



Unequal Aid

Discriminatory Treatment of Gay and Transgender Applicants and Families Headed by Same-Sex Couples in the Higher Education Financial Aid Process

Crosby Burns August 2011

Center for American Progress



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Introduction and summary

Financial aid for higher education often represents the lifeline that allows students to acquire a postsecondary education in our country. Access to higher education is the gateway to economic prosperity for many Americans. Individuals with higher education have higher earnings than those who do not, and that holds true across race, ethnicity, and gender. Similarly, those with higher education degrees experience lower rates of unemployment and poverty, as well as have fewer health issues than those who do not or cannot attain a postsecondary education. And those with college degrees exhibit higher rates of civic engagement—they are more likely to vote, donate blood, and volunteer.¹

Society covets higher education for its citizens as well because it not only benefits students receiving that education but society as a whole. Higher education is the driving force behind a nation's competitiveness and ability to innovate in an increasingly technological and global economy. As a result, more educated societies tend to result in larger, more successful economies with higher standards of living.

But higher education requires a significant financial investment from potential students and their families. In 2008, the last year for which complete data are available, the annual cost to attend a four-year public college comprised 48 percent of a low-income family's income and 26 percent of a moderate-income family's income. Just 15 years prior, the cost comprised 41 percent of a low-income family's income and 22 percent of a moderate family's income.² Both public and private entities recognize the value inherent in a postsecondary education and acknowledge that access may prove difficult for some individuals in financial need given the ever-rising costs of attending college. Accordingly, financial aid programs provide students with loans, grants, scholarships, and other assistance that give individuals the opportunity to earn a college degree.

Students access aid from a variety of sources. The federal government provides more financial assistance for higher education than any other institution. In 2010 the Department of Education delivered more than \$134 billion in loans, grants,

and work-study funds to more than 14 million students attending more than 6,200 institutions. Additionally, state governments, public and private universities, and foundations provide billions of dollars in financial aid every year.³

Sixty-six percent of all undergraduate students received some type of financial aid during the 2007-08 school year and the average amount of aid received by those students was approximately \$9,100—\$6,600 of which came from federal sources.⁴ Consisting largely of federal assistance, financial aid packages can mean the difference between a college education and none at all.

Built into the application process for financial aid, however, are biases that impact families headed by same-sex couples and individuals that identify as gay or transgender.⁵ These biases result in the discriminatory misallocation of federal, state, and private dollars for higher education based on sexual orientation or gender identity—characteristics completely divorced from an applicant's actual need for financial aid.

For some, these biases result in less financial aid and in doing so, the system robs applicants otherwise deserving of financial aid simply on the basis of sexual orientation or gender identity. But for others, these biases actually result in more financial aid because they or someone in their family is gay or transgender. In either case, the system clearly distributes higher education financial aid in an inefficient and ineffective way that is unfair to students, families, and American taxpayers.

How does this happen? Well, in addition to the federal government, nearly all financial aid providers rely on the federal government's application for financial aid to determine a student's eligibility for financial assistance. Due to federal and state laws, however, this application cannot fully recognize families headed by a same-sex couple and often renders them invisible. The application may discriminate against children with same-sex parents by discounting one or both parents as a part of that child's application. Gay applicants themselves may not be able to include their spouses, children, or other dependents as part of their application. And homeless applicants who identify as gay or transgender also face unique obstacles in obtaining financial aid.

Because of the various impediments facing these applicants, the federal financial aid process will often deflate or inflate applicants' financial need and hence their total financial aid package based on factors completely irrelevant to financial need. And since most other financial aid depends on the application for federal aid, these distortions will trickle down throughout the entire financial aid application process, even outside of the federal government's support.

The rising cost of tuition combined with future reductions in financial aid do not portend well for individuals seeking a college education. Some gay and transgender applicants as well as children in families headed by same-sex couples will find it especially difficult to access equitable aid given the present biases and obstructions inherent in the financial aid application process.

All applicants for federal financial aid for higher education should have equal access to that aid based solely on financial need. Such an approach is fair, effective, and efficient for gay and transgender applicants receiving higher education financial aid as well as for taxpayers who pay for these critical programs to boost our nation's global competitiveness and economic prosperity. Until our policymakers take the necessary steps to level the playing field, however, gay and transgender individuals and their families will continue to receive distorted levels of financial aid, and taxpayers will continue to foot the bill when that inequitable access means students receive financial aid when they should not.

Federal and state lawmakers and officials in the Department of Education should address these issues head on. Lawmakers should repeal federal- and state-level laws that unfairly discriminate against gay and transgender individuals and families headed by same-sex couples. Officials within the Department of Education, as well as financial aid administrators at the more than 6,000 institutions receiving federal aid, should study this issue further and do what they can under existing law to reform the financial aid system to make the application process more uniform, clear, and expedient for gay and transgender applicants and their families.

The financial aid application process

The Free Application for Federal Student Aid, or FAFSA, is the gateway to federal, state, and other aid for students seeking financial assistance for their postsecondary education. In 2010 more than 21 million students filed a FAFSA, seeking grants, loans, and work-study programs to help fund the ever-rising costs of a college education in the United States.⁶

The FAFSA determines an applicant's eligibility for aid by estimating the total amount students and their families will be able to contribute to their higher education. Generally, if applicants and their family's expected contribution does not cover the cost of attending college, those students and families are eligible for financial aid.

Types of financial aid

Under Title IV of the Higher Education Act of 1965, Congress authorized the Department of Education to administer a range of federal student aid programs to students in need of financial assistance, including grants, loans, and work-study programs. Federal grants provide monetary assistance to needy students without requiring them to repay that money. Programs further include student loans, which have low interest rates, are funded by the U.S. government, and often do not require repayment until the student has graduated or left college. The FAFSA also determines if applicants are eligible for work-study plans through their university, which provide students opportunities to work and earn money while attending college.⁷

While the federal government awards more financial aid than any other provider, many public and private universities, state governments, and private entities such as civic groups and credit unions also have programs that help ensure students receive funding for their college education. Of the varying types of aid available to students, a student may receive one type of aid or multiple types of financial assistance as part of their financial aid "package."

Nearly all the aforementioned sources of financial aid use the FAFSA to establish a student's eligibility for financial aid. In this way, students' FAFSA results are crucial determinants of the amount of aid they receive, not only from the federal government but from numerous influential sources of aid.

How the FAFSA determines financial aid

The FAFSA consists of more than 130 questions that determine a student's need for financial aid based on numerous factors including income, assets, household size, number of children in college, and the age of the older parent if the applicant is a dependent. In terms of financial information, the FAFSA requires dependent applicants to submit their own and their parents' or legal guardians' financial information under the assumption that caretakers will contribute to their postsecondary education. This includes annual gross income, untaxed income, and current assets. The FAFSA also asks how many people currently belong to an applicant's "household." This can include siblings, parents, stepsiblings, stepparents, and other dependents.

The FAFSA will then enter an applicant's financial and demographic information into a formula, which calculates the expected amount that students, along with their parents or legal guardians (if the applicant is a dependent), are expected to contribute to their college education. This number will result in an applicant's "expected family contribution," or EFC. In turn, the EFC will determine a student's eligibility for financial aid.⁸

In general, a larger EFC will yield a smaller need-based financial aid package, and a smaller EFC will yield a greater financial aid package. For instance, the FAFSA will determine that a high-income, three-person family will be able to contribute to a substantial portion of a child's higher education, diminishing that child's eligibility for financial aid. Alternatively, the FAFSA will determine that a six-person, low-income family cannot afford to contribute a significant amount of money, if any, to a child's higher education, thereby increasing eligibility for aid. (see chart)

Calculations of a family's "expected family contribution," or EFC, is key to the amount of financial aid college students receive

↑ Income + ↓ Household size = ↑ Expected family contribution + ↓ Financial aid

↓ Income + ↑ Household size = ↓ Expected family contribution + ↑ Financial aid

Who qualifies as a parent

Federal law

Under the Defense of Marriage Act, or DOMA, federal law defines marriage as the union between one man and one woman. This effectively prohibits federal agencies from fully recognizing same-sex couples and their families, including Federal Student Aid, the agency within the U.S. Department of Education that administers the FAFSA. According to Federal Student Aid’s “Application and Verification Guide”:

According to the Defense of Marriage Act of 1996, “... the word ‘marriage’ means only a legal union between one man and one woman as husband and wife, and the word ‘spouse’ refers only to a person of the opposite sex who is a husband or a wife.” Therefore, same-sex unions are not considered marriages for federal purposes, including the FAFSA.⁹

The FAFSA reflects this lack of recognition through its narrow definition of “parent” and “stepparent,” which often renders families headed by a same-sex couple invisible in the eyes of financial aid administrators. It does so in two ways.

First, even if a child from a family has two legally recognized same-sex parents under the FAFSA’s definition, the form is not gender neutral. That is, the form asks for information about “father/stepfather” and “mother/stepmother.” It is not clear where children with two legal parents of the same sex should enter the information for both their parents.¹⁰

Second, the FAFSA form asks for information about the child’s parent(s), and the form is very specific about what kind of parent can be listed. The form explicitly states only a “biological or adoptive parent” may be listed. If a child is living at home with two biological or adoptive parents, both must be listed. But if a child’s parents are divorced or separated, the child is supposed to list the parent with whom the child lived most in the last 12 months, or if the child lives equally with both parents, the parent who provided the child most financial support during the last 12 months. Stepparents are listed only if they are the spouse of the parent who fulfills either of these requirements. Grandparents, foster parents, legal guardians, and other relatives are not considered parents for the FAFSA unless they have legally adopted the child.¹¹

So who should a child with same-sex parents list as their parent(s)? Under this definition, a child with two legally recognized parents should list both parents on the FAFSA. But even if those parents are legally married, the FAFSA is completed as though that child's parents are divorced. That is, DOMA will only allow children with same-sex married parents to include one of their parent's income and assets as part of their application. If children have different sex married parents, DOMA allows them to include both.

If only one gay parent is legally recognized—as is often the case for same-sex couples due to restrictive state adoption laws—then the other parent should not be listed on the FAFSA. Lastly, a same-sex partner cannot be considered a stepparent for the purposes of completing the FAFSA because DOMA bans the recognition of the marriage of the child's same-sex parents.

State law

Beyond the federal government's narrow definition of parents, restrictive state and local laws often prohibit the legal recognition of both same-sex parents, further complicating who can qualify as a parent on the FAFSA. Mississippi, for example, specifically prohibits same-sex couples from adopting children. Other jurisdictions do not even permit a same-sex co-parent to adopt their partner's child. These legal hurdles encourage many same-sex couples to pursue adoption as a single mother or father rather than as a same-sex couple.¹²

Even in states with progressive same-sex adoption laws, such as New Jersey and Illinois, the social stigma attached with same-sex adoption may encourage gay couples to pursue adoption as a single mother or father rather than jointly. In many of these cases, only one parent is the legally recognized parent, which may influence an applicant's eligibility for higher education financial aid.

FAFSA and families headed by same-sex couples

Because federal and state laws prevent the FAFSA from fully recognizing applicants in families headed by same-sex partners in the same way that it recognizes applicants from families headed by opposite-sex partners, the financial aid process can distort the actual economic reality of children with same-sex parents as well as gay applicants themselves. And these distortions can have important implications for members of families headed by a same-sex couple applying for financial aid, allowing applicants to receive more aid in some instances, and harming applicants' eligibility for aid in others.

Either way, the system currently allocates taxpayer dollars based on sexual orientation, a characteristic that has no bearing on actual need for aid. So let's unpack how these distortions work in practice.

Children with same-sex parents

Often in concert with restrictive state adoption laws, the FAFSA's strict categorization of who qualifies as a parent can alter the amount the application process expects families to contribute to children's higher education expenses. This is because of DOMA, under which children with same-sex parents will only be able to include one parent's income as part of their application for financial aid, and may not be able to include both parents as part of their household size, depending on the relative earnings of each parent.

In terms of income, excluding one parent's earnings will reduce the actual total household income for children with same-sex parents, and in the eyes of the FAFSA, those children will have demonstrated more need than if they were able to include both parents' income as part of their application.¹³ All else constant, excluding one parent's income will help an applicant receive more aid, simply based on their parent's sexual orientation.

In terms of household size, not including one parent in household size will artificially decrease demonstrated need for financial aid, and likely result in less aid for children in same-sex families compared to children in opposite-sex families. All else constant, excluding one same-sex parent from household size will hurt an applicant's eligibility for financial aid.

In this way, DOMA can result in an understatement or an overstatement of financial need for children pursuing higher education who have two parents of the same sex. If the FAFSA understates financial need, then DOMA will unfairly deliver less aid to children with gay parents than they would have otherwise received if their parents were straight. If FAFSA overestimates financial need, then DOMA will unnecessarily grant more money to children based on their parents' sexual orientation—and not their family's actual financial need.

In the latter case, DOMA—a law that intends to *deny* government benefits based on an individual's sexual orientation—paradoxically gives a financial advantage to families headed by same-sex couples that is offset by increased costs to the taxpayer.

To see how this plays out, let us look at some different family structures using a fictional same-sex couple, Allison and Isabel, and their son Samuel. Samuel is a high school senior who will attend college in the fall to pursue an undergraduate degree at a four-year university. Of his two mothers, Allison is the main breadwinner of the family whose annual income and assets amount to \$40,000. His other mother Isabel only works part time and earns an annual income of \$20,000. Samuel is currently filing for financial aid through the FAFSA and hopes to use the results to access federal, state, and private aid for his higher education.

As we shall see, the FAFSA will arbitrarily inflate Samuel's eligibility for financial aid depending on his family's legal and financial circumstance, helping him receive more than he would have received if he had opposite-sex parents.

Two legally recognized parents

First, imagine that both Isabel and Allison are legally married (or in a legally recognized domestic partnership or civil union) and that both are Samuel's legally recognized parents. Because of the federal government's prohibition on recognizing same-sex couples, Samuel can only report one of his mothers' earnings on his FAFSA. In this instance, the FAFSA instructs applicants to list the parent that

contributes to 50 percent or more of childhood support. Accordingly, Samuel would include Allison as his only parent and report her income (\$40,000) and exclude Isabel's income (\$20,000). But if Samuel had a mother and a father, the FAFSA would recognize their relationship and require him to report both incomes, for a total household income of \$60,000.

What results is an overestimation of Samuel's eligibility for aid. Instead of reflecting his economic reality—a three-person household with a total household income of \$60,000—the FAFSA will determine that Samuel lives in a three-person household with a total household income of \$40,000. This determination increases Samuel's financial need in the eyes of the FAFSA, which means he will likely receive more aid simply because he has two mothers instead of a mother and a father.

One legally recognized parent: Higher earner

The FAFSA will likely make the same determinations if Allison, who earns more than Isabel, is Samuel's sole legally recognized parent. In this scenario, the FAFSA would again determine that Samuel lives in a three-person household on an income of \$40,000 per year, instead of a three-person household living on nearly the same income of \$60,000 per year.

Once again, the FAFSA deems Samuel is in greater need of aid than he would be if it fully considered both Allison and Isabel as his parents. And so once again this would result in an overvalued financial aid package.

One legally recognized parent: Lower earner

Alternatively, consider that Isabel, who earns less than Allison, is Samuel's sole legally recognized parent. The FAFSA will only take Isabel's financial information into account and will exclude Allison's financial information, incorrectly determining that Samuel's household income is \$20,000, far from the family's true household income of \$60,000. In this way, Samuel's need is exacerbated by his parents' sexual orientation, likely resulting in more aid than he would have otherwise received.

But that is not the whole story. In addition to discounting Allison's income, the FAFSA will also discount her from Samuel's household size. Because Isabel does not contribute to more than half of Allison's finances, Samuel will not be able to include Allison as part of his family's household size, per the FAFSA's instructions.¹⁴ If the FAFSA fully recognized their relationship as it does for heterosexual couples, however, Samuel would automatically include Allison when determining his household size.

So rather than a family of three with a household income of \$60,000, the FAFSA will determine that Samuel lives in a two-person household on a household income of \$20,000. In this way, the FAFSA will once again likely determine that Samuel is entitled to more financial aid than he would be entitled to if he had two straight parents rather than two gay parents.

Applicants with same-sex spouses and dependent children

Same-sex parents and spouses who pursue higher education also face similar complexities when obtaining an equitable financial aid package. Nearly all colleges and universities utilize the FAFSA to determine students' financial need. And nearly all of those institutions of higher learning provide additional financial aid to students with spouses, students with dependent children, or students with spouses caring for children.

Yet because DOMA prevents the government from fully recognizing families headed by same-sex couples, the FAFSA will render spouses and sometimes their children and stepchildren invisible when calculating an applicant's expected family contribution. As a result, the FAFSA may inflate or deflate the amount of aid awarded to gay applicants seeking financial aid. This can happen in a number of different ways.

The FAFSA does not recognize same-sex spouses

For straight couples, the FAFSA will automatically take both applicants and their spouses' financial information into account when calculating how much it expects their family to contribute to the applicant's postsecondary education. But for same-sex couples, the FAFSA will only take the applicant's income into account, essentially discounting the existence of that applicant's same-sex

partner. This is true for gay and lesbian applicants who are married, registered as domestic partners, or in a civil union.

The FAFSA's failure to recognize the reality of applicants' joint income with their spouses or partners will usually boost applicants' prospects for receiving financial aid. Turning again to our fictional couple Isabel and Allison, imagine they do not have any children, and that Isabel continues to earn \$20,000 annually and Allison \$40,000 annually, for a combined household annual income of \$60,000.

Higher-earning spouse

Should Allison apply for higher education financial aid, the FAFSA would determine that she lives in a two-person household with a total household income of \$40,000, rather than her true combined household income of \$60,000. Such a determination would likely yield a greater financial aid package for Allison based on sexual orientation and not on actual financial need.

Lower-earning spouse

Should Isabel apply for higher education financial aid, the FAFSA would determine that she lives on a total household income of \$20,000, rather than \$60,000. Based on income alone, Isabel's eligibility for financial aid would thus increase based on her sexual orientation, and to an even greater degree than Allison because of Isabel's modest earnings.

But because Isabel does not contribute to more than half of Allison's livelihood, she will be unable to include Allison in household size. Based on household size alone, this would diminish her eligibility or aid simply because she is a lesbian.

Depending on the exact nature of her application, the combination of these two factors could ultimately result in an increased or decreased amount of financial aid for Isabel's higher education. In this way, the FAFSA may actually deliver less aid to families headed by same-sex couples based on their sexual orientation and their sexual orientation alone.

The FAFSA may not recognize children of same-sex couples

Just as the FAFSA does not recognize same-sex spouses, the FAFSA may fail to recognize their children as well, which will diminish an applicant's total financial aid package depending on the relative earnings of each parent.

Imagine that Isabel and Allison now have three children and that Isabel's annual income continues to amount to \$20,000 and that Allison's amounts to \$40,000. Should Isabel complete an application for financial aid, the FAFSA would not only fail to include her spouse when determining household income and size but it would likely fail to include her three children as well.

Applicants for financial aid may include children in their household size if the children receive more than half of their financial support from the applicant or the applicant's spouse.¹⁵ Because Isabel does not contribute to more than half of her children's financial support, and because the FAFSA does not recognize Allison as Isabel's spouse, the FAFSA would likely determine Isabel's household size is one rather than five.

Moreover, the FAFSA may exclude Isabel's three children from her household size regardless of her or Allison's legal recognition as a parent. Why? Because the FAFSA may not allow Isabel to count her three children as part of household size if both Allison and Isabel are legally recognized as parents. It may also not count the children as part of Isabel's household if Allison is the sole legally recognized parent, or if Isabel is the sole legally recognized parent.

Most shockingly, even if all three children are Isabel's biological children from a previous relationship, and even if she is the sole legally recognized parent, she might not be able to count them as part of her household size as long as Allison continues to provide more than 50 percent of childhood support. But if Isabel were married to a man in a similar financial situation, the FAFSA would automatically recognize their relationship and allow her to factor in all three children as part of her household size.

The FAFSA's drastic underestimation of Isabel's household size will disadvantage her in her quest for higher education financial aid. When calculating expected family contribution, a higher household number will increase the need for financial aid, since resources are split between more individuals. So when the FAFSA determines that Isabel's income and assets support a single individual (herself) rather than five, her need for financial aid is artificially reduced. As a result, she will likely receive less aid, if any at all, simply because she is a lesbian.

The FAFSA may incorrectly categorize young married gay applicants as “dependent”

The FAFSA may also discriminate against a subset of gay applicants—those who are under the age of 24 and married to a same-sex spouse. Whereas the FAFSA does not require young heterosexual applicants with spouses to report their parents or legal guardians’ income on their financial aid application, the FAFSA may require young married gay applicants to include this information on their application. This substantially favors heterosexual couples and disfavors same-sex couples from receiving equitable financial aid.

When applying for the FAFSA, the issue of dependency will weigh heavily on the amount of aid for which an applicant is eligible. Dependency refers to the degree to which applicants depend on their parents, legal guardians, or other sources of income for their livelihood. The FAFSA will automatically take parents or legal guardians’ financial information into account when dependent students apply for financial aid. This includes parents’ annual household income and valuation of assets. The FAFSA will not require independent applicants to provide their parents or legal guardians’ financial information when submitting an application for financial aid.

Marriage plays a big role in determining applicants’ dependency status. Most married couples’ finances are largely autonomous from that of their parents’ finances. In this way, the FAFSA rightly recognizes married applicants as independent, which usually increases their eligibility for financial aid. But the federal government does not consider same-sex spouses legally married. The FAFSA cannot even recognize gays and lesbians in committed civil unions or domestic partnerships. This can have especially drastic implications for young same-sex spouses applying for higher education financial aid.¹⁶

Unless they qualify as independent through some alternative qualification, the FAFSA will categorize married gay applicants under the age of 24 as dependent, and incorporate their parents or legal guardians’ financial information into their application.¹⁷ And by doing so, the FAFSA calculations will unfairly inflate the expected amount that a gay applicant will contribute to his or her higher education.

Once again, we can use Isabel and Allison to highlight the disparities for young gay married applicants. Imagine that both are legally married, are 22 years old, and have a joint income of \$30,000. Also imagine that Isabel is returning to school and applying for financial aid and that her parents have a combined annual income of \$100,000.

Because the federal government won't recognize her marriage, Isabel does not qualify as independent and the FAFSA will likely require her to report her parents' earnings of \$100,000, even in the event that she is estranged from her parents because of her sexual orientation. In reality, Isabel is completely independent of her parents, and still the FAFSA will treat her as if she continues to financially rely on them. This will clearly decrease her eligibility for financial aid, and maybe even result in a flat refusal of aid.

If Isabel were married to a man, however, she would be significantly more eligible for a financial aid package because she would be considered independent of her parents, and the FAFSA would not include her parents' \$100,000 as part of her application. This difference could determine whether applicants can afford to pursue their degree or not.

The FAFSA poses complex logistical challenges for applicants in families headed by same-sex couples

Due to discriminatory federal and state laws, the FAFSA fails to fully recognize same-sex parents, same-sex spouses, and children belonging to same-sex couples. In doing so, it may overestimate or underestimate applicants' financial need and arbitrarily distribute financial aid based on an applicant's or someone in their family's sexual orientation. But beyond these legal restrictions, some of the greatest challenges facing applicants in these families are logistical. (see Maya's story on page 16)

With more than 130 questions that ask applicants to provide demographic, financial, and social information, the FAFSA already poses significant challenges for many applicants in both same-sex and opposite-sex families. Studies demonstrate that the FAFSA may be so complex that it deters applicants from submitting an application at all. FinAid.org, for example, estimates that 2.3 million students would have qualified for Pell Grants in 2007-08 but failed to fill out a FAFSA due to its often overwhelming complexity. Considering the scope of the application, even those that manage to submit a FAFSA may do so with incorrect or incomplete information, complicating their access to financial aid.¹⁸

Families headed by same-sex couples in particular have trouble navigating the financial aid process. The reason? The way the FAFSA determines financial aid is directly tied to applicants' and possibly applicants' parents or legal guardians' tax

Maya's story

Maya's two mothers divorced when she was a child and have since remarried two other women, each of whom had children of their own from previous relationships. This means that Maya, who was interviewed by the author of this report, has two sets of parents—two mothers and two stepmothers—as well as one sibling and four stepsiblings. All four parents contribute financially to their families' livelihood. But due to the federal government's refusal to fully acknowledge the economic reality of her same-sex parents, Maya ultimately did not receive the full financial aid package she would have otherwise received if she had come from a "traditional" family.

Both the federal government and Maya's university discounted Maya's stepsiblings as members of her family. In other words, the FAFSA as well as her college determined that her four parents' income supported two children instead of six children. What resulted is an overestimation of the amount that financial aid administrators expected Maya and her family to contribute to her postsecondary education.

The financial aid application process distorts Maya's actual family structure, and in doing so immediately diminished Maya's

chances of receiving the maximum financial aid package she would have received if her parents were straight. This clear case of financial discrimination against families headed by same-sex couples was extremely disheartening and frustrating for Maya. Equally disheartening and frustrating was having to navigate her way through her university's financial aid bureaucracy so that it would fully recognize her family. In Maya's own words:

The process of trying to apply for financial aid was frustrating and complicating on a logistical level, and was also incredibly demoralizing. Demoralizing, in that I was forced to compartmentalize my family members and make my family fit a standardized set of neat little boxes, boxes which my family and many others' families don't fit into.

The FAFSA and Maya's university unfairly discriminated against her during the financial aid application process simply because her family did not conform to an expected standard of a nuclear heterosexual family. Maya's story is one of many children who have experienced the financial aid application's bias against college applicants with same-sex parents.

information. Same-sex couples, however, face unique challenges in filing their taxes since DOMA imposes significant restrictions on how those couples can file their taxes. Many applicants from opposite-sex families can simply incorporate the same tax information found on their W-2 forms onto their FAFSA. But because they often file taxes differently, families headed by a couple of the same sex have a much harder time determining what financial information to include in their application for financial aid.

In fact, this is just one example of how these families may find filling out the FAFSA to be an unclear and complex process. As mentioned earlier, another example concerns the FAFSA's strictly gendered language with regards to applicants' parents or legal guardians. For children with two legally recognized fathers, for example, applicants must either list one father as "mother/stepmother" or

instead leave that field blank and intentionally leave off one father from their application as if he did not exist. Examples of these kinds of roadblocks abound for applicants in families headed by two fathers or two mothers, leaving them searching for answers.

And what happens when they begin their search? When seeking advice from financial aid “experts,” those families are often given ambiguous, contradictory, and often just plain incorrect advice. A child with two fathers may ask a FAFSA administrator through the Department of Education’s website how to fill out “father/stepfather” and “mother/stepmother.” Some consultants would tell that applicant to leave the field blank and only list the father that contributes to 50 percent or more financial support to the child. Other consultants would tell the applicant to put one father in the “mother/stepmother” field. Yet others would say outright, “I do not know” and refer them to the applicant’s financial aid office at their college. And still others cannot even comprehend that an applicant would have two parents of the same sex, let alone know the answer to the applicant’s question.

The question “who should I list as my parents” should have a simple answer. But for families headed by two individuals of the same sex, it does not. Questions about taxes, assets, divorce, biological parents, and other issues are far more complex for applicants in these families, and it is likely that FAFSA experts will not have consistent answers to their questions.

As a result, families headed by same-sex couples can receive contradictory or incorrect advice on how to fill out their application for financial aid. Applicants with same-sex parents may be incorrectly told to include a nonlegally recognized parent as part of their household size. Applicants with a same-sex partner may be told to include their partner’s income as part of their application. Or applicants with children may be told to include their children as part of their household size, even when they do not provide more than 50 percent of their support.

Should applicants in families headed by same-sex couples fill their applications out accordingly, they would do so incorrectly, which may have serious consequences for the amount of financial aid awarded. And often instructions from financial aid support staff contradict one another, leading to confusion and uncertainty throughout the application process that may ultimately deter applicants in these families from submitting an application altogether.

Policy recommendations for families headed by same-sex couples

The higher education financial aid system clearly discriminates on the basis of sexual orientation by not fully recognizing families headed by two fathers or two mothers. In doing so, the system directs government-funded financial aid based on attributes that have absolutely nothing to do with an applicant's actual need for financial aid. Moreover, it will likely distort the amount of state and private aid applicants are likely to receive, since both rely on the FAFSA in determining an applicant's financial need.

In some instances, the failure to fully recognize families headed by same-sex couples severely disadvantages applicants in these families from accessing equitable financial aid. In other instances, applicants from same-sex families will receive more aid than they would have had they come from opposite-sex families. And for all families headed by same-sex couples, accurately filling out an application for financial aid can be such a frustrating and complex task that they do so incorrectly, or maybe not at all.

In aggregate, families with two mothers or two fathers may ultimately, and ironically, benefit from discriminatory laws when applying for federal financial aid. Alternatively, these families may be at an overall disadvantage due to those same laws. Regardless, either scenario is unacceptable, and the system needs reform.

Broad policy goals

Policymakers and U.S. Department of Education officials can take the following two steps to level the playing field for applicants in families headed by a same-sex couple.

Repeal the Defense of Marriage Act

Ensuring financial aid is distributed equitably in the interests of aid recipients and taxpayers is one of many reasons Congress should swiftly repeal DOMA. Should lawmakers repeal this act, the FAFSA would no longer be required to treat families with same-sex parents differently than opposite-sex families.

Following repeal, the Department of Education would then be able to issue regulations and subregulatory guidance that allow the FAFSA and financial aid institutions to fully recognize families headed by same-sex couples, including recognition of dependent children and same-sex spouses. This would eliminate most if not all of the income and household size issues that currently skew the applicants' need for financial aid. Members in both chambers of Congress have introduced the Respect for Marriage Act, which would effectively repeal DOMA, and Congress should expeditiously pass this law.

Recognize and allow same-sex adoptions

Federal and state lawmakers should enact pro-gay and -transgender legislation so that all families are legally recognized, regardless of parents' gender. Combined with DOMA repeal, full family recognition would allow the FAFSA to consider both same-sex parents' income during the financial aid process, treating them just like it treats parents of the opposite sex.

Rep. Pete Stark (D-CA) introduced the Every Child Deserves a Family Act on May 3, 2011. Congress should pass this or similar legislation that would bar discrimination against same-sex couples in adoption cases. Further, state policymakers should rescind antigay adoption laws and pass statutes that would permit adoption by same-sex parents.

Government agency recommendations

In addition, the Department of Education can take direct action to address these unfair and inefficient biases in the provision of higher education financial aid. These agencies could do so in the following three ways.

Recognize families headed by same-sex couples to the fullest extent under existing law

First and foremost, the Department of Education should investigate the legal, financial, and practical implications of the aforementioned issues regarding relationship recognition and the FAFSA. Depending on the results of their investigation, the Department of Education should revise any and all policies it identifies that would allow the FAFSA to recognize families headed by same-sex couples to the fullest extent without violating DOMA.

Modify the FAFSA

The Department of Education should first work to semantically reflect that not all families have a mother and a father by making the FAFSA gender neutral. The department should replace “father/stepfather” and “mother/stepmother” with “parent/stepparent 1” and “parent/stepparent 2.” The State Department made similar changes to passport forms in January 2011 (though these forms still are not gender neutral).

Also, the Department of Education should consider families with two mothers or two fathers as it implements the redesign and simplification of the 2011-12 FAFSA. The department recently eliminated 22 questions and 17 webscreens on the FAFSA. This will allow applicants to import their taxes directly from the Internal Revenue Service. Considering that these families are often forced to file taxes differently than opposite-sex families, the FAFSA should consider how applicants in these families can import their often unique tax information during this or future redesigns.

Disseminate guidelines and training for financial aid institutions

The Department of Education should issue guidelines and training materials to financial aid administrators that outline the failure of the FAFSA to fully recognize families headed by a same-sex couple. The department should then work with financial aid institutions to recognize these families to the fullest extent possible, as well as develop ways to simplify the financial aid process for these families.

These guidelines should be used to educate all individuals working on higher education financial aid, and that includes Department of Education staff. To even begin addressing the issues facing families with two mothers or two fathers, the department should quickly train its existing staff, and update manuals and training regimens to include issues facing applicants in these families.

Financial aid and transgender applicants

Transgender students face two distinct hurdles in accessing financial aid for higher education. First, many transgender individuals change their name and sex on identification cards, government records, and elsewhere. If financial aid institutions encounter data mismatches on applicants' identification markers, this could delay processing of transgender students' applications for financial aid.

Second, transgender applicants may encounter problems with their Selective Service status. All individuals whose birth-assigned sex was male are required to register with the Selective Service at age 18. This registration is a prerequisite for applying for financial aid for higher education.¹⁹ But transgender individuals are barred from military service, which can potentially result in confusion and complication with respect to the Selective Service. Let's look at each of these issues in turn.

Applicants who are transgender and data mismatch

In terms of accessing financial aid, transgender applicants encounter problems when data mismatches occur, particularly with regards to changing name or gender markers on government-issued identification cards and records. In an increasingly digitized world, electronic records across government agencies are cross-referenced against one another to ensure the accuracy and reliability of different application processes. The FAFSA, for example, will often cross-reference applicants' financial information with their and possibly their parents or legal guardians' tax information obtained from the IRS to ensure the validity and accuracy of an applicant's financial statements.

The FAFSA also cross-references applicants' demographic information with government records across multiple federal agencies, including the Department of Justice, Department of Defense, Department of Veterans Affairs, and most importantly, the Social Security Administration.²⁰ If an applicant's name on their FAFSA does not match the name that they have registered with the Social Security

Administration, for example, then that application will likely be rejected and the applicant will have to start anew. This can obviously be a particular problem for transgender applicants who have not obtained a legal name change.

Luckily, this problem is easily avoidable as long as applicants list the same name that appears on their Social Security information on the FAFSA. This is true even if an applicant has had their new name for a significant amount of time, and even if other government records have been updated to reflect that name.

Transgender applicants should work to ensure their government documents and identification markers reflect their accurate name and gender identity, especially their Social Security documentation. This will minimize the chances of encountering a data mismatch during the financial aid process, as well as other issues that transgender individuals may encounter elsewhere. Transgender advocacy organizations have released comprehensive guidelines to help transgender individuals navigate this highly complicated process.

Still, many transgender applicants remain unaware of this potential hurdle until they officially submit their application for financial aid. With multiple sources of identification, it is difficult for transgender individuals to know which documents are required when, and which will be cross-referenced with applications, legal documents, and other government forms. As a result, even the most diligent and knowledgeable applicant may fill out his or her FAFSA in a way that results in its rejection. For those applicants, they find that their application has been rejected days or weeks later and must investigate why it was rejected and how to rectify problems relating to data mismatch.

Transgender applicants who encounter data mismatches may receive less financial aid than they would have otherwise. Because some states administer financial aid on a first-come, first-served basis, the rejection and resubmission of an application may result in less aid. Even taking the time to figure out which name to list on the FAFSA is a time-consuming process that may delay an application, possibly resulting in less aid.

Indeed, the FAFSA's complexity and lack of awareness of transgender issues may deter some applicants from submitting an application altogether. This rings true for many transgender applicants especially if it is rejected, putting them at a disadvantage for accessing aid compared to nontransgender applicants.

Transgender students and the Selective Service

In addition to data mismatch issues, transgender applicants may encounter complications with their Selective Service status. The FAFSA, consistent with federal law, requires that all male applicants register with the Selective Service, which is the registration system that the United States uses to prepare for a military draft. According to the Selective Service Registration, all American citizens and resident aliens aged 18 through 25 who were assigned male at birth are required to register with the Selective Service. Failure to do so within 30 days of one's 18th birthday is punishable by up to five years in prison and a \$250,000 fine.²¹

Yet transgender applicants are barred from serving in the U.S. military. The Uniform Code of Military Justice includes specific regulations that prohibit transgender service. According to the code, the military may disqualify a potential service member that has transitioned from one gender to the other because the military will consider their surgery to be a major "genital abnormality" or "defect." Even if a candidate has not transitioned, the military may bar candidates that identify as transgender, since it considers this identification to be a disqualifying psychiatric defect.²²

Selective Service issues can arise when transgender individuals try to access financial aid for higher education. This is particularly true for transgender men. Financial aid is contingent on registration with the Selective Service if your birth-assigned sex is male, and so individuals who were born female but have transitioned to male are exempt from the Selective Service. Financial aid administrators, however, may incorrectly believe transgender men should be registered with the Selective Service since applicants likely indicated their gender was "male" on their application.

Transgender women encounter fewer problems when accessing financial aid since their birth-assigned sex was male. As long as they are registered with the Selective Service (even though they are barred from service), transgender women should not encounter delay in the financial aid process due to Selective Service complications.

If they are not registered and they indicate "female" when asked about gender, however, they will not be asked about Selective Service at all. This is problematic because if they had answered male, then the application would ask them about their Selective Service status, and if they would like to register with the Selective Service using the FAFSA itself. Without that option, transgender females that have

not registered with the Selective Service may submit an application without knowing that their Selective Service status will later complicate their application, since they were born male and should be registered.

Clarifying Selective Service discrepancies will require transgender individuals to work with financial aid administrators to explain that they are not, in fact, required to register with the Selective Service. This obviously will require transgender students to come out as transgender to financial aid administrators, resulting in potentially uncomfortable interactions with financial aid staff who may lack even the basic understanding about what it means to be transgender. Some may even be hostile toward transgender individuals and refuse to help correct their financial aid Selective Service discrepancy.

Luckily, the Selective Service Registration has instituted a policy that allows transgender men to avoid these unnecessary complications. Anyone who was not born male can request a “Status Information Letter” that shows they are exempt from service. Yet many transgender individuals are neither aware of the Selective Service requirement for filling out the FAFSA nor that they can apply for a letter exempting them from service. This can be resolved by working with financial aid administrators, but doing so is a time-consuming endeavor, which can delay the ultimate processing of an individual’s application and possibly result in a reduction in their financial aid package.

Even for transgender applicants who realize they can obtain a Selective Service exemption letter, applying for and ultimately receiving that letter also takes time, resulting in a delay or potentially diminished financial aid package. And once again, the overall complexity of the FAFSA with regards to Selective Service may dissuade transgender applications from submitting a FAFSA at all.

Policy recommendations for transgender applicants

Transgender applicants face the twin obstacles of data mismatch and Selective Service issues when attempting to obtain financial aid for higher education. Luckily, transgender applicants can take steps to avoid these issues. Still, policy-makers and officials within the Department of Education can make changes to streamline and improve the financial aid process for transgender applicants.

Streamline the process to legally change name and gender on government identification markers

When transgender individuals change their name or gender, updating government identification markers can be a lengthy and daunting process that requires numerous documents, waiting in line after line, and often appearing in court. Furthermore, federal agencies often take a long time to update their records. Lawmakers should instruct agencies across the federal government to work together as well as in concert with state governments to create a one-stop shop for transgender individuals and others seeking changes to their identification markers.

Disseminate guidelines and training for financial aid institutions

The Department of Education should study this issue further and then develop a set of guidelines and training materials that will educate financial aid administrators about the specific problems that face transgender applicants. These guidelines should educate financial aid officers about related issues and provide them the tools they need to expedite transgender students' applications without delay.

Modify the FAFSA to accommodate transgender applicants

The Department of Education should consider allowing transgender students to indicate their transgender status on the FAFSA to make financial aid administrators aware of potential problems ahead of time. Because some people who transition do not identify as transgender, while others might not want to disclose their status, this would be an optional part of the FAFSA. Alternatively, the FAFSA could include a section about the Selective Service that allows applicants to indicate that they are exempt from service along with an explanation of their exemption.

Gay and transgender financial aid applicants with hostile families

Accessing federal financial aid poses unique problems for gay and transgender youth coming from unsupportive or hostile families. The FAFSA requires most young applicants to submit their parents or legal guardians' financial information as well as provide their signature to successfully submit an application for student aid. This requirement may prove difficult for gay and transgender applicants who come from homes where they are unloved, neglected, abused, or even kicked out because of their sexual orientation or gender identity.

While the public's support for gay and transgender individuals has steadily risen over the past 20 years, many parents do not always accept their own children who identify as gay and transgender. Many Americans base their rejection on faith traditions that condemn gay and transgender people. Others retain negative cultural stereotypes about gay and transgender people, causing some to harbor animus toward them. This opposition often translates into hostile home environments, which can result in numerous mental and physical health problems for those children.²³

This hostility can take many forms. Parents may force their child into psychologically damaging reparative therapies that seek to alter or "change" a child's sexual orientation. Parents may become emotionally or even physically abusive. In the worst scenarios, parents disown their children, forcing them out of the house and driving them down the path toward homelessness. Helping with their children's college education in these cases is clearly out of the question for these kinds of parents.

Yet for many of these children, college offers new hope. It is a chance to start over in a space that is more accepting, with the hope that in time they can reconcile with their parents. Getting to college and staying in college, however, is not always an easy task with unsupportive parents.

The higher education financial aid application often recognizes the difficulties facing youth with uncooperative parents by allowing these applicants to bypass many requirements of the FAFSA and submit their application under special circumstances. But even then, young gay and transgender individuals with unsupportive

parents can encounter numerous obstacles when seeking the necessary financial assistance to attend college as an estranged child. Here are three scenarios.

Gay and transgender homeless children

Gay and transgender children are significantly more likely to find themselves homeless than are children who do not identify as gay or transgender. About 5 percent to 10 percent of youth identify as gay or transgender, but they comprise 20 percent to 40 percent of all homeless youth. This disproportion reflects the sad reality that many families respond hostilely to their gay or transgender children.²⁴

Gay and transgender homeless applicants for higher education financial aid almost always lack access to the complex set of financial information needed to fill out the FAFSA as a dependent. It is highly doubtful that homeless applicants will have copies of their parents' W-2 tax forms, or know in which stocks their parents have invested. Yet without this information, the FAFSA will not allow these applicants to submit an application so long as the FAFSA considers them dependents. The FAFSA also requires dependents to acquire their parents' electronic signature to successfully submit the financial aid application.²⁵

Asking homeless children to confront their parents to request their financial information is simply unrealistic. Asking them for their parents' signature is even more unrealistic. Even if homeless applicants are willing to confront their parents, some have been estranged from them for so long that they might not know where to find them. And even if they were to find their parents, the prospects of actually acquiring their financial information and signature are extremely low. It may even endanger the youth, especially when parents have previously abused their gay or transgender child.

Luckily, the FAFSA recognizes these challenges and provides homeless youth (and all homeless youth, regardless of sexual orientation or gender identity) a way to bypass this process in two ways. First, the FAFSA qualifies applicants as independent if they are recognized as "homeless" or "at risk of homelessness" by at least one of three sources: a high school or district homelessness liaison; a shelter or housing program; or the director of a runaway youth center or transitional living program.²⁶ Unlike dependent applicants, the FAFSA does not require homeless independent applicants to submit their parents' financial information, nor does it require a parent's signature for final submission. Most importantly, an independent status will usually make homeless applicants eligible for a larger financial aid award.

Alternatively, homeless gay and transgender youth can submit a FAFSA without their parents' signature or financial information by indicating their "special circumstance" on the application. According to the Department of Education, a special circumstance means applicants "are unable to provide parental information," "are homeless," "are seeking an unsubsidized loan only," or are in some other unique situation that would prevent them from including their parents as part of their application.²⁷ This is crucial for those applicants that have not been recognized as homeless by social service providers but are still homeless nevertheless.

Students' applications will be incomplete at the time of submission, however, if they do so under a special circumstance. To complete submission of the FAFSA, students will have to work with their individual universities since they have the ultimate authority to accept or reject a student's special circumstance.

The FAFSA clearly recognizes the difficulties facing homeless applicants, hundreds of thousands of whom are gay and transgender. Despite these safeguards, gay and transgender homeless applicants may still encounter problems in attaining recognition of their homelessness. Quite understandably, many homeless children are wary of confiding in adult figures, even those who work in the social services. This can be especially true of gay and transgender homeless youth, who may fear that someone will contact their hostile and possibly abusive parents. This fear can be so strong that these children choose to avoid the social welfare system at all costs. Many gay and transgender homeless youth are not even aware of potential social services and counseling available to them in the first place.

Students may still qualify as independent by submitting an application under a special circumstance. But this requires significant time, otherwise delaying the submission of a student's application and resulting in less aid. Furthermore, universities' requirements for who can qualify as independent are often subjective and unpredictable. Submitting an incomplete FAFSA under a special circumstance in no way guarantees a school will agree and grant gay and transgender homeless youth an independent status. If their special circumstance is rejected, gay and transgender homeless youth are possibly left without a way to finance their higher education and may not be able to attend college at all.

Gay and transgender students living in hostile environments

While some children are forced out of their homes, others remain trapped in unsupportive and unloving environments with families that refuse to accept their child's sexual orientation or gender identity. These children face unique obstacles in ensuring they receive the financial aid they need to attend a higher education institution.

For those gay and transgender applicants who continue to live in hostile or abusive homes, parents may threaten to take away financial support from gay and transgender children who do not renounce their sexual orientation or gender

Colin's story

When Colin's parents renounced him because he was gay, he not only had to deal with his parents' abandonment. He also told the author of this report that he had to figure out how to avoid getting kicked out of college.

As evangelical Christians, Colin's parents told him that homosexuality was a grave sin. Accordingly, they temporarily kicked him out upon finding incriminating evidence of his sexual orientation on his phone when he was still living at home while going to high school. Colin's parents even sent him to a camp that included reparative therapies aimed at "curing the gay" out of him.

Despite this hostile environment, Colin understood the value of higher education. So he did his best to assure and appease his parents he was straight while in high school. Colin studied hard and was accepted into an Ivy League school, which he attended immediately after high school.

Over winter break during his sophomore year of college, Colin finally came out to his parents. As expected, it did not go over smoothly. According to Colin, "my parents made it very clear that I was not welcome at home if this was truly 'the path I was choosing.'" Abandoned by his parents, Colin somehow made it back to college—his parents had canceled his flight after kicking him out—and immediately began seeking information on how to finance his education without his parents' financial assistance.

Colin immediately took out thousands of dollars in loans and began working nearly full time. After several attempts, Colin met with a financial aid officer who explained how Colin *might* be able to file for financial aid as an independent. But to attain an independent status, his university required him to attend psychological sessions to evaluate his mental capacity and "establish sanity." The university even requested, almost paradoxically, to acquire a letter from his parents explaining why they abandoned and no longer speak with their son. In Colin's own words:

I was also required to ask my parents for a formal, signed letter explaining why they cut off financial support, which was an incredibly difficult request given that my parents are not even speaking with me. On top of that, I was forced to talk to a school psychologist. As you can imagine, this whole process absolutely terrified me.

Colin was surprised and frustrated upon realizing that his university, as well as most universities, did not have a standard protocol for dealing with parental abandonment. What's most shocking is Colin's university is known for its generous financial aid policies as well as its progressive attitudes toward gay and transgender individuals. If Colin had such a difficult time accessing aid as an abandoned gay student at this school, one can only imagine how difficult it would be for students attending socially conservative colleges in the United States.

identity. They may even force those children into harmful reparative therapies seeking to change their sexual orientation. This either compels the gay and transgender youth back into the closet so that they can attend college or forces them to mask their gay and transgender identity from their loved ones in hopes of one day attending college. (see Colin's story on page 29)

As dependent applicants, the FAFSA will automatically assume that these children must submit their parents' financial information and signature. Unsupportive parents may refuse to provide either, however, due to their rejection of their child's gay or transgender identity. This refusal could very likely block essential funding for that child's education. Parents may even force them to ignore college acceptances and stay home until they are "cured." In this way, hostile and unloving parents can use the FAFSA and college application process as a tool to prevent their children from leaving home and forcing them to "change."

Just as homeless gay and transgender students may do, gay and transgender students still living with hostile parents can submit a FAFSA under a "special circumstance," which allows them to submit without their parents' signature or financial information. But as mentioned earlier, this takes a significant amount of time and energy on behalf of the student and the financial aid officer. That alone may dissuade a student from filling out an application and seeking aid at all.

Furthermore, it is difficult to predict how applicants' universities will interpret their special circumstance, and does not guarantee the institution will grant them an independent status. If they do not, this could leave gay and transgender students with little option but to forgo a higher education and remain in unsupportive and abusive households.

Gay and transgender students who come out in college

Problems may even arise when gay and transgender students have already left home and are attending college, which historically fosters the type of environment that allows gay and transgender students to accept and be open about their sexual orientation or gender identity. Sometimes, though, parents react negatively from afar to children who come out as gay or transgender. Some even threaten to withhold financial support unless they renounce their sexual orientation or gender identity. In the worst cases, parents may even follow through on that threat and cut off all emotional and financial ties with their child. (see Reuben's story on page 31)

Reuben's story

Some parents do not react positively to their children coming out of the closet. When Reuben told his mother he was gay, he almost had to leave school after his mother refused to support him.

Reuben is a first-generation college student who was raised by a single mother. Reuben, who was interviewed by the author of this report, entered college immediately out of high school on a scholarship from his university. Other than his scholarships, however, his mother carried the entirety of her son's financial burden so that he could obtain a college degree.

Reuben came out to his mother during his freshman year of college. Unfortunately, she did not react well. Reuben's mother told her son that unless he renounced his sexual orientation, she would cut off emotional and financial ties with him. Reuben did not comply, and his mother followed through with her threat.

Without financial assistance, Reuben was on an unsustainable path that would eventually result in him being forced to leave his university. To secure funding for his education, Reuben was forced to work multiple jobs and take out the maximum amount of available loans.

On top of all that, Reuben had to deal with a university administration that did not fully understand the change

in Reuben's circumstances. Reuben's financial aid officer informed him that the university could not recognize him as an independent student, even though Reuben had no source of income other than himself. As a result, Reuben's university continued to rely on Reuben's original FAFSA and assumed that his mother contributed to funding his college education. His financial aid officer even suggested leaving the university and attending a local state school instead.

And Reuben had to deal with all of this at a time when he was experiencing the extreme emotional and psychological duress of coming out to hostile friends and family. In Reuben's own words:

Counseling my mother through the coming out process was hard enough. Having to deal with paying for school only made life that much more difficult.

Sadly, Reuben is not the only student struggling to stay in school after parents reject their child's sexual orientation or gender identity. The federal financial aid application process as well as public and private universities should allow these students to apply for aid as independents, rightly recognizing they no longer have their parents' financial and emotional support.

When parents abruptly cut off their gay and transgender children while in college, students may find it difficult to have their financial institution recognize the significant change in their financial circumstances. Most schools continue to operate under the results of the student's annual FAFSA until a new one can be filled out the following year. That is, financial aid institutions will continue to provide aid based on the assumption that students are still dependent on their parents' finances based on the FAFSA they most recently submitted.

But this is clearly no longer the case for children who come out while in college and whose parents then choose to sever ties with them. Tuition must still be paid, and without recognizing this significant change in the student's financial circumstance midyear, students will have a difficult time remaining in school until they have the opportunity to submit a new FAFSA.

Students in this situation will have to work with their university's financial aid administrators to alter the results of their FAFSA midyear to correctly describe their dependency status and hence eligibility for financial aid. It is possible that a school's financial aid officer can override the FAFSA's dependency status and overall financial eligibility if students can demonstrate a compelling case that their parents and family no longer provide them with any financial support. But this is a complicated process and financial aid administrators are hesitant to override students' most recent FAFSA results.

Policy recommendations for gay and transgender youth with hostile families

Gay and transgender youth coming from hostile families face unique obstacles obtaining financial aid. For many of these children, getting to college is difficult enough. Obtaining aid to stay in college poses an additional challenge for children who lack the financial and emotional support of their parents, many of whom reject and estrange their children because they identify as gay or transgender.

Policymakers and government officials can take the following steps to level the playing field for these young applicants.

Enact gay and transgender homelessness legislation

Lawmakers should enact targeted legislation that addresses youth homelessness in the gay and transgender community. On May 12, 2011, Sen. John Kerry (D-MA) introduced the Reconnecting Youth to Prevent Homelessness Act, which among other issues directly addresses pervasive homelessness among gay and transgender youth. Both houses of Congress should enact this or similar legislation to reduce the number of gay and transgender children on the streets.

Enact legislation facilitating family relationships

CAP has frequently cited the Family Acceptance Project's findings that a parent's reactions, particularly their hostile reactions, to their child's gay or transgender identity can have adverse effects on children's mental and physical health. But the Family Acceptance Project has also identified ways in which parents and family members can exhibit "accepting" behaviors that may prevent a gay or transgender child from ending up on the street.²⁸

Sen. Kerry's homelessness legislation directs the secretary of health and human services to develop programs that are focused on improving family relationships in this way. Passing Sen. Kerry's legislation, or a similar piece of legislation, would reduce gay and transgender youth homelessness, improve the mental health of gay and transgender people, and improve relationships between parents and their gay or transgender children.

Disseminate guidelines and training for financial aid institutions

The Department of Education should study this issue further and develop a set of guidelines as well as training materials that will educate financial aid administrators at colleges and universities about the specific problems associated with gay and transgender youth coming from hostile families. Specifically, the department should encourage universities to more readily acknowledge these youth's "special circumstance" and grant them an independent status. It should also encourage universities to offer additional aid to these students with obvious financial need.

Conclusion

The higher education financial aid system for gay and transgender applicants is broken. Federal, state, and private entities are arbitrarily distributing millions of dollars of financial aid based on an individual's or someone in their family's sexual orientation rather than their actual financial need. What's more, transgender individuals as well as gay and transgender youth from hostile or abandoned families encounter obstacles that may prevent them from submitting an application on time, if at all.

In terms of allocation of federal money, laws aimed at restricting the rights of gay people, such as the Defense of Marriage Act, can ironically benefit families with two mothers or two fathers, and reward them more financial aid for higher education. In other instances, those laws succeed at discriminating against these families in ways that prevent them from accessing equitable financial aid. In aggregate, we are either arbitrarily rewarding a substantial portion of federal taxpayer dollars to the benefit of families headed by same-sex couples or we are denying these families the same access to aid as families with opposite-sex parents. Both of these scenarios are inefficient, unfair, and unacceptable. Moreover, state and private aid is largely based off of the FAFSA, meaning that this misallocation trickles down throughout the financial aid universe.

Federal and state lawmakers and U.S. Department of Education officials should enact the recommendations offered in this report to ensure the proper allocation of federal and state dollars as well as private aid for higher education. Congress should repeal DOMA, ensure same-sex couples have the right to adopt children, streamline the name and gender-changing identification process for transgender individuals, and address gay and transgender youth homelessness through comprehensive legislation.

The Department of Education should thoroughly study the issues outlined in this report, do what is in its power to recognize gay and transgender individuals and families, and reform the system so that gay and transgender applicants can more easily submit an application. It should also issue comprehensive guidelines to the

more than 6,000 institutions that disburse federal aid to students. These guidelines should fully address the issues facing gay and transgender applicants, alongside recommendations to institutions to remove existing roadblocks that prevent gay and transgender applicants from submitting an application expeditiously, if at all.

Our government leaders should take these commonsense and necessary steps to reform the higher education financial system. Doing so would bring clarity, uniformity, and equality to the application process. Doing so would ensure taxpayer funds and private dollars are being distributed based on need, not on arbitrary characteristics such as sexual orientation and gender identity. And most of all, doing so would restore fairness to the financial aid process that would benefit all applicants, gay or straight, transgender or not.

Endnotes

- 1 Sandy Baum, Jennifer Ma, and Kathleen Payea, "Education Pays: The Benefits of Higher Education for Individuals and Society" (Washington: The College Board, 2010).
- 2 Advisory Committee on Student Financial Assistance, "The Rising Price of Inequality: How Inadequate Grant Aid Limits College Access and Persistence" (2010).
- 3 Federal Student Aid, *Annual Report 2010* (Department of Education, 2010), introduction.
- 4 National Center for Education Statistics, *2007-08 National Postsecondary Student Aid Study* (Department of Education, 2009), p. 3.
- 5 In this report, the term "gay" is used as an umbrella term for people who identify as lesbian, gay, or bisexual.
- 6 Federal Student Aid, *Annual Report 2010*, introduction.
- 7 *Higher Education Act of 1965*, as amended, Public Law 89-329, 89th Cong., 1st sess. (November 8, 1965).
- 8 Federal Student Aid, *Free Application for Federal Student Aid 2011-2012* (Department of Education, 2011).
- 9 Federal Student Aid, *Application and Verification Guide* (Department of Education, 2011), p. 16.
- 10 Federal Student Aid, *Free Application for Federal Student Aid 2011-2012*, p. 6.
- 11 *Ibid.*, p. 6.
- 12 "Adoption Laws: State by State," available at <http://www.hrc.org/issues/parenting/adoptions/8464.htm> (last accessed July 2011).
- 13 Whenever an applicant must exclude a parent, spouse, or other dependent's income on the FAFSA due to DOMA, applicants should report this excluded income as "untaxed income" on their application since it contributes to their livelihood and theoretically goes toward paying for their higher education. It is unlikely, however, that many individuals in families headed by same-sex couples report this income as such, since FAFSA's language does not say to do so explicitly. To the contrary, FAFSA currently instructs applicants to report untaxed income such as "workers compensation, Black Lung Benefits, untaxed portions of Railroad Retirement Benefits, [and] disability," and makes no reference to income from parents, spouses, or other dependents that are not legally recognized. See: "What was the total of your other untaxed income or benefits?," available at <http://www.fafsa.ed.gov/fotw1112/help/totalOtherUntaxedIncome.htm>.
- 14 Federal Student Aid, *Free Application for Federal Student Aid 2011-2012*, p. 6.
- 15 "Your number of family members in 2011-2012 (household size)," available at <http://www.fafsa.ed.gov/fotw1112/help/snumOfFamily.htm>.
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About the author

Crosby Burns is a Special Assistant for the LGBT Research and Communications Project at the Center for American Progress. While at the Center, Crosby advocated for equality in the military, in the workplace, and in marriage for all Americans, gay or straight, transgender or not.

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