

**U.S. Department of Education
Title IV Negotiated Rulemaking
General Provisions Committee
March 14 – 16, 2007**

Welcome

Brian Kerrigan welcomed negotiators to this round of negotiated rulemaking.

Petitions for Membership

A committee member petitioned for the inclusion of their colleague as an alternate.

- Robert Collins petitioned for the inclusion of Nancy Broff, General Counsel to Career College Association, to serve in his absence as a second alternate to Stephen Dill. The committee accepted the nomination.

Agenda Review

The Federal negotiator provided the committee with an overview of the Department of Education's work on the General Provisions issues since the first session.

Agenda Discussion

The committee discussed 19 issues from the original agenda.

Issue #1 – Consistent enrollment status definitions for all Title IV programs

The key points discussed were:

- Negotiators discussed how the proposed increase in the definition of a full-time student in a clock hour program would impact clock hour students. They noted that some clock hour programs had added additional hours to their normal schedules so that those schedules would be equivalent to that of a full-time job. However, they did not believe that that should affect the minimum full-time definition. Some negotiators favored a return to the current clock hour requirement of 24 hours per week.
- Negotiators discussed the variances in Pell calculations for students that change their course load. They noted that significant numbers of students increase and decrease course loads during the academic year.

Issue #2 – Consistent Definitions for undergrad student, graduate or professional student, and first-professional degree for all the Title IV programs

The key points discussed were:

- Negotiators questioned the impact of the undergrad professional degrees and graduate programs with less than three years undergrad coursework. The definitions are similar to how NCS data is collected.
- Negotiators discussed the issue of the 4th year student enrolled in both undergrad and grad programs. They noted that student classifications change depending on how institutions define their academic year. The issue may require more clarification.
- Negotiators noted no dissent to tentative conceptual agreement.

Issue #3 – Define independent study

The key points discussed were:

- Negotiators wondered about the meaning of the language addressing substantive progress. The issue centers around who determines the substantive progress. There was sentiment the language may lead to further regulations. Accreditors already determine independent study courses as rigorous. Some negotiators suggested alternative language to replace the word, “track.”
- Negotiators questioned what impact, if any, this regulation change will have on other regulations. No direct impact was determined.
- Negotiators discussed separating independent study courses and programs. It was acknowledged that Title IV funds are currently disbursed for independent study courses and that there may be a need for a definition.

Issue #4 – Nonterm credit hour programs – Use of completion of half the weeks of instructional time for timing of loans disbursements

The key points discussed were:

- Negotiators discussed changing the language to reflect the environment of these programs and that time periods may not be equal due to changes in schedule and attendance. They noted that determining satisfactory progress for final semester students adds administrative burden.
- Some negotiators proposed keeping the alignment but not accepting the other changes proposed.

Issue #5 – Determining loan eligibility for nonstandard term programs

The key points discussed were:

- Negotiators discussed the importance of the nine-week term in contrast to four- and six-week terms.
- Negotiators noted no dissent to tentative conceptual agreement.

Issue #6 – Require institutions to use consistent disbursement periods for Title IV programs where allowed under law

The key point discussed was:

- Negotiators discussed the option to choose more than two payments for a 900-hour program.

Issue #7 – Recovery of funds not claimed by student or parent

The key points discussed were:

- Negotiators discuss the 180-day time period and the 2nd delivery attempt. It was suggested that language be added addressing a 2nd attempt. Additionally, it was suggested that the addition of the 2nd attempt may require an extended time period of up

to 1 year. In response to the extended time period, negotiators discussed requiring EFT disbursements.

Issue #8 & 9 – Electronic disbursements, use of stored value cards and issuing a check

The key points discussed were:

- Negotiators discussed the need for increased flexibility to accommodate the requests of the students and different circumstances. There is a need to regulate the timeframe by which a school responds if a student does not.
- Negotiators discussed the intent of the language and the potential for schools to use the capability of opening student accounts as an easy solution. There is additional concern for student permission and consumer protection under Title IV. Negotiators discussed potential implementation and interpretation issues. Negotiators suggested moving E-Sign Act compliance language to the beginning and providing language for institutions to clearly explain what a student is signing up for.

Issue #10 – Late, late disbursements

The key points discussed were:

- Negotiators discussed the frequency of late, late disbursements and possibly adding triggers to target frequently offending institutions. Some negotiators suggested that there is a need to avoid penalizing the students and that there should be a process of appealing after a reasonable deadline passes.

Issue #11 – Affirmative confirmation of a loan

The key points discussed were:

- Negotiators discussed the possibility of addressing electronic confirmation within the preamble and for using less ambiguous language in the regulations.
- Negotiators discussed the impact of confirmation within the 3-day period and if it is reasonable in length. Negotiators debated the issue of consumer protection and student awareness versus the potential for redundancy with confirmations from the institution and the lender. There were also concerns expressed about delaying the disbursement to the students and added administrative burden.

Issue #12 – Definition of excess cash and excess cash allowances

The key points discussed were:

- Negotiators discussed the impact of taking the tolerances away to the variety of institutions in the program, given the nature of unpredictable changes in enrollment status and the differing workflow systems.

Issue #13 – Treatment of FFEL and Direct Loan funds when a student withdraws before beginning class – make consistent with other programs

The key points discussed were:

- Negotiators discussed the impact of delaying disbursements to the students versus the need for consistency across all programs. Some negotiators felt the lenders are better equipped for recovery and billing of loans than institutions.

Issue #14 – Single disbursement provision for Perkins and FSEOG

The key point discussed was:

- Negotiators noted no dissent to tentative agreement.

Issue #15 – Post-withdrawal disbursement

The key point discussed was:

- Negotiators noted no dissent to tentative agreement.

Issue #16 – Calculate Pell Grant payments for programs with standard terms but monthly starts

The key point discussed was:

- Negotiators discussed the need to maintain the integrity of term/semesters in order to maintain the validity of the formulas for schools with semesters, trimesters, and quarters.

Issue #17 – Pro-ration for Pell Grant payments for programs using clock hours or credit hours without terms

The key point discussed was:

- Negotiators discussed using clear examples in the handbook to support the regulatory language and demonstrate proper calculations.

Issue #18 – Minimum period for certifying a loan (including certifying a loan for a transfer student)

The key points discussed were:

- In addition to discussing loan eligibility for students who transfer to another institution in the middle of a loan period, negotiators discussed the need to address eligibility for students in continuous enrollment institutions, focusing on the fact that loan eligibility for successful students may be restricted if schools have to wait for a loan period to end before enrolling such students in another program. Negotiators noted no dissent to tentative agreement to add language addressing this issue.

Issue #19 – Minor prior-year expenses

The key points discussed were:

- Negotiators suggested increasing the monetary threshold for minor prior-year expenses and discussed the issue of consumer protection and student affirmation.