



Federal Register

**Monday,
December 22, 2003**

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 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 6C109, 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, 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.

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, 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 the regulation listed in this agenda that is 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 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.

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 entry is listed in the table of contents below and is denoted by a bracketed bold reference, which directs the reader to the appropriate sequence number in part II.

Electronic Access to This Document

You may view this document, as well as all other ED documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF), on the Internet at the following site: <http://www.ed.gov/news/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.gpoaccess.gov/nara/index.html>

Dated: August 29, 2003.

Brian W. Jones,
General Counsel.

Office of Management—Proposed Rule Stage

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

ED

Office of the Chief Financial Officer—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
883	Direct Grant Programs—E-Application Regulations	1890-AA09
884	Direct Grant Programs and State-Administered Programs	1890-AA11

Office of the Chief Financial Officer—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
885	Protection of Human Subjects (Classified Research)	1890-AA08

Office of the Chief Financial Officer—Completed Actions

Sequence Number	Title	Regulation Identification Number
886	Governmentwide Requirement for Drug-Free Workplace (Financial Assistance) and Governmentwide Debarment and Suspension (Nonprocurement)	1890-AA07

Office for Civil Rights—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
887	Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance	1870-AA11
888	Boy Scouts of America Equal Access Act	1870-AA12

Office of Elementary and Secondary Education—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
889	Impact Aid Programs	1810-AA96

Office of Elementary and Secondary Education—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
890	Title I—Improving the Academic Achievement of the Disadvantaged	1810-AA95

Office of Elementary and Secondary Education—Completed Actions

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

ED

Office of Special Education and Rehabilitative Services—Prerule Stage

Sequence Number	Title	Regulation Identification Number
892	Reauthorization of the Individuals With Disabilities Education Act (Section 610 Review) (Reg Plan Seq No. 34) ...	1820-AB54

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

Office of Innovation and Improvement—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
893	Family Educational Rights and Privacy Act	1855-AA00
894	Magnet Schools Assistance Program	1855-AA01

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

Proposed Rule Stage

882. 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). This section 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	11/00/03	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

URL For Public Comments: www.regulations.gov

Agency Contact: Ellen Campbell, Family Policy Compliance Office, Department of Education, Room 2W100, Room 2W117, FB-6, 400 Maryland Avenue SW, Washington, DC 20202-4605
Phone: 202 260-3887

RIN: 1880-AA66

**Department of Education (ED)
Office of the Chief Financial Officer (OCFO)**

Proposed Rule Stage

883. DIRECT GRANT PROGRAMS—E-APPLICATION REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 20 USC 1221e-3 and 3474

CFR Citation: 34 CFR 75

Legal Deadline: None

Abstract: These regulations would amend 34 CFR part 75 governing the process for submitting discretionary grant applications for the Direct Grant Programs of the Department of Education. These regulations would revise the regulations governing the deadline date for applications to

provide for electronic submission of applications.

Timetable:

Action	Date	FR Cite
NPRM	10/30/03	68 FR 61779
NPRM Comment Period End	12/29/03	
Final Action	03/00/04	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

URL For Public Comments: www.regulations.gov

Agency Contact: Blanca Rodriguez, Department of Education, Office of the Chief Financial Officer, Room 3652, Room 3652, ROB-3, 400 Maryland Avenue SW, Washington, DC 20202-4248
Phone: 202 260-0172

RIN: 1890-AA09

884. • DIRECT GRANT PROGRAMS AND STATE-ADMINISTERED PROGRAMS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 20 USC 1221e-3; 20 USC 3474; 20 USC 6511(a); 20 USC

ED—OCFO

Proposed Rule Stage

8065a; 20 USC 1221e-3(a)(1); OMB Circulars A-10 and A-02

CFR Citation: 34 CFR 74; 34 CFR 75; 34 CFR 76; 34 CFR 80

Legal Deadline: None

Abstract: The Education Department General Administrative Regulations (EDGAR) governing direct grant programs; State-administered programs; the administration of grants and agreements with institutions of higher education, hospitals, and other nonprofit organizations; and the uniform administrative requirements for grants and cooperative agreements

to State and local governments of the Department would be amended. The amendments would clarify that faith-based organizations are eligible to participate in programs on the same basis as other private organizations, with respect to programs for which such organizations are eligible.

Timetable:

Action	Date	FR Cite
NPRM	09/30/03	68 FR 56418
NPRM Comment Period End	12/01/03	
Final Action	12/00/03	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

URL For Public Comments: www.regulations.gov

Agency Contact: John J. Porter, Director, Center for Faith-Based and Community Initiatives, Department of Education, Office of the Secretary, Suite 410, 555 New Jersey Avenue NW, Washington, DC 20208-8300
Phone: 202 219-1741

RIN: 1890-AA11

Department of Education (ED)

Long-Term Actions

Office of the Chief Financial Officer (OCFO)

885. 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

Government Levels Affected: None

Agency Contact: Helene Deramond
Phone: 202 260-5353

RIN: 1890-AA08

Department of Education (ED)

Completed Actions

Office of the Chief Financial Officer (OCFO)

886. GOVERNMENTWIDE REQUIREMENT FOR DRUG-FREE WORKPLACE (FINANCIAL ASSISTANCE) AND GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)

Priority: Other Significant

CFR Citation: 34 CFR 84; 34 CFR 85; 34 CFR 668; 34 CFR 682

Completed:

Reason	Date	FR Cite
Final Action	11/26/03	68 FR 66534

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Peter Wathen-Dunn

Phone: 202 401-6700

RIN: 1890-AA07

Department of Education (ED)

Proposed Rule Stage

Office for Civil Rights (OCR)

887. 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: The Department is considering changes to the regulations

implementing title IX of the Education Amendments of 1972. In the event changes are made, such changes would amend existing regulations 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. Amendments would be designed 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 title IX.

Timetable:

Action	Date	FR Cite
NPRM	11/00/03	

Regulatory Flexibility Analysis Required: No

ED—OCR

Proposed Rule Stage

Small Entities Affected: No
Government Levels Affected: None
URL For Public Comments:
www.regulations.gov

Agency Contact: Sandra G. Battle,
 Department of Education, Office for
 Civil Rights, Room 5036, Switzer
 Building, 400 Maryland Avenue SW,
 Washington, DC 20202-1100
 Phone: 202 205-5526

RIN: 1870-AA11

888. BOY SCOUTS OF AMERICA EQUAL ACCESS ACT

Priority: Substantive, Nonsignificant

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 amendments to the Elementary and Secondary Education Act of 1965 enacted as 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	11/15/02	67 FR 69456
ANPRM Comment Period End	12/16/02	
NPRM	12/00/03	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

URL For Public Comments:
www.regulations.gov

Agency Contact: Sandra G. Battle,
 Department of Education, Office for
 Civil Rights, Room 5036, Switzer
 Building, 400 Maryland Avenue SW,
 Washington, DC 20202-1100
 Phone: 202 205-5526

RIN: 1870-AA12

Department of Education (ED)

Office of Elementary and Secondary Education (OESE)

Proposed Rule Stage

889. • IMPACT AID PROGRAMS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 20 USC 7701 to 7714

CFR Citation: 34 CFR 222

Legal Deadline: None

Abstract: These regulations would implement the Impact Aid discretionary construction program, which is authorized under section 8007(b) of the Elementary and Secondary Education Act of 1965, as amended by the No Child Left Behind Act of 2001. The program would provide competitive grants for emergency repairs and modernization

of school facilities to certain eligible school districts that receive Impact Aid formula funds. These regulations would incorporate statutory requirements and provide guidance for applying and qualifying for, as well as spending, the Federal funds provided under this program. These regulations would apply to the grant competitions after fiscal year 2002.

Timetable:

Action	Date	FR Cite
NPRM	10/22/03	68 FR 60598
NPRM Comment Period End	11/21/03	
Final Action	12/00/03	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: NPRM published erroneously as RIN 1810-AA96.

URL For Public Comments:
www.regulations.gov

Agency Contact: Marilyn Hall, Impact
 Aid Program, Department of Education,
 Office of Elementary and Secondary
 Education, 400 Maryland Avenue SW,
 Washington, DC 20202-6244
 Phone: 202 205-8724

RIN: 1810-AA96

Department of Education (ED)

Office of Elementary and Secondary Education (OESE)

Final Rule Stage

890. TITLE I—IMPROVING THE ACADEMIC ACHIEVEMENT OF THE DISADVANTAGED

Priority: Other Significant

Legal Authority: PL 107-110

CFR Citation: 34 CFR 200

Legal Deadline: None

Abstract: These regulations would clarify statutory provisions regarding State, LEA, and school accountability

for the academic achievement of students with the most significant cognitive disabilities and are needed to implement changes to title I of the Elementary and Secondary Education Act of 1965, as amended, made by the No Child Left Behind Act of 2001.

Timetable:

Action	Date	FR Cite
NPRM	03/20/03	68 FR 13796

Action	Date	FR Cite
NPRM Comment Period End	05/19/03	
Final Action	11/00/03	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

URL For More Information:
www.regulations.gov

ED—OESE

Final Rule Stage

Agency Contact: Jacquelyn Jackson,
Acting Director, Student Achievement
and Student Accountability Programs,
Department of Education, Office of

Elementary and Secondary Education,
Room 3W230, 400 Maryland Avenue
SW, Washington, DC 20202-6132

Phone: 202 260-0826

RIN: 1810-AA95

Department of Education (ED)

Completed Actions

Office of Elementary and Secondary Education (OESE)

891. INDIAN EDUCATION
DISCRETIONARY GRANT PROGRAM**Completed:**

Government Levels Affected: None

Priority: Other Significant

Reason	Date	FR Cite
Final Action	07/24/03	68 FR 43639

Agency Contact: Cathie Martin

Phone: 202 260-1683

CFR Citation: 34 CFR 263

**Regulatory Flexibility Analysis
Required:** No

RIN: 1810-AA93

Department of Education (ED)

Prerule Stage

Office of Special Education and Rehabilitative Services (OSERS)

892. REAUTHORIZATION OF THE
INDIVIDUALS WITH DISABILITIES
EDUCATION ACT

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

RIN: 1820-AB54

Department of Education (ED)

Final Rule Stage

Office of Innovation and Improvement (OII)

893. FAMILY EDUCATIONAL RIGHTS
AND PRIVACY ACT

Priority: Substantive, Nonsignificant

Legal Authority: 20 USC 1232g

CFR Citation: 34 CFR 99

Legal Deadline: None

Abstract: These regulations are needed
to implement the Department's
interpretation of the Family
Educational Rights and Privacy Act
(FERPA) identified through
administrative experience as necessary
for proper program operation. These
regulations would provide general
guidelines for accepting "signed and
dated written consent" under FERPA in
electronic format.

Timetable:

Action	Date	FR Cite
NPRM	07/28/03	68 FR 44420
NPRM Comment Period Ends	09/26/03	
Final Action	11/00/03	

**Regulatory Flexibility Analysis
Required:** No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Transferred
from RIN 1880-AA80

URL For More Information:
www.regulations.gov

Agency Contact: Kathleen Wolan,
Family Policy Compliance Office,
Department of Education, Room
2W100, FB-6, 400 Maryland Avenue
SW, Washington, DC 20202-4605
Phone: 202 260-3887

RIN: 1855-AA00

894. • MAGNET SCHOOLS
ASSISTANCE PROGRAM

Priority: Substantive, Nonsignificant.
Major status under 5 USC 801 is
undetermined.

Legal Authority: 20 USC 7231 to 7231f

CFR Citation: 34 CFR 280

Legal Deadline: None

Abstract: These regulations amend the
Magnet Schools Assistance Program

regulations to reflect changes made to
the Elementary and Secondary
Education Act of 1965, as amended by
the No Child Left Behind Act of 2001.

Timetable:

Action	Date	FR Cite
Final Action	11/00/03	

**Regulatory Flexibility Analysis
Required:** No

Small Entities Affected: No

Government Levels Affected: None

URL For Public Comments:

www.regulations.gov

Agency Contact: Steven L. Brockhouse,
Department of Education, Office of
Innovation and Improvement, Room
3E122, FB-6, 400 Maryland Avenue
SW, Washington, DC 20202-6140
Phone: 202 260-2476

RIN: 1855-AA01

[FR Doc. 03-24020 Filed 12-19-03; 8:45 am]

BILLING CODE 4000-01-S