

441 G St. N.W.
Washington, DC 20548

B-333595

October 6, 2021

The Honorable Patty Murray
Chair
The Honorable Richard Burr
Ranking Member
Committee on Health, Education, Labor, and Pensions
United States Senate

The Honorable Robert C. "Bobby" Scott
Chairman
The Honorable Virginia Foxx
Ranking Member
Committee on Education and Labor
House of Representatives

Subject: *Department of Education: Total and Permanent Disability Discharge of Loans Under Title IV of the Higher Education Act*

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 (Department) entitled "Total and Permanent Disability Discharge of Loans Under Title IV of the Higher Education Act" (RIN: 1840-AD48). We received the rule on September 22, 2021. It was published in the *Federal Register* as final regulations on August 23, 2021. 86 Fed. Reg. 46972. The effective date is July 1, 2022.

According to the Department, on November 26, 2019, it published an interim final rule (IFR) to amend and update the regulations for total and permanent disability (TPD) student loan discharge for veterans by removing administrative burdens that may have prevented at least 20,000 totally and permanently disabled veterans from obtaining discharges for their student loans. *Total and Permanent Disability Discharge of Loans Under Title IV of the Higher Education Act*, 84 Fed. Reg. 65000. The Department stated that these final regulations adopt and amend the regulations established in the IFR. The Department stated further that these regulations do not address the process of obtaining a TPD student loan discharge through the physician's certification process.

Enclosed is our assessment of the Department's compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. 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 Shari Brewster, Assistant General Counsel, at (202) 512-6398.

A handwritten signature in black ink that reads "Shirley A. Jones". The signature is written in a cursive style with a large initial 'S' and a long, sweeping tail on the 'J'.

Shirley A. Jones
Managing Associate General Counsel

Enclosure

cc: Lynn Mahaffie
Assistant General Counsel
Division of Regulatory Services
Department of Education

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE
ISSUED BY THE
DEPARTMENT OF EDUCATION
ENTITLED
“TOTAL AND PERMANENT DISABILITY DISCHARGE OF LOANS
UNDER TITLE IV OF THE HIGHER EDUCATION ACT”
(RIN: 1840-AD48)

(i) Cost-benefit analysis

According to the Department of Education (Department), veterans and recipients of Social Security Disability Insurance (SSDI) and/or Supplemental Security Income (SSI) benefits who qualify for a total and permanent disability (TPD) discharge will benefit from these final regulations. The Department stated that qualifying veterans and recipients of SSDI and/or SSI benefits will be relieved of a financial burden related to federal student loans, including the stress associated with repayment or potential defaults and collections. The Department also stated that the final rule should result in a quicker more efficient process and many more qualified borrowers receiving the discharge to which they are legally entitled. The Department stated further that the paperwork burden will be reduced as no application will be needed for borrowers who qualify for an automatic TPD discharge. The Department estimated that the interim final rule (IFR) and these final regulations will have a net federal budget impact over the 2022-2031 loan cohorts of \$13.3 billion in outlays and a modification to past cohorts of \$20.9 billion, for a total net impact of \$34.1 billion.

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

The Secretary of Education certified that this 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

In its submission to us, the Department indicated that it did not prepare an Unfunded Mandates Reform Act analysis.

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

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

On November 26, 2019, the Department published an IFR with a request for public comment. 84 Fed. Reg. 65000. The Department stated that it received 18 comments. The Department also stated that this final rule includes changes from the IFR. The Department stated further that it did not address minor, non-substantive changes, or recommended changes that are not authorized by law.

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

The Department stated that this final rule contains information collection requirements. The Department also stated that it has submitted a copy of the information collections requirements to the Office of Management and Budget (OMB) for its review. According to the Department the rule does not impose any new information collection burden and OMB previously approved the information collection requirements under OMB control number 1845-0065. The Department stated further that the forms that are part of this information collection do not change as a result of the rule. The Department noted that it is revising the total burden assessment for information collection associated with OMB control number 1845-0065 to be 221,629 respondents, 221,629 responses, and 110,814 hours.

Statutory authorization for the rule

The Department promulgated this final rule pursuant to sections 1070g, 1071–1087-4, 1087a *et seq.*, and 1087aa–1087hh of title 20, United States Code and Public Law 111-256.

Executive Order No. 12866 (Regulatory Planning and Review)

The Department determined that this final rule, taken together with the IFR, is economically significant under the Order.

Executive Order No. 13132 (Federalism)

In its submission to us the Department indicated that it did not prepare an analysis of the federalism implications, if any, of this final rule.