

**U.S. DEPARTMENT OF EDUCATION
TITLE IV NEGOTIATED RULEMAKING TEAM**

TEAM I: LOAN ISSUES

**Meeting Summary
January 14 – 15, 2002
Washington, D. C.**

Welcome

Jeff Andrade, Special Assistant to the Deputy Secretary, and Eric Jaso, Deputy General Counsel, welcomed the negotiators to this round of negotiated rulemaking. They expressed their satisfaction that the negotiating agenda was created in response to issues raised by the higher education community through the FED UP process, initiated by U.S Representatives Howard “Buck” McKeon and Patsy Mink to reduce regulatory burden. Undersecretary Eugene Hickok offered his encouragement and appreciation to the participants. He stressed the long-term importance of these regulatory negotiations on improved access to education for Americans nationwide.

Introductions

All negotiators, alternates, and the facilitators introduced themselves.

Review and Adopt Protocols

The Team adopted the organizational protocols, with amendments, following a caucus of the non-federal negotiators and a lengthy discussion of Section II: Participation and Section IV: Agreements. Members will inform the facilitators of changes regarding their coalition partners by January 28, 2002, after which the revised protocols will be distributed. The discussion of Section II: Participation, centered on how coalitions will function and the relationship between negotiators and alternates. Discussion of Section IV: Agreements, focused on the ability of coalition partners to express dissent and retain the right to comment negatively on issues when there is disagreement between a negotiator and a coalition partner.

The key points discussed were:

- The Department agreed to provide the preamble to the Team, within a reasonable amount of time prior to publication of the NPRM, so as to provide negotiators with the opportunity to comment on the preamble and to resolve any discrepancies in interpretations of regulatory language prior to publication of the NPRM.
- Since the preamble is not negotiated, and therefore, is not consensus-based language, Team members are not required to refrain from commenting negatively on it, as they are on regulatory language for which final consensus was achieved.

- The Department created coalitions to reduce the number of negotiators, while attempting to ensure that all sectors of the higher education community are represented.
- Negotiators raised questions and concerns regarding the coalitions they were asked to represent as well as the Department's selection of each coalition's negotiator.
- Coalition partners identified in the protocols will be bound by the rules of consensus agreements. However, if a coalition negotiator consents to a proposal rejected by a coalition partner, the negotiator will formally identify the dissent of the coalition partner. This dissent will be recorded in the meeting summary and the said coalition partner will retain his/her right to comment negatively on that issue. However, a final consensus will be considered to have been achieved if there is no dissent among the negotiators.
- The Department asked the coalition partners to make a good faith effort to try to reach consensus within the coalitions before employing the safety mechanism of a coalition partner's dissent.
- Negotiators agreed that alternates will be allowed to address the Team at any time.
- Non-federal negotiators, alternates, and coalition partners stated that they did not want the Department to consider their acceptance of the coalition structure to create a precedent for future negotiated rulemaking processes, especially those following the 2004 re-authorization of the Higher Education Act.
- Draft meeting summaries will be prepared by the facilitators and distributed to negotiators and alternates within two weeks of the close of the meeting. Negotiators will distribute draft meeting summaries to and seek comments from their coalition partners. Only final meeting summaries will be posted on the list serve and website. Each negotiator will inform the facilitators if s/he has comments on the meeting summary or not. If no negotiators have comments on the summary, it will become final prior to the next meeting. Negotiators comments on the summary will be discussed at the following meeting.

Petitions for Membership

Phyllis Hooyman of the National Direct Student Loan Coalition petitioned for membership on the Team. One member dissented from approving this petition, and therefore, the petition for participation was denied.

Review and Finalize Negotiating Agenda

The Team discussed the draft final agenda of issues, which included the list of issues circulated at the December 14, 2001 preliminary meeting and additional issues suggested by the higher education community. The draft final agenda was adopted by the team. The Department then proposed an additional 8 issues, 7 of which were accepted by a consensus of the Team. One member dissented from the proposal to add an eighth issue, described as "incentives for low default rates." In addition, the Team agreed to move an issue from Team II to Team I, described as "no fault late disbursements." Members offered three additional items for the agenda, all of

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which encountered dissent from at least one member of the Team. The Team reached final consensus on its negotiating agenda, which includes 31 items. The final negotiating agenda will be posted on the list serve.

Workshop Style Review of Issues

The Team reviewed all issues on its agenda. The issues were discussed in a workshop format such that for each issue the federal negotiator described the Department's understanding of the issue and then solicited information, advice, concerns, and interests of the Team members with regard to the issue.

Public Comment

Opportunities for public comment were provided at various times throughout the meeting.

Next Meeting

The Department will provide draft regulatory language for issues designated and agreed to as "quick fix items" by January 25, and for all other issues, at least seven days prior to the next meeting. The next meeting will be held on March 4 – 6, 2002, during which the Team will undertake a thorough review of each issue in an attempt to reach tentative agreements on each item.