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Testimony of

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Before the U.S Department of Education, Office of Postsecondary Education

In response to

Notice of Intent to Establish Negotiated Rulemaking Committees
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Loyola University
Chicago, Illinois

Good morning. My name is Vicki Shipley. I am Senior Advisor with the National Council of Higher Education Loan Programs, Inc. (NCHelp). NCHelp is a nonprofit association of guaranty agencies, secondary markets, lenders, loan servicers, collection agencies, schools and other organizations involved in higher education access and finance.

In its May 5, *Federal Register* Notice, the Department of Education requested suggestions for issues that should be considered for the negotiated rulemaking agenda. I am pleased to offer some comments and recommendations.

Support for Negotiated Rulemaking

NCHelp believes that negotiated rulemaking provides an invaluable opportunity to engage stakeholders in the regulatory development process. We believe the active, in-person negotiation allows for real input and that the ultimate result is better rules. For this reason, we commend the Department for undertaking this negotiated rulemaking endeavor.

Income-Based Repayment (IBR)

NCHELP continues to be a supporter of repayment plans to ensure those who are having difficulty meeting their student loan repayment obligations have viable options. Now that we have a couple of years of IBR operational experience, we appreciate the opportunity to have IBR as one of the negotiated rulemaking topics to discuss where additional changes may be needed to ensure this important repayment plan works for borrowers as well as the loan community. We certainly appreciate the Department's assistance the past couple of years in answering our many detailed operational IBR Q/A's and we have a few more coming your way.

Total and Permanent Disability (TPD) Discharge

NCHELP is encouraged to also see TPD on the list of topics. The past decade has provided the opportunity for many regulatory changes to the TPD process. While the latest set of regulatory changes did provide some improvement to the process, we still believe there is room for improvement. As with IBR, we appreciate the conference calls and other discussion opportunities we have had with the Department to continue to discuss and resolve outstanding issues. We look forward to the opportunity to continue being a part of the discussion on ways to ensure that eligible borrowers are provided this benefit – including access to much needed advocates such as guaranty agencies and others - while still protecting the federal fiscal interest. We understand the Department will be coming out with information regarding the use of copies rather than requiring an original borrower's signature on the application. We had made that recommendation to the Department earlier this year and we are pleased to hear that that change is moving forward and look forward to further discussions on ways to improve the TPD discharge process.

Borrower-Centric Transitional Efficiencies from FFELP to Direct Lending

Guaranty agencies continue to be committed to their roles as borrower advocates, providing important local services to borrowers such as delinquency and default aversion activities. Given today's transitional period for guaranty agencies, and the fact that default aversion fees are paid out of an agency's Federal Reserve fund, it is important that the Secretary pay reinsurance more in line with the statutory requirement of "promptly and without administrative delay".

Guaranty agencies generally pay default claims on a weekly basis and request reinsurance from the Department on a monthly or twice-monthly basis. Historically, the Department has paid reinsurance within 21 to 28 days following the agency's request for reimbursement. The Department has shown during the time in which a few guaranty agencies operated under a Voluntary Flexible Agreement (VFA) that it could pay reinsurance within 48 hours of an agency's request. We recommend that the Department implement similar efficiencies for all guaranty agencies so that reinsurance is paid promptly and to ensure that agencies have adequate resources to fulfill their default

aversion responsibilities. Such efficiencies could be accomplished with or without changes to the pertinent Federal regulations.

As the Department looks to “streamline the loan program regulations by repealing unnecessary FFEL Program regulations”, we recommend the Secretary consider the applicability of outdated FFELP laws and regulations that measure the progress of a loan program that is no longer making or guaranteeing new loans while still providing important local services to students and borrowers. Current metrics like loan volume, portfolio size, reinsurance rates and reserve ratios are no longer relevant for a suspended loan program. We welcome the opportunity to work with the Department to develop new metrics and/or identify the existing metrics that reflect the transitional nature of the FFEL Program as well as other borrower-friendly transitional efficiencies.

Streamlining the Loan Program Regulations

We continue to look for ways to streamline the loan programs – especially opportunities to provide for additional borrower-friendly changes. Attached are 16 specific recommendations that we believe would streamline and/or address unnecessary regulations. These topics range from more meaningful disclosures, expansion of viable repayment options, relief for borrowers in the military, equal default aversion activities for all borrowers regardless of the loan program along with recommendations for clarity for certain record retention requirements.

Through the years, the NCHELP Regulations Committee continues to maintain a list of regulatory technical corrections (TC). Lists of approximately 190 TC’s were submitted to OPE staff in October and November of 2010 and we now have five more TC’s to add to that list. We are hopeful this negotiated rulemaking session will provide the opportunity for these TC’s to be reviewed and included, where applicable.

Thank you again for the opportunity to provide these recommendations and we look forward to continuing to be a part of the process as this round of negotiated rulemaking moves forward.