



NEGOTIATED RULEMAKING

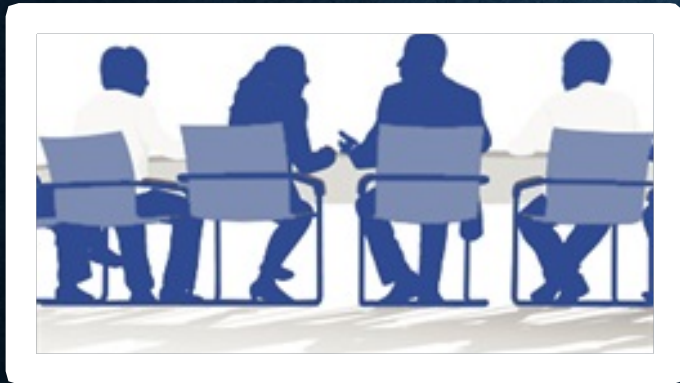
More Complication

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WHAT IS NEGOTIATED RULEMAKING?

- The Department of Education works with representatives of groups who will be affected by new regulations
 - Colleges/Universities from all sectors
 - Students
 - Advocacy Groups
- Topics are determined each year and several meetings are held with ED and the negotiators

WHAT IS THE TIMELINE?



Committee Meetings

- The goal is CONSENSUS
- If there is any dissent, no consensus



NPRM

- Consensus – use what was negotiated
- No Consensus – ED can do whatever



Public Comment

- 30-60 day comment period
- ED required to review all comments

FINAL REGULATIONS

- After reviewing public comments, they are summarized and responded to in the preamble with explanations
- Final regulations published in the Federal Register

Final Rule **MUST** be published in the Federal Register by November 1st to become effective the following July 1st

(Early Implementation is sometimes allowed)

CURRENT TOPICS


2023-24 Negotiated Rulemaking Sessions & Outcomes

Negotiations Completed										
Topic	Session	Negotiations Held	Consensus Reached?	NPRM Expected	Proposed Rule Expected	Proposed Rule Issued	Final Rule Expected	Final Rule Issued	Effective Date	Applicable Date
Student Loan Relief	Student Loan Relief	Oct-Dec 2023		n/a	n/a		October 2024	TBD	TBD	TBD
Waiver when current balance exceeds original principal balance and enrolled in IDR			No	n/a	n/a	4/17/2024	October 2024	TBD	TBD	TBD
Waiver when current balance exceeds original principal balance and enrolled in SAVE			No	n/a	n/a	4/17/2024	October 2024	TBD	TBD	TBD
Waiver when loan entered repayment 20 or 25 yrs ago			No	n/a	n/a	4/17/2024	October 2024	TBD	TBD	TBD
Waiver when loan is eligible for forgiveness based upon repayment plan			Yes	n/a	n/a	4/17/2024	October 2024	TBD	TBD	TBD
Waiver when loan is eligible for a targeted forgiveness opportunity.			No	n/a	n/a	4/17/2024	October 2024	TBD	TBD	TBD
Waiver based upon Secretarial actions			Yes	n/a	n/a	4/17/2024	October 2024	TBD	TBD	TBD
Waiver following a closure prior to Secretarial actions			Yes	n/a	n/a	4/17/2024	October 2024	TBD	TBD	TBD
Waiver for closed Gainful Employment programs with high debt-to-earnings rates or low median earnings			Yes	n/a	n/a	4/17/2024	October 2024	TBD	TBD	TBD
Waiver when the current balance exceeds the original principal balance.			No	n/a	n/a	4/17/2024	October 2024	TBD	TBD	TBD
Waiver when the current balance exceeds the original principal balance for low-income borrowers not on an IDR plan.			No	n/a	n/a	4/17/2024	October 2024	TBD	TBD	TBD
Waiver for financial hardship	Additional session of Student Loan Debt Relief	Feb 22-23, 2024	Yes	n/a	September 2024	TBD	TBD	TBD	TBD	TBD
R2T4	Program Integrity and Institutional Quality	Jan-Mar 2024	No	n/a	n/a	07/24/2024	TBD	TBD	TBD	TBD
Cash Management	Program Integrity and Institutional Quality	Jan-Mar 2024	No	n/a	TBD	TBD	TBD	TBD	TBD	TBD
Accreditation	Program Integrity and Institutional Quality	Jan-Mar 2024	No	n/a	November 2024	TBD	TBD	TBD	TBD	TBD
State Authorization	Program Integrity and Institutional Quality	Jan-Mar 2024	No	n/a	November 2024	TBD	TBD	TBD	TBD	TBD
Distance Education	Program Integrity and Institutional Quality	Jan-Mar 2024	No	n/a	n/a	07/24/2024	TBD	TBD	TBD	TBD
TRIO	Program Integrity and Institutional Quality	Jan-Mar 2024	Yes	n/a	n/a	07/24/2024	November 2024	TBD	TBD	TBD
Proposed Topics for Future Rulemaking Sessions										
Topic	Session	Negotiations Held	Consensus Reached?	NPRM Expected	Proposed Rule Expected	Proposed Rule Issued	Final Rule Expected	Final Rule Issued	Effective Date	Applicable Date
Documentation of Foreign Source Gifts and Contracts				TBD	TBD	TBD	TBD	TBD	TBD	TBD
Third Party Servicers				June 2025	TBD	TBD	TBD	TBD	TBD	TBD
PSLF- Employer Eligibility				May 2025	TBD	TBD	TBD	TBD	TBD	TBD
Cybersecurity Standards for Institutions of Higher Education to Comply With EO 13556 and NIST 800-171				October 2024	TBD	TBD	TBD	TBD	TBD	TBD

STUDENT LOAN FORGIVENESS

- Student loan debt forgiveness for borrowers experiencing hardship
 - Proposed Rule released October 28, 2024
 - Two pathways:
 - Predictive assessment using existing borrower data and have at least 90% chance of defaulting in the next two years
 - Holistic assessment of borrower's hardship (application required)
 - No final rule submitted by November 1st
 - Unlikely new administration will proceed

R2T4

- Student who receives a refund on a loan and never begins attendance would be able to repay the loan based on MPN instead of paying immediately
- Schools with a “generous refund policy” would not need to perform R2T4 for students who withdraw (optional)
 - Example: school treats student as if they never attended, returned all aid, refunds all institutional charges, writes off any current year balance resulting from aid returned
- Remove “R2T4 freeze date” regarding modules 
 - Instead, only consider module part of the payment period if they student began attendance

R2T4 & TAKING ATTENDANCE

- Schools required to take attendance, even if not attendance-taking, for ALL courses offered entirely through distance education
 - Purpose – to determine LDA for R2T4
- ED also wants to require documentation of student's withdrawal date within 14 days of LDA
- Consensus not reached
- No final rule submitted by November 1st

DISTANCE LEARNING

- Require an “additional location” for distance education programs
- Report student enrollment in distance education courses
 - Procedure to be determined by ED
- Concerns regarding this type of reporting
- Consensus not reached
- No final rule submitted by November 1st

CASH MANAGEMENT

- Require students to opt-in to be charged for books/supplies, rather than opt-out
 - Should be student's choice to be charged or find alternate sources for course materials
 - Cannot include books and supplies in tuition and fees
 - Effectively ends “inclusive access” and “equitable access” programs
 - Require institutions to refund students' unused meal plan balances
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- No consensus reached
 - No final rule submitted by November 1st

RULES EFFECTIVE JULY 1, 2024

Y'all should be doing this already

TRANSCRIPT WITHHOLDING

- Schools cannot take negative action against a student for balances owed due to school error
- Schools cannot withhold transcripts for any credits funded in whole or in part with Title IV funds

Is this a ban on withholding transcripts for students who owe balances?

Is it possible to release a partial transcript?

If you receive a partial transcript, will that student be accepted?

What about credits needed for transfer/advisement?

ADMINISTRATIVE CAPABILITY

- Institutions must provide “adequate financial aid counseling”
- Develop and follow adequate procedures to evaluate the validity of high school diplomas
 - This requirement was already in place, but is now “strengthened”
- Provide “adequate career services” to eligible students
 - Consider:
 - Number of students enrolled in gainful employment programs
 - Number of career services staff
 - Career services promised to students by institutions
 - Partnerships with recruiters & employers

ADMINISTRATIVE CAPABILITY

- Disburse funds to students in a timely manner that would best meet students' needs
 - What ED considers NOT meeting students' needs:
 - Multiple valid and relevant complaints regarding disbursements
 - High rates of withdrawals attributable to delays in disbursements
 - Delaying disbursements until after the point at which the student earns 100% of their Title IV benefit
 - Delaying disbursements to ensure the school passes the 90/10 rule, if applicable
- Prohibits an institution from engaging in misrepresentation, aggressive and deceptive recruitment tactics, or conduct
 - Misrepresentation and aggressive/deceptive recruitment tactics are defined
 - Any false erroneous or misleading statement
 - Demand or pressure the student to make enrollment or loan decisions immediately

GAINFUL EMPLOYMENT/FINANCIAL VALUE TRANSPARENCY

- Will be discussed in the next session

RESOURCES

- [Understanding Negotiated Rulemaking](#) (FSA Training Conference Presentation)
- [Regulatory Landscape](#) (FSA Training Conference Presentation)
- [NASFAA Negotiated Rulemaking Chart](#)
- [NASFAA Negotiated Rulemaking Coverage](#)