

116TH CONGRESS  
1ST SESSION

# S. 416

To amend the Higher Education Act of 1965 to amend the process by which students with certain special circumstances apply for Federal financial aid.

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## IN THE SENATE OF THE UNITED STATES

FEBRUARY 7, 2019

Mr. CARDIN (for himself and Mr. VAN HOLLEN) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

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## A BILL

To amend the Higher Education Act of 1965 to amend the process by which students with certain special circumstances apply for Federal financial aid.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “FAFSA Fairness Act  
5 of 2019”.

6 **SEC. 2. PROVISIONAL INDEPENDENCE FOR CERTAIN STU-**  
7 **DENTS.**

8 Section 483 of the Higher Education Act of 1965 (20  
9 U.S.C. 1090) is amended—

1           (1) in subsection (h)(1), by inserting the fol-  
 2           lowing before the semicolon: “, including the special  
 3           circumstances under which a student may qualify for  
 4           a determination of independence”; and

5           (2) by adding at the end the following:

6           “(i) PROVISIONAL INDEPENDENT STUDENTS.—

7           “(1) REQUIREMENTS FOR THE SECRETARY.—

8           The Secretary shall—

9           “(A) enable each student who, based on  
 10           the special circumstance specified in subsection  
 11           (h)(1), may qualify for an adjustment under  
 12           section 479A that will result in a determination  
 13           of independence under such section and section  
 14           480(d)(1)(I), to complete the forms developed  
 15           by the Secretary under subsection (a) as an  
 16           independent student for the purpose of a provi-  
 17           sional determination of the student’s Federal fi-  
 18           nancial aid award, but subject to verification  
 19           under paragraph (2)(E) for the purpose of the  
 20           final determination of the award;

21           “(B) upon completion of the forms devel-  
 22           oped by the Secretary under subsection (a),  
 23           provide an estimate of the student’s Federal  
 24           Pell Grant award, based on the assumption the

1 student is determined to be an independent stu-  
 2 dent;

3 “(C) ensure that, on each form developed  
 4 under this section, there is a single and easily  
 5 understood screening question to identify an ap-  
 6 plicant for aid who wishes to provisionally apply  
 7 for independent status under sections 479A and  
 8 480(d)(1)(I); and

9 “(D) specify, on the forms, the con-  
 10 sequences under section 490(a) of knowingly  
 11 and willfully completing the forms as an inde-  
 12 pendent student under subparagraph (A) with-  
 13 out meeting the special circumstances to qualify  
 14 for such a determination.

15 “(2) REQUIREMENTS FOR FINANCIAL AID AD-  
 16 MINISTRATORS.—With respect to a student accepted  
 17 for admission who completes the forms as an inde-  
 18 pendent student under paragraph (1)(A), a financial  
 19 aid administrator—

20 “(A) shall notify the student of the institu-  
 21 tional process and requirements for an adjust-  
 22 ment under sections 479A and 480(d)(1)(I)  
 23 that will result in a determination of independ-  
 24 ence under such sections within a reasonable  
 25 time after the student completes the forms de-

1           veloped by the Secretary under subsection (a)  
2           as an independent student for the purpose of a  
3           provisional determination of the student's Fed-  
4           eral financial aid award;

5           “(B) may make an adjustment under sec-  
6           tions 479A and 480(d)(1)(I) for a determina-  
7           tion of independence in the absence of con-  
8           flicting information;

9           “(C) shall provide a final determination of  
10          the student's Federal financial aid award to the  
11          student in the same manner as, and by not  
12          later than the date that, the administrator pro-  
13          vides most other provisionally independent stu-  
14          dents their final determinations of Federal fi-  
15          nancial aid awards, or during the award year in  
16          which the student initially submits an applica-  
17          tion, whichever comes sooner;

18          “(D) shall, in making a final determination  
19          of the student's Federal financial aid award,  
20          use the discretion provided under sections 479A  
21          and 480(d)(1)(I) to verify whether the student  
22          meets the special circumstances to qualify as an  
23          independent student;

24          “(E) in accordance with paragraph (B),  
25          may consider as adequate verification that a

1 student qualifies for an adjustment under sec-  
2 tions 479A and 480(d)(1)(I)—

3 “(i) submission of a court order or of-  
4 ficial Federal or State documentation that  
5 the student’s parent or legal guardian is  
6 incarcerated in any Federal or State penal  
7 institution;

8 “(ii) a documented phone call with, or  
9 a written statement from—

10 “(I) a child welfare agency au-  
11 thorized by a State or county;

12 “(II) a Tribal child welfare au-  
13 thority;

14 “(III) an independent living case  
15 worker; or

16 “(IV) a public or private agency,  
17 facility, or program serving the vic-  
18 tims of abuse, neglect, assault, or vio-  
19 lence;

20 “(iii) a documented phone call with,  
21 or a written statement from, an attorney,  
22 a guardian ad litem, or a court appointed  
23 special advocate, documenting that per-  
24 son’s relationship to the student;

1 “(iv) a documented phone call with, or  
 2 a written statement from, a representative  
 3 of a program under chapter 1 or 2 of sub-  
 4 part 2 of part A; or

5 “(v) submission of a copy of the stu-  
 6 dent’s biological or adoptive parents’ or  
 7 legal guardians’—

8 “(I) certificates of death; or

9 “(II) verified obituaries;

10 “(F) if a student does not have, and can-  
 11 not get, documentation from any of the des-  
 12 ignated authorities described in subparagraph  
 13 (E) of whether a student may qualify for an ad-  
 14 justment under sections 479A and 480(d)(1)(I)  
 15 that will result in a determination of independ-  
 16 ence, may base the verification and final deter-  
 17 mination on—

18 “(i) a documented interview with the  
 19 student that is limited to whether the stu-  
 20 dent meets the requirements, and not  
 21 about the reasons for the student’s situa-  
 22 tions; and

23 “(ii) an attestation from the student  
 24 that they meet the requirements, which in-  
 25 cludes a description of the approximate

1            dates that the student ended the financial  
 2            or caregiving relationship with their parent  
 3            or legal guardian, to the best of the stu-  
 4            dent’s knowledge;

5            “(G) retain all documents related to the  
 6            adjustment under sections 479A and  
 7            480(d)(1)(I), including documented interviews,  
 8            for the duration of the student’s enrollment at  
 9            the institution and for a minimum of 1 year  
 10          after the student is no longer enrolled at the in-  
 11          stitution; and

12          “(H) shall presume that any student who  
 13          has obtained an adjustment under sections  
 14          479A and 480(d)(1)(I) and a final determina-  
 15          tion of independence for a preceding award year  
 16          at an institution to be independent for a subse-  
 17          quent award year at the same institution un-  
 18          less—

19                “(i) the student informs the institu-  
 20                tion that circumstances have changed; or

21                “(ii) the institution has specific con-  
 22                flicting information about the student’s  
 23                independence.”.

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