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The FAFSA Simplification Act

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SUMMARY

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The FAFSA Simplification Act

The Higher Education Act of 1965 (HEA; P.L. 89-329, as amended), authorizes numerous federal aid programs that provide support to both individuals pursuing a postsecondary education and institutions of higher education (IHEs). Title IV of the HEA authorizes the primary sources of postsecondary federal student aid, including Pell Grants and Direct Loans. Students apply for federal student aid by completing the Free Application for Federal Student Aid (FAFSA). There have been several long-standing concerns that the length and complexity of the FAFSA, and the lack of transparency and predictability its use provides for students and their families, may discourage postsecondary educational access and attainment.

The FAFSA Simplification Act (FSA; Title VII, Division FF of P.L. 116-260) makes significant changes to the underlying processes and methodologies for determining federal student aid eligibility. The FSA amendments specify that most of its provisions are scheduled to take effect on July 1, 2023, though the Department of Education (ED) has stated that some provisions will have a phased implementation that will extend to the 2024-2025 award year.

The FSA amendments retain need analysis formulas that establish an indicator of what the student's family is expected to pay for higher education based on information provided on the FAFSA. The FSA amends the indicator's name from *expected family contribution* (EFC) to *student aid index* (SAI). The SAI has fewer formula factors than the EFC, requires fewer questions on the FAFSA, and permits a higher share of FAFSA responses to be imported from a federal income tax return.

To make the student aid process more predictable for low-income students, the FSA amendments establish a new policy by which students with an adjusted gross income (AGI) below specified levels can automatically qualify for a maximum Pell Grant. The AGI threshold is either 175% or 225% of federal poverty guidelines, depending on the student's dependency status and marital status. In the case of a dependent student, the marital status criteria and AGI threshold are applied to the student's parent(s).

Students who do not qualify for a Pell Grant based on their AGI can still qualify for a Pell Grant based on their calculated SAI. Students who qualify for a maximum Pell Grant based on their AGI qualify for an SAI of zero or, in certain cases, less than zero. The SAI of these students establishes eligibility for maximum amounts of other forms of need-based federal student aid.

The FSA amendments make additional changes to the award rules and some eligibility criteria for the Pell Grant program. For students enrolled less than full-time, their Pell Grant will be reduced in proportion to their actual enrollment rate (e.g., 11 credits out of 12 full-time credits) instead of their tiered enrollment rate (e.g., less than full-time but at least three-quarter-time). With respect to eligibility, the FSA amendments eliminate the prohibition against students incarcerated in a federal or state penal institution receiving a Pell Grant, but it requires that Pell Grant recipients in a correctional institution be enrolled in prison education programs. These programs must meet all of the HEA Title IV program eligibility requirements and additional requirements, many of which are intended to help incarcerated individuals seek further education or employment upon release.

The FSA amendments expand student aid access by eliminating prohibitions for students with certain drug-related offenses and students who failed to register for the Selective Service. The FSA amendments modify procedures by which certain student populations can establish independent student status and not provide parental information on the FAFSA.

The FSA amendments provide relief to borrowers of loans made through two HEA loan programs. It repeals the Direct Loan program's Subsidized Usage Limit Applies (SULA) requirement so eligible undergraduate students who borrow Direct Subsidized Loans retain their interest subsidy despite remaining enrolled for a period that exceeds 150% of the published length of their academic program. The FSA amendments also direct ED to repay the outstanding balances on Historically Black Colleges and Universities Capital Financing loan amounts that had been disbursed as of December 27, 2020.

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Introduction

Title IV of the Higher Education Act of 1965 (HEA; P.L. 89-329, as amended) authorizes the primary sources of federal aid to support postsecondary education students. Title IV programs made over $118 billion in aid available to postsecondary students in FY2020 through Direct Loans and other forms of aid, including $27 billion in Pell Grants.[1] The FAFSA Simplification Act (FSA; Title VII, Division FF of P.L. 116-260, Consolidated Appropriations Act, 2021) makes significant changes to the underlying processes and methodologies for determining student eligibility for federal student aid authorized by Title IV.

The FSA is intended principally to address several long-standing concerns with the HEA Title IV federal student aid application process. Specifically, the current process has been criticized for being too complicated to navigate, with the length and complexity of the Free Application for Federal Student Aid (FAFSA)—the instrument students use to apply for federal student aid—being consistent targets of the criticism. The student aid application and award process has also been criticized for lacking transparency and predictability for students and their families. This is because the methodology for calculating award amounts is opaque. In addition, students are not aware of how much federal aid they may be eligible for until an institution of higher education (IHE) to which they have been admitted provides an award letter. As a result, critics of the current system argue that students and their families may be discouraged from applying for aid and consequently may be discouraged from pursuing postsecondary education.[2]

To address these issues, the FSA aims to streamline the application and need assessment procedures for federal student aid. Eligible low-income students will be able to qualify for a maximum Pell Grant and other forms of need-based aid based on a single financial indicator (adjusted gross income [AGI]) and procedures are streamlined for other students. The FSA amendments expand eligibility for Pell Grants and other forms of student aid and establishes a number of procedural changes, many of which are directed at easing access to aid for specific student populations.

This report begins with brief background on the HEA and administration of the FSA. It then focuses on the FSA's changes to the student aid application process, associated formulas for calculating student need, and the Pell Grant program. The final sections include descriptions of FSA provisions affecting Direct Subsidized Loans and the Historically Black Colleges and Universities Capital Financing program.

Background and Framework for the HEA Prior to the FSA Amendments Going into Effect

To be eligible for any HEA Title IV federal student aid, a student or prospective student must complete the FAFSA. In addition to specified financial information, the FAFSA collects information regarding the student's citizenship, the student's prior educational achievement, and a range of personal and family characteristics. Information on income, assets, and other

[1] U.S. Department of Education, President's Budget Request FY2022, p. O-4. Available aid includes institutional matching funds but excludes loans issued to consolidate existing loans (Consolidation Loans). For more information on Title IV aid programs, see CRS Report R43351, *The Higher Education Act (HEA): A Primer*.

[2] U.S. Congress, Senate Committee on Health, Education, Labor, and Pensions, *Time to Finish Fixing the FAFSA*, 116th Cong., 2nd sess., September 17, 2020, Opening Remarks by Senators Lamar Alexander and Patty Murray.

characteristics provided on the FAFSA is used to calculate the student's expected family contribution (EFC) toward postsecondary education based on multipart statutory formulas. The HEA establishes three EFC formulas: one each for (1) dependent students, (2) independent students without dependents, and (3) independent students with dependents.[3] The formula for dependent students considers the financial resources of the student's parents while the formulas for independent students do not.

Under the HEA, a student is determined to be independent if the student meets any of a list of criteria, including (but not limited to) being 24 years of age on January 1 of the award year, being married, having dependents, or being a veteran of the Armed Forces.[4] Students who do not meet any of the independent student criteria are determined to be dependent and must report parental information.[5]

Eligibility for many federal student aid programs is contingent on student financial need. Under current law, student need is defined as the difference between the student's cost of attendance (COA) as determined by the school and the sum of the student's EFC and estimated financial assistance (EFA).[6] COA is an estimate of a student's educational expenses for the period of enrollment. Generally, EFA includes most scholarships, grants, loans, or other assistance known to the school at the time the determination of the student's need is made. Students with a zero EFC may qualify for the maximum amount of need-based federal student aid, including a maximum Pell Grant.[7]

Administration of the FSA

This section describes the FSA's implementation. It discusses the effective date of the act and necessary procedures that the U.S. Department of Education (ED) must follow to implement the act. In addition, a change in HEA Title IV aid need analysis terminology is described.

Effective Date and Associated Rulemaking

The FSA specifies that most of its provisions are scheduled to take effect on July 1, 2023, coinciding with the beginning of the 2023-2024 award year, and remain in effect for each subsequent award year.[8] The law grants the Secretary of Education "the authority to take such steps as are necessary before July 1, 2023, to provide for the orderly implementation on such date of the amendments." In limited instances, the July 1, 2023, date serves as a deadline for the implementation of certain provisions, and ED has the authority to implement the specified provisions earlier. These instances are noted in this report, as relevant. ED has indicated that it is anticipating a phased implementation of FSA provisions that would extend to the 2024-2025 award year.[9]

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[3] For a detailed description of the formulas prior to the effective date of the FSA, see CRS Report R44503, *Federal Student Aid: Need Analysis Formulas and Expected Family Contribution*.

[4] See HEA §480(d) for full criteria.

[5] In limited cases, students who do not meet any of the independent student criteria may qualify for independent student status via a dependency override. See the "Dependency Overrides" section later in this report.

[6] HEA §471, as in effect prior to implementation of the FSA.

[7] Prior to the effective date of the FSA, students may not receive federal aid in excess of COA. See, for example, HEA §§401(b)(3), 401(b)(5), 420M(c)(2), 420R(d)(3), 428B(b), and 428H(c).

[8] FSA §701(b).

[9] U.S. Department of Education, "Beginning Phased Implementation of the FAFSA Simplification Act," June 11, 2021,

Except as prohibited in statute, the Secretary may choose to update existing regulations or promulgate new regulations. There are relevant existing regulations for Pell Grants, HEA Title IV student eligibility, and the verification and updating of student aid application information. The HEA limits the Secretary's ability to prescribe regulations on need analysis.[10] HEA Section 492 generally requires that any new or revised HEA Title IV regulations be devised through negotiated rulemaking.[11] Under negotiated rulemaking, the Secretary tries to develop proposed rules in collaboration with a committee of affected stakeholders. In general, HEA Section 482 requires that final Title IV regulations be published by November 1 prior to the start of the award year (July 1) in which they become effective.[12] To go into effect on July 1, 2023, final regulations related to the FSA must generally be published by November 1, 2022.

EFC Renamed as Student Aid Index

The FSA amendments replace the EFC with a new indicator: *student aid index* (SAI). The SAI is similar to the EFC: both metrics are a dollar amount that synthesizes personal and financial characteristics to estimate the ability of an applicant to pay for postsecondary education.[13] While there are a number of differences in the details, the general procedures in calculating the EFC and SAI are similar.[14] The remainder of this report will use EFC when referring to provisions in effect prior to the effective date of the FSA amendments and SAI when referring to provisions under the FSA amendments.

Needs Analysis: Changes to the FAFSA Process and Aid Eligibility Calculations

The FSA amendments retain the existing system of using information supplied on the FAFSA to establish an indicator of the capacity of a student's family to pay for postsecondary education that informs subsequent aid eligibility. The new SAI formulas maintain most of the major components of the three existing EFC formulas, though the FSA amendments make a number of changes to specific factors and procedures, usually with an objective of simplifying calculations or expanding aid for lower-income students.

GEN-21-39, at https://fsapartners.ed.gov/knowledge-center/library/electronic-announcements/2021-06-11/beginning-phased-implementation-fafsa-simplification-act-ea-id-general-21-39.

[10] HEA §478(a).

[11] For more information about HEA Title IV negotiated rulemaking, see U.S. Department of Education, *The Negotiated Rulemaking Process for Title IV Regulations - Frequently Asked Questions*, available at https://www2.ed.gov/policy/highered/reg/hearulemaking/hea08/neg-reg-faq.html. For general information on negotiated rulemaking, see CRS Report R46756, *Negotiated Rulemaking: In Brief*.

[12] HEA §482.

[13] This report will use the term *applicant* to refer to persons who are required to provide information on a student's FAFSA. In the case of a dependent student, *applicant* includes the student as well as the student's parent or parents. In the case of an independent student, *applicant* includes the student and the student's spouse, if applicable.

[14] Both the EFC and SAI follow the general procedure of calculating total income, subtracting specified allowances, and then assessing a percentage of available income. In cases where assets are considered, similar procedures are followed for assets under both the EFC and SAI calculations.

Length of the FAFSA and Effect of the FSA Amendments

Both before and after the FSA amendments take effect, the number of questions an applicant must complete when filing the FAFSA is impacted by the student's dependency status, whether the student qualifies for a streamlined calculation, and how ED translates statutory provisions into individual questions.

Some descriptions of the FSA amendments reference a reduction in the number of questions on the FAFSA once the law is implemented. These descriptions anticipate a reduction in questions primarily due to the reduction of formula factors as specified by the FSA amendments (see the "Changes to Financial Factors: Reduction of Factors" section) and the implementation of the data-sharing provisions under the FUTURE Act (P.L. 116-91), which, when implemented, will require applicants to consent to have their tax information disclosed rather than requiring them to provide such information (see the "Integration with the FUTURE Act" section). The increased alignment of certain formula components with tax definitions may further reduce the amount of information that must be provided by applicants.

The elimination of disqualifications for students who did not register with the Selective Service or who had certain drug-related convictions (see the "Effect of Drug Convictions and Draft Registration on Student Eligibility" section) will also eliminate the need for the related questions on the FAFSA. New policies related to granting consent under the FUTURE Act and collecting certain demographic information will add new questions.

Zero and Negative SAI

Under current law, a student's EFC cannot be less than zero dollars.[15] Under the FSA amendments, the SAI can be as low as -$1,500.

A negative SAI can provide differentiation among the share of the students who, under current law, may all have an EFC of zero. This differentiation among low-income students can help schools more precisely target federal campus-based aid as well as institutional aid.

A negative SAI will not entitle a student to a larger Pell Grant compared to a student with a zero SAI. Both students will qualify for a maximum Pell Grant. Because a negative SAI establishes student need greater than COA, the FSA amendments create a framework in which it may be possible for some students to receive aid in excess of COA.[16]

Automatic SAI Determinations

The HEA currently establishes an "automatic zero" EFC provision for applicants who report an AGI below a specified level ($27,000 in the 2021-2022 award year) and meet other criteria.[17] Such applicants are not required to answer additional income or asset questions on their FAFSA.

The FSA amendments eliminate the automatic zero EFC provisions and replaces them with special rules that establish a zero or negative SAI for some students:[18]

[15] This requirement is established in the respective sections of the HEA that establish the EFC formula for each dependency status. For example, see HEA Section 476(a)(3) for language related to independent students without dependents.

[16] The exact aid packaging options will depend on how ED interprets the totality of the FSA and existing provisions of the HEA. For example, HEA Section 413B(a) specifies that the Federal Supplemental Educational Opportunity Grant can be awarded up to need as specified under Part F of the HEA, which would suggest that campus-based aid could be awarded in excess of COA to a student with a negative SAI. Conversely, HEA Section 428H(c) specifies that unsubsidized loan amounts are determined by subtracting from COA any estimated financial assistance. This could be interpreted to suggest that any aid package with unsubsidized loans could not exceed COA.

[17] HEA §479(c), as in effect prior to implementation of the FSA. For the current threshold, see EFC Formula Guide for AY2021-2022 at https://fsapartners.ed.gov/sites/default/files/attachments/2020-08/2122EFCFormulaGuide.pdf.

[18] HEA §473, as amended by the FSA.

- Independent students who are not required to file a tax return, or dependent students whose parents are not required to do so, automatically qualify for an SAI of -$1,500.
- Students who qualify for a maximum Pell Grant based on a qualifying AGI qualify for a zero SAI (see the "Scheduled Award Under the FSA Amendments"). If the student's calculated SAI is less than zero, the negative SAI applies.[19]

Students whose SAI is not determined under either of these special rules will have their SAI calculated based on the formulas in the statute.

Students Exempt from Reporting Assets

Until the FSA amendments take effect, the HEA establishes a *simplified needs test* (SNT) for applicants with an adjusted gross income below $50,000 and who meet other criteria that relate to filing tax forms that are typically associated with a simple return or being in receipt of specified federal means-tested benefits.[20] Students who qualify for the SNT are not required to report asset information on the FAFSA for the purposes of determining federal student aid eligibility.

The FSA amendments eliminate the SNT terminology and modifies the criteria to exempt certain applicants from asset reporting. Under the FSA amendments, the AGI threshold increases to $60,000. The FSA amendments establish that eligible tax returns are those in which an applicant does not file specified tax schedules or files schedules within certain parameters. Applicants can continue to be exempt from reporting assets based on receiving a federal means-tested benefit.[21]

Changes to Financial Factors and the Calculation Process

The FSA amendments reduce the number of factors to be considered when determining the ability of a student's family to contribute to higher education costs. The FSA amendments also make a number of adjustments to the calculation process.

Changes to Financial Factors: Reduction of Factors

The EFC formulas consider AGI as well as specified forms of *untaxed income* and *excludable income*. Untaxed income increases the applicant's total income and can correspondingly increase the EFC. Conversely, excludable income reduces available income and can reduce the EFC.

The FSA amendments reduce the forms of untaxed income and excludable income that are considered in calculating the SAI.[22] This has the effect of reducing the amount of financial information that a student must provide when completing the FAFSA and reducing the number of factors in the underlying formula. Due to the multifaceted nature of many of the factors and the

[19] The construction of these provisions suggests that students who qualify for a maximum Pell Grant based on AGI will still have an SAI calculated under the full formula to determine if they qualify for a negative SAI. This means that these students will have to provide all the information necessary to calculate their SAI. When the FUTURE Act is implemented, students will be able to authorize the IRS to disclose the components of the FAFSA that are based on tax information directly to ED for the purposes of completing the FAFSA. See the "Integration with the FUTURE Act" section later in this report.

[20] HEA §479, as in effect prior to implementation of the FSA. For additional details, see EFC Formula Guide under "Which students qualify for the simplified EFC formulas?," at https://fsapartners.ed.gov/sites/default/files/attachments/2020-08/2122EFCFormulaGuide.pdf.

[21] For full details, including applicable schedules, see HEA Section 479, as amended by the FSA.

[22] In most cases, these changes are made by amending definitions of applicable terms in HEA Section 480.

incremental nature of some of the changes, it is difficult to calculate exactly how many factors were eliminated.[23]

Among the forms of untaxed income that will no longer be considered are "cash support or any money paid on the student's behalf." Prior to the FSA taking effect, this form of untaxed income (which excludes support from dependent students' parents) meant that the EFC considered support from individuals who are not required to report information on the FAFSA, such as contributions from grandparents.

The FSA amendments eliminate "child support received" as a form of untaxed income but adds it as an asset.[24] This means that only applicants who are not exempt from reporting assets will need to report child support received.

The FSA amendments reduce the forms of excludable income that are considered in the calculation of the SAI. Under the FSA amendments, the only forms of excludable income that are required to be reported in the formula are specified federal education tax credits.[25] The FSA amendments also allow (but do not require) certain forms of education-related income to be reported as excludable income at the option of the applicant.[26]

Changes to the Calculation Process

Income Protection Allowance

The EFC formulas establish an *income protection allowance* (IPA) that serves as one of several allowances that reduce the amount of income that is considered in the EFC calculation. The IPA can vary by dependency status, family size, and the number of family members in college. IPA levels are adjusted each year based on inflation.

The FSA amendments increase the IPA levels for dependent students (but not the parents of dependent students) as well as independent students. These increases effectively protect a larger amount of student income, reducing the amount of student income that is considered in calculating the SAI.

The IPA levels that are changed by the FSA amendments are increased approximately 35% above their current levels and will subsequently be adjusted for inflation prior to implementation. For example, the IPA for a single independent student in the 2021-2022 award year is $10,840.[27] The FSA amendments establish an increased level of $14,630 for a single independent student and

[23] For example, the FSA amendments eliminates HEA Section 480(b), which includes a provision for "any other untaxed income and benefits" that provides four examples of income that could be considered under this provision and then explicitly excludes six other forms of untaxed income. Another example of complexity is that the HEA prior to the enactment of the FSA amendments included tax-deferred contributions to retirement accounts as untaxed income and the FSA amendments retain some, but not all, of these contributions as untaxed income.

[24] See the definition of *assets* in HEA Section 480(f) as amended by the FSA.

[25] Specifically, the sum of the American Opportunity Tax Credit and the Lifelong Learning Credit as described in paragraphs (1) and (2) of Section 25A of the Internal Revenue Code. Considering amounts of these credits as excludable income offsets any reduction in tax liability and corresponding reduction in allowances against income for federal taxes paid.

[26] HEA §480(e)(2), as amended by the FSA. Because excludable income reduces available income, reporting this information, if applicable, will reduce a student's SAI.

[27] EFC Formula Guide for 2021-22, Formula B, at https://fsapartners.ed.gov/sites/default/files/attachments/2020-08/2122EFCFormulaGuide.pdf.

further specifies that this amount will be adjusted for inflation between April 2020 and the April in the year prior to the award year.[28]

The FSA amendments also streamline IPAs across dependency statuses so they will no longer vary by the number of family members in college.

Allowance for State and Other Taxes

The EFC formulas establish an allowance for state and other taxes. Like other allowances against income, this one reduces the amount of income that is considered in the calculation of the EFC. The allowance is calculated as a percentage of total income. The percentage varies by state, ranging from 1% to 8% in the 2020-2021 award year.[29]

The FSA amendments eliminate the allowance for state and other taxes.

Employment Expense Allowance

The EFC formulas establish an employment expense allowance for some applicants. The maximum allowance under this provision is $4,000, which effectively reduces income considered in the EFC calculation by that amount. The allowance may be applied to the income of parents of dependent students and to independent students with dependents and married independent students without dependents. Unmarried independent students without dependents are ineligible for this allowance.

With regard to married parents of dependent students and married independent students, the allowance is only available where both spouses have earnings. Married couples of any dependency status in which one spouse has no earnings do not qualify for this allowance.

The FSA amendments modify the allowance so that it is calculated based on total earnings reported on a tax return. This construction allows married couples in which one spouse does not have earnings to qualify for this allowance. The FSA amendments do not modify the maximum allowance amount or its exclusion of unmarried independent students without dependents.

Families with More Than One Member in College

The HEA establishes that one of the final steps of the EFC formulas is to divide the EFC by the number of family members "who are enrolled or accepted for enrollment" in an eligible postsecondary program.[30] This policy has the effect of significantly reducing the EFC of families in years where multiple members are simultaneously enrolled in higher education.[31]

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[28] See HEA Section 476(b), as amended by the FSA, for the modified IPA level, and HEA Section 478(b), as amended by the FSA, for the adjustment process.

[29] Listed percentages apply to applicants with total income of $15,000 or more. See Table A1 of 2020-2021 EFC Formula Guide at https://ifap.ed.gov/sites/default/files/attachments/2019-10/2021EFCFormulaGuideOct2019UpdateAttach.pdf.

[30] See HEA Section 475(b)(3) for dependent students, HEA Section 476(a)(2) for independent students without dependents, and HEA Section 477(a)(3) for independent students with dependents. For dependent students, (1) this policy excludes parents of the student who may be enrolled and (2) only the parental contribution is divided by the number of enrolled family members.

[31] Certain elements of the EFC formulas mean that the EFC of each member of a family with two members in college may be slightly more or less than 50% of the EFC of a student from an identical family with one member in college.

The FSA amendments eliminate the provisions that divide the expected contribution by the number of family members enrolled. Under this change, each student from a family with multiple applicable members enrolled will have the same SAI as a student from an otherwise identical family with only one member enrolled.

Codification of Income Data from the Second Preceding Year

The EFC formulas specify that the EFC calculations will consider tax information and other income information from "the preceding tax year." The HEA, however, further allows that "the Secretary may provide for the use of data from the second preceding tax year when and to the extent necessary to carry out the simplification of applications."[32] ED has exercised this authority since the 2017-2018 award year.[33] For example, the FAFSA for the current 2021-2022 award year was based on information from tax year 2019.

The FSA amends the statute to specify that the relevant AGI is "adjusted gross income for the second preceding tax year."[34] This permanently codifies current practice.

Modifications to Family Definitions in FAFSA Formulas

The details of a student's family situation can impact a student's aid calculation. The FSA amendments change how parental information is determined for students with divorced or separated parents and modifies how a student's family size is determined.

Dependent Students with Divorced or Separated Parents[35]

Until the FSA amendments takes effect, dependent students with divorced or separated parents typically report only the financial information of the parent the student lived with more frequently during the prior year. In cases in which the parent for whom the student reports information has remarried, the information of the stepparent is included on the FAFSA.[36]

Under the FSA amendments, a student with divorced or separated parents will report information on "the parent who provides the greater portion of the student's financial support."[37] In cases where the relevant parent is remarried, information on the stepparent will continue to be collected on the FAFSA. (For discussion on determining whether the relevant parent qualifies as a *single parent* for Pell Grant purposes, see the "Definition of Single Parent for Pell Grant Purposes" section.)

[32] HEA §480(a)(1)(A)-(B), as in effect prior to implementation of the FSA amendments.

[33] See, for example, U.S. Department of Education, "Changes Impacting the 2017-2018 FAFSA," at https://financialaidtoolkit.ed.gov/resources/fafsa-changes-17-18-faq.pdf.

[34] For the definition of AGI as it applies to the SAI formulas, see HEA Section 480(a), as amended by the FSA. For the definition of AGI as it applies to the Pell Grant calculation, see HEA Section 401(a)(2)(A), as amended by the FSA.

[35] Generally, these provisions apply to all dependent students with parents who are not married and do not live together.

[36] See HEA §475(f) for more detail. The EFC formulas treat unmarried parents who live together the same as married parents.

[37] HEA §475(f), as amended by the FSA.

Determination of Family Size

Until the FSA amendments takes effect, family size is determined by an HEA-specific definition.[38] In some cases, individuals who would be considered dependents (and therefore included in family size) under the HEA definition may not be considered dependents under the federal tax code.

The FSA amends the HEA so that family size can be determined based on the tax return that informs other components of the FAFSA (i.e., the return from the second preceding tax year). For dependent students, family size is determined to be the parents or parent of the student (and, if applicable, stepparent) who reports information on the FAFSA as well as any dependent of the student's parents for the taxable year used in determining aid eligibility.[39] In cases where the dependent student is not included on the applicable parental tax return, the family size includes the dependent student as well as any persons included on the applicable parental tax return. For independent students, family size includes the student and, if applicable, the student's spouse and dependents on the student's tax return for the taxable year used in determining aid eligibility.

The FSA amendments further direct ED to establish procedures for determining family size in cases in which "information for the taxable year used in determining the amount of need of the student for financial assistance under this title has changed or does not accurately reflect the applicant's current household size."[40]

Student Race and Ethnicity

The FAFSA does not currently collect information on race/ethnicity. As such, administrative data based on the FAFSA cannot be disaggregated by race.

The FSA amendments require ED to collect race/ethnicity data from all FAFSA applicants for such applicants to be eligible for HEA Title IV aid.[41]

Integration with the FUTURE Act

Enacted in December 2019, the Fostering Undergraduate Talent by Unlocking Resources for Education Act (FUTURE Act, P.L. 116-91) amended the HEA and the Internal Revenue Code (IRC) to specify a process through which tax filers may provide authorization to the IRS to disclose specified information from tax returns for the purposes of completing the FAFSA and other authorized purposes.[42] The data disclosure provisions of the FUTURE Act have not yet been implemented.[43]

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[38] HEA §480(l).

[39] For the purposes of family size, the FSA amendments define dependent as "within the meaning of section 152 of the Internal Revenue Code of 1986 or an eligible individual for purposes of the credit under section 24 of the Internal Revenue Code of 1986." Section 24 authorizes the Child Tax Credit. For more information, see CRS Report R41873, *The Child Tax Credit: How It Works and Who Receives It*.

[40] HEA §480(k)(3), as amended by the FSA.

[41] HEA §483(a)(2)(B)(ii)(VIII), as amended by the FSA.

[42] For more information on the FUTURE Act, see CRS Report R46400, *The FUTURE Act (P.L. 116-91): Amendments to the Higher Education Act and Internal Revenue Code*. Provisions in Section 284 of P.L. 116-260 that are not part of the FAFSA Simplification Act modify certain protections for taxpayer return information and relate to FUTURE Act provisions in the IRC and HEA.

[43] In September 2020, ED expressed an objective to implement the FAFSA-related provisions of the FUTURE Act with the 2023-2024 FAFSA form. See Federal Student Aid, "Data Sharing for a Better Customer Experience," September

The FSA amendments update the data-sharing in the FUTURE Act by specifying that the FAFSA will require students (and, if necessary, the parents, stepparents, or spouses of students) to grant authorization to have their tax information disclosed to ED, state higher educational agencies, institutions selected by the students, and designated scholarship organizations.[44]

Many of the changes to the financial factors and procedures used to calculate the SAI in the FSA amendments may have been designed to optimize interaction with the FUTURE Act. For example, most of the forms of untaxed income and excludable income that were eliminated were factors that could not be imported from a tax return. Other procedures, such as determining family size and determining if an applicant is exempt from reporting assets based on tax schedules, have been designed so that determinations and calculations can be made largely (or even entirely) on the basis of shared tax information, minimizing the need to request information from applicants.

Professional Judgement for Students with Special or Unusual Circumstances

Until the FSA amendments take effect, financial aid administrators (FAAs) are authorized to "make adjustments on a case-by-case basis" to COA and values of data items used to calculate the EFC. This process is known as professional judgment (PJ). The statute includes a noncomprehensive list of examples of special circumstances, including "recent unemployment of a family member or an independent student."[45] FAAs are also authorized to adjust dependency status (i.e., change status from dependent to independent) for students with unusual circumstances who do not meet any of the statutory independent student criteria.[46] Current law does not define *unusual circumstances*. ED provides guidance to FAAs on the use of PJ.[47]

Under current practice, such adjustments are generally provided only to students who proactively appeal to the school's FAA, and schools do not have a defined responsibility to notify students that PJ is available. The FSA amendments require that IHEs publicly disclose that students applying for aid have the opportunity to pursue adjustments based on their family and financial circumstances.[48]

Adjustments to Financial Factors

The FSA amendments establish separate lists of sample circumstances related to PJ adjustments that may be made related to (1) Pell Grant eligibility and (2) COA or data used to calculate the

22, 2020, at https://studentaid.gov/sites/default/files/future-act-fact-sheet.pdf. ED has not yet specified if this timeline will be altered to align with the phased implementation of the FSA amendments extending to the 2024-2025 award year. See U.S. Department of Education, "Beginning Phased Implementation of the FAFSA Simplification Act," June 11, 2021, GEN-21-39, at https://fsapartners.ed.gov/knowledge-center/library/electronic-announcements/2021-06-11/beginning-phased-implementation-fafsa-simplification-act-ea-id-general-21-39.

[44] HEA §483(a)(2)(D)(i), as amended by the FSA.

[45] HEA §479A.

[46] In the FSA amendments, *special circumstances* typically refer to those related to the adjustment of financial factors while *unusual circumstances* refer to the circumstances established in HEA Section 480(d)(9) as potentially qualifying a student for an adjustment of dependency status.

[47] For example, see the "Special Cases" chapter ED's Student Aid Handbook for award year 2021-2022, available at https://fsapartners.ed.gov/sites/default/files/2021-03/2122FSAHbkAVGCh5.pdf.

[48] HEA §479A(a)(5), as amended by the FSA.

SAI. Both the Pell Grant and COA/SAI lists allow for "changes or adjustments in the income, assets, or size of a family, or a student's dependency status" to inform PJ.[49]

The sample circumstances related to adjustments to the COA or SAI factors are somewhat broader than those related to Pell Grant eligibility. For example, the COA/SAI provisions specify medical expenses and additional family members enrolled in higher education as potential special circumstances while the Pell Grant provisions do not include them. Notably, adjustments to COA and SAI may affect Pell Grant eligibility.

Dependency Overrides

The FSA amendments provide detail on how schools will make PJ determinations for students with unusual circumstances that prevent the students from providing parental information on the FAFSA. The FSA amendments define *unusual circumstances* as those "in which the student is unable to contact a parent or where contact with parents poses a risk to such student," including circumstances of

- human trafficking,
- legally granted refugee or asylum status,
- parental abandonment or estrangement, or
- student or parental incarceration.[50]

Provisional Independent Student

Until the FSA amendments take effect, a student who does not meet any of the independent student criteria but is unable to provide parental information must submit an incomplete FAFSA. The incomplete FAFSA will not be processed, and an EFC will not be calculated. The student must then contact the financial aid office at his or her institution. Depending on the circumstances and documentation, the institution may be able to provide a dependency override and change the student's dependency status to independent.[51]

The FSA amendments allow students who may qualify for an adjustment of dependency status based on unusual circumstances to identify as a *provisional independent student* when filing the FAFSA. This would allow the student's FAFSA to be fully processed without parental information. An FAA must then notify the student of the institutional process, requirements, and timeline for an adjustment of dependency status. The FAA will then make a determination after all requested documentation has been provided following the PJ process specified in the statute.[52]

Professional Judgement During a Disaster, Emergency, or Economic Downturn

Until the FSA amendments take effect, the HEA statute does not provide different treatment of PJ during periods of disaster, emergency, or economic downturn. In some cases, ED has provided

[49] HEA §479A(b)(1) and (2), as amended by the FSA.

[50] HEA §480(d)(9), as amended by the FSA.

[51] For more details on procedures for students who are unable to provide parental information and associated procedures, see *Federal Student Aid Handbook*, Chapter 5, at https://fsapartners.ed.gov/sites/default/files/2021-03/2122FSAHbkAVGCh5.pdf.

[52] HEA §479A(c)(2), as amended by the FSA.

guidance related to PJ during such periods. Such guidance has, for example, established specific treatment for students (or relevant family members) who demonstrated job loss based on receipt of unemployment benefits.[53]

Outside of the HEA, some nonregulatory guidance and statutory provisions are intended to support HEA Title IV aid recipients and their families affected by a disaster or national emergency. Guidance encourages FAAs to use PJ to reflect more accurately the financial need of students and families affected by a federally declared disaster area as defined in the Stafford Act.[54] The Higher Education Relief Opportunities for Students Act (HEROES Act; P.L. 107-122, as amended) provides the Secretary with authority to waive or modify statutory and regulatory requirements that apply to the HEA Title IV student aid programs in an effort to help affected individuals in connection with a war or other military action or a national emergency declared by the President.[55] Under the HEROES Act, for example, the Secretary may except FAAs exercising PJ on a case-by-case basis to adjust COA or the values of items used in calculating EFC from the requirement of making such adjustments.

The FSA amends the HEA to establish that, during specified periods, FAAs may make certain adjustments to an applicant's income from work if the applicant provides documentation of unemployment benefits.[56] The FSA further amends the HEA to specify that ED shall make adjustments to the model used to select institutions for program reviews to account for any increase in the use of PJ during the specified periods.[57]

Pell Grant Provisions

The federal Pell Grant program (HEA Title IV-A-1) is the single largest source of federal grant aid supporting postsecondary education students.[58] Pell Grants are need-based aid that is awarded on a stair-step scale and intended to be the foundation for all need-based federal student aid awarded to undergraduates. The FSA amendments modify Pell Grant award rules and additional Pell Grant provisions related to incarcerated students, year-round (summer) Pell Grants, eligibility restoration, and the program's authority.

[53] For example, see Dear Colleague Letter GEN-09-04, "Use of 'Professional Judgement' by Financial Aid Administrators,' April 2, 2009, archived at https://ifap.ed.gov/dear-colleague-letters/04-02-2009-gen-09-04-subject-use-professional-judgment-financial-aid.

[54] U.S. Department of Education, "Non-Regulatory Guidance on Flexibility and Waivers for Grantees and Program Participants Impacted by Federally Declared Disasters," September 2017, at https://www2.ed.gov/policy/gen/guid/disasters/disaster-guidance.docx.

[55] For more information about the HEROES Act, see CRS Report R42881, *Education-Related Regulatory Flexibilities, Waivers, and Federal Assistance in Response to Disasters and National Emergencies*.

[56] HEA §479A(f), as amended by the FSA. Specified periods include (1) an event for which the President declared a major disaster or an emergency under Sections 401 or 501, respectively, of the Robert T. Stafford Disaster Relief and Emergency Assistance Act; (2) a national emergency related to COVID-19 declared by the President under Section 201 of the National Emergencies Act; or (3) a period of recession or economic downturn as determined by the Secretary of Education, in consultation with the Secretary of Labor.

[57] Ibid.

[58] For more information on the Pell Grant program, see CRS Report R45418, *Federal Pell Grant Program of the Higher Education Act: Primer*.

Modifications to Pell Grant Award Rules

In addition to using an SAI to determine Pell Grant award amounts, the FSA amendments provide an alternative financial indicator for establishing Pell Grant award amounts—AGI. The FSA amendments also modify the award rules for less-than-full-time enrollment and the minimum grant amount.

Scheduled Award Prior to the FSA Amendments Taking Effect

Until the FSA amendments take effect, a student's scheduled Pell Grant award (i.e., the maximum Pell Grant aid a full-time, full-academic year student can receive in an academic year) is the least of

(total maximum Pell Grant - EFC) or (COA - EFC).[59]

The total maximum Pell Grant is the maximum amount of Pell Grant funds that any student may receive during a given academic year. In accordance with the Pell Grant award rules, full-time, full-year students with an EFC of $0 may be eligible for the total maximum Pell Grant ($6,495 in academic year [AY] 2021-2022).

Scheduled Award Under the FSA Amendments

The FSA amendments base the amount of the scheduled Pell Grant award on either (1) SAI or (2) a new alternative procedure by which students qualify for maximum or minimum Pell Grant awards based on an AGI at or below specified levels.[60] Regardless of whether the scheduled award is based on SAI or AGI, the amount cannot exceed COA and cannot be lower than the minimum scheduled award (see **Figure 1**).

Under the FSA amendments, students with an AGI at or below a specified level, the *maximum grant AGI threshold,* qualify for a scheduled award that is equivalent to the total maximum Pell Grant. The maximum grant AGI thresholds, calculated as a percentage of the poverty guidelines, are specified in the FSA amendments (see **Figure 1**).[61] In addition, students whose families are not required to file a tax return qualify for a maximum Pell Grant.[62] Most individuals (or couples) are not required to file an individual federal income tax return if their gross income is below established levels that depend on filing status and age. For students who qualify for the maximum Pell Grant based on AGI or not needing to file a federal income tax return, the FSA amendments modify their SAI such that they may be eligible for higher amounts of other HEA Title IV aid.

The FSA amendments also establish *minimum grant AGI thresholds* such that students with an AGI at or below the specified levels qualify for at least the minimum Pell Grant award. Students with an AGI above the maximum grant AGI threshold but below the minimum grant AGI threshold qualify for a scheduled award that is equal to the greater of (1) the minimum Pell Grant or (2) (total maximum Pell Grant - SAI), capped at the total maximum Pell Grant level.[63]

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[59] HEA §§401(b)(2)(A) and (b)(3), as in effect prior to implementation of the FSA amendments.

[60] For Pell Grant purposes, AGI is the AGI of the parent(s) of a dependent student or the AGI of the independent student and spouse, if applicable.

[61] The poverty guidelines are updated periodically in the Federal Register by the Department of Health and Human Services under the authority of Section 673(2) of the Community Services Block Grant Act (42 U.S.C. §9902(2)) applicable to the student's family size and applicable to the second tax year preceding the academic year.

[62] HEA §401(b)(1)(A)(i), as amended by the FSA.

[63] HEA §401(b)(1)(A)-(C), as amended by the FSA. The FSA amendments require that the calculated award be

Students whose AGI exceeds the minimum grant AGI threshold may still qualify for a grant equal to (total maximum Pell Grant - SAI), capped at the total maximum Pell Grant level, provided that their SAI is equal to or less than 90% of the total maximum Pell Grant.[64]

This combination of rules means that a student does not qualify for a Pell Grant if the student has both (1) an AGI above the minimum grant threshold and (2) an SAI of more than 90% of the maximum Pell Grant.

The maximum and minimum AGI grant thresholds are specified in the statute and vary by dependency status and single parent status.[65] (See **Figure 1**.) For example, students from families with single parents, including students who are single parents, may qualify for a maximum Pell Grant if their AGI in the reference year is less than or equal to 225% of the federal poverty guidelines ($48,870 for a family of three in calendar year 2020).[66] Students from families that do not have a single parent (including independent students without dependents) may qualify for a maximum Pell Grant if their AGI is less than or equal to 175% of the federal poverty guidelines ($38,010 for a family of three in 2020).

rounded to the nearest $5.

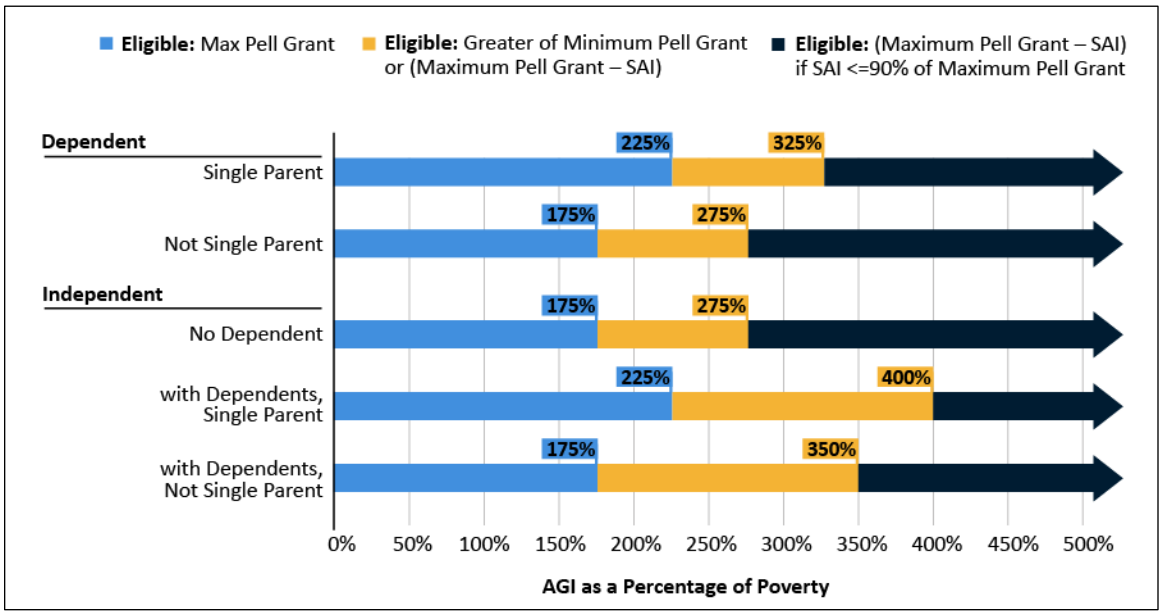
[64] HEA §401(b)(1)(A)-(C), as amended by the FSA.

[65] Dependency statuses are discussed in the previous subsection and the definitions for single parents are described in the next subsection.

[66] A single parent is a parent of a dependent student or an independent student who is a parent if such parents were either a head of household, a surviving spouse, or an eligible individual for the earned income tax credit, as defined in the Internal Revenue Code. The reference year is the "second tax year preceding the academic year," see HEA §401(a)(2)(A), as amended by the FSA. This reference year aligns with the "prior-prior year" tax return information that is used to complete the FAFSA. See the "Codification of Income Data from the Second Preceding Year" section.

Figure 1. Pell Grant Thresholds for Award Amounts Under the FAFSA Simplification Act, by Dependency and Marital Status

(AGI as a percentage of federal poverty guidelines)



Source: HEA §401(b), as amended by the FSA.

Notes: AGI is adjusted gross income. SAI is Student Aid Index. Pell Grant award cannot exceed cost of attendance (COA). Adjusted gross income thresholds, as a percentage of poverty, are established by the FSA amendments. Upper thresholds are inclusive of the lower category. For example, a dependent student who has a single parent who has an AGI that is 225% of poverty may qualify for the maximum Pell Grant award.

The FSA amendments establish specified instances in which AGI may be adjusted for purposes of awarding Pell Grants. In limited circumstances, AGI may be reduced by grant aid, scholarship aid, and Work Study earnings.[67] Also in limited circumstances, AGI may be increased to take into consideration foreign income.[68]

Definition of Single Parent for Pell Grant Purposes

The FSA amendments define a *single parent*[69] as an individual who was (as defined by the relevant sections of the Internal Revenue Code)

- a head of household,[70]

[67] HEA §401(b)(1)(E), as amended by the FSA. Grant aid and scholarships are included in gross income if they are used to pursue nondegree programs or if they are used for purposes other than tuition and fees while pursuing degree programs. Work Study earnings are generally included in gross income. The FSA amendments preclude ED from adding a FAFSA question to collect information on the amount of Work Study earnings. For more information about Federal Work Study, see CRS Report RL31618, *Campus-Based Student Financial Aid Programs Under the Higher Education Act*.

[68] See the "Professional Judgement for Students with Special or Unusual Circumstances" section and HEA §§401(b)(1)(D) and 479A(b)(1)(B)(v), as amended by the FSA.

[69] HEA §401(a)(2)(D), as amended by the FSA.

[70] As defined in Section 2(b) of the Internal Revenue Code.

- a surviving spouse,[71] or
- an eligible individual for purposes of the Earned Income Tax Credit.[72]

The term *single parent* applies only to a parent of a dependent student or an independent student who is a parent.

Notably, the construction of the single parent definition for the purposes of determining Pell Grant awards under the AGI provisions is not precisely aligned with the criteria for which parents must provide information when completing the FAFSA to calculate the SAI. (See the "Dependent Students with Divorced or Separated Parents" section.)

Award Calculation for Less Than Full-Time Students

Under current law, scheduled Pell Grant awards are reduced when a student is not full-time.[73] The HEA requires that ED publish a schedule of reductions. ED publishes three less than full-time enrollment schedules: (1) less than full-time but at least three-quarter-time, (2) less than three-quarter-time but at least half-time, and (3) less than half-time enrollment. Consequently, students enrolled less than full-time but at least three-quarter-time (e.g., 9, 10, or 11 credits if full-time is 12 credits) with a similar EFC and COA qualify for the same annual Pell Grant award.

The FSA amendments retain the practice of reducing awards for less than full-time students but changes the methodology.[74] The FSA amendments require that awards be reduced in direct proportion to the degree to which the student is not enrolled full-time, rounded to the nearest whole percentage point. ED is still required to publish a schedule of reductions. Assuming full-time is 12 credits and COA, AGI, and SAI do not limit the award, a student enrolled in 11 credits, for example, could potentially receive 92% of the total maximum Pell Grant award, whereas a student enrolled in 10 credits could potentially receive 83% of the total maximum Pell Grant award.

Expansion of Minimum Federal Pell Grant Award for Less Than Full-Time Students

Until the FSA amendments take effect, the minimum award is 10% of the total maximum award.[75] For AY2021-2022, the minimum Pell Grant award is $650, or 10% of $6,495. Students with an EFC that is higher than 90% of the total maximum Pell Grant are not eligible because the minimum Pell Grant is 10% of the total maximum award and the award cannot exceed the total maximum award less EFC.[76] A student must be eligible for the minimum Pell Grant award after the scheduled award is reduced for their enrollment rate. This means, for example, in AY2021-2022 a student who has an EFC of $5,845 (90% of the total maximum award) may receive the minimum award if enrolled full-time ($6,495 - $5,845 = $650), but becomes ineligible to receive a Pell Grant if enrolled half-time (($6,495 - $5,845)/2 = $325).

The FSA amendments establish the minimum award as 10% of the total maximum award, before reducing for a less than full-time enrollment rate.[77] This means, for example, that a student who

[71] As defined in Section 2(a) of the Internal Revenue Code.

[72] As established under Section 32 of the Internal Revenue Code.

[73] HEA §401(b)(2), as in effect prior to implementation of the FSA amendments.

[74] HEA §401(b)(2), as amended by the FSA.

[75] HEA §401(b)(4), as in effect prior to implementation of the FSA amendments.

[76] HEA §401(b)(4), as in effect prior to implementation of the FSA amendments.

[77] HEA §401(a)(2)(F), as amended by the FSA.

has an EFC that is 90% of the total maximum award may receive the minimum award if enrolled full-time and may receive approximately half of the minimum award if enrolled half-time.

Pell Grants for Incarcerated Persons

Until the FSA amendments take effect, students seeking Pell Grants may not be incarcerated in a federal or state penal institution, and students cannot be subject to an involuntary civil commitment following incarceration for a sexual offense (as determined under the FBI's Uniform Crime Reporting Program).[78] Students in local penal institutions and juvenile detention may be eligible.

The FSA amendments eliminate the above prohibition but requires that an individual incarcerated in a correctional institution be enrolled in a *prison education program* to receive a Pell Grant.[79] Incarcerated individuals are not, however, required to be enrolled in prison education programs to receive other forms of HEA Title IV aid. Prison education programs must meet general HEA Title IV institutional and programmatic eligibility requirements and additional FSA-established requirements.[80] Some key FSA-established requirements are that

- proprietary (private, for-profit) IHEs may not offer such programs;
- the offering IHE must not have been subject to certain unfavorable actions by ED, its accrediting agency, or the state within the preceding five years;
- the programs must "be operating in the best interest of students" as determined by the appropriate correctional agency;
- the programs must offer credits that may be transferred to at least one IHE in the state where the correctional facility is located, or, in the case of a federal correctional facility, in the state in which most of the incarcerated individuals will reside upon release; and
- the programs must not offer education that is designed to lead to licensure or an occupation if such job or occupation typically involves prohibitions on the licensure or employment of formerly incarcerated individuals in the state in which the correctional facility is located, or, in the case of a federal correctional facility, in the state in which most of the incarcerated individuals will reside upon release.

Unlike most other provisions in the law, ED may (but is not required to) implement these provisions earlier than the effective date (July 1, 2023) associated with most other provisions.[81] If the Secretary does so, notice must be published in the *Federal Register* at least 60 days before implementation that delineates on what date, under what conditions, and for which award years the Secretary will implement the amendments.

In addition, ED is required to annually and publicly report on the prison education programs, Pell Grant recipients and expenditures, and academic and post-release outcomes.

[78] HEA §401(b)(6), as in effect prior to implementation of the FSA amendments.

[79] HEA §484(t), as amended by the FSA.

[80] For more information on HEA Title IV institutional and programmatic eligibility requirements and additional requirements, see CRS Report R43159, *Institutional Eligibility for Participation in Title IV Student Financial Aid Programs*.

[81] FSA §702(n)(2).

Year-Round (Summer) Pell Grants

Under current law, qualified students may receive up to one-and-a-half scheduled Pell Grants, or up to 150% of the scheduled award, in each award year. To qualify for the additional funds, a Pell Grant-eligible student must be enrolled at least half-time in a payment period after receiving most or all of his or her scheduled award in previous payment periods during the award year.[82]

The FSA amendments eliminate the requirement that such students be enrolled at least half-time.

Restoration of Pell Grant Eligibility

The HEA currently establishes a maximum cumulative lifetime eligibility cap on Pell Grant aid of no more than 12 full-time semesters (or the equivalent) of Pell Grant awards or six scheduled awards.[83] Pell Grant lifetime eligibility used (LEU) at a closed school from which the student did not graduate does not count toward the lifetime cap—the eligibility used is restored.[84]

The FSA amendments restore Pell Grant eligibility used during the following periods:[85]

- a period of attendance at an IHE at which the student was unable to complete a course of study due to the closure of the institution;
- a period of attendance at an IHE for which the student was falsely certified as eligible for HEA Title IV aid;
- a period for which the student received an HEA Title IV loan[86] and such loan is discharged because the student was unable to complete a program due to the closure of the institution, because the student's eligibility to borrow was falsely certified by the institution or was falsely certified as a result of a crime of identity theft, or because the institution failed to make a refund of loan proceeds owed to the student's lender;[87]
- a period for which the student received a HEA Title IV loan and such loan is discharged under the Secretary's authority to "compromise, waive, or release any right, title, claim, lien, or demand," under HEA Section 432(a)(6);[88] or

[82] A payment period is the academic period or period of enrollment established by an institution for which financial aid is disbursed. Payments for all federal student aid programs except Federal Work Study must be made on a payment period basis.

[83] HEA §401(c)(5). For example, students who consistently enroll part-time in standard terms throughout their progression to a bachelor's degree could receive Pell Grant aid for 24 semesters, or 12 years. Students who consistently enroll full-time in standard terms throughout their progression to a bachelor's degree could receive Pell Grant aid for 12 semesters, or six years. This change does not affect the measurement of full-time enrollment for the purposes of federal student aid, which is currently 12 semester hours (or the equivalent for nonstandard terms).

[84] HEA §437(c)(3).

[85] HEA §401(d)(5), as amended by the FSA.

[86] HEA Title IV loans include those made under the Direct Loan program, the Federal Family Education Loan (FFEL) program, and the Perkins Loan program.

[87] Neither the statute nor regulations specify the availability of Perkins Loan discharges because the student's eligibility to borrow was falsely certified by the institution or was falsely certified as a result of a crime of identity theft, or because the institution failed to make a refund of loan proceeds owed to the student's lender.

[88] HEA Section 432(a)(6) seemingly applies to both the FFEL and Direct Loan programs; it does not apply to the Perkins Loan program. HEA Section 468(1) contains an identical provision for Perkins Loans. It is unclear whether Pell Grant eligibility could be restored if used during a period for which the recipient received a Perkins Loan that is discharged under the Secretary's authority to "compromise, waive, or release any right, title, claim, lien, or demand"

- a period for which the student received a HEA Title IV loan and such loan is discharged under a borrower defense to repayment claim,[89] including defenses provided to any applicable groups of students.[90]

Changes to Pell Grant Authorizations and Appropriations

Under current law, discretionary appropriations were authorized through FY2017, while mandatory appropriations are permanently provided.[91] The FSA amendments authorize discretionary appropriations for each of FY2023 through FY2033. The FSA amendments maintain the permanent mandatory appropriations at the same levels.

Changes to Policies or Procedures for Specific Populations

A number of FSA provisions change or codify certain procedures or policies for specified populations of students. In most cases, the policies are designed to ease access to aid by streamlining or standardizing policies for a specified population.

Procedures for Homeless Students and Foster Youth

Under current law, students who meet specified criteria related to homelessness or foster youth can qualify as independent students regardless of age and other factors.[92]

The FSA amendments establish policies and codifies procedures through which FAAs are to verify that a student meets the criteria for these statuses.

Homeless Students and Students At Risk of Homelessness

Until the FSA amendments take effect, a student may qualify as independent if he or she is verified during the school year as unaccompanied and homeless or "unaccompanied, self-supporting youths at risk of being homeless."[93] The statute establishes authorities that can verify this status, such as administrators of federal programs that serve homeless youth.

The FSA amendments retain the general principle of independent student status for homeless students and students at risk of homelessness but provides more detail and flexibility on how this status can be established. The FSA amendments explicitly align the definitions of *homeless youth* and *unaccompanied* with the McKinney-Vento Homeless Assistance Act.[94] The FSA amendments establish that if a student is unable to provide documentation of participation in a specified

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under either of these provisions.

[89] In general, Perkins Loans are not eligible to be discharged under a borrower defense to repayment claim. For additional information, see CRS Report R44737, *The Closure of Institutions of Higher Education: Student Options, Borrower Relief, and Other Implications*, by Alexandra Hegji.

[90] For more information on loan discharge, see the "Loan Discharge for Borrower Hardship" section in CRS Report R45931, *Federal Student Loans Made Through the William D. Ford Federal Direct Loan Program: Terms and Conditions for Borrowers*.

[91] Pell Grants have received annual discretionary appropriations every year despite being unauthorized appropriations.

[92] HEA §480(d)(1)(B) and (H).

[93] U.S. Department of Education, *Federal Student Aid Handbook*, p. AVG-97.

[94] 42 U.S.C. §11434a.

program, the student may also establish this status through a written statement or a documented interview with an FAA. The FSA amendments also permit prior determinations to be used for subsequent award years at the same institution or in the same award year at a different institution.

Procedures for Foster Care Youth

Until the FSA amendments take effect, a student may qualify as independent if he or she was in foster care at any time when aged 13 years or older.

The FSA amendments retain this criterion and establishes documentation that shall be considered sufficient for establishing this status. Similar to the policy for homeless students, the FSA amendments establish that prior determinations from the same school may be used for subsequent award years and prior determinations from different schools may be used in the same award year.

Procedures for Veterans of the Armed Forces

Until the FSA amendments take effect, students who meet specified criteria for a *veteran* can qualify as independent students regardless of age and other factors.[95] The definition for *veteran* is specific to the HEA; though, under current practice, ED uses data from the Department of Veterans Affairs (VA) to confirm that an individual is a veteran for HEA Title IV purposes. Differences in the definitions make the match less effective.

The FSA amendments redefine *veteran* to coincide with definitions used by the VA.[96]

Procedures for Children of Deceased Servicemembers and Public Safety Officers

Until the FSA amendments take effect, an otherwise Pell Grant-eligible student whose parent or guardian dies under specified circumstances receives a zero EFC provided the student was under 24 years old or was enrolled at an IHE at the time of the parent's or guardian's death.[97] The specified circumstances occur when the parent or guardian was

- a member of the U.S. Armed Forces and died as a result of performing military service in Iraq or Afghanistan after September 11, 2001;[98] or
- actively serving as a public safety officer and died in the line of duty.[99]

The zero EFC is used to award all HEA Title IV aid. A Pell Grant so awarded to the child of a public safety officer is referred to as a *Fallen Heroes Scholarship*.

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[95] HEA §480(c)(1).

[96] Specifically, HEA Section 480(c), as amended by the FSA, specifies that "the term 'veteran' has the meaning given the term in section 101(2) of title 38, United States Code, and includes individuals who served in the United States Armed Forces as described in sections 101(21), 101(22), and 101(23) of title 38, United States Code."

[97] HEA §473(b), as in effect prior to implementation of the FSA amendments.

[98] For students who are not eligible for Pell Grants due to their EFC and had a parent or guardian die as a result of military service in Iraq or Afghanistan after September 11, 2001, non-need-based grants called Iraq and Afghanistan Service Grants (IASG) are available. The amount of the IASG is the same as the Pell Grant the student would be eligible for if he or she had a zero EFC. IASG payments are adjusted like Pell Grants for students who are enrolled less than full-time, but unlike Pell Grants, these non-need-based grants do not count as estimated financial assistance. In addition, IASG is subject to sequestration.

[99] A *public safety officer* is as defined in 42 U.S.C. §3796b or is an eligible fire police officer. HEA §473(b)(5).

The FSA amendments include a similar provision but expands student eligibility and limits the benefit to the Pell Grant program only.[100] An otherwise Pell Grant-eligible student whose parent or guardian died under specified circumstances may qualify for the total maximum Pell Grant provided the student is under age 33. The specified circumstances occur when the parent or guardian was

- a member of the U.S. Armed Forces and died in the line of duty while serving on active duty on or after September 11, 2001; or
- actively serving as a public safety officer and died in the line of duty.

The parent's or guardian's death does not qualify the student for additional amounts of non-Pell Grant HEA Title IV aid. In other words, the parent's or guardian's death has no effect on SAI.

Effect of Drug Convictions and Draft Registration on Student Eligibility

Until the applicable provisions of the FSA amendments take effect, certain drug convictions and failure for males to register for the draft make individuals ineligible for federal student aid under HEA Title IV.

- Students may be disqualified from HEA Title IV aid for a period of time or indefinitely for a federal or state conviction for possession or sale of a controlled substance while receiving HEA Title IV student aid. Periods of ineligibility for federal student aid funds are based on whether the conviction was for the sale or possession of drugs and whether the student has previous offenses.[101]
- The Military Selective Service Act specifies that any individuals who fail to register with the Selective Service shall be ineligible for federal student aid under HEA Title IV.[102] Men who are required to register and do not do so are ineligible unless they did not knowingly and willfully fail to register.

The FSA amendments eliminate the above disqualifications. Unlike most other provisions in the law, ED is authorized (but not required) to implement these provisions earlier than the effective date (July 1, 2023) associated with most other provisions.[103] If the Secretary does so, notice must be published in the *Federal Register* at least 60 days before implementation that delineates on what date, under what conditions, and for which award years the Secretary will implement the amendments.

On June 17, 2021, ED published notice of an early implementation in the *Federal Register*.[104] For the 2021-2022 and 2022-2023 award years,[105] the questions about Selective Service Registration

[100] HEA §401(c), as amended by the FSA.

[101] HEA §484(r), as in effect prior to implementation of the FSA amendments.

[102] 50 U.S.C. §3811(f)-(g).

[103] FSA §702(n)(2).

[104] U.S. Department of Education, Office of Postsecondary Education, "Early Implementation of the FAFSA Simplification Act's Removal of Requirements for Title IV Eligibility Related to Selective Service Registration and Drug-Related Convictions," 86 *Federal Register* 32252-32253, June 17, 2021, at https://www.govinfo.gov/content/pkg/FR-2021-06-17/pdf/2021-12762.pdf.

[105] IHEs could have implemented these changes as early as June 17, 2021, but were required to implement them no later than 60 days thereafter.

and specified drug offenses will remain on the FAFSA but affirmative answers to these questions will no longer affect students' HEA Title IV eligibility. Beginning in the 2023-2024 award year, the questions on Selective Service Registration and applicable drug convictions will be removed from the FAFSA.

Sharing of Student Information

Under current law, the HEA specifies that student-level information from the FAFSA is shared with states, IHEs specified by the student, and specified scholarship organizations.[106] Other legislation specifies that students may grant explicit written consent for their IHEs to share information with scholarship granting organizations or "an organization … designated by the applicant to assist the applicant in applying for and receiving financial assistance for any component of the applicant's cost of attendance."[107]

Beyond the required authorizations to allow for data sharing under the FUTURE Act, the FSA amendments further specify that applicants may provide additional authorization to have certain information shared with "applicable agencies that handle applications for means-tested Federal benefit programs." The information shared with these agencies may include the student's SAI and scheduled Pell Grant but shall not include federal tax information shared from the IRS.[108]

Other Changes to Institution-Level Administration and Aid Packaging

FAAs at eligible institutions are involved in several aspects of administering HEA Title IV aid programs. Key roles include reviewing and verifying information submitted by students on the FAFSA, calculating student aid awards, disbursing awards, adjusting awards to ensure students do not receive more assistance than they are eligible for, record keeping, and reporting various information to ED. According to federal student aid need analysis procedures, a student's EFC, amount of EFA, and estimated COA are critical components of determining student aid awards.

Verification

Under current practice, institutions must verify information provided on the FAFSA for a portion of federal aid recipients. Policies and procedures associated with verification are largely established in regulations and agency guidance.[109] Verification mainly consists of students providing documentation to confirm that information provided on the FAFSA is accurate.[110]

[106] HEA §483(a)(3)(E), as in effect prior to implementation of the FSA amendments.

[107] Section 312 of the Department of Defense and Labor, Health, and Human Services and Education Appropriation Act, 2019 and Continuing Appropriation Act, 2019 (P.L. 115-245). The provisions in this law further specify that "this section shall be in effect until Title IV of the HEA is reauthorized."

[108] HEA §483(a)(2)(D)(ii), as amended by the FSA.

[109] See 34 C.F.R. §§668.51-668.61 for regulations. The regulations specify that they are established under the authority of HEA Section 487 (20 U.S.C. §1094).

[110] The specific details of verification procedures can vary from one year to the next. For information on the 2021-2022 award year, see Chapter 4 of ED's "Application and Verification Guide" from AY2021-2022 at https://fsapartners.ed.gov/sites/default/files/attachments/2021-02/2122FSAHbkAVGMaster.pdf.

The FSA amendments establish several new statutory provisions related to verification. It directs that ED, "to the maximum extent practicable, streamline and simplify the process of verification for applicants" and requires ED to publish data annually on verification activities.[111]

Estimated Financial Assistance

Under current law, student need is defined as COA minus the sum of the EFC and EFA.[112] The statute defines EFA as "all scholarships, grants, loans, or other assistance known to the institution at the time the determination of the student's need is made," with specified exceptions.[113] EFA does not affect eligibility for Pell Grants but can reduce eligibility for other forms of need-based federal aid.

The FSA amendments make a few changes to the forms of assistance that are considered EFA. The FSA amendments do not maintain the exclusion of special combat pay from EFA. The law specifically excludes payments made and services provided under Title IV-E of the Social Security Act to a child or youth in foster care, or formerly in foster care. This includes, for example, the value of a Title IV-E foster care maintenance payment, Educational and Training Vouchers (ETVs), or any other services or assistance provided to the youth under Title IV-E, including the Chafee Foster Care Independence Program for Successful Transition to Adulthood.[114] The FSA amendments also exclude from EFA emergency financial assistance provided to the student for unexpected expenses that are a component of the student's COA but not considered when the need determination is made.

Cost of Attendance

Under current law, the statute establishes the elements for institutions to use in estimating the COA that is used in packaging student aid.[115] For students attending at least half-time, COA includes tuition, fees, books, supplies, transportation, miscellaneous costs, and several options for room and board. COA can also include specified costs relevant to students in certain situations, including dependent care expenses, study abroad expenses, and expenses associated with a disability. For less than half-time students, the universe of applicable costs is somewhat narrower. Separate provisions of the HEA prohibit ED from regulating beyond what is in the statute.[116]

The FSA amendments provide additional detail on how IHEs will calculate components of COA for students in various circumstances. These additional details include providing a separate allowance "for purchasing food … that provides the equivalent of three meals per day" for each

[111] HEA §483(b)(6), as amended by the FSA.

[112] HEA §471, as in effect prior to implementation of the FSA amendments.

[113] HEA §480(j).

[114] Children in foster care may be eligible for Title IV-E foster care maintenance payments, and if age 14 or older they are also eligible for Chafee services, including Educational and Training Vouchers (ETVs). The exclusion of the value of Title IV-E payments or services applies only to youth formerly in foster care if they are eligible for Chafee services, including ETVs. Chafee-eligible youth include those who left foster care for adoption or legal guardianship at age 16 or older, or youth who left foster care for any other reason at age 14 or older. For Chafee-eligible former foster youth, any Title IV-E adoption assistance or guardianship assistance payment would also be excluded from determination of need. For additional information, see CRS Report RL34499, *Youth Transitioning from Foster Care: Background and Federal Programs*.

[115] HEA §472, as in effect prior to implementation of the FSA amendments.

[116] HEA §478(a), as in effect prior to implementation of the FSA amendments.

student who does and does not elect "institutionally owned or operated food services."[117] The FSA amendments also remove the prohibition for regulating on components of COA other than tuition and fees. It retains the prohibition for regulating on the tuition and fees component of COA.[118]

Other Provisions

The FSA amendments include three provisions that are not related to the direct application for and provision of HEA Title IV aid. These provisions are intended to expand outreach among prospective students regarding the availability of HEA Title IV aid and provide relief to certain institutional and student federal loan borrowers.

Early Awareness and Outreach Efforts

Under current law, the HEA directs ED, in cooperation with states, IHEs, secondary schools, and other partners, to implement outreach programs to communicate the availability of federal student aid. Outreach efforts can include targeted efforts to recipients of other means-tested benefits and secondary students as well as broader public awareness campaigns.

The FSA amendments expand existing provisions related to early awareness and outreach efforts. It directs ED to produce a "consumer-tested method of estimating student eligibility" for Pell Grants. It specifies that the estimation method shall be prominently available on ED's website and shared with specified partners, including HEA Title IV-participating IHEs and all middle and secondary schools eligible for funds under Title I-A of the Elementary and Secondary Education Act.[119] The FSA amendments further direct ED to establish early awareness outreach plans to provide information about federal student aid and other informational resources to specified populations.

Repeal of the Subsidized Usage Limit Applies Requirement

Eligible undergraduate students may borrow Direct Subsidized Loans. These loans have an interest subsidy that applies during qualifying periods (e.g., while a borrower is enrolled in an eligible program on at least a half-time basis).[120] Until the FSA amendments take effect, a student who is a *first-time borrower*[121] may only borrow Direct Subsidized Loans for a period that may not exceed 150% of the published length of the academic program in which he or she is currently enrolled.[122] This is referred to as the Subsidized Usage Limit Applies (SULA) requirement.[123] If a

[117] HEA §472(a)(1)(5)(A)-(B), as amended by the FSA.

[118] HEA §478(a)(2), as amended by the FSA.

[119] Title I-A of the Elementary and Secondary Education Act provides funds to elementary and secondary schools with relatively high concentrations of students from low-income families. For information, see CRS Report R44461, *Allocation of Funds Under Title I-A of the Elementary and Secondary Education Act*.

[120] For additional information on Direct Subsidized Loans, see CRS Report R45931, *Federal Student Loans Made Through the William D. Ford Federal Direct Loan Program: Terms and Conditions for Borrowers*, by Alexandra Hegji.

[121] A first-time borrower is "an individual who has no outstanding balance of principal or interest on a Direct Loan Program or [Federal Family Education Loan] Program loan on July 1, 2013, or on the date the borrower obtains a Direct Loan Program loan after July 1, 2013." 34 C.F.R. §685.200(f)(1)(i).

[122] HEA §455(q), as in effect prior to implementation of the FSA amendments.

[123] This is sometimes also referred to as the Direct Subsidized Loan maximum eligibility period.

Direct Subsidized Loan borrower subject to this provision remains enrolled in the same program for which the loan was obtained (or another undergraduate academic program of equal or shorter length) beyond the applicable maximum eligibility period, the borrower will become responsible for paying the interest that accrues on all his or her previously borrowed Direct Subsidized Loans after the date that the maximum eligibility period is exceeded.

The FSA amendments repeal the SULA requirement. The law requires ED to implement the repeal by July 1, 2023, but permits ED to implement it earlier.[124] Recently published ED regulations effectuate this repeal. Specifically, effective August 13, 2021, the SULA requirements do not apply to any borrower who receives a Direct Subsidized loan first disbursed on or after July 1, 2021. In addition, for borrowers who have a Direct Subsidized Loan that is outstanding as of July 1, 2021, and on which the borrower has been responsible for paying interest because they exceeded the maximum eligibility period, ED will "adjust their account to remove the interest that accrued and reapply the borrower's payments accordingly."[125]

HBCU Capital Financing Loan Repayment

The Historically Black Colleges and Universities Capital Financing Program (HBCU Cap Fin) is a loan guarantee program that provides federal assistance to HBCUs to obtain low-cost capital financing for campus maintenance, renovation, and construction projects.[126]

The FSA amendments direct ED to repay, within 90 days of enactment and on behalf of participating HBCUs, the outstanding balances on HBCU Cap Fin loan amounts that had been disbursed as of December 27, 2020.

In April 2021, ED announced the discharge of approximately $1.6 billion of debt for 45 HBCUs.[127]

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[124] FSA §705(b).

[125] U.S. Department of Education, "Repeal of the William D. Ford Federal Direct Loan Program Subsidized Usage Limit Restriction," 86 *Federal Register* 31432-31438, June 14, 2021.

[126] For additional information, see CRS Report R43237, *Programs for Minority-Serving Institutions Under the Higher Education Act*, by Alexandra Hegji.

[127] U.S. Department of Education, "Department of Education Discharges Over $1.6 billion in HBCU Capital Finance Debt," April 2, 2021, at https://www.ed.gov/news/press-releases/department-education-discharges-over-16-billion-hbcu-capital-finance-debt.

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