



April 24, 2023

U.S. Department of Education
400 Maryland Ave. SW
Room 2C-185
Washington, DC 20202

Docket ID ED-2023-OPE-0039

To whom it may concern,

On behalf of the National Association of Student Financial Aid Administrators (NASFAA), we respectfully submit to the U.S. Department of Education (ED) our comments on ED's intent to establish a negotiated rulemaking committee (Docket ID ED-2023-OPE-0039).

NASFAA's membership consists of more than 29,000 financial aid professionals at nearly 3,000 colleges, universities, and career schools across the country. NASFAA member institutions serve nine out of every 10 undergraduates in the United States.

Postsecondary education continues to become more complex as changing student demographics and technological advances make it both necessary and possible to design new methods of education delivery. However, we must take care to step back and consider how these changes in the higher education landscape impact the regulations surrounding Title IV student aid and re-evaluate whether those regulations still work, instead of continually tacking on new requirements to accommodate these changes.

While we appreciate the Department's most recent regulatory efforts in 2020 to allow the R2T4 process to accommodate new and innovative learning models like subscription-based programs and programs offered in modules, they pile complexity on top of complexity and make it even more difficult for institutions to not only comply with the rules, but to explain them to students.

Students leaving school before completing a term are likely doing so under already stressful circumstances. The R2T4 process should be simplified to ensure that it does not add to their stress.

Any changes to the R2T4 rules must consider the fact that the rules and regulations for this process already comprise nearly 200 paragraphs of regulatory text and nearly 150 pages in the Federal Student Aid Handbook. The 2020 R2T4 rules required ED to publish a 63-question Q&A document to help financial aid administrators interpret them, and NASFAA has 271 regulatory assistance articles devoted to R2T4 alone in our membership AskRegs Knowledgebase.

In response to requests for input on regulatory relief, financial aid administrators mentioned R2T4 more than twice as often as any other topic area, and even with all of the aforementioned resources, R2T4 consistently falls within the top five audit and program review findings.

A 2015 NASFAA [task force](#) noted, “Errors are virtually inevitable in so complex a set of rules. Further, given the wide range of program formats, individual student circumstances, and other factors, it is very difficult to address all scenarios that arise logically under a ‘one size fits all’ highly regulated approach.”

R2T4 is not an area rife with fraud and abuse; it’s an area rife with complexity, confusion, and frustration.

We are grateful the Department is looking to ease R2T4-related barriers to students, as well as institutional R2T4 administrative burden through negotiated rulemaking. The R2T4 process needs a complete overhaul with a focus on where we can sacrifice precision — and the complexity inherent therein — with minimal impact on program integrity.

Financial aid administrators spend far too long on R2T4, a detriment to compliance in other areas as well as to service to students. Financial aid offices are facing historic struggles with staffing and need relief wherever they can get it.

With respect to third-party servicers (TPS), the Department’s recently updated guidance about institutional requirements and responsibilities for third-party servicers has introduced significant confusion because the new guidance appears to change the regulatory definition of a third-party servicer.

As noted in our previously submitted comments, it is an unusual path to issue sub-regulatory guidance before conducting negotiated rulemaking sessions and issuing final rules. We continue to disagree with the greatly expanded definition of third-party servicer in the updated guidance and do not believe the scope of the guidance falls within the regulatory definition of a TPS. We are grateful for Under Secretary Kvaal’s subsequent announcement that the Department is re-evaluating the guidance in light of public comments received. It is critical that the Department

eliminate all potential negative unintended consequences if it moves forward with expanding the third-party servicer definition either during negotiated rulemaking or through guidance.

We appreciate ED's desire to examine timely student access to Title IV disbursements in the cash management regulations and agree institutions should not delay Title IV disbursements in order to circumvent or game other regulations such as the 90/10 ratio or R2T4, while putting students at a disadvantage. We urge the Department to use caution in crafting new cash management language to ensure it is not so prescriptive as to capture well-intentioned institutional efforts.

We appreciate the opportunity to comment on these important topics. If you have any questions regarding these comments, please contact me or NASFAA Senior Policy Analyst Jill Desjean at desjeanj@nasfaa.org.

Regards,

A handwritten signature in black ink, appearing to read 'J. Draeger', with a long horizontal flourish extending to the right.

Justin Draeger, President & CEO