

**Note: The official version of this document is the document published in the Federal Register.**

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DEPARTMENT OF EDUCATION

34 CFR Chapter VI

[Docket ID ED-2023-OPE-0039]

Negotiated Rulemaking Committee; Public Hearings

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Intent to establish a negotiated rulemaking committee.

SUMMARY: We announce our intention to establish one or more negotiated rulemaking committee(s), which may include a subcommittee, to prepare proposed regulations for the Federal Student Aid programs authorized under title IV of the Higher Education Act of 1965, as amended (HEA). The committee will include representatives of organizations or groups with interests that are significantly affected by the subject matter of the proposed regulations. We also announce three public hearings at which interested parties may comment on the topics suggested by the Department and may suggest additional topics that we should consider for action by the negotiating committee. In addition, we announce that the Department will accept written comments on the topics suggested by the Department and suggestions for additional topics that we should consider for action by

the negotiating committee.

DATES: The dates, times, and locations of the public hearings are listed under the SUPPLEMENTARY INFORMATION section of this document. We must receive written comments on the topics suggested by the Department and additional topics that you believe we should consider for action by the negotiating committee(s) on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Comments must be submitted through the Federal eRulemaking Portal at regulations.gov. Information on using Regulations.gov, including instructions for submitting comments, is available on the site under "FAQ." If you require an accommodation or cannot otherwise submit your comments via regulations.gov, please contact the person listed under FOR FURTHER INFORMATION CONTACT. The Department will not accept comments submitted by fax or by email or comments submitted after the comment period closes. To ensure that we do not receive duplicate copies, please submit your comments only once. Additionally, please include the Docket ID at the top of your comments.

Privacy Note: The Department's policy is to generally make comments received from members of the public available for public viewing in their entirety on the Federal eRulemaking Portal at www.regulations.gov. Therefore, commenters

should be careful to include in their comments only information that they wish to make publicly available. Commenters should not include in their comments any information that identifies other individuals or that permits readers to identify other individuals. The Department reserves the right to redact at any time any information in comments that identifies other individuals, includes information that would allow readers to identify other individuals, or includes threats of harm to another person.

FOR FURTHER INFORMATION CONTACT: For information about negotiated rulemaking, see *The Negotiated Rulemaking Process for Title IV Regulations, Frequently Asked Questions* at: [www2.ed.gov/policy/highered/reg/hearulemaking/hea08/neg-reg-faq.html](http://www2.ed.gov/policy/highered/reg/hearulemaking/hea08/neg-reg-faq.html). For information about the public hearings, or for additional information about negotiated rulemaking, contact: Ashley Clark, U.S. Department of Education, 400 Maryland Ave., SW, Room 2C-185, Washington, DC 20202. Telephone: (202) 453-7977. Email: [ashley.clark@ed.gov](mailto:ashley.clark@ed.gov).

If you are deaf, hard of hearing, or have a speech disability and wish to access telecommunications relay services, please dial 7-1-1.

SUPPLEMENTARY INFORMATION:

Section 492 of the HEA requires that, before

publishing any proposed regulations to implement programs authorized under title IV of the HEA, the Secretary must obtain public involvement in the development of the proposed regulations. After obtaining advice and recommendations from the public, the Secretary conducts negotiated rulemaking to develop the proposed regulations. We announce our intent to develop proposed title IV regulations by following the negotiated rulemaking procedures in section 492 of the HEA.

We intend to select negotiators from nominees of the organizations and groups that represent the interests significantly affected by the proposed regulations. To the extent possible, we will select individual negotiators from the nominees who reflect the diversity among program participants, in accordance with section 492(b)(1) of the HEA.

#### Regulatory Issues

We intend to convene one or more committee(s), which may include a subcommittee, to develop proposed regulations pertaining to the title IV, HEA programs. Topics may include:

- (1) The Federal TRIO programs, including improvements to programmatic eligibility and operations under 34 CFR parts 642 through 647;

- (2) The Secretary's recognition of accrediting agencies in 34 CFR part 602 and related parts;
- (3) Institutional eligibility under 34 CFR 600.2, including State authorization as a component of such eligibility under 34 CFR 600.9;
- (4) Return of title IV funds, to address requirements for participating institutions to return unearned title IV funds in a manner that protects students and taxpayers while easing administrative burden for institutions of higher education under 34 CFR 668.22;
- (5) Cash management, to address timely student access to disbursements of title IV, HEA Federal student financial assistance and provisions related to credit balances, escheatment, or loss of such funds under 34 CFR part 668, subpart K;
- (6) Third-party servicers and related issues, such as reporting, financial responsibility, compliance, and past performance requirements as a component of institutional eligibility for participation in the title IV, HEA Federal student financial assistance programs under 34 CFR 668.25 and 682.416; and
- (7) The definition of "distance education" under 34 CFR 600.2 as it pertains to clock hour programs and reporting for students who enroll primarily online.

We also invite public input on how the Department could, through its title IV regulations, help improve borrowers' understanding of repayment options and ensure borrowers select an income-driven repayment plan instead of a deferment or forbearance if doing so would be the most beneficial payment plan.

After reviewing the public comments presented at the public hearings and in the written submissions, we will publish a document (or documents) in the *Federal Register* announcing the specific topics for which we intend to establish negotiated rulemaking committees, and subcommittee if applicable, and a request for nominations for individual negotiators for the committee who represent the communities of interest that would be significantly affected by the proposed regulations. This document will also be posted on the Department's website at:

<https://www2.ed.gov/policy/highered/reg/hearulemaking/2023/index.html>.

#### Public Hearings

We will hold public hearings for interested parties to discuss the rulemaking agenda from 10 a.m. to noon and 1 p.m. to 3 p.m., Eastern time, on April 11-13, 2023. Further information on the public hearings is available at:

<https://www2.ed.gov/policy/highered/reg/hearulemaking/2023/index.html>.

Individuals who would like to present comments at one of the public hearings must register by sending an email message to negreghearing@ed.gov no later than noon, Eastern time, on the business day prior to the public hearing. The message should include the name of the presenter, the general topic(s) the individual would like to address, and one or more dates and times during which the individual would be available to speak. We will attempt to accommodate each speaker's preference, but, if we are unable to do so, we will select speakers on a first-come, first-served basis, based on the date and time we received the message. We will limit each participant to four minutes.

The Department will notify speakers of the time slot reserved for them and provide information on how to log in to the hearing as a speaker. An individual may make only one presentation at the public hearings. If we receive more registrations than we can accommodate, we reserve the right to reject or cancel the registration of an entity or individual affiliated with an entity or individual that is already scheduled to present comments to ensure that a broad range of entities and individuals are able to

present. Registration is required to view the virtual public hearings. We will post links for attendees who wish to observe on our website at  
<https://www2.ed.gov/policy/highered/reg/hearulemaking/2023/index.html>. The Department will also post transcripts of the hearings on that site.

The Department will accept written comments via the Federal eRulemaking portal through April 14, 2023. See the ADDRESSES section of this document for submission information.

#### Schedule for Negotiations

We anticipate that any committee established after the public hearings will begin negotiations in early fall 2023 and will meet for three sessions of 4 days each at roughly 4-week intervals. The dates and locations of these virtual meetings will be published in a subsequent *Federal Register notice* and posted online at:

<https://www2.ed.gov/policy/highered/reg/hearulemaking/2023/index.html>.

Accessible Format: On request to the program contact person listed under FOR FURTHER INFORMATION CONTACT, individuals with disabilities can obtain this document in an accessible format. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF)

or text format (txt), a thumb drive, an MP3 file, braille, large print, audiotape, or compact disc, or other accessible format.

Electronic Access to This Document: The official version of this document is the document published in the *Federal Register*. You may access the official edition of the *Federal Register* and the Code of Federal Regulations at [www.govinfo.gov](http://www.govinfo.gov). At this site you can view this document, as well as all other documents of this Department published in the *Federal Register*, in text or portable document format (PDF). To use PDF, you must have Adobe Acrobat Reader, which is available for free on the site. You may also access documents of the Department published in the *Federal Register* by using the article search feature at: [www.federalregister.gov](http://www.federalregister.gov). Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

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Dated:

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Nasser H. Paydar,  
Assistant Secretary for  
Postsecondary Education.