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December 7, 2015

The Honorable Lamar Alexander
Chairman
The Honorable Patty Murray
Ranking Member
Committee on Health, Education, Labor, and Pensions
United States Senate

The Honorable John Kline
Chairman
The Honorable Robert C. "Bobby" Scott
Ranking Member
Committee on Education and the Workforce
House of Representatives

Subject: *Department of Education: Student Assistance General Provisions, Federal Family Education Loan Program, and William D. Ford Federal Direct Loan Program*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Department of Education (Education) entitled "Student Assistance General Provisions, Federal Family Education Loan Program, and William D. Ford Federal Direct Loan Program" (RIN: 1840-AD18). We received the rule on November 20, 2015. It was published in the *Federal Register* as final regulations on October 30, 2015. 80 Fed. Reg. 67,204.

The final rule amends the regulations governing the William D. Ford Federal Direct Loan (Direct Loan) Program to create a new income-contingent repayment plan in accordance with the President's initiative to allow more Direct Loan borrowers to cap their loan payments at 10 percent of their monthly incomes. The final rule also implements changes to the Federal Family Education Loan Program and Direct Loan Program regulations to streamline and enhance existing processes and provide additional support to struggling borrowers. The final rule also amends the Student Assistance General Provisions regulations by expanding the circumstances under which an institution may challenge or appeal a draft or final cohort default rate based on the institution's participation rate index. The final rule has an effective date of July 1, 2016.

Enclosed is our assessment of Education's compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. Our review of the procedural steps taken indicates that Education complied with the applicable requirements.

If you have any questions about this report or wish to contact GAO officials responsible for the evaluation work relating to the subject matter of the rule, please contact Shirley A. Jones, Assistant General Counsel, at (202) 512-8156.

signed

Robert J. Cramer
Managing Associate General Counsel

Enclosure

cc: Amanda Amann
Acting Deputy Assistant General Counsel
Division of Regulatory Services
Office of the General Counsel
Department of Education

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE
ISSUED BY THE
DEPARTMENT OF EDUCATION
ENTITLED
“STUDENT ASSISTANCE GENERAL PROVISIONS,
FEDERAL FAMILY EDUCATION LOAN PROGRAM,
AND WILLIAM D. FORD FEDERAL DIRECT LOAN PROGRAM”
(RIN: 1840-AD18)

(i) Cost-benefit analysis

The Department of Education prepared a cost-benefit analysis in conjunction with the final rule. According to Education, the benefits of the final rule, which will require guaranty agencies to provide additional information to borrowers in the process of rehabilitating a defaulted loan, include a reduction of the risk that a borrower will re-default on a loan after having successfully completed loan rehabilitation. Student borrowers will benefit from the availability of the Revised Pay As You Earn repayment plan (REPAYE) that makes an income-driven repayment plan with payments based on 10 percent of income available to borrowers regardless of when they borrowed. As stated in the final rule, the changes to the Servicemembers Civil Relief Act provisions should reduce the burden on service members and ensure the correct application of the 6 percent interest rate limit. Additionally, the changes to the participation rate index challenges and appeals process may encourage more institutions to participate in the loan program, giving their students additional options to finance their education at those institutions.

According to Education, there will be costs incurred by guaranty agencies under these regulations. These administrative costs for guaranty agencies and loan holders are the costs of compliance with paperwork requirements, and Education estimated the costs to be \$5.95 million annually, using a 7 percent discount rate, or \$5.99 million annually, using a 3 percent discount rate. Education estimated the amount of reduced payments from some borrowers who choose the REPAYE plan, which is categorized as transfers from the federal government to affected student loan borrowers, to be \$1,854 million annually, using a 7 percent discount rate, or \$1,670 million annually, using a 3 percent discount rate.

(ii) Agency actions relevant to the Regulatory Flexibility Act (RFA), 5 U.S.C. §§ 603-605, 607, and 609

Education certified that the final rule will not have a significant economic impact on a substantial number of small entities.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

The final rule does not address the Unfunded Mandates Reform Act.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 et seq.

On July 9, 2015, Education published a notice of proposed rulemaking in the *Federal Register*. 80 Fed. Reg. 39,607. Education received comments from 2,919 parties and responded to the comments in the final rule.

Paperwork Reduction Act (PRA), 44 U.S.C. §§ 3501-3520

The final rule contains information collection requirements under the Paperwork Reduction Act. Education included the Office of Management and Budget (OMB) control numbers assigned to these collections in the final rule. Education stated that the total burden hours associated with the final rule will be 12,590,630, which is an increase of 1,110,086 hours from the previous regulations.

Statutory authorization for the rule

The final rule is authorized by 20 U.S.C. §§ 1001-1003, 1070g, 1071-1087-4, 1087a, et seq., 1088, 1091, 1092, 1094, 1099c, and 1099c-1.

Executive Order No. 12,866 (Regulatory Planning and Review)

Education determined the final rule was economically significant under the Executive Order and subject to review by OMB.

Executive Order No. 13,132 (Federalism)

Education determined that the final rule will not unduly interfere with state, local, and tribal governments in the exercise of their governmental functions.