



# Have You Heard?

## Federal Government Bans Sharing of FAFSA Data with Scholarship Providers

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# Presenters

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# Session Overview

- *How Did We Get Here?*  
Overview of the Issue of Financial Aid Data Sharing
- *What Do You Mean?*  
Financial Aid Policy Clarifications and Recommendations
- *What Can We Do?*  
What Scholarship Providers Can Do
- *What Else?*  
NSPA Advocacy on this Issue
- Questions

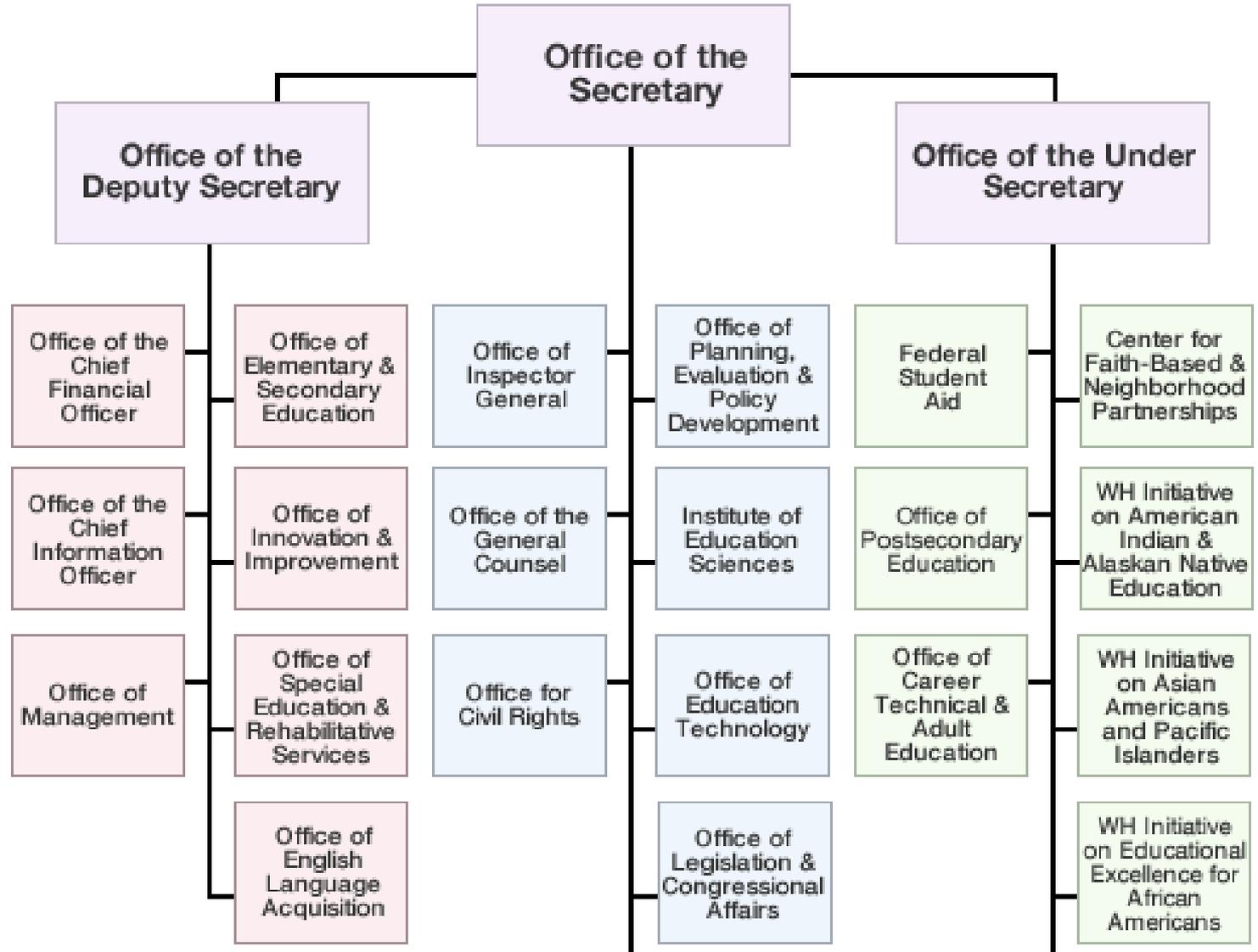
# Timeline

- [PTAC](#) published guidance concerning the sharing of Free Application for Federal Student Aid (FAFSA) data in January 2017
- The National Association of Student Financial Aid Administrators (NASFAA) published a paper, [Financial Aid Data Sharing](#), on June 22, 2017, based on the PTAC guidance
- The 2017 NASFAA national conference included a session on Sharing Student Data on June 27, 2017
- PTAC confirmed its prior guidance on September 13, 2017

# What is PTAC?

- PTAC is the U.S. Department of Education's Privacy and Technical Assistance Center
- PTAC provides centralized information and guidance about data privacy, confidentiality and security practices for student data
- PTAC was established in fall 2010
- PTAC reports to the U.S. Department of Education's Chief Privacy Officer
  - Kathleen Styles is the U.S. Department of Education's first Chief Privacy Officer
  - Michael B. Hawes is the Director
  - Baron Rodriguez (contractor) is the PTAC Manager
- The PTAC Help Desk can be reached by sending email to [PrivacyTA@ed.gov](mailto:PrivacyTA@ed.gov) or by calling 1-855-249-3072

# How Does PTAC Fit Into ED?



# PTAC Guidance about FAFSA Data

- [Guidance on the Use of Financial Aid Information for Program Evaluation and Research](#), PTAC-FAQ-9, January 2017

## **Can a financial aid office share FAFSA/ISIR data with an outside non-state scholarship organization?**

No, the HEA only permits disclosure of student aid data for the purposes of application, award, or administration of aid awarded under federal student aid programs, state aid programs, or aid awarded by eligible institutions [colleges and universities]. Since the scholarship organization is not operating one of these programs, the institution may not disclose students' FAFSA/ISIR data, including award eligibility information, to the organization. Since the institution is not obtaining student financial aid data directly from a Department system of records, the Privacy Act does not apply to the institution in this scenario.

# PTAC Guidance about FAFSA Data

PTAC's guidance is based on section 483(a)(3)(E) of the Higher Education Act of 1965 [20 USC 1090(a)(3)(E)], which concerns the privacy of FAFSA data:

*Data collected by such electronic version of the forms shall be used only for the application, award, and administration of aid awarded under this subchapter, State aid, or aid awarded by eligible institutions or such entities as the Secretary may designate.*

# Excerpt from NASFAA Report

A well-funded foundation manages its own scholarship program for high school students who attend public institutions. The foundation provides scholarship awards to thousands of students it selects through its own application process. Leaders within the foundation are interested in researching the impact of this scholarship program. In order to conduct a thorough analysis, they have hired researchers to engage in a comprehensive analysis of students receiving their scholarships. They have not requested data directly from the FAFSA, but have asked for individual student award information for both recipients of their scholarship and non-recipients (i.e., a control group).

**Solution:** Award data has been requested, which is subject to the same HEA restriction as the FAFSA data, according to the Department's PTAC guidance. The HEA does not allow disclosures of FAFSA data for purposes of the administration of private aid programs. A signed release from the student is not sufficient for the release of FAFSA/ISIR data and related award information. The institution could suggest the foundation survey recipients directly to obtain the requested data.

# Statutory Requirements

- Section 483(a)(3)(E) of the Higher Education Act of 1965 [20 USC 1090(a)(3)(E)] discusses the privacy of data collected using the Free Application for Federal Student Aid (FAFSA)

*Data collected by such electronic version of the forms shall be used only for the application, award, and administration of aid awarded under this subchapter, State aid, or aid awarded by eligible institutions or such entities as the Secretary may designate.*

- This statutory language was introduced by the Higher Education Opportunity Act of 2008

# Implications of Statutory Language

- FAFSA data may be used to apply, award and administer only three types of financial aid
  - Federal Aid
  - State Aid
  - Institutional Aid
- Private scholarship providers, public policy advocates, researchers, secondary schools and school districts are not included in the list of entities eligible to receive FAFSA data
- There is no option for students to sign a waiver to permit release of their FAFSA data to third parties

# Implications of PTAC Guidance

- The PTAC guidance limits not only the sharing of FAFSA data, but also derived values, such as
  - Expected Family Contribution (EFC)
  - Demonstrated Financial Need
  - Award Eligibility
  - Award Amounts
  - Financial Aid Award Letters and Notifications
- The PTAC guidance indicates that colleges and universities may not share student FAFSA data, even if the student signs a waiver
- PTAC has said that the student may share *their own* FAFSA data

# Conflicts with FERPA

- The Family Educational Rights and Privacy Act of 1974 (FERPA) allows the sharing of educational records without prior consent  
*in connection with a student's application for, or receipt of, financial aid [20 USC 1232g(b)(1)(D)]*
- FERPA allows students to sign waivers in situations requiring prior consent  
*unless there is written consent from the student's parents specifying records to be released, the reasons for such release, and to whom, and with a copy of the records to be released to the student's parents and the student if desired by the parents [20 USC 1232g(b)(2)]*  
*For the purposes of this section, whenever a student has attained eighteen years of age, or is attending an institution of postsecondary education, the permission or consent required of and the rights accorded to the parents of the student shall thereafter only be required of and accorded to the student. [20 USC 1232g(d)]*
- A FERPA waiver, however, is not sufficient because the FAFSA privacy language was introduced more recently than FERPA
- Although FERPA was amended in 2012 and 2013, the amendments did not change the privacy sections of FERPA

# Problems for Scholarship Providers

- Last dollar scholarship providers cannot determine a student's remaining demonstrated financial need without a copy of the student's financial aid award letter or notification
- Need-based scholarship programs that aim to eliminate or replace a student's loan and/or work burden need to see the financial aid award letter or notification and, specifically, the amount awarded in loans and student employment, to determine the scholarship amount
- Scholarship providers will be unable to provide counseling to students to help them understand their award letters due to the blurring of the distinction between grants and loans and the absence of complete information on college costs, the EFC and award details
- Scholarship providers will be unable to help students optimize the use of their scholarships and minimize scholarship displacement

# What One Provider Is Doing



- Established 1994
- Oregon & Siskiyou County, CA
- Four programs + grad funding
- All programs but one are need-based and last dollar in
  - 90% of unmet need
- Largest private scholarship provider in Oregon
  - 1,000 recipients per year
  - 100 institutions
  - \$11m annually
  - \$170 million awarded since 1994

## Disbursement of Funds

- Student permission
- Partnerships with Financial Aid
- Secure portal to share info
- Multiple revisions each year
  - Ford Scholars = 69% (314 / 452)
  - Ford ReStart = 75% (100 / 133)
  - Ford Opportunity = 73% (72 / 99)
- Try to remove barriers for students

# What Scholarship Providers Can Do

## INTERNAL – SHORT TERM

- Respond to institutions
- Assess impacted operations
- Convene institutions to problem-solve
- Determine audit implications
- Communicate with Scholars
- Freak out

## EXTERNAL – LONG TERM

- NSPA partnership and outreach
- Build coalition and reach out to U.S. Department of Education
- Engage Congressional Senators and Representatives
- Encourage outreach by other providers and institutions

# Additional Actions to Consider

- Ask colleges and universities to share non-FAFSA data, such as the cost of attendance, GPA, academic major and academic classification separately from the financial aid award letter or notification
- Last dollar scholarship providers can provide instructions to colleges and universities to prohibit scholarship displacement and to require them to return overawards to the scholarship provider
- Ask students to provide copies of their financial aid award letters and notifications, since the PTAC guidance does not prevent students from sharing their award letters
- Be thoughtful in modifying operations, in case the guidance is modified
- Engage peer scholarship providers, national leadership in advocacy efforts
- Support NSPA in seeking exemption for private scholarship providers

# Options for NSPA Advocacy

- Build coalition with national organizations, like NCAN and NASFAA, and large scholarship providers, like UNCF and Scholarship America
- NSPA could petition the U.S. Department of Education to designate private scholarship providers as eligible to receive FAFSA data
  - The U.S. Department of Education is sensitive to the release of student data to commercial organizations, so it may be necessary to limit the release of FAFSA data to tax exempt, charitable organizations, such as 501(c)(3) and 501(c)(6) organizations, and to obtain written authorization from the student
- NSPA could alert members of Congress to the problems caused by PTAC's guidance. Congress could amend the Higher Education Act to add private scholarship providers to the list of entities that can receive FAFSA data



# Questions?