




Agenda

- Negotiated Rulemaking.
- Proposed Regulations.
- Looking Ahead.

Negotiated Rulemaking

- ED determines topics with public input.
- Negotiators selected and meetings occur.
- Consensus attempted.
- NPRMs published for public comment.
- Final Rules published.




HEA requires ED to follow a specific process when making new regulations.

Negotiated Rulemaking 




- National debates.
 - Health care.
 - Military spending.
 - Unemployment.
 - Bank bailouts.
 - Budget deficits.
- Emphasis on Title IV aid administration.
 - Effectiveness.
 - Integrity.
 - Transparency.
 - Educated consumers.

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Negotiated Rulemaking
Proposed Rules for Summer/Fall 2009 

Committee	Consensus Reached	Proposed Rules Published	Final Rules Published
Program Integrity.	No	June 18, 2010	TBD
Foreign Schools Issues.	No	TBD	TBD

Agenda 


- Negotiated Rulemaking.
- Proposed Regulations.
- Looking Ahead.

Negotiated Rulemaking
Program Integrity Topics




- Gainful employment.
- Definition of credit hour.
- State authorization.
- Retaking coursework.
- Agreements between institutions.
- Incentive compensation.
- Satisfactory academic progress.
- Evaluating the validity of high school diplomas.
- Return of Title IV funds.
- Verification.
- Misrepresentation.
- Ability to benefit.
- Disbursements of Title IV funds.

Negotiated Rulemaking
Gainful Employment in a Recognized Occupation



- Requires reporting on an annual basis.
 - Students.
 - Classification of Instructional Program codes.
 - Dates of completion.
 - Private education loan debt.
 - Institutional financing.
- Requires online disclosure.
 - Occupations.
 - On-time graduation rates.
 - Program costs.
 - Placement rates.
 - Median loan debt.


Negotiated Rulemaking
Definition of a Credit Hour



- Defines amount of activity using accepted standards.
- Extends authority to state approval agencies for reviewing assigned credit-hour values.
- Changes the clock-hour/credit-hour conversion formula.




Negotiated Rulemaking
State Authorization




- Adds list of acceptable documentation.
- State authorization is valid if:
 - Permits school to provide postsecondary education.
 - Is subject to adverse action, if necessary.
 - Describes process for responding to complaints and enforcing applicable state laws.
- Can be authorized by federal government or Indian tribe.

Negotiated Rulemaking
Retaking Coursework






- Modifies definition of full time.
- In term-based programs:
 - Eligible for additional federal aid for coursework that has been retaken.
 - Repeated coursework counts toward enrollment status for full-time students.

Negotiated Rulemaking
Agreements Between Institutions of Higher Education



- Under consortium agreements among eligible schools under common ownership, home institution must provide more than 50 percent of the student's program.
- Adds restrictions when eligible institutions enter into contractual agreements with ineligible institutions.
- Adds disclosure requirements for the home institution under consortium or contractual agreements.

Negotiated Rulemaking
Incentive Compensation


- ◆ Eliminates current "safe harbors."
- ◆ No incentive compensation if:
 - Given to someone involved in recruitment or admission or making Title IV award decisions.
 - Based on successfully securing enrollments or awarding financial aid.

Negotiated Rulemaking
Satisfactory Academic Progress





- ◆ Pace of completion.
 - Specify expectations.
 - Measure during every SAP evaluation period.
- ◆ Transfer credits.
 - Explain effect on GPA and completion rate.
 - Count in attempted and completed hours.

Negotiated Rulemaking
Satisfactory Academic Progress




- ◆ Financial aid warning.
 - Failure to meet standards at end of one payment period.
 - Eligibility limited to one subsequent payment period.
 - No appeal required.
- ◆ Financial aid probation.
 - Status after successfully appealing for reinstatement of eligibility.
 - Schools may place additional expectations.
- ◆ Frequency of evaluation.
 - No change to existing requirements.
 - If reviewed after each payment period, may use warnings.
 - If reviewed less often, failure to make SAP results in loss of eligibility.

Negotiated Rulemaking
Satisfactory Academic Progress




- Appeals to regain eligibility.
 - No longer mandated.
 - If not allowed, explain how eligibility may be regained.
 - Schools choosing to allow appeals must:
 - Outline circumstances under which appeal may be warranted.
 - Define required elements.
 - Determine if standards will be met after next payment period or jointly develop plan for meeting standards by a certain date.


Negotiated Rulemaking
Evaluating the Validity of High School Diplomas



- ED would maintain a list of secondary schools.
- New FAFSA questions.
 - Name of secondary school.
 - State in which high school diploma was awarded.
- Schools would evaluate validity of questionable diplomas.
- Further procedural guidance anticipated.



Negotiated Rulemaking
Return of Title IV Funds




- Term-based programs with modules or compressed courses.
 - Defines “withdrawn” for clock-hour and credit-hour programs.
- Taking attendance.
 - Clarifies school is required to take attendance if:
 - Required by the school's accrediting agency or state approval agency.
 - Instructors are required to take attendance by school policy.
 - Requirement exists that can only be met by taking attendance.
 - Exempts one-time attendance.

Negotiated Rulemaking
Verification





- ◆ Proposed definitions include:
 - Specified Year.
 - Subsidized Student Financial Assistance Program.
 - Unsubsidized Student Financial Assistance Program.

Negotiated Rulemaking
Verification





- ◆ Selection for verification.
 - Requires verification of all records selected by ED.
 - Schools continue to determine their own criteria for selection.
 - Elimination of certain exclusions:
 - Pacific Island residents.
 - Incarcerated students.
 - Recent immigrants.
 - Modification of current exclusions:
 - Parent's or spouse's contact information unknown.
 - Parent or spouse is mentally incapacitated.
- ◆ Verification of selected applicants would be required prior to making professional judgment adjustments.

Negotiated Rulemaking
Verification




- ◆ FAFSA information to be verified.
 - Determination by ED and publication each year in the Federal Register.
 - Elimination of minimum five required data elements.




Negotiated Rulemaking
Verification 

- Acceptable documentation.
 - Unaltered data retrieved directly from the IRS could adequately document AGI and federal income taxes paid.
 - For taxfilers granted extensions:
 - Schools may choose to collect final tax return.
 - Schools must verify AGI and taxes paid if tax return is collected.
 - Signature requirements of tax-preparers are clarified.


Negotiated Rulemaking
Verification 

- Changes and corrections.
 - Elimination of \$400 tolerance.
 - Requires submission of all corrections for students receiving need-based federal aid.
 - Schools may submit corrections for students receiving only non-need-based federal aid.
- Students update dependency status.
 - Whether selected for verification or not.
 - Includes changes in marital status.

Negotiated Rulemaking
Verification 


- Interim disbursement allowed if SAR or ISIR is not yet on file, as long as:
 - Verification is completed.
 - Corrections have been submitted.
 - Any changes are not expected to affect eligibility.
- Current cash management regulations would apply when documentation is not provided or deadlines are missed.
 - Schools would use institutional funds to reimburse ED any need-based aid disbursed prior to established verification deadlines without corrected ISIR for which the student ultimately did not qualify.

Negotiated Rulemaking
Misrepresentation





- Characterizes the types of statements that might be made:
 - Educational programs.
 - Financial charges.
 - Employability of graduates.
 - Relationship with ED.
- Clarifies who and how.
- Explains actions that can be taken against a school.

Negotiated Rulemaking
Ability to Benefit




- Establishes equivalencies for completion of six hours toward a degree or certificate:
 - Six semester, trimester or quarter credit hours.
 - 225 clock hours.
- Revises and adds new definitions:
 - Assessment Center.
 - Independent Test Administrator.
 - Test.
 - Test Administrator.
 - Test Publisher.

Negotiated Rulemaking
Disbursements of Title IV Funds




- Schools would provide access to books and supplies by seventh day of payment period if the student:
 - Is Pell-eligible.
 - Qualifies for disbursement at least 10 days prior to start of payment period.
 - Will have a Title IV credit balance.

Negotiated Rulemaking
Disbursements of Title IV Funds




- ◆ Amount would be lesser of:
 - Anticipated Title IV credit balance.
 - Amount needed by the student, as determined by school:
 - Books and supplies portion of cost of attendance.
 - Actual costs.
- ◆ Reporting requirements for Direct Loan and TEACH Grant payments would be aligned with Pell Grant requirements.

Agenda




- ◆ Negotiated Rulemaking.
- ◆ Proposed Regulations.
- ◆ Looking Ahead.

Looking Ahead



- ◆ Research.
 - Consult references and resources.
 - Confer with colleagues.
 - Create task force.
- ◆ Evaluate.
 - Potential effects on students.
 - Administrative burden.
 - Additional costs.
- ◆ Act.
 - Modify policies and procedures.
 - Communicate anticipated changes.
 - Comment, if appropriate.



Negotiated Rulemaking
Proposed Rules for Summer/Fall 2009




- Comment by Aug. 2, 2010.
 - Federal eRulemaking Portal (www.regulations.gov).
 - Postal mail, commercial delivery or hand delivery (p. 34806).
 - Cannot submit via e-mail or fax.
- Include:
 - Docket ID: ED-2010-OPE-0004.
 - Clear identification of relevant sections.
 - Comments organized in same order as proposed regulations.
 - Suggestions for reducing costs or administrative burden.

All information submitted will be made publicly available online.

Negotiated Rulemaking
Proposed Rules for Summer/Fall 2009

Ask Policy Resource




- Ask specific policy questions about the Federal Family Education Loan and Direct Loan programs.
- Send questions about a day-to-day situation that leaves you puzzled.
- Provide an example, scenario or explanation of your exact concern.
- Receive an answer generally within one business day.

Send your questions to USA Funds policy experts at:
askpolicy@usafunds.org.

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