



Federal Register

**Monday,
April 30, 2007**

Part VI

**Department of
Education**

Semiannual Regulatory Agenda

DEPARTMENT OF EDUCATION (ED)

DEPARTMENT OF EDUCATION

Office of the Secretary

34 CFR Subtitles A and B

Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: Office of the Secretary, Education.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Secretary of Education publishes a semiannual agenda of Federal regulatory and deregulatory actions. The agenda is issued under the authority of section 4(b) of Executive Order 12866 "Regulatory Planning and Review." The purpose of the agenda is to encourage more effective public participation in the regulatory process by providing the public with early information about pending regulatory activities.

FOR FURTHER INFORMATION CONTACT: Questions or comments related to specific regulations listed in this agenda should be directed to the agency contact listed for the regulations. Questions or comments related to preparation of this agenda should be directed to Stanley M. Cohen, Division of Regulatory Services, Office of the General Counsel, Department of Education, Room 6E117, FB-6, 400 Maryland Avenue SW., Washington, DC 20202-2241; telephone: (202) 401-8300. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1-800-877-8339.

SUPPLEMENTARY INFORMATION: Section 4(b) of Executive Order 12866, dated September 30, 1993, requires the Department of Education (ED) to publish, at a time and in a manner specified by the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, an agenda of all regulations

under development or review. The Regulatory Flexibility Act, 5 U.S.C. 602(a), requires ED to publish, in October and April of each year, a regulatory flexibility agenda.

The regulatory flexibility agenda may be combined with any other agenda that satisfies the statutory requirements (5 U.S.C. 605(a)). In compliance with the Executive order and the Regulatory Flexibility Act, the Secretary publishes this agenda.

The agenda includes only regulatory activities that have been assigned a Regulation Identifier Number (RIN) by the Regulatory Information Service Center.

For each set of regulations listed, the agenda provides the title of the document, the type of document, a citation to any rulemaking or other action taken since publication of the most recent agenda, and planned dates of future rulemaking. In addition, the agenda provides the following information:

- An abstract that includes a description of the problem to be addressed, any principal alternatives being considered, and potential costs and benefits of the action.
- An indication of whether the planned action is likely to have significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act (5 U.S.C. 601(6)).
- A reference to where a reader can find the current regulations in the Code of Federal Regulations.
- A citation of legal authority.
- The name, address, and telephone number of the contact person at ED from whom a reader can obtain additional information regarding the planned action.

In accordance with ED's Principles for Regulating listed in its regulatory plan (71 FR 72775, published December 11,

2006), ED is committed to regulation that improves the quality and equality of services to its customers, learners of all ages. ED will regulate only when absolutely necessary and then in the most flexible, most equitable, least burdensome way possible.

Interested members of the public are invited to comment on any of the items listed in this agenda that they believe are not consistent with the Principles for Regulating.

This publication in the **Federal Register** does not impose any binding obligation on ED with regard to any specific item in the agenda. ED may elect not to pursue any of the regulatory actions listed here, and regulatory action in addition to the items listed is not precluded. Dates of future regulatory actions are subject to revision in subsequent agendas.

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Dated: March 1, 2007.

Kent D. Talbert,
General Counsel.

Office of the Chief Financial Officer—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
714	Direct Grant Programs and Definitions That Apply to Department Regulations	1890-AA14

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Office of the Chief Financial Officer—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
715	Protection of Human Subjects (Classified Research)	1890-AA08

Office of the Chief Financial Officer—Completed Actions

Sequence Number	Title	Regulation Identifier Number
716	State-Administered Programs	1890-AA13

Office of Elementary and Secondary Education—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
717	Migrant Education Program	1810-AA99

Office of Elementary and Secondary Education—Completed Actions

Sequence Number	Title	Regulation Identifier Number
718	Title I, Improving the Academic Achievement of the Disadvantaged; Individuals With Disabilities Education Act (IDEA)—Assistance to States for the Education of Children With Disabilities	1810-AA98

Office of Postsecondary Education—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
719	Federal Perkins Loan Program, Federal Family Education Loan Program, and William D. Ford Federal Direct Loan Program	1840-AC88

Office of Special Education and Rehabilitative Services—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
720	Early Intervention Program for Infants and Toddlers With Disabilities	1820-AB59
721	Assistance to States for the Education of Children With Disabilities and Preschool Grants for Children With Disabilities Programs	1820-AB60

Office of Innovation and Improvement—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
722	Student Rights in Research, Experimental Programs, and Testing	1855-AA03
723	Family Educational Rights and Privacy	1855-AA05

Department of Education (ED)

Proposed Rule Stage

Office of the Chief Financial Officer (OCFO)

714. DIRECT GRANT PROGRAMS AND DEFINITIONS THAT APPLY TO DEPARTMENT REGULATIONS**Priority:** Other Significant**Legal Authority:** 20 USC 1221e-3; 20 USC 3474**CFR Citation:** 34 CFR 75; 34 CFR 77**Legal Deadline:** None**Abstract:** The Secretary proposes to amend the regulations in 34 CFR part 75 and part 77 to align the discretionary grant selection criteria and continuation award standards with the performance management standards

established for Department of Education programs. These amendments would improve the Department's ability to determine whether discretionary grant programs are achieving established performance measures under the Government Performance and Results Act and other performance management requirements and whether projects funded by the Department are establishing and meeting challenging and realistic performance milestones and targets. The Secretary also proposes an amendment to improve financial management of discretionary grants.

Timetable:

Action	Date	FR Cite
NPRM	10/00/07	

Regulatory Flexibility Analysis Required: No**Government Levels Affected:** None**Agency Contact:** Peter Wathen-Dunn, Department of Education, Office of the General Counsel, Room 6E211, FB-6, 400 Maryland Avenue SW, Washington, DC 20202-2243
Phone: 202 401-6700**RIN:** 1890-AA14

Department of Education (ED)

Long-Term Actions

Office of the Chief Financial Officer (OCFO)

715. PROTECTION OF HUMAN SUBJECTS (CLASSIFIED RESEARCH)**Priority:** Substantive, Nonsignificant**CFR Citation:** 34 CFR 97**Timetable:**

Action	Date	FR Cite
Interim Final Rule	To Be Determined	

Regulatory Flexibility Analysis Required: No**Small Entities Affected:** No**Government Levels Affected:** None**Agency Contact:** Jeffrey Rodamar
Phone: 202 245-6153**RIN:** 1890-AA08

Department of Education (ED)

Completed Actions

Office of the Chief Financial Officer (OCFO)

716. STATE-ADMINISTERED PROGRAMS**Priority:** Other Significant**CFR Citation:** 34 CFR 76**Completed:**

Reason	Date	FR Cite
Final Action	01/25/07	72 FR 3698

Regulatory Flexibility Analysis Required: No**Small Entities Affected:** No**Government Levels Affected:** State**Agency Contact:** Patrick Sherrill
Phone: 202 708-8196**RIN:** 1890-AA13

Department of Education (ED)

Proposed Rule Stage

Office of Elementary and Secondary Education (OESE)

717. MIGRANT EDUCATION PROGRAM**Priority:** Other Significant**Legal Authority:** 20 USC 6393, 6394, 6399**CFR Citation:** 34 CFR 200**Legal Deadline:** None**Abstract:** The Secretary proposes to modify regulations for the Migrant Education Program. These regulations would modify requirements concerning

State funding allocations and clarify requirements concerning migrant child eligibility and State procedures for quality control.

Timetable:

Action	Date	FR Cite
NPRM	04/00/07	

Regulatory Flexibility Analysis Required: No**Small Entities Affected:** No**Government Levels Affected:** Undetermined**Federalism:** This action may have federalism implications as defined in EO 13132.**Agency Contact:** Francisco Garcia, Department of Education, Office of Elementary and Secondary Education, Room 3E317, 400 Maryland Avenue SW, Washington, DC 20202
Phone: 202 260-1164**RIN:** 1810-AA99

Department of Education (ED)

Completed Actions

Office of Elementary and Secondary Education (OESE)

718. TITLE I, IMPROVING THE ACADEMIC ACHIEVEMENT OF THE DISADVANTAGED; INDIVIDUALS WITH DISABILITIES EDUCATION ACT (IDEA)—ASSISTANCE TO STATES FOR THE EDUCATION OF CHILDREN WITH DISABILITIES

Priority: Other Significant

CFR Citation: 34 CFR 200; 34 CFR 300

Completed:

Reason	Date	FR Cite
Final Action	04/09/07	72 FR 17748

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Jacquelyn Jackson
Phone: 202 260-0826

Alexa Posny
Phone: 202 245-7459

RIN: 1810-AA98

Department of Education (ED)

Final Rule Stage

Office of Postsecondary Education (OPE)

719. • FEDERAL PERKINS LOAN PROGRAM, FEDERAL FAMILY EDUCATION LOAN PROGRAM, AND WILLIAM D. FORD FEDERAL DIRECT LOAN PROGRAM

Priority: Other Significant

Legal Authority: 20 USC 1087aa to 1087hh; 20 USC 421 to 429

CFR Citation: 34 CFR 674; 34 CFR 682; 34 CFR 685

Legal Deadline: Final, Statutory, December 29, 2006, The statutory deadline for publication of these regulations is 12/29/2006.

Abstract: These interim final regulations amend the Federal Perkins Loan (Perkins Loan) Program, Federal Family Education Loan (FFEL) Program, and William D. Ford Federal Direct Loan (Direct Loan) Program

regulations to implement the changes to the Higher Education Act of 1965, as amended (HEA), resulting from the enactment of the Third Higher Education Extension Act of 2006 (THEEA), Public Law 109-292. These interim final regulations reflect the provisions of the THEEA that authorize the discharge of the outstanding balance of certain Perkins, FFEL, and Direct Loan Program loans for survivors of eligible public servants and other eligible victims of September 11, 2001, terrorist attacks.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/28/06	71 FR 78075
Interim Final Rule Comment Period End	01/29/07	
Final Action	04/00/07	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Brian Smith,
Department of Education, Office of Postsecondary Education, Room 8053, 1990 K Street NW, Washington, DC 20006-8540
Phone: 202 502-7551

John Utz, Department of Education, Office of Postsecondary Education, Union Center Plaza, 830 First Street NE, Washington, DC 20202-5345
Phone: 202 377-4008

RIN: 1840-AC88

Department of Education (ED)

Proposed Rule Stage

Office of Special Education and Rehabilitative Services (OSERS)

720. EARLY INTERVENTION PROGRAM FOR INFANTS AND TODDLERS WITH DISABILITIES

Priority: Other Significant

Legal Authority: 20 USC 1431 to 1435

CFR Citation: 34 CFR 303

Legal Deadline: None

Abstract: These proposed regulations would implement statutory changes made to part C of the Individuals With Disabilities Education Act governing the Early Intervention Program for Infants and Toddlers With Disabilities.

Timetable:

Action	Date	FR Cite
NPRM	04/00/07	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Alexa Posny,
Department of Education, Office of Special Education and Rehabilitative Services, Room 4109, PCP, 400 Maryland Avenue SW, Washington, DC 20202-2641
Phone: 202 245-7459

RIN: 1820-AB59

721. ASSISTANCE TO STATES FOR THE EDUCATION OF CHILDREN WITH DISABILITIES AND PRESCHOOL GRANTS FOR CHILDREN WITH DISABILITIES PROGRAMS

Priority: Other Significant

Legal Authority: 20 USC 1221e-3; 20 USC 1406; 20 USC 1411 to 1419

CFR Citation: 34 CFR 300

Legal Deadline: None

Abstract: These proposed regulations would amend recently issued final regulations governing the Assistance to States for the Education of Children With Disabilities and Preschool Grants for Children With Disabilities programs under the Individuals With Disabilities Education Act (71 FR 46540). Proposed new provisions, determined necessary for effective administration of certain areas of these programs and not subject to public comment in prior rulemaking, include representation of parents by non-attorneys in due process hearings, revocation of consent after a parent agrees to services, and base payments to local educational agencies.

ED—OSERS

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	06/00/07	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Alexa Posny,
Department of Education, Office of
Special Education and Rehabilitative
Services, Room 4109, PCP, 400

Maryland Avenue SW, Washington, DC
20202-2641
Phone: 202 245-7459

RIN: 1820-AB60

Department of Education (ED)

Proposed Rule Stage

Office of Innovation and Improvement (OII)

722. STUDENT RIGHTS IN RESEARCH, EXPERIMENTAL PROGRAMS, AND TESTING

Priority: Other Significant

Legal Authority: 20 USC 1232h

CFR Citation: 34 CFR 98

Legal Deadline: None

Abstract: These regulations are needed to implement amendments to section 445 of the General Education Provisions Act, as amended—commonly referred to as the Protection of Pupil Rights Amendment (PPRA)—resulting from (1) section 1017 of the Goals 2000 Educate America Act (Pub. L. 103-227; 20 U.S.C. 1232h) and (2) legislation passed as part of the No Child Left Behind Act of 2001 (NCLB) (Pub. L. 107-110). Section 1017 of Goals 2000 amended PPRA to require schools, in certain instances, to make specific educational materials available to parents for inspection. The provision also amended PPRA to prohibit schools from requiring students to submit to certain surveys, analyses, or evaluations without parental consent. Amendments made to PPRA by NCLB specify certain subjects on which local educational agencies, in consultation with parents, must develop and adopt policies. These amendments also require local educational agencies to directly notify parents of these policies and permit parents to opt out of certain activities. As our next action, we will issue a new NPRM incorporating the amendments

resulting from NCLB, as well as the earlier amendments resulting from the Goals 2000 Educate America Act.

Timetable:

Action	Date	FR Cite
NPRM	08/28/95	60 FR 44696
NPRM Comment Period End	10/27/95	
Second NPRM	07/00/07	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Ellen Campbell,
Department of Education, Family Policy
Compliance Office, 400 Maryland
Avenue SW, Room 2W117,
Washington, DC 20202-4605
Phone: 202 260-3887

Related RIN: Previously reported as
1880-AA66

RIN: 1855-AA03

commonly referred to as the Family Educational Rights and Privacy Act of 1974 (FERPA)—resulting from the USA Patriot Act (Pub. L. 107-56), the Campus Sex Crimes Prevention Act, and section 1601(d) of the Victims of Trafficking and Violence Protection Act of 2000 (Pub. L. 106-386). These amendments also would implement two U.S. Supreme Court decisions interpreting FERPA and make other necessary changes regarding permissible disclosures of education records, the safeguarding of education records, permissible redisclosures of education records by State and Federal officials, and investigation and enforcement procedures.

Timetable:

Action	Date	FR Cite
NPRM	07/00/07	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ellen Campbell,
Department of Education, Family Policy
Compliance Office, 400 Maryland
Avenue SW, Room 2W117,
Washington, DC 20202-4605
Phone: 202 260-3887

RIN: 1855-AA05

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BILLING CODE 4000-01-S

723. FAMILY EDUCATIONAL RIGHTS AND PRIVACY

Priority: Other Significant

Legal Authority: 20 USC 1232g

CFR Citation: 34 CFR 99

Legal Deadline: None

Abstract: These proposed regulations would implement amendments to section 444 of the General Education Provisions Act, as amended—