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DEPARTMENT OF EDUCATION

34 CFR Chapter VI

[Docket ID ED-2015-OPE-0103]

Negotiated Rulemaking Committee; Public Hearings

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Intent to establish negotiated rulemaking committee.

SUMMARY: We announce our intention to establish a negotiated rulemaking committee 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 two public hearings at which interested parties may comment on the topics suggested by the Department and may suggest additional topics that should be considered 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 issues that should be considered 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 suggesting issues that should be considered for action by the negotiating committee on or before September 16, 2015.

ADDRESSES: Submit your comments through the Federal eRulemaking Portal or via postal mail, commercial delivery, or hand delivery. We will not accept comments by fax or by email. To ensure that we do not receive duplicate copies, please submit your comments only once. In addition, please include the Docket ID at the top of your comments.

- Federal eRulemaking Portal: Go to www.regulations.gov to submit your comments electronically. Information on using Regulations.gov, including instructions for accessing agency documents, submitting comments, and viewing the docket, is available on the site under "How to use Regulations.gov" in the Help section.

- Postal Mail, Commercial Delivery, or Hand Delivery. If you mail or deliver your comments about these proposed regulations, address them to Wendy Macias, U.S. Department of Education, 1990 K Street, NW., room 8013, Washington, DC

20006.

Privacy Note: The Department's policy is to make all comments received from members of the public (including those comments submitted by postal mail, commercial delivery, or hand delivery) 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.

FOR FURTHER INFORMATION CONTACT: For information about the public hearings, go to

www2.ed.gov/policy/highered/reg/hearulemaking/2016/index.html or contact: Wendy Macias, U.S. Department of Education, 1990 K Street, NW., room 8013, Washington, DC 20006.

Telephone: (202) 502-7526 or by email:

Wendy.Macias@ed.gov.

For information about negotiated rulemaking in general, 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 or contact: Wendy Macias, U.S. Department of Education, 1990 K Street, NW., room 8013, Washington, DC 20006. Telephone: (202) 502-7526 or by email:

Wendy.Macias@ed.gov.

If you use a telecommunications device for the deaf (TDD) or text telephone (TTY), call the Federal Relay Service (FRS) toll free at 1-800-877-8339.

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

Regulatory Issues

We intend to convene a committee to develop proposed regulations for determining which acts or omissions of an

institution of higher education ("institution") a borrower may assert as a defense to repayment of a loan made under the William D. Ford Federal Direct Loan (Federal Direct Loan) Program ("borrower defenses") and the consequences of such borrower defenses for borrowers, institutions, and the Secretary. Specifically, we intend to address: (1) the procedures to be used for a borrower to establish a defense to repayment; (2) the criteria that the Department will use to identify acts or omissions of an institution that constitute defenses to repayment of Federal Direct Loans to the Secretary; (3) the standards and procedures that the Department will use to determine the liability of the institution participating in the Federal Direct Loan Program for amounts based on borrower defenses; and (4) the effect of borrower defenses on institutional capability assessments.

After a complete review of 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 a negotiated rulemaking committee 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 Web site at:

www2.ed.gov/policy/highered/reg/hearulemaking/2016/index.html.

Public Hearings

We will hold two public hearings for interested parties to discuss the rulemaking agenda. The public hearings will be held:

- September 10, 2015, at the U.S. Department of Education, 1990 K Street, NW., Eighth Floor Conference Center, Washington, DC 20006.

- September 16, 2015, at the Courtyard San Francisco Downtown, 299 2nd Street, Rincon Hill Room, San Francisco, CA 94105.

The public hearings will be held from 9:00 a.m. to 4:00 p.m., local time. Further information on the public hearing sites is available at www2.ed.gov/policy/highered/reg/hearulemaking/2016/index.html.

Individuals who would like to present comments at the public hearings must register by sending an email to negreghearing@ed.gov. The email should include the name of the presenter along with the public hearing at which the individual would like to speak, and a general timeframe

during which the individual would like to speak (for example, a presenter could indicate morning or afternoon, or before 11:00 a.m. or after 3:00 p.m.). We will attempt to accommodate each speaker's preference, but, if we are unable to do so, we will make the determination on a first-come first-served basis (based on the time and date the email was received). It is likely that each participant will be limited to five minutes. The Department will notify registrants of the location and time slot reserved for them. An individual may make only one presentation at the public hearings. If we receive more registrations than we are able to accommodate, the Department reserves the right to reject the registration of an entity or individual that is affiliated with an entity or individual that is already scheduled to present comments, and to select among registrants to ensure that a broad range of entities and individuals is allowed to present. We will accept walk-in registrations for any remaining time slots on a first-come first-served basis, beginning at 8:30 a.m. on the day of the public hearing at the Department's on-site registration table. Registration is not required to observe the public hearings.

The Department will post transcriptions of the hearings to

www2.ed.gov/policy/highered/reg/hearulemaking/2016/index.html. Although the Department will not be filming the hearings, as this is a public meeting, speakers should be aware that they may be filmed or recorded by members of the public.

Speakers may submit written comments at the public hearings. In addition, the Department will accept written comments via the Federal eRulemaking portal, and by postal mail, commercial delivery, or hand delivery, through September 16, 2015. (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 January 2016, with the committee meeting for up to three sessions of approximately three days each at roughly monthly intervals. The committee will meet in the Washington, DC area. The dates and locations of these meetings will be published in a subsequent document in the Federal Register, and will be posted on the Department's Web site at:

www2.ed.gov/policy/highered/reg/hearulemaking/2016/index.html.

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (e.g.,

braille, large print, audiotape, or compact disc) by contacting Wendy Macias, U.S. Department of Education, 1990 K Street, NW., room 8013, Washington, DC 20006. Telephone: (202) 502-7526 or by email: Wendy.Macias@ed.gov.

Electronic Access to This Document: The official version of this document is the document published in the Federal Register. Free Internet access to the official edition of the Federal Register and the Code of Federal Regulations is available via the Federal Digital System at:

www.gpo.gov/fdsys. 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 Adobe Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at 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. Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Delegation of Authority: The Secretary of Education has delegated authority to Jamiene S. Studley, Deputy Under

Secretary, to perform the functions and duties of the
Assistant Secretary for Postsecondary Education.

Program Authority: 20 U.S.C. 1098a.

Dated: August 18, 2015.

Jamiene S. Studley,
Deputy Under Secretary.

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