



NEASFAA

Data Sharing and GLBA

March 22, 2024

Nebraska Association of Student Financial Aid Administrators



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Presented by
Stacy Dieckman, NECC
and
Doug Watson, Midland University

March 22, 2024

Nebraska Association of Student Financial Aid Administrators

Financial Aid Data Sharing

FAFSA Data

Institutional
Research

FTI Data

Scholarship Office

W-2

Tax Returns

Derived FAFSA Data

NSLDS Data

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Prior to FAFSA Simplification

Higher Education Act (HEA) of 1965, as amended

- 483(a)(3)(E)
- 485B

Privacy Act of 1974, as amended

Family Educational Rights and Privacy Act (FERPA), as amended

FEDERAL LAWS

2023-24 & Preceding FAFSA Cycles

Now

Higher Education Act (HEA) of 1965, as amended

- 483
- 485B
- 494

Privacy Act of 1974, as amended

Family Educational Rights and Privacy Act (FERPA) of 1974, as amended

Internal Revenue Code (IRC) of 1986, as amended

- 6103(I)(13)

FEDERAL LAWS

2024-25 & Succeeding FAFSA Cycles

PROTECTING FEDERAL TAX INFORMATION (FTI) AT YOUR INSTITUTION

Points to Consider:

- “Schools or other entities are not permitted to obtain approval and consent on behalf of FAFSA contributors for the use of disclosure of FTI.”
- *For IRS purposes FTI is never changed and manually provided information never overwrites FTI received from the IRS.
- SAFEGUARDING FTI (IRC § 6103(I)(13)(D)(iii); NIST Special Publication 800-171
 - Appropriate receipt, handling, marking, and safeguard of CUI data
 - IHE and TPS should use NIST SP 800-171 guidance to effectively safeguard FTI updates to Program Participation Agreements (PPA), Student Aid Internet Gateway (SAIG)

Violations of Section 6103 (I) of the IRC are criminal and civil.

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PROTECTING FEDERAL TAX INFORMATION (FTI) AT YOUR INSTITUTION

For the purposes of application, award, and administration of student financial aid.

FTI shall not be shared with any other entity without explicit written consent of Applicant unless is permitted under IRC 6103(i)(13)(D). This means schools must obtain written consent for the disclosure of FTI, including other FAFSA data, to another organization entity, for example a scholarship organization, at the request of the applicant.

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Consent Process for Department of Education

The consent process for the Department to use and disclose federal tax information by the IRS must be completed annually by contributors when completing the FAFSA form. Contributors include parents or spouse, who must agree to:

- 1) The Department's use and disclosure of their information, for example, name and Social Security number, to match with the IRS.
- 2) the disclosure of their FTI information by the IRS to the Department.
- 3) the use of their information by a department official to determine an applicant's eligibility for federal student aid and the amount for which they are eligible.
- 4) the redisclosure of FTI by the Department to an eligible institution, state higher education agency or a designated scholarship organization such as institutional or state financial aid.

The Department is the only entity with the authority to obtain approval and consent for the use and disclosure of FTI for such purposes.

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PROTECTING FEDERAL TAX INFORMATION (FTI) AT YOUR INSTITUTION

The use and disclosure of FAFSA data is generally dictated or governed by the most restrictive statutory and regulatory provisions. These include:

- The provisions of section 444 of the General Education Provisions Act, commonly known as the Family Educational Rights and Privacy Act of 1974, or FERPA.
- The Higher Education Act as amended, especially section 483.
- Section 103 of the Internal Revenue Code.
 - Federal tax information data while FAFSA data is most restrictive under the IRC and may only be used for purposes outlined in Section 6103(i) 13.
 - The remaining FAFSA data and their respective use and disclosure/redisclosure is specific to FERPA, HEA and Privacy Act provisions.

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Differences between FAFSA data and FTI

FAFSA data includes all data and information that is collected via the FAFSA form from any Contributor, Student, Student Spouse, Parent, Other Parent. This includes information like Personally Identifiable Information (PII)--name, date of birth, address, etcetera. It also includes information used to assess a student's dependency status, other financial information that is not directly provided by the IRS, also known as non-FTI data, and the list of colleges this student would like to send their data for purposes of aid determination.

Derived FAFSA data includes data such as the Expected Family Contribution, EFC, or our student aid indexes SAI that will be happening, and federal Pell Grant eligibility status. Generally, institutions and states may only use FAFSA data solely for the applicant packaging and administration of financial aid to the applicant, including state and institutional aid.

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Differences between FAFSA data and FTI

While FTI data is FAFSA data, FTI data is governed by the IRC, which is the most restrictive provision and thus it may not be treated the same way as other FAFSA data.

FTI data may only be used to determine eligibility for, and the amount of, federal financial aid, and redisclosure to institutions of higher education, state higher education agencies, and designated scholarship organizations in order to determine a student's eligibility for institutional, state, or scholarship aid.

The IRS response codes are also considered FTI. They include tax filer and FTI provided information to FTIM, not found at the IRS, found as a non-filer, found but IRS not able to provide information.

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Can FAFSA data, including FTI, be used for research?

Institutions and state higher education agencies may use FAFSA data, **excluding FTI information**, for research that does not release individually identifiable information, PII, on any applicant for purposes of promoting college attendance and completion. To release FAFSA data to other internal/external stakeholders for such research efforts, the disclosures must be in line with other statutory provisions of HEA, FERPA, and the Privacy Act. And the department will be releasing forthcoming guidance to help institutions comply with such uses and redisclosures.

Penalties

Failure to comply with the regulations or any unlawful access to view, use, or disclosure of federal tax information is a violation of the Internal Revenue Code. FTI data received via an ISIR is also considered federal tax information data and therefore is subject to the same penalties if violated. Penalties could include criminal and civil penalties and could result in the termination of Title IV participation. These penalties also apply to a partner's third-party servicer.

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Can FAFSA data, including FTI, be redisclosed to a scholarship granting of the student's choosing?

Yes. The information in a complete, unredacted FAFSA submission summary, FSS, including any return information, may be redisclosed to a scholarship granting organization or another organization of the students choosing if the organization will assist them in applying for and reviewing federal, state, local, or tribal assistance for any component of their cost of attendance.

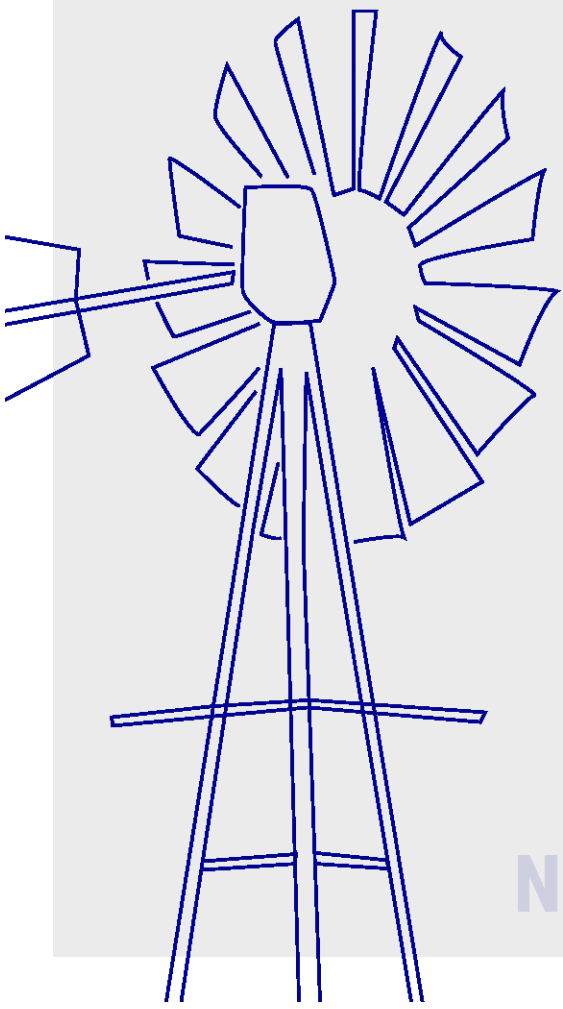
The redisclosure may only occur with the student's express written consent.

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Can federal tax information (FTI) from the FAFSA be accessed or disclosed to our TRIO Program? (2023 FSA Training, B010)

- It depends. General access and use of FTI data under the IRC must be consistent with the application, award, and administration of federal, state, and institutional financial aid programs. If the institution is determining student eligibility for and amount of a TRIO grant, then FTI data may be access, disclosed, used for such purposes.
 - FTI may not be used to generally determine student eligibility for the TRIO program (i.e., for additional student services and resources) as the program is not authorized under IRC (26 USC 6103(l)(13) and access to FTI data is prohibited beyond the scope of the application, award, and administration of federal, state, and institutional financial aid programs.
 - However, with written consent of the applicant, a TRIO advisor or other TRIO administrator may participate in discussions with a financial aid administrator for purposes of the TRIO program.

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FSA 2024–25 FAFSA FORM Q&A, SESSION 1 –
Webinar, January 18, 2024

Nebraska Association of Student Financial Aid Administrators

Can the Financial Aid office share a 2024-2025 prospective student's SAI with the Admissions office without the student's consent?

Generally, the SAI, which is derived FAFSA data, and other FAFSA data may be disclosed to staff in the admissions office, as their activity may be considered under the application, award, and administration of student financial aid programs.

Federal, state, and institutional financial aid are some examples. If a prospective student elects to have their FAFSA information sent to an institution, the institution may contact the individual about the application and admission process, including steps and information for applying and receiving student financial aid and informing the student of financial aid award information.



Can our business office access federal, state, and institutional financial award information for the purposes of discussing billing with students?

Institutional financial aid award information would be considered student record information, student account balance, award, and offer letter information and therefore covered by FERPA rather than HEA because the data is not considered FAFSA data. SAI, while being covered under HEA, may also be disclosed to the business office if they are carrying out duties consistent with the application, award, and administration of student financial aid programs.

Note: It is important to consider the source of the data in determining which law is implicated and the restrictions on the access, disclosure, and use of the data. Also, it's important to know written consent is not needed for non-FAFSA data because it is implicated under FERPA; and, in this context, a school official exemption applies.



When a financial aid office receives a request to provide all ISIR information to a student, should we obtain written consent from all contributors or only the student?


When an applicant and any respective contributor, parent, or spouse provides consent and approval on the FAFSA form, they are, among other things, consenting to the disclosure and discussion of FTI data to the family member or members that participated in the FAFSA form. Therefore, written consent from all contributors is not required, and the disclosure of parent FTI data to a student requesting their ISIR can be shared without the consent of the contributor or contributors. The same is true if the parent is requesting FTI data of the student.



Can We Share FAFSA Filers With the Admissions Office So They Can Recruit Those Students? Part 1 (NASFAA Ask Regs: Award Year: 2024-25KA-36922)

According to guidance NASFAA has received from the U.S. Department of Education (ED), prior guidance will be changing effective with the 2024-25 award year due to changes under the FAFSA Simplification Act. As in the past, and as a general rule, the disclosure of FAFSA data with another office or individual **depends entirely on the data being shared and how that individual or office intends to use that data.**

ED interprets FAFSA filers as "FAFSA filing status information" from an Institutional Student Information Record (ISIR) as FAFSA data (not as FTI) because FAFSA data include: student's first name; student's last name; student's date of birth; student's ZIP Code; FAFSA submitted date (the date the FAFSA was submitted to ED); FAFSA processed date (the date ED processed the FAFSA); a Selected for Verification flag; and a FAFSA completion flag (e.g., FAFSA not submitted, FAFSA complete, or FAFSA incomplete).



Can We Share FAFSA Filers With the Admissions Office So They Can Recruit Those Students? Part 2

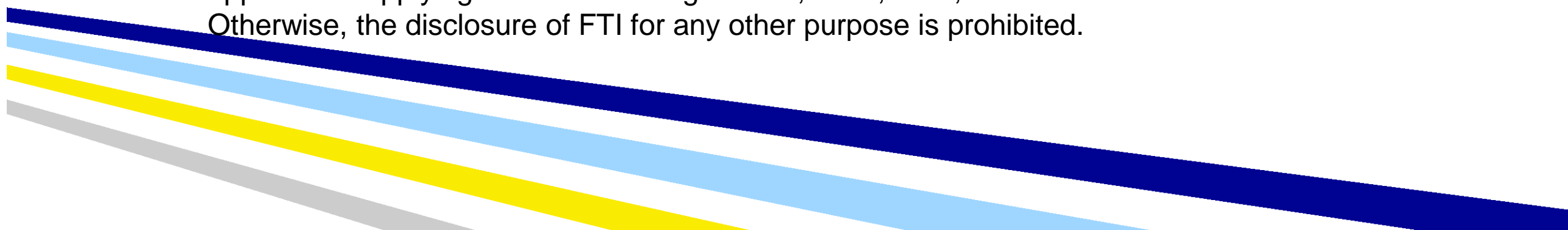
FAFSA Data: The disclosure and use of FAFSA data, which includes FAFSA filing status information, are implicated under the Higher Education Act (HEA) of 1965, as amended. Therefore, the further disclosure of FAFSA data to other internal offices (e.g., Admissions) from the financial aid office is permissible under the HEA for the application, award, and administration of federal, state, and institutional financial aid programs. For example, if a student elected to have their FAFSA sent to the institution, the institution's admissions office then may use FAFSA filing status information to contact the individual about the application and admission process in the event the student has not applied for admission to the institution. The financial aid office may also use the individual's FAFSA information provided on the FAFSA to communicate about the financial aid process at the institution, including but not limited to, proposed financial aid award information, verification requirements, and necessary steps to receive financial aid in a timely manner.

However, FAFSA data may not be used to market to students or for recruitment efforts, but rather generally used to administer student financial aid effectively and efficiently. FAFSA data are further defined in AskRegs Q&A, [What Is Considered FAFSA Data For Purposes Of Data Sharing?](#)

Can We Share FAFSA Filers With the Admissions Office So They Can Recruit Those Students?

Part 3

Federal Tax Information (FTI): While not implicated in this use case, the disclosure and use of FTI, which includes income information ED received from the IRS via the FUTURE Act Direct Data Exchange (FA-DDX), are implicated under the HEA, and the Internal Revenue Code (IRC). FTI may be disclosed and used by other internal offices, such as an admissions staff executing job duties and business functions related to the application, award, and administration of student aid programs, which might include discussing special circumstances due to a job loss that implicates FTI. Otherwise, the further redisclosure and use of FTI must be consistent [20 USC 1098h\(c\)\(1\) and \(2\)](#), which states written consent is required if providing FTI and FAFSA data to an organization assisting the applicant in applying for and receiving federal, state, local, or tribal assistance. Otherwise, the disclosure of FTI for any other purpose is prohibited.




Can We Share FAFSA Filers With the Admissions Office So They Can Recruit Those Students?

Part 4

Additionally, the discussion of FTI and FAFSA data also requires written consent of the student to include an individual selected by the applicant to participate in discussions that is not employed by the institution and not carrying on job duties related to the application, award, and administration of student aid programs. The use of FTI for student marketing and recruitment is also prohibited as it is not considered under the application, award, and administration of federal, state, and institutional financial aid programs. FAFSA data no longer include FTI, which is defined in AskRegs Q&A, [What Is Federal Tax Information \(FTI\)?](#)

Additional Guidance: ED has promised additional guidance in the form of a Dear Colleague Letter or Electronic Announcement and Questions and Answers webpage. When that guidance is released, we will update this Q&A.



Creating Your Institution's Data Sharing Policy

Review and be familiar with the data sharing and privacy laws and regulations, including HEA, FERPA, GLBA and IRC.

Require access to financial aid data and/or SIS screens to be signed off by the Director of Financial Aid or whoever is the data trustee at your organization

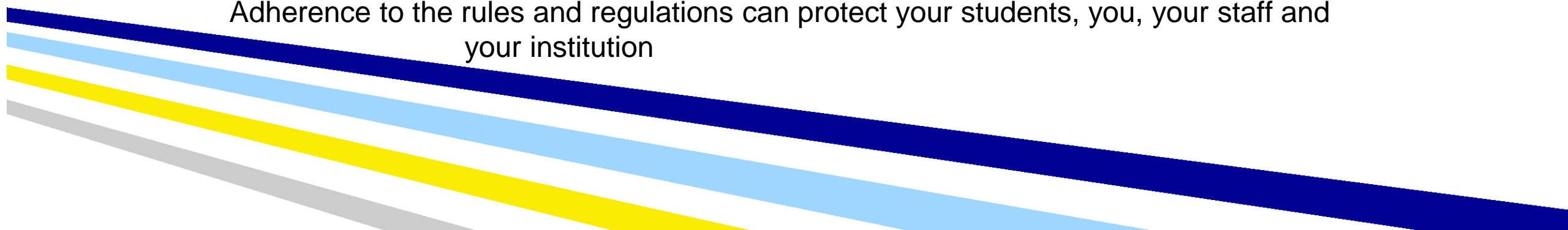
Limit access to ISIR data

Train staff who have access to FTI and FAFSA data on the new restrictions

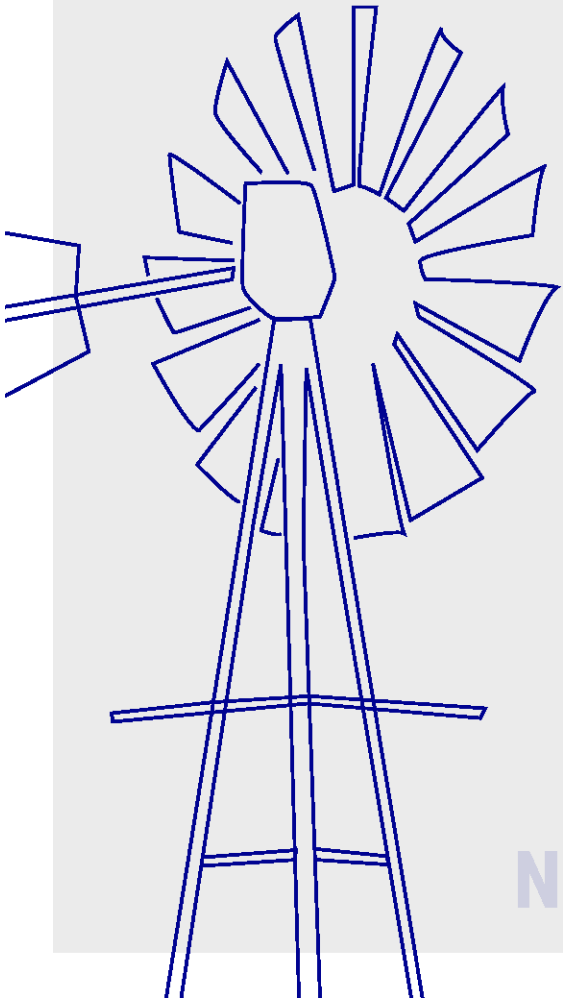
Review job duties of who has access to data – is it consistent with application and award and administration of student financial aid

Provide and require annual training

Adherence to the rules and regulations can protect your students, you, your staff and your institution



Gramm-Leach-Bliley Act



Requires financial institutions – companies that offer consumers financial products or services like loans, financial or investment advice, or insurance – to explain their information-sharing practices to their customers and to safeguard sensitive data.

Three key rules of the GLBA include:

Privacy Rule: Ensuring the protection of consumers' personal financial information.

Safeguards Rule: Requiring the establishment of security measures to prevent data breaches.

Pretexting Provisions: Prohibiting deceptive methods of obtaining personal financial information.

Gramm-Leach Bliley Act

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Requirements in the GLBA Safeguards Rule for colleges and universities

Ensure the security and confidentiality of student information;

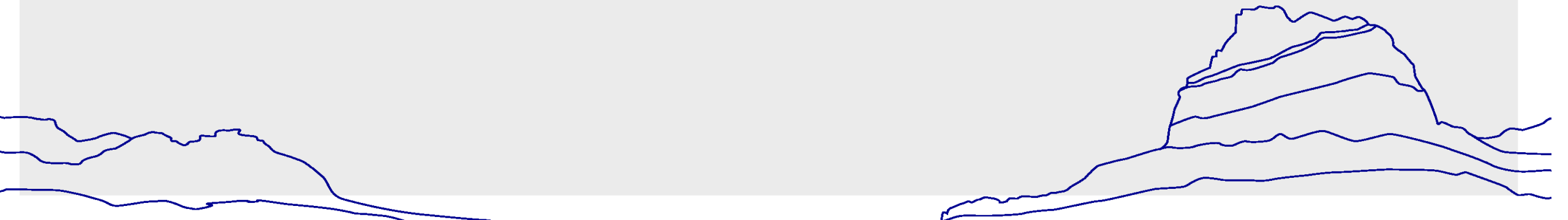
Protect against any anticipated threats or hazards to the security or integrity of such information; and

Protect against unauthorized access to or use of such information that could result in substantial harm or inconvenience to any student (16 C.F.R. 314.3(b)).

Gramm-Leach Bliley Act

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In nearly all cases, data breaches start with a single user that didn't follow a simple safety procedure.



GLBA Best Practices

MFA-Multi Factor Authentication

- Requires the user to provide a second level of information from a device separate from the device or application they are logging into.
 - Getting a text message with a code, or using an authenticator app that provides a code to type on the screen; or,
 - **Better** "Passwordless authentication" where the application the user is logging into shows a
 - App shows 2 digit code that pushes to the device where the authentication app has been synced up. The user then types in that two digit code to approve the login.
 - Many companies are no longer supporting the text version of MFA because it is not as safe and users have been prone to share that code with bad actors who text or call asking for it.

GLBA Best Practices (con'd)

Security Training

- Often common industry courses
- Articles published and videos to watch.
 - The goal is to increase the digital literacy of our users
 - More awareness of common attacks and how to avoid them.
 - Helps to keep security on the forefront of users as they work with data, especially when they are in public areas or on public devices.

GLBA Safeguard

Monitor your service providers

This is the primary requirement related to data sharing with external vendors processing GLBA-protected data types

- Regularly request Higher Education Community Vendor Assessment Tool (HECVAT) questionnaire tool to help assess vendor PII risk
- Regularly request Service/System Organization Controls (SOC) reports from vendors indicating how they are going to protect the client data

Controlled Unclassified Information (CUI)

Controlled Unclassified Information/Specified Tax (CUI//SP-TAX): the U.S. National Archives and Records Administration (NARA) classification for federal tax information (FTI) related to returns and return information submitted, gathered, or generated by taxpayers. In accordance with the confidentiality protections of Section 6103(l)(13) of the Internal Revenue Code (IRC) and in accordance with all applicable privacy laws, regulations, and policies, the Department will label FTI fields on the Institutional Student Information Record (ISIR) and the FTI must be labelled as CUI//SP-TAX by our partners. These labels must follow FTI wherever it is accessed, stored, or redisclosed with express written consent. *For more information, see FTI definition below and [NARA CUI Category: Federal Taxpayer Information](#).*

If we create internal documents that summarize FAFSA information for ease of review and that summary includes FTI information, must those internal documents contain the CUI label?

Yes, anytime that FTI is present, whether it is electronically stored in the system, accessed through your student information system, or is printed, it must contain the CUI// SP-tax designations to ensure that the information that is being accessed by the individual who needs access to it is aware that they are viewing FTI that is protected under the Internal Revenue Code.

Upcoming Resources

USDE has said additional webinars will be scheduled. Please watch for these.

NASFAA's Data Sharing Tree will be updated at some point



Resources

[FTI and Data Use](#)

[Protecting Federal Tax Information \(FTI\) at Your Institution Live Webinar
June 8, 2023](#)

[Data Use and Considerations Under the FUTURE Act and FAFSA®
Simplification Act](#)



Resources

[Better FAFSA Better Future Q&A – Session 1 Live Webinar](#)
[January 18, 2024](#)

[NASFAA Ask Regs – What is considered FAFSA data](#)

[NASFAA Ask Regs – Can we share FAFSA data with Admissions Office](#)



Resources

[GLBA](#)

[GLBA – Cybersecurity Requirements](#)

[GLBA – Privacy of Consumer Information](#)

[FSA-New GLBA Requirements](#)



Resources

[Controlled Unclassified Information](#)

[Video on CUI](#)



Resources

[HECVAT – Higher Education Community Vendor Assessment Toolkit](#)

can we put the resources below on NeASFAA website with power point

Use NECC document-audit document -

Share info from company-higher ed guide to achieving GLBA compliance

NECC Data Classification-FA proposed changes





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“...the good life”