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To whom it may concern:

On behalf of the National Association of Student Financial Aid Administrators (NASFAA) and our 3,000 member institutions, we respectfully submit to the U.S. Department of Education (ED) our comments on the 2023-2024 Free Application for Federal Student Aid (FAFSA), docket No.: ED-2022-SCC-0024.

NASFAA represents nearly 20,000 financial aid professionals who serve 16 million students each year at colleges and universities in all sectors throughout the country. NASFAA member institutions serve nine out of every ten undergraduates in the U.S.

We appreciate ED's consideration of NASFAA's comments submitted during the 60-day comment period.

We are concerned, however, about the fact that no updated draft of the Incarcerated Applicant Form was provided in the solicitation for public comments. Indeed, it is accurate to say that ED has never provided a draft of the Incarcerated Applicant Form for public comment, since ED's initial draft was an exact copy of the standard FAFSA, which is inadequate for students who are incarcerated given their unique personal circumstances and the many logistical challenges they face as a result of their incarceration.

ED is in a position to usher in this historic expansion of Pell grant eligibility for the first time in decades. A smooth implementation will not only ensure the broadest possible access to postsecondary education for this vulnerable population, but will send a message to students experiencing incarceration that they belong in higher education and that ED wants to see them succeed. A FAFSA designed to accommodate the needs of students who are incarcerated is the first step to ensuring a smooth implementation.

In the absence of a draft Incarcerated Applicant Form for comment, we re-submit below our previous comments and urge ED to continue to engage with stakeholders in the creation of the Incarcerated Applicant Form to ensure that this population of students is able to take full advantage of the Title IV student aid that has been afforded to them in the law.

Resubmitted comments from 60-day comment period:

The restoration of Pell grant eligibility for incarcerated students presents a new opportunity for this population that has been largely excluded from postsecondary education for nearly three decades. But it also presents significant challenges to ensuring that they are able to take advantage of their Pell grant eligibility. Many of those challenges relate to the application itself, which was not designed with this population in mind. Simply giving the existing form a new name is inadequate. We suggest the following changes to tailor the Incarcerated Applicant Form to this population and their specific needs.

- Revise language throughout the form that refers to non-Pell grant aid, unless ED confirms whether states or institutions will make aid available to this population
- Application deadlines for states that do not provide funding for incarcerated students are unnecessary
- Remove language instructing students to check with their high school counselor about other sources of aid and deadlines since it is not relevant to this population
- Confirm whether black ink can be used at all correctional facilities or permit other colors to be used for this population
- Remove references throughout that refer to living expenses and room and board since those costs are not part of the cost of attendance for incarcerated students
- Instructions for question 16 should better explain separated status, noting that it is not necessary for a separation to be official or legal in order to complete the incarcerated application form as separated, and that the circumstances of incarceration alone may justify use of separated status. Applicants who are incarcerated and who have experienced domestic violence may put themselves at risk by trying to obtain spousal information to complete the application; instructions should clearly instruct them on the proper use of separated status.
- Questions 21 and 22 may not be necessary if state and college aid are not available for this population
- Remove question 28, since this population does not qualify for Federal Work Study
- Add a question to the dependency status section of the Incarcerated Applicant Form to indicate their desire to complete the FAFSA without parental information for the purpose of provisional determination of their Title IV student aid eligibility.
 - Update instructions to account for the possibility of provisional independent student status
- Several dependency questions can likely be removed, such as:

- Question 45, since an individual presumably cannot be incarcerated while serving on active duty in the US Armed Forces.
- Question 48, since an incarcerated individual cannot have dependents living with them
- Question 90, since an incarcerated individual does not live with others who they support
- Question 91, since household size would presumably always be 1 for this population
- Question 97, since individuals who are incarcerated do not appear to meet the dislocated worker definition
- The Housing Plans portion of Question 98 is not necessary for this population

In the Consolidated Appropriations Act of 2022, Congress authorized on-time implementation of provisional independent student status that was authorized by the FAFSA Simplification Act as part of the Consolidated Appropriations Act of 2021.

We encourage ED to implement provisional independent student status for incarcerated students on time, on July 1, 2023, as Congress authorized in the Consolidated Appropriations Act of 2022. Aligning on-time implementation with implementation of Pell grants for Prison Education Programs would significantly ease the process of completing the FAFSA for the many individuals who are incarcerated and do not meet the independent student criteria.

In order to exercise this authority, the instructions on page 10 of the incarcerated applicant form need to be updated to account for the possibility of provisional independent student status. If an electronic version of the Incarcerated Applicant Form were to be available, it would also need to be updated to remove language stating the impact of not providing parent information. All versions of the Incarcerated Applicant Form would also require an additional question for students to indicate their desire to complete the Incarcerated Applicant Form without parental information for the purpose of determining their Title IV student aid eligibility based on provisional independent student status.

ED should also use authority granted in the Consolidated Appropriations Act of 2022 to implement on time (July 1, 2023) new language in the FAFSA Simplification Act that considers lack of parental contact due to student incarceration to be acceptable justification for a dependency override. ED should add a question on the Incarcerated Applicant Form asking whether the student, by nature of their incarceration, is unable to contact a parent or where contact with parents poses a risk to that student.

ED should also issue guidance to financial aid administrators that an applicant's response of yes to this question could be considered adequate documentation for a dependency override. Dependency overrides are among the most complicated processes in the Title IV student aid application process, even for students who are able to maintain consistent contact with the financial aid office and who have access to necessary documentation. For incarcerated students whose contact with individuals

outside of the carceral facility is strictly limited, finding out what documentation is needed and accessing that documentation will be nearly impossible.

Beyond the application itself, ED must consider verification requirements for this population. Verification is already burdensome, especially for individuals from lower-income and minority backgrounds, who are also more likely to be Pell grant recipients. Since ED's verification selection algorithm targets Pell grant recipients and applicants who report no income, incarcerated students are likely to have very high verification selection rates. In fact, a 2019 report from the Government Accountability Office on the Second Chance Pell experiment found that verification selection rates for that student population were higher than the selection rates for non-incarcerated Pell grant recipients¹. Individuals who are incarcerated will face challenges even beyond what non-incarcerated individuals face with verification, given their lack of access to records and limitations on communication with outside individuals who could help with the process². Obtaining income verification or verification of nonfiling would pose a nearly insurmountable burden. This is further compounded for dependent students and married students, who must obtain tax information from parents and spouses as well.

NASFAA has found that ED's selection algorithm already casts too broad a net, selecting far more applications than appear necessary to capture FAFSA errors, such that 84% of selected applications examined from 45 institutions did not result in a change to Pell grant eligibility upon verification. The National College Attainment Network (NCAN) also conducted research that found over 70% of verification selected applications having no change to the Pell grant award amount upon verification, and 93% of applicants with an automatic Zero EFC seeing no change upon verification³. Based on this data and given the high likelihood that this population will have no income due to their incarceration, we urge ED to deprioritize this population from verification selection.

Student loan default is another area of great concern for individuals who are incarcerated. It is nearly inevitable that individuals who are incarcerated will go into default given their lack of income during incarceration and their lack of access to their servicers to arrange for repayment alternatives that would keep them from defaulting. While the recently-announced "fresh start" for delinquent and defaulted loans re-entering repayment after the covid-19 related pause is welcome news, new defaults among individuals who are incarcerated are just as likely to occur after this one-time action.

Understanding the requirement that applicants not be in default as a condition of receiving Title IV aid is statutory, we urge ED to do everything in its authority to keep student loan default from preventing individuals who are incarcerated from accessing postsecondary education. Options include working with correctional facilities to provide education about student loan default and repayment alternatives during incarceration and encouraging facilities to permit access to student

¹ <https://www.gao.gov/assets/gao-19-130.pdf>

² <https://www.vera.org/downloads/publications/lessons-from-second-chance-pell-toolkit.pdf>

³ https://www.nasfaa.org/uploads/documents/FAFSA_Series_Pt6_Exploring_Relationship_FAFSA_Pell.pdf

loan servicer websites so borrowers who are incarcerated can take steps to ensure their loans are not in danger of default.

ED should also issue guidance to correctional facilities recommending access for aspiring students to certain websites and telephone numbers that exist specifically to assist applicants in completing the FAFSA. The Incarcerated Applicant Form lists sites such as childwelfare.gov and studentaid.gov and the telephone number 1-800-4-FED-AID as resources for completing the application, but internet and telephone access are frequently limited for individuals who are incarcerated, leaving them without access to critical information they need to complete their application for a Pell grant.

As ED develops the Incarcerated Applicant Form, it must also consider whether the Incarcerated Applicant Form could substitute for the standard FAFSA (and vice versa) in cases where a student may be enrolled in a Prison Education Program (PEP) for part of an award year and a non-PEP for another part of the same award year.

We appreciate the opportunity to comment on this proposed data collection. If you have any questions regarding these comments, please contact us or NASFAA Senior Policy Analyst Jill Desjean at desjeanj@nasfaa.org.

Regards,



Justin Draeger, President & CEO