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COMMITTEE ON  
EDUCATION AND THE WORKFORCE  
U.S. HOUSE OF REPRESENTATIVES  
2176 RAYBURN HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515-6100

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JAMAAL BOWMAN, NEW YORK

July 25, 2024

The Honorable Miguel Cardona  
Secretary, U.S. Department of Education  
400 Maryland Avenue, SW  
Washington, DC 20202

Dear Secretary Cardona:

The U.S. House Committee on Education and the Workforce (Committee) continues to engage in oversight of the Department of Education's (Department) implementation of the Free Application for Federal Student Aid (FAFSA). On January 24, 2024, I, U.S. Senate Health, Education, Labor, and Pensions (HELP) Committee Ranking Member Bill Cassidy and 26 other Senators and House members transmitted a letter to Comptroller General Gene Dodaro to ask the Government Accountability Office (GAO) to examine the "rollout" of the simplified FAFSA.<sup>1</sup>

Subsequently, on May 31 Senate HELP Ranking Member Cassidy and I wrote to you expressing our concerns about how the Department's failure to provide GAO full and complete information and documents is hindering GAO's ability to perform its FAFSA-related work for Congress.<sup>2</sup> As we then noted, the Department's stonewalling was "interfering with our ability to carry out our constitutionally mandated oversight responsibilities."<sup>3</sup>

Further, Comptroller General Dodaro wrote two letters to you on May 20 providing great specificity about GAO's many meetings with the Department (dating back to February 28, 2024), its requests, and its offer of accommodations to the Department—all for the purpose of obtaining

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<sup>1</sup> The issues were: (1) To what extent, if at all, did students and schools face challenges applying for and administering federal student aid during the initial award cycle? (2) What steps has the Department taken to identify and address these challenges, if any, in preparation for next year's award cycle? (3) To what extent has the Department provided students with sufficient information on how to complete the new FAFSA and navigate the application process? and (4) To what extent has the Department provided schools with sufficient guidance and communications for incorporating the FAFSA changes into their own financial aid award processes?

[https://www.help.senate.gov/imo/media/doc/letter\\_to\\_gao\\_re\\_fafsa.pdf](https://www.help.senate.gov/imo/media/doc/letter_to_gao_re_fafsa.pdf). On February 7, 2024, Ranking Member Cassidy and I transmitted a follow-up letter to GAO requesting it to examine several separate, but related "processing system launch" issues. [https://www.help.senate.gov/imo/media/doc/final\\_bc\\_it\\_final\\_letter.pdf](https://www.help.senate.gov/imo/media/doc/final_bc_it_final_letter.pdf).

<sup>2</sup> [https://www.help.senate.gov/imo/media/doc/rr\\_letter\\_to\\_secretary\\_cardona\\_fafsa\\_may\\_31pdf.pdf](https://www.help.senate.gov/imo/media/doc/rr_letter_to_secretary_cardona_fafsa_may_31pdf.pdf).

<sup>3</sup> *Id.*

the requested information and documents.<sup>4</sup> Though GAO has received some information and documents, many pending requests remain with the Department over four months later.<sup>5</sup>

The Committee has a strong interest in the information and documents and for this reason requested the information and documents in the May 31 letter. Nearly six weeks have passed, and the Committee has not received a response letter, much less any information or documents. In addition, during a regular monthly meeting on June 7 between the Committee's education oversight team and the Department's Office of Legislation and Congressional Affairs (OLCA), OLCA staff made no mention of the Department's progress, if any, on responding to our May 31 request. An additional conversation between the oversight team and OLCA staff on July 11 yielded no documents or commitment to sending documents. Accordingly, given the lack of full responsiveness on these critical matters, the Committee has determined that compulsory measures are necessary.

Since January 2024, the Department has held weekly (in some cases more often) FAFSA conference calls with Committee staff. Among other things, these calls have enabled my staff to receive the latest updates on FAFSA implementation, as well as the status of a range of pending FAFSA-related document requests. Unfortunately, many of these requests remain unfilled by the Department. Committee staff has also periodically raised questions about materials during scheduled check-in calls with your staff.

Rule X of the Rules of the House of Representatives authorizes the Committee to conduct oversight of matters involving the Department to inform potential legislation.<sup>6</sup> Our oversight of the Department's FAFSA activities are within the Committee's jurisdiction and are "subject[s] on which legislation 'could be had.'"<sup>7</sup>

Accordingly, please find attached a subpoena compelling you to provide the documents and communications delineated in the attached schedule of documents no later than August 8, 2024.

Sincerely,



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

Attachments

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<sup>4</sup> Letter from Hon. Gene L. Dodaro, Comptroller General of the United States, to Hon. Miguel Cardona, Secretary, U.S. Department of Education (May 20, 2024) (on file with Committee staff); letter from Hon. Gene L. Dodaro, Comptroller General of the United States, to Hon. Miguel Cardona, Secretary, U.S. Department of Education (May 20, 2024) (on file with Committee staff).

<sup>5</sup> *Id.*; see the May 20, 2024 letters for references to an agreement to produce information and documents, as well as the submission of GAO's initial request of March 8.

<sup>6</sup> Rules of the U.S. House of Representatives, 118<sup>th</sup> Cong. at 6,7, 9-12 (Jan. 10, 2023).

<sup>7</sup> *Trump v. Mazars USA, LLP*, 140 S.Ct. 2019, 2031 (2020) (internal citations omitted).

# SUBPOENA

## BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES OF THE CONGRESS OF THE UNITED STATES OF AMERICA

The Honorable Miguel Cardona, Secretary  
U.S. Department of Education

To \_\_\_\_\_

You are hereby commanded to be and appear before the  
Committee on Education and the Workforce

\_\_\_\_\_ of the House of Representatives of the United States at the place, date, and time specified below.

- to produce the things identified on the attached schedule touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of production: 2176 Rayburn House Office Building, Washington, D.C. 20515

Date: August 8, 2024

Time: 12:00 p.m. EDT

- to testify at a deposition touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: \_\_\_\_\_

Date: \_\_\_\_\_

Time: \_\_\_\_\_

- to testify at a hearing touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: \_\_\_\_\_

Date: \_\_\_\_\_

Time: \_\_\_\_\_

To the U.S. Marshals Service, or any authorized Member or congressional staff  
\_\_\_\_\_ to serve and make return.

Witness my hand and the seal of the House of Representatives of the United States, at  
the city of Washington, D.C. this 22 day of July, 2024.

Virginia Foxx

Chairman or Authorized Member

Attest:

Kerrin F. McCulver

Clerk

**PROOF OF SERVICE**

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Subpoena for The Honorable Miguel Cardona, Secretary  
U.S. Department of Education

Address 400 Maryland Avenue, S.W., Washington, D.C. 20202

before the Committee on Education and the Workforce

*U.S. House of Representatives*  
*118th Congress*

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Served by (print name) Mindy Barry

Title General Counsel

Manner of service Email

Date \_\_\_\_\_

Signature of Server \_\_\_\_\_

Address 2176 Rayburn House Office Building, Washington, D.C. 20515

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## Subpoena Schedule of Documents

In accordance with the attached Schedule instructions and definitions, you, Miguel Cardona, Secretary of Education, are required to produce all documents and communications described below in your possession, custody, or control, in unredacted form, from January 20, 2021, to present, unless otherwise specified:

1. All documents referenced below and developed between June 1, 2023 and March 8, 2024 and described in the Award Eligibility Determination (AED) Quality Assurance Surveillance Plan:
  - a) Meeting minutes for AED Product Increment (PI) Planning meetings
  - b) Quality Management Reports
2. The most recent Issues' Tracker for the Department's AED contract (as described by the AED Quality Assurance Surveillance Plan), including all open and closed issues.
3. The most recent AED requirements' documents capturing all system Epics, Features, and Supplemental Data Element and edit information.
4. AED Requirement Review Stage Gate artifacts and approval signatures (as described in the FSA Requirements Review Stage Gate Process Guide, version 1.6, March 20, 2018), specifically: (1) all applicable requirements artifacts provided to reviewers (e.g., those called for in Section 2 of the Requirements Review Stage Gate Process Guide): and (2) the artifacts listed in the "Review Document Name(s)/Versions" and "Change Request #'s" fields of Requirements Review Stage Gate Summary dated 11/27/2023.
5. All AED testing documentation referenced below for all AED products as called for by FSA's Enterprise Test Management Standards:
  - a) AED Unit testing artifacts (including test plans, test suites, test reports, test metrics, and defect reports) and FSA Project Manager approval of those artifacts.
  - b) AED Integration testing artifacts (including test plans, test suites, test reports, test metrics, and defect reports) and FSA Project Manager approval of those artifacts.
6. Artifacts and related approvals from any other AED project testing (e.g., post implementation verification usability, compatibility) not covered in the above requests, including test plans, test suites, test reports, test metrics, and defect reports.
7. Artifacts and approval signatures for any Technical Design Stage Gate reviews for all AED products (as described in the Technical Design Stage Gate Process Description, version 3.7.8, dated September 18, 2019).
8. The most recent AED Requirements Roadmap as described by the AED Requirements Management Plan version 1.0.

9. Documents sufficient to show and that describe how the AED Requirements Roadmap aligns with the Requirements Traceability Matrix.
10. The most recent AED Baseline Change Request Log or Change Control Reports as described by the FSA Investment, Program, Project Management Artifact Guidance version 1, dated September 2018.
11. The most recent AED program schedule as well as all previous baseline versions of the schedule.
12. All documents supporting the Investment Management Board/Investment Review Board's review, approval, and notification of the Investment Request associated with AED/FAFSA Processing System (FPS). This request refers to Step 3 as described on page 4, Management Stage Gate 1: Investment Review (SOP 001), SOP-001 version 2.1.
13. The Decision Record Memo (DRM) documenting the completion of the Management Stage Gate 2 for AED/FPS. This request refers to the DRM described on page 1, Section 1 (Purpose) of Management Stage Gate: 2 SOP-002 version 2.
14. Documents sufficient to show the support of the delivery of the DRM to the Investment Management Board and acceptance as described in FSA Investment, Program, and Project Management Artifact Guidance and Management Stage Gate 2: Project Execution SOP 002.
15. The most recent charters for all Department of Education IT governance boards (excluding FSA IT governance boards requested above. (e.g., Investment Management Board (IMB), Planning and Investment Review Working Group (PIRWG), Enterprise Investment Management Board (EIMB), Enterprise Review Board (ERB)).
16. Documents sufficient to show the aggregate data on the number of FAFSA submissions and completions for the current award cycle to date, and comparable data for the same period last year (broken down by original v. renewal applications).
17. Documents sufficient to show the Department's Supporting Statement for Paperwork Reduction Act Submission (OMB Number: 1845-0179) estimates that indicate 3,500 individuals would go through the non-SSN process of FSA ID account creation annually.
18. Documents sufficient to show any summary or debriefing information from additional "FAFSA Support Site Visits" associated with department visits to Greensboro, NC, and Arizona.
19. Documents sufficient to show the Department's rationale/approval for waiving public comments and alternative plans to solicit stakeholder input in lieu of the public comment process.
20. Documents sufficient to show the number of reprocessed ISIRs indicated in GENERAL-24-38 by Student Aid Index (SAI) Impact Indicator (i.e., number that resulted in increased SAI, decreased SAI, no change, weren't subject to reprocessing, may change, and will no longer be blank).

- a) Documents sufficient to show that for SAIs that increased, the average amount of the SAI increase for affected applicants.

## **Instructions for Responding to a Subpoena**

### **U.S. House Committee on Education and the Workforce**

#### **118th Congress**

1. In complying with the U.S. House Committee on Education and the Workforce's (Committee) subpoena, produce all responsive documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. You should also produce documents that you have a legal right to obtain, that you have a right to copy, or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party. Subpoenaed records, documents, data, or information should not be destroyed, modified, removed, transferred, or otherwise made inaccessible to the Committee.
2. In the event that any entity, organization, or person denoted in the subpoena has been or is also known by any other name or alias than herein denoted, the subpoena should be read also to include the alternative identification.
3. The Committee's preference is to receive documents in electronic form (i.e., CD, memory stick, or thumb drive) in lieu of paper productions.
4. Documents produced in electronic form should also be organized, identified, and indexed electronically.
5. Electronic document productions should be prepared according to the following standards:
  - a. All documents derived from word processing programs, email applications, instant message logs, spreadsheets, and wherever else practicable should be produced in text searchable Portable Document Format (".pdf") format. Spreadsheets should also be provided in their native form. Audio and video files should be produced in their native format, although picture files associated with email or word processing programs should be produced in .pdf format along with the document it is contained in or to which it is attached.
  - b. Alternatively, the production should consist of single page Tagged Image Files (".tif") files accompanied by a Concordance-format load file, an Opticon reference file, and a file defining the fields and character lengths of the load file.
  - c. Document numbers in the load file should match document Bates numbers and .tif file names.
  - d. If the production is completed through a series of multiple partial productions, field names and file order in all load files should match.
  - e. All electronic documents produced should include the following fields of metadata specific to each document:



BEGDOC, ENDDOC, TEXT, BEGATTACH, ENDATTACH, PAGECOUNT, CUSTODIAN, RECORDTYPE, DATE, TIME, SENTDATE, SENTTIME, BEGINDATE, BEGINTIME, ENDDATE, ENDTIME, AUTHOR, FROM, CC, TO, BCC, SUBJECT, TITLE, FILENAME, FILEEXT, FILESIZE, DATECREATED, TIMECREATED, DATELASTMOD, TIMELASTMOD, INTMSGID, INTMSGHEADER, NATIVELINK, INTFILPATH, EXCEPTION, BEGATTACH.

- f. If any of the subpoenaed information is only reasonably available in machine-readable form (such as on a computer server, hard drive, or computer backup tape), consult with the Committee staff to determine the appropriate format in which to produce the information.
6. Documents produced to the Committee should include an index describing the contents of the production. To the extent more than one CD, hard drive, memory stick, thumb drive, box or folder is produced, each CD, hard drive, memory stick, thumb drive, box or folder should contain an index describing its contents.
7. Documents produced in response to the subpoena should be produced together with copies of file labels, dividers or identifying markers with which they were associated when the subpoena was served.
8. When producing documents, identify the paragraph in the Committee's schedule to which the documents respond.
9. Do not refuse to produce documents on the basis that any other person or entity also possesses non-identical or identical copies of the same documents.
10. This subpoena is continuing in nature and applies to any newly discovered information. Any record, document, or compilation of data or information not produced because it has not been located or discovered by the return date should be produced immediately upon subsequent location or discovery.
11. All documents should be Bates-stamped sequentially and produced sequentially. Each page should bear a unique Bates number.
12. Two sets of documents should be delivered, one set to the Majority Staff and one set to the Minority Staff. When documents are produced to the Committee, production sets should be delivered to the Majority Staff in Room 2176 of the Rayburn House Office Building or provided electronically to Majority General Counsel at [mindy.barry@mail.house.gov](mailto:mindy.barry@mail.house.gov) and the Minority Staff in Room 2101 of the Rayburn Office Building or provided electronically to Minority General Counsels at [ilana.brunner@mail.house.gov](mailto:ilana.brunner@mail.house.gov) and [christian.haines@mail.house.gov](mailto:christian.haines@mail.house.gov).
13. If compliance with the subpoena cannot be made in full by the date specified in the subpoena, compliance should be made to the extent possible by that date. Notify Committee staff as soon as possible if full compliance cannot be made by the date

specified in the subpoena and provide an explanation for why full compliance is not possible by that date.

14. In the event that a document is withheld on the basis of privilege, provide a privilege log containing the following information concerning any such document: (a) the privilege asserted; (b) the type of document; (c) the general subject matter; (d) the date, author and addressee; and (e) the relationship of the author and addressee to each other.
15. In the event that a portion of a document is redacted on the basis of privilege, provide a privilege log containing the following information concerning any such redaction: (a) the privilege asserted; (b) the location of the redaction in the document; (c) the general subject matter of the redacted material; (d) the date, author, and addressee of the document, if not readily apparent; and (e) the relationship of the author and addressee to each other.
16. If any document responsive to this subpoena was but no longer is in your possession, custody, or control, identify the document (stating its date, author, subject and recipients) and explain the circumstances under which the document ceased to be in your possession, custody, or control.
17. If a date or other descriptive detail set forth in this subpoena referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the subpoena, produce all documents which would be responsive as if the date or other descriptive detail were correct.
18. In the event a complete response requires the production of classified information, provide as much information in unclassified form as possible in your response and send all classified information under separate cover via the Office of Senate Security.
19. Unless otherwise specified, the period covered by this subpoena is from March 1, 2020, to the present.
20. Upon completion of the document production, you should submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control which reasonably could contain responsive documents; and (2) all documents located during the search that are responsive have been produced to the Committee.

### **Schedule Definitions**

21. The term "document" in the subpoena, the schedule, or the instructions means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, inter-office and intra-office communications, electronic mail (e-mail), contracts, cables, notations of any type of conversation, telephone calls, meetings or other communications, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns,

summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto) graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings, and motion pictures), electronic, mechanical, and electric records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings), and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape or otherwise. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.

22. The term "communication" in the subpoena, the schedule, or the instructions means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether face to face, in meetings, by telephone, mail, telex, facsimile, email (desktop or mobile device), computer, text message, instant message, MMS or SMS message, regular mail, telexes, discussions, releases, delivery, or otherwise.
23. The terms "and" and "or" in the subpoena, the schedule, or the instructions should be construed broadly and either conjunctively or disjunctively to bring within the scope of this subpoena any information which might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neuter genders.
24. The terms "person" or "persons" in the subpoena, the schedule, or the instructions mean natural persons, firms, partnerships, associations, corporations, subsidiaries, divisions, departments, joint ventures, proprietorships, syndicates, or other legal, businesses or government entities, and all subsidiaries, affiliates, divisions, departments, branches, or other units thereof.
25. The term "identify" in the subpoena, the schedule, or the instructions, when used in a question about individuals, means to provide the following information: (a) the individual's complete name and title, and (b) the individual's business address and phone number.
26. The terms "referring" or "relating" in the subpoena, the schedule, or the instructions, when used separately or collectively, with respect to any given subject, mean anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with, or is pertinent to that subject in any manner whatsoever.
27. The term "employee" in the subpoena, the schedule, or the instructions means agent, borrowed employee, casual employee, consultant, contractor, de facto employee, independent contractor, joint adventurer, loaned employee, part-time employee, permanent employee, provisional employee, or subcontractor.

28. The terms "you" and "your" in the subpoena, the schedule, or the instructions refer to yourself; your firm, corporation, partnership, association, department, or other legal or government entity, including all subsidiaries, divisions, branches, or other units thereof; and all members, officers, employees, agents, contractors, and all other individuals acting or purporting to act on your behalf, including all present and former members, officers, employees, agents, contractors, and all other individuals exercising or purporting to exercise discretion, make policy, and/or decisions.
29. The term "Department" or "Department of Education" in the subpoena, the schedule, or the instructions includes but is not limited to the Department of Education, each of its subsidiaries, divisions, groups, or other entities, and any current or former employee, officer, director, contractor, agent, or other representative of the Department of Education or any of its subsidiaries, divisions, groups, or other entities.
30. The term "Administration" means and refers to any department, agency, division, office, subdivision, entity, official, administrator, employee, attorney, agent, advisor, consultant, staff, or any other person acting on behalf or under the control or direction of the Executive Branch of government.

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