



# Federal Register

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**Monday,  
December 9, 2002**

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**Part VI**

**Department of  
Education**

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**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 regulations. 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 Sandy Jablonski, Division of Regulatory Services, Office of the General Counsel, Department of Education, Room 6E107, 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 Information Relay Service (FIRS) 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, OMB, 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.

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, which 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(b)).
- 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 the Department from whom a reader can obtain additional information regarding the planned action.

In accordance with the Department's Principles for Regulating listed in its regulatory plan, 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. Members of the public are also invited to comment on regulations listed in this agenda that are designated for periodic review under the Regulatory Flexibility Act (5 U.S.C. 610).

This publication in the **Federal Register** does not impose any binding obligation on the Department with regard to any specific item in the agenda. The Department 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.

For this edition of ED's regulatory agenda, the most important significant regulatory actions are included in The Regulatory Plan, which appears in part II of this issue of the **Federal Register**. The Regulatory Plan entries are listed in the table of contents below and are denoted by a bracketed bold reference, which directs the reader to the appropriate sequence number in part II.

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<http://www.ed.gov/legislation/FedRegister>

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**Note:** The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at:

<http://www.access.gpo.gov/nara/index.html>

**Dated:** September 13, 2002.  
**Brian W. Jones,**  
*General Counsel*

Office of Management—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
840	Student Rights in Research, Experimental Programs, and Testing .....	1880-AA66

## ED

## Office of the Chief Financial Officer—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
841	Governmentwide Requirement for Drug-Free Workplace (Financial Assistance) and Governmentwide Debarment and Suspension (Nonprocurement) .....	1890-AA07
842	Protection of Human Subjects (Classified Research) .....	1890-AA08

## Office for Civil Rights—Prerule Stage

Sequence Number	Title	Regulation Identification Number
843	Boy Scouts of America Equal Access Act .....	1870-AA12

## Office for Civil Rights—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
844	Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance	1870-AA11

## Office of Educational Research and Improvement—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
845	Reauthorization of the Educational, Research, Development, Dissemination, and Improvement Act of 1994 ( <b>Section 610 Review</b> ) ( <b>Reg Plan Seq No. 22</b> ) .....	1850-AA57

References in boldface appear in the Regulatory Plan in part II of this issue of the **Federal Register**.

## Office of Elementary and Secondary Education—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
846	Reauthorization of Title I of the Elementary and Secondary Education Act of 1965 ( <b>Section 610 Review</b> ) ( <b>Reg Plan Seq No. 23</b> ) .....	1810-AA91

References in boldface appear in the Regulatory Plan in part II of this issue of the **Federal Register**.

## Office of Elementary and Secondary Education—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
847	Indian Education Discretionary Grant Program .....	1810-AA93

## Office of Elementary and Secondary Education—Completed Actions

Sequence Number	Title	Regulation Identification Number
848	Improving the Academic Achievement of the Disadvantaged .....	1810-AA92
849	Impact Aid Programs .....	1810-AA94

ED

Federal Student Aid—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
850	Institutional Eligibility Under the Higher Education Act of 1965, as Amended; Student Assistance General Provisions; General Provisions for the Federal Perkins Loan Program, Federal Work-Study Program .....	1845-AA24
851	Student Assistance General Provisions, Federal Perkins Loan Program, Federal Family Education Loan Program, and William D. Ford Federal Direct Loan Program .....	1845-AA23

Federal Student Aid—Completed Actions

Sequence Number	Title	Regulation Identification Number
852	Federal Perkins Loan Program .....	1845-AA22

Office of Special Education and Rehabilitative Services—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
853	Reauthorization of the Individuals With Disabilities Education Act ( <b>Section 610 Review</b> ) ( <b>Reg Plan Seq No. 24</b> ) ...	1820-AB54

References in boldface appear in the Regulatory Plan in part II of this issue of the **Federal Register**.

Department of Education (ED)  
Office of Management (OM)

Proposed Rule Stage

**840. 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 section 1017 of the Goals 2000: Educate America Act (Pub. L. 103-227, 20 U.S.C. 1232h). That provision amends the Protection of Pupil Rights Amendment (PPRA) to require schools, in certain instances, to make specific educational materials available to parents for inspection. The provision also amends the PPRA to

prohibit schools from requiring a student to submit to certain surveys, analyses, or evaluations without prior parental consent. The regulations are being developed in accordance with the Department's Principles for Regulating. New legislation amending the PPRA passed as part of the No Child Left Behind Act of 2001. As our next action we will issue a new NPRM based on this legislation.

**Timetable:**

Action	Date	FR Cite
NPRM	08/28/95	60 FR 44696
NPRM Comment Period End	10/27/95	
Second NPRM	11/00/02	

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

**Agency Contact:** Ellen Campbell, Family Policy Compliance Office, Department of Education, Office of Management, Room 2W101, 400 Maryland Avenue SW, FB-6, Washington, DC 20202-4605  
Phone: 202 260-3887

**RIN:** 1880-AA66

## Department of Education (ED)

## Long-Term Actions

## Office of the Chief Financial Officer (OCFO)

**841. GOVERNMENTWIDE REQUIREMENT FOR DRUG-FREE WORKPLACE (FINANCIAL ASSISTANCE) AND GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)****Priority:** Other Significant**Legal Authority:** EO 12549; EO 12689; 20 USC 1082; 20 USC 1094; 20 USC 1221e-3; 20 USC 3474; sec 2455, PL 103-355, 108 Stat 3243 at 3327**CFR Citation:** 34 CFR 84; 34 CFR 85; 34 CFR 668; 34 CFR 682**Legal Deadline:** None**Abstract:** These regulations are part of a common rule amending the Governmentwide nonprocurement common rule for debarment and suspension and the Governmentwide rule implementing the Drug-Free Workplace Act of 1988. These regulations clarify the relationship between debarment and suspension actions and limitation, suspension, and termination actions under title IV of the HEA. Additionally, these regulations set the dollar threshold on prohibited lower-tier procurement transactions with excluded persons at \$25,000.

These regulations also relocate the Drug-Free Workplace Act regulations in a separate part from the debarment and suspension regulations.

**Timetable:**

Action	Date	FR Cite
NPRM	01/23/02	67 FR 3326
NPRM Comment	03/25/02	
Period End		
Next Action	Undetermined	

**Regulatory Flexibility Analysis Required:** No**Small Entities Affected:** No**Government Levels Affected:** None**Agency Contact:** Peter Wathen-Dunn, General Attorney, Department of Education, Office of the Chief Financial Officer, Room 6E211, 400 Maryland Avenue SW, FB-6, Washington, DC 20202-2243  
Phone: 202 401-6700**RIN:** 1890-AA07**842. PROTECTION OF HUMAN SUBJECTS (CLASSIFIED RESEARCH)****Priority:** Substantive, Nonsignificant**Legal Authority:** 5 USC 301; 42 USC 300v-1(b)**CFR Citation:** 34 CFR 97**Legal Deadline:** None**Abstract:** These amendments would revise existing regulations to eliminate certain waiver and expedited review provisions by adopting additional protection pertaining to human subjects in classified research.**Timetable:**

Action	Date	FR Cite
Interim Final Rule	To Be	Determined

**Regulatory Flexibility Analysis Required:** No**Small Entities Affected:** No**Government Levels Affected:** None**Additional Information:** Transferred from RIN 1880-AA79**Agency Contact:** Helene Deramond, Department of Education, Office of the Chief Financial Officer, Room 3652, ROB-3, 400 Maryland Avenue SW, Washington, DC 20202  
Phone: 202 260-5353**RIN:** 1890-AA08

## Department of Education (ED)

## Prerule Stage

## Office for Civil Rights (OCR)

**843. • BOY SCOUTS OF AMERICA EQUAL ACCESS ACT****Priority:** Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.**Legal Authority:** 20 USC 7905**CFR Citation:** 34 CFR ch I**Legal Deadline:** None**Abstract:** These regulations would implement a new law, the Boy Scouts of America Equal Access Act (Boy Scouts Act), which is part of the No Child Left Behind Act of 2001. Under the Boy Scouts Act, no public elementary school, public secondary

school, or State or local educational agency that provides an opportunity for one or more outside youth or community groups to meet on school premises or in school facilities before or after school hours shall deny equal access or a fair opportunity to meet to, or discriminate against, any group officially affiliated with the Boy Scouts of America or other specified patriotic youth groups.

**Timetable:**

Action	Date	FR Cite
ANPRM	11/00/02	

**Regulatory Flexibility Analysis Required:** Undetermined**Small Entities Affected:** No**Government Levels Affected:** Undetermined**Federalism:** Undetermined**Agency Contact:** Jeanette J. Lim, Director, Program Legal Group, Department of Education, Office for Civil Rights, Room 5036, Switzer Building, 400 Maryland Avenue SW, Washington, DC 20202-1100  
Phone: 202 205-8635**RIN:** 1870-AA12

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**Department of Education (ED)**  
**Office for Civil Rights (OCR)**


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Proposed Rule Stage

**844. • NONDISCRIMINATION ON THE BASIS OF SEX IN EDUCATION PROGRAMS OR ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE**
**Priority:** Other Significant**Legal Authority:** 20 USC 1681; 20 USC 1682**CFR Citation:** 34 CFR 106**Legal Deadline:** None

**Abstract:** In the event changes are made, such changes would amend existing regulations implementing title IX of the Education Amendments of 1972 to provide more flexibility for educators to establish single-sex classes and schools at the elementary and

secondary levels. The purpose of the amendments would be to support efforts of school districts to improve educational outcomes for children and to provide public school parents with a diverse array of educational options that respond to the educational needs of their children, while at the same time ensuring appropriate safeguards against discrimination. We want to permit appropriate latitude for innovative efforts to help children learn and to expand the choices parents have for their children's education consistent with the purposes of the title IX statute and the Constitution.

**Timetable:**

Action	Date	FR Cite
NPRM	02/00/03	

**Regulatory Flexibility Analysis Required:** Undetermined**Small Entities Affected:** No**Government Levels Affected:** None

**Agency Contact:** Jeanette J. Lim, Director, Program Legal Group, Department of Education, Office for Civil Rights, Room 5036, Switzer Building, 400 Maryland Avenue SW, Washington, DC 20202-1100  
Phone: 202 205-8635

**RIN:** 1870-AA11

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**Department of Education (ED)**  
**Office of Educational Research and Improvement (OERI)**


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Proposed Rule Stage

**845. • REAUTHORIZATION OF THE EDUCATIONAL, RESEARCH, DEVELOPMENT, DISSEMINATION, AND IMPROVEMENT ACT OF 1994 (SECTION 610 REVIEW)**

**Regulatory Plan:** This entry is Seq. No. 22 in part II of this issue of the **Federal Register**.

**RIN:** 1850-AA57

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**Department of Education (ED)**  
**Office of Elementary and Secondary Education (OESE)**


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Final Rule Stage

**846. REAUTHORIZATION OF TITLE I OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965 (SECTION 610 REVIEW)**

**Regulatory Plan:** This entry is Seq. No. 23 in part II of this issue of the **Federal Register**.

**RIN:** 1810-AA91

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**Department of Education (ED)**  
**Office of Elementary and Secondary Education (OESE)**


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Long-Term Actions

**847. • INDIAN EDUCATION DISCRETIONARY GRANT PROGRAM**
**Priority:** Other Significant**Legal Authority:** 20 USC 7441; 20 USC 7442**CFR Citation:** 34 CFR 263**Legal Deadline:** None

**Abstract:** The regulations that govern the competition of new Indian Education discretionary grant programs for fiscal year (FY) 2002 are revised. The programs governed by this part include grants for the Professional Development Program and the Demonstration Grants for Indian Children Program. These programs are

authorized under title VII of the Elementary and Secondary Education Act (ESEA) of 1965, as amended by the No Child Left Behind Act of 2001. These regulations identify eligible applicants for the program and the specific application and program requirements that must be met in order for applications to be considered for

## ED—OESE

## Long-Term Actions

funding. These regulations also provide the requirements for the payback provisions that apply to the Professional Development Program. These regulations govern the grant application process for new FY 2002 awards under both programs, including the payback provisions for the Professional Development Program.

**Timetable:**

Action	Date	FR Cite
Final Rule With Request for Comments	07/22/02	67 FR 47695
Comment Period End	08/21/02	
Next Action Undetermined		

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

**Agency Contact:** Cathie Martin, Department of Education, Office of Elementary and Secondary Education, Room 3W111 FB-6, 400 Maryland Avenue SW, Washington, DC 20202-6335

Phone: 202 260-1683

**RIN:** 1810-AA93

## Department of Education (ED)

## Completed Actions

## Office of Elementary and Secondary Education (OESE)

**848. IMPROVING THE ACADEMIC ACHIEVEMENT OF THE DISADVANTAGED**

**Priority:** Other Significant

**CFR Citation:** 34 CFR 200

**Completed:**

Reason	Date	FR Cite
NPRM	05/06/02	67 FR 30452
Final Action	07/05/02	67 FR 45038

**Regulatory Flexibility Analysis**

**Required:** No

**Government Levels Affected:** None

**Agency Contact:** Jacquelyn Jackson  
Phone: 202 260-0826

**RIN:** 1810-AA92

**849. • IMPACT AID PROGRAMS**

**Priority:** Other Significant

**Legal Authority:** 20 USC 7701 to 7714

**CFR Citation:** 34 CFR 222

**Legal Deadline:** None

**Abstract:** These regulations implement a new discretionary Impact Aid construction grant program, which is authorized under section 8007(b) of the Elementary and Secondary Education Act (the Act), as amended by the No Child Left Behind Act of 2001. The program provides competitive grants for emergency repairs and modernization of school facilities to certain eligible school districts that receive Impact Aid funds. These final regulations incorporate statutory requirements and provide rules for applying and qualifying for, as well as spending, the

Federal funds provided under this program. These final regulations apply only to the fiscal year (FY) 2002 grant competition.

**Timetable:**

Action	Date	FR Cite
Final Action	08/16/02	67 FR 53680

**Regulatory Flexibility Analysis**

**Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

**Agency Contact:** Catherine Schagh, Department of Education, Office of Elementary and Secondary Education, 400 Maryland Avenue SW, Washington, DC 20202-6244  
Phone: 202 260-3858

**RIN:** 1810-AA94

## Department of Education (ED)

## Final Rule Stage

## Federal Student Aid (FSA)

**850. INSTITUTIONAL ELIGIBILITY UNDER THE HIGHER EDUCATION ACT OF 1965, AS AMENDED; STUDENT ASSISTANCE GENERAL PROVISIONS; GENERAL PROVISIONS FOR THE FEDERAL PERKINS LOAN PROGRAM, FEDERAL WORK-STUDY PROGRAM**

**Priority:** Other Significant

**Legal Authority:** 20 USC 1001 et seq

**CFR Citation:** 34 CFR 600; 34 CFR 668; 34 CFR 673; 34 CFR 675; 34 CFR 682; 34 CFR 685; 34 CFR 690; 34 CFR 694; ...

**Legal Deadline:** None

**Abstract:** These regulations will implement various changes to the Institutional Eligibility Under the

Higher Education Act of 1965, as Amended; Student Assistance General Provisions; General Provisions for the Federal Perkins Loan Program, Federal Work-Study Program, and Federal Supplemental Educational Opportunity Grant Program; Federal Work-Study Programs; Federal Family Education Loan Program; William D. Ford Federal Direct Loan Program; Federal Pell Grant Program; and Gaining Early Awareness and Readiness for Undergraduate Programs regulations. These regulations were negotiated with the financial aid, higher education, and other related community members through the negotiated rulemaking process under section 492 of the Higher Education Act of 1965, as amended, and they will

reduce administrative burden for program participants, provide benefits to students and borrowers, and protect taxpayers' interest.

**Timetable:**

Action	Date	FR Cite
NPRM	08/08/02	67 FR 51718
NPRM Comment Period End	10/07/02	
Final Action	11/00/02	

**Regulatory Flexibility Analysis**

**Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

**Agency Contact:** Wendy Macias, Department of Education, Office of Postsecondary Education, Room 8056,

## ED—FSA

## Final Rule Stage

1990 K Street NW, Washington, DC  
20006  
Phone: 202 502-7526

**RIN:** 1845-AA24

**851. STUDENT ASSISTANCE  
GENERAL PROVISIONS, FEDERAL  
PERKINS LOAN PROGRAM, FEDERAL  
FAMILY EDUCATION LOAN  
PROGRAM, AND WILLIAM D. FORD  
FEDERAL DIRECT LOAN PROGRAM**

**Priority:** Other Significant

**Legal Authority:** 20 USC 1001 et seq

**CFR Citation:** 34 CFR 682; 34 CFR 685;  
34 CFR 668; 34 CFR 674

**Legal Deadline:** None

**Abstract:** These regulations will implement various changes to the Student Assistance General Provisions, Federal Perkins Loan Program, Federal Family Education Loan Program, and William D. Ford Federal Direct Loan Program and were negotiated with the financial aid, higher education, and other related community members through the negotiated rulemaking process under section 492 of the Higher Education Act of 1965, as amended. These regulations will reduce administrative burden for program participants, provide benefits to students and borrowers, and protect taxpayers' interest.

**Timetable:**

Action	Date	FR Cite
NPRM	08/06/02	67 FR 51036
NPRM Comment Period End	10/07/02	
Final Action	11/00/02	

**Regulatory Flexibility Analysis  
Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

**Agency Contact:** Gail McLarnon,  
Department of Education, Office of  
Postsecondary Education, Room 8062,  
1990 K Street NW, Washington, DC  
20006  
Phone: 202 219-7048

**RIN:** 1845-AA23

**Department of Education (ED)  
Federal Student Aid (FSA)**

**Completed Actions**

**852. FEDERAL PERKINS LOAN  
PROGRAM**

**Priority:** Other Significant

**CFR Citation:** 34 CFR 674

**Completed:**

Reason	Date	FR Cite
Withdrawn	07/26/02	

**Regulatory Flexibility Analysis  
Required:** No

**Government Levels Affected:** None

**Agency Contact:** Gail McLarnon  
Phone: 202 219-7048

**RIN:** 1845-AA22

**Department of Education (ED)**

**Proposed Rule Stage**

**Office of Special Education and Rehabilitative Services (OSERS)**

**853. • REAUTHORIZATION OF THE  
INDIVIDUALS WITH DISABILITIES  
EDUCATION ACT (SECTION 610  
REVIEW)**

**Regulatory Plan:** This entry is Seq. No.  
24 in part II of this issue of the **Federal  
Register**.

**RIN:** 1820-AB54

[FR Doc. 02-24265 Filed 12-06-02; 8:45 am]

**BILLING CODE 4000-01-S**