

Negotiated Rulemaking Round 1- Chas Treadwell's Update

The following is a very brief update on a few issues that are of significance to the membership. Chas Treadwell represented NASSGAP at the first round of Committee II of the Negotiated Rulemaking session. Committee II's agenda deals with Program and Eligibility Issues, including, *Change of Ownership, Special Leveraging Education Assistance Partnerships (SLEAP), Nontraditional Programs, Electronic Authorization and Verification and Electronic Retention issues*. The next meetings are scheduled for March 29-31

Chas' notes follow:

To: NASSGAP membership
From: Charles G. Treadwell
Subject: Neg. Reg. Team II: First Meetings
Date: May 31, 2005

On February 7-8, I represented NASSGAP on Team II of the U.S. Department's Negotiating Rulemaking effort. Preliminary issues and policy questions were raised according to the attached agenda. The following are highlights:

LEAP/Special LEAP

- ED plans to continue to "under-regulate" LEAP/Special LEAP to permit States maximum flexibility.
- The effective date of the regulations will be 2001, so distribution of 2000-2001 Special LEAP funds will be accomplished according to statutory requirements and current regulation - it was noted that 1979 "hold harmless" distribution ratios apply until funding exceeds \$70 million.
- How can States use Special LEAP funds in coordination with GEAR UP scholarship requirements (e.g., can States who have met their GEAR UP matching requirements use Special LEAP funds to build a trust fund for future GEAR UP scholarships?) (Note: ACE suggested "no" to that request so as not to dilute LEAP).
- How does the new Maintenance-of-Effort requirement apply to States with "entitlement" grant programs? - Can they get a waiver?
- Clarify "Applicability Rule" in Section 415E(d) of law, as it is not well worded.
- Can the "SLEAP" acronym be altered? (NAICU) - Yes, ED is using Special LEAP.

Electronic Authorizations, Verifications, etc.

- Committee members were unclear as to how this neg reg effort (which is not under PBO) interfaces with ED's PBO efforts on electronics.
- ED wants to limit scope of this issue to non-loan issues, but Committee wants it broader. ED initially suggested only:
 - ◆ CWS supervisor sign off of hours worked;
 - ◆ FISAP process for applications for campus-based student aid funding.
- ED suggests that the financial aid community make a list of current student aid "wet" signature requirements so that ED can review which ones may go electronic (NASSGAP may want to post this on ListServe for the members which also guaranty loans). ED will then decide which Neg Reg Committee will address loan electronics issue - e.g.,

- ◆ Receipt of disbursements made to student's financial institution;
- ◆ Verification of student receipt of e-mail;
- ◆ Posting to student accounts;
- ◆ Verification;
- ◆ Post-default due diligence;
- ◆ Forbearance.

ED may defer to Committee I electronic issues directly related to loan programs, such as due diligence. Areas deemed "not ready" for electronic discussion include:

- ◆ False certification discharges;
- ◆ Just in time cash management; and
- ◆ Bankruptcy.

Preamble

In response to prior complaints received in prior Neg Reg Committees, ED offered to distribute draft NPRM Preamble to Neg. Reg. Committee for review and comment before it is finalized, to be sure it accurately reflects Committee discussion.

Next Meeting

- March 29-31

Neg. Reg. Committee I Denial/Appeal Status

As previously reported, NASSGAP was not granted a seat at the Committee I Negotiated Rulemaking. Committee I's issues are loan centered, with particular emphasis on matters related to *Cohort Default Rates, False Certification Discharges and Teacher Loan Forgiveness*. On February 27, I sent a letter of appeal, on behalf of NASSGAP, to OPE's Deputy Assistant Secretary – Maureen McLaughlin. Ron Gambill attended Committee I's first meeting and asked that NASSGAP be granted a seat at the negotiating table. Every negotiating member would have to agree to such a request. Unfortunately, his appeal was denied by the Department of Education and by the American Association of Collegiate Registrars and Admissions Officers' (AACRAO) Associate Executive Director, Barmack Nassirian. I am writing a letter to Secretary Riley to further our appeal. Session 2 of Committee I is scheduled for March 27-29.