

**U.S. Department of Education
Negotiating Committee— Accreditation and Innovation
2019
DRAFT Organizational Protocols**

I. Mission Statement

The U.S. Department of Education has established this negotiated rulemaking committee to develop proposed student financial assistance regulations pursuant to Sec. 492 of the Higher Education Act of 1965, as amended (HEA).

II. Participation

A. The committee consists of the following members:

US Department of Education	Annmarie Weisman Sally Morgan	Federal Negotiator Office of General Counsel
Facilitators	Ramona Buck Christy Yoshitomi Krystil Smith	
Community of Interest	Primary Negotiator	Alternate Negotiator
Students	Joseph Verardo <i>National Association of Graduate- Professional Students</i>	John Castellaw <i>University of Arizona</i>
Legal assistance organizations that represent students	Robyn Smith <i>Legal Aid Foundation of Los Angeles</i>	Lea Wroblewski <i>Legal Aid of Nebraska</i>
Minority-serving institutions	Ernest McNealey <i>Allen University</i>	Erin Hill Hart <i>North Carolina A & T State University</i>
Four-year public institutions of higher education	David Dannenberg <i>University of Alaska, Anchorage</i>	Tina Faulkner <i>University of Minnesota</i>
Private, nonprofit institutions of higher education	Terry Hartle <i>American Council on Education</i>	Ashley Ann Reich <i>Liberty University</i>

Private, proprietary institutions of higher education	Jillian Klein <i>Strategic Education, Inc.</i>	Fabian Fernandez <i>Schiller International University</i>
Faith-based institutions of higher education	Steven Sandberg <i>Brigham Young University</i>	David Altshuler <i>San Francisco Theological Seminary</i>
Two-year public institutions of higher education	Christina Amato <i>Sinclair College</i>	Daniel Phelan <i>Jackson College</i>
Institutions of higher education primarily offering distance education	William Pena <i>Southern New Hampshire University</i>	M. Kimberly Rupert <i>Spring Arbor University</i>
Financial aid administrators at postsecondary institutions	Susan Hurst <i>Ouachita Baptist University</i>	Karen McCarthy <i>National Association of Student Financial Aid Administrators</i>
Regional Accreditation Agencies	Barbara Gellman-Danley <i>Higher Learning Commission</i>	Elizabeth Sibolski <i>Middle States Commission on Higher Education</i>
Programmatic Accreditation Agencies	Laura King <i>Council on Education for Public Health</i>	Janice Knebl <i>American Osteopathic Association Commission on Osteopathic College Accreditation</i>
National Accreditation Agencies	Michale S. McComis <i>Accrediting Commission of Career Schools and Colleges</i>	India Y. Tips <i>Accrediting Bureau of Health Education Schools</i>
Employers	Edgar McCulloch <i>IBM Corporation</i>	Shaun Kelleher <i>BAM Technologies</i>
Veterans	Daniel Elkins <i>Enlisted Association Of the National Guard of the U.S.</i>	Elizabeth Bejar <i>Florida International University</i>

- B. The primary member will participate for the purpose of determining consensus. The alternate will participate for the purpose of determining consensus in the absence of the member.
- C. The alternate may be at the table by subtopic as long as the subtopic is clearly specified.
- D. With approval by a consensus of the committee, individuals, including specialists, who are invited by a member, may participate in committee or subcommittee meetings as needed and appropriate, but are not members of the committee.
- E. The committee may add members. Requests for membership must be approved by a consensus of the committee under such conditions as the committee establishes at the time. New members may begin to participate immediately upon admission to membership.
- F. Subcommittees may be formed by the Department or the committee to address specified issues and to make recommendations to the committee. Subcommittees are not authorized to make decisions for the committee. Subcommittee meetings will be open to any member of the committee and may be held between the meetings of the committee. All committee members will be notified of all subcommittee meetings.
- G. Upon the initiation by any member in writing and after consultation with the facilitators, the Secretary may remove a member she determines is not acting in good faith in accordance with paragraph VI C of these protocols. In such a case, the Secretary will provide an explanation in writing to the member and the committee.
- H. The Secretary may remove any member who ceases to be employed by or be associated with the community of interests the individual was chosen to represent.

III. Decision Making

- A. The committee will operate by consensus, meaning that there must be no dissent by any member in order for the committee to be considered to have reached agreement. Thus, no member can be outvoted. Members should not block or withhold consensus unless they have serious reservations about the approach or solution that is proposed for consensus. Absence will be equivalent to not dissenting.
- B. The Department will identify issues to be grouped together for purposes of reaching consensus, with the opportunity to discuss and the Department to change the groupings during the course of the proceedings.
- C. All agreements reached during the negotiations will be assumed to be tentative agreements until members of the committee reach final agreement on regulatory language. Once consensus is achieved in the final vote for each issue group, committee members may not thereafter withdraw their consensus.

IV. Agreement

- A. The goal of the committee is to develop proposed regulations that reflect a final consensus of the committee. If consensus is reached on the proposed regulations, the Department will provide a preamble, consistent with the proposed regulations, to the members of the committee for review and comment prior to publication of the proposed regulations. The Department is not required to adopt or respond to the committee members' comments on the preamble.
- B. If the committee reaches consensus on regulations that have been grouped together by the Department, the Department will use this consensus-based language in its proposed regulations, and committee members and the organizations whom they represent will refrain from commenting negatively on the consensus-based regulatory language, except as provided in paragraph IV C.
- C. The Department will act in good faith with regard to consensus reached and will not substantively alter the consensus-based language of its proposed regulations unless the Department reopens the negotiated rulemaking process or provides a written explanation to the committee members regarding why it has decided to depart from that language. That written explanation will contain a detailed statement of the reasons for altering the consensus-based language and will be provided to the committee members sufficiently in advance of the publication of the proposed regulations so as to allow them a real opportunity to express their concerns to the Department. If the Department alters consensus-based language, it also will identify the changes made subsequent to consensus in the preamble to the proposed regulations, and committee members may comment positively or negatively on those changes and on other parts of the proposed regulations.

V. Committee Meetings

- A. The facilitator(s) will maintain a clear and reliable record of tentative and final agreements reached during the negotiation process, as well as discussions of preamble language. The draft meeting summaries will be provided to members, who may share them with others within their community of interests. After review and approval by the committee, this record will be made available to the public.
- B. The Department will make every effort to distribute materials to committee members in a timely fashion. To the extent practicable, the Department will provide members with documents for discussion at committee meetings at least seven days in advance of the meetings.
- C. Any member may request a caucus through the facilitator(s) at any time for the purpose of consultation.
- D. The facilitator(s) will be responsible for developing an agenda for all meetings of the committee. This agenda will be developed in consultation with the members of the committee.

- E. All committee meetings, but not subcommittee meetings or caucuses, are open to the public. Subcommittee meetings will be livestreamed to provide access to the public.
- F. Committee members will refrain from posting to social media while negotiations are underway. Committee members may post to social media during official breaks.

VI. Safeguards for Members

- A. Any member may withdraw from the negotiations at any time without prejudice, by notifying the facilitator(s) in writing.
- B. Any member whose employment changes during the negotiations will notify the Department of that change. The Department will determine if they are still an appropriate representative of the constituency for which they were selected.
- C. All members and the organizations they represent shall act in good faith in all aspects of these negotiations.
- D. Contact with the media, the investment community, and other organizations outside the community of interest represented by the member will generally be limited to discussion of the overall objectives and progress of the negotiations. Members will refrain from characterizing the views, motives, and interests of other members regarding negotiated rulemaking during contact with the media, the investment community, other organizations outside the community of interest represented by the member, and to the general public including, but not limited to, through social media.

VII. Meeting Facilitation

- A. The facilitator(s) will serve at the discretion of the committee, and will be responsible for helping to ensure that the process runs smoothly, developing meeting agendas, preparing and distributing a record of agreements, and helping the parties resolve their differences and achieve consensus on the issues to be addressed by the committee.
- B. The facilitator(s) will be available to facilitate all meetings of the full committee and, to the extent possible, subcommittee meetings and caucuses.