

**U.S. Department of Education
Affordability and Student Loans Committee
Negotiated Rulemaking**

**Meeting Summary
October 4-8, 2021 (First Session)**

Welcome

Department of Education Under Secretary of Education James Kvaal thanked the Committee members for agreeing to assist the Department in developing the proposed regulations.

Introductions

The Committee members, advisors, and facilitators introduced themselves.

Overview of the Negotiated Rulemaking Process

Commissioners Kayla Mack, Cynthia Jeffries, Brady Roberts, and Emil Totonchi, facilitators from the Federal Mediation and Conciliation Service (FMCS), explained and reviewed the negotiated rulemaking process, the virtual meeting technology, the protocols, consensus, and how to submit information requests to the advisors via the FMCS team.

Review and Adopt Protocols

The Committee approved the organizational protocols.

Membership

The following individuals are the Members of the Affordability and Student Loans Committee Negotiated Rulemaking Committee:

<u>Community of Interest</u>	<u>Primary Negotiator</u>	<u>Alternate Negotiator</u>
Dependent Students	Ms. Dixie Samaniego, Student, California State University	Mr. Greg Norwood, Engagement Manager, Young Invincibles
Independent Students	Ms. Michaela Martin, Student, University of La Verne College of Law	Dr. Stanley Andrisse, Assistant Professor, Howard University College of Medicine
Student Loan Borrowers	Ms. Jeri O'Bryan-Losee, Statewide Secretary- Treasurer, United University Professions	Ms. Jennifer Cardenas, Sponsor Coordinator Assistant, Latinx Kid Lit Book Festival

<u>Community of Interest</u>	<u>Primary Negotiator</u>	<u>Alternate Negotiator</u>
Legal Assistance Organizations that represent Student and/or Borrowers	Ms. Persis Yu, Director of the Student Loan Borrower Assistance Project, National Consumer Law Center	Mr. Joshua Rovenger, Senior Attorney, Legal Aid Society of Cleveland
U.S. Military Service Members, Veterans, or Groups representing them	Mr. Justin Hauschild, Legal Fellow, Student Veterans of America	Ms. Emily DeVito, Associate Director, The Veterans of Foreign Wars of the United States
States Attorneys General	Mr. Joseph Sanders, Supervising Attorney, Illinois Attorney General's Office	Mr. Eric Apar, Assistant Deputy Director, Policy and Strategic Planning of New Jersey's Department of Consumer Affairs
State Higher Education Executive Officers, State Authorizing Agencies, and/or State Regulators of Institutions of Higher Education and/or Loan Servicers	Dr. David Tandberg, Senior Vice President for Policy Research and Strategic Initiatives, State Higher Education Executive Officers Association	Ms. Suzanne Martindale, Senior Deputy Commissioner, California Department of Financial Protection & Innovation
Individuals with Disabilities or Groups representing them	Ms. Bethany Lilly, Senior Director of Income Policy, the Arc of the United States	Mr. John Whitelaw, Advocacy Director, Community Legal Aid Society, Inc.
Financial Aid Administrators at Postsecondary Institutions	Mr. Daniel Barkowitz, Assistant Vice President of Financial Aid and Veterans' Affairs, Valencia College	Ms. Alyssa A. Dobson, Director of Financial Aid and Scholarships, Slippery Rock University
Two-Year Public Institutions of Higher Education	Dr. Robert Ayala, Division Chair Arts and Sciences, Southwest Texas Junior College	Dr. Christina Tangalakis, Associate Dean, Student Financial Aid, Glendale Community College

<u>Community of Interest</u>	<u>Primary Negotiator</u>	<u>Alternate Negotiator</u>
Four-Year Public Institutions of Higher Education	Dr. Marjorie Dorime-Williams, Assistant Professor, University of Missouri, College of Education	Ms. Rachele Feldman, Interim Vice Provost of Enrollment and Associate Provost of Scholarships and Student Aid, University of North Carolina at Chapel Hill
Private Nonprofit Institutions of Higher Education	Ms. Misty Sabouneh, Assistant Vice President of Financial Literacy and Integrity, Southern New Hampshire University	Dr. Terrence McTier, Jr., Director of the Prison Education Project, Washington University
Proprietary Institutions	Ms. Jessica Barry, President and Owner, The Modern College of Design in Kettering, Ohio	Dr. Carol Colvin, Senior Vice President of Financial Aid, South College
Minority- Serving Institutions		Ms. Noelia Gonzalez, Interim Systemwide Director, Financial Aid Programs, California State University*
Federal Family Education Loan (FFEL) Lenders and/or Guaranty Agencies	Ms. Jaye O'Connell, Director of Collections, Compliance & Information Security Officer, Vermont Student Assistance Corporation	Mr. Will Shaffner, Director of Business Development & Government Relations, MOHELA (Higher Education Loan Authority of the State of Missouri)
Accrediting Agencies	Dr. Heather Perfetti, President, Middle States Commission on Higher Education	Dr. Michale McComis, Executive Director, Accrediting Commission of Career Schools and Colleges
U.S. Department of Education	Dr. Jennifer Hong, Director, Policy Coordination Group, Division of Policy, Planning and Innovation, Office of Postsecondary Education, Department of Education	

*After the primary negotiator for Minority-Serving Institutions withdrew, the alternate negotiator indicated that she could represent the constituency without replacing that member.

Additional Participants

Two non-voting advisors that presented to the Committee and participated in the discussion were Ms. Heather Jarvis, Executive Director of Fosterus, who is providing expertise on qualifying employers on the topic of Public Service Loan Forgiveness; and Dr. Rajeev Darolia, Professor of Public Policy and Economics, University of Kentucky, who is providing expertise in economic and/or higher education policy analysis and higher education data. The advisors commented on several issues, presented data, and are working to respond to various requests from the Committee members.

Two non-voting Department Office of General Counsel officials, Brian Siegel and Todd Davis, were present and participated in the discussions.

Two other Department officials – Ian Foss of the Federal Student Aid office and Aaron Washington of the Office of Postsecondary Education and participant in the upcoming Prison Education Program Subcommittee – addressed the Committee during the first session.

Petitions for Membership

Ms. Yu proposed adding Theresa Sweet as an additional student loan borrower committeeperson and Jaylon Herbin to represent consumer advocates. Mr. Norwood also proposed adding Evelyn Cervantes and Ashley Pizzuti – student loan borrowers who attended for-profit institutions – as Committee members. The Committee elected not to include these four individuals as Committee members or advisors.

The Agenda

The first session's agenda included discussion of the following issues:

- Issue #1: Total and permanent disability discharge
- Issue #2: Closed school discharge
- Issue #3: Eliminate interest capitalization for non-statutory capitalization events
- Issue #4: Improving the Public Service Loan Forgiveness (PSLF) Application Process
- Issue #5: PSLF employer eligibility and full-time employment
- Issue #6: Borrower defense to repayment – adjudication process
- Issue #7: Borrower defense to repayment – post-adjudication
- Issue #8: Borrower defense to repayment – recovery from institutions
- Issue #9: Pre-dispute arbitration
- Issue #10: Creating a new income-drive repayment plan
- Issue #11: False certification discharge
- Issue #12: Pell grant eligibility for prison education programs

Ms. Yu proposed adding the two issues to the agenda: 1) Create additional pathways out of default, and 2) Eliminate the acceleration clause and limit involuntary collection to the

income-driven repayment amount. No consensus vote was taken during the first session as the Committee agreed to further consider options for addressing these matters.

Discussion of Issues

The Committee discussed the above substantive issues in detail. Discussion of each topic began with the Department reviewing each issue paper and associated proposed solutions and/or questions. Then, Committee members had the opportunity to pose additional questions as well as offer their interests, concerns, and preferences relative to each issue. Temperature checks for tentative agreement were taken, where appropriate, regarding the proposed text and/or concepts with respect to each issue.

Public Comment

The Committee provided opportunity for public comment at the end of each day. Public comment was received virtually on all five days of the session.

Next Meeting

The next meeting will be held virtually November 1-5, 2021.

Next Steps

The facilitators will distribute a draft summary of the first session, and a draft agenda for the next session. In addition, the Department will distribute draft regulatory text related to the issues discussed one week prior to the November session. Any documents or information that members want to share with the Department, or the Committee as a whole, should be sent to the facilitators for subsequent distribution. Additionally, any questions or information requests that members have should be directed to the facilitators. The Committee members should also visit the Department's Affordability and Student Loans Committee webpage to review updated issue papers, proposed regulatory text changes, and other information.

Committee members will communicate with others within their communities of interest to inform, and get feedback from, them.

Attendance

All members of the Committee were present for the first session.