

MEMORANDUM

Date: February 3, 2016

To: U.S. Department of Education

From: Eileen Connor

Issue: Debt Compromise Regulation Proposal

This memo describes a technical proposal to increase the amount of debt the Department may compromise without Department of Justice approval from \$20,000 or less to \$100,000 or less, to conform the regulations to the changes made to the Federal Claims Collection Act in 1990.

Background: In 1986, the Higher Education Act (HEA) was amended to grant the Secretary of Education broad authority to compromise debts.¹ At that time, the Federal Claims Collection Act provided that an executive agency may compromise a claim of not more than \$20,000 “or such higher amount as the Attorney General may . . . prescribe.”² Therefore, the Department’s 1988 debt compromise regulations reflected this \$20,000 limit. They state that, other than as specified, the Secretary of Education may compromise debts less than or equal to \$20,000, but refers debts greater than \$20,000 to the Department of Justice (DOJ) for compromise decisions.³

In 1990, Congress increased the amount that an executive agency may compromise without DOJ approval from \$20,000 to \$100,000. The Department, however, never revised the regulations to include this higher statutory limit.

Proposal: Amend 34 C.F.R. § 30.70 as follows:

(a) The Secretary uses the standards in the FCCS, 4 CFR part 103, to determine whether compromise of a debt is appropriate if--

- (1) The debt must be referred to the Department of Justice under this section; or
- (2) The amount of the debt is less than or equal to ~~\$20,000~~100,000 and the Secretary does not follow the procedures in paragraph (e) of this section.

(b) The Secretary refers a debt to the Department of Justice to decide whether to compromise a debt if—

- (1) The debt was incurred under a program or activity subject to section 452(f)⁴ of the General Education Provisions Act and the initial determination of the debt was more than

¹ 20 U.S.C. § 1082(a)(6) (Pub. L. No. 99-498, 100 Stat. 1268 (Oct. 17, 2986)).

² 31 U.S.C. § 3711(a)(2).

³ 34 C.F.R. § 30.70(f)(1).

⁴ This refers to 20 U.S.C. § 1234a(f), regarding the procedures for recovering grant or cooperative agreement funds from Department of Education programs, except programs authorized by the Higher Education Act. 20 U.S.C. § 1234i.

\$50,000; or

(2) The debt was incurred under a program or activity not subject to section 452(f) of the General Education Provisions Act and the amount of the debt is more than ~~\$20,000~~100,000.

...

(d) The Secretary may compromise a debt without following the procedure in paragraph (e) of this section if the amount of the debt is less than or equal to ~~\$20,000~~100,000.

...

(f) (1) The Secretary uses the standards in the FCCS, 4 CFR part 104, to determine whether suspension or termination of collection action is appropriate.

(2) The Secretary—

(i) Refers the debt to the Department of Justice to decide whether to suspend or terminate collection action if the amount of the debt at the time of the referral is more than ~~\$20,000~~100,000; or

(ii) May decide to suspend or terminate collection action if the amount of the debt at the time of the Secretary's decision is less than or equal to ~~\$20,000~~100,000.