

## QUESTIONS SUBMITTED BY SENATOR PATTY MURRAY

### EVERY STUDENT SUCCEEDS ACT AND REQUIRED REPORTING ON PER-PUPIL SPENDING

*Question.* The Every Student Succeeds Act (ESSA) established a new policy requiring the reporting of actual personnel and non-personnel expenditures, disaggregated by Federal, State and local source of funds for each school and school district in each State. This reporting will provide an understanding of spending inequities across school districts and States and offer better insights into spending and student outcomes.

Will you ensure that the per-pupil spending reporting requirements under ESSA are followed and such information is made available to the public in an accessible and understandable manner? Please describe the specific actions taken to date and planned activities to support the effective implementation of this reporting requirement, including any steps the Department is taking to encourage States to have uniform procedures for the calculation of per-pupil spending within each State.

*Answer.* The Department will ensure that States and districts meet the report card requirements in ESEA section 1111(h), including the requirement to report per-pupil expenditure data. The Department released non-regulatory guidance on State and local report cards in March 2019 (available at: <https://oese.ed.gov/files/2020/03/report-card-guidance-final.pdf>) that encouraged each State to establish uniform procedures for its local educational agencies (LEAs) when calculating per-pupil expenditures. The Department also provides technical assistance related to State and local report cards through the State Support Network, including assistance focused on per-pupil expenditure data. For example, in 2018 a community of practice involving Arkansas, Montana, North Dakota, New Mexico, Nevada, and Oklahoma focused on improving financial transparency, while other communities of practice have shared information and support on data quality, State and local report cards, and resource allocations. Information about these communities of practice can be found at: <https://statesupportnetwork.ed.gov/state-support-network-communities-practice>. The Network also created the “Financial Transparency and Reporting Readiness Assessment Tool.” This tool can help States and districts meet the ESSA reporting requirements by identifying and analyzing school level expenditure data. This tool contains two components – a self-diagnostic framework and an analysis tool – that are designed to help districts and States understand the dynamics of school-level per-pupil reporting in their own district financial data. The tool can be found at: <https://statesupportnetwork.ed.gov/resources/financial-transparency-and-reporting-readiness-assessment-tool>.

A complete review of State and local report cards is included in the Department’s monitoring protocols, which are found at: <https://oese.ed.gov/offices/office-of-formula-grants/school-support-and-accountability/performance-reports/>. An important aspect of our consolidated monitoring is a thorough review, for each State monitored in a particular year, of the State’s report card to ensure that it includes all required elements. In addition, in January 2020, the Department reviewed each State website to determine if States and districts were in compliance with certain report card requirements, including per-pupil expenditures. The Department shared the results of its review with each individual State.

## **ESSA REPORT CARD REQUIREMENTS, PUBLIC AVAILABILITY, AND MONITORING OF STATE COMPLIANCE**

*Question.* The Secretary’s testimony stated that key ESEA accountability and reporting requirements are aimed at “protecting students, supporting meaningful school improvement efforts, and giving parents information they need to support a high-quality education for their children.” One of those key accountability and reporting requirements are the State, district and school report cards required under Sec. 1111(h) of the Every Student Succeeds Act (ESSA). Under ESSA, new reporting requirements were included related to the design of accountability systems and inclusion of key data points required by the Civil Rights Data Collection. Last year the Department released non-regulatory guidance for State educational agencies (SEAs) and local educational agencies (LEAs) as they produce the required report cards, which must include disaggregated student achievement and graduation data by student subgroups, methodology for the State’s accountability system, and professional qualifications of teachers disaggregated by school poverty level, among many other indicators required to be reported in order to evaluate the equity and quality of education.

Will you ensure that report card requirements under ESSA are followed and all of the required information is made available to the public in an accessible and understandable manner? Please describe the specific actions taken to-date and planned activities to support the effective implementation of these reporting requirements. Please describe and provide documentation for the Department’s policies and procedures for monitoring the implementation of State, district and school report cards, including any guidance documents provided to SEAs.

*Answer.* In response to question parts a and b, a complete review of the State and local report cards is included in the Department’s monitoring protocol for each State monitored in a given year. This includes ensuring that all required items are publicly available and that the State and districts have a process to make them available to public in an accessible manner.

In addition, in January 2020, the Department reviewed each State website to determine if State and local report cards had been published. (Even though report cards are not required to be published by a particular date, the Department expected that a State would have published its report card for the 2018-2019 school year by January 2020). Staff reviewed each report card to see if it included certain elements, including many of the elements that are new under ESSA, such as per-pupil expenditures. The Department shared the results of its review with each State. The Department intends to conduct a similar review of all State and local report cards next year.

The Department has also hosted a series of communities of practice to support State implementation of the report card requirements and to highlight promising report card practices. SEAs participated in facilitated, topically designed, scaffolded learning series in which participants had access to experts in the field and engage in peer-to-peer learning. A cross section of content and technical experts within SEAs were encouraged to participate in order to have diverse perspectives represented. These sessions addressed topics such as report card design, enhancing data quality, communication strategies, stakeholder engagement and alignment, per-pupil expenditures, and reporting information on all students, including students with disabilities. The Department has made all tools, resources, and content developed as a result of the communities of practices available to all States and LEAs.

*Question.* Has the Department identified any violations of report card compliance? If so, please identify the number of violations by listing the names of each SEA and LEA. By what means did the Department take to ensure these violations were corrected?

*Answer.* Following on-site and desk reviews, the Department works with each State until all issues are fully resolved. This starts with the State providing a response within 30 days of receiving the monitoring report and may include an iterative process of reviewing State submissions and asking for clarification or additional information as needed. The Department continues to communicate with each State and provide technical assistance, as needed, until all monitoring findings are resolved. In addition, conditions on grant awards or other actions are sometimes used to account for long-standing issues identified in monitoring findings. The Department has generally required a State to update its most recently published report card within 30 days of receiving the final report, if possible, and include any missing elements in all future report cards. The list below includes each of the required actions based on report card violations.

## 2019

### **New Jersey**

Note that the timeline for New Jersey was extended due to COVID19.

Required Action: Within 60 business days of receiving this report, provide a plan and timeline for updating its report cards to include all required elements. For the 2018-2019 school year report cards, NJDOE must demonstrate that its SEA and LEA report cards for the 2018-2019 school year include all required elements (e.g., providing links to published report cards, screenshots, etc.).

- Specifically, the SEA report card for the 2017-2018 school was missing the following items:
  - Progress toward State-designed long-term goals, including measurements of interim progress
  - Information on school improvement funds under ESEA section 1003 by LEA and school, including the names of LEAs and schools receiving school improvement funds, amount of funds received by each school, and the types of strategies implemented in each school
  - Exit criteria established by the State for schools identified for comprehensive support and improvement and schools identified for additional targeted support and improvement
  - Data from the Civil Rights Data Collection
  - Educator qualifications for teachers that are not teaching in subject/field of certification/licensure
  - Information cross-tabulated on student achievement on State assessments, the other academic indicator, graduation rate indicator, and the percentage of students assessed and not assessed (ESEA section 1111(g)(2)(N)). This data must be cross-tabulated by each major racial and ethnic student subgroup, gender, English proficiency status, and children with and without disabilities. This may be accomplished by providing this information on SEA report cards

- The LEA report cards for the 2017-2018 school that the Department reviewed were missing the following items:
  - Exit criteria established by the State for schools identified for comprehensive support and improvement and schools identified for additional targeted support and improvement; and
  - Educator qualifications for teachers not teaching in subject/field of certification/licensure.

**Montana**

Required Action: Within 30 business days of receiving this report, the SEA must:

- Provide a plan and timeline for updating the 2018-2019 school year State and local report cards to include all required elements (e.g., providing links to published report cards or pdf versions of the expanded report cards).
- Provide evidence that the State and local report cards, specifically the list of schools identified for additional targeted support and improvement, do not reveal personally identifiable information about individual students.

**2018**

**New Mexico**

Required Action: The SEA must, within 30 business days of receipt of this report, submit a plan that describes how and by what date the SEA will:

- Disseminate accurate and complete State and local report cards for the 2016-2017 school year, that includes:
  - Information on student achievement on academic assessments at each level of achievement for the migrant subgroup;
  - The percentage of students not assessed for all students and each subgroup of students;
  - Information, both in the aggregate and disaggregated by high-poverty and low-poverty schools, on the professional qualifications of teachers in the State, including the number of teachers teaching with emergency or provisional credentials; and
  - The percentage of students at each achievement level reported on the NAEP in the aggregate and, for State report cards, disaggregated for each subgroup (all students, economically disadvantaged, major racial and ethnic subgroups, students with disabilities, and students with limited English proficiency).
- Ensure, for the 2017-2018 report cards, that the SEA report card and each LEA report card include all required elements under the ESEA, as amended ESSA, consistent with ESEA §1111(h)(1) and ESEA §1111(h)(2), respectively.

## **Louisiana**

Required Action: Within 30 business days of receiving this report, LDOE must provide the Department with a plan and timeline for when it will publish (and, according to that timeline, documentation that it has published):

- A complete State report card for the 2016-2017 school year including, but not limited to the following information:
  - Student achievement on the mathematics, reading/language arts, and science assessments at each level of achievement, for all students and disaggregated by each major racial and ethnic group, economically disadvantaged students as compared to students who are not economically disadvantaged, children with disabilities as compared to children without disabilities, English proficiency status, gender, and migrant status.
  - Four-year adjusted cohort high school graduation rates for all students and disaggregated by economically disadvantaged students, students from major racial and ethnic groups, children with disabilities, and English learners.
  - Percentage of students assessed and not assessed, for all students and disaggregated by each major racial and ethnic group, economically disadvantaged students as compared to students who are not economically disadvantaged, children with disabilities as compared to children without disabilities, English proficiency status, gender, migrant status.
  - Number and percentage of teachers teaching with emergency or provisional credentials (in the aggregate and disaggregated by high poverty compared to low-poverty schools).
  - Most recent available results on the State's National Assessment of Educational Progress reading and mathematics assessments, by percentage of students at each achievement level in the aggregate and disaggregated by major racial and ethnic groups, students with disabilities, English learners, and economically disadvantaged subgroups, in grades four and eight.
- State and LEA report cards for 2017-2018 that include all elements required under the ESEA, as amended by ESSA.

## **Illinois**

Required Action: Within 30 business days of receiving this report, ISBE must provide the Department with:

- A complete State report card for the 2016-2017 school year including, but not limited to, the most recent available results on the State's NAEP reading and mathematics assessments, by percentage of students at each achievement level in the aggregate and disaggregated by major racial and ethnic groups, students with disabilities, English learners, and economically disadvantaged subgroups, in grades four and eight

## **Georgia**

Required Action: Within 30 business days of receiving this report, GaDOE must provide evidence that the State and LEA report cards for the 2017-2018 school year include all missing information outlined below.

For the 2017-2018 school year the State report card did not include:

- The most recent available results on the State's National Assessment of Educational Progress (NAEP) reading and mathematics assessments, by percentage of students at each achievement level in the aggregate and disaggregated by major racial and ethnic groups, students with disabilities, English learners, and economically disadvantaged subgroups, in grades four and eight.

For the 2017-2018 school year, both the State and the LEA report card did not include:

- The number and percentage of teachers teaching with emergency or provisional credentials (in the aggregate and disaggregated by high poverty compared to low-poverty schools);

## **California**

Required Action: Within 30 business days of receiving the report, CDE must submit a plan that describes how it will:

- Develop and implement a systematic, documented process for data reporting that ensures, for the 2018-2019 report cards, that State and LEA report cards include all required elements under the ESEA, as amended by ESSA, and that report cards will be disseminated in a timely manner annually.
  - The plan should include specific procedures that will improve LEA data reporting and the steps for meeting annual report card requirements by a State-established deadline, and identification of previous barriers to releasing complete report cards as early as possible in the school year, along with solutions to address those barriers; and
- Update and disseminate SY 2016-2017 State and LEA report cards that include all required elements.

## **Alaska**

Required Action: Within 30 business days of receipt of this report, DEED must:

- Demonstrate that its LEA report cards produced for the 2017-2018 school year (SY) include the number and names of all public schools in the LEA identified for comprehensive or targeted support and improvement.

## **Texas**

Required Action: Within 30 business days of receiving this report, TEA must provide:

- A revised State report card for the 2016-2017 school year that includes the following missing information:

- The percentage of students not assessed on the mathematics, reading/language arts, and science assessments for all students and each subgroup of students; and
- The names of schools served by the State as priority and focus schools for the 2016-2017 school year.
- An assurance that it has revised LEA report cards for the 2016-2017 school year that provide complete information;
- Hyperlinks to revised LEA report cards for Edgewood ISD and San Antonio ISD and five other randomly selected LEAs; and,
- An assurance that, beginning with the 2017-2018 school year and for subsequent years, TEA will submit graduation rate data files (FS 150 and 151) for the SEA-, LEA-, and school-levels by the established deadline.

## 2017

### Mississippi

Required Action: Within 30 business days of receiving the report, MDE must provide the Department with a corrective action plan for addressing the deficiencies noted above or evidence documenting that they have already addressed the deficiencies. Specifically, the plan must address the following items:

- Development and implementation of a systematic, documented process for data reporting that allows for annual publication of State and local report cards in a timely manner.
  - The plan should focus on procedures that improve annual LEA data reporting requirements and steps for meeting annual report card requirements by a State-established deadline, and identification of previous barriers to releasing complete report cards as early as possible in the school year, along with solutions to address those barriers.
- Making LEA annual report cards for school year 2014-2015 and school year 2015-2016 available to LEAs for posting on LEA websites or ensuring that LEAs make available information regarding where the LEA report card is posted on the SEA website so that parents and other community members have relevant information to work more effectively with educators and local school officials.

### South Carolina

Required Action: Within 30 business days of receiving this report, SCDE must provide the Department with documentation evidencing that it has:

- Updated and disseminated the most recently available State and local report cards to include the following missing information:
  - All required information on student achievement on the academic assessments at each level of achievement, for all students and disaggregated by each subgroup of students.
  - All required four-year adjusted cohort high school graduation rates.

- For all students and disaggregated by each subgroup of students, the percentage of students not assessed.
- All required information (in the aggregate and disaggregated by high poverty compared to low-poverty schools) on the professional qualifications of teachers in the State, including the number and percentage of teachers teaching with emergency or provisional credentials.
- The number and names of all public schools in the State identified by the SEA for school improvement, including priority and focus school statuses.
- Developed procedures to ensure that report cards (including the required report cards for school year 2016-2017) include each required data element, are published in a timely manner, and are in a format that enables, to the extent practicable, report card information in language(s) that parents can understand.

### **Wyoming**

Required Action: Within 30 business days of receiving this report, WDE must provide the Department with documentation evidencing that it has:

- Updated and disseminated the most recently available State and local report cards to include the following missing information:
  - The number and names of all public schools in the State identified by the SEA for school improvement.
  - All required information on student achievement on the academic assessments at each level of achievement, for the migrant subgroup of students.
  - For the migrant subgroup of students, the percentage of students not assessed.
  - All required information (in the aggregate and disaggregated by high poverty compared to low-poverty schools) on the professional qualifications of teachers in the State, including the number and percentage of teachers teaching with emergency or provisional credentials;
  - Results on the State academic assessments in reading and mathematics in grades 4 and 8 of the National Assessment of Educational Progress, compared to the national average of such results.
- Developed procedures to ensure that report cards (including the required report cards for school year 2016-2017) include each required data element, are published in a timely manner, and are in a format that enables, to the extent practicable, report card information in language(s) that parents can understand.

### **Pennsylvania**

Required Action: During the review, the Department identified two required data elements, listed below, that were missing from the more recently available State report card: regarding PDE's reporting of required program data:

- The percentage of students at each achievement level reported on the NAEP in the aggregate and, for State report cards, disaggregated for each subgroup described in 34 C.F.R. §200.13(b)(7)(ii) specifically as it relates to:



- Students with disabilities, as defined in ESEA §9101(5),
- English learners, as defined in ESEA §9101(25).

### **Indiana**

Required Action: Within 30 days of receiving this report, IDOE must provide the Department with a plan to:

- Publish a State report card for school year (SY) 2016-2017 that includes all required federal program data no later than November 1, 2018;
- Publish a State report card for SY 2017-2018 that includes all required federal program data;
- Implement procedures IDOE will use to ensure that for report cards for 2017-2018 and future years the IDOE collects and reports all required federal program data in accordance with established timelines; and
- Include in the plan:
  - a) A list of all data elements the IDOE will report for SY 2017-18 and future years for required Federal programs reporting and that the IDOE will require LEAs to report for these years;
  - b) Procedures to ensure IDOE annually collects all required Federal program data in accordance with established timelines;
  - c) Procedures to ensure that all required Federal program data are reported annually;
  - d) Procedures to ensure that all required Federal program data are reported in an understandable and uniform format;
  - e) Procedures to mitigate against the failing to include a required report card data element or reporting in a way that varied from requirements, posting incomplete data, or reporting in a way that varies from requirements;
  - f) Milestones and a timeline for publishing a State report card for:
    - i) SY 2016-2017 that includes all required Federal program data no later than November 1, 2018;
    - ii) SY 2017-2018 that includes all required Federal program data; and,
  - g) Staff responsible for each of the above.
- Ensure that all LEAs in the State report all required Federal program data. In this plan, IDOE also must identify policies and procedures it will implement beyond those in place at the time LEA report card were found to not include all required data.

### **Massachusetts**

Required Action: Within 30 business days of receiving this report, MA DESE must provide the Department with documentation demonstrating that it has:

- Updated and disseminated the most recently available State and local report cards to include the following missing information:

- All required information on student achievement on the academic assessments at each level of achievement, for the migrant subgroup of students.
- The percentage of students not assessed for the migrant subgroup of students.
- Developed procedures to ensure that report cards (including the required report cards for school year 2016-2017) include each required data element.

### **North Carolina**

Required Action: The SEA must, within 30 business days of receipt of this report, submit a plan that describes how the SEA will:

- Disseminate complete State report cards for the 2015-2016, 2016-2017, and 2017-2018 school years by December 31, 2018; and
- Ensure, for the 2017-2018 report cards, that:
  - The State report card includes all required elements under the ESEA, as amended by ESSA; and
  - LEA report cards include all required elements under the ESEA, as amended by ESSA, including, but not limited to:
    - Information on student achievement on academic assessments at each level of achievement, for all students and disaggregated by each major racial and ethnic group; economically disadvantaged students as compared to students who are not economically disadvantaged; children with disabilities as compared to children without disabilities; English proficiency status; gender; migrant status; homeless status, status as a child in foster care, and status as a student with a parent with is a member of the Armed Forces on active duty.
    - The four-year adjusted cohort high school graduation rates for all students and disaggregated by each major racial and ethnic group; economically disadvantaged students as compared to students who are not economically disadvantaged; children with disabilities as compared to children without disabilities; English proficiency status; homeless status, and status as a child in foster care, and, if applicable, the extended-year adjusted cohort graduation rates;
    - The percentage of students not assessed for all students and each subgroup of students;
    - Information disaggregated by high-poverty and low-poverty schools, on the professional qualifications of teachers in the State, including the number and percentage of inexperienced teachers, principals, and other school leaders; teachers teaching with emergency or provisional credentials; and teachers who are not teaching in the subject or field for which the teacher is certified or licensed.

*Question.* Please identify the number of States that are compliant with each of the report card indicators as required by ESSA Sec 1111(h).

*Answer.* As noted above, the Department conducts a thorough review of each State's report card as part of its consolidated monitoring process. The Department monitors several States each year; as a result, it does not conduct a thorough review of each State's report card for compliance with all elements each year. As noted above, report card compliance is an area that often results in a monitoring finding.

In addition to the consolidated monitoring for a few States each year, the Department conducted a limited review of each State and local report card in January 2020 for select elements. The report card requirements that the Department reviewed included: per-pupil expenditures; achievement data for students in foster care, students experiencing homelessness, and military-connected students; graduation rate data for students in foster care and students experiencing homelessness; list of schools identified for comprehensive or targeted support and improvement and additional targeted support and improvement; LEAs receiving ESEA section 1003 funds; and types of strategies implemented in LEAs receiving ESEA section 1003 funds.

*Question.* Please provide a list of steps documenting the Department's efforts to ensure that more States come into compliance with the law. How is the Department encouraging States to change, add, or adapt their report cards to fully comply with the law?

*Answer.* As detailed above, the Department has undertaken a range of actions to support States in developing their report cards. It issued nonregulatory guidance in March 2019. It has conducted several technical assistance initiatives, including several communities of practice specifically focused on report cards and improving data quality. The National Center for Education Statistics has been providing support for States through a pilot fiscal survey that has been helping States standardize per-pupil expenditures and through the State Longitudinal Data Systems grants. In addition, report card requirements are included as part of consolidated monitoring protocols. Following on-site and desk reviews, the Department works with each State until all issues are fully resolved. This starts with the State providing a response within 30 days of receiving the report and may include an iterative process of reviewing State submissions and asking for clarification or additional information as needed. The Department continues to communicate with each State and provide technical assistance, as needed, until all monitoring findings are resolved. In addition, conditions on grant awards or other actions are sometimes used to account for long-standing issues identified in monitoring findings.

In December 2018, the Department hosted a meeting of SEA staff that included several sessions focused on the changes to report card requirements under the amended ESEA. In 2018, the Department also hosted the Report Card Design Challenge which invited technology experts, State and local representatives, and parents to develop model report card designs focused on transparency and accessibility. Information about this activity can be found at: <https://tech.ed.gov/essa-report-card-design-challenge/>.

## **EDUCATION FREEDOM SCHOLARSHIPS AND PROTECTIONS FOR CIVIL RIGHTS**

*Question.* The President's budget proposes to provide \$5 billion annually for a Federal private school tax credit scheme for the wealthy and corporations that make donations for

Education Freedom Scholarships that would fund private school vouchers. Under this proposal, if enacted, Federal tax revenue would be \$5 billion lower each year due to the reduced tax bill for individuals and corporations making donations to this voucher scheme. This Federal money could be used instead to support public schools across the country who educate 90 percent of elementary and secondary students.

Do you believe Federal policy should incentivize donations to State-designed voucher programs that allow discrimination against any student because of their gender or sexual orientation? Whether the student identifies as transgender? If you do not, what protections do you support for prohibiting these and other forms of discrimination?

Answer. All children deserve access to a high-quality education that meets their needs and an opportunity to learn free from discrimination. The administration's Education Freedom Scholarship (EFS) proposal would empower students and families to choose the best educational setting for them – regardless of where they live, how much they make, and how they learn. The proposal gives students and families the freedom to decide what's best for them. No family is forced to accept a scholarship, no taxpayer is forced to contribute, no organization is forced to participate, and no State is forced to participate. This tax credit would help extend education choice to the greatest number of families possible while respecting federalism.

*Question.* In your belief, should States prohibit a private schools from participating in a State-designed voucher programs due to past violations of civil rights laws, including discrimination against students on the basis of race, color, national origin, disability, or sex (including gender identity and sexual orientation)?

Answer. States, not the Federal Government, will determine which education providers can receive scholarships under the Education Freedom Scholarship proposal. States may include private schools in their local programs, but they are not obliged to do so. The Department will continue to enforce all existing civil rights laws for all private and public schools. If Education Freedom Scholarships are enacted, the Department will not – and cannot – waive any existing civil rights laws.

## **TAX CREDIT SCHOLARSHIPS AND MONITORING PROTOCOLS TO PREVENT WASTE, FRAUD, AND ABUSE**

*Question.* A report from the U.S. Government Accountability Office (GAO) issued in September 2019 found that existing State tax credit scholarship programs set varying requirements for scholarship-granting organizations and that not all States require such organizations to undergo annual financial audits or reviews, and very few States have policies regarding conflicts of interests or requirements for fundraising practices. Additionally, all State programs allow such organizations to use donations for non-scholarship expenses -- ranging from 2 to 20 percent of donations. Given the lack of stringent financial monitoring for scholarship-granting organizations in currently-operating State tax credit scholarship programs, under your proposal to provide such organizations with \$5 billion from offset Federal taxpayer revenue, what monitoring protocols would the Department of Education implement or require of States to ensure that such organizations do not commit waste, fraud, and abuse?

Answer. The administration's Education Freedom Scholarship proposal would establish a Federal tax credit for voluntary donations to State-designed scholarship programs for elementary and secondary students. The tax credits would be managed by the U.S. Treasury

Department. States, not the Federal government, will determine scholarship requirements, including family eligibility, the education providers that can receive scholarships, and allowable uses of scholarship. Consequently, States would be responsible for establishing appropriate monitoring protocols.

### **INCREASE IN FEDERAL EDUCATION FUNDING AN LONG-TERM IMPROVEMENTS IN MATH AND READING SCORES**

*Question.* The Secretary’s testimony today states “The Members of this Subcommittee should recognize that the answer is not merely supplying more Federal taxpayer dollars. You have nearly doubled spending on K-12 education since 2000, from \$23 billion in 2000 to just over \$41 billion in 2020.” However, the National Center for Education Statistics website states “Over the long term, however, the national average scores in both subjects [reading and mathematics] were higher for both grades compared to the initial assessment years.” Average NAEP scores are up for mathematics in fourth and eighth grades as compared to 2000 and up from 2000 for fourth grade Reading. What evidence does the Department have that these Federal funding increases played no role in helping raise these scores?

*Answer.* It is not possible to determine whether funding plays a role in changes seen in test scores — positively or negatively — by simply examining whether funding and test scores change in the same or different directions over time. However, it is possible to examine whether the students’ progress has stalled. While students at grades 4 and 8 in both mathematics and reading had higher scores overall in 2019 compared to the first assessments in the early 1990s, there has been no overall improvement over the last decade. Furthermore, compared to a decade ago, scores at both grades and in both subjects were lower or not significantly different for lower-performing students at the 10th and 25th percentiles. That is a particular concern for any assessment of Federal education spending, since it suggests that the students intended to benefit from that spending the — lowest-achieving students in high-poverty schools — are not closing the achievement gap when compared to their more advantaged peers.

### **SUPPLEMENT NOT SUPPLANT REQUIREMENTS AND 2018-2019 AND 2019-2020 MONITORING RESULTS**

*Question.* Please describe and provide documentation for the Department’s policies and procedures for these monitoring activities, including training materials provided to monitors.

*Answer.* The Department’s consolidated monitoring, including Title I, Part A, uses protocols that are publicly available on our website (as noted in response to Senator Murray’s first question, available at: <https://oese.ed.gov/offices/office-of-formula-grants/school-support-and-accountability/performance-reports/>). The Department’s monitoring focuses on the activities of the prior school year. Because the Department monitors implementation for the prior school year, Montana and New Jersey were the only States that were monitored for compliance with the ESSA supplement not supplant requirement.

The Department’s consolidated monitoring, which includes Title I, Part A, is conducted by teams of individuals knowledgeable about the specific programs being monitored. The State is required to submit documentation to the Department prior to the review, which staff review and use as the basis for the on-site questions.

*Question.* What policies and procedures have SEAs employed in monitoring LEA compliance with SNS? What documentation has the Department considered or reviewed during its monitoring processes of such SEA monitoring? Please identify any supplemental State and local funds expended for programs that meet the intent and purposes of Title I-A excluded from SNS requirements.

*Answer.* While the Department has not yet monitored every State through our consolidated monitoring process, the general practice is that States incorporate the supplement not supplant requirement into their LEA monitoring protocols and local consolidated grant applications, which allow States to collect LEA methodologies to ensure compliance with the ESEA requirement. In the Department's consolidated monitoring of SEAs (described above), it has reviewed the SEA's monitoring protocol for LEAs to ensure that the SEA is conducting proper oversight of LEAs. The Department also reviewed SEA guidance to LEAs to ensure accuracy with the requirements.

*Question.* What information and assistance have SEAs provided to LEAs about compliance with SNS?

*Answer.* Generally, SEAs have provided information and assistance to LEAs in the same manner as other requirements. For example, New Jersey created a State-specific supplement not supplant non-regulatory guidance document that outlines the requirements and explains how oversight of the provision will work in the State. Some States have incorporated review of the supplement not supplant methodology in the consolidated local grant applications. Many States point LEAs to the Department's non-regulatory guidance.

*Question.* Please identify the number of violations of SNS by State, listing the names of each SEA and LEA. By what means and in how many days were each of these violations corrected?

*Answer.* As noted above, reviewing Title I supplement not supplant requirements is a component of the Department's consolidated monitoring process (see above for more information, including a link to the Department's monitoring protocols). The Department monitors a few States each year, using a risk analysis to identify the States. In 2019, the Department monitored New Jersey and Montana. There was one supplement not supplant finding in New Jersey in 2019. Below is the finding for New Jersey. In addition, the Department provided a commendation for Georgia in 2018 for its documentation and process for ensuring compliance with the supplement not supplant requirements.

## **2019**

### **New Jersey**

"In September 2019, NJDOE issued comprehensive supplement, not supplant guidance to its LEAs describing the requirements under Title I, Part A of the ESEA, as amended by the Every Student Succeeds Act (ESSA). However, the NJDOE subrecipient monitoring protocol includes questions referencing the prior supplement not supplant requirement. In addition, although the guidance indicates that NJDOE will collect LEA methodologies for supplement, not supplant through the consolidated local application, the 2018-2019 school year application only included a general assurance regarding supplement, not supplant. NJDOE must demonstrate how it will ensure LEA compliance with this provision, either by submitting an updated monitoring protocol or through the collection of LEA methodologies in the consolidated local applications.

Within 60 business days of receiving this report, the State must submit to the Department updated subrecipient monitoring protocols for Title I, Part A; Title II, Part A; and Title III, Part A that are consistent with ESEA sections 1118(b), 2301, and 3115(g), respectively. For Title I, Part A, this may also be addressed through collection of LEA methodologies in the consolidated local application.”

### **Georgia**

The Department provided a commendation to Georgia for this element, noting “Under ESSA, how an LEA demonstrates compliance with supplement not supplement changed. To ensure Georgia LEAs comply with the new requirements and allocate State and local funds to schools so that each Title I school receives all of the State and local funds it would otherwise receive if it were not receiving Title I, Part A funds, GaDOE developed sample methodologies and shared them with LEAs. As a result, by July 2018 every LEA had submitted resource allocation methodology plans (RAMP) to GaDOE. During the review Georgia LEAs demonstrated a good understanding of supplement not supplant requirements, likely because GaDOE held several webinars and face-to-face discussions during school year 2017-2018 and provided feedback to LEAs on strategies to improve their RAMPs.”

*Question.* What documentation has the Department reviewed to ensure that the assignment of LEA-wide resources are allocated in a Title I neutral manner? Please identify the number of such violations of SNS by State, listing the names of each SEA and LEA. By what means and in how many days were each of these violations corrected?

*Answer.* Please see above. The Department’s monitoring protocols include questions around supplement not supplant and the evidence a State is expected to submit. Information about State findings in the previous two years is provided above.

### **SUPPLEMENT NOT SUPPLANT REQUIREMENTS 2020-2021 MONITORING PLANS**

*Question.* For the Department’s planned on-site and desk monitoring of State educational agencies (SEAs) in school year 2020-2021:

Which SEAs will the Department monitor for compliance with SNS, separately identifying SEAs schedule for on-site and desk monitoring?

*Answer.* The Department intended to monitor Kentucky, Nevada, and Puerto Rico in 2020. However, given the implications of COVID-19, the Department has postponed the reviews of Nevada and Puerto Rico (originally scheduled for March and April) for the time being. The Department is currently still scheduled to conduct an on-site review of Kentucky in August 2020, though it has been discussing with Kentucky whether this also needs to be rescheduled to provide relief to the State and its districts due to the national emergency.

*Question.* If the Department’s policies and procedures for conducting these monitoring activities will be different from the prior year, please explain how (and provide supporting documentation) and why. If training for monitors will be different from the prior year, please explain how and why.

*Answer.* As part of its consolidated monitoring process over the past four years, the Department first develops and pilots its protocol and, after each review, surveys the State asking for feedback on the process and protocol, and also talk to staff who conducted the review for their

feedback. Each year, this has resulted in changes to the protocol for the following year. Following the reviews of Montana and New Jersey, the Department updated its protocol for reviewing supplement not supplant requirements to streamline the questions and clearly delineate the requirement in ESEA Title I from the supplement not supplant requirements in Titles II and III. The most current (and prior) protocols are posted on the Department’s website at the following address: <https://oese.ed.gov/offices/office-of-formula-grants/school-support-and-accountability/performance-reports/>. Training and preparation will remain the same.

## **DEPARTMENT EFFORTS TO ENSURE STATES ATTAIN COMPLIANCE WITH ESSA EQUITY GUARDRAILS**

*Question.* Under the Every Student Succeeds Act (ESSA), States are required to design State accountability systems to properly identify low-performing schools. I am extremely troubled that the Department approved State plans that do not comply with the bipartisan equity guardrails enshrined in ESSA, including annual meaningful differentiation and properly identifying the three categories of schools for improvement (targeted support and improvement, additional targeted support and improvement, and comprehensive support and improvement.) I am also very concerned that many States have designed accountability systems that fail to differentiate their schools each year using all the indicators in their accountability systems for all students and each subgroup of students. Please provide a list of steps documenting the Department’s efforts to ensure that States come into compliance with the law with these provisions.

*Answer.* The Department required each State plan to describe how a State’s accountability system would use subgroup performance to identify: (1) schools that need targeted support and improvement based on having one or more “consistently underperforming” subgroups (as defined by the State) or (2) schools that need additional targeted support. Although the Department expects that all States are implementing their approved State plans, in the rare case in which a State’s implementation of its accountability system varies from an approved plan, the Department will take appropriate enforcement action. The Department will review the State’s implementation of its accountability and school improvement system through our consolidated monitoring process – each year the Department conducts a review of several States through this process.

## **DEPARTMENT OVERSIGHT OF CHANGES TO STATE ACCOUNTABILITY INDICATORS**

*Question.* As States make revisions to the indicators and their weighting in the State accountability systems, how will the Department assess and monitor States to ensure such revisions are based on evidence that the State’s accountability system’s existing indicators are not meaningful, as opposed to backing away from rigorous and effective measures because of political pressure?

*Answer.* The Department reviews each State amendment request to ensure compliance with all ESEA requirements, including requirements for indicators and weighting. While a State may elect to change indicators or weighting due to concerns that the indicator is not “meaningful,” it is also possible that the State may elect to revise its system because it decides a different indicator provides a better method to evaluate school performance. In all cases, the Department will review each State plan amendment request to ensure it meets ESEA requirements before approving the amendment.



## **EVIDENCE PRIORITY IN FY 2019 AND 2020 COMPETITIVE GRANT COMPETITIONS**

*Question.* How many competitive grant programs included an evidence priority in FY 2019? For how many competitive grant programs does the Department plan to include an evidence priority in FY 2020? Additionally, please describe efforts the Department has undertaken to build the internal capacity to support program staff in the use of evidence in formula grant programs. How will the Department measure the growth this capacity and expected improved targeting of resources to activities aligned with evidence of effectiveness? What is the Department's plan for continuing to build this capacity in the coming year?

*Answer.* In fiscal year 2019, 8 competitions included an evidence priority, and approximately 40 additional competitions required or encouraged applicants to provide evidence that meets the promising evidence, evidence-based, or demonstrates a rationale standards. The Department will be able to share information on the number of competitive grant programs using an evidence priority for fiscal year 2020 competitions when all notices have been published.

The Department has undertaken a number of efforts to provide technical assistance on the use of evidence in its programs, including formula grant programs. In 2019, it created the Evidence Leadership Group (ELG), an agency-wide group co-chaired by the Office of Planning, Evaluation, and Policy Development and the Institute of Education Sciences (IES). The ELG includes representation from all grant-making offices and other key offices. The purpose of the ELG is to promote cross-office collaboration and capacity-building for staff who work on formula and competitive grant programs.

In the fall, the ELG organized a half-day "Evidence Summit," an opportunity for Department employees to learn about key evidence topics from experts at the Department and the Office of Management and Budget (OMB) and to hear from grantees about their experiences in implementing evidence-based projects and rigorous program evaluations. The Department solicited feedback from staff who attended and are identifying existing resources that can be shared as well as needs for new resources. In addition, it is developing the capacity assessment required under the Foundations for Evidence-Based Policymaking Act and will include components designed to understand the needs of staff who implement formula and competitive grant programs. Once the Department has a baseline from that assessment, it will consider repeating it to determine growth in its collective capacity. It is also examining monitoring and technical assistance activities to ensure that it is well-positioned to support efforts to more effectively build and use evidence, including in formula grant programs.

## **CONGRESSIONAL DIRECTIVE ON PROFESSIONAL DEVELOPMENT VOUCHERS AND STATUTORY ELIGIBILITY UNDER EDUCATION INNOVATION AND RESEARCH**

*Question.* House Report 116-62 accompanying H.R. 2740 rejected the proposal to fund professional development vouchers for teachers and directed no funds to be used for this purpose. In responding to this directive, the Department indicated it intends to use a portion of FY 2020 funds available for Education Innovation and Research for projects that provide professional development vouchers. Why has the Department chosen to ignore this directive? Please identify the prior research that could make an applicant eligible for a grant under the terms of subpart 1, part F of title IV of the Elementary and Secondary Education Act. How will the Department ensure

that funds awarded for professional development vouchers only supports activities that meet statutory requirements, including the statutory requirements for professional development found in section 8101(42)?

Answer. The Administration’s fiscal year budget 2020 request proposed using a portion of Education Innovation and Research (EIR) funds for projects that provide teachers with stipends in order to select their own professional development activities, and neither the final appropriations bill that was enacted into law nor the accompanying Statement of the Managers restricted the Department from implementing these projects. Allowing teachers to pick their own professional development is an innovative approach to improving teacher quality, and the EIR program is well-suited for trying out these projects, as one of the purposes of the program is to develop and test the effectiveness of innovative approaches to improving instructional practice and student outcomes. Since the program explicitly supports innovation, the Department believes it is not necessary to limit these projects to the definition of professional development in the Elementary and Secondary Education Act (ESEA). The Department also notes that, as documented in the Congressional Justification for Title II-A, the primary Federal investment in teacher professional development, there is virtually no evidence that current professional development practices, including those described in the ESEA definition, are effective in improving student outcomes.

### **SCHOOL SAFETY AND EMERGENCY MANAGEMENT DEPARTMENT STAFFING AND RESOURCES**

*Question.* The President’s Budget states that the “consolidation of most [Elementary and Secondary Education Act] programs into a single formula grant would allow the Department to significantly reduce staffing and administrative costs over time.” Under this proposal, would the Department look to eliminate positions at the Department for school safety and emergency management expert staff? Since 2017, has the Department reduced staffing levels of school safety and emergency management experts? Please provide a list of all resources coordinated by the Department and made available to schools to improve school emergency management and readiness.

Answer. The Department has not reduced staffing levels of school safety and emergency management experts since 2017.

A list of all resources coordinated by the Department and made available to schools to improve school emergency management and readiness is included as an attachment for reference.



Attachment 1  
SCHOOL SAFETY ANI

### **PARAMETERS FOR EVALUATION OF FSA AS A SEPARATE ORGANIZATION**

*Question.* The President’s Budget proposes an evaluation of Federal Student Aid (FSA) as a separate organization with reformed governance. Please describe the funding mechanism and amount, timeline, evaluation questions and how the borrower would be at the center of this evaluation.

Answer. The Department welcomes a dialogue with House and Senate stakeholders and indeed believes such conversation is necessary before addressing questions of funding mechanisms and amounts, timelines, and evaluations. The Office of Federal Student Aid, regardless of whether

it is embedded within the Department or operates separately, would continue to place borrowers at the forefront of its mission.

Today, FSA manages the servicing of one of the largest consumer loan portfolios in the world. In addition, FSA provides oversight for more than 6,000 institutions of higher education that participate in the Title IV programs; develops and implements the Free Application for Student Aid (FAFSA) process; and secures the data of the over 40 million Americans with Federal student loans. Recognizing the significant growth in the scope and complexity of FSA's responsibilities since its establishment as a performance-based organization more than 20 years ago, the President's Budget proposes the evaluation of FSA as a separate organization with reformed governance. An updated governance model could significantly increase FSA's ability to serve students and taxpayers by improving its management, oversight, and administration of the Federal student aid program.

### **BORROWER DEFENSE FINAL RULE AND IT EXPENSES**

*Question.* The final rule on borrower defense to repayment claims states: "The Federal government would incur costs to update its IT systems to implement the changes." What is the total cost of these changes, separately provided by fiscal year and major activity? What amount of these costs is covered by the discretionary appropriation for Student Aid Administration?

*Answer.* IT costs associated with implementing the 2019 Borrower Defense rule are relatively minor and entail updates to eZ-Audit, the Department's system for calculating financial responsibility.

Two changes designated by the Secretary for early implementation are in progress. Both were funded out of the fiscal year 2019 appropriation for Student Aid Administration, with a total cost of \$103,048.58. These include:

- Updates for Accounting Standards changes, including those accounting standards changes incorporated by reference in the 2019 Borrower Defense rules: \$47,402.35
- Borrower Defense new Supplemental Schedule Reporting requirements: \$55,646.23

Please note that as of May 11, 2020, these changes have not been implemented. Deployment will take place upon receiving OMB approval, which is expected in early June.

The Department is currently recompeting the eZ-Audit contract. Thus, it has not developed cost estimates or finalized an estimated deployment date for a third change associated with the 2019 Borrower Defense Rule. This change, enhancements to implement the updated financial responsibility triggering event reporting requirements, will become effective on July 1, 2020.

### **OUTREACH EFFORTS FOR STUDENTS DENIED TEPSLF FOR FAILURE TO FIRST APPLY FOR REGULAR PSLF**

*Question.* According to last year's Government Accountability Office report, of the 53,523 requests for Temporary Expanded Public Service Loan Forgiveness (TEPSLF) examined at the time of the report, about 38,000 were ineligible for consideration and were therefore denied because the borrower had not submitted a PSLF application, according to data from the TEPSLF loan servicer. Has Education directed the servicer to reach out to these and all borrowers who've been denied TEPSLF because of the administrative barrier created by the Department's previous

policy requiring borrowers first to apply for and be denied PSLF and assist them in applying for TEPSLF? If not, why not? How does the Department plan to help these borrowers obtain the assistance under TEPSLF Congress provided?

Answer. The Department's Public Service Loan Forgiveness (PSLF) servicer sends all borrowers who are deemed ineligible for TEPSLF because they did not first apply for PSLF a notice that explains why they are ineligible and that they must submit a PSLF application before reapplying for TEPSLF. FSA is currently working to integrate the TEPSLF request into the PSLF application. This will eliminate the need for borrowers to complete the PSLF application and submit a separate email for consideration for TEPSLF. The Department anticipates that the revised form will be available to borrowers by the end of calendar year 2020.

## **PROPOSED REDUCTION TO CHILD CARE ACCESS MEANS PARENTS IN SCHOOL**

*Question.* The President's Budget proposes to reduce the Child Care Access Means Parents in School program from \$53 million in FY 2020 to \$15.1 million, a reduction of \$37.9 million. If enacted, current grantees would only receive a portion of continuation awards. By what amount would current grantees be reduced under this proposal? How many student-parents would lose access to child care services under these reduced grant amounts as compared to current grant awards?

Answer. The Administration is a strong supporter of expanding child care services, particularly for underserved populations, which is why the President's 2021 request included a one-time \$1 billion mandatory investment in competitive grants to States to increase child care services for underserved populations and stimulate employer investment in child care. We think these broader investments in child care make more sense than increasing funding for narrowly focused campus-based childcare services.

In the event the appropriation for the Child Care Access Means Parents in School program is reduced, the Department would proportionally reduce each grantees' continuation award. At this time, it is not possible to determine how many student-parents this would affect because the Department has not yet completed the 2020 competition for new awards, which could address this concern by frontloading grant awards to fully fund grantees through the life of their project periods. In addition, student-parents may have access to childcare through other sources in future years, such as programs supported through the proposed investment of \$1 billion.

## **DEPARTMENT PROCESSING OF CIVIL RIGHTS CLAIMS**

*Question.* During the hearing, Secretary DeVos touted the improved rate of civil rights claims processing in recent years. However, vigorous enforcement of civil rights laws means timely processing of complaints and thorough investigations that can uncover broader campus-wide Title IX issues that will not show up in a speedy investigation focused narrowly on one complaint. Is the Department confident that faster investigations concluded over the past three years have not ignored wider, campus-wide Title IX violations? If so, please describe and document the policies and procedures that support this position. For the past six years, please also provide for each year:

- a. The number and percentage of cases for which an insufficient evidence determination was made;

- b. The number and percentage of cases for which a noncompliance determination was made;
  - c. The number and percentage of cases with resolutions agreements;
  - d. The number and percentage of cases with resolution agreements that required a revision of policies or the hiring of experts or consultants; and
  - e. The number of compliance reviews and directed investigations by jurisdiction and topic.
- Answer. The Chart included below provides information responsive to questions a, b, and

c.

	<b>Total Resolved</b>	<b>a. Insufficient evidence determination</b>	<b>b. Noncompliance determination</b>	<b>c. Resolution agreements</b>
2019	2,094	<b>186</b> / 8.9%	<b>15</b> / 0.7%	<b>87</b> / 4.2%
2018	4,016*	<b>283</b> / 7.0%	<b>63</b> / 1.6%	<b>230</b> / 5.7%
	(2,306)	( <b>283</b> / 12.3%)	( <b>63</b> / 2.7%)	( <b>230</b> / 10.0%)
2017	9,311*	<b>239</b> / 2.6%	<b>71</b> / 0.8%	<b>170</b> / 1.8%
	(1,749)	( <b>239</b> / 13.7%)	( <b>71</b> / 4.1%)	( <b>170</b> / 9.7%)
2016	1,437	<b>130</b> / 9.0%	<b>46</b> / 3.2%	<b>93</b> / 6.5%
2015	2,743	<b>170</b> / 6.2%	<b>52</b> / 1.9%	<b>109</b> / 4.0%
2014	2,873	<b>152</b> / 5.3%	<b>31</b> / 1.1%	<b>115</b> / 4.0%

\*7,562 nearly identical complaints were filed by a single individual between August 2016 and April 2017. Of these, 7,560 complaints were dismissed and 2 were administratively closed during fiscal years 2017 and 2018. The “Total Resolved” numbers provided for fiscal years 2017 and 2018 include these dismissals. The numbers provided in parentheses are what the FY “Total Resolved” numbers would be if we excluded these dismissals. Of the 7,560 dismissals over the two-year period, 6,840 allegations were dismissed because they lacked sufficient detail to infer discrimination, 36 were dismissed for failure to state a violation, 915 were dismissed because the allegation was speculative, conclusory, or incoherent.

d. Provisions included in OCR’s resolution agreements are tied to the specific findings made in a given case. Under nearly every resolution agreement, a recipient is required to revise one or more of its policies, such as adjusting its internal procedures or altering reporting structures. While it may be appropriate for a resolution agreement to sometimes require the use of experts or consultants to aid recipients in implementing the specific policy changes, OCR does not track the number or percentage of resolution agreements that impose such requirements.

e. The charts included below are responsive to this question.

Compliance Reviews Over the Last Six (6) Years by Jurisdictional Statute

	<b>Title VI</b>		<b>Title IX</b>		<b>Section 504/ Title II</b>	
	Initiated	Resolved	Initiated	Resolved	Initiated	Resolved
<b>2019</b>	0	1	0	1	24	2
<b>2018</b>	0	19	0	11	0	6
<b>2017</b>	0	14	0	11	2	11
<b>2016</b>	7	2	4	4	3	1
<b>2015</b>	8	11	7	3	7	6
<b>2014</b>	20	14	12	6	11	5

Directed Investigations Over the Last Six (6) Years by Jurisdictional Statute

	Title VI		Title IX		Section 504/ Title II	Resolved
	Initiated	Resolved	Initiated	Resolved	Initiated	
<b>2019</b>	0	0	0	1	674	35
<b>2018</b>	0	0	3	1	0	0
<b>2017</b>	0	0	0	1	0	0
<b>2016</b>	0	0	0	0	0	0
<b>2015</b>	0	0	0	0	0	0
<b>2014</b>	0	0	1	0	1	4

**CIVIL RIGHTS DATA COLLECTION DATA ELIMINATIONS**

*Question.* The Department has proposed to limit the data collected under the Civil Rights Data Collection (CRDC) by eliminating key questions related to teaching experience and attendance, school finance, and children’s access to early childhood, preschool, and kindergarten programs. The loss of these data would negatively impact the availability of important information to the public who uses these data for a variety of purposes, including effectively targeting resources, closing gaps in educational opportunities, and informing school improvement efforts. Given the importance of these data for shedding light on educational inequities, as well as supporting States in complying with reporting requirements under the Every Student Succeeds Act, why would the Department make it harder for advocates and policymakers to have access to this information?

*Answer.* The Department weighed several factors in proposing to retire any elements from the CRDC: whether their removal improves efficiency for collecting information; whether they are not necessary to inform current civil rights enforcement; whether they are considered to be of pressing concern; and whether the data can be obtained from other Departmental data collections. The Department also collected input from internal sources, such as Departmental program offices, stakeholders, and from external sources, through the public comment process. For example, in addition to seeking public input on the proposed changes, the Department included specific questions for public feedback regarding both the substance and burden of the CRDC. The Department asked whether the Department’s burden estimation is accurate; how to enhance the quality, utility, and clarity of the information collected; whether school districts currently collect data about harassment or bullying on the basis of perceived religion; and whether school districts collect data about sexual assault in a way to distinguish student offenders from school staff offenders.

It is important for the Department to deregulate where possible so that limited education funds may be directed to more effectively advance students’ education, to reduce the reporting burden on LEAs, and to improve the quality of the data submitted for the CRDC. In an effort to eliminate unnecessary burdens, the Department closely examined existing data elements to identify ways to reduce the CRDC’s burden on LEA data collectors and reporters while maintaining a useful dataset for the ongoing enforcement of civil rights.

## **USE OF ELEMENTARY AND SECONDARY EDUCATION ACT FUNDING FOR FIREARMS**

*Question.* As you know, I am strongly opposed to the Department’s decision to allow States and school districts to purchase firearms or firearms training for teachers and other school staff with Federal Elementary and Secondary Education Act funding because it runs counter to the intent of the bipartisan Every Student Succeeds Act and will make our schools more dangerous and our students less safe. Has the Department of Education allowed any State agency, local educational agency, or school to use Federal funds to pay for arming teachers or staff or for firearm training? Will you commit to informing Congress about the evidence base you use to evaluate the effectiveness of such programs?

*Answer.* The Department is not aware of any State educational agency, local educational agency, or school using Federal funds to pay for arming teachers and staff or for firearm training. To better understand how States and districts are using Title IV-A funds, the Department released a study on the uses of Title IV-A funds in February 2020. “Student Support and Academic Enrichment Grants: A first Look at Activities Supported Under Title IV, Part A” is available on the Department’s website at: <https://www2.ed.gov/rschstat/eval/esea/title-iv-first-look-2020.pdf>. The Department is also currently examining programs and activities that districts and schools are implementing in more detail. A report is expected to be published in 2021.

## **DATA COLLECTION AND SPECIFIC USES OF FUNDS UNDER STUDENT SUPPORT AND ACADEMIC ENRICHMENT**

*Question.* Given that the Student Support and Academic Enrichment (SSAE) grant program is currently in its fourth year of implementation, please describe the Department’s efforts to collect data about specific uses of funds at the district level. In how many States are all LEAs eligible to receive the minimum \$10,000 specified in ESEA’s Title IV-A? What kind of technical assistance is the Department providing to States and school districts to support the uses of SSAE funding to support safe and healthy students, well-rounded education, and the effective use of education technology? Please provide information detailing the amount of funds set-aside for technical assistance and capacity building in FY 2018, FY 2019, and FY 2020, and how such funding was spent or is planned to be spent, including information regarding the number of awards and size of each award. Additionally, please provide the number of relevant Department staff involved in implementing SSAE for FY 2018, FY 2019, and FY 2020.

*Answer.* Information on the Department’s efforts to collect data on the use of Student Support and Academic Enrichment Grants funds – including through a “first-look” study (published in February and available at <https://www2.ed.gov/rschstat/eval/esea/title-iv-first-look-2020.pdf>), the Consolidated State Performance Reports, and a formal program implementation study – are available on pp. D-68-69 of the fiscal year 2021 Congressional budget justifications.

Local educational agency (LEA) formula allocations under Student Support and Academic Enrichment Grants are based on LEA shares of Title I, Part A funds for the prior year. Using Department-determined Title I, Part A LEA allocations (i.e., allocations that do not include adjustments made by States to reflect, for instance, the existence of charter school LEAs), the Department estimates that current program funding levels are sufficient to enable all States to provide each LEA receiving Title I, Part A funds in the prior year an allocation under Student

Support and Academic Enrichment Grants that is at least the statutory minimum allocation of \$10,000.

The Department is required by statute to reserve two percent of Student Support and Academic Enrichment Grants funds for technical assistance and capacity building. Detail on the Department's use of funds reserved for this purpose can be found on pp. D-69-71 of the Congressional budget justifications. The Department will provide additional information on the use of these funds, including a complete accounting of fiscal year 2019 funds (to be used in fiscal year 2020), as part of Congressionally required briefings on new grant competitions supported by the two percent reservation.

The Student Support and Academic Enrichment Grants program team is comprised of seven members and supported by numerous staff from other offices across the Department, including the Office of the General Counsel, the Office of Finance and Operations, the Institute of Education Sciences, and other offices within the Office of Elementary and Secondary Education.

Finally, as just described, while the Department is collecting data on the use of funds under this program and investing resources in providing technical assistance and other support to grantees, the Department notes that the purpose of the program is to provide maximum flexibility to State and local educators to determine how best to use funds to meet the needs of their students. In this context, there are significant constraints on the extent to which the Department can either collect meaningful use-of-funds data from, or provide a full complement of technical assistance related to, more than 15,000 local grantees and some three dozen broadly authorized activities.

#### **FUNDING LAPSES BY ADMINISTRATIVE APPROPRIATIONS ACCOUNT**

*Question.* For each administrative appropriations account, please provide the amount of funding lapsed for each account for each of the past six fiscal years.

*Answer.* The table below shows the amount of funding lapsed by each administrative appropriation account for the past six fiscal years. Amounts shown for each account and fiscal year reflect lapses at the fund level and incorporate all reimbursable, multi-year, and no-year funds.

<b>FUNDING LAPSES BY ADMINISTRATIVE APPROPRIATION FUND</b>						
amounts in dollars						
<b>Fund</b>	<b>FY 2014</b>	<b>FY 2015</b>	<b>FY 2016</b>	<b>FY 2017</b>	<b>FY 2018</b>	<b>FY 2019</b>
SAA -- 0202	\$318,503	\$1,969,407	\$211,929	\$170,503	\$463,043	0
PA -- 0800	183,292	235,861	535,551	552,321	237,150	\$346,514
OCR -- 0700	123,185	61,279	308,361	43,098	111,853	116,719
OIG -- 1400	1,827,613	1,441,851	1,604,343	389,587	502,768	291,128
*NAGB -- 1100	199,483	212,480	146,303	12,044	21,315	996
*HBCU -- 1901	85,755	110,351	99,432	102,142	97,354	21,071
*CHAFL -- 0241	1,906	9,595	14,423	15,853	5,045	15,543
<b>Total</b>	<b>\$2,739,737</b>	<b>\$4,040,824</b>	<b>\$2,920,342</b>	<b>\$1,285,548</b>	<b>\$1,438,528</b>	<b>\$791,971</b>
Acronyms: SAA = Student Aid Administration; PA = Program Administration; OCR = Office for Civil Rights; OIG = Office of Inspector General; NAGB = National Assessment Governing Board; HBCU = Historically Black College and University Capital Financing; CHAFL= College Housing and Facilities Loans						
* = Administrative portion only						



## **SECLUSION AND RESTRAINT, AUDITS, AND CIVIL RIGHTS DATA COLLECTION DATA**

*Question.* You stated that seclusion and restraint is a “high priority” for you. Can you elaborate on how, as a high priority, you will continue to carry out your initiative to ensure that the CRDC is reliable? Additionally, you discussed the Department’s audits of districts and schools as part of the initiative will help educate them about “duties under the law.” How will these audits lead to a reduction in seclusion and restraint and an increase in evidence-based practices? Will you commit to working with Congress to eliminate seclusion and reduce physical restraint in schools?

*Answer.* In January of 2019, the Secretary announced a Department-wide proactive initiative on the possible inappropriate use of restraint and seclusion in the Nation’s schools. The initiative, a first of its kind, was a joint initiative between the Office for Civil Rights (OCR) and the Office of Special Education and Rehabilitative Services (OSERS). The initiative continues to be a priority for this Department, as its work to provide technical assistance on the use of restraint and seclusion is ongoing. The compliance reviews OCR is conducting across the country continue to be a key focus of this initiative and are ongoing in each of OCR’s regional offices. Through the process of finalizing these investigations, OCR is working directly with recipients to provide technical assistance on the requirements of federal law. Additionally, OCR’s findings will continue to inform the provision of technical assistance in this area so that schools across the country can better understand how federal law applies to the use of restraint and seclusion.

Additionally, as a part of the initiative, OCR has undertaken robust efforts to address the appropriate reporting of restraint and seclusion data submitted to OCR through the Civil Rights Data Collection (CRDC). These efforts are ongoing. In August 2019, OCR sent a letter to all local education agencies to clarify the appropriate reporting of restraint and seclusion CRDC data. As a result, OCR has engaged with more than 350 school districts to ensure that restraint and seclusion data is accurately and correctly reported to OCR. OCR has also conducted Data Quality Reviews on the CRDC data submitted by school districts. OCR has received corrected restraint and seclusion data from dozens of school districts. OCR continues to work with districts to improve restraint and seclusion data submitted as a part of the CRDC, including providing directed technical assistance on how to report restraint and seclusion data. For more information about the steps OCR has taken to improve the CRDC with respect to the restraint and seclusion data, please see also OCR’s December 18, 2019 response to the Government Accountability Office (GAO).

Even one child harmed by the use of restraint and seclusion is too many, and the Department is committed to this initiative and working with school districts, within the scope of federal law, to ensure that every child has an opportunity to learn in an environment free from harm.

## **FOSTER CARE RESOURCE CLEARINGHOUSE AND EFFORTS TO PROMOTE STABILITY FOR YOUTH IN FOSTER CARE**

*Question.* Last year the Government Accountability Office report on the educational stability for youth in foster care recommended the Department develop an online clearinghouse of resources, such as sample documents from States and localities, past webinar recordings, and links to other relevant resources. The Department concurred with this recommendation and said they would create a new web page to house all foster-care related information and launch a virtual portal

through which SEA foster care points of contact may collaborate and share resources. What is the status of this online clearinghouse and on what date can the public expect to be able to access the web page? Additionally, what other measures is the department putting in place to ensure the educational stability for youth in foster care? Please describe the specific actions taken to-date and planned activities to support youth in foster care.

Answer. As the Department's response to the Government Accountability Office report indicated, the development of a new webpage that would contain foster care-related information is part of the overall redesign and redevelopment of the website for the Office of Elementary and Secondary Education. That work was originally targeted for completion in the fall of 2019, but it has been delayed and is expected to be finished by the end of fiscal year 2020. The Department is working with the National Comprehensive Center to develop and host an online portal that will enable State foster care points of contact to collaborate virtually and expects that the portal will be launched this summer.

One way the Department is supporting youth in foster care is by monitoring specifically how States are implementing requirements related to the educational stability of students in foster care. This year the Department is piloting a new protocol for monitoring this implementation. In addition, the Department is funding a community of practice for State foster care points of contact and hosted five 90-minute virtual learning sessions between September 2019 and February 2020. Between learning sessions, community of practice participants engaged in asynchronous online learning opportunities that allowed them to explore various topics related to the educational stability of students in foster care, including effective collaboration with child welfare agencies, data-sharing to ensure the academic achievement of students in foster care, and working with school districts (through training and sub-recipient monitoring) in supporting the educational stability of students in foster care.

## **EDUCATIONAL PROTECTIONS AND SERVICES FOR CHILDREN EXPERIENCING HOMELESSNESS**

*Question.* The Every Student Succeeds Act (ESSA) strengthened the McKinney-Vento program and provided critical educational protections and services for students experiencing homelessness under the Education for Homeless Children and Youth (EHCY) program. This strengthening included accountability and report card provisions related to children and youth experiencing homelessness. In the FY 2020 appropriations law, you were asked to brief Congress on the resources being devoted to monitoring compliance with EHCY. This briefing is overdue. When do you plan to provide this briefing and what are you doing currently to ensure that SEAs and LEAs are supported in achieving and maintaining compliance with the EHCY and Title I Part A homelessness-related provisions? Please describe the specific actions taken to-date to monitor and support compliance with EHCY and homelessness-related provisions.

Answer. The Department briefed Congress on its implementation of the EHCY program on April 7, 2020. The Department is continuing to provide oversight and support to States as they implement the McKinney-Vento Education for Homeless Children and Youth (EHCY) grant program and related Title I, Part A homeless requirements. Below is a summary of related activities underway:

- The Department will be incorporating the EHCY program into its overall consolidated monitoring program in 2021. The Department has been phasing in consolidated monitoring

over the past several years. At this point, it includes all of Title I, Part A; Title II, Part A; Title III, Part A; and the Rural Low-Income Schools programs. In 2020, it is phasing in other programs, including 21st Century Community Learning Centers and Title I, Part C. It also includes some cross-cutting fiscal questions (such as internal controls, risk assessment) that will focus on most K-12 formula programs, including EHCY. This year, the Department is revising the EHCY monitoring protocols to pilot them next year.

- The Title I protocol for consolidated monitoring includes State and local report cards, including review to ensure report cards include student academic achievement and graduation rates for homeless students.
- A primary method of providing support and assistance for States around homeless issues is the national technical assistance center—the National Center for Homeless Education (NCHE). NCHE supports practitioners in the implementation of the EHCY program. In October 2019, OESE re-funded NCHE for an additional five years. Working in collaboration with NCHE, each year, the Department provides the following technical assistance to SEAs and LEAs:
  - Host an annual, multi-day conference for State coordinators of EHCY programs (this occurred in February 2020);
  - Develop and disseminate public awareness materials to provide information to families, parents, and youth experiencing homelessness;
  - Host regular topical webinars for State coordinators and local liaisons;
  - Provide responsive technical assistance (both in-person and virtual) to State coordinators;
  - Publish fact sheets, reports, and issues briefs on various topics; and
  - Support State coordinators in the analysis of McKinney-Vento EHCY data. For example, NCHE provides maps that share the number and proportion of homeless students across the State so that the State may identify areas that are under-identifying homeless students.

## **APPROPRIATIONS DIRECTED GUIDANCE ON ABILITY TO BENEFIT**

*Question.* On Tuesday, March 3, the Department communicated the following message to the Committee regarding ability-to-benefit (ATB): “Despite the requirements contained Executive Order 13891, “Promoting the Rule of Law Through Improved Agency Guidance Documents,” the Department acknowledges the need for greater clarity and is actively collecting feedback from those at institutions who wish to implement ability-to-benefit programs. Issuing guidance is now governed by the requirements laid out in Executive Order 13891, “Promoting the Rule of Law Through Improved Agency Guidance Documents.” As a result of those increased requirements, on February 11, 2020, the Department conducted a webinar focused on providing more information about the Approved State Process alternative at 34 CFR §668.156, which clearly explained the definition of an eligible career pathway program and contained answers to questions about student eligibility. The Department will be posting the webinar as soon as the transcript is completed and ADA compliant. We will send the webinar link as soon as it is available.” Is the Department declining to issue the guidance about ATB directed in the FY 2020 appropriations bill?

*Answer.* The Department views the webinar as satisfying the ability-to-benefit (ATB) guidance that the fiscal year 2020 appropriations bill directed the Department to provide. The

PowerPoint slides from the Department's webinar can be accessed at: [https://ifap.ed.gov/sites/default/files/attachments/2020-03/ATBStateProcessWebinar021120\\_0.pdf](https://ifap.ed.gov/sites/default/files/attachments/2020-03/ATBStateProcessWebinar021120_0.pdf).

## **ACCREDITING COUNCIL FOR INDEPENDENT COLLEGES AND SCHOOLS OVERSIGHT EFFORTS**

*Question.* In November 2018, Secretary DeVos issued a determination that required the Accrediting Council for Independent Colleges and Schools (ACICS) to submit a compliance and monitoring report to the Department within one year, by November 2019, addressing several issues (through a compliance report, competency of representatives and conflicts of interest; and through monitoring, administrative and financial resources, student achievement standards, recruiting and admissions practices, and monitoring).

Around the same time those reports were due to the Department in November 2019, staff in the agency's Accreditation Group issued a letter to ACICS adding areas of compliance reporting based on concerns the agency was non-compliant in those areas: adequate staff and financial resources, effective distance-education standards, on-site reviews, independent analyses of institutions' compliance with agency standards, and reviews based on other accreditors' adverse actions. Responses to the Department's concerns were due from ACICS in February 2020.

On February 24th, 2020, the Accreditation Group issued a new letter to ACICS identifying additional concerns about compliance following the publication of a USA Today article reporting on an allegedly fraudulent college in South Dakota, Reagan National University. Three days later, you testified before the House Appropriations Committee that you were personally concerned over the reporting and confirmed that the Department had opened an additional investigation.

What determinations has the Department made regarding ACICS' compliance on each of the areas highlighted for review in the November 2018 and November 2019 letters to the agency? Have any of those areas been identified for continued monitoring, reporting, or oversight? If not, when does the Department expect to make a decision? Will the Department make such decisions public and provide this Committee with that decision?

*Answer.* As directed in the Secretary's decision on recognition in 2018, ACICS submitted a compliance report on December 19, 2019, and a monitoring report on December 20, 2019. The reports will be reviewed within the internal timelines set for presentation at the July 2020 National Advisory Committee on Institutional Quality and Integrity (NACIQI) meeting.

The draft staff analysis is an incomplete document, as it typically highlights areas where staff need additional information, which the agency is permitted to provide. It is the final staff analysis that will be provided to ACICS, NACIQI, and the public.

On June 19, 2019, the Department began a review of the financial health of ACICS. Upon the completion of that review, if the Accreditation Group (AG) finds the agency to be out of compliance, it will present the findings of its review to NACIQI, per Department regulations.

On February 24, 2020, the AG initiated an inquiry, under 34 C.F.R. 602.33, into ACICS' review of Reagan National University. The Department received a response from the agency on March 27, 2020 and is in the process of reviewing. If staff believe the agency has failed to demonstrate compliance with accreditation regulations, the AG will present their analysis to NACIQI, per Department regulations.

*Question.* On March 4, 2020, the Department requested public comment on ACICS' November 2018 compliance report. How will the Department decide on the additional issues that have arisen regarding ACICS compliance? Will these be considered in the current compliance report? Will NACIQI receive all compliance and monitoring reports directly, and will those reports also be published online and be provided to this Committee? If so, when?

*Answer.* Please see the response provided in the question above. The Department is not permitted to expand the scope of an existing compliance report by adding new elements to it. If additional reviews result in findings of non-compliance, the AG will present their findings to NACIQI.

*Question.* Please provide all correspondence and documentation shared between the Department and ACICS regarding Reagan National University, including any communication requesting additional compliance, monitoring, or reporting requirements.

*Answer.* Please see the attached letter sent to ACICS on February 24, 2020.



Attachment 1 ACICS Oversight.pdf

## NEW ACCREDITATION REGULATIONS AND COMPLIANCE REVIEWS

*Question.* The Department's new accreditation regulations are scheduled to take effect on July 1, 2020. However, I understand that agencies already involved in the process of recognition reviews will not be subject to the new regulations effective that date. Please provide a timeline for each institutional accrediting agency, including:

- i. the date its current period of recognition expires;
- ii. when the Department expects to begin the review process for each agency;
- iii. when the Department expects each agency to come before NACIQI for review (month and year); and
- iv. when the Department expects the agency to be fully compliant with the regulations.

*Answer.* In response to parts i-iii, please see the table below. (S) indicates the SUMMER meeting and (W) indicates the WINTER meeting of NACIQI.

Agency/NACIQI Date (NACIQI dates may change)	Date of SDO Decision/Recognition Period	Recognition Expiration Date	Petition for recognition due date (Review process begins 2yrs before expiration)
ACCSC/S2021	10-28-16/5yrs	10-28-2021	10-28-2019
ACCET/S2024	11-8-2019/5yrs	11-8-2024	11-8-2022
COE/S2021	10-28-16/5yrs	10-28-2021	10-28-2019
DEAC/S2022	9-20-2017/5yrs	9-20-2022	9-20-2020
HLC/W2023	5-9-2018/5yrs	5-9-2023	5-9-2021
MSCHE/W2023	5-9-2018/5yrs	5-9-2023	5-9-2021
MSA-CSS/S2022	11-8-2019/3yrs	11-8-2022	11-8-2020
NEACIHE/W2023	5-9-2018/5yrs	5-9-2023	5-9-2021
NYBRE/W2023	5-9-2018/5yrs	5-9-2023	5-9-2021
NWCCU/S2023	8-22-2018/5yrs	8-22-2023	8-22-2021
SACSCOC/S2022	11-8-2019/3yrs	11-8-2024	11-8-2022

WASC-JR/S2024	11-8-2019/5yrs	11-8-2024	11-8-2022
WASC-SR/W2023	5-9-2018/5yrs	5-9-2023	5-9-2021
NASAD/S2023	8-22-2018/5yrs	8-22-2023	8-22-2021
NASD/S2024	11-8-2019/5yrs	11-8-2024	11-8-2022
NASM/S2024	11-8-2019/5yrs	11-8-2024	11-8-2022
NAST/S2024	11-8-2019/5yrs	11-8-2024	11-8-2022
MACTE/W2021	5-9-2018/3yrs	5-9-2021	5-9-2019
ABA/S2021	8-22-2018/3yrs	8-22-2021	8-22-2019
ABHE/S2022	9-20-2017/5yrs	9-20-2022	9-20-2020
AARTS/S2023	8-22-2018/5yrs	8-22-2023	8-22-2021
AIJS/W2021	3-10-2016/5yrs	3-10-2021	3-10-2019
ATS/S2021	8-22-2018/3yrs	8-22-2021	8-22-2019
TRACS/S2021	8-22-2018/3yrs	8-22-2021	8-22-2019
ABFSE/W2021	5-9-2018/3yrs	5-9-2021	5-9-2019
COMTA/W2021	3-10-2016/5yrs	3-10-2021	3-10-2019
NACCAS/W2021	3-10-2016/5yrs	3-10-2021	3-10-2019
ACEND/W2023	8-22-2018/5yrs	8-22-2023	8-22-2021
ACAOM/S2021	9-22-2016/5yrs	9-22-2021	9-22-2019
ACEN/W2023	5-9-2018/5yrs	5-9-2023	5-9-2021
ABHES/S2021	9-22-2016/5yrs	9-22-2021	9-22-2019
AOA-COCA/ S2021	8-23-2018/3yrs	8-23-2021	8-23-2019
APMA/W2022	5-25-2017/5yrs	5-25-2022	5-25-2020
COANAEP/S2023	8-22-2018/5yrs	8-22-2023	8-22-2021
CCE/W2022	11-8-2019/5yrs	11-8-2024	11-8-2022
JCERT/W2022	5-25-2017/5yrs	5-25-2022	5-25-2020
MEAC/W2021	5-9-2018/3yrs	5-9-2021	5-9-2019
ACICS/W2021		12-2021	12-2019
ODCTE/W2020	Pending SDO decision		
NYBRVE/W2020	Pending SDO decision		
PRHRDC/W2020	Pending SDO decision		
PABCTE/S2020	4/22/2018/deferred	Under review	Under review

**Institutional (Title IV gatekeeper) accrediting agency title and abbreviation shown in the table above**

- Accrediting Commission of Career Schools and Colleges (ACCSC)
- Accrediting Council for Independent Colleges and Schools (ACICS)
- Accrediting Council for Continuing Education and Training (ACCET)
- Council on Occupational Education (COE)
- Distance Education Accrediting Commission (DEAC)
- Higher Learning Commission (HLC)
- Middle States Commission on Higher Education (MSCHE)
- Middle States Commission on Secondary Schools (MSA-CSS)
- New England Commission of Higher Education (NEACIHE)
- New York State Board of Regents, and the Commissioner of Education (NYBRE)
- Northwest Commission on Colleges and Universities (NWCCU)
- Southern Association of Colleges and Schools, Commission on Colleges (SACSCOC)

- WASC Accrediting Commission for Community and Junior Colleges (WASC-JR)
- WASC Senior Colleges and University Commission (WASC-SR)
- National Association of Schools of Art and Design, Commission on Accreditation (NASAD)
- National Association of Schools of Dance, Commission on Accreditation (NASD)
- National Association of Schools of Music, Commission on Accreditation (NASM)
- National Association of Schools of Theatre, Commission on Accreditation (NAST)
- Montessori Accreditation Council for Teacher Education (MACTE)
- American Bar Association, Council of the Section of Legal Education and Admissions to the Bar (ABA)
- Association for Biblical Higher Education, Commission on Accreditation (ABHE)
- Association of Advanced Rabbinical and Talmudic Schools, Accreditation Commission (AARTS)
- Association of Institutions of Jewish Studies (AIJS)
- Commission on Accrediting of the Association of Theological Schools (ATS)
- Transnational Association of Christian Colleges and Schools, Accreditation Commission (TRACS)
- American Board of Funeral Service Education, Committee on Accreditation (ABFSE)
- Commission on Massage Therapy Accreditation (COMPTA)
- National Accrediting Commission of Career Arts and Sciences, Inc. (NACCAS)
- Academy of Nutrition and Dietetics, Accreditation Council for Education in Nutrition and Dietetics (ACEND)
- Accreditation Commission for Acupuncture and Oriental Medicine (ACAOM)
- Accreditation Commission for Education in Nursing, Inc (ACEN)
- Accrediting Bureau of Health Education Schools (ABHES)
- American Osteopathic Association, Commission on Osteopathic College Accreditation (AOA-COCA)
- American Podiatric Medical Association, Council on Podiatric Medical Education (APMA)
- Council on Accreditation of Nurse Anesthesia Educational Programs (COANAEP)
- The Council on Chiropractic Education (CCE)
- Joint Review Committee on Education in Radiologic Technology (JCERT)
- Midwifery Education Accreditation Council (MEAC)

**State approval agency for postsecondary vocation education (Title IV gatekeepers) shown in the table above**

- Oklahoma Board of Career and Technical Education (ODCTE)
- New York State Board Of Regents, Public Postsecondary Vocational Ed (NYBRVE)
- Puerto Rico State Agency for the Approval of Public Postsecondary Vocational, Technical Institutions and Programs (PRHRDC)
- Pennsylvania State Board for Vocational Education, Bureau of Career and Technical Education (PABCTE)

In response to part iv: In general, the Department expects them to be compliant at their next recognition review after the new regulations become effective. However, the Department expects accrediting agencies to establish policy and standards to comply with the new regulations as soon as practically possible.

*Question.* For agencies that are already in the process of review, and which will not be expected to be fully compliant with the regulations as of July 1, 2020, does the Department expect full compliance before their next recognition review? Will the Department require the agency to demonstrate compliance with the new requirements at any point outside of its recognition review?

*Answer.* Accrediting agencies will need time to write and adopt new policies. The time required depends on an accrediting agency's internal process for changing or modifying policy. Changes or modifications to an accrediting agency's policy or standards could take six months to one year, or more. However, the Department expects all agencies to be working towards compliance with the new regulations.

The new regulations become effective on July 1, 2020. The Department has no plans for formal midterm reviews. However, Department staff will be in constant contact with their assigned accrediting agencies to advise and monitor policy changes.

*Question.* For agencies that are already in the process of review, are there any areas of the new regulations with which the agencies must be compliant as of July 1, 2020 and/or be required to demonstrate compliance? Or will the timeline for rolling implementation apply for all aspects of the new regulations?

*Answer.* While the new regulations go into effect on July 1, 2020, no agency will be reviewed under those regulations until July 1, 2021. Please see the table above for information about the timeline.

### **HBCU CAPITAL FINANCING ADVISORY BOARD OUTREACH PLAN**

*Question.* The Consolidated Appropriations Act, 2018, 2019, and 2020 directed the Department to create and execute an outreach plan to work with the Capital Financing Advisory Board, and with States, to improve outreach to States and help additional public HBCUs participate in the Capital Financing program. Please provide an update on the execution of that outreach plan, and please describe the results of each of the activities undertaken under that plan.

*Answer.* The Department's outreach efforts over the last year included several activities:

- The Department spoke with public and private Historically Black College and University (HBCU) presidents and chancellors at the White House Initiative on HBCUs.
- The Department's HBCU Capital Financing Executive Director met with public HBCU presidents and chancellors at the 2020 Thurgood Marshall College Fund Fly-In Convening on February 26, 2020.
- Rice Capital, the Designated Bonding Authority for the program, will send newsletters to 101 HBCUs as well as higher education authorities that have approvals over State funding in the month of April.

Further in person outreach activities have been postponed until further notice due to the COVID-19 pandemic.



## **TRIGGERING EVENTS AND REPAYMENT RATE DISCLOSURES UNDER 2016 BORROWER DEFENSE REGULATIONS**

*Question.* Please provide the following information regarding financial triggering events and repayment rate disclosures under the 2016 borrower defense regulations:

Has the Department recalculated any financial responsibility composite scores for institutions that have reported triggering events?

Answer. Yes, the Department has recalculated some financial responsibility composite scores. It should also be noted that the Department received some triggering event notices from public institutions. Because public institutions are not subject to financial responsibility composite scoring, the Department did not reevaluate composite scores for these institutions. As noted in the response to sub-question “g”, the Department received financial responsibility triggering events notices from 657 distinct institutions. Some institutions submitted more than one triggering event notice.

*Question.* Have there been any instances when institutions have not reported the necessary triggering events? How does the Department plan to address instances when reporting is not conducted, and does the Department plan to announce any policy or procedure to address non-reporting? What actions will the Department take to integrate financial responsibility triggering events, or the subsequent recalculation of the composite score, if institutions do not report the events to the Department?

Answer. Yes, there has been an instance when the Department became aware that an institution did not report the necessary triggering event. When an institution fails to report information that it is required to report under the revised financial responsibility regulations, the Department will, as part of its oversight responsibilities, take action to bring the school back into compliance with those regulations, recalculate the composite score (as appropriate), and request a letter of credit, if needed. In addition, if a school fails to report a financial triggering event, the Department will determine whether any fine or other similar action is appropriate. The Department does not comment on deliberative, preliminary, or ongoing investigative work, including the enforcement of the Title IV regulations specific to this provision.

*Question.* Are institutions able to submit alternative forms of surety, in place of a letter of credit, and does the Department plan to announce any policy or procedure for alternative surety? Have any institutions submitted alternative forms of surety to date?

Answer. As of April 1, 2020, the Department has not announced whether institutions are able to submit alternative forms of surety in place of a letter of credit pursuant to the Department’s financial responsibility regulation at 34 CFR 668.175(f)(2)(i). If the Department chooses to accept alternative forms of surety in place of a letter of credit, the Department would need to publish that decision in a Federal Register notice. The Department would provide the appropriate policy or procedure for alternative surety in an Electronic Announcement or another appropriate communication posted on the Information for Financial Aid Professional (IFAP) online portal.

In a few cases, when an institution has not provided a letter of credit, the Department has entered into a set-aside agreement pursuant to the “set-aside” provisions included with the financial responsibility regulations at 34 CFR 668.175(h). With a set-aside agreement, the Department offsets the amount of Title IV funds the school is eligible to receive in a manner that ensures that, within a nine-month period, the total offset amount equals the total amount of financial protection

that the institution would have otherwise provided. It should be noted that use of a set-aside agreement is not necessarily related to a financial responsibility triggering event notification. Additionally, the Department accepts cash deposits in place of a letter of credit on a case-by-case basis consistent with longstanding practice.

*Question.* The Department stated earlier this year that it was in the final stages of selecting a vendor to conduct consumer testing and anticipated being able to conduct user testing for repayment rate disclosures and financial responsibility triggering events in the summer of 2019. Has that vendor and consumer testing commenced?

*Answer.* Earlier this year the Department finalized new Institutional Accountability regulations, which go into effect on July 1, 2020. The effort to identify a vendor to perform consumer testing was suspended since the results of that testing will not be relevant after July 1, 2020.

*Question.* What is the Department's timeline to publish in the Federal Register the required trigger events and the format by which repayment rates must be disclosed?

*Answer.* The Institutional Accountability regulations, which were finalized earlier this year, clearly describe the triggering events, thus eliminating the need to publish future triggers in the Federal Register. In addition, the Department will soon be releasing repayment rate data for all institutions using the College Scorecard. The Department is conducting consumer testing of the College Scorecard to determine how best to provide this information to students using the online tool.

*Question.* Has the Department set aside any resources to pursue further investigation, enforcement action, or review of Program Participation Agreements when it is notified of triggering events such as borrower defense-related lawsuits and accrediting agency actions against an institution?

*Answer.* It is Department policy to not comment on any deliberative, preliminary, or ongoing investigative work to enforce the Title IV regulations. The Department is in the process of adding resources to its Enforcement Unit to assist with investigations in general.

*Question.* Please provide the name and associated OPEID of all institutions that have provided information regarding triggering events to the Department to date.

*Answer.* As of March 26, 2020, the Department had received triggering event notices from 657 distinct institutions and OPEIDs. As noted in the response to the first sub-question under this subject, some institutions submitted more than one triggering event notice. An unduplicated list of the names and associated OPEIDs of the 657 reporting institutions is enclosed.



Attachment 1  
BORROWER DEFEN:

## **MACHINE LEARNING AND FAFSA VERIFICATION DATA**

*Question.* Since the Department began implementing a machine learning model to select students for verification, how many students have been selected for verification, compared to prior

award years? If full award year information is not yet available, please provide comparable award-year-to-date information.

Answer. Please find the requested information below. The machine learning model for targeted selection was first introduced with the 2019-2020 cycle. Group V1 in the tables below represents applicants selected to verify financial information, the number in college, and the number in family listed on the FAFSA. Group V4 is selected for identity and high school completion verification. Group V5 combines the verification requirements of groups V1 and V4. Table 1 includes applicants from the beginning through the first March 27th of each cycle. It therefore represents just under the first 6 months of each cycle. Table 2 includes applicants from the beginning through the second March 27th of each cycle. It therefore represents just under the first 18 months of each cycle.

**Table 1: Verification Selection by Selection Group Through Six Months**

Cycle	V1	V4	V5	Total Selected for Verification	% Selected for Verification	Total Applications
2020-21	1,990,950	98,166	22,887	2,112,003	22.08%	9,564,240
2019-20	2,070,014	98,415	24,786	2,193,215	22.18%	9,887,061
2018-19	2,956,191	80,196	37,117	3,073,504	29.92%	10,273,833
2017-18	2,430,829	27,004	95,119	2,552,952	25.03%	10,200,366

**Table 2: Verification Selection by Selection Group Through 18 Months**

Cycle	V1	V4	V5	Total Selected for Verification	% Selected for Verification	Total Applications
2019-20	3,919,770	361,282	102,940	4,383,992	24.83%	17,654,182
2018-19	5,146,039	293,396	117,135	5,556,570	30.62%	18,146,675
2017-18	5,554,426	110,491	330,671	5,995,588	32.29%	18,566,633

## LOAN SERVICING CONTRACTOR COMPLIANCE WITH STATE LAW

*Question.* In 2019, Congress included the following directive to the Department in the most recent appropriations law, which went into effect on January 1, 2020: “Servicers shall be evaluated based on their ability to meet contract requirements (including an understanding of Federal and State law)...and history of compliance with applicable consumer protection laws.” In the first weeks of the year, the federal student loan contractor Pennsylvania Higher Education Assistance Agency (PHEAA) appears to have directly contradicted this instruction in court filings in New York State. In separate litigation brought by PHEAA against the State of Connecticut, the Department of Justice previously filed a Statement of Interest that also appears to contradict this instruction directly. In light of the new direction from Congress, which went into effect on January 1st of this year, can you describe the steps you have taken to clarify to the court that you expect your contractors to comply with State law?

Answer. The Department requires its contractors, including Federal student loan servicers, to comply with all applicable and valid state laws. On March 12, 2018, the Department issued a Notice of Interpretation entitled Federal Preemption and State Regulation of the Department of Education’s Federal Student Loan Programs and the Federal Student Loan Servicers, 83 Fed. Reg. 10619, explaining the Department’s position with regard to the Federal preemption of State laws regulating the servicing of Federally-held education loans by Federal student loan servicers. The Department continues to hold the position set forth in that Notice, and the cited Statement of

Interest filed in PHEAA's lawsuit against the Department and Connecticut is based on the principles articulated in the Notice.

The Department's position and practice is consistent with the language in the appropriations law. The Department does evaluate its servicers based on their ability to meet contract requirements (including an understanding of Federal and State law) and its compliance with applicable consumer protection laws. However, as reflected in the Notice and in court decisions before and after the publication of the Notice, see, e.g., *Student Loan Servicing Alliance v. District of Columbia*, 351 F.Supp.3d 26 (D.D.C. 2018), not all State laws are applicable to Federal student loan servicers.

### **PHEAA ASSERTION OF IMMUNITY FROM FEDERAL AND STATE CONSUMER LAWS**

*Question.* On January 20th of this year, the Pennsylvania Higher Education Assistance Agency (PHEAA) filed a motion to dismiss a lawsuit brought by New York Attorney General Letitia James, asserting that, in PHEAA's words, your agency "validly conferred" authority to service loans in a manner that immunizes the company from any lawsuit brought by any Federal or State agency or individual borrower under any Federal or State law. This assertion is expansive and obviously inconsistent with the text of the most recent appropriations law. Do you agree with PHEAA's position that it is immune from suit even if its conduct violates Federal or State consumer laws?

*Answer.* The Department is not a party to the lawsuit mentioned in the question, was not involved in the development of the arguments made by PHEAA, and has not reviewed those arguments. It is the Department's understanding that the arguments in the brief represent PHEAA's legal views on the application of Federal and State laws in light of its role as a Federal loan servicer and its status as a State agency.

### **BORROWER DEFENSE PARTIAL RELIEF FORMULAS**

*Question.* Regarding the borrower defense partial relief formulas used by the Department: Which senior political appointee or appointees of the Department authored or signed the recommendation to the Secretary to approve the first partial relief formula for borrower defense that was announced via press release on December 20, 2017?

*Answer.* No senior political appointee of the Department authored or signed a recommendation to the Secretary to approve the first partial relief formula.

*Question.* Please describe in detail the steps taken to consult with the Department's Office of Inspector General regarding the first partial relief formula for borrower defense that was announced via press release on December 20, 2017, prior to the release of such formula.

*Answer.* The Department is not aware of any consultation that took place with the Office of Inspector General.

*Question.* Which senior political appointee or appointees of the Department authored or signed the recommendation to the Secretary to approve the second partial relief formula for borrower defense that was announced via press release on December 10, 2019?

Answer. A group of senior career staff and political leaders from the Office of Postsecondary Education, Office of the Undersecretary, Office of the General Counsel, and Federal Student Aid worked together to develop the second partial relief formula, which was reviewed by Institute of Education Sciences.

*Question.* Please describe in detail the steps taken to consult with the Department’s Office of Inspector General regarding the second partial relief formula for borrower defense that was announced via press release on December 10, 2019, prior to the release of such formula.

Answer. The Department consulted with the appropriate data and statistical experts regarding the second partial relief formula. It did not consult with the Office of Inspector General.

### **PELL GRANT LIFETIME ELIGIBILITY USED RESTORATIONS**

*Question.* Please provide an update on Pell Grant Lifetime Eligibility Used (LEU) restored due to school closure, according to the Department’s April 3, 2017 notice, Guidance on COD Processing of Pell Grant Restoration for Students who Attended Closed Schools, including total number of unduplicated students receiving restoration of Pell LEU, total number of institutions which those students attended, and total number of semesters restored, disaggregated by State.

Answer. Approximately 338,000 students attending 1,139 institutions have received restoration of Pell LEU. This equates to more than 688,000 semesters worth of Pell eligibility restored. State-level data is provided in the attached file. Please note that Pell Grant awards are processed through an institution’s main location; for example, all awards to students who attended ITT Technical Institute were made to the school’s main location in Indiana. As a result, the state-level disaggregated student totals provided for Pell LEU restoration represent the state to which grants originally were processed, but not necessarily the location where students actually attended classes.



Attachment 1 PELL  
GRANT LIFETIME ELIC

### **IMPLEMENTATION OF CHANGE IN PUBLIC SERVICE LOAN FORGIVENESS PAYMENT COUNTS**

*Question.* In a letter to Senator Murray dated March 3, 2020, the Department indicated a change to how payments are counted toward Public Service Loan Forgiveness (PSLF), writing that the Department is “revising the policy by which we determine whether a monthly payment qualifies for PSLF purposes. Under the new policy, a borrower will receive credit for one month’s qualifying payment towards PSLF, regardless of when or by whom the payment was made, so long as the payment due was made in full, no later than 15 days after the payment due date, and meets all other requirements for a PSLF qualifying payment. Under this revised policy, advance or “lump sum” payments may be qualifying monthly payments (up to a maximum of 12 qualifying payments) for PSLF. We anticipate implementing this change with our PSLF servicer later in 2020.” Please describe the specific steps that the Department will take to notify borrowers who have made advance or lump sum payments, and subsequently had nonqualifying payments for the purposes of PSLF, of this new change in policy.

Answer. This change has not yet been officially implemented; FSA is still working with the PSLF servicer to operationalize it. The Department anticipates that once the change is made, borrowers' accounts will be updated to reflect their detailed PSLF qualifying monthly payment counts under the revised guidance. These revised monthly payment counts will be communicated through borrowers' account statements.

### **PSLF AND TEPSLF STATE BY STATE BREAKDOWNS AND BREAKDOWNS ON MISSING INFORMATION AND REASONS PAYMENTS DO NOT QUALIFY**

*Question.* Regarding the Public Service Loan Forgiveness (PSLF) and Temporary Expanded Public Service Loan Forgiveness (TEPSLF) programs, please provide:

a. a State-by-State breakdown of the number of Applications for Forgiveness received, approved, or denied, separately listed and including both the number of unique borrowers as well as the total number of applications

b. a State-by-State breakdown of the number of applications for TEPSLF received, approved, or denied, separately listed and including both the number of unique borrowers as well as the total number of applications

c. a State-by-State breakdown of PSLF Employment Certification Forms (ECFs), including the unique number of borrowers who have any approved, have any denied ECF, and the cumulative number who have submitted any ECF

d. a breakdown of the most common information missing (i.e. employment dates, signature, EIN) from ECFs that have been determined to be ineligible due to missing information

e. a breakdown of the most common reasons payments are not qualifying for PSLF Applications for Forgiveness for applications denied due to insufficient qualifying payments

Answer. a. Please see the attached table for the requested data.



Murray 37.1 PSLF  
TEPSLF APPLICATION

b. Please see the attached table for the requested data.



Murray 37.2 TEPSLF  
APPLICATIONS BY ST.

c. Please see the attached table for the requested data.



Murray 37.3 PSLF  
TEPSLF EMPLOYMEN

d. Please see the attached table for the requested data.



Murray 37.4  
MISSING ECF DATA.

e. Due to the volume of borrowers and the various reasons payments may be deemed not qualifying, the PSLF servicer does not currently report this specific data to the Department. In addition, payments may be deemed not qualifying for more than one reason. Please note, however, that the servicer is able to provide borrowers with the reasons individual payments did not qualify

upon their request. Additionally, when the combined PSLF/TEPSLF/Employment Certification Form is implemented later this year, all borrowers will receive qualifying payment counts for both PSLF and TEPSLF, along with detailed information at the payment level.

## **AUTOMATION OF TOTAL AND PERMANENT DISABILITY DISCHARGES**

*Question.* Members of Congress have previously requested that the Department use its authority to establish a process for total and permanent disability (TPD) discharge with the Social Security Administration (SSA) whereby, upon a successful match with SSA, the Department automatically places a borrower into a 3-year monitoring period. And, if the borrower does not show any of the applicable earnings that would reinstate their obligation to repay based on a secondary earnings data match with SSA at the end of the monitoring period, the loans should be automatically discharged. The Department has said that it needs to undergo rulemaking to effectuate any form of automatic discharge. However, there are other steps that could be automated without the need for rulemaking. Please provide the Department's analysis of options to automate various parts of the TPD process, including specific statutory citations the Department believes are relevant to administrative or regulatory authority. Please include in this analysis any provisions that distinguish the authority of the Department to automate processes for veterans who may qualify for TPD discharge compared to the authority that exists for non-veterans.

*Answer.* The Department believes that the FUTURE Act, coupled with the CARES Act, will permit the Department to establish automatic retrieval of IRS data. When this system is in place, the Department will be able to administratively verify the income of borrowers who received a TPD discharge for the required three years, thus eliminating the need for the borrower to provide that information. This provides the opportunity for the Department to explore the concept of providing automatic loan discharge to these borrowers.

In order to eliminate the requirement for the borrower to submit an application to be considered for a TPD discharge, the Department will need to engage in negotiated rulemaking, publish a notice of proposed rulemaking, accept public comments and publish a final rule to eliminate the requirement for borrowers to complete an application in order to be considered for TPD discharge. 34 CFR 685.213(2)(b)

Following President Trump's announcement of automatic loan discharge for borrowers who received a TPD rating from the Veterans Administration, the Department published an interim final rule to eliminate the application requirement for veterans. It is rare that the Department is permitted to file an interim final rule, and in this case doing so was permitted only because Congress had directed the Department to remove unnecessary bureaucratic barriers specifically for veterans who are totally and permanently disabled because of service-connected injuries, leaving the Department no discretion in the matter.

## **MEASURES TO HANDLE TPD DATA MATCHING DISCREPANCIES**

*Question.* The Department has stated that the current matching process for total and permanent disability (TPD) with the Department of Veterans Affairs (VA) and Social Security Administration (SSA) matches both full Social Security Number (SSN) and name. If the match fails for either data element, it is not validated. ED also said that common clerical mistakes explain some of these "no match results" because older loans were processed on paper, rather than electronically, increasing the likelihood of clerical errors. Common errors such as a transposed

letter or number, missing hyphen in a name, or name change from marriage can also result in no match. Please provide the specific steps the Department currently takes, or plans to take, to contact borrowers when there is a discrepancy in data matched but there is otherwise a high degree of confidence in the borrower's identity, in order to help additional borrowers receive TPD discharges.

Answer. The Department has engaged in proactive communication with borrowers and stakeholders to help to minimize clerical errors to the extent possible. The Department is unable to review matches that fail because non-matches may not legally be retained under the provisions of the Department's current Memoranda of Understanding with the VA and SSA. The Department will reassess the retention and use of non-match data in our future work with these agencies. In the meantime, it continues to process TPD requests from individuals who were not validated through the match processes, but who contact the Department on their own. Please note as well that the VA and SSA TPD processes differ; veterans matched through the VA process now receive a discharge automatically unless they opt out, whereas borrowers who match through the SSA process must still complete an application and are subject to a three-year income monitoring process after discharge.

### **DATA ON DISCHARGES UNDER TOTAL AND PERMANENT DISABILITY**

*Question.* Please provide the most recent data available on the total number of borrowers discharged under total and permanent disability (TPD). Within this update please include:

- a. Number of SSA (SSI/SSDI) matched borrowers and total amount discharged;
- b. Number of Veterans Affairs matched borrowers and total amount discharged;
- c. Number of borrowers who matched either SSA or VA databases who are subject to types of forced collections, disaggregated by type (i.e. Tax Refund Offset, Treasury Offset Program, Administrative Wage Garnishment, etc.), and including the number of borrowers who are subject to multiple types of forced collections;
- d. Number of borrowers have had judgments entered against them (including those entered prior to TPD eligibility). Of those judgments, if any, the number of those still in effect;
- e. The number of borrowers in each State who have received a match notification and received a discharge, separately, for SSA TPD borrowers;
- f. The number of borrowers in each State who have received a match notification and received a discharge, separately, for VA TPD borrowers.

Answer. a. As of February 2020, approximately 589,000 borrowers were identified through the SSA match process, which began in April 2016. Of those borrowers, more than 227,000 borrowers with loans totaling \$8.2 billion have been approved for discharges. Eligible borrowers identified for discharge through an SSA match receive a discharge and are then subject to a three-year monitoring period. If a borrower receives a new loan during the monitoring period or, during that period, has annual earnings from employment greater than the poverty guideline amount for a family of two, the discharged loans are reinstated.

b. More than 25,000 eligible veterans with \$800 million in loans received discharges as a result of submitting an application after having been identified through the data match, which began in April 2018. In addition, since the President's announcement on August 21, 2019, and as of March 31, 2020, approximately 37,000 veterans with \$830 million in loans have been approved for automatic discharge and 1,600 veterans with \$50 million in loans have opted out of the discharge.



c. Pursuant to the Coronavirus Aid, Relief, and Economic Security (CARES) Act, and as of March 13, 2020, no borrowers are currently subject to Treasury Offset. Also pursuant to the CARES Act, the Department has notified all employers to stop administrative wage garnishments. The Department relies on borrowers' employers to stop garnishing their wages, but it is proactively following up with employers who continue to garnish wages and will continue to process refunds to borrowers as appropriate.

d. As of March 2020, out of approximately 278,000 defaulted borrowers identified by SSA or VA as eligible for discharge, approximately 3,400 borrowers (1.2%) have a judgment entered against them. Judgments on federal student loans do not expire, as there is no statute of limitations on federal student loans. However, it is possible that some judgments have been manually vacated by the Department at the request of the borrower. The Department only vacates judgments if the debt has been resolved or determined to be unenforceable.

e. A file providing the requested data is attached. Please note that the numbers provided represent borrowers identified in the December 18, 2019 match with SSA.



Attachment 1 DATA  
ON DISCHARGES UN

f. A file providing the requested data is attached. Borrowers identified as eligible for a discharge through the Department's match with the VA now receive a discharge automatically unless they opt out. Therefore, the attached file provides the number of borrowers by state with a reported discharge code in National Student Loan Data System (NSLDS) associated with a VA match.



Attachment 2 DATA  
ON DISCHARGES UN

## **FSA NEXTGEN WORKFORCE, RESOURCE ALLOCATION, AND PLANS FOR FISCAL YEARS 2020, 2021 AND 2022**

*Question.* Regarding the Department's Next Gen initiative to reform student loan servicing and debt collection:

How is the Department's Office of Federal Student Aid assessing the efficacy and roles of its current workforce and its needs as it plans to grow?

*Answer.* FSA is taking a very deliberate approach to assessing and optimizing its workforce. The approach to development is holistic, and the term the office is using is "21st century Federal Student Aid." FSA Workforce Development is focused on strategically hiring new employees to fulfill specific competencies and capabilities, rather than simply increasing overall workforce numbers. For example, FSA has specifically sought and hired experts with diverse backgrounds, such as financial analysts with Wall Street experience, former banking executives with experience moving their operations from analog to digital, loan servicing experts who understand complex contract pricing techniques, and former CFPB personnel with experience protecting students. They are complemented by professional writers to ensure FSA's strategic communications keep taxpayers and other important stakeholders informed about its critical work.

To optimize its workforce and better serve students, schools, and taxpayers, on March 29, 2020, FSA implemented a reorganization. The reorganization streamlined spans of control and

clarified lines of authority within FSA by reducing the Chief Operating Officer's direct reports from 15 employees to 5. It also reorganized existing capabilities and added new functions, such as the Next Gen Program Office, to solve operational challenges and reduce pain points.

FSA has also initiated a human capital requirements study to define and optimize work processes, calculate staffing needs, and identify work drivers, which are quantifiable, auditable measures of input or output. As of April 2020, FSA has already identified more than 300 processes and 130 drivers in its two largest mission areas. By fall 2020, FSA expects to generate baseline staffing requirements and driver data for each of the 60 offices that perform its core functions. Informed in part by the results of the human capital requirements study, it is also performing a skill gap analysis to identify any performance gaps and impacts, determine training needs, and make other recommendations to optimize the workforce.

*Question.* When does the Department estimate that the Next Gen initiative be fully operational?

*Answer.* It is important to remember that some elements of Next Gen are already operational and available to borrowers. For example, FSA has already rolled out a new consolidated website and 1-800-number, as well as enhanced and personalized loan counseling and financial literacy tools to help borrowers better understand their obligations and the options available to help manage their debt. FSA also launched a "Make a Payment" pilot to make it easier for borrowers to repay their loans from a single site, and is piloting a digital assistant, known as Aiden, that provides borrowers with personalized answers to a wide range of questions about student aid.

Next Gen is transforming nearly every aspect of how FSA operates and interacts with communities of students, parents, borrowers, schools, and other stakeholders. Because of the scale of Next Gen, several major components will launch in sequence moving forward. This means there is no singular date on which Next Gen will be "fully operational." Instead, FSA views Next Gen as an evolving initiative, where even when tools are launched, they are consistently improved and iterated upon to meet the needs of its customers.

FSA published the latest series of Next Gen solicitations in January 2019. The Enhanced Processing System (EPS) and Business Process Operations (BPO) solicitations will transform the way that more than 35 million Federally-managed student loan borrowers manage and repay their loans. These acquisitions are proceeding as planned, and FSA expects to make awards in fiscal year 2020. After award, FSA must work to bring onboard the awardees, develop requirements with contractors and ensure that they clear enhanced cybersecurity standards, and receive an Authority to Operate. This process can take up to a year. After these vendors are brought online, FSA plans to complete live loan conversion of loan accounts from FSA's legacy servicers to the EPS system, to be managed by BPO vendors, within 15 months. Once transfers of non-defaulted accounts are complete, FSA will begin transferring defaulted accounts. Planning is underway to develop a campaign that will ensure borrowers are notified of their account status.

Additional projects included in the Next Gen initiative, such as development and implementation of the Partner Performance and Oversight (PPO) Portal, will proceed concurrent to FSA's conversion of Federally-managed and defaulted loan accounts. FSA estimates that conversions will proceed through FY 2023. However, this schedule may be put at risk by protests and/or lawsuits from unsuccessful offerors, insufficient appropriations, or other events outside of FSA's control.

*Question.* How many staff spend more than 50 percent of their time on Next Gen projects?

*Answer.* The Next Gen Program Office, which is responsible for executing the major components of Next Gen, currently has 42 full-time employees. There are approximately 20 additional staff (not including senior management) across the organization that spend more than 50 percent of their time on Next Gen projects. Additional support is provided by contractors.

*Question.* Please provide a detailed breakdown of the FY 2020, FY 2021, and FY 2022 budgets for Next Gen projects.

*Answer.* Much of FSA's Next Gen budget is contingent on upcoming contract awards. Additional awards will be made throughout fiscal years 2020 and 2021 that will obligate additional funds to Next Gen contract awardees. Thus far, the following contracts have been awarded and are obligated for fiscal year 2020:

- Digital and Customer Care: \$91.7 million
- Partner Participation and Oversight: \$4.7 million
- Enterprise Data Management and Analytics Platform Services (EDMAPS): \$9.8 million

The Department's budget for fiscal year 2021 is aligned with the President's fiscal year 2021 request, which is currently being considered by Congress. However, detailed budget breakdowns for fiscal years 2021 and 2022 are dependent upon contract extensions and future awards.

## **MEMORANDUM OF UNDERSTANDING WITH CONSUMER FINANCIAL PROTECTION BUREAU**

*Question.* On Tuesday, March 10, the Director of the Consumer Financial Protection Bureau (CFPB), Kathleen Kraninger, testified to the Senate Committee on Banking, Housing, and Urban Affairs that the CFPB and Department now have an agreement to conduct monitoring of student loan servicers and will be conducting a joint exam of a Federal student loan servicer later this month. Please provide a copy of this monitoring agreement, a copy of any associated memoranda or guidelines regarding this monitoring, a detailed description of any plans to use staff detailed from CFPB at the Department, and a detailed explanation of how the Department plans to conduct oversight with CFPB for Federal student loan servicers.

*Answer.* FSA is committed to increasing oversight and monitoring of Federal student loan servicers to ensure borrowers receive superior service. On February 3, 2020, the Department and the Consumer Financial Protection Bureau (CFPB) signed a Memorandum of Understanding (MOU) to better serve student loan borrowers. A copy of the MOU is provided below. The MOU will allow the Department and the CFPB to share complaint information from borrowers and meet on a regular basis. The MOU also provides for the sharing of complaint data analysis, recommendations, and analytical tools.

As mentioned previously by CFPB Director Kraninger, FSA and the CFPB recently conducted their first joint supervisory and oversight examination of one of FSA's loan servicers. CFPB supervisory exams are generally considered confidential supervisory information; therefore, the Department cannot discuss specific details of the first joint exam. In general, FSA considered this first joint exam to be a pilot; it therefore does not currently have any associated monitoring agreements or memoranda other than the MOU mentioned above.



## **JUSTIFICATION FOR REFUSAL TO ALLOW SERVICERS TO PROVIDE DATA TO CFPB**

*Question.* On Tuesday, March 10, the Director of the Consumer Financial Protection Bureau (CFPB), Kathleen Kraninger, testified to the Senate Committee on Banking, Housing, and Urban Affairs that the Department has refused to allow Federal student loan servicers to provide information and data to the CFPB necessary for the CFPB's examinations and other oversight. Please provide a full justification for why the Department has refused to provide the CFPB with this information in each instance such request has been denied.

*Answer.* The Department did not comply with previous requests from the CFPB because it did not have an MOU in place with the CFPB when the requests were made. The Department has approved two requests received since reestablishing an MOU with the CFPB in February 2020 and is working with the loan servicer in question to ensure they provide the CFPB with the requested information.

## **TOP FIVE INSTITUTIONS REPORTING WRITTEN ARRANGEMENTS WITH INELIGIBLE INSTITUTIONS**

*Question.* Regulations currently require institutions to receive accreditor approval and report to the Department any written arrangements with an ineligible institution or organization between 25 and 50 percent of an institution's program. Please provide a list of the top 5 institutions with a written arrangement with an ineligible institution or organization between 25 and 50 percent of the institution's program (those with the highest proportion of a program getting outsourced), the name of the program, the name of the accreditor, and any other information the Department has regarding the arrangement.

*Answer.* Currently, the Department's regulations require institutions to report written arrangements to their accreditor (not the Department) when 25 percent or more of a program is provided by an ineligible provider. Among other things, for Title IV purposes, institutions must obtain accreditor approval when a written arrangement allows an ineligible organization to deliver between 25 and less than 50 percent of the educational program.

Current regulations also do not require institutions to report to the Department and/or update information regarding their written arrangements with an ineligible institution or organization (contractual agreements) that provides more than 25 percent, but less than 50 percent, of an institution's educational program on a regular basis. Therefore, the Department has only limited information about institutions' contractual agreements with an ineligible institution or organization between 25 and 50 percent of the institution's program. However, the Notice of Proposed Rulemaking on Distance Education and Innovation published on April 2, 2020 proposes to require institutions to report to the Secretary when establishing a written arrangements.

A list of the "Top 5 institutions" that reported contracting out 49 percent of an educational program is included with this response. This is the maximum percentage of an eligible educational program that may be contracted out for Title IV purposes. The enclosed file lists the name of the program contracted out, the percentage of the program contracted out, the name and location of

ineligible institution or organization that provides a portion of the educational program, and corporate and ownership information as reported by the institution to the Department. The file also includes the name(s) of the eligible institution's accrediting agency currently identified in the Department's records.

Because the Department's information is limited and may be out of date, and because institutions are requested to report this information for all educational programs that they contract out (including educational programs that may not be eligible for Title IV purposes), the Department cautions that inferences should not be drawn from the data. General information about written arrangements with contractual agreements may be found in Volume 2, Chapter 2 of the 2019-2020 Federal Student Aid Handbook.



Attachment 1 TOP  
FIVE INSTITUTIONS R

### **TIMELINE FOR AVAILABILITY OF CUMULATIVE LOAN DEBT DATA FOR PLUS LOANS**

*Question.* The Department has indicated that program-level data on cumulative loan debt with respect to parent PLUS and grad PLUS and program-level loan repayment and default rates would be available by the end of calendar year 2020. What is the expected date for the Department to publish this data?

*Answer.* The Department looks forward to supplying program-level data on cumulative loan debt with respect to parent PLUS and grad PLUS and program-level loan repayment and default rates to students and families to inform decision making. The Department is pleased to report it is still on track to have such information available by the end of calendar year 2020.