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national association of state student grant and aid programs
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Committee on Health, Education, Labor and Pensions
United States Senate

c/o Mr. Luke Swarthout
Senior Education Advisor
Committee on Health, Education, Labor and Pensions

Dear Mr. Swarthout:

First, let me say for NASSGAP how very sorry we were to hear of the death of Senator Kennedy. We will sorely miss his leadership and dedication to so many issues that affect the lives of millions of Americans. Please accept and share our sincerest sympathy with the HELP staff.

When the director of our Washington office, Marie Bennett met recently with Mr. Swarthout and Ms. Little, they asked for some additional information regarding our membership's thoughts on the proposals to simplify the FAFSA. As you discussed with her, we have asked the U.S. Department of Education for some state level data to help us assess the impact of some of the proposals. We've not heard back from them. But, below are the answers to the questions they raised. Thank you for the opportunity to respond to those questions concerning the FAFSA and student eligibility for federal and state financial assistance.

NASSGAP Comments for Senate Committee on Health, Education, Labor and Pensions

Q1. What provisions of HR 3221, Student Aid and Fiscal Responsibility Act do we anticipate will cause "seismic shifts" for the states, what % of such shifts is acceptable vs. unacceptable?

States and postsecondary institutions work with limited funding and are always attuned to direct these precious dollars to those who are truly needy. Recent changes in the FAFSA questions, expansion of the independent student definition and changes in the federal need analysis formula already have permitted many families with substantial financial resources to qualify for need-based financial aid programs.

As the FAFSA and the federal need analysis formula are further simplified, overall need and the number of "full need" students will continue to increase significantly. State resources are finite while the population of needy students is growing as is the cost to fund them. States do not have the resources available to fund such increases so the options open to states would be to move money from the neediest students to less needy students by lowering maximum grants, impose earlier cutoff dates eliminating many of the neediest students from the program completely, or to implement additional application requirements which would serve only to frustrate the current effort to reduce the application process as a barrier to higher education.

In the rush for simplification of the application there are many opportunities for improvement; however, there have also been proposed changes or elimination of critical data elements that are used to differentiate families with different economic strengths. Financial aid is a partnership that is about more than just Pell Grants and subsidized loans. Financial aid eligibility is not a "yes" or "no" condition but rather one of gradation and various levels of eligibility.

States and schools have come together with the U.S. Department of Education to use the federal methodology and it's Expected Family Contribution as a national standard for assessing financial need. Major changes to this calculation must be evaluated carefully for the full impact on all of the entities involved. Otherwise, we will revert to the decades old application process where the federal government, state agencies, and schools will all have their own applications to assess financial need thus complicating a process where simplification was the goal. We expect to receive state level data from the U.S. Department of Education that will help us assess the financial impact of the proposed changes. Let's work together on this. The specific areas of concern are detailed individually below.

Q2. What percent of states use the EFC for their state student aid programs, and thus will be affected by the EFC changes in the bill?

NASSGAP recently polled its member agencies to determine the relevance and use of responses to each question on the FAFSA to award state aid to students demonstrating financial need. The federally calculated Expected Family Contribution (EFC) is used in some fashion by nearly every state grant program that responded. Most (30 states or 81% of respondents) use the EFC within a formula (i.e., cost of attendance minus EFC = unmet need) or as an index to determine state awards. Other states use a variation of the federal need analysis methodology to award state aid. The survey responses revealed that any major changes to, or elimination of, the EFC would have a significant impact on state grant aid that serves over 1 million students and over $3.5 billion in awards affected in the 37 states that responded to the survey. The specific number of student's who will be impacted can be better estimated when we have the data we've requested from the U.S. Department of Education.

Many states, postsecondary schools, and foundations have adopted the use of the federally calculated Expected Family Contribution (EFC) for the evaluation of financial need. No one is saying that this calculation is perfect but it has been used as a benchmark for many years. Its foundation in need analysis theory and computation provides a single point of reference for evaluating and measuring financial strength. Expenditure history used for financial projections for upcoming award years depends upon this standard evaluation. Making radical changes to the EFC formula removes the ability to use the forecasting methods that states have come to rely upon in determining student eligibility.

Q3. Which states use the EFC under state statute or regulation, and thus would have to modify regulation or statute to accommodate specific data elements of EFC changes, if there were changes?

The NASSGAP survey did not ask the states to report whether the EFC requirement was grounded in statute, regulation, or process, but asked in what way the EFC was used when awarding a state's primary state aid program. With regrets, we are unable to provide the requested level of detail at this time.

The majority of states have determined that the EFC is a critical foundation for identifying the student's most in need of state assistance. Therefore, dilution of the EFC's ability to delineate is less a process question requiring a change in statute or regulation and more an issue of effective use of state funds and making sure that funds are directed towards students most in need.

Q4. What is the estimated impact on the states of eliminating asset questions on the FAFSA and within EFC, other than the $150,000 asset cap for federal eligibility?

NASSGAP is particularly concerned about the elimination of the asset questions. The U.S. Department of Education has indicated that only 7 percent of dependent Pell Grant recipients have a contribution from parental assets. Of this group, only 3.5 percent have assets that impact the EFC. However, it is important to note that the Pell population is a subset of a larger population receiving state and institutional aid and that state grant programs also assist many middle-income families who have assets. In fact, one state estimated that the exclusion of asset data would increase the number of eligible applicants by 7,500 at a cost of $32.6 million. In another state, eligibility would increase by $30 million for 8,700 additional eligible applicants.

Having an asset cap of $150,000 will produce a "cliff" effect where many families will fall out of eligibility at $150,001 while those with $149,999 will receive funding. What is so different about the financial circumstances of these two families? Also, these types of thresholds tend to bring out the financial strategists who advise families on how to shelter just enough assets to remove them from inclusion on the FAFSA. Using this proposed cap would result in one state seeing an additional $16 million need for state grant awards. The options to cover the additional need would be the same as those listed on the cover page.

Rather than set an arbitrary cap, NASSGAP recommends the following:

- Exclusion of primary family residence, family farms on which the family resides, and contributions to retirement plans.

- Exclusion of assets for families who have Earned Income Credit or who receive public assistance, free or reduced lunch, WIC, or other need-based federal assistance programs.

- Not excluding trust funds from student assets.

Finally, it is unclear how the proposed $150,000 asset threshold included in HR 3221 could be implemented if the asset questions are no longer be included on the FAFSA.

Q5. What is the estimated impact of deleting untaxed income and benefits that are not reported on IRS forms?

Untaxed income represents a substantial portion of some families' income. When Worksheet A of the FAFSA was eliminated, one state reported it would cost over $10 million in additional state grant dollars to fund this single change. In another state the cost was closer to $18 million. The families' financial circumstances had not changed from that reported for the prior year; the only change was that the income was no longer reported on the FAFSA. This trend of excluding income will only lead to larger expenditures for states and schools to resolve.

NASSGAP recommends adding to untaxed income cash distributions shown on line 19 of schedule K-1. This is an amount paid from partnerships and often represents significant income that is not currently reported anywhere. Additionally, with those participating in subchapter S Corporations, there is often income on line 16 that reflects lump sums paid as a return on investment. We believe this is done specifically to pay the owner or partner large sums of possible bonus dollars without incurring taxable income. Also, return the Foreign Income Exclusion as reportable untaxed income on the FAFSA.

Q6. What is the expected impact of the ED-proposed skip logic?

With the online FAFSA, as with other online forms and applications, certain aspects of skip logic are a major step towards making the application more meaningful and customized to the student. However, there are some questions that serve other purposes beyond just determining dependency status that are very important to the overall integrity of the data. For example, for a student who is 24 years of age or older it is still important to ask "are you a veteran" since there are many other benefits that are provided to veterans. For the same reason, we should still ask the question about foster care. This is the principal identification method for these students.

Legal residency is a major factor for state grant programs as their dollars are directed only to their own state residents. The legal residency of both the student and the parent are critical. The Department's proposal to use the number of years an applicant or her parents have lived at their current address is not sufficient to establish their state of legal residency. We understand that some are concerned that applicants may be unclear on the concept of "legal residency" but living at a particular location for a number of years does not necessarily make that individual a resident of that state. If the student's state of legal residency is not clear, many students may be awarded aid incorrectly or, in a worse case, not receive any state assistance at all. This is particularly relevant to military families. Also, the driver's license information is valuable in helping to identify discrepancies with residency. We hope that we can use technology to help student's answer a direct question of what they believe their state of legal residency is and to understand that their data will be sent to the single state that they report.

Enrollment information is another necessary item on the FAFSA. Awards may be limited or targeted towards particular enrollment levels. Not having this information with the application could force agencies to request additional information or to have to wait for school enrollment information at a later date.

Finally, one state has noted that the new skip logic assigns Independent status to students claiming to be an Emancipated Minor or having Legal Guardians; many resulting in a zero EFC. The state has begun verifying these claims and of over 100 of the Emancipated Minor applicants reviewed, it found none of them are truly Emancipated Minors. Had the state extended awards to all 2,700 combined applications for both categories without verification, it was estimated that the state awards would have totaled over $9 million.

Solution

NASSGAP believes there is a ready solution for most of the concerns by using smart logic via the FAFSA on the Web. The FAFSA is now nearing 100% completion via on-line application. Using technology, the basic FAFSA can be reduced to just those questions needed by the federal government and for legal residency. Then, using the state of residency, the applicant can be directed to only those questions required by their respective state. Asset questions can be eliminated for those qualifying under federal need-based assistance. For other applicants, the asset questions can still be reduced from the current number as outlined under question 4 above. We also believe that the state questions must be embedded in the FAFSA on the Web and be a part of the student's ISIR record to keep the process of applying for all aid as simple as possible.

Thank you again for this opportunity. NASSGAP stands ready to assist in addressing the need to reduce the FAFSA questions and remove the complexity of the application process as a barrier to student access. We believe this can be done in a way that best serves the needs of all stakeholders in student financial assistance. If there are any questions or we can be of any further service, please feel free to contact me or Marie Bennett via the contact information on the front page.

Respectfully,

Lee Andes
NASSGAP President

Cc: Members of the US Senate Committee on HELP
Members of US House of Representatives Committee on Education and Labor