FEDERAL TAX INFORMATION AND FAFSA® DATA CHANGES

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AGENDA

- 1. Background Changes to FAFSA® Data Use
- 2. FAFSA® Data Use Guidance (Electronic Announcement General-24-129)
- 3. FAQs and Use Cases
- 4. Resources and Questions



CHANGES TO FAFSA® DATA USE

Higher Education Act of 1965, as amended (HEA)

- 483
- 494

Internal Revenue Code (IRC) 0f 1986, as amended

• 6103(I)(13)

FUTURE Act / FAFSA Simplification Act Amendments Summary

483:

- Authorizations available to the applicant
- Data provided to state higher education agency
- Data provided to IHE
- Prohibitions of data

494:

- Notification and Approval Requirements
- Access to FAFSA information
- Discussion of FAFSA information
- Restriction on disclosing FAFSA information

6103(l)(13)

- Use of FTI for Federal Student Financial Aid
- Redisclosure to IHEs, state higher education agencies, and designated scholarship organizations
- Additional permitted redisclosures (e.g., contractors, family members)

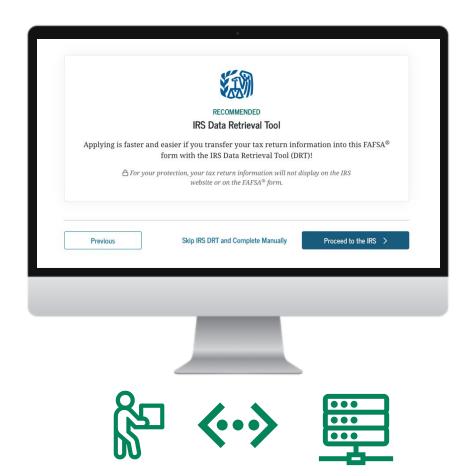
FEDERAL LAWS

2024–25 & Succeeding FAFSA Cycles

FSA FAFSA SYSTEM PROCESSING CHANGES

Pre-FUTURE Act / FAFSA Simplification Act

(2023–24 & Preceding FAFSA Cycles)



Post-FUTURE Act / FAFSA Simplification Act (2024–25 & Succeeding FAFSA Cycles)



CHANGES TO FAFSA DATA USE

FTI Received from the IRS

- Tax Filing Status
- Adjusted Gross Income (AGI)
- Number of Exemptions and Number of Dependents
- Income Earned from Work
- Taxes Paid
- Educational Credits
- Untaxed IRA distributions
- IRA deductible and payments
- Tax exempt interest

- Untaxed pension amounts
- Schedule C net profit/loss
- Indicators for Schedules A, B, D, E, F, H
- IRS response code

The ISIR will also include an IRS response code. The code will indicate the status of the tax filer/FTI with the IRS, to include one of the following:

- Tax filer and FTI provided to FTIM
- Not found at the IRS
- Found and a non-filer
- Found but IRS not able to provide information

CHANGES TO FTI DATA USE

Intermediate and Derived FTI Values

(2025–26 ISIR Fields 306 – 321)

- Total parent allowances against income
- Parent payroll tax allowance
- Parent income protection allowance (IPA)
- Parent employment expense allowance (PEEA)
- Parent available income (PAI)
- Parent adjusted available income (PAAI)
- Parent contribution (PC)
- Student payroll tax allowance
- Student income protection allowance (IPA)

- Student allowance for parents' negative adjusted available income
- Student employment expense allowance (SEEA)
- Total student allowances against income
- Student available income (StAI)
- Student contribution from income (SCI)
- Student adjusted available income (SAAI)
- Total student contribution from SAAI
- Student, parent, and FISAP total income information (ISIR Fields 944-946)



CHANGES TO FTI DATA USE



Intermediate and Derived FTI Values

- Safeguarding FTI is of the utmost importance and must be used for the purposes of the application, award, and administration of federal, state, and institutional aid programs.
- Given the nature of these intermediate values, relying on FTI received by the Department from the IRS and are categorized as derived FTI values. Therefore, the values:
 - (1) Require the appropriate CUI labeling requirements, and
 - (2) Appropriate FTI safeguards and data use limitations.
- Data use must be consistent with <u>(GENERAL-23-34)</u> Access and Use of Federal Tax <u>Information (FTI)</u> for Federal Student Aid Programs Beginning with the 2024-25 FAFSA <u>Processing Cycle</u>.
- This includes prohibitions on the use of these intermediate values for research, and limits use
 to the application, award, and administration of student aid programs as outlined in the
 Higher Education Act (HEA) and Internal Revenue Code (IRC).
- 2026-27 ISIR record layout will reflect these values within the FTI 'block'.

OTHER FINANCIAL AID DATA

Not all data associated with the awarding and administration of aid is considered FAFSA data; therefore, it is not under the same data use restrictions mandated by the HEA.

Financial aid information that is not considered to be FAFSA data may include, but not limited to:



- Total aid awarded
- Grant aid and/or loan receipt and amount by source (e.g., Pell Grant or State Grant Receipt)
- Unmet financial need
- Demographic/ other Personally-Identifiable Information (PII) (e.g., Admission Application)

Pell Grant eligibility is considered FAFSA data as it is part of the ISIR. Pell Grant receipt and amount are reported to the Department, but originate from the institution. Therefore, it is not considered FAFSA data.

NOTE: FERPA Implications May Still Apply!



INSTITUTION USE OF FAFSA – HEA 20 USC 1090(a)(3)(C)

(ii) Use of information provided to the institution. -- An institution:

(I) Shall use the information provided to it solely for the application, award, and administration of financial aid to the applicant;

(II) may use the information provided, **excluding FTI**, for research that does not release any individually identifiable information on any applicant, to promote college attendance, persistence, and completion; and

(III) shall not share such educational record information with any other entity without the explicit written consent of the applicant.



STATE AGENCY USE OF FAFSA – HEA 20 USC 1090(a)(3)(B)

(ii) Use of information.--A state agency administering state-based financial aid --

(I) Shall Use FAFSA information solely for the application, award, and administration of state-based financial aid for which the applicant is eligible;

(II) May Use the information, except for FTI, for state agency research that does not release any individually identifiable information on any applicant to promote college attendance, persistence, and completion;

(III) May use identifying information provided by student applicants on the FAFSA to determine whether or not a graduating secondary student has filed the application in coordination with local educational agencies or secondary schools to encourage students to complete the application; and

(IV) May share the application information, excluding FTI, with any other entity, only if such applicant provides explicit written consent of the applicant, except as provided in subclause (III).



FAFSA – HEA 20 USC 1090(a)(3)(D) AND (E)

Prohibition & Further Disclosure Limitations of FAFSA Information with FTI:

- (D) Prohibition.--Any entity that receives applicant information from the institution shall not sell, share, or otherwise use applicant information other than for the purposes outlined in subparagraph (C) (i.e., use of information provided to the institution).
- (E) FAFSA information that includes tax return information.-- An applicant's FAFSA information that includes FTI may be disclosed or redisclosed (which shall include obtaining, sharing, or discussing such information) only in accordance with the procedures described in 20 USC 1098h(c).











Application, Award, and Administration of Aid

The Department interprets "*the application, award, and administration of aid*" as used in HEA Section 483 as the administrative and business functions necessary to deliver federal, state, and institutional financial aid efficiently and effectively to students, which may include (but are not limited to) the following:

- Managing ISIR processing to determine applicant eligibility for financial aid awards, verification, and other packaging processes.
- Assisting students or other contributors to their form (e.g., parent(s) or spouse) with the application process.
- Processing and disbursing federal, state, or institutional financial aid funds.
- Monitoring the academic progress of aid recipients and enforcing other aid requirements (e.g., Satisfactory Academic Progress).





Application, Award, and Administration of Aid

- Performing analyses related to financial aid, including leveraging and modeling and other research necessary to administer student financial aid programs consistent with Section 483 of the HEA.
- Complying with mandatory reporting for participation in Title IV, HEA programs, including (but not limited to) Integrated Postsecondary Education Data System (IPEDS) reporting (20 U.S.C. § 1094(a)(17)) and publishing net price calculators (20 U.S.C. § 1015a(k)).
- Conducting audits, program evaluations, or other research to support the efficient and effective administration of student aid programs.
- The production by IHEs or state grant agencies of de-identified, aggregate, descriptive statistics about financial aid programs or participants.
- Development of state budgets and forecasting.



ACCESS TO FAFSA INFORMATION:



The information from the ISIR with respect to an applicant for federal student financial aid -- <u>upon request</u> <u>for such information by such applicant, shall be provided to such applicant by the Department or an institution of higher education.</u>



With the <u>written consent by the applicant to an institution of higher education</u>, FAFSA Data, including FTI, may be provided to a scholarship granting organization (including a tribal organization (defined in section 5304 of title 25)), or to an organization assisting the <u>applicant in applying for and receiving</u> federal, state, local, or tribal assistance, that is 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 at that institution.



A discussion of the information in an application (FAFSA form), including federal tax information, of an applicant between an institution of higher education and the applicant may, with the **written consent** of the applicant, include an individual selected by the applicant (such as an advisor) to participate in such discussion.



A person receiving information with respect to an applicant shall not use the information for any purpose other than the express purpose for which consent was granted by the applicant and shall not disclose such information to any other person without the express permission of, or request by, the applicant.

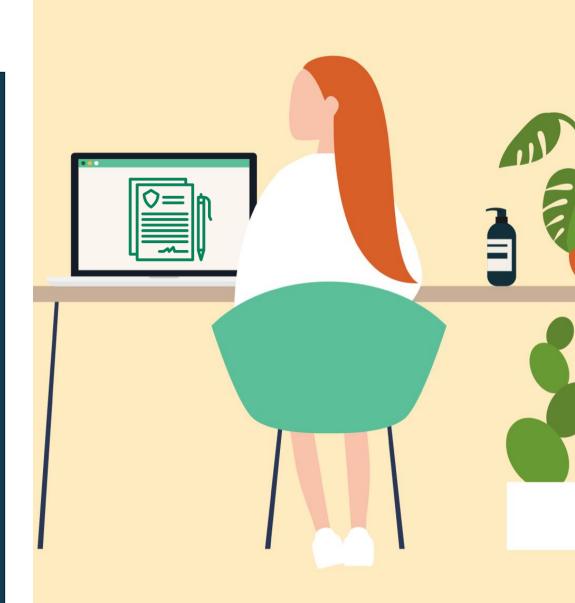
WRITTEN CONSENT REQUIREMENTS



Section 1098h(c)(4)(B) - Written Consent

The term "written consent" means a separate, written document that is signed and dated (which may include by electronic format) by an applicant, which:

- i. Indicates that the information being disclosed includes return information disclosed under section 6103(l)(13) of title 26 with respect to the applicant;
- ii. States the purpose for which the information is being disclosed; and
- iii. States that the information may only be used for the specific purpose and no other purposes.



FTI AND FAFSA® DATA USE GUIDANCE



Section 1098h(c)(4)(B) - Written Consent

The term "written consent" means a separate, written document that is signed and dated (which may include by electronic format) by an applicant, which-

- indicates that the information being disclosed includes return information disclosed under section 6103(l)(13) of title 26 with respect to the applicant;
- states the purpose for which the information is being disclosed; and
- states that the information may only be used for the specific purpose and no other purposes.

Basic Rules: When is written consent needed?

- Disclosure/use of <u>FTI</u> to assist a student in applying for and/or receiving student financial assistance towards Cost of Attendance at your institution.
- Disclosure/use of *FAFSA data* to another entity for purpose(s) beyond the application, award, and administration of student aid programs (e.g., academic offices).
- Disclosure of FTI to FAFSA contributor may require FERPA written consent; NOT HEA written consent.



WRITTEN CONSENT REQUIREMENTS

- The HEA requires prior written consent to be maintained for a period of at least three years from the student's last date of attendance at the institution and made available to the Department upon request.
- Prior written consent may also be required if there is no applicable exception to FERPA's general consent requirement for a particular disclosure of FAFSA data.
- IHEs and state grant agencies may use the same process to obtain prior written consent from applicants who are eligible students under the HEA and FERPA (where applicable).
- Under FERPA, prior written consent from an eligible student to disclose FAFSA data must be signed and dated and specify the records that may be disclosed and the purpose of the disclosure and must also identify the party or class of parties to whom the disclosure may be made.





Scholarships

- Scholarship organizations or other aid programs within an IHE or state grant agency that award federal, state, or institutional financial aid may receive access to and use FAFSA data for the application, award, and administration of that aid without additional prior written consent by the applicant.
 - NOTE: Philanthropy-funded scholarships, where the funds are donated to and administered by the IHE or state, are considered institutional or state aid as the respective entity is responsible for the application, award, and administration of such scholarship aid.
- Under the HEA, IHEs and state grant agencies <u>must obtain the prior written</u> <u>consent</u> of the applicant to disclose FAFSA data to an external scholarship-granting organization.
- In practice, external scholarship organizations are encouraged to work with IHEs and state grant agencies to consider collecting prior written consent under Section 494 of the HEA from applicants through the external organization's scholarship application process.



Student Support Services

- There are use cases in which FAFSA data can be used without prior written consent by an IHE or state grant agency for purposes of providing advising or other support to students, so long as it is for the purposes of application, award, and administration of aid under the HEA and the disclosure is allowable under a FERPA exception, as applicable.
- Use Case #1 FAFSA data could be leveraged by academic advisors and other student support staff at IHEs to assist students in completing the FAFSA or other financial aid forms, filing a financial aid appeal, or maintaining SAP as these activities are related to the application, award, and administration of aid.
- Use Case #2 For purposes beyond financial aid, such as support for other college completion efforts (e.g., academic advising), IHEs must obtain prior written consent from students to use or disclose FAFSA data under HEA.



FTI AND FAFSA® DATA USE GUIDANCE

Use of FAFSA Data for Research

- The HEA authorizes the use of FAFSA data, without consent, by IHEs and state higher education agencies, including state grant agencies, for research to promote college attendance, persistence, and completion.
- Research must not release individually identifiable information on an applicant to the public or anyone not authorized to receive such information.
- Research must be done by or on behalf of the IHE or state grant agency. An IHE or state grant agency may use contractors or other entities (including other state agencies) to conduct the research. However, for FERPA-protected data, an appropriate exception must apply.
- FERPA exception(s) still apply for disclosure of FAFSA data without written consent for these purposes.
 - Studies; Audit and Evaluation; School Official Exceptions



FTI DATA USE GUIDANCE

Disclosure / Use of FTI for Subpoenas

- In general, local, state, or federal investigations, including court orders and subpoenas, *do not* overcome IRC 6103 statutory mandate of confidentiality.
- IRC 6103(l)(13)(d)(2)(ii) prohibits the use of FTI to conduct criminal investigations or prosecutions.
- Investigations for FAFSA records (e.g., ISIR data) maintained by an institution of higher education must redact FTI. FTI may be obtained from the IRS.



Sharing Data with Applicant and Contributor(s)

- The HEA requires that, upon request from an applicant, an IHE must provide an applicant access to their own FAFSA data as reported on the ISIR, including data provided by any of their contributor(s) on the FAFSA form.
- FAFSA applicants, at their discretion, may further redisclose their FAFSA data, including a contributor's information, to other individuals or entities internal or external to the institution, such as external scholarship organizations and other support organizations, by obtaining a copy of the ISIR at their request.
- Under FERPA, an eligible student's prior written consent is required for an IHE to disclose FAFSA data to parent(s) and/or a spouse of that student.
 - However, if a student is a "dependent student" as defined in Section 152 of the IRC (i.e., the student is claimed as a dependent on either parent's most recent tax return), an IHE may disclose the student's education record to either parent without the eligible student's consent.





Access to FTI and FAFSA Data

- Personnel authorized to access FAFSA data can be in a variety of offices across the state grant agency or institution, *so long as their duties are related to the application, award, or administration of aid*.
- Offices must handle responsibility for the overall administration and delivery of financial aid programs, other scholarship awards, or providing support for completing such applications.
- Offices or staff must be under the direct control of the institution.



SAFEGUARDING FTI

Federal Tax Information and System Processing

- FTI will be available to institutions, state higher education agencies, and designated scholarship organizations, via the ISIR.
- FTI will not be available in FAFSA Partner Portal, nor will FTI corrections be permitted through the system.
- Similar to the existing FAFSA process, FTI will not be made available to the applicant and other contributors on the online FAFSA or the applicant's FAFSA Submission Summary.
- Safeguarding FTI via e-mail
- Requests for FTI by the student (and parent(s))

May 12, 2023, Electronic Announcement: <u>Access and Use of Federal Tax Information (FTI) for Federal Student Aid Programs Beginning with the 2024-25 FAFSA Processing Cycle (Updated April 18, 2024)</u>



Federal Student Aid

SAFEGUARDING FTI AND OTHER FINANCIAL AID INFORMATION

- Labeling Federal Tax Information as Controlled Unclassified Information (CUI//SP-TAX)
- Federal Tax Information Safeguarding Requirements and Penalties
 - IRS Publication 1075 Tax Information Security Guidelines
- Cybersecurity Safeguards and Federal Trade Commission's (FTC's) December 2019 Final Rule for Safeguarding Customer Information
- Updates to the Gramm-Leach-Bliley Act (GLBA) Cybersecurity Requirements

360	N/A	7036	7085	50	None	Filler	For Federal Student Aid use only Exact string: "CUI//SP-TAX" Blank		е						
361	N/A	7086	7096	11	Updated valid content	FTI label start			77						
862	N/A	7097	7100	4	None	Returned tax year	Year	in format	- "CCVV"						ыапк
								942	N/A	7549	7559	11	None	FTI label end	Exact string: "CUI//SP-TAX" Blank
								943	N/A	7560	7609	50	None	Filler	For Federal Student Aid use only



SAFEGUARDING FTI

Risks of misusing FTI

IRC §7213

Willful unauthorized disclosure of tax return or return information

Felony; fine up to \$5,000, or imprisonment up to 5 years, or both, plus the costs of prosecution

IRC §7213A

Willful unauthorized inspection of tax return or return information

Fine up to \$1,000, imprisonment up to 1 year, or both, plus the costs of prosecution

IRC §7431

Knowing or negligent inspection or disclosure of tax return or return information by officer or employee in violation of any provision of IRC §6103

Taxpayer may bring a civil action for damages against officer or employee



FAQS AND USE CASES



True/ False Question: The use of FAFSA data to support other college completion efforts (e.g., academic advising), meets the definition of the application, award, and administration of aid and therefore can be disclosed and used by academic departments?





True/ False Question: The use of FAFSA data to support other college completion efforts (e.g., academic advising), meets the definition of the application, award, and administration of aid and therefore can be disclosed and used by academic departments?

FALSE! For purposes beyond financial aid, such as support for other college completion efforts (e.g., academic advising), IHEs must obtain prior written consent from students to use or disclose FAFSA data under HEA.





Question: What laws govern the access, disclosure, and use of FAFSA Data?



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- Higher Education Act (HEA), as amended;
- Family Education Rights and Privacy Act (FERPA);
- Privacy Act

The most restrictive provisions of each law apply to the access, disclosure, and use of FAFSA data.





Question: Can FAFSA data, including FTI, be used for purposes of IPEDS reporting?





Question: Can FAFSA data, including FTI, be used for purposes of IPEDS Reporting?

Yes! FAFSA data, including FTI, may be used for mandatory reporting purposes (e.g., IPEDS).





Question: Can an on-campus office or individual obtain FAFSA data (e.g., self reported student personal circumstance) to provide student support while enrolled at the college?



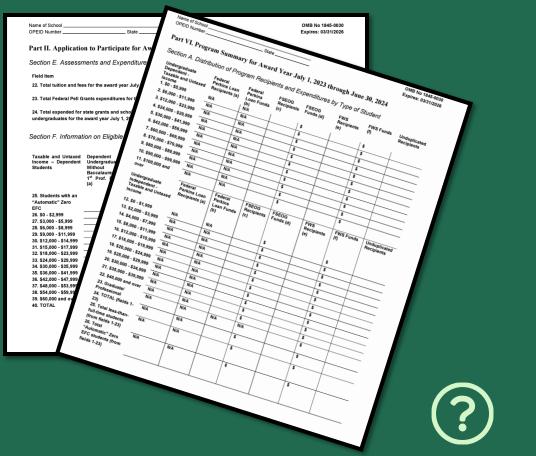
Question: Can an on-campus office or individual obtain FAFSA data (e.g., self reported student personal circumstance) to provide student support while enrolled at the college?

No. FAFSA data must only be used for the application, award, and administration of student aid programs for which the student may apply for and receive towards their cost of attendance. Unless the support being provided by a college includes financial support (e.g., a scholarship) then the financial aid office would not be permitted to disclose a student's FAFSA data (even with written consent of the student) because it not consistent with the law (20 USC 1098h(c)(1))).



Question: Can FTI be used to report on the Fiscal Operations Report and

Application to Participate (FISAP)?

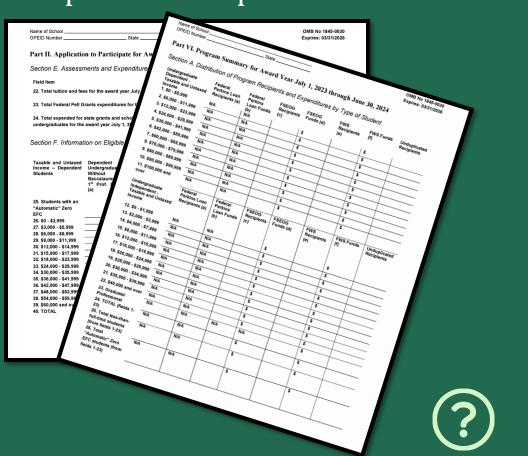




Question: Can FTI be used to report on the Fiscal Operations Report and

Application to Participate (FISAP)?

Yes! The use of Aggregated FTI to complete the FISAP is permitted!





RESOURCES AND QUESTIONS



RESOURCES

- November 2024 Electronic Announcement:

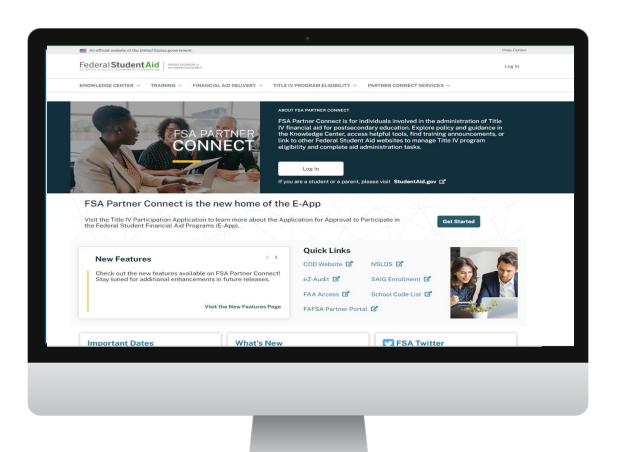
 (GENERAL-24-129) Guidance for State Grant Agencies
 and Institutions of Higher Education on the Access,

 Disclosure, and Use of FAFSA Data for the Application,
 Award, and Administration of Student Aid Programs
- July 2024 Electronic Announcement: <u>(GENERAL-24-93)</u> Guidance on Means-Tested Benefits Outreach for <u>Institutions and State Grant Agencies</u>
- July 2024 <u>FAFSA Data Use in 2024–25 Webinar</u>
- April 2024 Electronic Announcement: <u>(GENERAL-24-35)</u> <u>Updates to the FAFSA Completion Initiative and Means-Tested Benefits Outreach (Updated April 29, 2024)</u>
- September 2023 Electronic Announcement:

 (GENERAL-23-79) Updated SAIG Enrollment

 Agreement Available Oct, 23, 2023 Required Steps to

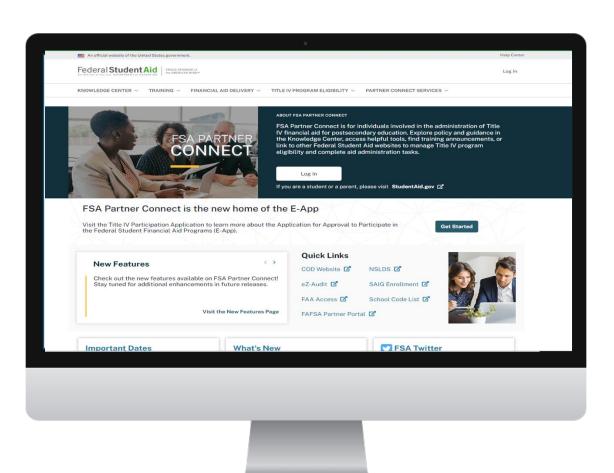
 Receive 2024–25 ISIRs (Updated Feb. 9, 2024)





RESOURCES

- December 2023 <u>FSATC Breakout Session #10:</u>
 <u>Data Use and Considerations Under the FUTURE</u>
 <u>Act and FAFSA® Simplification Act</u>
- May 2023 Electronic Announcement: <u>Access and Use of Federal Tax Information (FTI) for Federal Student Aid Programs Beginning with the 2024-25 FAFSA Processing Cycle</u> (Updated April 18, 2024)
- March 2023 Electronic Announcement: <u>An</u>
 <u>Eligible Student Guide to the Family Educational</u>
 <u>Rights and Privacy Act (FERPA)</u>
- February 2023 Electronic Announcement:
 <u>Updates to the Gramm-Leach-Bliley Act</u>
 <u>Cybersecurity Requirements</u>





QUESTIONS

FTI and FAFSA Data Use Questions

Partner Connect, Help Center, Contact
 Customer Support webpage and select
 the Topic "FSA Ask-A-Fed/ Policy."

FERPA Data Use Questions

- FERPA and other student privacy issues, visit: https://studentprivacy.ed.gov.
- <u>FERPA questions, submit a question at:</u> <u>https://studentprivacy.ed.gov/contact</u>

