

# **The Federal Update for August 9, 2024**

From: Michael Brustein, Julia Martin, Steven Spillan, Kelly Christiansen

Re: Federal Update

Date: August 9, 2024

[Legislation and Guidance 1](#_Toc174089829)

[Slow Progress on FY 2025 Appropriations as Congress Enters Recess 1](#_Toc174089830)

[News 2](#_Toc174089831)

[FAFSA Release for 2025-2026 Award Year Delayed 2](#_Toc174089832)

[Republican Senators Argue Secretary Cardona Violated Hatch Act 2](#_Toc174089833)

[Reports 3](#_Toc174089834)

[ED OIG Releases Report on FSA Implementation of FAFSA Changes 3](#_Toc174089835)

## Legislation and Guidance

### Slow Progress on FY 2025 Appropriations as Congress Enters Recess

Both the House of Representatives and Senate are in recess until September 9th, leaving a short amount of time to finalize appropriations before fiscal year (FY) 2025 begins on October 1st. The House passed some FY 2025 appropriations bills before leaving Washington for summer recess, while the full Senate has not yet passed any legislation.

Lawmakers are likely to pass a continuing resolution when they return in September, which would extend funding at FY 2024 levels for weeks or months, but the details have not yet been determined. In addition to the summer recess, lawmakers will also be in recess for the month of October through November 11th, due to the upcoming election.

Due to the limited time in session before the end of the year, and the election, it will be challenging for Congress to pass substantive policy legislation in the coming months.

Author: KSC

## News

### FAFSA Release for 2025-2026 Award Year Delayed

The release of the Free Application for Federal Student Aid (FAFSA), which is typically made available for students to begin filling out on October 1st, has been delayed for the 2025-2026 award year. The FAFSA will become available to all students and their families on December 1st this year, with some students receiving access earlier through a phased rollout.

U.S. Department of Education (ED) officials have said the phased rollout is designed to help avoid the technical issues that plagued the FAFSA this year after updates were made to the system. With a smaller number of students applying beginning in October, Federal Student Aid (FSA) will have time to fix any technical issues before the form becomes available to all students.

Stakeholder organizations had encouraged ED to delay the release of the form to ensure the rollout would be smoother than this year, but Congressional Republicans criticized the move this week over concerns that the shorter timeline will reduce the number of applicants and cause challenges for institutions of higher education in releasing financial aid offers in a timely manner. The House Committee on Education and the Workforce approved a Republican-led bill earlier this summer to require ED to publish the FAFSA on October 1st, but that legislation has not been voted on by the full House or the Senate.

Resources:

Katherine Knott, “Education Department Delays FAFSA Launch for Most Students,” *Inside Higher Ed*, August 8, 2024.

Author: KSC

### Republican Senators Argue Secretary Cardona Violated Hatch Act

Secretary of Education Miguel Cardona sent a letter to federal student loan borrowers in July about the legal challenges to the administration’s Saving on a Valuable Education (SAVE) plan. Some Republican senators have said Cardona’s communication violated the Hatch Act, among other federal laws.

The SAVE plan, a new repayment program for federal student loan borrowers, lowers monthly payments for borrowers and allows for faster paths to loan forgiveness. However, the SAVE plan has faced numerous legal challenges, with courts blocking certain aspects of the plan.

In response to those challenges, Cardona sent the official July letter, which said that “lawsuits [were] brought by Republican elected officials who are siding with special interests and trying to block Americans from accessing all the benefits of the most affordable student loan repayment plan in history.”

In a letter sent last week, Senators Ted Cruz (R-TX), Bill Cassidy (R-LA), and Thom Tillis (R-NC) asked the U.S. Department of Education’s Inspector General, Sandra Bruce, to formally investigate this language for violations of the Hatch Act, other federal laws, and ED policies. The Hatch Act prohibits employees of the federal government from using their authority to interfere with the results of an election.

The Senators wrote that the email was “overtly political,” and that Cardona used the term “Republican elected officials” multiple times. They also say that since this letter was sent during an election year, the letter was a call to vote against Republicans.

ED has not yet responded to the claims.

[The letter to the Inspector General can be found here.](https://www.cruz.senate.gov/imo/media/doc/letter_to_ig_sandra_dbruce.pdf)

Resources:

Bianca Quilantan, “Republicans demand investigation into Cardona for potentially violating Hatch Act,” *Politico*, August 5, 2024.

Author: BTW

## Reports

### ED OIG Releases Report on FSA Implementation of FAFSA Changes

The U.S. Department of Education’s Office of Inspector General (ED’s OIG) recently released a report examining Federal Student Aid’s implementation of certain Free Application for Federal Student Aid (FAFSA) updates over the past year. The changes were mandated by two pieces of legislation passed by Congress, including the FAFSA Simplification Act and the Fostering Undergraduate Talent by Unlocking Resources for Education (FUTURE) Act.

As required by the Congressional legislation, Federal Student Aid (FSA) initiated a significant overhaul of the FAFSA system for the 2024-2025 award year, which has faced multiple challenges and delays since the rollout began late last year. The ED OIG report specifically reviewed FSA’s rollout of the changes related to federal tax information. Under the new FAFSA system, some information is automatically populated in the form from data available at the Internal Revenue Service. ED OIG found issues with the system implementation that would allow ED to receive, use, and keep secure federal taxpayer information.

ED OIG found that FSA did not adequately monitor project implementation, including costs and budgeting, and did not properly manage risks due to a lack of oversight of contractors conducting the work. In addition, ED OIG stated that the lack of oversight of contractors and project implementation generally led to increased costs outside of the original budget for the project. ED OIG included six recommendations for FSA, including ensuring that deliverables are clearly defined in the contracts, internal ED contract monitoring directives are followed, and staff clearly understand oversight responsibilities, among other recommendations.

While this report did not address other challenges with the FAFSA rollout that led to significant delays for the 2024-2025 award year, both ED OIG and the Government Accountability Office are looking into those issues and will likely publish reports in the coming months.

[The full ED OIG report on FAFSA implementation is available here](https://oig.ed.gov/sites/default/files/reports/2024-08/FY24-A23GA0122-73124v100508SECURED.pdf).

Resources:

Katherine Knott, “Inspector General Finds Gaps in FAFSA Planning, Oversight,” *Inside Higher Ed*, August 2, 2024.

Author: KSC

***The Federal Update has been prepared to inform The Bruman Group, PLLC’s legislative clients of recent events in federal education legislation and/or administrative law. It is not intended as legal advice, should not serve as the basis for decision-making in specific situations, and does not create an attorney-client relationship between The Bruman Group, PLLC and the reader.***

© The Bruman Group, PLLC 2024

Contributors: Kelly Christiansen, Brandi Tennant Wills

Posted by the California Department of Education, August 2024