

NOTICE OF PROPOSED ACTION

CALIFORNIA STUDENT AID COMMISSION
P. O. Box 419026
Rancho Cordova, CA 95741

FAFSA and CADAA Completion Requirement Model Acceptable Use Policy and Opt-out Form

Title 5. Education
Division 4. California Student Aid Commission
Chapter 1. California Student Aid Commission
Article 3.1

Adopt new Article 3.1, Section 30035, California Code of Regulations.

NOTICE IS HEREBY GIVEN that the California Student Aid Commission (Commission) proposes to adopt the proposed regulations described below after considering all comments, objections, or recommendations regarding the proposed action.

PUBLIC HEARING

A public hearing regarding this proposal is currently not scheduled. However, any interested person or duly authorized representative may request, no later than 15 days before the close of the written comment period that a public hearing be scheduled.

WRITTEN COMMENT PERIOD AND SUBMITTAL OF COMMENTS

Notice is also given that any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to:

California Student Aid Commission
Attention: Gary Collard, Legal Services
P. O. Box 419026
Rancho Cordova, CA 95741

Comments may also be submitted by facsimile (FAX) at (916) 464-8033 or by e-mail to Rulemaking@csac.ca.gov. The public comment period for this regulatory action will begin on Friday, February 4, 2022. Comments must be submitted by March 21, 2022, to be considered.

AUTHORITY AND REFERENCE

Pursuant to the authority vested by Section 51225.7 of the Education Code, the proposed regulations implement, interpret and make specific Section 51225.7(h) of the Education Code. The Commission is considering changes to Division 4 of Title 5 of the California Code of Regulations to establish a model opt-out form, and acceptable use policy for the handling of confidential information, relevant to the Free Application for Federal Student Aid and the California Dream Act Application as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Education Code Section 51225.7 was most recently amended by Assembly Bill Assembly Bill 469 (AB 469), Chapter 560, Statutes of 2021. One of the stated purposes of AB 469 is: "to maximize the number of California students who apply for and receive federal and state

financial aid without creating an undue burden that prevents some students from graduating, without impacting student or parent immigration status, and with full protection for parent and student data.”

With respect to this goal, Education Code Section 51225.7(h) now provides that:

The Student Aid Commission shall, on or before July 1, 2022, adopt regulations that include, but are not limited to, model opt-out forms and acceptable use policies for the purpose of providing guidance on the requirements relating to state law in paragraph (2) of subdivision (e). The Student Aid Commission shall post and make available any model opt out forms and policies established pursuant to this subdivision on its internet website.

The stated purpose of paragraph (2) of subdivision (e) is to ensure:

Information shared by parents, legal guardians, and pupils under this section is handled in compliance with the federal Family Educational Rights and Privacy Act of 2001 (20 U.S.C. Sec. 1232g) and applicable state laws, including Chapters 493 and 495 of the Statutes of 2017, regardless of any person’s immigration status or other personal information, in order to protect all pupil and parent data to the fullest extent possible so that schools and all personal data remain safe.

The proposed regulations were developed to satisfy these amended provisions of the Education Code for the Commission to establish a model opt-out form for completing the Free Application for Federal Student Aid (FAFSA) or California Dream Act Application (CADAA), and to establish a model acceptable use policy for data collected from these applications by local education agencies.

Objectives and Benefits of the Proposed Regulation

The model opt-out form contained within the proposed regulations are designed assist local education agencies in maintaining a documented record of grade 12 pupils who elect not to submit a FAFSA or CADAA, or are determined to be exempt from submitting a financial aid application. This completion and collection of the opt-out form will allow LEAs to identify and maintain a record of which pupils opt-out of, or are exempt from submitting, a FAFSA or CADAA, and will ensure that pupils who elect not to file a FAFSA or CADAA are informed of the purpose of the application they are opting out of..

The proposed model acceptable use policy would help ensure local education agencies comply with their obligations pursuant to Education Code Section 51227.5(e)(2), including protecting pupil and parent personal information in accordance with recent State laws governing such data handling practices. In addition, the model policy has been drafted in a manner that can be readily adopted or modified by local agencies interested in adopting or implementing Commission recommended data handling policies that are consistent with state law.

Evaluation of Inconsistency or Incompatibility with Existing State Regulations

After conducting a review of related State regulations in this area, the Commission has determined that other regulations exist with respect to the handling of confidential information by local education agencies. However, these other regulations largely focus on local education agency interactions with law enforcement agencies, rather than the specific handling of confidential information collected or maintained from FAFSA or CADAA filings. The model use policy contained in the proposed regulations is designed to complement the provisions of other

State regulations in this area. Therefore, the proposed regulations are neither inconsistent nor incompatible with existing State regulations.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Commission has made the following initial determinations:

Mandate on Local Agencies and School Districts: None

Fiscal Impact Estimates:

This proposal does not impose costs on any local agency or school district for which reimbursement would be required pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code. This proposal does not impose other nondiscretionary costs or savings on local agencies. This proposal does not result in any cost or savings in federal funding to the state. With respect to potential cost or savings to State agencies, the California Student Aid Commission may incur minor absorbable costs relative to preparing the proposed regulations.

Housing Cost: None

Cost Impact on Representative Private Person or Business:

The Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Other Business Impacts:

The Commission has determined the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposal would impose no costs upon business. The proposal does not affect small businesses as defined by California Government Code Section 11342.610. This proposal would not affect private sector or small business as defined by California Government Code Section 11342.610.

Cost or Savings in Federal Funding to the State: None

Results of the Economic Impact Analysis:

The Commission has determined that this regulatory proposal will not have any effect on the creation of jobs or new businesses, on the elimination of jobs or existing businesses, or on the expansion of businesses in the State of California. The regulation is not expected to adversely affect or benefit California residents' health and welfare, worker safety, or the State's environment.

The proposed regulations establish a model opt-out form for the FAFSA and CADAA completion requirement, and a model acceptable use policy relative to the secure handling of confidential information related to the FAFSA and CADAA completion requirement, by local education agencies. The regulations are designed to provide guidance as required by Education Code Section 51225.7 and do not require local education agencies to adopt or implement the model form or policy. As such, the proposed regulations place no new or substantial requirements on businesses, or individuals within California.

FEDERAL MANDATE

There are no comparable provisions of federal law related to this proposal. The regulation would only apply in California and specifically to establishing a model opt-out form for FAFSA and CADAA filings, and the handling of confidential information collected and maintained by local education agencies. The regulations would neither affect nor conflict with any federal regulations or federal education programs. In accordance with California Education Code Section 51225.7(e)(2), the model acceptable use policy contained within the proposed regulations are consistent with the federal Family Education Rights and Privacy Act of 2021 (20 U.S.C. Sec. 1232g).

CONSIDERATION OF ALTERNATIVES

The Commission must determine that no reasonable alternative it considered, or that has otherwise been identified and brought to its attention, would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law. The Commission invites interested parties to submit statements or arguments with respect to alternatives to the proposed regulatory action during the written comment period or at the public hearing.

CONTACT PERSONS

Inquiries concerning the proposed adoption of the regulations and written comments may be directed to:

Gary Collord
California Student Aid Commission
PO Box 419026, Rancho Cordova, CA 95741
Telephone: (916) 347-0632
Fax: (916) 464-8033 Facsimile
Email: Rulemaking@csac.ca.gov

The back-up contact person for these inquiries is:

Synequeen Alasa-as
California Student Aid Commission
PO Box 419026, Rancho Cordova, CA 95741
Telephone: (916) 464-6411
Fax: (916) 464-6411 Facsimile
Email: Rulemaking@csac.ca.gov

AVAILABILITY OF THE STATEMENT OF REASONS, TEXT OF PROPOSED REGULATIONS, AND RULEMAKING FILE

The Commission will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office listed at the address above. As of the date this notice is published, the rulemaking file consists of this notice, the proposed text of regulations, the initial statement of reasons, an economic and fiscal analysis, and other reference information upon which the proposed rulemaking is based. Copies may be obtained by making a written request to Gary Collord.

These documents may also be viewed and downloaded from the Commission's Web site at <https://www.csac.ca.gov/proposed-regulations-rulemaking-documents>.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all timely and relevant comments received, the Commission may adopt the proposed regulations substantially as described in this notice. If the Commission makes modifications which are sufficiently related to the originally proposed text, it will make the modified text, with changes clearly indicated, available to the public for at least 15 days before the Board adopts the regulations as revised. Please send requests for copies of any modified regulations to the attention of Gary Collard at the above address. The Commission will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, copies of the final statement of reasons may be obtained by making a written request to Gary Collard at the above address.

WEBSITE ACCESS

Materials regarding this proposal can be found at <https://www.csac.ca.gov/proposed-regulations-rulemaking-documents>.