

Federal Policy Update

August 7, 2024

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SHEEO

State Higher Education
Executive Officers Association



National Association of State Student Grant & Aid Programs



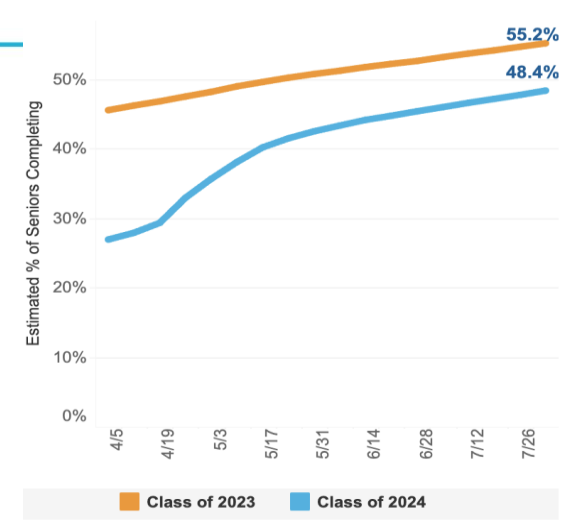
Today's Presentation

- FAFSA
- FY25 Appropriations
- Chevron decision
- Regulations
 - Title IX
 - New proposed regs
 - Upcoming regulatory proposals/negotiated rulemaking
 - SAVE
 - FSLA
- Veterans education report
- Federal Notices
- Subscriptions

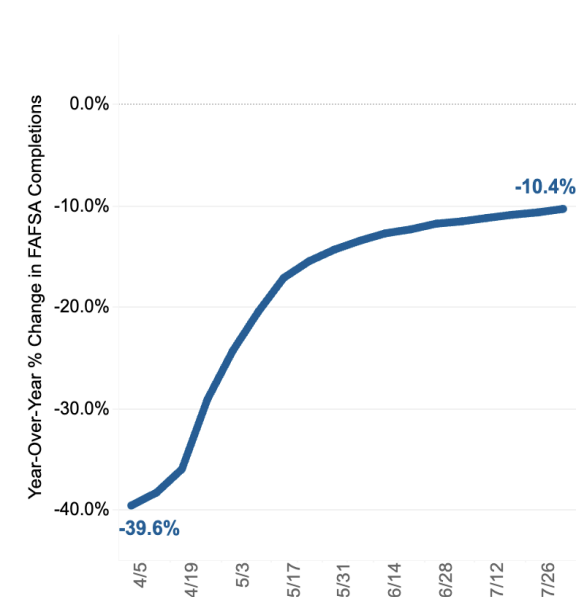
FAFSA

- We are still trailing last year's FAFSA completion by 11%. SHEEO agencies have benefitted from the ED-ECMC Fund.
- There are growing concerns about the feasibility of an October 1 rollout date for the new FAFSA.
- SHEEO, along with others, have advocated for a glitch-free user experience, even if it goes beyond October 1 deadline .
- There is legislation in the House mandating an October 1 start date, but the path is unclear in the Senate.

Estimated Percent of Seniors Completing a FAFSA



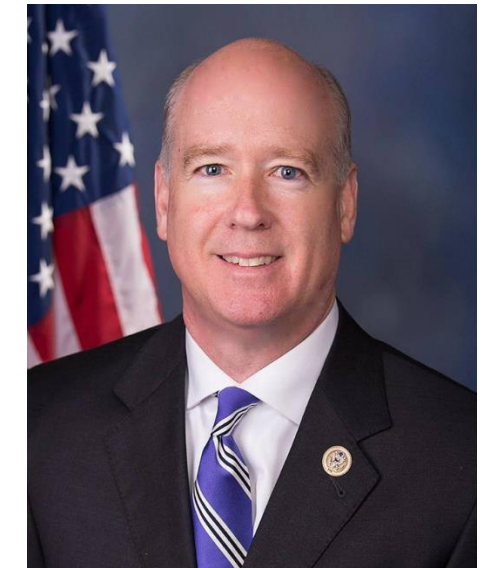
Year-Over-Year % Change in FAFSA Completions





FY25 Appropriations-House

- The House Labor-HHS-Education bill has passed out of committee by a 31-25 vote on July 10.
- There hasn't been a whip count for a House floor vote. A vote isn't expected until after August recess (if at all). The House GOP may not have the votes to pass it out of the chamber.
- The House bill includes \$11.1 billion in cuts for the U.S. Department of Education programs.
- The bill is [opposed](#) by the Committee for Education Funding (CEF).
- We welcome your advocacy on appropriations.



FY25 Appropriations-Senate

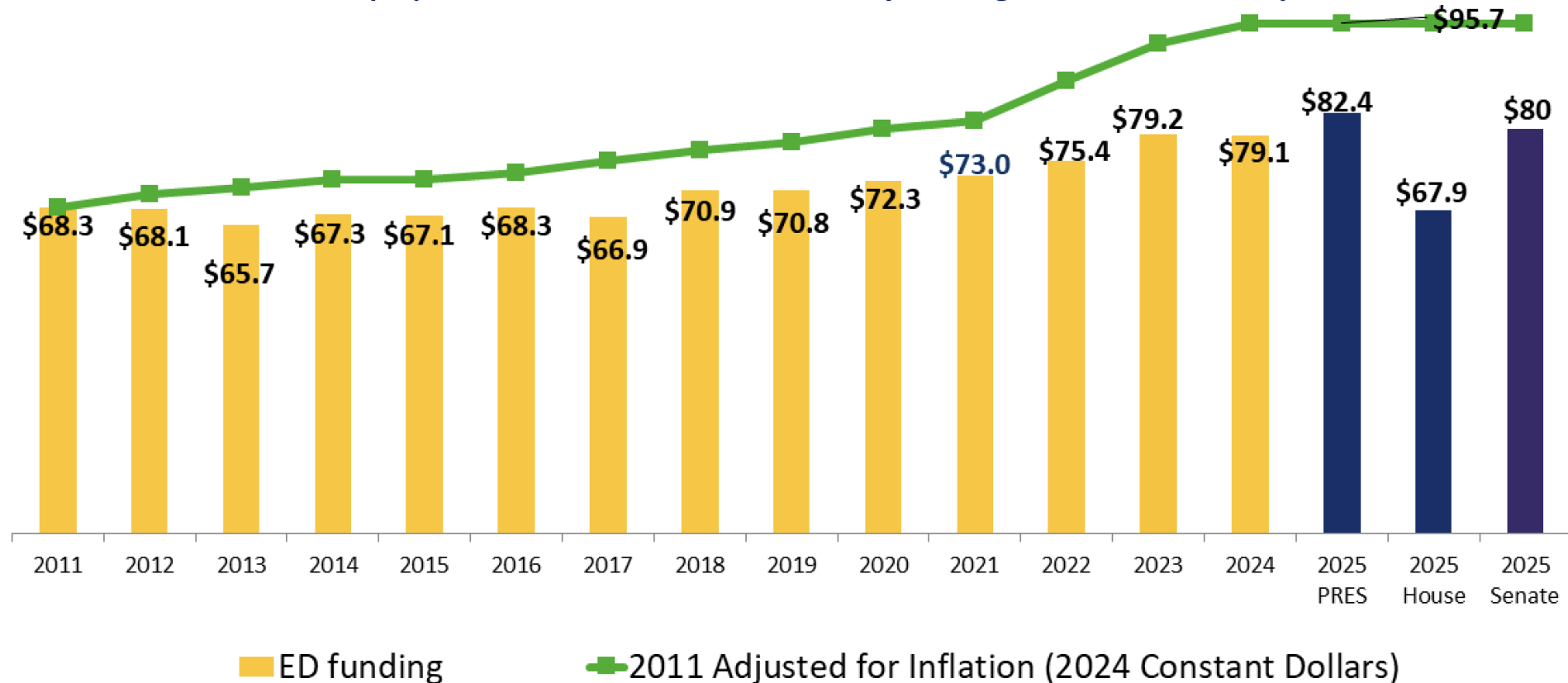
- Senate Appropriations Committee has been working in a bipartisan manner on the Labor-HHS-Education spending bill. It passed on August 1.
- Sen. Murray has called the Fiscal Responsibility Caps (FRA) “grossly inadequate” because they limit additional spending to 1%.
- Murray and ranking member Sen. Susan Collins (R-ME) have agreed to additional emergency spending of \$13.5 billion for non-defense agencies, and \$21 billion for defense.





FY25 Appropriations

**2025 Senate Bill Increases Education Funding,
But it is Still Below 2011 Enacted Level (\$28 billion Below Inflation-Adjusted Level)**
(Department of Education Discretionary Funding in Billions of Dollars)





Appropriations

- **Maximum Pell Grant:**

- 2024: \$7,395
- President: \$8,145
- House Committee: \$7,395
- Senate Committee: \$7,495

- **FSEOG:**

- 2024: \$910M
- President: \$910M
- House: \$455M
- Senate: \$910M

- **Federal Work-Study**

- 2024: \$1.23B
- President: \$1.23B
- House: \$615M
- Senate: \$1.23B

- **GEAR UP**

- 2024: \$388M
- President: \$398M
- House: \$388M
- Senate: \$393M

- **TRIO**

- 2024: \$1.191B
- President: \$1.211B
- House: \$1.91B
- Senate: \$1.211B

- **Child Care Access Means Parents in Schools**

- 2024: \$75M
- President: \$80M
- House: \$0
- Senate: \$80M

- **FIPSE (non-earmark)**

- 2024: \$171M
- President: \$262M
- House: \$100M
- Senate: \$191M

- **FIPSE (earmark)**

- 2024: \$202M
- President: \$0
- House: \$0
- Senate: \$206M



Appropriations

- Other programs targeted for elimination by House bill:
 - Teacher Quality Partnerships,
 - Hawkins Centers for Excellence,
 - HBCU, TCU, and MSI Research and Development Infrastructure Grants
- House/Senate bills have funding increases under Aid for Institutional Development program (HBCUs/HSIs/Tribal)
- House-Senate negotiations will not begin in earnest until after the November elections

Chevron Decision

- The U.S. Supreme Court has struck down the Chevron deference.
- Under the Chevron deference, courts would interpret the plain language of a statute. If the law is ambiguous, it gives the agencies latitude in their interpretation.
- This could affect a range of ongoing regulatory activities, including state authorization, accreditation, and other issues.
- This will give federal courts – particularly lower courts – far more authority and weaken federal agencies.
- This could also create complications with rulings from different jurisdictions.
- More policymaking will likely devolve to the states.
- Bills have been introduced in Congress to return to the Chevron doctrine.





Regulations-Title IX

- Title IX final rule has temporarily been blocked in 21 states as the cases play out, set to take effect August 1.
- It is also blocked in schools attended by children of members of Moms for Liberty, Young America's Foundation, and Female Athletes United
- The gender identity provision is a source of contention, and the Biden Administration has asked the Supreme Court to allow the enactment of the rule except for the gender identity provision.
- The Title IX challenge will likely reach the Supreme Court.
- Note: The final rule **does not apply** to transgender athletes in athletics competition. A rule for athletics is currently being developed, but the timeframe for release is unknown.



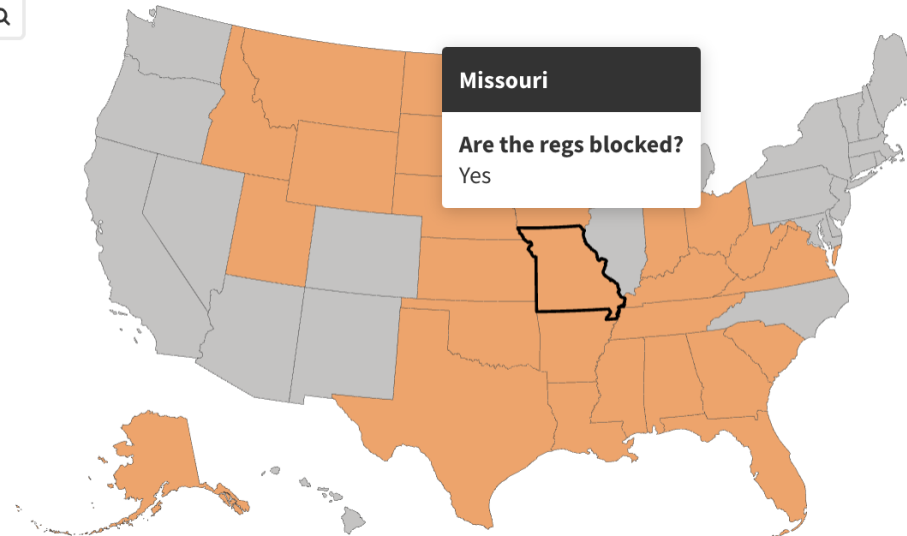
Regulations-Title IX



Where Title IX Regulations Are Blocked

Federal judges have temporarily put the Biden administration's new Title IX rule on hold in 26 states, as of July 31, preventing the Education Department from enforcing the changes.

Yes No



Source: Inside Higher Ed Analysis • Katherine Knott, Inside Higher Ed



A Flourish map



New Proposed Regs-ED

- New proposed rules have been released on TRIO, distance ed, and R2T4
- TRIO: Three of the TRIO programs (Talent Search, Upward Bound, Educational Opportunity Centers) will be extended to undocumented students.
- Distance Education: New definition of clock hour, distance education course, academic year, and requirements to report enrollment in distance education/correspondence courses.
- Return on Title IV Funds: New terms on repaying credit balances, reformed student withdrawal options, changes to attendance taking for distance ed courses.
- Comments are rule on August 23. The final rule will be released prior to November 1 and take effect July 1, 2025.
- Summaries of the new regulations and deep dives are available through the American Council on Education and NASFAA.



Upcoming Regs/Negotiated Rulemaking-Department of Education

- Proposed rules on state authorization, cash management, and accreditation are scheduled to be released in 2025
- ED will have negotiated rulemaking on Third-Party servicers.



State Authorization

- State authorization was a topic of discussion at negotiated rulemaking earlier this year. The Department is concerned that the state distance education reciprocity agreement (SARA) is failing to protect students
- SHEEO participated in this negotiated rulemaking.
- Some ideas presented during negotiated rulemaking include
 - 500 rule: Institutions would need to get direct authorization in states enrolls more than 500 students in the two most recent Title IV award years
 - Applicable state laws on closure: States could create their own laws on college closure, which each institutions would have to follow
 - Board Membership: Would mandate the board of the SARA agreement to be state officials.
- No consensus was reached. The proposals were opposed by SHEEO and other leading organizations.
- State authorization is off the table until 2025. The earliest that state authorization could take effect is July 1, 2026.



Gainful Employment /Financial Value Transparency

- The “gainful employment” rule is now in effect (July 1, 2024)
- Applies to all programs at for-profit colleges and all non-degree (certificate) programs at nonprofit (private & public) institutions
- The purpose of the gainful employment rule is to weed out career training programs that leave graduates with high debt compared to earnings or wages that aren’t better than if they didn’t attend
- Gainful was first proposed during the Obama years due to the rise of low-value for-profit colleges. The Trump administration rolled back the policies, only to have them return during the Biden years
- Financial Value Transparency applies to non-GE programs
 - Associate degrees at community colleges, undergraduate degrees at public/private nonprofit institutions.



Gainful Employment (GE) Tests:

- Two independent tests
 - Debt to Earnings (D/E) (Loan affordability compared to income):
Median annual payments on debt acquired for the programs is less than 8% of annual earnings or less than 20% of discretionary earnings
 - Earning Premium (EP) (Does the program boost earnings?):
Median annual earnings of students in the cohorts three years after completion exceed median income for workers in the state who are ages 25-35 and for who the highest educational attainment is a high school diploma (roughly \$25K).



Gainful Employment

- What happens if a program fails either metric?
 - GE Programs:
 - Fails either metric in a year: School must provide a warning to current and prospective students that the program is at risk of losing eligibility. Students must acknowledge the warning prior to receiving federal financial aid (Pell, Loans, etc.)
 - Fails the same metrics two of three consecutive years: Program loses financial aid eligibility and cannot be reestablished for three years.
 - Non-GE Programs:
 - If a non-GE graduate program fails the D/E test, then prospective students must acknowledge that they have reviewed the data prior to enrolling
 - Data is due on October 1, 2024. Institutions will need to submit program and student-level information on enrollment, completions, and withdrawals.
 - The Biden administration predicts the rule will protect 703,000 students annually
 - Programs could start losing eligibility starting in 2026
 - Gainful employment would likely be a targeted for elimination in a second Trump term



Fair Labor Standards Act (FSLA)

- The new FSLA rule took effect on July 1, 2024, with a final step implemented on January 1, 2025.
- FSLA requires time and a half for overtime for employees unless they are exempted.
- As of July 1, employees must be paid overtime unless
 - they meet a minimum salary threshold of \$43,888 annually (increasing to \$58,656 annually on January 1) and
 - they need a duties test that their work is in a “bona fide executive, administrative, or professional capacity.”
- The threshold prior to July 1 was \$35,568
- The final rule states that the salary minimum will be adjusted every three years based on the 35% for full-time salaried workers of the lowest-wage Census region
- Faculty are exempt from the minimum salary requirement if “their primary duty is teaching, tutoring, instructing, or lecturing in imparting knowledge.”
- Many higher ed employees will fall under the new rule, include those in student affairs, administrative support, auxiliary, food, extension,



Fair Labor Standards Act (FSLA)



DATE	STANDARD SALARY LEVEL	HIGHLY COMPENSATED EMPLOYEE TOTAL ANNUAL COMPENSATION THRESHOLD
Before July 1, 2024	\$684 per week (equivalent to \$35,568 per year)	\$107,432 per year, including at least \$684 per week paid on a salary or fee basis.
July 1, 2024	\$844 per week (equivalent to \$43,888 per year)	\$132,964 per year, including at least \$844 per week paid on a salary or fee basis.
January 1, 2025	\$1,128 per week (equivalent to \$58,656 per year)	\$151,164 per year, including at least \$1,128 per week paid on a salary or fee basis.
July 1, 2027, and every 3 years thereafter	To be determined by applying to available data the methodology used to set the salary level in effect at the time of the update.	To be determined by applying to available data the methodology used to set the salary level in effect at the time of the update.



Regulations-SAVE Plan

- The U.S. Court of Appeals has approved a temporary injunction stopping the implementation of President Biden's SAVE Plan that was supposed to start July 1.
- This will temporarily block loan cancellation and payment reduction.
- More than 8 million borrowers are in the SAVE Plan, which slashes monthly payments and raises the income protected from payments.
- Borrowers in the SAVE plan will be put in interest-free forbearance.





Veterans Education

- There was an inter-agency (Census, VA) report on veterans education released this summer with the American Institutes of Research.
- Key findings:
 - 51% of PBIB-eligible veterans did not use their benefits
 - 47% graduation rate within six years, but this varied dramatically based on type of institution
 - Earnings were less for those attending for-profits than publics



Federal Notices

- **August 15/September 12, 2024** – Using Longitudinal Data to Support State Education Policymaking/Transformative Research in the Education Sciences ([link here](#))
- **August 23, 2024** – Comments due on proposed rules on Distance Ed, Return of Title IV, and Federal TRIO programs ([link here](#))
- **September 12, 2024** – Education Research Grants ([link here](#))
- **September 16, 2024** – Fund for the Improvement of Postsecondary Education-Tribal Controlled Colleges or Universities (TCCUs) Research and Development Infrastructure (RDI) Grant Program ([link here](#))



SHEEO Quarterly Policy Review-Summer 2024



Quarterly Policy Review Spring 2024

Sean Baser, Sakshee Chawla, Jessica Colorado, Tom Harnisch,
Kelsey Kunkle, and John Lane

June 2024

- SHEEO will be releasing its quarterly policy review in late August. The areas covered include:
 - Economic and Workforce Development
 - College Affordability and Basic Needs
 - Value, ROI, and Transparency
 - Student Success and College Completion
 - Budget and Public Policy
 - College Access, Preparation, and Enrollment
 - Civic Engagement, Free Speech, and Public Purposes
- Please send any materials for inclusion in the report to Tom Harnisch (tharnisch@sheeo.org) by the end of July



SHEEO

 **NASSGAP**

SHEEO Daily Policy Update

SHEEO provides the latest press releases, reports, and news clips on state and federal higher education policy.

Free and open to the public.

<https://sheeo.org/sheeo-newsletter-signups/>



SHEEO

Higher Education
Policy Update

Monday, April 15, 2024

[*Coalition Letter to Congress RE: Funding for SLDS and WDQI*](#)

SHEEO in the News

[Small private colleges are struggling to keep their doors open as declining enrollment leads to financial instability](#)

CNN (Date posted: April 13, 2024)

National Policy

[Report: Empowering Teams, Transforming Outcomes: A guide to building a holistic in-house student support program](#)

InsideTrack (Date posted: April 2024)

[Why Higher Ed Is Scared of a Second Trump Term](#)

Time (Date posted: April 12, 2024)

[Another Accreditor Faces No Consequences For Failing at its Job](#)

New America (Date posted: April 12, 2024)



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Questions and Contact Information

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