UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

MERCEDES ROURKE-ROGRIGUEZ, et al.,

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF EDUCATION, et. al.,

Defendants.

Civil Action No.
8:25-cv-00738 (AJB/DJS)

DEFENDANTS' REPLY IN SUPPORT OF THE CROSS-MOTION FOR SUMMARY JUDGMENT

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INTRODUCTION

Plaintiffs ask the Court to compel reversal of the Department of Education's Guidance related to the immigration verification requirements for certain Canadian-born American Indians who apply for federal student aid. *See generally* Dkts. 25, 34, 37. Plaintiffs argue that the Department's policy changes make it more difficult for them to show their eligibility and wrongly claim that the Jay Treaty prevents the Government from ever requiring Plaintiffs to verify their immigration status through documentation from the Department of Homeland Security. *See id*. But Plaintiffs' position is grounded in the erroneous presumptions that Congress (1) "has not authorized the Department to restrict federal student aid to only those permanent residents who document their status via DHS," and (2) "exempted Jay Treaty Indians from the requirements of the Immigration and Naturalization Act, which includes the Green Card requirement that the Department is now trying to impose on them." Dkt. 37 at 6. Neither presumption is true because Congress has *mandated* the Department to verify student aid applicants' eligibility based on immigration status, and the Jay Treaty has nothing to do with Plaintiffs' obligation to produce evidence of their immigration status *from* DHS as verification of their eligibility for aid. *See* Dkt. 36-1 at 19-28.

Plaintiffs' desire to preserve the prior status quo is not surprising, but a government policy must be corrected when existing policy fails to conform to the law. Plaintiffs' preferred policy is inconsistent with the law. The Departments' actions to conform its policies to the law were in no way improper. Whatever inconvenience may result to some students as a result of the Department revising existing Government policy to conform to existing law, it is justified because the Department is charged with ensuring that all student aid recipients are eligible for such aid. *See generally* 20 U.S.C. § 1091(a), (g). Plaintiffs' arguments wrongly ask the Court to ignore the Department's statutory obligations for the sake of their own convenience. The Court should grant

Defendants' motion for summary judgment and dismiss Plaintiffs' complaint because the Department's actions were proper and founded on a good faith inter-agency effort to conform the existing policy to the law.

I. Plaintiffs Lack Standing Because Their Claimed Injury Is Not the Result of Department Action, but Even if It Was, the Department Explicitly Exempted Plaintiffs from the Policy Changes They Challenge

Plaintiffs argue that their standing is "self-evident," and that their claimed injuries are neither self-inflicted nor the result of their institutions' decisions not to exempt them from the Department's revised verification policy. *See* Dkt. 37 at 7-13. Plaintiffs are wrong on each point. First, if Plaintiffs' standing was as "self-evident" as they suggest, it should have been easy for them to show this in their motion for summary judgment. But Plaintiffs failed to include *any* evidence supporting their claimed injuries. *See generally* Dkt. 34. Plaintiffs now attempt to diminish their failure to show standing by claiming that they did not offer any proof of standing because their alleged standing was "obvious." Dkt. 37 at 9. This is circular logic, and Plaintiffs' post-hoc rationalizations for failing to supply any evidence of standing ignores that this Court *already* dismissed their case once before for failing to sufficiently plead injury. *See* Dkt. 22 at 12-13 (dismissing suit at pleading stage for failing to allege facts sufficient to show standing). Plaintiffs acknowledge that, *even in APA cases*, plaintiffs must supplement the record to include evidence of standing when it is not self-evident. Dkt. 37 at 9. Defendants challenged Plaintiffs' standing both in the motion to dismiss the original complaint, *see* Dkt. 12-1 at 22-26 (moving to dismiss complaint in the absence of any injury traceable to the Guidance), and in Defendants' Answer to the Amended Complaint, *see* Dkt. 29 at 7, 8, 10 (stating Defendants' affirmative defense based on Plaintiffs' lack of standing).

As Plaintiffs failed to present evidence of standing, Plaintiffs' summary judgment motion should be denied on that basis alone. *See* Dkt. 36-1 at 9 (discussing L.R. 56.1's prohibition against granting summary judgment in favor of a party who fails to present a statement of material facts in its motion). Plaintiffs claim that the "usual standards and rules" for summary judgment motions do not apply in APA cases. *See* Dkt. 37 at 8 (citing *ScotlandShop USA, Inc. v. U.S.C.I.S.*, No. 23-CV-0703 (GTS/DJS), 2024 WL 5137558, at *1 (N.D.N.Y. Dec. 17, 2024)). Nothing in the Federal Rules of Civil Procedure or the Local Rules of Practice for this district supports the proposition that APA cases are exempt from ordinary summary judgment procedure, and this Court has not ordered otherwise in this case.[1] Moreover, the parties in *ScotlandShop USA* actually *did* prepare statements of material fact that the court considered, and unlike here, that case did not involve a dispute over standing. *See* 2024 WL 5137558, at *1. Regardless, a statement of material facts was clearly required here where standing has always been disputed and Plaintiffs failed to include affidavits of standing in the Amended Complaint as they did with their original complaint. *Compare* Dkts. 1, 1-1, and 1-2 (original complaint with affidavits), *with* Dkt. 25 (amended complaint containing no affidavits supporting any of the allegations).

Plaintiffs further suggest that presenting evidence of standing would have been "superfluous," and unnecessary because "it is undisputed that plaintiffs are Jay Treaty Students who are subject to the Department's new policy." Dkt. 37 at 7-8. But whether Plaintiffs are Canadian-born American Indians is wholly irrelevant to the specific standing issues the

[1] By contrast, S.D.N.Y Local Rule 56.1 exempts APA cases from requiring statements of material facts on summary judgment. The N.D.N.Y. Local Rules provides no such exception for APA cases. Further, Plaintiffs attempt to cast their new affidavits from Plaintiffs Rourke-Rodriguez and Swamp as "supplemental" affidavits, apparently because affidavits were filed with the original complaint, Dkt. 1, but the original complaint was dismissed and superseded entirely by their filing of an Amended Complaint, Dkt. 25, and no affidavits were included in the amended filing. Thus, Plaintiffs cannot rely on superseded filings where they had the opportunity to correct their errors through an Amended Complaint.

Defendants raised, which were that Plaintiffs failed to provide any evidence of injury that was not self-inflicted or the result of an independent actor choosing not to exempt Plaintiffs from the revised Guidance. *See* Dkt. 36-1 at 11-19. Here, the parties do not contest that Plaintiffs are likely eligible for student aid (based solely on their past eligibility determinations), or that they likely could secure the documentation necessary to verify their eligibility from DHS. These undisputed facts show the absence of injury that is not self-inflicted or caused by the Department's Guidance.

Second, Plaintiffs resort to hyperbole again when they describe Defendants' argument that Plaintiffs' alleged injuries are self-inflicted as "preposterous." Dkt. 37 at 10. Plaintiffs' rebuttal restates and cites the same authorities that Defendants distinguished in the cross motion, *See* Dkt. 37 at 10-11; Dkt. 36-1 at 15-16. Plaintiffs add only one new case, *Fish v. Schwab*, 957 F.3d 1105 (10th Cir. 2020), to support their claim that they need not subject themselves to an allegedly unlawful policy before they can challenge it, but *Fish* is easily distinguishable. Dkt. 37 at 11. As Plaintiffs explain, *Fish* involved a plaintiff who was not allowed to vote because he failed to present documentary proof of citizenship issued by the government (despite maintaining such documentation). The plaintiff then challenged a state law that required documentary proof of citizenship to vote because he disagreed with the law and was denied access to vote. *Fish* at 9578 F.3d at 1119-20. Here, unlike in *Fish*, Defendants have never denied Plaintiffs access to anything. *See* Dkt. 36-3, ("Musser Decl.") at 12, ¶¶ 34-36; Dkt. 39 at 6-7 ¶¶ 21-24 (Plaintiffs admitting the Department never rejected or denied Plaintiff's FAFSA applications for student aid and that they qualified for exemption from the Guidance based on past aid awards). Plaintiffs point to no evidence of any denial or rejection of student aid by Defendants and admit that the challenged Guidance specifically exempts them from any of the new documentation. *See* Dkt. 39 ¶¶ 21-23 (admitting each Plaintiff received student aid prior to the 2025-2026 academic year and are eligible for the exception to revised documentation requirements). Thus, it is undisputed that (1) Plaintiffs are eligible for the DHS documentation required by the new Guidance; (2) Plaintiffs are expressly exempt from the documentation policies that they challenge in this case; and (3) the Department never rejected or declined to process any of the Plaintiffs' applications for student aid in the 2025-2026 academic year. *Id.* These admissions are all the Court needs to conclude that the Plaintiffs lack standing to invoke the Court's jurisdiction.[2]

Plaintiffs filed this lawsuit in June 2025 and have apparently made no efforts to challenge their institutions' decisions not to exempt them from the revised Guidance, which the Department and Plaintiffs agree they are eligible for. *See generally* Dkts. 40-42 (Plaintiff affidavits citing no efforts to challenge their institutions' denial of exemption). Plaintiffs also have not obtained the immigration documentation from DHS that would verify their eligibility for student aid regardless of their exemption from the Guidance. *Id.* Having done nothing to alleviate their alleged harm for the past nine months, Plaintiffs appear to have compounded their alleged injury by failing to take any actions other than pursuing this lawsuit. Plaintiffs themselves have chosen not to comply with the Guidance, failed to obtain the appropriate documentation, or failed to challenge their institutions' decisions not to exempt them from the revised documentation requirements.[3] These

[2] Further, despite taking the opportunity to explain their alleged hardships caused by the Guidance, Plaintiffs Rourke-Rodriguez and Thompson provide no explanation for why they have not challenged their respective institutions' alleged denials to process their applications. *See generally* Dkts. 40, 24. And Plaintiff Swamp claims only that he has not pursued enrollment because the Saint Regis Mohawk Tribe advised him that he would not need to produce documentation of his immigration status. Dkt. 41 at 2. But this is false because Plaintiffs also admit that they are eligible for the exemption, and Plaintiff Swamp appears to have never pursued enrollment based on the inaccurate information that he says was provided by the Tribe. *See id.*

[3] Confusingly, Plaintiff Rourke-Rodriguez now attests that she has attempted to secure a U.S. Passport, which suggests she may be a U.S. citizen already, and thus, would not need not rely on her status as a Canadian-born American Indian to obtain federal student aid. *See* Dkt. 40 at 2 ¶ 9; *see also* Dkt. 37 at 12 (noting Rourke-Rodriguez has sought to obtain a U.S. passport "in order to establish her eligibility for aid as a U.S. citizen"). If true, Rourke-Rodriguez seems to have a completely independent means

actions suggest unreasonable motivation to compound an alleged injury where there need be none. Unfortunately, the harm here is self-inflicted.

Third, Plaintiffs argued that "the Department cannot absolve itself from responsibility for plaintiffs' injuries by pointing its finger at schools that administer the exemption process it created." Dkt. 37 at 12. Plaintiffs incorrectly claim they have standing because the Department "played a role" in their alleged injuries as the institutions' role in the exemption process is the "direct result of the Department's new policy." *Id.* at 13. This is wrong because the Department carved out an express exemption from the Guidance to benefit applicants just like Plaintiffs, yet Plaintiffs have failed to show that they made any efforts to avail themselves of this exemption through their institutions. *See generally* Dkts. 25, 34, 37. Ultimately, based on Plaintiffs' allegations and admission, it was the Plaintiff's institutions (*see* Rourke-Rodriguez, Dkt. 40 at 2 ¶¶ 7-8, and Thompson, Dkt. 42 at 2 ¶ 7), or the Saint Regis Mohawk Tribe (*see* Swamp, Dkt. 41 at 2 ¶ 6), who inaccurately told the Plaintiff's they were ineligible. It is undisputed that the Guidance exempts Plaintiffs from the revised documentation policy, and the Department never took any action that rejected or denied Plaintiffs' access to student aid. Dkt. 39 ¶¶ 21-24. Thus, the only "role" the Department played was to exempt Plaintiffs from the policy they are now challenging. Plaintiffs have failed *their burden* to show the Department caused the alleged harm.

For these reasons and the reasons set forth in Defendants' motion for summary judgment (Dkt. No. 36-1 at 11-19), Plaintiffs have failed to show standing and injury that is either not self-

of proving eligibility for student aid. To obtain a U.S. Passport an applicant must produce evidence of U.S. citizenship. *See* U.S. State Department, *Apply for Your Adult Passport, Get Evidence of U.S. Citizenship*, https://travel.state.gov/content/travel/en/passports/need-passport/apply-in-person.html (last visited Mar. 20, 2026). Thus, Plaintiff Rourke-Rodriguez's purported eligibility for a U.S. passport suggests another way to demonstrate eligibility and further undercuts her suggestion that the alleged injuries here were caused by Defendants.

inflicted or caused by the Department's Guidance. In the absence of standing, the Court lacks jurisdiction to adjudicate Plaintiffs' claims and their suit must be dismissed on that basis.

II. The Guidance Conformed Department Policy to Existing Law and Regulation

Next, Plaintiffs contend that the Guidance exceeds the Department's authority under the Higher Education Act ("HEA"), but they fail to address Congress' mandate that the Department implement a verification system to ensure that all student aid recipients are eligible based on their immigration status. Dkt. 37 at 13-15. Plaintiffs again rely on the student loan eligibility statute as the point of reference and wrongly contend that this is where the Court's analysis should stop. *Id.* Plaintiffs argue that because HEA § 1091(a)(5) does not reference what immigration documentation the Department *can* require from U.S. citizens and permanent residents, any documentation requirement must therefore exceed the Department's authority. *Id.* In so arguing, Plaintiffs completely ignore that HEA § 1091 specifically *mandates* the Department to "implement a system under which the statements and supporting documentation, if required, of an individual declaring that such individual is in compliance with the requirements of subsection (a)(5) *shall be verified* prior to the individual's receipt of [aid]." 20 U.S.C. § 1091(g)(1) (emphasis added). And the Department does this regardless of whether the applicant represents that he or she is an eligible citizen or noncitizen. *See* Dkt. 39 at 6 ¶ 18 (admitting that the Department conducts data matches to verify eligible immigration status for citizens and noncitizens). Plaintiffs misread HEA § 1091(a)(5) as exempting them from providing any verification of their immigration status, and their glaring failure to address the Department's obligaitons under HEA § 1091(g) speaks for itself. *See generally* Dkt. 37.

Plaintiffs' theory wrongly suggests that, under the Guidance, Canadian-born American Indians are treated differently by having their immigration status confirmed by DHS. Dkt. 37 at

13-15. Plaintiffs also misconstrue the corresponding regulations, 34 C.F.R. §§ 668.33, 668.130, by suggesting that the Department "rewrote" Congressional intent by requiring permanent residents to produce evidence of their immigration status *from* DHS. *Id.* at 14. But DHS is the only entity that the Department can refer to for confirmation of an applicant's immigration status when the applicant is a noncitizen. Musser Decl. at 9-10, ¶¶ 24-28. The Department uses a match process to confirm an applicant's reported status as a citizen through the Social Security Administration and confirms noncitizens' immigration status through a match with DHS. Musser Decl. at 9-10, ¶¶ 23-28. The Department's policy of confirming an applicant's eligibility for aid based on their immigration status is a common-sense verification step consistent with the Congressional mandate. 20 U.S.C. § 1091(g)(1). Thus, it would be improper for the Department *not to confirm* Plaintiff's immigration status before issuing student aid. *Id.* That is precisely why the Guidance had to be revised.

Plaintiffs argue that "[u]nder the Department's reasoning, it could also have imposed a comparable regulatory requirement on U.S. citizens. Clearly, its authority to implement the Higher Education Act does not extend so far." Dkt. 37 at 14. But this too fails to account for *existing* requirements the Department uses to verify an aid applicant's purported citizenship, like the Social Security match requirements established in 20 U.S.C. § 1091(o); *see also* Musser Decl. at 9-10, ¶¶ 23-28. The Department's Final Rule under which SSA confirmation of citizenship was promulgated addressed the concern Plaintiffs raise now, stating as follows: "The Secretary disagrees with the comments portraying the U.S. citizenship match [with SSA] as an unjustified burden." 60 Fed. Reg. 61796, 61800 (Dec. 1, 1995). The Department noted that "during the 1992-1993 award year, 45,000 Federal Pell Grant awards were made to students claiming U.S. citizenship on their applications for federal student assistance who were not confirmed as U.S.

citizens by the [SSA]." *Id.* In that context, the Department assessed that, under the new rules, "[t]he vast majority of students will be confirmed by SSA as U.S. citizens, and no further action will be required. Many noncitizens who falsely claim U.S. citizenship will provide alien registration numbers, and their applications will be processed using the INS [now DHS] data match in the same manner as other noncitizen applications." *Id.*

So, not only are Plaintiffs wrong to suggest that there is no "comparable regulatory requirement on U.S. citizens," *see* 20 U.S.C. § 1091(g), (o), but they are also wrong to suggest that such a check would exceed the Department's "authority to implement" the HEA. The Department's authority to conduct these immigration status checks for citizens and noncitizens alike has been well established for years. The fact that Canadian-born American Indians are no longer exempted from the same documentation requirements of other applicants is the result of the Department's appropriate correction of a longstanding fault in the policy. *See* Musser Decl. at 4-9, ¶¶ 9-22. Departments' new policy under the Guidance provides the best reading of the statutory and regulatory framework because it accounts for each provision in concert. Plaintiffs' arguments fail because they ignore reading HEA § 1091 beyond section (a)(5). A proper reading of the statutory scheme does not allow for such blinders.

Further, Plaintiffs reiterate their claim that the Guidance conflicts with the Immigration and Nationality Act, but their analysis adds nothing new and relies completely on the *Akins* decision. *See* Dkt. 37 at 16. These arguments fail for the same reasons explained in the Department's opening brief. *See* Dkt. 36-1 at 24-28. Notably, Plaintiffs make no attempt to distinguish their case from the similar cases the Department cited in its brief, all of which provide strong support for the proposition that the Jay Treaty's privileges of free passage cannot be extended beyond what it was intended to protect: unimpeded passage by Canadian-born American

Indians across the U.S.-Canadian border. *See id.* Plaintiff's continued reliance on *Akins* is inapt given how different the facts and legal issues were in *Akins*, and in light of the trove of more recent caselaw applicable here. *See id.* (collecting cases). Plaintiffs' failure to respond to the Department's reliance on these cases is a tacit concession. *Cf. Mulhern Gas Co. v. Mosley*, 798 F. Supp. 3d 304, 319 (N.D.N.Y. 2025) (collecting cases and explaining the rule that when a party "fails to oppose a legal argument asserted by a movant, the movant may succeed on the argument by showing that the argument possess facial merit, which has appropriately been characterized as a 'modest' burden").

III. The Department Complied with Procedural Requirements for Interpretive Rules and Was Supported by Strong Rationale

Finally, Plaintiffs fail to meaningfully address how the Department's current interpretation conflicts with the underlying law and regulation established in the HEA and the Department's implementing regulations, which is that permanent residents must provide documentation from DHS to establish their eligibility for Title IV aid. *See* 20 U.S.C. § 1091(a)(5); 34 C.F.R. § 668.33. Because the underlying law has not changed, the Department's revised Guidance is not legislative. Rather, the Guidance is a statement of how Defendants will "enforce—the governing legal norm[.]" *Syncor Int'l Corp. v. Shalala*, 127 F.3d 90, 94 (D.C. Cir. 1997); *see also Christensen v. Harris County*, 529 U.S. 576, 587 (2000) (explaining that interpretations contained "in opinion letters," "policy statements, agency manuals, and enforcement guidelines . . . lack the force of law"); *Orengo Caraballo v. Reich*, 11 F.3d 186, 196 (D.C. Cir. 1993) ("We hold that the DOL in this case did no more than give a reasonable meaning to the notion of a 'direct or indirect advance' in the course of exercising its enforcement authority under the regulations. The risk of loss test is an interpretation of those regulations and as such is exempt from the requirements of the APA.").

Plaintiffs wrongly assert that the Guidance was a legislative rule that should have been promulgated through notice and comment rulemaking. Dkt. 37 at 17-19. But as explained in Defendants' motion for summary judgment, the Guidance was an informal revision to the Department's immigration status verification policy for Canadian-born American Indians that resulted from interagency review and consultation. Dkt. 36-1 at 29-31. The Department's interpretation of the documentation requirements was revised in exactly the same way that the original policy was initially promulgated (through informal guidance documents). *Id.* at 31. Plaintiffs fail to provide any meaningful analysis supporting their claim that the Guidance is a legislative rule and simply argue that the Court should compel the Department to reverse its Guidance merely because the prior policy was "longstanding." Dkt. 37 at 17-19. If Plaintiffs were right—which they are not—the Department could never change an erroneous policy interpretation without notice and comment rulemaking. And for all the reasons explained in Defendants' opening brief, the Department *had to* revise the prior policy because it was plainly in conflict with existing law and regulation. Dkt. 36-1 at 29-31.

Plaintiffs again point to *Make the Road New York v. Pompeo*, 475 F. Supp. 3d 232 (S.D.N.Y. 2020) for the proposition that the Department cannot amend a legislative rule without notice and comment. Dkt. 37 at 18. Legislative rules are those which "create new law, rights, or duties, in what amounts to a legislative act." *Make the Rd.*, 475 F. Supp. at 263. But the Guidance did not create new rules or obligations amounting to a legislative act, they "merely clarif[ied] an existing statute or regulation" and conformed the Department's documentation policy thereto. *Id.*; *see also* Musser Decl. at 5-9, ¶¶ 12-22. Indeed, "[i]nterpretive rules are 'issued by an agency to advise the public of the agency's construction of the statutes and rules which it administers,'" which is exactly what the Department did here. *Make the Rd.*, 475 F. Supp. at 263. The APA's notice and comment requirements do not apply "to interpretative rules, general statements of policy, or rules of agency organization, procedure, or practice," or "when the agency for good cause finds . . . that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest." *Id*. at 262.

Make the Road is further distinguishable in that it involved changes to agency policy that the courts found to be contrary to pre-existing regulations. *See Make the Rd.*, 475 F. Supp. at 263, 266-67. The challenged policies in *Make the Road* were issued on an emergency basis within 48 hours and involved the factors consular officers should consider when evaluating whether a visa applicant is a public charge, and thus "cannot be said to simply clarify what is set forth in the INA." *Id.* at 264. Under those unique circumstances, the *Make the Road* court determined that the changes amounted to a new "comprehensive legal regime," and therefore, the agency was not merely revising its interpretation of existing law. *Id.* at 264-65. Here, by contrast, the revised Guidance was issued after interagency consultation which reviewed *existing law* and revised the policy to conform the documentation policy to the *plain text* existing law and regulation. Musser Decl. at 5-9, ¶¶ 12-22. Furthermore, unlike in *Make the Rd.*, the Department's actions and the administrative record demonstrate that it considered informal public comment on its Guidance changes and ultimately made appropriate revisions to accommodate some of the concerns, including by creating an express exemption from the Guidance for any aid applicants who had received federal student aid in the past, including Plaintiffs. *Compare Make the Rd.*, 475 F. Supp. at 263-65, *with* Musser Decl. at 5-9, ¶¶ 12-22, explaining interagency review process, public comment, and policy changes based on expressed concerns), *and* Dkt. 33 (Administrative Record) at 3-39 (electronic announcement creating exemption for previous aid recipients, and public feedback considered May 2024 through when Electronic Annulment was issued in January 2025), 75-76 (interagency redline conforming Handbook Guidance to *existing* law and regulation).

Thus, contrary to Plaintiffs' claims, the Guidance is informal interpretive rule which sets out how the Department will administer its documentation verification policy going forward, while permitting exemption for applicants who have already received student aid. *See* Dkt. 36-1 at 29-31. Plaintiffs' erroneous position is founded on the false premise that the Guidance "establishes eligibility requirements not contained in the statute." *Id.* at 17. It does not. Plaintiffs continue to conflate eligibility and verification of such eligibility. This highlights the problem with Plaintiffs' challenge, which is that they are not eligible for student aid simply because they say so. And while Plaintiffs are likely eligible, they must provide the documentation *to verify* that eligibility before the aid can be issued. Indeed, 20 U.S.C. § 1091(a)(5) makes federal student aid available to citizens and permanent resident noncitizens alike, but it is 20 U.S.C. § 1091(g) which *mandates* that the Department implement a verification system for *all* student aid recipients regardless of immigration status before aid may be issued. *See* Dkt. 36-1 at 21-22. Nothing in HEA § 1091(a)(5) exempts anyone (citizens or noncitizens) from verifying their immigration status before receiving student aid, and the Department's match process proves that by confirming aid eligibility based on immigration status for citizens and noncitizens alike. Musser Decl. at 9-10, ¶¶ 23-28. All aid applications are processed through a match with the Social Security Administration, and if that match does not affirmatively confirm citizenship status, the student must provide documents proving their citizenship. *Id.*; *see also* 20 U.S.C. § 1091(o). For applicants who indicate on their FAFSA that they are *not* U.S. citizens, the Department conducts a data match with DHS, which if the match is unsuccessful, the applicant must submit documentation of their eligible immigration status to their institution. *Id.* Accordingly, this process fully comports with the Department's obligation to verify eligibility of *all* applicants, regardless of immigration status. *See supra* Part II; *see also* Dkt. 36-1 at 19-28 (explaining why the revised Guidance better conforms to the law).

Alternatively, Plaintiffs argue that if the Guidance is an interpretive rule—which it is—the policy was not supported by good reasons for the change. *See* Dkt. 37 at 19-20. This argument fails for all the reasons stated in Defendants' opening brief. *See* Dkt. 36-1 at 31-35. To those reasons, Defendants add that Plaintiffs' claim that the Department "did not provide any rationale whatsoever" is plainly belied by the Administrative Record, *see generally* Dkt. 33, which reflects a thoughtful interagency review of existing policy and a well-founded, good faith effort to conform the Guidance to the law. And to the extent Plaintiffs allege that the Department's explanations are "perfunctory" and "devoid of reasoned explanation," the Court need look no further than existing law and regulations to find it. What more rational a reason to change a policy other than to state explicitly that the old policy did not conform to the law? This is especially true where the explanation provided is so easily confirmed through a review of the plain text of the law and regulation. The Department's reasoning was clearly stated in its public pronouncements regarding the changes. Dkt. 36-1 at 33-35; Dkt. 33 at 3 (January 2025 announcement), 53-54 (2024-2025 FSA Handbook). That is all the APA requires.

CONCLUSION

For the reasons stated above, and in Defendants' Cross Motion for Summary Judgment (Dkt. 36), the Guidance was properly issued, consistent with the controlling law, and was duly executed well within the Department's authority under applicable law. Therefore, Defendants' motion for summary judgment should be granted, Plaintiffs' motion (Dkt. 34) should be denied, and judgment should be entered for Defendants as a matter of law.

Dated: March 25, 2026

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