



Federal Register

**Tuesday,
May 27, 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 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 (67 FR 74095; published December 8, 2002), 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.

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

Dated: March 27, 2003.

Brian W. Jones,
General Counsel.

Office of Management—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
668	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
669	Direct Grant Programs—E-Application Regulations	1890-AA09

Office of the Chief Financial Officer—Long-Term Actions

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

Office for Civil Rights—Proposed Rule Stage

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

Institute of Education Sciences—Completed Actions

Sequence Number	Title	Regulation Identification Number
674	Reauthorization of the Educational, Research, Development, Dissemination, and Improvement Act of 1994 (Section 610 Review)	1850-AA57

Office of Elementary and Secondary Education—Proposed Rule Stage

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

Office of Elementary and Secondary Education—Final Rule Stage

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

Office of Elementary and Secondary Education—Completed Actions

Sequence Number	Title	Regulation Identification Number
677	Reauthorization of Title I of the Elementary and Secondary Education Act of 1965 (Completion of a Section 610 Review)	1810-AA91

ED

Federal Student Aid—Completed Actions

Sequence Number	Title	Regulation Identification Number
678	Federal Student Aid Programs	1845-AA23
679	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

Office of Special Education and Rehabilitative Services—Prerule Stage

Sequence Number	Title	Regulation Identification Number
680	Reauthorization of the Individuals With Disabilities Education Act (Section 610 Review)	1820-AB54

Office of Innovation and Improvement—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
681	Family Educational Rights and Privacy Act	1855-AA00

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

Proposed Rule Stage

668. 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
NPRM	08/28/95 60 FR 44696
NPRM Comment Period End	10/27/95
Second NPRM	05/00/03

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

URL For Public Comments:
<http://www.regulations.gov>

Agency Contact: Kathleen Wolan, Family Policy Compliance Office, Department of Education, Office of Innovation and Improvement, Room 2W100, 400 Maryland Avenue SW, FB-6, 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

669. • 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: The programs governed by this part are 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
NPRM	05/00/03

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

ED—OCFO

Proposed Rule Stage

URL For Public Comments:
http://www.regulations.gov

Agency Contact: Blanca Rodriguez,
Department of Education, Office of the
Chief Financial Officer, Room 3652,
ROB-3, Washington, DC 20202

Phone: 202 260-0172

RIN: 1890-AA09

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

Long-Term Actions

**670. 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
NPRM	01/23/02 67 FR 3326
NPRM Comment Period End	03/25/02
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 General
Counsel, Room 6E211, 400 Maryland
Avenue SW, FB-6, Washington, DC
20202-2243
Phone: 202 401-6700

RIN: 1890-AA07

**671. 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
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)
Office for Civil Rights (OCR)

Proposed Rule Stage

**672. 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 the title IX statute and the Constitution.

Timetable:

Action	Date
NPRM	11/00/03

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

URL For Public Comments:
http://www.regulations.gov

Agency Contact: Richard Foster,
Department of Education, Office for

ED—OCR

Proposed Rule Stage

Civil Rights, Room 5048, Switzer Building, 400 Maryland Avenue SW, Washington, DC 20202-1100
Phone: 202 205-8535

RIN: 1870-AA11

673. 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 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
ANPRM	11/15/02 67 FR 69456
ANPRM Comment Period End	12/16/02
NPRM	11/00/03

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: Undetermined

Federalism: Undetermined

URL For Public Comments: <http://www.regulations.gov>

Agency Contact: Richard Foster, Department of Education, Office for Civil Rights, Room 5048, Switzer Building, 400 Maryland Avenue SW, Washington, DC 20202-1100
Phone: 202 205-8535

RIN: 1870-AA12

Department of Education (ED)

Institute of Education Sciences (IES)

Completed Actions

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

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

CFR Citation: 34 CFR ch VII

Completed:

Reason	Date
Withdrawn	03/12/03

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Elizabeth Payer
Phone: 202 219-1385

RIN: 1850-AA57

Department of Education (ED)

Office of Elementary and Secondary Education (OESE)

Proposed Rule Stage

675. • 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
NPRM	03/20/03 68 FR 13796
NPRM Comment Period End	05/19/03

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

URL For Public Comments: <http://www.regulations.gov>

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)

Final Rule Stage

Office of Elementary and Secondary Education (OESE)

676. 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 would be 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 would 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 funding. These regulations also would provide the requirements for the payback provisions that apply to the Professional Development Program. These regulations would govern the grant application process under both programs, including the payback provisions for the Professional Development Program.

Timetable:

Action	Date
Final Rule With Request for Comments	07/22/02 67 FR 47695

Action	Date
Comment Period End	08/21/02
Final Action	05/00/03

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)

677. REAUTHORIZATION OF TITLE I OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965 (COMPLETION OF A SECTION 610 REVIEW)**Priority:** Other Significant**Legal Authority:** PL 107-110**CFR Citation:** 34 CFR 200**Legal Deadline:** Final, Statutory, July 8, 2002.

Abstract: These regulations implement changes made by the reauthorization of title I of the Elementary and Secondary Education Act of 1965, as amended by the No Child Left Behind Act of 2001. This action also results from a review

of the existing regulations for this program under section 610 of the Regulatory Flexibility Act (5 U.S.C. 610). The purpose of this review was to determine if these regulations should be continued without change, or should be amended or rescinded, to minimize any significant economic impact upon a substantial number of small entities.

Timetable:

Action	Date
NPRM	08/06/02 67 FR 50986
NPRM Comment Period End	09/05/02
Final Action	12/02/02 67 FR 71710

Regulatory Flexibility Analysis Required: Yes**Small Entities Affected:** Governmental Jurisdictions**Government Levels Affected:** Local, State

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-AA91

Department of Education (ED)

Completed Actions

Federal Student Aid (FSA)

678. FEDERAL STUDENT AID PROGRAMS**Priority:** Other Significant

CFR Citation: 34 CFR 600; 34 CFR 668; 34 CFR 673; 34 CFR 674; 34 CFR 675; 34 CFR 682; 34 CFR 685; 34 CFR 690; 34 CFR 694

Completed:

Reason	Date
Final Action	11/01/02 67 FR 67048

Regulatory Flexibility Analysis Required: No**Government Levels Affected:** None

Agency Contact: Gail McLarnon
Phone: 202 219-7048

Related RIN: Related To 1845-AA24**RIN:** 1845-AA23**679. 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

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;

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ED—FSA

Completed Actions

Completed:

Reason	Date
Merged With RIN 1845-AA23	11/01/02

**Regulatory Flexibility Analysis
Required:** No**Government Levels Affected:** None**Agency Contact:** Wendy Macias

Phone: 202 502-7526

Related RIN: Merged With 1845-AA23**RIN:** 1845-AA24**Department of Education (ED)****Prerule Stage****Office of Special Education and Rehabilitative Services (OSERS)****680. REAUTHORIZATION OF THE
INDIVIDUALS WITH DISABILITIES
EDUCATION ACT (SECTION 610
REVIEW)****Priority:** Other Significant. Major status under 5 USC 801 is undetermined.**Unfunded Mandates:** Undetermined**Legal Authority:** 20 USC 1400 to 1487**CFR Citation:** 34 CFR CH III**Legal Deadline:** None

Abstract: These regulations would implement changes made by the anticipated reauthorization of the Individuals with Disabilities Education Act. This action is a notice that if regulations are necessary, ED would review the regulations in 34 CFR chapter III under section 610 of the Regulatory Flexibility Act (5 U.S.C.

610). The purpose of this review would be to determine if these regulations should be continued without change, or should be amended or rescinded, to minimize any significant economic impact upon a substantial number of small entities. We would request comments on the continued need for the regulations; the complexity of the regulations; the extent to which they overlap, duplicate, or conflict with other Federal, State, or local government regulations; and the degree to which technology, economic conditions, or other relevant factors have changed since the regulations were promulgated.

Timetable:

Action	Date
ANPRM	12/00/03

**Regulatory Flexibility Analysis
Required:** Undetermined**Small Entities Affected:** No**Government Levels Affected:** Undetermined**Federalism:** Undetermined**URL For Public Comments:**
<http://www.regulations.gov>

Agency Contact: JoLeta Reynolds, Department of Education, Office of Special Education and Rehabilitative Services, Room 3082, Switzer Building, 400 Maryland Avenue SW, Washington, DC 20202-2570
Phone: 202 205-5507

RIN: 1820-AB54**Department of Education (ED)****Proposed Rule Stage****Office of Innovation and Improvement (OII)****681. • 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 that permit the acceptance of electronic format records and signatures as "signed and dated written consent" required in FERPA.

Timetable:

Action	Date
NPRM	05/00/03

**Regulatory Flexibility Analysis
Required:** No**Small Entities Affected:** No**Government Levels Affected:** None**Additional Information:** Transferred from RIN 1880-AA80

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

RIN: 1855-AA00

[FR Doc. 03-8008 Filed 5-23-03; 8:45 am]

BILLING CODE 4000-01-S