

**U.S. Department of Education  
Borrower Defenses and Financial  
Responsibility**

**Negotiated  
Rulemaking**

**Meeting  
Summary  
January 8-11,  
2018**

**Welcome**

Annmarie Weisman, the federal negotiator, welcomed Borrower Defenses Negotiated Rulemaking Committee (“Committee”) members to the second negotiated rulemaking session.

**Update on Existing Department of Education Borrower Defense Claims**

James Manning, acting Undersecretary of Education, provided an update on the status of existing Borrower Defense claims.

**Introductions**

Committee members and facilitators introduced themselves.

**Review of Agenda and Session One Meeting Summary**

The Committee reviewed and accepted the session agenda with one adjustment; the Subcommittee Report was moved to the afternoon of the first day with a period for questions on day four. Additionally, the Committee reviewed and accepted without changes the meeting summary of Session One prepared by the facilitators.

**Data Requests**

Annmarie Weisman discussed the status of pending requests for data made by Committee members. The Department of Education (“Department”) continues to receive and process data requests from Committee members. The facilitators or the Department will distribute processed data requests as it becomes available. Data distributed during this session included:

- Borrower Defense Claims Data Analysis
- Data Sheet A: Loan Discharge Liabilities
- Data Sheet B: Consolidated Loans linked to BD Claims
- Data Sheet C: Estimated Interest Accrued
- Data Sheet D: Loan Status at Time of Claim
- Data Sheet E: School Type and Level
- Data Sheet F: Loan Forbearance

**Discussion of the Issues and Proposed Regulatory Language**

The Committee discussed and reviewed draft regulatory language for the

following issues:

- Issue 1: Federal Standard for Borrower Defense Claims
- Issue 2: Borrower Defense Claim Process
- Issue 3: Financial Responsibility and Administrative Capability
- Issue 4: Pre-dispute Arbitration Agreements, Class Action Waivers, and Internal Dispute Processes
- Issue 5: Closed School Discharge
- Issue 6: False Certification Discharge
- Issue 7: Guaranty Agency Collection Fees
- Issue 8: Recalculation of Subsidized Usage Period

Throughout the discussion, the committee discussed the Department's language for each issue presenting, considering, and negotiating alternative proposals. The Committee reached tentative agreements on the draft language as presented by the Department for Issue 7: Guaranty Agency Collection Fees and Issue 8: Recalculation of Subsidized Usage Period. The Department will review the comments made during the discussion and prepare revised regulatory language for the other six issues.

#### **Report of the Financial Responsibility Subcommittee**

Members of the Financial Responsibility Subcommittee presented a report of their findings on Monday, January 8, 2017. On Thursday the 11<sup>th</sup>, after providing the Committee time to review the report, the Subcommittee returned to answer Committee questions and listen to negotiator feedback.

#### **Public Comment:**

The Committee heard comments from the public each day of the session.

#### **Next Meeting:**

**February 12-15, 2018  
LBJ Building – Barnard Auditorium  
400 Maryland Ave, SW  
Washington, DC**

#### **Next Steps**

The facilitators will distribute a draft summary of the second meeting and a draft agenda for the next meeting. In addition, the Department will revise and distribute draft regulatory text related to the issues negotiated and proposals submitted prior to the next negotiation. Information and proposals that Committee members want to share with the Department should be sent to the facilitators for distribution to the entire Committee. Committee members will continue to communicate with others within their communities of interest to inform and get feedback from them. Any questions may be directed to the facilitators.

**Members Present:**

Aaron Lacey  
Abby Shafroth  
Alyssa Dobson  
Annmarie Weisman  
Ashley Ann Reich  
Ashley Harrington  
Bryan Black  
Chris DeLuca  
Colleen Slattery  
Dan Madzellan  
Dawn Robinson  
Evan Daniels  
Gregory Jones  
Jaye O'Connell  
Joseline Garcia  
Juliana Fredman  
Kay Lewis  
Kelli Hudson Perry  
Kimberly Brown  
Linda Rawles  
Lodriguez Murray  
Michael Bottrill  
Michael McComis  
Mike Busada  
Robert E. Anderson  
Sheldon Repp  
Stevaughn Bush  
Suzanne Martindale  
Valerie Sharp  
Walter Ochinko  
Wanda Hall  
William Hubbard