

United States Senate

WASHINGTON, DC 20510

November 18th, 2019

The Honorable Betsy DeVos
Secretary of Education
U.S. Department of Education
400 Maryland Avenue, S.W.
Washington, D.C. 20202

Dear Secretary DeVos:

We write regarding the lack of action taken by the U.S. Department of Education to ensure that the current federal student financial aid cycle is not disrupted by the U.S. Department of the Treasury's changes to the 1040 tax form following passage of the 2017 tax law (P.L. 115-97). We request that the Department of Education immediately implement a mid-cycle patch to the Free Application for Federal Student Aid (FAFSA) to protect students from delays and reduce the risk that students will not receive the federal financial aid for which they are eligible.

In June 2018, the Treasury Department shortened the core 1040 tax form and moved information from the 1040 to six new tax forms.¹ As detailed in an August 2019 letter to the Department² and subsequent press reports,³ due to inadequate coordination between the Treasury, the Department of Education, and the Internal Revenue Service (IRS), the IRS Data Retrieval Tool was not modified to automate the transfer of data on one of these six new tax forms – the Schedule 1 – into the FAFSA for the 2020-21 academic year, which went online October 1, 2019. As a result, students are currently having to self-report this tax data on the FAFSA form.

Our understanding is that this issue with the transfer of Schedule 1 tax data will be resolved for the next financial aid cycle that begins in October 2020, after the Department finishes adapting the Data Retrieval Tool in collaboration with the IRS. Nevertheless, it is vital that the Department act swiftly to mitigate potential disruption to the current financial aid cycle.

The Department of Education's response to the August letter, sent two weeks after the current FAFSA went online, recognized that "it was important to preserve a simplified and streamlined FAFSA filing experience and avoid a highly complex Schedule 1 question."⁴ However, the Schedule 1 question designed by the Department is putting students at risk of delays and burdens in the federal financial aid process.

¹ U.S. Treasury. "Treasury, IRS Announce Development of Postcard-Size Form 1040 for 2019." June 29, 2018. <https://home.treasury.gov/news/press-releases/sm421>

² Sen. Maggie Hassan. "Senator Hassan Leads Letter to Education Department, IRS on Students' Access to Financial Aid." August 6th, 2019. <https://www.hassan.senate.gov/news/press-releases/senator-hassan-leads-letter-to-education-department-irs-on-students-access-to-financial-aid>

³ Venessa Wong. BuzzFeed News. "People Are Worried Applying For College Financial Aid Could Be A Total Mess This Year." October 1, 2019. <https://www.buzzfeednews.com/article/venessawong/fafsa-problems-financial-aid-tax-form-1040>

⁴ Response to Sen. Hassan from Diane Auer Jones, Principal Deputy Under Secretary of the Department of Education. October 15th, 2019. https://www.hassan.senate.gov/imo/media/doc/DeVos_FAFSA_Response.pdf

The current FAFSA asks students and their families:

“Did (or will) you file a Schedule 1 with your 2018 tax return? Answer ‘no’ if you did not file a Schedule 1 or filed a Schedule 1 only to report an Alaska Permanent Fund dividend. See Notes page 9 for other exceptions.”

However, in order to accurately answer this question, far more than just students who filed a Schedule 1 for the purposes of an Alaska Permanent Fund dividend must answer “No.” In the Notes on page 9, referenced within the question, students are directed to also:

“Answer ‘No’ if you (and if married, your spouse) did or will file a Schedule 1 to report only one or more of the following items:

- 1. Capital gain (line 13 – may not be a negative value)*
- 2. Unemployment compensation (line 19)*
- 3. Other income to report an Alaska Fund dividend (line 21 – may not be a negative value)*
- 4. Educator expenses (line 23)*
- 5. IRA deduction (line 32)*
- 6. Student loan interest deduction (line 33)”*

Unless students consult the Notes on page 9 of the FAFSA to reveal this series of six exceptions, they are likely to incorrectly answer the Schedule 1 question and thereby forego the benefits of the FAFSA’s “Simplified Needs Test,” which grants students a streamlined financial aid process. Further, because these pieces of tax information were moved by the Treasury from the 1040 tax form to the Schedule 1 for the 2018 tax year, students must accurately self-report this complex tax data rather than rely on automatic data transfers from the IRS Data Retrieval Tool.

As outlined in the August letter, this complexity has created acute risks for teachers purchasing school supplies, students claiming the student loan interest deduction, and families contributing to Individual Retirement Accounts. Further, it has created risks for FAFSA applicants receiving unemployment compensation – an especially vulnerable student group.

After it became clear that Schedule 1 data would not be transferred through the Data Retrieval Tool, the Department should have modified the Schedule 1 question to reference “all six” of the relevant pieces of tax information. This commonsense change was requested by financial aid administrators⁵ and college access advocates,⁶ but rejected by the Department. At a minimum, the Department could have protected especially vulnerable students by explicitly referencing unemployment compensation alongside Alaska Fund dividends.

⁵ National Association of Student Financial Aid Administrators. 2020-2021 FAFSA comments. August 2nd, 2019. <https://www.regulations.gov/document?D=ED-2019-ICCD-0039-0059>

⁶ National College Access Network. 2020-2021 FAFSA comments. August 2nd, 2019. <https://www.regulations.gov/document?D=ED-2019-ICCD-0039-0095>

The Department can, and has, previously updated FAFSA questions in the middle of an application cycle. The Department already has the ability to implement a mid-cycle patch during normal updates, when the FAFSA form is offline for scheduled maintenance for eight hours every Sunday morning. This patching process requires no action on behalf of applicants, state grant agencies, or institutions of higher education. We therefore request the Department immediately implement a mid-cycle patch for the FAFSA's Schedule 1 question, effective by November 25th, 2019. This patch should modify the main Schedule 1 question to explicitly reference unemployment compensation and the number of exceptions listed in the Notes.

Simplifying the financial aid process and FAFSA form has long been a bipartisan objective, and everyone should be united in addressing this issue as soon as possible. Thank you for your attention to this urgent matter.

Sincerely,



Margaret Wood Hassan
United States Senator



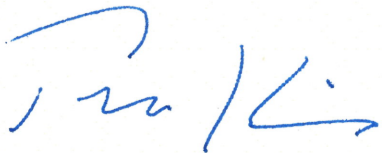
Susan M. Collins
United States Senator



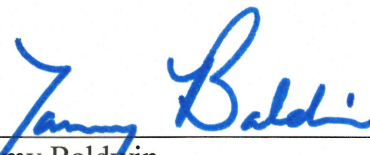
Sheldon Whitehouse
United States Senator



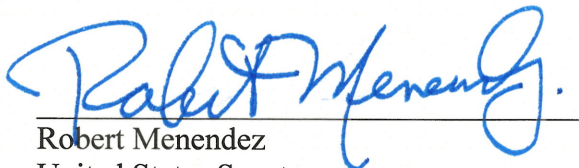
Tina Smith
United States Senator



Tim Kaine
United States Senator



Tammy Baldwin
United States Senator



Robert Menendez
United States Senator



Bernard Sanders
United States Senator

CC: The Honorable Charles P. Rettig, Commissioner, Internal Revenue Service