

name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as “confidential.” Any information marked as “confidential” will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA’s posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: <http://www.fda.gov/regulatoryinformation/dockets/default.htm>.

**Docket:** For access to the docket to read background documents or the electronic and written/paper comments received, go to <http://www.regulations.gov> and insert the docket number, found in brackets in the heading of this document, into the “Search” box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

**FOR FURTHER INFORMATION CONTACT:** Philip L. Chao, Center for Food Safety and Applied Nutrition (HFS-24), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, 240-402-2112, email: [Philip.Chao@fda.hhs.gov](mailto:Philip.Chao@fda.hhs.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Background

In the **Federal Register** of March 3, 2014 (79 FR 11879), we published a proposed rule that would amend our labeling regulations for conventional foods and dietary supplements to provide updated nutrition information. In the **Federal Register** of July 27, 2015 (80 FR 44302), we reopened the comment period through September 25, 2015, for the proposed rule for the sole purpose of inviting public comments on two consumer studies being added to the administrative record. The consumer studies pertained to proposed changes to the Nutrition Facts label formats. We also issued a supplemental proposed rule (80 FR 44303) with a comment period through October 13, 2015. The supplemental proposal included two additional consumer studies pertaining to the declaration of added sugars and alternative footnote statements. We proposed text for the footnotes to be used on the Nutrition Facts label, after completing our consumer research in which we tested various footnote text options for the label. We also proposed to establish a Daily Reference Value of 10 percent of total energy intake from added sugars and to require the declaration of the

percent Daily Value for added sugars on the label. The supplemental proposed rule also provided additional rationale for the declaration of the amount of added sugars on the label. We explained that we were taking these actions based, in part, on the science underlying a new report released by the 2015 Dietary Guidelines Advisory Committee.

More recently, in the **Federal Register** of September 10, 2015 (80 FR 54446), we issued a notice clarifying: (1) The consumer studies on the added sugars declaration and the alternative footnote statements in the supplemental proposal relate to topics on which we sought comment and (2) the consumer studies on the format published in a separate notice in July 2015 were included for comment, and were placed in the docket at that time. We also stated that, in response to requests for the raw data for each of these consumer studies that are relevant to the summary memoranda for the studies, we were making the raw data available for comment. We extended the comment period for the two consumer studies pertaining to the proposed changes to the Nutrition Facts label formats (originally scheduled to close on September 25, 2015) to October 13, 2015, to coincide with the end of the comment period for the supplemental proposed rule.

However, on October 13 and 14, 2015, the Federal eRulemaking Portal, <http://www.regulations.gov>, experienced technical difficulties which sometimes prevented the electronic submission of comments. Therefore, we are reopening the comment period for the consumer studies and the supplemental proposal; the reopened comment period will close on October 23, 2015.

Dated: October 15, 2015.

**Leslie Kux,**

*Associate Commissioner for Policy.*

[FR Doc. 2015-26636 Filed 10-19-15; 8:45 am]

**BILLING CODE 4164-01-P**

#### DEPARTMENT OF EDUCATION

##### 34 CFR Chapter VI

[Docket ID ED-2015-OPE-0103]

##### **Negotiated Rulemaking Committee; Negotiator Nominations and Schedule of Committee Meetings—Borrower Defenses**

**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 topics proposed for negotiations. We request nominations for individual negotiators who represent key stakeholder constituencies for the issues to be negotiated to serve on the committee, and we set a schedule for committee meetings.

**DATES:** We must receive your nominations for negotiators to serve on the committee on or before November 19, 2015. The dates, times, and locations of the committee meetings are set out in the *Schedule for Negotiations* section in the **SUPPLEMENTARY INFORMATION** section.

**ADDRESSES:** Please send your nominations for negotiators to 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](mailto:Wendy.Macias@ed.gov).

**FOR FURTHER INFORMATION CONTACT:** For information about the content of this notice, including information about the negotiated rulemaking process or the nomination submission process, 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](mailto: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](http://www2.ed.gov/policy/highered/reg/hearulemaking/hea08/neg-reg-faq.html).

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:** On August 20, 2015, we published a notice in the **Federal Register** (80 FR 50588) announcing our intent to establish a negotiated rulemaking committee under section 492 of the HEA 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. We also announced two public hearings at which interested parties could comment on the topic suggested by the U.S. Department of Education (Department) and suggest additional topics for consideration for action by the negotiated rulemaking committee. Those hearings were held on September 10, 2015, in Washington, DC, and on September 16, 2015, in San Francisco, California. We invited parties to comment and submit topics for consideration in writing as well. Transcripts from the public hearings are available at [www2.ed.gov/policy/highered/reg/hearulemaking/2016/index.html](http://www2.ed.gov/policy/highered/reg/hearulemaking/2016/index.html). Written comments submitted in response to the August 20, 2015 notice may be viewed through the Federal eRulemaking Portal at [www.regulations.gov](http://www.regulations.gov). Instructions for finding comments are available on the site under "How to Use Regulations.gov" in the Help section. Individuals can enter docket ID ED-2015-OPE-0103 in the search box to locate the appropriate docket.

### Regulatory Issues

After considering the information received at the regional hearings and the written comments, we have decided to establish a negotiating committee to address for loans made under the William D. Ford Federal Direct Loan (Federal Direct Loan) Program: (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, including the creation of a Federal standard; (3) the standards and procedures that the Department will use to determine the liability of the institution for amounts based on borrower defenses; (4) the effect of borrower defenses on institutional capability assessments, and (5) other loan discharges. In addition, the committee may also consider if and how these issues will affect the Federal Family Education Loan (FFEL) Program.

These topics are tentative. Topics may be added or removed as the process continues.

We intend to select negotiators for the committee who represent the interests significantly affected by the topics proposed for negotiations. In so doing, we will follow the requirement in section 492(b)(1) of the HEA that the individuals selected must have demonstrated expertise or experience in the relevant topics proposed for negotiations. We will also select individual negotiators who reflect the diversity among program participants,

in accordance with section 492(b)(1) of the HEA. Our goal is to establish a committee that will allow significantly affected parties to be represented while keeping the committee size manageable.

We generally select a primary and alternate negotiator for each constituency represented on the committee. The primary negotiator participates for the purpose of determining consensus. The alternate participates for the purpose of determining consensus in the absence of the primary. Either the primary or the alternate may speak during the negotiations.

The committee may create subgroups on particular topics that may involve individuals who are not members of the committee. Individuals who are not selected as members of the committee will be able to observe the committee meetings, will have access to the individuals representing their constituencies, and may be able to participate in informal working groups on various issues between the meetings.

**Constituencies:** We have identified the following constituencies as having interests that are significantly affected by the topics proposed for negotiations. The Department plans to seat as negotiators individuals from organizations or groups representing these constituencies:

- Students/borrowers.
- Legal assistance organizations that represent students/borrowers.
- Consumer advocacy organizations.
- Groups representing U.S. military servicemember or veteran Federal loan borrowers.
- Financial aid administrators at postsecondary institutions.
- State attorneys general and other appropriate State officials.
- State higher education executive officers.
- Institutions of higher education eligible to receive Federal assistance under title III, parts A, B, and F, and title V of the HEA, which include Historically Black Colleges and Universities, Hispanic-Serving Institutions, American Indian Tribally Controlled Colleges and Universities, Alaska Native and Native Hawaiian-Serving Institutions, Predominantly Black Institutions, and other institutions with a substantial enrollment of needy students as defined in title III of the HEA.
- Two-year public institutions of higher education.
- Four-year public institutions of higher education.
- Private, nonprofit institutions of higher education.

- Private, for-profit institutions of higher education.
- FFEL Program lenders and loan servicers.

- FFEL Program guaranty agencies and guaranty agency servicers (including collection agencies).

The goal of the committee is to develop proposed regulations that reflect a final consensus of the committee. Consensus means that there is no dissent by any member of the negotiating committee, including the committee member representing the Department. An individual selected as a negotiator will be expected to represent the interests of his or her organization or group and participate in the negotiations in a manner consistent with the goal of developing proposed regulations on which the committee will reach consensus. If consensus is reached, all members of the organization or group represented by a negotiator are bound by the consensus and are prohibited from commenting negatively on the resulting proposed regulations. The Department will not consider any such negative comments on the proposed regulations that are submitted by members of such an organization or group.

**Nominations:** Nominations should include:

- The name of the nominee, the organization or group the nominee represents, and a description of the interests that the nominee represents.
- Evidence of the nominee's expertise or experience in the topics proposed for negotiations.
- Evidence of support from individuals or groups within the constituency that the nominee will represent.
- The nominee's commitment that he or she will actively participate in good faith in the development of the proposed regulations.
- The nominee's contact information, including address, phone number, and email address.

For a better understanding of the negotiated rulemaking process, nominees should review *The Negotiated Rulemaking Process for Title IV Regulations, Frequently Asked Questions* at [www2.ed.gov/policy/highered/reg/hearulemaking/hea08/neg-reg-faq.html](http://www2.ed.gov/policy/highered/reg/hearulemaking/hea08/neg-reg-faq.html) prior to committing to serve as a negotiator.

Nominees will be notified whether or not they have been selected as negotiators as soon as the Department's review process is completed.

### Schedule for Negotiations

The committee will meet for three sessions on the following dates:

Session 1: January 12–14, 2016

Session 2: February 17–19, 2016

Session 3: March 16–18, 2016

Sessions will run from 9 a.m. to 5 p.m.

The January and February committee meetings will be held at the U.S. Department of Education at: 1990 K Street NW., Eighth Floor Conference Center, Washington, DC 20006.

The March committee meetings will be held at: Union Center Plaza (UCP) Learning Center, 830 First Street NE., Lobby Level, Washington, DC 20002.

The meetings are open to the public.

**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](mailto:Wendy.Macias@ed.gov).

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**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: October 15, 2015.

**Jamiene S. Studley,**

*Deputy Under Secretary.*

[FR Doc. 2015–26626 Filed 10–19–15; 8:45 am]

**BILLING CODE 4000–01–P**

## DEPARTMENT OF VETERANS AFFAIRS

### 38 CFR Part 17

**RIN 2900–AP37**

### Removing Net Worth Requirement From Health Care Enrollment

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Proposed rule.

**SUMMARY:** This rulemaking proposes to remove the regulatory provision regarding consideration by the Department of Veterans Affairs (VA) of the net worth of a veteran's assets as a factor in determining the veteran's eligibility for lower-cost VA health care. Prior to January 1, 2015, VA considered both the net worth of a veteran's assets and the veteran's annual income when determining a veteran's eligibility. Because of that, certain veterans who would have been eligible for VA health care based on their annual income alone were ineligible for care because the net value of their assets was too high, or they were placed in a less favorable eligibility category. Reporting asset information imposed a significant paperwork burden on veterans, and VA dedicated significant administrative resources to verifying reported information. VA changed its policy to improve access to health care to lower-income veterans and remove the reporting burden from veterans by discontinuing collection of asset information. This rulemaking would amend the regulation to remove the reference to VA's discretionary statutory authority to consider net worth.

**DATES:** *Comment Date:* Comments must be received on or before December 21, 2015.

**ADDRESSES:** Written comments may be submitted through [www.Regulations.gov](http://www.Regulations.gov); by mail or hand-delivery to Director, Regulation Policy and Management (02REG), Department of Veterans Affairs, 810 Vermont Avenue NW., Room 1068, Washington, DC 20420; or by fax to (202) 273–9026. Comments should indicate that they are submitted in response to “RIN 2900–AP37—Removing Net Worth Requirement from Health Care Enrollment.” Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1068, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays). Please call (202) 461–4902 for an appointment. (This is not a toll-free number.) In addition, during the comment period, comments may be

viewed online through the Federal Docket Management System (FDMS) at [www.Regulations.gov](http://www.Regulations.gov).

#### FOR FURTHER INFORMATION CONTACT:

Kristin J. Cunningham, Director, Business Policy, Chief Business Office, (10NB6), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420; (202) 382–2508. (This is not a toll-free number.)

**SUPPLEMENTARY INFORMATION:** This rulemaking proposes to amend VA's regulations governing enrollment in the VA health care system by removing the regulatory provision restating VA's discretionary authority to consider the net worth of a veteran's assets when determining eligibility for lower-cost health care.

Pursuant to 38 U.S.C. 1705, VA has established a health care enrollment system with implementing regulations at 38 CFR 17.36. When veterans apply for health care benefits, VA assigns a priority category that reflects the basis for that veteran's eligibility, such as whether the veteran has been rated as having a service-connected disability or would be unable to defray the costs of necessary expenses because of low income. The veteran is placed in the highest priority category possible. These categories are described in § 17.36(b). Priority categories are used by VA to determine which veterans are eligible to enroll in the VA health care system, which VA does on an annual basis, in accordance with § 17.36(c). The priority category is also used to determine the amount of copayments veterans must pay to receive VA medical benefits. Veterans who are not eligible for enrollment in priority categories 1 through 4 but who are unable to defray the expenses of necessary care under 38 U.S.C. 1722(a) are placed in priority category 5. 38 CFR 17.36(b)(5). This rulemaking would affect a regulatory provision related to that category. Veterans are considered to be unable to defray the costs of necessary care if they have a low annual income, qualify for VA pension benefits, or meet other criteria under 38 U.S.C. 1722(a) and 38 CFR 17.47(d). VA has the authority to use net worth asset values to determine whether a veteran is unable to defray the cost of care at 38 U.S.C. 1722(d)(1), but this authority is not mandatory; *i.e.*, VA is not required to consider the value of the estate of a veteran for this purpose. 38 U.S.C. 1722(d)(1) (“Notwithstanding the attributable income of a veteran,” VA may determine that such veteran is not eligible “if the corpus of the estate of the veteran is such that under all the circumstances it is reasonable that some