

DEPARTMENT OF EDUCATION**Office of Postsecondary Education;
Borrower Defenses Regulations
Negotiated Rulemaking Advisory
Committee; Establishment**

AGENCY: Department of Education.

ACTION: Notice of intent to establish the Borrower Defenses Regulations Negotiated Rulemaking Advisory Committee (Committee) for the William D. Ford Federal Direct Loan (Direct Loan) Program, the Federal Family Education Loan (FFEL) Program, and the Federal Perkins Loan (Perkins) Program regulations.

SUMMARY: The Secretary of Education and the Office of Postsecondary Education announce the intention to establish the Borrower Defenses Regulations Negotiated Rulemaking Advisory Committee to create draft proposed rules for borrower defenses in the Direct Loan, FFEL, and Perkins Programs.

DATES AND TIMES: The first meeting of the Committee is expected to be held in late March 1995. The specific time, date, and location will be announced in a subsequent notice prior to the meeting.

FOR FURTHER INFORMATION CONTACT: Nicki Meoli, Program Specialist, Policy Development Division, Office of Postsecondary Education, U.S. Department of Education, Room 3053, ROB-3, 600 Independence Avenue, SW, Washington, DC 20202-5400. Telephone: (202) 708-9406. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The Secretary has determined that it is necessary and in the public interest to establish the Borrower Defenses Regulations Negotiated Rulemaking Advisory Committee. The Department of Education (Department) has retained the services of a professional mediator to serve as a neutral convener and facilitator for the negotiated rulemaking. The Committee will be balanced and represent all parties that will be affected by these rules. The Committee will include representatives of institutions of higher education, higher education organizations, student loan lenders, guaranty agencies, loan servicers, legal aid organizations, students, and the Department. Administrative support for the Committee will be provided by the Office of Postsecondary Education.

Issues To Be Negotiated

The issues to be negotiated include which acts or omissions of an institution of higher education a borrower may assert as defenses to a demand for repayment of a loan made under the Direct Loan, FFEL, and Perkins Programs, and the consequences of such defenses for the institution, the Secretary, and, for FFEL Program loans, for the lender and the guaranty agency. The Committee may also negotiate issues regarding whether administrative procedures should be established to adjudicate whether a borrower has a valid defense and the effect the adjudication would have on the rights and liabilities of institutions, lenders, guaranty agencies, and the Secretary.

Agenda for First Meeting

The draft agenda for the first meeting, which will be organizational, follows:

- (1) Welcoming remarks.
- (2) Introduction of facilitator and participants.
- (3) Discussion of procedural ground rules.
- (4) General discussion of participants' perspectives on substantive issues.
- (5) Development of issue agendas or drafts for subsequent meetings.

Structure of Committee

The ultimate goal of negotiated rulemaking is to reach consensus among all committee members through discussion and negotiation among all interested and affected parties, including the Department. With this in mind, the Department will conduct these negotiations within a structure that is designed to reach this goal fairly and efficiently and give strong consideration to the complex nature of the issues to be negotiated. All members of the Committee will be able to participate in discussion and negotiation. The Office of Postsecondary Education has selected the members because they, and the groups they represent, will be affected by the final rule. Thus, the widest possible variety of interests will be represented in the negotiating process while maintaining the possibility of reaching informed agreement.

The following list of organizations are "full" members of the Committee (some organizations with similar interests have joined as a coalition):

Department of Education
American Association of Community Colleges
American Association of Cosmetology Schools
American Association of State Colleges and Universities

American Council on Education
Association of American Universities
Career College Association
Coalition of private non-profit multi-State guaranty agencies
Consumer Bankers Association
Education Finance Council
Hispanic Association of Colleges and Universities
Legal Services Team (a coalition)
National Association of Independent Colleges and Universities
National Association of State Universities and Land Grant Colleges
National Association of Student Financial Aid Administrators
National Association for Equal Opportunity in Higher Education/
United Negro College Fund (a coalition)
National Council of Higher Education Loan Programs
Sallie Mae
United States Student Association

Requests for Participation

If you feel you represent, or wish to nominate someone who represents, a significantly affected interest that is not included in the above list, please send a request for participation to Nicki Meoli, Program Specialist, Policy Development Division, Office of Postsecondary Education, U.S. Department of Education, Room 3053, ROB-3, 600 Independence Avenue, SW, Washington, DC 20202-5400, no later than 30 days after the publication of this notice.

The Application Must Include

1. Name of the applicant or nominee and a description of the interest or interests to be represented;
2. Evidence that the applicant or nominee is authorized to represent parties related to the interest or interests the person proposes to represent;
3. A written commitment that the applicant or nominee will actively participate in good faith in the development of the rule under consideration; and
4. The reasons that the organizations listed in the notice do not adequately represent the interest or interests of the person or organization submitting the application or nomination.

Please note that participation in the rulemaking process is not limited to members of the Committee. Meetings are open to the public so interested parties may observe the negotiations, and there will be an allotted public comment period at each session for the public to communicate their views. There are expected to be a total of three meetings held in the Washington Metropolitan area. In addition, proposed

rules resulting from these negotiations will be published in the **Federal Register** with a comment period. The Department expects to publish these proposed rules by July 1, 1995. A final rule will be published by December 1, 1995.

Dated: February 23, 1995.

Richard W. Riley,

Secretary of Education.

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