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January 30, 2024

Honorable Miguel Cardona
Secretary
U.S. Department of Education
400 Maryland Avenue, S.W.
Washington, D.C. 20202

Dear Secretary Cardona:

The U.S. Department of Education's (Department) failure to launch the Free Application for Federal Student Aid (FAFSA) in a timely and effective manner is of great concern to us.

The FAFSA is designed to help ensure federal student aid, including Pell Grants, is easily accessible to students. Students and families traditionally begin completing the FAFSA in October of each year. This enables them to know the status of their financial aid packages and what they can afford before enrolling in school.

The bipartisan *FAFSA Simplification Act*¹(Act), which eliminates unnecessary questions and streamlines the process for completing the application² was enacted in December 2021, and was to take effect on July 1, 2023, for the 2023-2024 award year.³ Congress went a step further and provided the Department a one-year extension in March 2022 so that the new FAFSA would be ready for the 2024-2025 award year.⁴

Post enactment, the Department should have focused on expeditiously doing the work necessary for a successful and timely launch for the simplified FAFSA to be ready for students, families, and institutions of higher education (IHEs). Unfortunately, for the over 17.5 million estimated students who are expected to complete the FAFSA in 2024, the Department's "soft launch" of the simplified FAFSA on December 30, 2023, was fraught with issues. Stakeholders had begun

¹ Consolidated Appropriations Act, 2021, Pub. L. No. 116-620, §§ 701-706, 134 Stat. 1182, 3137-3201 (2020).

² <https://www.ncan.org/news/543813/Bipartisan-Support-for-FAFSA-Simplification-Eases-Path-to-Accessing-Financial-Aid.html>.

³ *Supra* note 1, § 701(b), at 3137.

⁴ Consolidated Appropriations Act, 2022, Pub. L. No. 117-103 § 102, 136 Stat. 49, 819 (2022).

making their concerns about the new FAFSA known as early as October 2022, and unfortunately many of these concerns became a reality.⁵

The problems with the new FAFSA are various and have yet to be entirely remedied. The “soft launch” involved lengthy online waiting rooms, sporadic closures of the form, and software errors for applicants.⁶ Though the FAFSA is available today for completion, the Department itself has admitted that students and families are still unable to complete the FAFSA because of an extensive list of technical issues. Many of the issues have no current workarounds.⁷ The Department described these roadblocks as “some minor issues,”⁸ yet they are far from minor: they are obstacles preventing many applicants from completing the FAFSA and therefore from finalizing their college decisions.

The Department’s delays also have consequences for IHEs and states. As you know, IHEs and states use the FAFSA to make determinations about additional aid to students. The Department has promised to provide FAFSA eligibility information to schools and states by “late January” and has assured applicants they will have “ample time” to fill out the form.⁹ Given the current status of FAFSA implementation, this ambitious timeline appears to be very much in doubt. For example, there were concerns the Department could meet this timeline when it initially failed to include inflation adjustments for the FAFSA, even though the Act mandated such adjustments.¹⁰ It was only recently that the Department finally acknowledged this error;¹¹ and it is still unclear how long addressing it will take. Meanwhile IHEs and states are left in limbo as they await accurate student information.

It appears the Department has focused its time and resources on transferring student debt to taxpayers rather than on faithfully implementing the laws enacted by Congress. Indeed, on June 30, 2023, the Supreme Court struck down the Department’s illegal loan cancellation scheme.¹² Despite this judicial reprimand, the Department continues to work against the interests of taxpayers through illegal waivers and ill-advised regulations.¹³ Neither the loan cancellation scheme struck down by the Court nor any of the Department’s subsequent debt relief plans have been carried out with Congressional approval.¹⁴

⁵ <https://www.insidehighered.com/news/2022/10/10/groups-sound-alarm-about-fafsa-simplification>.

⁶ <https://www.npr.org/2024/01/05/1222892834/fafsa-student-financial-aid-college>.

⁷ <https://fsapartners.ed.gov/knowledge-center/topics/fafsa-simplification-information/2024-25-fafsa-issue-alerts>.

⁸ <https://fsapartners.ed.gov/knowledge-center/topics/fafsa-simplification-information/2024-25-fafsa-updates#mostcurrentupdate>.

⁹ <https://studentaid.gov/announcements-events/fafsa-support>.

¹⁰ *Supra* note 1, § 702, at 3151-3152, <https://www.forbes.com/advisor/student-loans/fafsa-problem-financial-aid-inflation/>.

¹¹ <https://www.npr.org/2024/01/23/1226406495/families-colleges-remain-limbo-education-department-promises-fix-fafsa-mistake>.

¹² *Nebraska v. Biden*, 600 U.S. 417, 143 S. Ct. 2355 (2023).

¹³ https://edworkforce.house.gov/uploadedfiles/1.16_ltr_budget_evr_to_ed_1.16.2024.pdf.

¹⁴ https://edworkforce.house.gov/uploadedfiles/1.16_ltr_budget_evr_to_ed_1.16.2024.pdf.

It seems the Department's failed FAFSA implementation is at least in part due to the time and attention it gave to judicially unsanctioned and politically expedient cancellation plans. The net result is students struggling to plan their postsecondary education because of the delays and related problems.

The Committee on Education and the Workforce has been granted legislative and oversight jurisdiction over the "organization, administration, and general management of the Department of Education" as well as over education matters, generally, as described in the Rules of the U.S. House of Representatives, 118th Congress.¹⁵

Given these disruptions, please provide the following answers and documents (instructions attached) no later than February 13, 2024.

1. Provide a copy of the Department's plan of action to implement the Act, including dates for interim and final deliverables.
2. Provide all communications the Department shared with students and other stakeholders regarding deadlines or extensions of deadlines for availability of the new FAFSA.
3. Provide copies of all documents associated with updates to the income protection allowance and the deadline for correcting inaccurate aid estimates, including communications between Department staff.
4. Provide all written communications regarding the reallocation, if any, of salaries and expense account funding to implement the administration's student loan cancellation initiatives as described in the three-part plan detailed in the August 24, 2022, announcement titled "FACT SHEET: President Biden Announces Student Loan Relief for Borrowers Who Need It Most."¹⁶
5. Provide all documentation regarding resource reallocation, if any, of salaries and expense account funding to provide for implementation of the Act.
6. Provide all communications between the Department and schools regarding the deadline of providing FAFSA information by "late January" as stated on the 2024-2025 FAFSA Form Launch announcement page.¹⁷
7. Provide all communications between the Department and states regarding the deadline of providing FAFSA information by "late January" as stated on the 2024-2025 FAFSA Form Launch announcement page.¹⁸
8. Provide copies of all timelines of the Department associated with the Department's attempts to resolve the implementation issues listed on the 2024–25 FAFSA Issue Alerts Problems as of January 30, 2024.

¹⁵ Rules of the House of Representatives, 118th Cong. at 7, 9-10 (Jan 10, 2023).

¹⁶ <https://www.whitehouse.gov/briefing-room/statements-releases/2022/08/24/fact-sheet-president-biden-announces-student-loan-relief-for-borrowers-who-need-it-most/>.

¹⁷ <https://studentaid.gov/announcements-events/fafsa-support>.

¹⁸ <https://studentaid.gov/announcements-events/fafsa-support>.

Sincerely,



Virginia Foxx
Chairwoman
U.S. House Committee on Education
and the Workforce



Burgess Owens
Chairman
Subcommittee on Higher Education
and Workforce Development