**Issue Paper 7**

**Session 1: November 13-15, 2017**

**Issue:** Guaranty Agency Collection Fees

**Statutory cites:** §§428F(a) and 484A(a) of the Higher Education Act of 1965, as amended

**Regulatory cites:** 34 CFR 682.405(b)(1)(vi)(B)

**Summary of issue:**

In the Federal Family Education Loan (FFEL) Program, a guaranty agency, after it pays a default claim and acquires the loan from the lender, is required to send an initial notice to the borrower. In that notice, the guaranty agency must give the borrower at least 60 days to take any of several actions, including entering into a repayment agreement with the guaranty agency. The Department, for loans it holds, does not charge collection costs to a defaulted borrower who enters into a repayment agreement or loan rehabilitation agreement within the 60-day period following an initial notice to the borrower.

In 2015, the Department was asked whether, under Federal law, guaranty agencies could charge collection costs to defaulted borrowers who promptly enter into a repayment agreement, including a loan rehabilitation agreement, and who honor that agreement. In Dear Colleague Letter (DCL) GEN-15-14 (July 10, 2015), we addressed this issue and explained that the Department’s regulations bar a guaranty agency from charging collection costs to a defaulted borrower who enters into a repayment agreement (including a rehabilitation agreement) within 60 days of receiving the initial notice sent by the guaranty agency after the guaranty agency acquires the loan from the lender and who honors that agreement. The Department withdrew that DCL in March 2017 due to the lack of notice and opportunity to comment and said that it would pursue rulemaking on this issue.

Question for consideration by the committee:

* Should the Department revise 34 CFR 682.410(b), regarding the charging of collection costs by a guaranty agency to a defaulted borrower who responds within 60 days to the initial notice sent by the guaranty agency after it pays a default claim and acquires the loan from the lender?