OHIO TESOL

Ohio Teachers of English To Speakers of Other Languages

**Interested Party Statement onThe House Finance Subcommittee
on Primary and Secondary Education House Bill 110
FAFSA Graduation Requirement**

7 April 2021

Chair Oelslager, Vice Chair Plummer, Ranking Member Crawley, and Honorable Members of the Ohio House Finance Committee, thank you for the opportunity to provide testimony on House Bill 110.

Ohio TESOL, an affiliate of TESOL International Association, is a non-profit statewide association interested in supporting educators of learners and their families for whom English is a non-native language. It's membership consists of educators and administrators involved in educating English learners (ELs) in both the private and public levels of preschool through twelfth grade (PK12), as well as adult English learner, teacher education and those that research within this population. As an organization, we provide professional representation, resources, and professional development to our members and advocate for equitable rules and policies that affect our English learner (EL) students and their families. For more than 30 years, Ohio TESOL has maintained a close partnership with the Ohio Department of Education and shares its goals of providing equitable access to English learners, supporting and enabling them to not only be successful in our schools but successful beyond graduation.

OHIO TESOL's Position on FAFSA Graduation Requirement Provision:
We strongly oppose the provision in House Bill 110 that would require students to complete a Free Application for Federal Student Aid (FAFSA) as a graduation requirement. On behalf of our members and the students and families we serve, we respectfully request that you consider our following comments and reasons for our opposition.

Reasons for Opposition:
The FAFSA graduation requirement will have negative consequences for students who include English learners, one of the federally protected populations under the Every Student Succeeds Act and Title VI of the Civil Rights. Since students who do not have documented status are not eligible to qualify for federal financial assistance, this requirment may be used to identify undocumented students and their families and/or give students false hope of eligibility for the loan. Furthermore, if the student has documentation but their parents do not, the completion of the form will expose their status to the federal government. Although parents may fill out the FAFSA if their child is documented, for the parents do not have documented status, it is a more complicated process for their completion and parents may fear disclosing their status on the

form. Students who live in homes with family members who are undocumented, referred to as homes with mixed immigration status, will be put in the spotlight. They may avoid school, or drop out to not risk the revelation of their own or a family member's immigration status. The risk in submitting the form may deter families and cause a population of students to be unable to complete graduation requirements. This affects their future employment.

The questions and answer section of Studentaid.gov website provides information about completing the FAFSA form for students without documentation status. However, families who are not proficient in the English language, new families to the United States, or those unfamiliar with educational governance in the United States will not be aware of these guidelines.

Ohio's diverse English learner population encompasses many different languages and includes students born in the U.S., new immigrants, refugees, unaccompanied youth and students without documentation. According to the 2018 Migrant Policy Institute data, Ohio has 87,000 unauthorized residents of which 35,000 are parents with children under the age of 18 with approximately 13,000 children enrolled in Ohio's schools. The numbers of unaccompanied youth in Ohio are significant in that Ohio was awarded $135,000 in grant funding to provide instructional support to unaccompanied immigrant youth as part of the Federal Supplemental Fiscal Year 2015. The US Department of Education guidance, as set forth in the 1972 Supreme Court case, _Plyler v. Doe,_ 457 U.S. 202 (1982), states that school districts may not request social security numbers, ask about a student's immigration status, or deny them access to education in any way based on their citizenship status. The Plyler case makes it very clear that all students must be provided a free, public education despite their citizenship status and with their free, public education the opportunity to graduate from high school. Thus, the proposed FAFSA rule in HB 110 would put these families in the position of discussing their citizenship status with schools since their undocumented status may be the reason they cannot comply with the FAFSA requirement. This raises a question of whether requiring the FAFSA is in conflict with _Plyler v. Doe_.

<u>Concerns of the Proposed Exemptions:</u>
While Ohio TESOL understands there are two exemptions stated in the bill, there are barriers to meeting those exemption requirements. The two options would either: 1) require a parent or guardian to submit a letter to the school in a manner prescribed by the Department that states the student or parents will not complete the FAFSA; or 2) require the school to create a record describing _circumstances_ that make it impossible or impracticable for the student to complete the FAFSA. These exemption options make several assumptions: 1) that a family understands that their child may not qualify; 2) that a family understands that they would be providing their document status to the federal government; 3) that the family has the English language abilities to write a letter; and 4) that a school district has the knowledge of the implications and vulnerable position a family may be in if they must declare how they are exempt from the requirement. Thus, this puts the parents and the school in the position of explaining the circumstances which would directly expose the family's documentation status.

Since districts are not permitted to ask about any family's immigration status, according to _Plyler v. Doe,_ school staff are not aware of which families may be affected by the FAFSA rule if it is implemented. The proposed rule would require school counselors or principals to access the data system to encourage students to complete the FAFSA. Districts would be faced with the costs of extensive professional development for staff to avoid violating the law under _Plyler._ Principals and counselors would need to be trained about the implication this FAFSA rule has upon mixed status families, including the potential for profiling students due to their cultural and

linguistically diverse background, and the possibility of creating an unintended FERPA violation. Ohio TESOL questions how the state would be able to provide this necessary guidance and training for staff at all Ohio schools, including those districts with low incidence populations.

Concerns Regarding Linguistic Access
In addition, all schools will also need to be prepared to linguistically support families. Parents who are not fluent in the English language may have difficulty completing the FAFSA or writing a letter to show why their child is exempt from the rule. According to the Ohio Department of Education, Ohio has over 110 languages spoken in the homes of English learners. The US Department of Education Dear Colleague Letter: English Learners, clearly states that "School districts and SEAs have an obligation to ensure meaningful communication with parents in a language they can understand and to adequately notify parents of information about any program, service, or activity of a school district or SEA." This falls under the Civil Rights, Title VI prohibition on national origin discrimination that requires SEAs and school districts to take "affirmative steps" to address language barries so that English learner students may participate meaningfully in schools' education programs. The FAFSA is currently only available in English and Spanish. This put the onus on the state or school districts to provide language assistance for families of other languages. If this bill passes, Ohio TESOL questions the state's intent or ability to provide the FAFSA in all the languages that would be required across our state.

Equitability Concerns
The language around the proposed FAFSA requirement does not promote equity or inclusion. While the objective of the proposed provision is to increase high school graduation and continuing opportunities after graduation, this FAFSA completion requirement will in fact pose a barrier to some families. Parents may be fearful of providing any additional personally identifying information to schools if they or their children are not citizens; they may decline to continue with these steps towards their child's graduation. The effect of this rule would then be to deny a student the right to complete their education even if the student has met all of the academic requirements. Schools graduation rates may decline and students may be disproportionately denied equal access to a high school education. This deepens the divide as it separates some on the basis of national origin minority immigration status.

As stated in the U.S. Department of Education Dear Colleague Letter: English Learners, "It is crucial to the future of our nation that these students, and all students, have equal access to a high-quality education and the opportunity to achieve their full academic potential." Which of course would include the ability to graduate based on their achievement in the school system and not contingent on a FAFSA document completed by their parents.

How this affects Each Child, Our Future
The requirements for graduation from Ohio schools are clearly stated in Ohio law, ORC 3313 and its subsections. These include new pathways to graduation. Ohio's strategic plan for education, *Each Child, Our Future* calls for "a student-centered system that addresses the needs of an **increasingly diverse student population** and prepares students for a rapidly changing workplace…" English learners make up an increasing number of the diverse students this strategic plan refers to. Ohio TESOL appreciates the alternative pathways to graduation provided to our diverse population of students. English learners face challenges demonstrating their understanding of difficult content material through the linguistically dense standardized assessments designed for native English speakers. When they succeed in reaching graduation, it seems contrary to the strategic plan and Ohio's laws to add an unnecessary requirement for English learner students and their peers in HB 110.

How this affects Ohio's Whole Child Framework
In addition to Ohio's strategic plan, Ohio has adopted [Ohio's Whole Child Framework](#), which defines equity and culturally responsive practices as indicators for the five tenets of meeting the needs of the whole child. Culturally responsive practices should recognize the barriers some students and their families may experience because of their "lived experiences, cultures and languages". The framework defines equity as ". . .designing an education system that ensures all children can achieve their academic potential despite personal and social circumstances. To create an equitable education system, districts and schools need to understand the unique challenges and barriers students face and implement policies, practices and programs to overcome those barriers."

Ohio TESOL argues that the FAFSA graduation requirement would deny equitable access to graduation. Passage of the law as written, would deepen not decrease inequity. The immediate effects of the passage of this FAFSA requirement may not be apparent at first, yet we urge you to consider the loss of human potential that would quietly occur. We urge you to recognize the need to protect those diverse, vulnerable student populations from discrimination and exclusion from full participation in the economic and social structures of the state.

Conclusion:
Ohio TESOL strongly urges you, on behalf of families unable to speak to you today, to remove the provision in H.B.110 that would require the completion of a FAFSA form as a precondition for high school graduation. English learners struggle to complete advanced content in a non-native language as they continually work towards acquiring English. After their many accomplishments in meeting the requirements for graduation, the state should not create conflicts or barriers for students who have otherwise met the current pathways toward graduation.

The FAFSA requirement may be implemented in ways that have, as *Plyler v. Doe* indicated, "a chilling effect" upon those families and youth who are not able to access federal funding nor complete the paperwork needed to waive the requirement. This is problematic from multiple perspectives including that of civil rights. The original intent of the provision, to provide equitable opportunities for all youth, is undone by its overreach for family information that connects with immigration status. And though a student's immigration status is decided by situations outside of their control, this law forces them to "come out" with no guarantee that their actions will not have harmful consequences for them or their family. To deny students the right to graduate based on their parents' ability to complete a complex federal form or letter of exemption would be patently unfair and may, as we have indicated above, violate established laws about equitable access to education.

Respectfully yours,

Ohio TESOL Board

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References:

Migrant Policy Institute
https://www.migrationpolicy.org/data/unauthorized-immigrant-population/state/OH

FERPA
https://www2.ed.gov/policy/gen/guid/fpco/ferpa/index.html

U.S. Department of Education
https://www2.ed.gov/about/offices/list/ocr/letters/colleague-el-201501.pdf

Ohio's Whole Child Framework
http://education.ohio.gov/getattachment/Topics/Student-Supports/Ohio-Supports-the-Whole-Child/Whole-Child-Framework.pdf.aspx?lang=en-US

Ohio's Each Child, Our Future
http://education.ohio.gov/About/EachChildOurFuture