Written Statement of

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On behalf of the Higher Education Loan Coalition (HELC)

Public Hearing
On the
Department of Education's Negotiated Rulemaking

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Written Comments by S. Kay Lewis
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I write to you today on behalf of the Higher Education Loan Coalition (HELC), a grass roots organization comprised of schools dedicated to the continuous improvement and strengthening of the federal student loan programs. Its members are practicing financial aid professionals working at participating institutions.

I would like to thank the Secretary for the opportunity to provide the Department of Education with comments on federal student loan programs that may be addressed in the negotiated rulemaking process. I was encouraged to see that Defense to Repayment may be a topic of the negotiations, as the protection of our student borrowers is HELC's greatest concern.

To ensure that the federal loan program continues to be a strong and viable source of loan funding for students, I wish to address regulatory issues in following areas:

Defense to Repayment

Defense to repayment regulations need to be strengthened to more accurately reflect the types of situations some borrowers face when inadequate educational programs and possible wrongdoing at the institutional level left them unprepared for their degree or educational credential. Our federal loan programs are an agreement between the federal government, the post-secondary institutions and the student borrowers that they will receive the education they sought to prepare them for employment in their chosen field. It is essential that negotiators consider the following in providing adequate protection to our student borrowers:

- When evidence suggests that abuse or wrong-doing was program- or campus-wide, then a simple, proactive process should be in place to automatically grant defense to repayment status to the affected group of students. In these situations, defense to repayment should not be an individual process. The case will have already been made and putting students through unnecessary processes and lengthy delays is not in the borrowers' nor the government's best interest.

- Explore with negotiators the use of False Certification provisions (685.214) as a means of discharging loans when appropriate instead of using Defense to Repayment. This may simplify the process for students and avoids complexity with state law. Discharges are not taxable. Negotiators should review the pre-2019 regulations on False Certification as current rules make it more difficult to meet false certification requirements.

- Ban class action waivers and mandatory pre-dispute arbitration agreements as a condition of enrollment -- at least for those who have taken out a federal loan. Students

should not have to forfeit their consumer rights to pursue a higher education. Had their complaints been known earlier, fraudulent actions could have been addressed earlier, saving students and taxpayers the cost of unnecessary student loans. The ban should apply to all students as a condition of the school's participation in the federal aid programs.

- Re-examine the standard of evidence used in borrower defense claims to ensure claims are judged on a fair and reasonable standard. Requiring students to prove that the school knew it was misleading students may raise an unfair standard of proof for a borrower defense claim. In addition, requiring demonstration of financial harm beyond the receipt of the student loan is burdensome.

- Consider re-visiting closed school discharge regulations from before 2019 rules. Previously, the Department automatically discharged the debt of students who did not complete their educational program due to their school closure and did not complete their program at another school within three years. Current rules require students submit individual applications, slowing down the process for borrower relief and requiring that all students are aware of the discharge procedure.

Eliminate Interest Capitalization to Reduce Debt

Regulations allow for, but do not require, interest capitalization each time the borrower changes status beginning with the end of the grace period and under certain circumstances in income driven repayment plans. Interest capitalization increases the principal amount of the loan and the total cost of borrowing since future interest accrues on capitalized interest. Elimination of capitalization will help borrowers reduce their cumulative debt which could affect the amount of their monthly payment and their ability to participate in other economic activities such as home purchases or retirement investments.

Capitalization is not required in federal law. It is a holdover from the previous Federal Family Education Loan program. It is not necessary to charge borrowers additional interest and we urge the Secretary to consider elimination of this practice in the federal student loan programs.

In closing, I would like to thank you again for the opportunity to present this testimony on behalf of the Higher Education Loan Coalition. Many of our members were the first schools to implement the Direct Loan program over 20 years ago and have years of expertise in operational and policy issues as well as compliance with the regulations for the program. The Coalition looks forward to participating in the negotiated rulemaking process.