

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

**Meeting Summary
December 6-10, 2021 (Third Session)**

Welcome

Jennifer Hong, Department of Education’s federal negotiator, welcomed the Affordability and Student Loans Committee (“Committee”) members, advisors, and facilitators to the second negotiated rulemaking session.

Introductions

The Committee members, advisors, and facilitators introduced themselves.

Review of Negotiated Rulemaking Protocols & Agenda

Commissioners Kayla Mack, Cynthia Jeffries, Brady Roberts, and Kevin Hawkins, facilitators from the Federal Mediation and Conciliation Service (“FMCS”), briefly reviewed protocols around technology, process, and consensus decision-making.

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
Legal Assistance Organizations that represent Student and/or Borrowers	Ms. Persis Yu, Director of the Student Loan Borrower Assistance Project, National	Mr. Joshua Rovenger, Senior Attorney, Legal Aid Society of Cleveland

<u>Community of Interest</u>	<u>Primary Negotiator</u>	<u>Alternate Negotiator</u>
	Consumer Law Center	
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	

<u>Community of Interest</u>	<u>Primary Negotiator</u>	<u>Alternate Negotiator</u>
Department of Corrections	Ms. Anne Precythe, Director, Missouri Department of Corrections	

**Primary negotiator for Minority-Serving Institutions withdrew at the start of Session 1; Alternate negotiator, Noelia Gonzalez, indicated that she could represent the constituency without replacing that member. She has continued to do so.

***Was nominated by Dr. Stanley Andrisse and approved by consensus of the Committee during Session 2. Participated in Session 3; abstained from all consensus-decision making except for Issue #12: Pell grant eligibility for prison education programs.

Additional Participants

Two non-voting advisors spoke and presented to the Committee. At various times throughout the week, they participated in discussions and shared information. They were Ms. Heather Jarvis, Executive Director of Fosterus, who provided 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 provided expertise on economic and/or higher education policy analysis and higher education data.

Three non-voting Department Office of General Counsel officials Steve Finley, Brian Siegel, Todd Davis, and Soren Lagaard were present and participated in discussions at various times during Session Two.

Aaron Washington of the Office of Postsecondary Education and participant in the Prison Education Program Subcommittee, addressed the Committee during the Subcommittee Report and throughout the Committee's deliberations and question & answer sessions around this issue.

The Prison Education Program Subcommittee's members, Dr. Stanley Andrisse and Dr. Belinda Wheeler presented on the Subcommittee's recommendation for Issue 12: Pell grant eligibility for prison education programs. They were available to answer questions and provide information during the Committee's deliberations on this issue.

The Agenda

Issues during Session 3 were addressed in the following order:

- Issue #1: Total and permanent disability discharge
- Issue #2: Closed school discharge
- Issue #3: Eliminate interest capitalization for non-statutory capitalization events
- Issue #11: False certification discharge
- Issue #10: Creating a new income-drive repayment plan
- Issue #12: Pell grant eligibility for prison education programs

- 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

Discussion of Issues

During Session 3, the Committee discussed the above substantive issues in detail. Discussion of each issue began with the Department reviewing the updated issue paper and associated proposed regulatory text. For each, Committee members engaged in productive discussion, considering draft language, questions, and alternatives. In addition, for Issue 12: Pell grant eligibility for prison education programs, a Subcommittee recommendation was presented.

Consensus Decision-Making

The Committee engaged in consensus-decision making on each of the twelve (12) issues separately. Per the protocols, consensus could be reached for some issues, and not others. This is what occurred in Session 3. The Committee reached consensus on the following issues:

- Issue #1: Total and permanent disability discharge
- Issue #3: Eliminate interest capitalization for non-statutory capitalization events
- Issue #11: False certification discharge
- Issue #12: Pell grant eligibility for prison education programs

The Committee did not reach consensus on the following issues:

- Issue #2: Closed school discharge
- 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

Public Comment

The Committee provided opportunity for public comment at the end of each day except the final day of the Session, Friday, December 10, 2021. Public comments occupied the allotted time each day.