



Fostering Undergraduate Talent by Unlocking Resources for Education Act Implementation Update

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PREPARED FOR:

U.S. Senate Committee on Health, Education, Labor, and Pensions

U.S. Senate Committee on Finance

U.S. House Committee on Education and Labor

U.S. House Committee on Ways and Means

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Section 1 | Background

The U.S. Department of the Treasury (Treasury) and the U.S. Department of Education (ED) are transmitting this joint report to Congress about the implementation of amendments made by P.L. 116-91, the *Fostering Undergraduate Talent by Unlocking Resources for Education Act (FUTURE Act)*, to section 6103 of the Internal Revenue Code of 1986 (IRC) and related provisions of the *Higher Education Act of 1965 (HEA)*. This report provides information regarding how Treasury, through the Internal Revenue Service (IRS), and ED are working collaboratively to implement those provisions of the law in a thoughtful manner.

The *FUTURE Act* amends Section 6103 of the IRC and allows the IRS to provide certain taxpayer information to ED for the purpose of administering certain federal student aid programs authorized under *Title IV* of the HEA. The *FUTURE Act*, among other things, aims to

- enhance the *Free Application for Federal Student Aid (FAFSA®)* experience by allowing ED to automatically obtain federal tax information (FTI) for each applicant, parent, or spouse who provides consent;
- improve program integrity for income-driven repayment (IDR) plans and total and permanent disability discharge (TPD discharge) monitoring; and
- provide an improved experience to ED's more than 43 million customers.

The *FUTURE Act* comes at an opportune time as ED is in the midst of implementing its Next Gen initiative, which has begun to transform the delivery of federal student aid and replace antiquated legacy systems. ED is enthusiastic about the opportunities for improved data-sharing with the IRS, and the two agencies are working diligently and collaboratively to implement new data-sharing agreements, technologies, and protocols. Both agencies understand the urgency of bringing the benefits of this new data-sharing authority to students, parents, and other customers and place the highest priority on data integrity and cybersecurity.

Both agencies are also engaged in implementing required safeguards and security protocols for every authorized recipient of tax information including ED, its contractors, and ED's partners, including nearly 6,000 institutions of higher education (IHEs), state agencies, and certain scholarship-granting organizations. In collaboration with the IRS, ED and its contractors are ensuring security standards comply with statutory and other relevant requirements. Additionally, ED's partners can continue to follow the necessary data safeguards and oversight procedures that ED currently enforces under its existing Program Participation Agreements, which require partners to comply with heightened security and data safeguards standards as a condition of receiving sensitive customer

information, including FTI. It is important to note ED already shares information derived from FTI with its partners, who use the data to determine student eligibility for federal student aid programs, state student assistance programs, and aid awarded by eligible IHEs.

Treasury and ED share Congress' desire to set a high bar regarding data integrity and security and are investigating ways in which mutual partners can continue to augment these heightened standards while ensuring access to the data they need.

This report summarizes our work to date and uses representative examples to highlight ED's challenges to implement and operationalize changes to its programs as a result of the *FUTURE Act*. Also, the report describes implementation efforts, major milestones, and timelines.

Section 2 | Operational Uses of FTI and Program Impacts

As Treasury and ED implement the *FUTURE Act*, an interagency working group—comprised of technical subject-matter experts from both agencies—continues to assess the impact of the law on some of ED’s mission-critical programs and services.

TPD POST-DISCHARGE PROCESS

TPD POST-DISCHARGE MONITORING

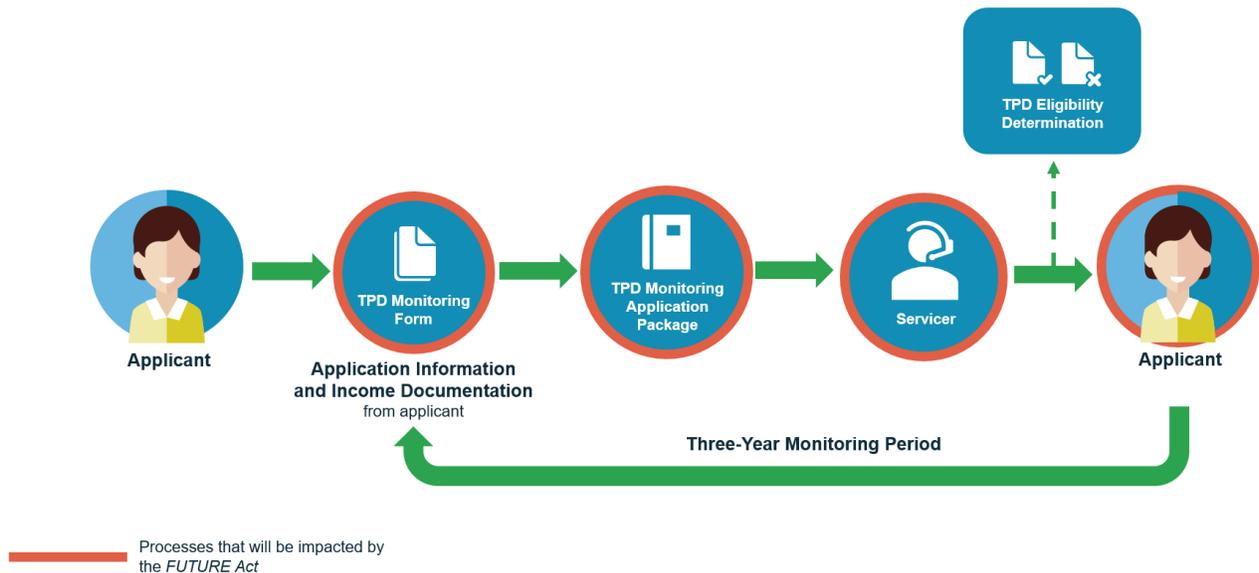


Figure 1 illustrates the borrower experience during the TPD post-discharge monitoring period and how the *FUTURE Act* could impact the TPD income-verification process during the monitoring period. Provisions under the *FUTURE Act* require ED to change how application and income documentation are collected, stored, and how information is disclosed to the customer.

The *FUTURE Act* will enable ED to use FTI to verify income for purposes of TPD discharge, which relieves borrowers of the obligation to repay certain federal student loans or fulfill a Teacher Education Assistance for College and Higher Education Grant Program service obligation if they are determined to be totally and permanently disabled. Individuals who receive a TPD discharge, other than those who are determined by the U.S. Department of Veterans Affairs to be totally and permanently disabled, must provide required income documentation for three consecutive years after discharge of their loans. In addition to income information, the TPD discharge servicer collects information about the applicant, including marital status, tax filing status, and state of residence. Failing to certify income earned, earning more than the poverty guidelines, or not providing required documentation results in the totally and permanently disabled applicant’s loan being returned to a pre-TPD discharge status, including default. Last year, tens of thousands of totally and permanently disabled borrowers failed to provide the required income

documentation. ED expects to be able to implement automated TPD post-discharge monitoring under the *FUTURE Act* to eliminate the burden to totally and permanently disabled borrowers who have received TPD discharges while ensuring that loan discharge is not granted to those borrowers who do not meet the criteria for discharge.

FAFSA PROCESS

FAFSA® FORM

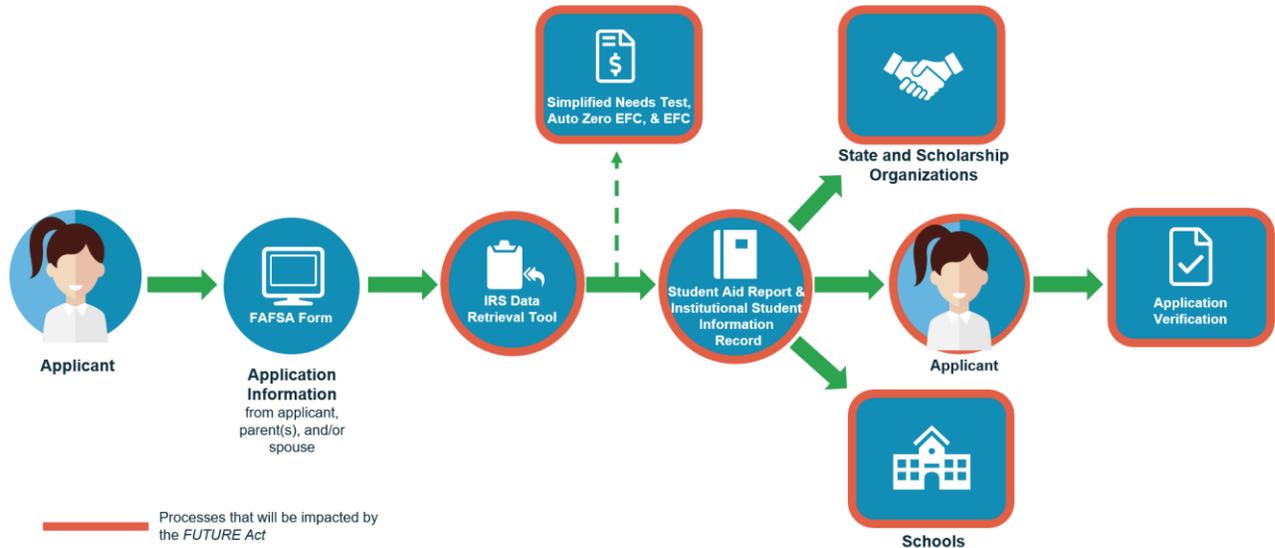


Figure 2 illustrates how FAFSA information is used to calculate a student's Expected Family Contribution (EFC), which ED's partners use to determine an applicant's aid eligibility and financial award. Provisions under the *FUTURE Act* will require ED to change how income data are collected, stored, and disclosed to the applicant and ED's partners.

As ED implements the *FUTURE Act*, we are excited to offer students and parents a new experience in completing the FAFSA form, which for many students serves as the gateway to college, but for others poses a tremendous barrier. ED is always mindful of the importance of the FAFSA form as the central instrument that students and parents use to apply for more than \$120 billion in federal grants, work-study funds, and student loans annually. ED aims to ensure that the new FAFSA experience benefits its customers by designing solutions to address, for example, sections of the *HEA* that require ED to allow IHEs and state agencies to use the FAFSA form to administer institutional and state-sponsored student aid programs that were not amended by the *FUTURE Act*.

Also, the *FUTURE Act* requires applicants' approval for ED to request FTI from the IRS to complete the FAFSA form and calculate their EFC. However, not all applicants are required to file an Individual Income Tax Return, such as Form 1040 with the IRS, and applicants are not authorized to provide consent for the disclosure of the FTI of their spouse filing separately or parent(s), if needed. The inability to obtain consent may deter

applicants from completing a FAFSA form. As a result, ED will likely need to develop one or more alternate pathways to allow FAFSA completion to accommodate such circumstances.

ED is determining questions that would need to be added to the FAFSA form to ensure that FTI accurately depicts the student’s financial situation. For example, a student who recently married would have different tax return information from two years prior, since the spouse’s income would not be captured.

It is important to note that the FAFSA form requires multiple components working in parallel to determine aid eligibility and to deliver a seamless application experience. ED is working diligently to weave these components together and make each student or parent’s experience in completing the FAFSA form as simple and streamlined as possible.

IDR APPLICATION AND RECERTIFICATION PROCESS

IDR FORM AND RECERTIFICATION

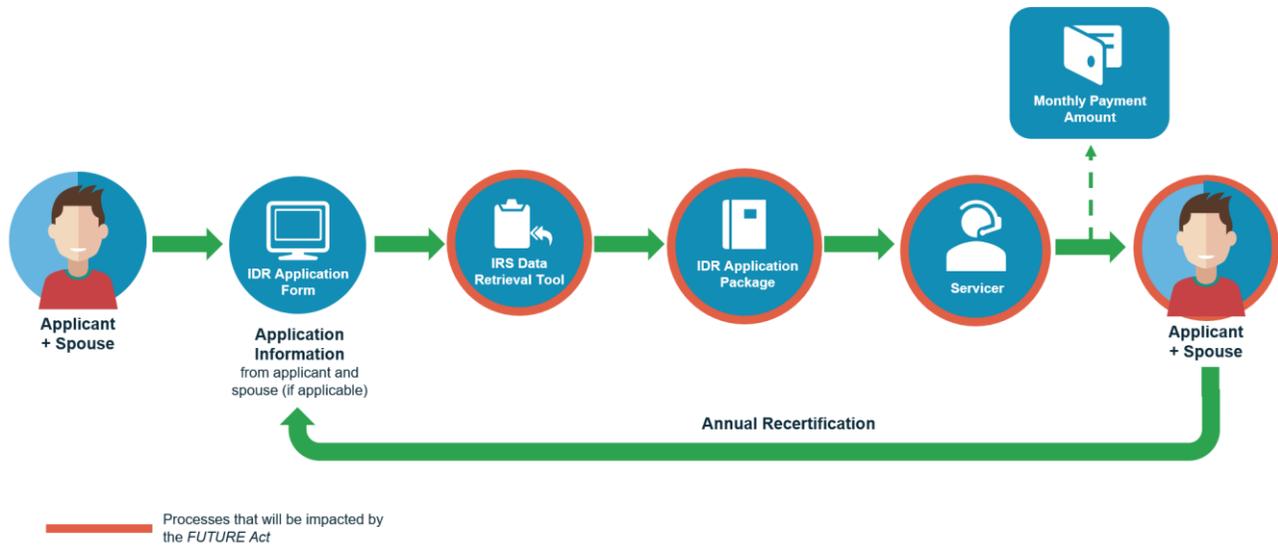


Figure 3 illustrates the borrower experience to apply or recertify for an IDR plan and how the *FUTURE Act* could impact the IDR application and recertification process. Provisions under the *FUTURE Act* require ED to change how application and income documentation are collected, stored, and how information is disclosed to the borrower.

The *FUTURE Act* will significantly reduce the burden to borrowers who are submitting an IDR application or completing the recertification process, because the law allows ED and federal student loan servicers (servicers) to review FTI, validate IDR monthly payment calculations, and trace why and when payment changes occurred. Servicers use FTI, such as adjusted gross income, to calculate a borrower’s monthly payments and provide concrete guidance to borrowers. A customer service representative (CSR) working for a servicer can also access the borrower’s account information, which includes FTI used to

calculate the borrower's IDR monthly payment amount. The CSR explains the calculation to the student loan borrower and can even use the FTI to inform the borrower what their monthly payment would be if the borrower switched to a different repayment plan.

While we look forward to simplifying the IDR application and recertification process as a result of implementing the *FUTURE Act*, this benefit is limited to borrowers who have loans in the William D. Ford Federal Direct Loan (Direct Loan) Program. Borrowers under the Federal Family Education Loan (FFEL) Program have limited options for entering into IDR and will not be able to complete their application or rely on automatic recertification unless the borrowers consolidate their FFEL Program loans into the Direct Loan Program.

Section 3 | Implementation, Milestones, and Timeline

The *FUTURE Act*'s implementation timeline is driven by the joint efforts of Treasury and ED to comply with the law. Additionally, the implementation timeline must align with ED's Next Gen initiative to prevent the draining of the valuable resources it would require to build a new data transfer system using ED's existing antiquated systems and build them again in the Next Gen environment. Therefore, ED will coordinate these two important implementation initiatives to prevent duplicative costs, resource needs, and efforts. For example, instead of requiring nine servicers to modify their systems to receive and process FTI, leveraging the Next Gen initiative will allow ED to build a consolidated environment that will interface with the IRS.

Because of the importance of both Next Gen and *FUTURE Act* solutions to the customer experience, we are dedicating significant time, resources, and technical expertise to implement them as quickly as possible.

IRS is on track to start developing the *FUTURE Act*–Direct Data Exchange (FA-DDX) solution upon final approval of requirements by the interagency working group, which is comprised of technical experts from the IRS and ED. This technology solution will establish a secure connection between both agencies through an application programming interface that will process requests in near-real time. Also, batch capability will be provided to respond to bulk requests from ED. IRS aims to finish the FA-DDX development and testing efforts in winter 2020. Under the computer matching provisions of the *Privacy Act of 1974*, IRS is responsible for matching the taxpayer's identity, locating the applicable tax return, and providing either a response with the FTI data elements authorized by the *FUTURE Act* or a "no return on file" response. Before ED enables the FA-DDX solution for totally and permanently disabled customers in winter 2021–22, the following conditions must be met:

- A new ED system and secure data connection between Treasury and ED must be designed, developed, tested, and implemented.
- ED's Safeguard Security Report must be submitted to IRS for approval in accordance with Publication 1075, *Tax Information Security Guidelines for Federal, State and Local Agencies* procedures to ensure required safeguards are in place to receive FTI.
- Notice of the matching program must be published in the *Federal Register*, and the FA-DDX Computer Matching Agreement must be approved by the Data Integrity Boards at Treasury and ED, along with notice to the Office of Management and Budget and Congress.

As efforts progress, both agencies will work to develop better estimates of our potential funding needs, which fall into four categories. Each of these categories applies to ED

systems and services as well as Treasury's efforts, which will be reimbursed by ED. They include:

- **Development and Solution Implementation:** ED will need to implement the interface that facilitates the transfer of FTI between the two agencies through the FA-DDX solution, which IRS is building now. This category also includes changes to more than 25 of ED's critical systems and services to receive and manage FTI.
- **Ongoing Operations:** Maintenance activities will be required once Treasury and ED implement one or more of the identified solutions. This category also includes enhancements to the *FUTURE Act* solutions, such as updates to FA-DDX, data elements, and batch processes between agencies.
- **Security and Safeguards:** ED will need to enable activities related to security updates and continuous monitoring for its systems and services. This category also includes the cost of IRS safeguard reviews, which will be reimbursed by ED.
- **IRS Data Retrieval Tool (DRT):** The IRS will need to maintain the DRT to ensure that students, parents, and customers do not experience a disruption in service as we transition to any *FUTURE Act* solutions. This category includes the costs associated with maintaining the IRS DRT for the FAFSA form and IDR application for the transition period.

Based on the impacts discussed above and on current external factors, Treasury and ED are optimistically pursuing the following milestones and timeline:

- **Fall 2020:** Create a simulator for the new and innovative FAFSA form, which will enable ED to get feedback from students and families about ease of use and clarity of the FAFSA experience as it could exist when the *FUTURE Act* solution is fully implemented. This testing will inform the development of the final enhanced FAFSA solution and implementation plan.
- **Winter 2020:** Create a simulator for the TPD post-discharge monitoring process, which will enable ED to measure the benefits of the *FUTURE Act* to totally and permanently disabled borrowers
- **Fall 2020–Winter 2020:** Develop a secure connection between Treasury and ED
- **2021–22:**
 - Implement TPD post-discharge monitoring using FTI retrieved through the new secure data connection
 - Implement the use of FTI to reduce the burden of the IDR application and enable automatic recertification
 - Implement the new and innovative FAFSA solution

Section 4 | Conclusion

The interagency working group is confident they can meet the technical requirements of data-sharing and that they can improve the experience for students, parents, and other customers. This group continues to work diligently to ensure that FTI will be accessible to ED as soon as its systems are ready to receive the information. ED understands the IRC Section 6103 requirements and disclosure restrictions that protect the confidentiality of taxpayer records and is prepared to meet the safeguarding requirements for its systems, personnel, and services to ensure the integrity and security of FTI.

Treasury and ED look forward to continuing to work with all our stakeholders to assess and design processes to improve the customer experience and, once they are available, provide Congress with further implementation updates about the *FUTURE Act*.