendation in June 2014 because it is unclear if an institutional disclosure is the most effective way to communicate the 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 must be studied and answered.

While the task force members strongly support that this information be available to prospective and current students, the scope of these disclosures go beyond financial aid recipients, and have 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.

7. Federal-level student unit record

ADD

Recommendations

- **Repeal the ban on the federal-level student unit record.**
- **Work to develop a limited student unit record that collects more accurate and comprehensive data on contemporary student behavior.**

Statutory Citation

Database of student information prohibited
HEA §134(b)
[20 U.S.C. 1015c]

Background, Rationale, and Implementation Considerations

In June 2014, NASFAA's Consumer information Task Force recommended that a federal student unit record be established to allow student-level data to be sent to ED, rather than the current system of aggregated institutional data captured in 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.

July 2016 Update

Congressional Action in the 114th Congress (2015-2016)

One bill has been introduced that would impact this recommendation:

- Student Right to Know Before You Go Act [S. 1195/H.R. 2518]: would require colleges and universities to report individual student educational records to "statewide individual-level integrated postsecondary education data systems"

8. New consumer information requirements

ADD

Recommendation

- **Develop and consistently use a consumer-testing model when implementing any new consumer information requirements.**

Statutory Citation

Institutional and financial assistance information for students
HEA §485
[20 U.S.C. 1092]

Background, Rationale, and Implementation Considerations

In June 2014, the Consumer Information Task Force recommended that no new consumer information requirement should be imposed without prior consumer testing. Testing should be conducted at the federal level on as many existing consumer information requirements as is feasible, with the goal of improving their effectiveness. Congress should direct ED to conduct such testing of current requirements by a date certain and report on its findings.

9. Review calculation method for Student Right-to-Know Act disclosures

ADD

Recommendation

- **Reconsider the exclusive use of first-time/full-time degree- or certificate-seeking students in the calculation of graduation and retention rates.**

Statutory Citation

Institutional and financial assistance information for students
HEA §485(a)(1)(L),(U); (a)(3)-(7);
[20 U.S.C. 1092(a)(1)(L),(U); (a)(3)-(7)]

Background, Rationale, and Implementation Considerations

In June 2014, the Student Information Task Force recommended that the value of exclusively using first-time/full-time degree or certificate seeking students in the calculation of graduation and retention rates be reviewed. Many schools have larger transfer populations than first-time/full-time students, so identifying the appropriate metric to capture that student population would be beneficial to those students in their college search process. Additionally, the review should include part-time students so as to achieve a more realistic picture at community colleges and for-profit institutions.

Return of Title IV Funds for Withdrawing Students

1. Simplify the Return of Title IV Funds (R2T4) Calculations and Process

Recommendations

- **Restrict law and regulation to undergraduates. Leave treatment of graduate students to institution.**
- **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.**
- **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 in 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).**
- **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; school 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 cost of attendance (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 date certain, detailing ways in which R2T4 can be made less burdensome, including treatment of various program formats such as modules.**

ADD

- **Allow an exemption from R2T4 requirements for institutions that implement smaller, more frequent disbursements**

Statutory Citation

HEA §484B
[20 U.S.C. 1091b]

Background, Rationale, and Implementation Considerations

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 5 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 the Department has gone far beyond that simple distinction in defining what is meant by "required to take attendance."

While the basic concept underlying the return of Title IV funds (R2T4) is quite straightforward, the details have become so complicated that it has become very burdensome to explain to students and to administer. Even the Department needs over 200 pages in the Handbook to describe and illustrate this process. Errors are virtually inevitable in so complex a 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.

Graduate students receive no Pell 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.

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, 2013, through 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 9th 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 1/9th of aid. A student who withdraws anytime during the 8th week earns 8/9ths of aid.

Further discussion regarding the treatment of modules is needed. However, this level of detail should not be specified in law, but should be the subject of a dedicated negotiated rulemaking.

ADD In June 2015, the Innovative Learning Models Task Force recommended that, in alignment with the Competency Based Education Experimental Site Initiative, institutions implementing a model of smaller, more frequent disbursements (three months or less), be exempt from HEA section 484B and 34 CFR 668.22, Return of Title IV funds upon student withdrawal from school.

July 2016 Update

In July 2015, the Return of Title IV Funds (R2T4) Task Force encouraged a closer look at the objectives of a federal return policy, and proposed a number of alternative approaches to consider in further developing the RTF recommendations or addressing additional issues. Further action is needed to formulate one or more of the considerations into recommendations upon which the NASFAA Board of Directors could act, and further study of the treatment of modules is also needed. The task force suggested considering the following ideas:

- Eliminate the return of Title IV funds requirement altogether in view of other processes that limit a student's long-term access to federal student aid, such as satisfactory academic progress (SAP), loan and loan subsidy limits, lifetime Pell limits, and unusual enrollment history reviews.
- Incorporate R2T4 into SAP.
- Move the determination of withdrawal and calculation of unearned funds to the end of the payment period.
- Eliminate the return of loan funds.

Appendix A: Federal Income Tax Exemptions for Dependents

Under the tax code a taxpayer and spouse, if applicable, are entitled to personal exemptions. Additionally, a dependent, who is thus eligible to be claimed as an exemption on another person's income tax return, is a person who qualifies as such under either of two categories: qualifying child or qualifying relative. In either instance, the dependent must be a U.S. citizen, resident alien or national, or a resident of Canada or Mexico. The annual dollar value of personal and dependent exemptions is the same.

Qualifying child. There are five tests a qualifying child must meet in order to be considered a dependent of a taxpayer. A basic description of each test follows. There are certain exceptions to the *Residency* test that pertain in atypical or extraordinary cases, for example, children of divorced or separated parents, and kidnapped and deceased children.

1. *Relationship*. The child must be the taxpayer's son, daughter, stepchild, foster child, brother, sister, half brother, half sister, stepbrother, stepsister, or a descendant of any of the aforementioned persons.

2. *Age*. At the end of the calendar year, the child must be

   (a) under age 19 and younger than the taxpayer (or the spouse if filing jointly), or

   (b) under age 24 and full-time student for at least part of at least each of five months during the year, and younger than the taxpayer (or the spouse if filing jointly), or

   Full-time: Defined by school.

   (c) any age if totally and permanently disabled.

   Permanently and totally disabled. A child is permanently and totally disabled if:

   - He or she cannot engage in any substantial gainful activity because of a physical or mental condition; and
   - A doctor determines the condition has lasted or can be expected to last continuously for at least a year or can lead to death.

3. *Residency*. The child must have lived with the taxpayer for more than half of the year.

   Temporary absences for education do not disqualify.

4. *Support*. The child must not have provided more than half of his or her own support for the year.

5. *Joint tax return*. The child is not filing a joint tax return for the year.

The qualifying child tests are similar to those for including certain family members in the number in the household for federal need analysis purposes. There are two notable exceptions. In terms of a "residency test," federal need analysis does not require a sibling of the financial aid applicant to live in the home in order to be included in that applicant's family size. Also, a foster child is not included in the household size if the foster parents receive support payments for that foster child. Another difference is that federal need analysis does not include an age criterion for siblings, except in terms of the independent student definition.

Qualifying relative. There are four tests a qualifying relative must meet in order to be considered a dependent of a taxpayer. A basic description of each test follows. There are certain exceptions to the *Member of household or relationship*, *Gross income*, and *Support* tests that pertain in atypical cases, for example, multiple support agreements between divorced parents, and kidnapped and deceased children.

1. *Not a qualifying child*. The person cannot be the qualifying child of any taxpayer.

2. *Member of household/relationship*. The person must
   (a) be related to the taxpayer though not necessarily living with the taxpayer[1], or
   (b) live with the taxpayer all year as a member of the taxpayer's household (and this relationship does not violate local law).

3. *Gross income*. The person's gross income for the year must be less than $3,800 (2012 amount, indexed annually for inflation).

4. *Support*. More than half of the person's total support for the year must be provided by the taxpayer.

The qualifying relative provision extends the tax exemption for dependents to additional persons given that a qualifying child can never be a qualifying relative. Under the *Member of household/relationship* test the qualifying relative need not be related to the taxpayer, though that person must have lived in the household all year and the taxpayer must have provided more than half of that person's total support for the year. Also, the qualifying relative's gross income cannot exceed the dollar value of the exemption for the tax year.

As with the qualifying child tests, the qualifying relative tests are similar to those for including certain family members in the number in the household for federal need analysis purposes, with two notable exceptions. Federal need analysis treatment does not consider the qualifying relative's gross income, and a person who is related to the taxpayer need not live with the taxpayer.

Finally, an important note about support that is provided to another person. The tax code speaks to support during the tax year, whereas federal need analysis generally speaks to support for the upcoming award year.

[1] Child, stepchild, foster child, or a descendant of any of these (e.g. grandchild)
Brother, sister, half brother, half sister, step brother or step sister
Father, mother, grandparent, uncle, aunt, nephew, niece, or other direct ancestor
Father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law, or daughter-in-law

Appendix A

Crosswalk: Title IV Household Members and Federal Income Tax Exemptions

Dependent Students for Title IV Purposes

TITLE IV HOUSEHOLD MEMBERS (TITLE IV REQUIREMENTS SATISFIED)	PARENT(S) FEDERAL INCOME TAX EXEMPTION?
Student (FAFSA Applicant)	Yes, if lived with parent(s) more than half of the year (residency test)
Parent(s)	Yes
Applicant's siblings:	
• Parent(s) provides more than half support	Yes, if meet the age and residency tests
• Dependent under Title IV rules	Yes, if meet the age, residency and support tests
Other persons living with parent(s):	
• Related to the parent(s), or	Yes
• Not related to the parent(s), and	Yes
• Gross income exceeds $3,800 (2012)	No

Independent Students for Title IV Purposes

TITLE IV HOUSEHOLD MEMBERS (TITLE IV REQUIREMENTS SATISFIED)	STUDENT'S FEDERAL INCOME TAX EXEMPTION?
Student (FAFSA Applicant)	Yes
Spouse	Yes
Children	Yes, if meet the age and residency tests
Other persons living with student:	
• Related to the student, or	Yes
• Not related to the student, and	Yes
• Gross income exceeds $3,800 (2012)	No

Appendix A

Crosswalk: Federal Income Tax Exemptions and Title IV Household Members

Dependent Students for Title IV Purposes

PARENT(S) FEDERAL INCOME TAX EXEMPTION (TAX CODE REQUIREMENTS SATISFIED)	TITLE IV HOUSEHOLD MEMBER?
Student (FAFSA Applicant)	Yes
Parent(s)	Yes
Applicant's siblings	Yes
Other persons related to the parent(s):	
• Living with the parent(s)	Yes
• Not living with the parent(s)	No
Other persons not related to the parent(s)	Yes

Independent Students for Title IV Purposes

STUDENT'S FEDERAL INCOME TAX EXEMPTION (TAX CODE REQUIREMENTS SATISFIED)	TITLE IV HOUSEHOLD MEMBER?
Student (FAFSA Applicant)	Yes
Spouse	Yes
Children	Yes
Other persons related to the student:	
• Living with the student	Yes
• Not living with the student	No
Other persons not related to the student	Yes

Appendix B: FAFSA Application Process: Three Pathways

After initial questions related to demographics and dependency status, the FAFSA will ask applicants about receipt of SNAP and/or SSI benefits and for those who answer "No", tax filing status. The applicant's response(s) will then steer the applicant down one of three pathways.