



## MARCH 2023 NEWSLETTER

### IMPORTANT DATES:

**March 6**  
Annual Submission for HEERF Reporting Opens

**March 7**  
Opening of Appeals Process for FYI 2020 CDR

**March 12– Don't forget!**



**March 24**  
Deadline to Submit Annual HEERF Reporting

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- DRAFT Cohort Default Rates Released
- DL Closeout for 21/22
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- Updated Guidance for the Requirements and Responsibilities of Third-Party Servicers
- Compliance Corner: Pell Grant Reconciliation
- DJA Calendar

*Last month, a White House press release announced a joint international partnership to shine light on cybersecurity attacks and promote cyber awareness and responsibility. The partnership invites businesses and institutions of higher education to join their Cyber Challenge week by introducing training resources and providing a cyber hygiene checklist. Additionally, FSA reminds schools of the upcoming implementation of the remaining statutes in the updated FTC Safeguards Rule of the Gramm-Leach Bliley Act (GLBA). We review those announcements in this newsletter and share additional FSA resources released to assist schools in meeting cybersecurity clients and safeguarding student information.*

*Additionally, the FY 2020 3-year draft cohort default rates were released in this week. These draft rates give schools a chance to review and challenge any data that they feel is incorrect. You have 45 days from the release of the draft rates to submit a challenge. If the school does not challenge draft cohort default rate data that the school believes is incorrect, the school forfeits the right to submit certain types of adjustments and appeals when the official cohort default rates are released later this year. Although there are no sanctions or benefits associated with a draft cohort default rate, it is important to review the data used to calculate the rate for accuracy, because this data forms the basis of a school's official cohort default rate!*

*This newsletter contains information on these topic and much more, as well as resources for training. Please review our Compliance Corner as we share on Pell Grant Reconciliation and associated deadlines for reporting.*

*Please note our date changes for our Monthly Webinar Series as we work around the FSA Wednesday Webinar Series that continues this month. The next two FSA webinars cover Verification and Regulation Updates, respectively. For that full schedule, as well as the DJA Monthly Webinar series, see our calendar at the end of this newsletter.*

*Thank you and until next time, stay safe!  
Deborah John, President*



## ***IN THE NEWS: U.S. JOINS INTERNATIONAL PARTNERSHIP TO SHINE LIGHT ON GROWING CYBERATTACKS***

In a White House press release on February 8, 2023, it was announced that the United States, along with Australia, India and Japan, have launched the Quad Cyber Challenge to promote responsible cyber habits. The initiative aims to raise cyber security awareness and action. The Biden administration acknowledges that cybercrime and malicious cyber attacks are places a real financial burden on corporations, small businesses and educational institutions alike. Additionally, these cybercrimes compromise sensitive, personal data those organizations collect and store.

The Challenge will share simple protective measures that can be taken to improve the cyber ecosystem. These steps include keeping up to date on software patches and security updates, utilizing multi-factor authentication and access controls, improving password credentials by using stronger catchphrases and providing company-wide education on how to identify phishing scams and avoid ransomware attacks. Additionally, the partnership will provide resources businesses can utilize, such as cybersecurity training.

The timeline for the challenge focuses on the week of April 10<sup>th</sup>. This would be a great time to work on improving your institution's cybersecurity hygiene as we prepare for the remaining statutes of the FTC's Updated Safeguards Rule to go into effect on June 9, 2023. To take advantage of these free resources, you can visit [Activities | Quad Cyber Challenge](#).

The White House announcement comes amidst Federal Student Aids own Electronic Announcements this month that we cover later in this newsletter in regard to the upcoming FTC regulations and new FSA cybersecurity resources being introduced.

[Quad Partners Launch Cyber Challenge - United States Department of State](#)

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## ***DRAFT COHORT DEFAULT RATES RELEASED***

On Feb. 27, 2023, the U.S. Department of Education (the Department) distributed the FY 2020 draft cohort default rate (CDR) notification packages to all eligible domestic and foreign schools only.

In the announcement, the Department provides information about the distribution of the draft rates, and the begin dates for appealing the draft rates.

### **Distribution of FY 2020 Draft Cohort Default Rates**

For both eligible domestic and foreign schools enrolled in the Electronic Cohort Default Rate (eCDR) process, the Department sent FY 2020 official cohort default rate and accompanying documentation via the Student Aid Internet Gateway (SAIG). The information was sent to the SAIG mailbox of the destination point administrator



designated by the school. Each eCDR package from the National Student Loan Data System (NSLDS®) contains the following information:

- Cover Letter (message class SHDRLROP)
- Extract-Type Loan Record Detail Report (message class SHCDREOP)

**Notes:**

1. A Comma Delimited-Type Loan Record Detail Report (message class CDRCSVOP) is available via [NSLDS Professional Access](#). Go to the Reports area to download the report or to have it sent to an SAIG mailbox.
2. A Reader-Friendly Loan Record Detail Report (message class SHCDRROP) has been updated to PDF and is available for download on your web browser via the Reports tab on [NSLDS Professional Access](#).

Schools not enrolled in eCDR do not receive eCDR notification. These schools may download their cohort default rates and accompanying Loan Record Detail Reports from [NSLDS Professional Access](#).

Schools may request the Cohort Default Rate History Report (SHCDR), previously the DRC035, which mimics the electronically transmitted eCDR Loan Record Detail Report (LRDR) on the reports page, by clicking the "Team Content" folder icon and navigating to CDR. You have the option of selecting the fixed width or comma delimited extracts for SAIG, the PDF or Excel versions for download.

If choosing the SAIG or Excel download options, selecting 'No' will pull the Excel formatted downloadable file, selecting 'Yes' will ask for the school information then to enter the SAIG values, to receive via your school's SAIG mailbox.

Schools that are not signed up to receive the eCDR package via the [SAIG Enrollment website](#) or schools that want a replacement copy of their CDR cover letter can now download their letter directly from the school's cohort default rate page on NSLDS. On the cohort default rate history page schools can retrieve their letter by clicking 'view' under the notification letter column. By clicking 'view' a PDF copy of the notification letter will pop up.

**\*\*DJA Clients:** If you contract with DJA for this service, your eCDR packages have been uploaded to the portal.

**Note:** Any school that did not have a borrower in repayment, during the current or any of the past cohort default rate periods, will **not** receive a FY 2020 draft cohort default rate notification package. These schools are considered to have no cohort default rate data and no cohort default rate.

Guaranty agency FY 2020 draft cohort default rates will be provided electronically, and lender rates are available for download from the NSLDS website.

## Begin Dates for Appealing FY 2020 Draft Cohort Default Rates

The time for appealing the FY 2020 draft cohort default rates under 34 C.F.R Part 668, Subpart N begins on **Tuesday, March 7, 2023**, for all schools.

All Incorrect Data Challenges (IDC) must be made through the eCDR Appeals application. Participation Rate Index Challenges (PRI) will continue to be submitted via hard copy. As a reminder, eCDR Appeals is a web-based application that allows schools to electronically submit certain challenge and adjustment requests during the specified timeframes. The application also allows data managers (guaranty agency or federal loan servicer) and Federal Student Aid personnel to electronically view and respond to these challenge/adjustment requests. The application tracks the entire life cycle of each request from the time the case is submitted until the time a decision is made and the case is closed.

If a technical problem caused by the Department results in an inability to access the data, schools have **five business days from the receipt of the eCDR notification package** to notify Cohort Default Rates Group at the email address below.

To further facilitate the review of cohort default rates schools may choose to utilize the [LRDR Import Tool](#). The LRDR Import Tool can be used to easily load data generated from the LRDR into the Microsoft Excel spreadsheet application and is designed to assist schools with reviewing and analyzing their LRDR extract files.

To complete an adjustment or appeal, you may need a data manager's contact information. The [Data Manager Information](#) can be found at the Default Management Topic page.

If the Department revises a school's cohort default rate based on its adjustment or appeal submission, the revised cohort default rate will be available on the [Default Management Topic page](#).

### Contact Information

For specific information regarding eCDR Appeals, visit the [eCDR Appeals website](#), where you will find user guides for each of the challenge and adjustment processes, as well as a user guide for the registration process. Additionally, you will find links to recordings of eCDR Appeals demonstration sessions to assist first-time users.

For additional information regarding the school cohort default rate calculation or the challenge processes, refer to the [Cohort Default Rate Guide](#).

<https://fsapartners.ed.gov/knowledge-center/library/electronic-announcements/2023-02-27/fy-2020-draft-cohort-default-rates-distributed-feb-27-2023>



## ***DIRECT LOAN CLOSEOUT INFORMATION FOR THE 2021-2022 PROGRAM YEAR***

The Direct Loan established data submission (closeout) deadline for the 2021-22 Program Year is **Friday, July 31, 2023**. This is the last processing day of the program year, so all school data must be received and accepted by this date to be included in a school's final Ending Cash Balance for the year.

**Note:** Exceptions to the established data submission deadline may be made on a case-by-case basis if the school's processing period extends beyond the deadline. Schools falling within this category should contact the Common Origination and Disbursement (COD) School Relations Center at the number provided below for further assistance. Once the closeout deadline has passed, a school may seek relief from the deadline via the Request Reopen/Extended Processing function on the COD website.

As a reminder, all cash management, disbursement reporting, and monthly reconciliation regulatory requirements supersede the closeout deadline. If a school is meeting these regulatory requirements, the final closeout stage should begin no later than the last award end date (also known as the loan period end date) at the school for a given program and year. In other words, a school should be able to reconcile to a zero Ending Cash Balance and close out soon after its final disbursements and should not wait until the closeout deadline.

To be considered successfully closed out, a school must—

- Have an Ending Cash Balance of \$0 and Total Net Unbooked Disbursements of \$0 internally, and as reflected on the School Account Statement (SAS), and
- Complete the School Balance Confirmation form on the [COD website](#).

As part of the closeout process, ongoing notices will be sent via Zero Balance or Remaining Balance emails. In addition, schools will receive a Notification/Warning Letter via email in early May 2023. This letter will be sent to the Financial Aid Administrator and President at each school that has not confirmed closeout on the [COD website](#) (including any schools with a zero balance that have not confirmed closeout). It will serve as a reminder to finish processing and confirm closeout before the established data submission deadline. After the closeout deadline, the school will be notified of its remaining balance through a Demand Letter or Negative Balance Letter. Any remaining positive balance will result in a final liability for the school.

A school must be aware of its closeout status even if its Direct Loan processing is handled by a third-party servicer. FSA encourages each school to communicate regularly with its third-party servicer to ensure closeout is completed. **It is the school's responsibility to ensure that it finishes processing and confirms closeout on time.**

A key factor to an easy reconciliation and closeout is staying on top of the process. Schools are encouraged to review the following information:

- Complete required monthly reconciliation. This should include:
  - Internal reconciliation - compare internal student accounts and Business Office/Bursar records with Financial Aid Office records. Also, a part of the reconciliation should include ensuring that





the school's internal records match the third-party servicer's records as well as what is in the COD System.

- External reconciliation - compare internal records to your Direct Loan School Account Statement sent via your SAIG mailbox.
- Resolution of any discrepancies and documentation of any outstanding timing issues.
- Ensure that all drawdowns and refunds of cash are accounted for and applied to the correct program and award year.
- Ensure that all batches have been sent to and accepted by the COD System, all disbursements and adjustments are accurately reflected on the COD System, and all responses are imported into the school's system.
- Review all pending disbursements and determine whether the disbursements need to be reported as actuals (Disbursement Release Indicator (DRI) = TRUE) or, if not, reduce them to \$0 and make changes to loan period dates and loan amounts, if needed. This will ensure that all disbursement data has been correctly reported to the COD System and will ensure subsidized usage limit calculations are correct for your borrowers. For more information on Subsidized Usage Limit Applies (SULA) reductions (See Attachment Q6).
- Ensure that all unbooked loans are booked or inactivated (reduced to \$0).
- Resolve all outstanding rejected records.
- Return all refunds of cash. All refunds for the Direct Loan Program must be returned electronically via G5.
- Request any remaining funds owed to the school based on actual disbursements accepted by the COD System.

\*\*\*For those schools contracting with DJA for Direct Loan Processing, the closeout process is included in our service offering. If you have any questions, please contact Melissa Solf at [msolf@gotodja.com](mailto:msolf@gotodja.com).

To view the announcement in its entirety and review Frequently Asked Questions about the DL Closeout for 2021-22 visit [Direct Loan Closeout Information for 2021-22 Program Year | Knowledge Center](#)

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## **FAFSA SIMPLIFICATION ACT IMPLEMENTATION FOR THE 23/24 AWARD YEAR**

Last November, a Dear Colleague was published regarding the changes authorized by the *FAFSA Simplification Act*. The publication outlines the requirements needing to be implemented for the 23/24 award year. Although institutions have been able to process FAFSA's for the upcoming award year for quite some time, FSA has not yet released updates to their systems allowing origination and payment for the 23/24 award year. There is still time to ensure your institution is taking the necessary steps to ensure compliance with all the new regulatory standards.

The Dear Colleague Letter describes requirements that the Department is implementing for cost of attendance (COA), professional judgment, and independent student statuses for the 2023-24 Award Year. Where possible, the Department has made changes to the 2023-24 FAFSA form in anticipation of full implementation in 2024-



25. *The Department also notes that, while the Student Aid Index (SAI) will replace the Expected Family Contribution (EFC) on the 2024-25 FAFSA form, we will continue to reference the EFC in this publication and elsewhere until we implement the SAI.*

There are new consumer information disclosures required. Institutions must now post the Cost of Attendance elements on your institution's website. Schools are also now required to develop policies and procedures regarding the practice of Professional Judgment and disclose publicly that students may pursue an adjustment based on special or unusual circumstances. Additionally, there are a few verbiage changes and some re-organization of cost of attendance elements. We have pulled out key points from the Dear Colleague below, but we encourage all schools to read it in its entirety at [FAFSA Simplification Act](#).

## **2023-24 Award Year: Changes to Be Implemented**

### ***Cost of Attendance (COA)***

The *FAFSA Simplification Act* (116 Pub. L. 260, Division FF, Title VII) and the *Consolidated Appropriations Act, 2022* (117 Pub. L. 103, Division R) jointly modify the COA components and consumer information pertaining to those components. The revisions provide more clarity and detail to individual COA components, and institutions must implement them for the 2023-24 Award Year.

#### *What has changed?*

- Language regarding costs for rental or purchase of equipment, materials, or supplies has moved out of the definition of “tuition and fees” and into a broader definition of “books, course materials, supplies, and equipment.”
- Transportation expenses may include transportation between campus, residences, and a student's place of work.
- “Room and board” are now known as “food and housing,” although the meaning of the terms remains the same. Food and housing are grouped as “living expenses.”
- Living expense categories now break out costs associated with specific housing and food situations and require standard allowances within certain categories, such as on or off campus and with or without a meal plan.
  - Living expenses—An allowance for food and housing costs, as determined by the institution, to be incurred by the student attending the institution on at least a half-time basis, including—
    - A standard food allowance that provides the equivalent of three meals each day, regardless of whether a student chooses institutionally owned or operated food services (i.e., board or meal plans). Institutions must provide an allowance for purchasing food off campus for a student that does not elect institutionally owned or operated food services.
    - Housing allowances for students residing in institutionally owned or operated housing with or without dependents must be based on the average or median amount assessed to such residents for housing charges, whichever is greater.
    - Housing allowances for students living off campus must include rent or other housing costs.



- For dependent students living at home with parents, institutions must include a reasonable standard allowance for living expenses that is not zero.
  - For students living in housing on a military base or for which they receive a basic allowance under section 403(b) of title 37, United States Code, institutions must include a reasonable allowance for food on-campus or off-campus but cannot include housing costs.
  - For all other students, institutions must include a reasonable allowance based on expenses incurred by such students.
- Institutions may no longer include loan fees for non-Federal student loans borrowed by students.
  - The costs of obtaining a license, certification, or first professional credential are no longer restricted to a one-time allowance.
  - “Course materials” and “the cost of obtaining a license, certification, or a first professional credential” were added to the types of expenses that an institution may include in a confined or incarcerated individual’s COA.
  - The types of expenses that an institution may include in the COA for a student who is enrolled less than half time has been broadened to include components not otherwise prohibited by the law. For example, an allowance for students in work related to a cooperative education program is permissible because that COA element [HEA Sec. 472(a)(12)] does not exclude less-than-half-time students, while miscellaneous personal expenses [HEA Sec. 472(a)(4)] are not includable, as noted below.

### Other Changes

The Act expands existing consumer information requirements by explicitly stating that each institution must make COA information publicly available on its website. The disclosure must include a list of all COA elements and must appear on any portion of the website that describes tuition and fees.

Previously the Department was not permitted to establish regulations on cost of attendance. Under the Act, the Department may now regulate the cost of attendance, except for tuition and fees, and may choose to do so in the future to provide clarity in this area.

### *Professional Judgment*

The *FAFSA Simplification Act* distinguishes between different categories of professional judgment by amending section 479A of the HEA.

- **Special Circumstances** refer to the financial situations (loss of a job, etc.) that justify an aid administrator adjusting data elements in the COA or in the EFC calculation.
- **Unusual Circumstances** refer to the conditions that justify an aid administrator making an adjustment to a student’s dependency status based on a unique situation (e.g., human trafficking, refugee or asylee status, parental abandonment, incarceration), more commonly referred to as a dependency override.





A student may have both a special circumstance **and** an unusual circumstance. Financial aid administrators (FAAs) may make adjustments that are appropriate to each student's situation with appropriate documentation.

*What has changed?*

- Institutions may not maintain a policy of denying all professional judgment requests but must consider all such requests. Therefore, institutions must develop policies and processes for reviewing those requests.
- Institutions must disclose publicly that students may pursue an adjustment based on special or unusual circumstances.
- Institutions may use a dependency override determination made by a financial aid administrator at another institution in the same **or a prior** award year.

*What remains the same?*

- Institutions must make and document professional judgment determinations on a case-by-case basis without regard to how broadly an event may affect its student population.
- In making case-by-case determinations, the FAA must substantiate the student's circumstance with supporting documentation.
- Previous reasons for exercising professional judgment (e.g., unemployment, dislocated worker, school tuition expenses) are still allowable.
- A dependency override for unusual circumstances is considered unique from a determination of independence for homeless youth or at-risk homeless youth.

***Additional Flexibility for Assisting Students with Unusual Circumstances (Dependency Override)***

Like other types of professional judgments, institutions must make students aware of their ability to request an adjustment for unusual circumstances by publicly posting the option on their website. For the 2023-24 Award Year, applicants must still indicate an unusual circumstance and request a determination of independence with their school to allow us to process their FAFSA form.

Starting with the 2024-25 Award Year, both initial and renewal applicants who indicate they have an unusual circumstance on their FAFSA form will submit their application under a provisional independent status. This will allow such applicants to receive a Student Aid Index (SAI) with an estimate of their Federal student aid eligibility, subject to a final determination by their school.

Additionally, the Act introduces new requirements for processing and communicating with students who request an adjustment for unusual circumstances. For aid applications for the 2023-24 Award Year and thereafter, schools and financial aid administrators must:

- Notify students of the school's process, requirements, and reasonable timeline to review adjustment requests after their FAFSA form is submitted;



- Provide students with a final determination of their dependency status and financial aid award as soon as practicable after reviewing all requested documentation;
- Retain all documentation, including documented interviews, related to the adjustment for at least 3 years after the student's last term of enrollment; and
- Presume that any student who has obtained an adjustment for unusual circumstances and a final determination of independence to be independent for each subsequent award year at the same institution unless the student informs the institution that their circumstances have changed or the institution has conflicting information about the student's independence.

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## **UPDATES TO THE GLBA CYBERSECURITY REQUIREMENTS AND FSA RELEASES NEW CYBERSECURITY RESOURCES**

On December 9, 2021, the Federal Trade Commission (FTC) issued [final regulations](#) (Final Rule) to amend the Standards for Safeguarding Customer Information (Safeguards Rule), an important component of the Gramm-Leach-Bliley Act's (GLBA) requirements for protecting the privacy and personal information of consumers. The effective date for most of the changes to the Safeguards Rule is June 9, 2023. FSA released an [Electronic Announcement](#) last month that provides a summary of the changes to the GLBA requirements resulting from the Final Rule, explains the impacts of the changes on postsecondary institutions, and describes changes to the Department of Education's enforcement of the GLBA requirements. Institutions are advised to coordinate with their leadership and appropriate staff to implement the requirements in the Final Rule by June 9.

The Department reminds schools in the announcement of the requirement to protect student financial aid information provided to them by the Department or otherwise obtained in support of the administration of Title IV funds. The announcement also reviews the legal agreements institutions enter into in order to administer Title IV aid. They must ensure that all FSA applicant information is protected from access by, or disclosure to, unauthorized personnel, and comply with all of the requirements to protect and secure data obtained from the Department's systems for the purposes of Title IV administration.

### **Updated GLBA Requirements**

Although the announcement provides a summary of the requirements, your best source of information is the text of the [Safeguards Rule](#) itself and GLBA [guidance provided by the FTC](#). The FTC also provides a great deal of general data security guidance on its [website](#).

### **Definition of "Customer" for Purposes of GLBA Compliance**

The regulations use the terms "customer" and "customer information." For the purpose of an institution's or servicer's compliance with GLBA:

- customer information is information obtained as a result of providing a financial service to a student (past or present). Institutions or servicers provide a financial service when they, among other things,



administer or aid in the administration of the Title IV programs; make institutional loans, including income share agreements; or certify or service a private education loan on behalf of a student.

### Requirements in the GLBA Safeguards Rule

The objectives of the GLBA standards for safeguarding information are to –

- Ensure the security and confidentiality of student information;
- Protect against any anticipated threats or hazards to the security or integrity of such information; and
- Protect against unauthorized access to or use of such information that could result in substantial harm or inconvenience to any student (16 C.F.R. 314.3(b)).

To achieve the GLBA objectives, institutions and servicers are required to develop, implement, and maintain a written, comprehensive information security program. The FTC's regulations require that the information security program contains administrative, technical, and physical safeguards that are appropriate to the size and complexity of the institution or servicer, the nature and scope of their activities, and the sensitivity of any student information.

An institution's or servicer's written information security program must include the following nine elements included in the FTC's regulations:

**Element 1:** Designates a qualified individual responsible for overseeing and implementing the institution's or servicer's information security program and enforcing the information security program (16 C.F.R. 314.4(a)).

**Element 2:** Provides for the information security program to be based on a risk assessment that identifies reasonably foreseeable internal and external risks to the security, confidentiality, and integrity of customer information (as the term customer information applies to the institution or servicer) that could result in the unauthorized disclosure, misuse, alteration, destruction, or other compromise of such information, and assesses the sufficiency of any safeguards in place to control these risks (16 C.F.R. 314.4(b)).

**Element 3:** Provides for the design and implementation of safeguards to control the risks the institution or servicer identifies through its risk assessment (16 C.F.R. 314.4(c)). At a minimum, the written information security program must address the implementation of the minimum safeguards identified in 16 C.F.R. 314.4(c)(1) through (8).

**Element 4:** Provides for the institution or servicer to regularly test or otherwise monitor the effectiveness of the safeguards it has implemented (16 C.F.R. 314.4(d)).

**Element 5:** Provides for the implementation of policies and procedures to ensure that personnel are able to enact the information security program (16 C.F.R. 314.4(e)).

**Element 6:** Addresses how the institution or servicer will oversee its information system service providers (16 C.F.R. 314.4(f)).



**Element 7:** Provides for the evaluation and adjustment of its information security program in light of the results of the required testing and monitoring; any material changes to its operations or business arrangements; the results of the required risk assessments; or any other circumstances that it knows or has reason to know may have a material impact the information security program (16 C.F.R. 314.4(g)).

**Element 8:** For an institution or servicer maintaining student information on 5,000 or more consumers, addresses the establishment of an incident response plan (16 C.F.R. 314.4(h)).

**Element 9:** For an institution or servicer maintaining student information on 5,000 or more consumers, addresses the requirement for its Qualified Individual to report regularly and at least annually to those with control over the institution on the institution's information security program (16 C.F.R. 314.4(i)).

Institutions or servicers that maintain student information for fewer than 5,000 consumers are only required to address the first seven elements.

While all elements of the Safeguards Rule are vital to protecting the security of customer information, an institution or servicer may significantly reduce the risk of a security breach, and the resulting harm and inconvenience to its customers, by encrypting customer information while it is in transit outside its systems or stored on its system and by implementing multi-factor authentication for anyone accessing customer information on its systems.

In April of 2022, the FTC issued a new publication entitled [FTC Safeguards Rule: What Your Business Needs to Know](#), which is meant to act as a "compliance guide" to ensure that entities covered by the Safeguards Rule maintain safeguards to protect the security of customer information. The publication provides valuable information such as describing what a reasonable security program should look like and goes over each of the nine required elements in greater detail.

### **Enforcement Authority and Compliance Requirements**

Under the Standards of Administrative Capability at 34 C.F.R. 668.16(c), an institution is required to have an adequate system of internal controls that provides reasonable assurance that the institution will achieve its objectives regarding reporting, operations, and compliance. Information security safeguards are fundamental to a system of internal controls and essential for preventing disruption to these core objectives as they guard the information systems that collect, maintain, process, and disseminate student information. Therefore, an institution that does not provide for the security of the information it needs to continue its operations would not be administratively capable.

The changes to the Safeguards Rule expand on the minimum information security requirements that should already be in place at participating institutions and their third-party servicers. The Department intends to work with all institutions to improve their information security posture, including those that may not have yet implemented the Safeguards Rule requirements.



## **Enforcement Process When Noncompliance with GLBA has been Identified**

The changes to the Safeguards Rule are effective June 9, 2023. Any GLBA findings identified through a compliance audit, or any other means, after the effective date will be resolved by the Department during the evaluation of the institutions or servicer's information security safeguards required under GLBA as part of the Department's final determination of an institution's administrative capability. GLBA related findings will have the same effect on an institution's participation in the Title IV programs as any other determination of non-compliance.

In cases where no data breaches have occurred and the institution's or servicer's security systems have not been compromised, if the Department determines that an institution or servicer is not in compliance with all of the Safeguards Rule requirements, the institution or servicer will need to develop and/or revise its information security program and provide the Department with a Corrective Action Plan (CAP) with timeframes for coming into compliance with the Safeguards Rule. Repeated non-compliance by an institution or a servicer may result in an administrative action taken by the Department, which could impact the institution's or servicer's participation in the Title IV programs.

## **NIST 800-171 Standards**

The Department will issue guidance on NIST 800-171 compliance in a future Electronic Announcement, but again encourages institutions to begin incorporating the information security controls required under NIST 800-171 into the written information security program required under GLBA as soon as possible. Please note that compliance with the GLBA requirements is not the same as compliance with NIST 800-171. The current information security requirements that institutions must meet are the GLBA Safeguards Rule requirements at 16 C.F.R. Part 314.

## **NEW FSA Cybersecurity Resources**

To assist institution's in meeting these regulatory guidelines FSA also published an Electronic Announcement sharing two new factsheets they developed on how to establish an Incident Response Plan (IRP) and the importance of data sanitization.

### **Incident Planning Guide for IHEs**

In the event of a cyberattack, an IRP mitigates risk and limits damage by establishing plans, procedures, roles, and responsibilities. To learn more, create, or strengthen your institution's IRP, visit FSA's [Cybersecurity Incident Planning for Institutes of Higher Education](#) factsheet.

### **Media Sanitization Best Practices**

Physical documents, mobile devices, external hard drives, USB drives, memory devices, and computers can harbor abundant sensitive student data. If not properly disposed of, confidential data may be wrongly disclosed.



FSA's [Media Sanitization and Disposal Best Practices](#) factsheet details how to permanently destroy media to protect confidential personal data and proprietary information.

### **Recent CISA Report on Strengthening K-12 Cybersecurity May Help IHEs**

FSA also shares in its announcement the recent Cybersecurity and Infrastructure Security Agency (CISA) report, "Partnering to Safeguard K-12 Organizations from Cybersecurity Threats." The report provides recommendations and resources showing how a small number of steps will significantly reduce cybersecurity risk.

Institutes of Higher Education may find the key findings and recommendations useful, including:

- develop a cyber incident response plan that leverages the [NIST Cybersecurity Framework](#);
- minimize the burden of security by migrating IT services to more secure cloud versions;
- build a relationship with CISA and FBI regional cybersecurity personnel;
- implement multifactor authentication (MFA);
- prioritize patch management;
- perform and test backups; and
- create a training and awareness campaign.

The full CISA report, along with links to resources, training, and a digital toolkit, is available at: <https://www.cisa.gov/protecting-our-future-partnering-safeguard-k-12-organizations-cybersecurity-threats>.

Lastly, FSA offers an IHE cybersecurity newsletter. If you are interested in receiving it, you can sign up by emailing [FSASchoolCyberSafety@ed.gov](mailto:FSASchoolCyberSafety@ed.gov) with the subject line: "Send me the FSA Cybersecurity Newsletter for IHEs."

**\*\*DJA Clients, we will review these new regulatory compliance standards in depth at our DJA Annual Training in April. Last year we also updated the template for the Written Information Security Program to include these components. That template is available to you on our DJA Client Portal.**

### **Contact Information**

If you have questions regarding any of the GLBA requirements, please contact the FTC at 202-326-2222. You can also find guidance regarding GLBA as well as other cybersecurity resources on the FSA Partner Connect [Cybersecurity](#) page. If you have questions about the Department's enforcement of the GLBA, please contact the Cybersecurity Team at [fsaschoolcybersafety@ed.gov](mailto:fsaschoolcybersafety@ed.gov), or by phone at 202-245-6550.



## **REQUIREMENTS AND RESPONSIBILITIES FOR THIRD PARTY-SERVICERS AND INSTITUTIONS**

On February 15, 2023, the Department of Education provided issued a Dear Colleague revising its previous guidance concerning the functions of student recruiting and retention, the provision of software products and services involving Title IV administration activities, and the provision of educational content and instruction. The Department is aware that a large and growing industry has developed to provide one or more of these services as a means of transitioning academic programs into a distance education format and expanding enrollment. Companies providing such services are sometimes referred to as “online program managers,” or OPMs. OPMs as generally providing services that include “market research, marketing and student recruiting, enrollment management, student retention services, and technology-related support.”

Although the functions described above are subject to important statutory and regulatory limitations, such as the prohibition on incentive compensation for recruitment and limitations on the percentage of an academic program that can be provided by an ineligible institution or organization, the Department has not previously notified the community that the performance of these functions subjects an entity to TPS requirements. As the Department recently reviewed these functions, they saw the need to offer clarification that entities performing the functions of student recruiting and retention, the provision of software products and services involving Title IV administration activities, and the provision of educational content and instruction **are defined as third-party servicers**. As such, the institutions that contract with these entities are subject to reporting requirements with respect to the entities, and the entities themselves are subject to annual non-federal audits of the Title IV-relevant functions they perform, if such functions are covered by the audit guide.

Initially, the Dear Colleague called for implementation within 60 days of its publication; however, the Department quickly released an update to their guidance and moved the implementation date further out to September 1, 2023. The Department shared that the reason for the delay was to “ensure that eligible institutions and third-party servicers have a clear understanding of the requirements for third-party servicers and a reasonable amount of time to comply with those requirements.” Reporting requirements will also go into effect on that date. On the effective date, the guidance in this letter will update and replace past guidance provided in Dear Colleague Letters [GEN 12-08](#), [GEN 15-01](#), and [GEN 16-15](#) (as amended by our [March 8, 2017 electronic announcement](#)), and those documents will be rescinded.

### **Third-Party Servicer Definition and Activities**

A TPS is any entity or individual that administers, any aspect of an institution’s participation in the Title IV programs. [34 C.F.R. § 668.2](#) (definition of a third-party servicer). In general, a TPS performs functions or services necessary—

- For the institution to remain eligible to participate in the Title IV programs;
- To determine a student’s eligibility for Title IV funds;
- To provide Title IV-eligible educational programs;
- To account for Title IV funds;
- To deliver Title IV funds to students; or



- To perform any other aspect of the administration of the Title IV programs or comply with the statutory and regulatory requirements associated with those programs.

To protect the interests of institutions, taxpayers, and students, an institution may not contract with a TPS to perform any aspect of the institution's participation in a Title IV program if the servicer (or its subcontractors) is located outside of the United States or is owned or operated by an individual who is not a U.S. citizen or national or a lawful U.S. permanent resident. This prohibition applies to both foreign and domestic institutions.

Additionally, under the regulations at [34 C.F.R. 668.25\(d\)](#), a TPS may not have –

- Been limited, suspended, or terminated by the Secretary within the preceding five years;
- Had, during the servicer's two most recent audits, an audit finding that resulted in the servicer being required to repay an amount greater than five percent of the funds that the servicer administered under the Title IV programs for any award year; or
- Been cited during the preceding five years for failure to submit audit reports required under Title IV of the HEA in a timely fashion.

If the Secretary determines that a TPS has not met the required standards of conduct or has violated its fiduciary duty, the Secretary may fine the servicer or limit, suspend, or terminate the servicer's participation in the Title IV programs under 34 C.F.R. part 668, subpart G. A former TPS, once subjected to a termination action by the Secretary, may not enter into a written contract to administer any aspect of an institution's participation in the Title IV programs unless financial guarantees and acknowledgements of joint and several liability under [34 C.F.R. 668.25\(d\)\(2\)](#) are provided.

The Dear Colleague offers a set of tables that include a non-exhaustive list of functions and services that, if outsourced by an institution to a third party, would render that third party a TPS subject to the TPS requirements. The set of tables also list potential exceptions. To reference that table, visit the [DCL GEN-23-03](#). In determining whether an entity or individual is subject to the TPS requirements, the Department focuses on the specific services or functions performed by the entity/individual for the institution, as opposed to the entity's title or a generic description of the types of services provided or functions performed. The Department has observed that providers often offer multiple versions of a product or service and frequently customize a product or service based on an institution's unique needs. It is possible for an entity to be considered a TPS in relation to one institution and not for another, depending on the specific services or functions that the entity performs for each institution.

Regardless of whether an entity is considered a TPS for Title IV purposes, the institution has a fiduciary responsibility to ensure that any contracts, policies, procedures, products, or systems used by the institution or its contractors/providers are compliant with applicable laws and regulations. This includes the requirements in [34 C.F.R. § 668.24\(f\)](#) that an institution be able to access all records (paper or electronic) created or maintained by a third party and to make those records readily available to the Department for review. If the provider or the institution terminates a contract, or the provider ceases to provide the product or service for any reason, including client non-payment, the institution must be able to take possession of all records in the

provider's possession pertaining to the institution's participation in the Title IV programs and reclaim all Title IV funds held by the provider.

Institutions must also implement appropriate safeguards to protect student records and ensure any information shared from education records is only used for the purposes for which the information was disclosed. The institution will be held responsible for any liability incurred as a result of software deficiencies, data breaches, incorrect consulting advice, lost or damaged records, and/or violations of TPS requirements.

**\*\*DJA Clients: DJA already met the original classification requirements of third-party servicer and maintains regulatory compliance with all statute requirements. If you have any questions on this announcement and/or DJA's role as a third party servicer to your institution, please reach out to Vice President, [rford@gotodja.com](mailto:rford@gotodja.com)**

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## COMPLIANCE CORNER

### PELL GRANT PROGRAM RECONCILIATION

Pell Grant Reconciliation is the process by which a school reviews and compares Pell Grant data recorded on the U.S. Department of Education's (the Department's) systems with the information in the school's internal records. This process should be performed on a regular basis and is recommended at least monthly. In an [Electronic Announcement](#) last month, FSA reminded schools of the types of reconciliation institution's should be performing, important deadlines in regards to the Pell Grant program and helpful guidance to the most frequently asked questions the Department has received on the topic. Monthly reconciliation ensures schools are meeting cash management regulations in regards to Pell Grant administration.

There are two types of reconciliation, which can be performed separately or simultaneously during the month, including:

- **Internal Reconciliation**

This is the process where the business and financial aid offices compare disbursement transactions (actual disbursements and adjustments) and related cash transactions (Drawdowns, Drawdown Adjustments, Refunds of Cash, and Returns). If discrepancies are found, the school must document and resolve them in a timely manner.

- **External Reconciliation**

The school compares its reconciled internal records to the Department's records of funds received and returned, and disbursements and cash balances from the Common Origination and Disbursement (COD) System. At a



minimum, this reconciliation must be completed at least monthly to ensure that data is correct in all systems and that cash management and disbursement reporting timelines are being met. The Department offers various tools to assist you with external reconciliation. For more information, see the FAQ linked in the announcement earlier in this article.

Schools may perform internal and external reconciliation in either order. However, if you have completed internal reconciliation first, there will be fewer discrepancies to resolve when you perform the external reconciliation.

It is very important for schools to maintain good communication between the Business Office and the Financial Aid Office to successfully reconcile both internally and externally. Reconciliation is a shared responsibility. It requires joint action by the Financial Aid and Business Office to identify discrepancies and any missing data, and to correct these in a timely manner.

Schools should document their reconciliation process and the resolution of any identified discrepancies.

### **Final Reconciliation of a Pell Grant Award Year**

In addition to regular monthly reconciliation of Pell Grant data, a final reconciliation should be performed as soon as possible after final scheduled disbursements have been made for the award year. This final reconciliation should ensure that all data is correct, and the Total Net Drawdowns equals the Net Accepted and Posted Disbursements (NAPD), in the COD System (Cash >NAPD balance should equal \$0.00). This process must be performed within the applicable data submission (closeout) deadline (defined below), as well as immediately following processing of any additional data by the school (for example, eligible late disbursements or disbursement adjustments made within regulatory timeframes, but which occur after the data submission deadline). There are two deadlines which impact this process:

- **Data Submission (Closeout) Deadline** – The data submission (closeout) deadline is published annually in a Federal Register Notice. It is generally the end of September following the end of the award year. For example, the 2022–23 award year will close on Sept. 29, 2023. After this date, the COD System will not accept upward awards or upward disbursement adjustments without prior approval for an extension to the established data submission (closeout) deadline (downward adjustments will continue to be accepted without an extension). If your school needs to request an extension to the data submission deadline, this request must be submitted via the [COD website](#). For more information on Extended Processing, see question #9 in the questions and answers below.
- **Funding Cancellation Deadline** – Pell Grant funding availability is canceled five years after the data submission (closeout) deadline for the award year. For example, for the 2017–18 Federal Pell Grant award year (July 1, 2017 - June 30, 2018), the funding cancellation date is Sept. 29, 2023 [2018 + 5 = 2023]. After that time, schools will be unable to draw down or adjust further funds via the G5 website (although refunds of cash will still be accepted), and the COD System will be completely closed to any further award or disbursement processing for that award year. As such, schools must complete all final reconciliation activities well before this final deadline and in accordance with disbursement reporting timelines and the data submission (closeout) deadline defined above.





**Note:** Schools should confirm closeout via the School Balance Confirmation page on the COD website once your school has completed its final reconciliation and reached a \$0.00 Cash>NAPD.

### Contact Information

For additional information on Pell Grant Program Reconciliation, refer to the Questions and Answers below. If you have questions about this announcement, contact the FSA Partner and School Relations Center at 1-800-848-0978. You may also email [CODSupport@ed.gov](mailto:CODSupport@ed.gov).

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## DJA CALENDAR

### DJA MONTHLY WEBINARS

*Administrative Capability – Thursday, March 10, 2022: 11 a.m. CST*

**NOTE:** There may be a difference between DJA local time and your time zone. To determine your time zone equivalent, click on this link to view a time zone map: <http://www.worldtimezone.com/time-usa12.php>

Webinars are free to clients. There is a fee of \$45 for all others who may be interested in joining us for these presentations. Invitations are automatically sent to all clients, however if you do not receive an invitation, email Renee Ford at [rford@gotodja.com](mailto:rford@gotodja.com). After registering, you will receive the log-in information. Questions can be directed to Renee by email or by calling toll free at 1-800-242-0977.

### 2023 DJA WEBINAR SCHEDULE

**Please Note the April webinar was pushed back a week due to interference with the Department's recently Wednesday Webinar Series**

APR 13	Satisfactory Academic Progress
MAY 10	Return of Title IV Funds (Including LOA)
JUN 7	General Participation Requirements
JUL 12	Campus Crime Report
AUG 2	Entrance and Exit Counseling
SEPT 6	Cash Management
OCT 4	Enrollment Reporting Using NSLDS
NOV 1	Program Integrity (Audits, Program Review)
DEC 6	1098-T Reporting

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## FSA WEDNESDAY WEBINAR SERIES

Earlier this year, FSA resumed their Wednesday Webinar Series, a series of live, two-hour webinars (from 1-3 p.m. ET) which cover a variety of topics related to the *Title IV* programs. The webinars provide the most recent guidance from the U.S. Department of Education (the Department) and the office of Federal Student Aid, including statutory and regulatory updates. Operational information and reminders are also shared. Participants are encouraged to ask questions by typing them into the chat during the webinar and a live Q&A session follows each presentation.

You do not need to register for these webinars. Participation will be available on a first come, first-served basis and each session can accommodate up to 10,000 attendees in each session. For the links to each webinar session, see the electronic announcement: [Live Internet Webinars – Wednesday Webinar Series, Winter–Spring 2023 | Knowledge Center](#)

MAR 15	Verification 2022-23 and 2023-24
APR 5	Federal Update
MAY 24	SAP Essentials

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## ANNUAL VIRTUAL DJA FINANCIAL AID TRAINING

The DJA Annual Training is scheduled for the following dates and times:

- Monday April 24<sup>th</sup>, 9am- 1pm CST
- Thursday April 27<sup>th</sup>, 9am- 1pm CST

All training will be provided on a Microsoft Teams Webinar that will be recorded and posted to our DJA Client Login on the DJA website should you or team be unavailable to attend. We are currently working on the agenda for each day; however, we will be covering current Regulatory Updates, the FAFSA Simplification Act and Cybersecurity Compliance with the new FTC Safeguards Rule.

Be looking for future Client Memo's announcing the complete agenda and instructions for registration.

These sessions are free to DJA clients. Attendance by outside institutions is subject to availability and offered for an additional fee. Please email [rford@gotodja.com](mailto:rford@gotodja.com) for more information.

*Disclaimer: The information presented in this Newsletter is provided as a service and represents our best efforts to assist institutions with federal student aid regulations. We have collected information we believe to be important in finding and obtaining the resources for administering federal student aid; however, we assume no liability for the use of this information. The information in this newsletter does not constitute, and should not be construed as, legal advice.*

