

Federal Update 2018

Robert Vallas | September 2018

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Regulatory Update

Regulatory Reform Agenda

Executive Order on Regulatory Review

- On February 24, 2017, the President signed Executive Order 13777 to reduce regulatory burdens on the American people through regulatory reform
- ED has created a Regulatory Reform Task Force (RRTF) to review regulatory and sub-regulatory guidance throughout the Department

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Regulatory Review Task Force (RRTF)

The RRTF is identifying regulations that:

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- Are outdated, unnecessary, or ineffective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

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Regulatory Review Task Force (RRTF)

- In Fall of 2017, held public hearings on postsecondary regulatory relief
 - September 26, 2017 – Salt Lake Community College
 - October 4, 2017 – U.S. Department of Education
- Received comments on a broad range of issues including financial aid regulations and Title IX guidance

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Initial Higher Ed Focuses of RRTF

- Elimination of outdated guidance
- Borrower defense to repayment (BDTR)
 - Financial responsibility
 - Guaranty agency authority to charge collection costs
- Gainful Employment

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Elimination of Outdated Guidance

- Identified 398 outdated Dear Colleague Letters
 - Marked the applicable DCLs as “historical records” on the Information for Financial Aid Professionals (IFAP) website
 - Institutions no longer need to follow this guidance
- Continuing to review guidance and regulations

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Borrower Defense to Repayment (BDTR)

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BDTR Negotiated Rulemaking

- In 2016, the Department published regulations regarding borrower defense to repayment that were scheduled to go into effect July 1, 2017.

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BDTR Negotiated Rulemaking

- Department published three notices to delay effective date of most provisions of the final borrower defense to repayment regulations.
- In light of pending litigation, on June 16, 2017, the Department postponed the effectiveness of some provisions of the Borrower Defense regulations under section 705 of the Administrative Procedures Act

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BDTR Negotiated Rulemaking

The Department also published:

- An Interim Final Rule, on October 24, 2017, that delayed the effective date of selected provisions of the final regulations until July 1, 2018
- A Final Rule, on February 14, 2018, that delayed the effective date of the selected provisions of the final regulations until July 1, 2019

Secretary DeVos indicated that these regulations “missed an opportunity to get it right,” and created a “muddled process that is unfair to students and to schools, and puts taxpayers on the hook for significant costs.”

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BDTR Negotiated Rulemaking

The Department did not postpone provisions in the Borrower Defense regulations relating to:

- Documentation for discharges for death
- Mandatory administrative forbearance or suspension of collection of FFEL loans that the borrower intends to consolidate for borrower defense
- Consolidation of Nursing Student Loans and Nurse Faculty Loans
- Severability
- Technical corrections

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BDTR Negotiated Rulemaking

- Committee formed to negotiate BDTR
- Held three rounds of negotiations on:
 - Federal standard
 - Process
 - Limited Aspects of Financial Responsibility and Administrative Capability
 - Pre-dispute Arbitration Agreements, Class Action Waivers, and Internal Dispute Processes
 - Closed School Discharge
 - False Certification Discharge
 - Guaranty Agency Collection Fees
 - Subsidized Usage Period Recalculation

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BDTR (other issues)

Financial Responsibility Subcommittee

- Formed to consider two technical issues relating to recent changes to the Financial Accounting Standards Board (FASB) Interpretations standards.

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BDTR Negotiated Rulemaking

Session 1: November 13-15, 2017

Session 2: January 8-11, 2018

Session 3: February 12-15, 2018

Negotiations concluded without consensus being reached

The Department will publish NPRM soon

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Gainful Employment: Program Integrity

On October 31, 2014, the Department published final GE regulations that went into effect on July 1, 2015 and:

- Established a debt-to-earnings rate measure to determine whether a GE program prepares students for gainful employment in a recognized occupation
- Required institutions to report information about students who enrolled in each of the institutions' GE programs
- Required institutions to establish the eligibility of a GE program by certifying that the program:
 - Was included in the institution's certification
 - Satisfied applicable state licensing/certification requirements for the occupations the program prepares students to enter

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Gainful Employment: Electronic Announcements

- **March 6, 2017:** Delayed until July 1, 2017, the deadline for institutions to (1) submit an alternate earnings appeal to the GE D/E rates released on January 9, 2017, and (2) comply with GE program disclosure requirements.
- **June 30, 2017:** Delayed until July 1, 2018, the deadline for institutions to include the disclosure template, or a link thereto, in their GE promotional materials, and to directly distribute the disclosure template to prospective students.

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Gainful Employment: Electronic Announcements

- **August 18, 2017:** Extended the deadlines applicable to submission of an alternate earnings appeal. The deadline to submit a notice of intent to file an alternate earnings appeal was extended to October 6, 2017, and the deadline to submit an alternate earnings appeal extended to February 1, 2018. The EA also informed institutions that the Department would not enforce certain regulatory requirements relative to conducting an alternate earnings survey.
- **June 18, 2018:** Delayed until July 1, 2019, the requirement to include the disclosure template, or link thereto, in institution's GE promotional materials, and to distribute the disclosure template to prospective students.

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Gainful Employment

- Committee formed to negotiate GE
- Held three rounds of negotiations:
 - Session 1: December 4-7, 2017
 - Session 2: February 5-8, 2018
 - Session 3: March 12-15, 2018
- Negotiations concluded without consensus being reached
- The Department will publish NPRM soon

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State Authorization

- Current Effective Date, July 1, 2018
- NPRM Published May 25, 2018
 - Proposing to Delay Effective Date
 - Would Delay Effective Date until July 1, 2020
 - 15 Day Comment Period ended June 11, 2018
- Published Final Rule July 3, 2018
- On December 19, 2016, the Department published regulations relating to the State authorization of distance education providers

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Upcoming Regulatory Actions

Will hold Public Hearings on:

- Accreditation
- State Authorization
- Ensuring Student Access to High Quality and Innovative Postsecondary Educational Programs
- Updating Regulations Relating to the Graduate Assistance in Areas of National Need (GAANN) Program
- Eligibility Of Faith-Based Entities And Activities—Title IV Programs

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Statutory Update, Consolidated Appropriations Act, 2018 Public Law 115-141 (H.R. 1625)

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Omnibus Appropriations Bill

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

Impacts Federal student aid in several ways:

- Maximum Pell Grant awards
- FAFSA use
- Children of Fallen Heroes Act
- Public Service Loan Forgiveness (PSLF)

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Federal Pell Grant Program

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Revised Pell Grant Schedules

The law raises the maximum Pell Grant by \$175 from \$5,920 to \$6,095 for the 2018-2019 award year

Otherwise eligible applicants, with EFCs 5329 - 5486 are now Pell Grant eligible

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Revised Pell Grant Schedules

April 10, 2018 the Department published REVISED 2018-2019 Federal Pell Grant Payment and Disbursement Schedules ([Dear Colleague Letter GEN-18-04](#))

[Electronic Announcement, April 13, 2018](#) provides operational guidance #1

[Electronic Announcement, May 10, 2018](#) provides operational guidance #2

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Revised Pell Grant Schedules

[Electronic Announcement, May 25, 2018](#), announced availability of EExpress for Windows 2018-2019, Release 2.0

Packaging and Pell Grant module in Release 2.0 calculates Pell Grant awards according to the revised 2018–19 Federal Pell Grant Payment and Disbursement schedules published in [Dear Colleague Letter GEN-18-04](#)

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FAFSA Data Use

The appropriations law permits, but does not require, institutions to provide FAFSA data to a scholarship granting organization designated by an applicant if:

- The applicant has provided explicit written consent and
- The disclosure is to assist the applicant in applying for and receiving financial assistance at that institution

The scholarship organization cannot sell or otherwise share the FAFSA data they receive from institutions under this section

This provision will remain in effect until the HEA is reauthorized

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Children of Fallen Heroes Scholarship Act

Amends Sec. 473(b) of HEA

Expands special rule for “EFC shall be deemed zero”

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

Parent or guardian actively serving as a public safety officer and died in the line of duty while performing as a public safety officer

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Children of Fallen Heroes Scholarship Act

At time of parent or guardian’s death student was:

- Less than 24 years of age or;
- Enrolled at an institution of higher education on a part-time or full-time basis

Partial Pell Grant to full Pell Grant

Zero EFC used for all other title IV aid

Further guidance will be forthcoming

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Public Service Loan Forgiveness (PSLF)

\$350 million appropriation for temporary expansion of PSLF

Otherwise eligible Direct Loan borrowers

The additional qualifying repayment plans include the Graduated Repayment Plan, Extended Repayment Plan, Consolidation Standard Repayment Plan, and Consolidation Graduated Repayment Plan

[Electronic Announcement, May 23, 2018](#)

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Federal Perkins Loan Program

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Transition from eCB to COD

- FSA is transitioning the Campus-Based processes to the Common Origination and Disbursement (COD) System
- In March, moved call center to COD School Relations Center
 - Website: <https://cod.ed.gov>
 - E-Mail: CODSupport@ed.gov
 - Phone: 1-800-848-0978
 - Fax: 1-877-623-5082
 - Regular Mail:
U.S. Department of Education
COD School Relations Center
P.O. Box 9003
Niagara Falls, NY 14302
 - Overnight Mail:
U.S. Department of Education
COD School Relations Center
2429 Military Road, Suite 200
Niagara Falls, NY 14304

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Perkins Wind-down

Federal Perkins Loan Program Extension Act of 2015

- Enacted on December 18, 2015
- Extended the Perkins Loan program through September 30, 2017
- Eliminated grandfathering of students after the new expiration date

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Perkins Wind-down Key Dates

Schools may not:

- Award Perkins Loans to graduate students after September 30, 2016
- Make subsequent disbursements to graduate students after June 30, 2017
- Award Perkins Loans to undergraduates after September 30, 2017
- Make subsequent disbursements to undergraduates after June 30, 2018

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Perkins Wind-down

[Dear Colleague Letter GEN-17-10](#)

ED will begin collecting Federal share of schools' revolving funds after submission of the 2019-2020 FISAP (Distribution of Assets)

Schools are not required to liquidate their Perkins Loan portfolios

If a school chooses to liquidate, it should submit the school's intent to liquidate through the COD CB system

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Distribution of Assets Process

- Statutory Requirement in the HEA, Section 466
- Distribution of Assets process will be replacing the existing Excess Liquid Capital process
- Process and deadline will be provided later this Summer

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Distribution of Assets Process

Schools will be notified in late Fall, after the next FISAP deadline: October 1, 2018

Both contributions and repayments of Fund capital from Federal Government and/or from the school over time are considered in formula

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Distribution of Assets Process

Schools may NOT reimburse themselves for service cancellations.

- Section 465(b) of the HEA prohibits the use of funds appropriated for Federal Capitol Contribution from being used for cancellation reimbursement.
- The Consolidated Appropriations Act, 2018 (Pub. L. 115-141) appropriated funds for Fiscal Year 2018 for the Campus-Based programs, but did not allocate funds for Federal Perkins Loan service cancellation reimbursements.

Hurricanes and Other Natural Disasters

Gainful Employment

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GE Disclosure Resources

Updated Disclosures were due April 6, 2018

GE Disclosure Template

<http://www2.ed.gov/policy/highered/reg/heard/2009/negreg-summerfall.html>

Quick start guides

Help desk: 855-359-3697, gedt@inovas.net

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GE Alternate Earnings Appeals

Notice of Intent to Appeal was due October 6, 2017

Documentation for appeal was due February 1, 2018

Department is in process of adjudicating these appeals

Will be posted on FSA Data Center

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GE Completers List

Completers lists for next calculation of GE rates released April 30, 2018

Corrections must be submitted within 45 days – June 13, 2018

- ED will review

Next steps in the process – Continue process to calculate draft debt-to-earnings rates

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Data Accuracy

Data provided to the Department serves important purposes. It is imperative that the data be accurate.

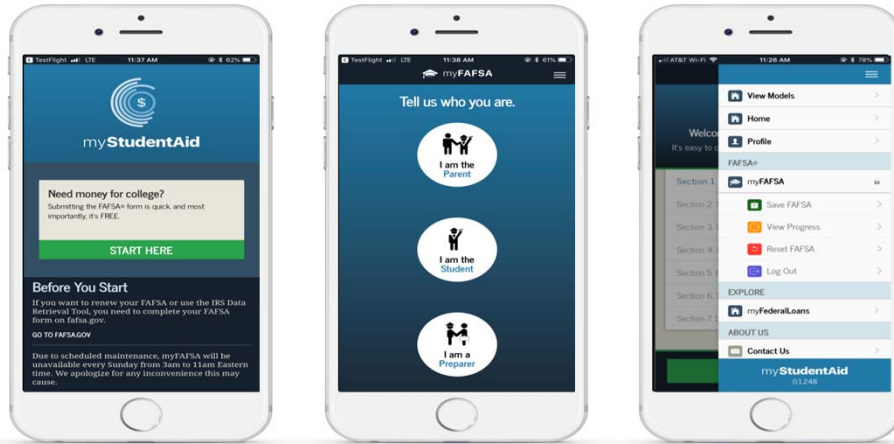
- **COD** –
 - Student's academic program information
- **NSLDS** –
 - Enrollment, including academic program
 - Perkins loan reporting
- **FISAP** –
 - Cumulative fields

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Operational Reminders

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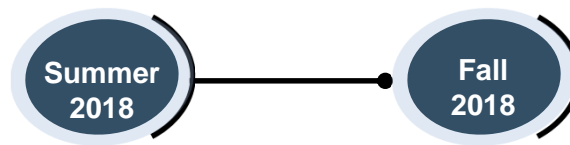
myStudentAid Mobile App – Summer 2018



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FAFSA® Going Mobile Timeline



- fafsa.gov responsive web application with updated branding
- MyStudentAid mobile app featuring the 2018–19 FAFSA form
- Integration of the fafsa.gov home page into StudentAid.gov with updated branding
- MyStudentAid mobile app featuring only the 2019–20 FAFSA form

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Year-Round Pell Grants

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Legislative Background

The Consolidated Appropriations Act of 2017 allows a student to receive Pell Grant funds up to 150% of the student's Scheduled Award for an award year

Effective beginning with the 2017-2018 award year

Applied to the summer of 2017 ONLY IF treated as a header to 2017-2018 award year

[Dear Colleague Letter GEN-17-06](#)

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General Requirements

Student must be otherwise eligible to receive Pell Grant funds for the payment period

Student must be enrolled at least half-time in the payment period for which the student received the additional Pell Grant funds

Additional Pell Grant will be included in the student's 600% maximum Pell Lifetime Eligibility Used (LEU)

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General Requirements

Payment period may include awards from both the initial Pell Grant Scheduled Award and from the additional Pell Grant award

When the calculated award for a payment period is greater than the remaining balance of an initial Scheduled Award, the award for the payment period is the remaining balance plus an amount from the additional Pell Grant award

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One Term – Additional Pell Amount

When the calculated award for a payment period is greater than the remaining balance of the initial Scheduled Award, the award for the payment period is the remaining amount of the initial Scheduled Award plus the Additional Pell amount

- Awarded as one amount
- Reported to COD as one amount

Verification

2018–2019 Verification

Same data items

Same Verification tracking groups

Some changes for 2018-2019

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2018–2019 Verification Changes

Internal Revenue Service (IRS) Data Retrieval Tool (DRT) is available again

Dependent students who are nontax filers do not have to provide confirmation of nonfiling status from the IRS or other relevant tax authority

Clarified that an applicant selected for V4 or V5 verification must submit an unexpired valid government-issued photo ID

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IRS Data Retrieval Tool 2018–2019

IRS DRT function was reinstated for the 2018–2019 FAFSA® processing year

To enhance the security and privacy of the sensitive personal data, all DRT data will be encrypted/masked and hidden from view on:

- IRS DRT website
- FAFSA web pages
- Student Aid Report (SAR)

Before sharing FAFSA data with the applicant the institution must insure the person is the applicant

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IRS Data Retrieval Tool 2018–2019

Institutional and state agency Institutional Student Information Records (ISIRs) will have IRS data

Applicants and parents will not be able to make corrections to the IRS DRT transferred items before or after submission

Institutions will continue to be able to make any necessary corrections

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IRS Data Retrieval Tool 2018–2019

IRS Data Field Flags

- NEW set of flags that identify what, if any, information was changed
- Separate flags for student and parents
- Flags listed for EACH field that can be transferred from the IRS

DIFFERENT flags than the IRS Request Flags

- 02 Request Flag still means no data changed for verification purposes

[Electronic Announcement, August 7, 2017](#)

IRS Data Retrieval Tool 2018–2019

IRS Notification of access to the IRS DRT

- Additional security protection
- Tax filer notified that their personal information was used to access their tax return information through the IRS DRT

IRS Get Transcript Online is again available for new users

Rollover

If DRT transfers a non-zero amount into the untaxed pension or IRA distribution field, applicant will be able to report the amount of a rollover and Central Processing System (CPS) will subtract it

The IRS Data Field Flag will be “2 = Field changed by user prior to submission of application”

To complete verification for this item, collect a signed statement certifying that the untaxed pension or IRA distribution contained a rollover

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Amended Tax Returns

Students or parents who filed an amended tax return may use the IRS DRT

IRS Request Flag value of 07

To complete verification the institution must obtain a signed copy of the IRS Form 1040X, in addition to one of the following:

- IRS tax return transcript; or
- IRS DRT information on an ISIR record with all tax information from the original tax return

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V4/V5 Reporting Reminder

Institutions are reminded to regularly report the verification results of identity and high school completion status using FAA Access to CPS Online

Results should not be reported in instances where the institution itself has selected the student for verification of identity or high school completion status

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V4/V5 Reporting Reminder

This reporting requirement continues to be in place for both the 2017-2018 and 2018-2019 processing years.

Institutions should not wait until the award year concludes before these results are reported.

[Electronic Announcement, November 18, 2016](#)

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2018-2019 Verification Resources

- [Federal Register Notice of Information to be Verified for the 2018–2019 Award Year](#)
- [Dear Colleague Letter GEN-17-05](#)
- [2018-2019 Verification Suggested Text Package](#)
- [2018-2019 Application and Verification Guide](#)
- [Changes to the IRS Data Retrieval Tool Process for the 2018-2019 FAFSA Form](#)

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2018-2019 Verification Resources

- [2018-2019 ISIR Guide](#)
- [2018-2019 EDE Technical Reference](#)
- [Verification Q&As](#)
- [2018-2019 FAFSA Verification-IRS Tax Return Transcript Matrix](#)

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Verification FRN 2019-2020

[Federal Register Notice](#) informing the community of the 2019-2020 FAFSA information to be verified was published on March 28, 2018

There are **NO** changes to:

- FAFSA items that may require verification
- Verification tracking groups
- Acceptable documentation
- Departmental verification selection

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Verification FRN 2019-2020

[Electronic Announcement, June 8, 2018](#), verification suggested text for 2019-2020

The technical specifications for the 2019–2020 ISIR record layout, which includes the Verification Tracking Flag values, will be available on the IFAP website July 2018

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FSA Publications Distribution

- After Aug. 30, 2018, we will no longer print or deliver FSA publications (except for the FAFSA form).
- Review your current inventory. If needed, order publications at FinancialAidToolkit.ed.gov/orderpubs.
- Publications will still be available electronically.
 - FinancialAidToolkit.ed.gov/resources
 - StudentAid.gov/resources
 - IFAP.ed.gov
 - StudentLoans.gov

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Electronic G-845 Confirmation Process

Beginning May 1, 2018 DHS-USCIS will return to sender all Forms G-845 received on or after this date

Schools should stop mailing Forms G-845 to DHS beginning on April 24, 2018 to avoid Forms being rejected

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Electronic G-845 Confirmation Process

Instructions on how to access and use the SAVE system, and links to SAVE system resources, are available on the “DHS-SAVE, Eligible Noncitizen” information page on [IFAP](#)

[Electronic Announcement, February 26, 2018](#)

[Electronic Announcement, June 8, 2018](#), DHS informed ED of an issue with the DHS Systematic Alien Verification Entitlement (SAVE) system that prevents schools from verifying students’ immigration status

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2019-2020 Need Analysis Tables

As required in Sec. 482 of the HEA, the 2019-2020 need analysis tables are to be published by June 1

[Federal Register notice, May 17, 2018](#), provided the Federal Need Analysis Methodology for the 2019-2020 Award Year

[Federal Register notice, June 8, 2018](#), the Federal Register published a correction to the Educational Savings and Asset Protection Allowance tables for a missing line

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Experimental Sites Initiative

Active Experiments: (* - Not Currently Accepting Additional Participating Schools)

- Competency Based Education *
- Dual Enrollment *
- Educational Quality through Innovative Partnerships (EQUIP)
- Federal Work Study – Near Peer Counseling
- Limited Direct Assessment *
- Limiting Unsubsidized Loan amount
- Loan Counseling *
- Prior Learning Assessment *
- Second Chance Pell *

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