

United States Senate

WASHINGTON, DC 20510

August 2, 2019

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

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

Re: Docket No. ED-2019-ICCD-0039

Dear Secretary DeVos:

Following passage of the 2017 tax law (P.L. 115-97), the U.S. Department of the Treasury arbitrarily shortened the core 1040 tax form in an attempt to create a tax filing “postcard.” Absent action from the U.S. Department of Education, these tax form changes will disrupt the federal financial aid process for students and families who rely on the Free Application for Federal Student Aid (FAFSA) to determine their federal financial aid eligibility. While we appreciate the steps that your Department has recently taken to mitigate this disruption, we urge the Department and the Internal Revenue Service (IRS) to resolve this issue for the next financial aid cycle that begins in 2020, for the 2021-2022 academic year. We also urge your Department to outline the specific steps that will be taken to mitigate this disruption during the upcoming financial aid cycle that begins in October 2019, for the 2020-2021 academic year.

In June 2018, the Treasury Department truncated the 1040 tax form by moving essential tax information to six separate, equally complicated schedules. During this process, Treasury did not consider how its changes to the 1040 would impact the IRS Data Retrieval Tool, which securely transfers individual filers’ tax data into the FAFSA when students and their families apply for federal financial aid.

Due to these changes and lack of coordination between the Departments of Education and Treasury, the Data Retrieval Tool will no longer be able to import certain tax information into the FAFSA during the upcoming financial aid cycle that begins in October 2019. This will not only further complicate the FAFSA completion process for many families, but will likely result in the submission of incomplete and inaccurate information regarding some applicants’ financial aid eligibility.

Specifically, during the upcoming financial aid cycle beginning this October, the IRS Data Retrieval tool will be unable to determine whether individuals who complete the FAFSA have filed a Schedule 1, which is one of the six new tax forms created by Treasury when it shortened the 1040. Further, for families that must file a Schedule 1, the IRS tool will be unable transfer information from that tax form into the FAFSA. As a result, financial aid applicants will be required to self-report whether they filed a Schedule 1 on the FAFSA and manually input any required Schedule 1 data into their FAFSA form, putting families at risk of misreporting whether they filed a Schedule 1, or making mistakes while manually inputting Schedule 1 tax data.

Further, this new self-reporting requirement may disrupt federal financial aid for applicants who would otherwise satisfy the FAFSA's "Simplified Needs Test." Families of financial aid applicants earning under a certain income that meet this test can exclude certain assets – such as savings, investment, and checking account balances – in calculating their "Expected Family Contribution" toward higher education expenses. Low-income families that satisfy this test are eligible for an automatic Expected Family Contribution of zero.

Prior to the Treasury Department's changes to the 1040 tax form, satisfaction of the Simplified Needs Test and eligibility for an "auto-zero" Expected Family Contribution was partly based on whether a student's family filed a 1040A or 1040EZ tax form. Students whose families had tax returns simple enough to be filed on these tax forms automatically satisfied the Simplified Needs Test. In previous financial aid cycles, the IRS Data Retrieval Tool would automatically tell applicants whether they did or did not file a 1040A or 1040EZ.

However, as part of its attempt to create a tax filing "postcard," Treasury eliminated the 1040A and 1040EZ forms. As a result, during the upcoming financial aid cycle beginning this October, the Department of Education may have difficulty determining whether applicants satisfy the Simplified Needs Test and are eligible for an "auto-zero" Expected Family Contribution. This puts many students at risk of not receiving the federal financial aid for which they are eligible.

The Department's proposed solution to these problems is complex. For the upcoming financial aid application cycle, the FAFSA will ask students:

"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."

We are very concerned that mistaken answers to this complicated question could lead to eligible students losing access to the Simplified Needs Test. This could delay the completion of their FAFSA process and discourage families from completing their applications, leading to prospective students not pursuing higher education opportunities. This risk is especially acute for anyone with tax information that must be reported on the 2018 Schedule 1, including teachers purchasing school supplies from their own funds for their classrooms, students claiming the student loan interest deduction, and families contributing to Individual Retirement Accounts.

In April 2019, IRS Commissioner Rettig was questioned before the Senate Finance Committee about whether the Department of Education and IRS would ensure taxpayer data can be securely transferred to the FAFSA through the Data Retrieval Tool, despite Treasury's changes to the 1040 tax form. The Commissioner replied that the IRS was "working with the Department of Education on this issue" and is "sensitive to the importance of this issue."¹ However, despite these comments, our understanding is that the Department of Education and IRS were unable to negotiate a resolution to this problem for the upcoming financial aid cycle that starts this October.

Going forward, it is imperative that the Department of Education and IRS work together collaboratively to fix the problems created by Treasury's changes to the 1040 tax form. Specifically, the Department of Education and IRS should promptly negotiate an agreement to transfer all relevant tax information through the Data Retrieval Tool during the financial aid cycle beginning in October 2020 - including information relating to the 2019 Schedule 1.

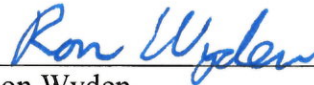
For the upcoming financial aid cycle beginning this October, we also request that the Department of Education outline the specific steps that will be taken to ensure that financial aid applicants who misreport Schedule 1 tax data will not be subject to additional arduous information reporting that could discourage students – including those eligible for the Simplified Needs Test – from completing their applications.

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.

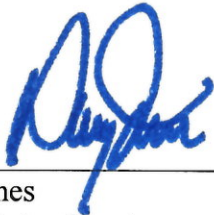
Sincerely,



Margaret Wood Hassan
United States Senator



Ron Wyden
United States Senator

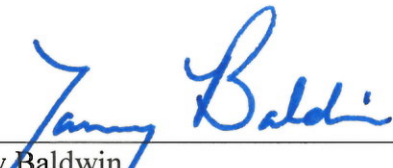


Doug Jones
United States Senator



Thomas R. Carper
United States Senator


¹ April 11, 2019. "Senator Hassan Calls Out Political Gimmick by Treasury Department to Downsize Core Tax Form That Could Affect Millions of Students' FAFSA Applications." <https://www.hassan.senate.gov/news/press-releases/senator-hassan-calls-for-finance-committee-to-hold-a-hearing-on-impact-of-wayfair-internet-sales-tax-decision-on-small-businesses>



Tammy Baldwin
United States Senator



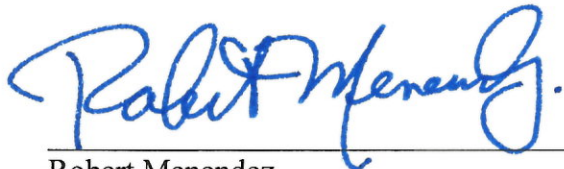
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