



Federal Register

**Monday,
April 24, 2006**

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.

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 (70 FR 64138, published October 31, 2005), 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 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: February 22, 2006.

Kent D. Talbert,
Acting General Counsel.

Office of the Chief Financial Officer—Long-Term Actions

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

ED

Office for Civil Rights—Final Rule Stage

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

Office for Civil Rights—Completed Actions

Sequence Number	Title	Regulation Identifier Number
764	Equal Access to Public School Facilities for the Boy Scouts of America and Other Designated Youth Groups	1870-AA12

Office of Elementary and Secondary Education—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
765	Title I, Improving the Academic Achievement of the Disadvantaged	1810-AA97
766	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 Special Education and Rehabilitative Services—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
767	National Instructional Materials Accessibility Standard	1820-AB56
768	Assistance to States for the Education of Children With Disabilities; Preschool Grants for Children With Disabilities; and Service Obligations Under Special Education—Personnel Development (Section 610 Review)	1820-AB57

Office of Innovation and Improvement—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
769	Student Rights in Research, Experimental Programs, and Testing	1855-AA03

Department of Education (ED)**Long-Term Actions****Office of the Chief Financial Officer (OCFO)****762. 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:** Helene Deramond
Phone: 202 245-6154**RIN:** 1890-AA08

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

Final Rule Stage

763. NONDISCRIMINATION ON THE BASIS OF SEX IN EDUCATION PROGRAMS OR ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE

Priority: Other Significant

Legal Authority: 20 USC 1681 to 1682

CFR Citation: 34 CFR 106

Legal Deadline: None

Abstract: The Department proposed changes to the regulations implementing title IX of the Education Amendments of 1972. These 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 amendments would support efforts of school districts to improve educational outcomes for children and to provide public school parents with a diverse array of educational opportunities 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	03/09/04	69 FR 11276

Action	Date	FR Cite
NPRM Comment	04/23/04	
Period End		
Final Action	06/00/06	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sandra G. Battle, Department of Education, Office for Civil Rights, Room 6126, PCP, 400 Maryland Avenue SW, Washington, DC 20202-1100
Phone: 202 245-6767

RIN: 1870-AA11

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

Completed Actions

764. EQUAL ACCESS TO PUBLIC SCHOOL FACILITIES FOR THE BOY SCOUTS OF AMERICA AND OTHER DESIGNATED YOUTH GROUPS

Priority: Other Significant

CFR Citation: 34 CFR 108

Completed:

Reason	Date	FR Cite
Final Action	03/24/06	71 FR 14994

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sandra G. Battle
Phone: 202 245-6767

RIN: 1870-AA12

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

Final Rule Stage

765. TITLE I, IMPROVING THE ACADEMIC ACHIEVEMENT OF THE DISADVANTAGED

Priority: Other Significant

Legal Authority: 20 USC 6301

CFR Citation: 34 CFR 200

Legal Deadline: None

Abstract: These regulations would amend the regulations governing programs administered under title I of the Elementary and Secondary Education Act of 1965, as amended by the No Child Left Behind Act of 2001. The regulations would provide States with additional flexibility regarding State, local educational agency, and school accountability for students with limited English proficiency (LEP) who have recently arrived in U.S. schools. The regulations would permit a State to exclude these LEP students from its reading/language arts assessment for a limited time. The regulations would also permit a State to count in the LEP

subgroup for 1 or 2 years students who were LEP but who are no longer LEP.

Timetable:

Action	Date	FR Cite
NPRM	06/24/04	69 FR 35462
NPRM Comment	08/09/04	
Period End		
Final Action	06/00/06	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Jacquelyn Jackson, Director, Student Achievement and School 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

Related RIN: Previously reported as 1820-AB55

RIN: 1810-AA97

766. • 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

Legal Authority: 20 USC 6301; 20 USC 1400 to 1482

CFR Citation: 34 CFR 200; 34 CFR 300

Legal Deadline: None

Abstract: These regulations would amend the regulations governing programs administered under title I of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the No Child Left Behind Act of 2001, and the regulations governing programs under part B of the Individuals with Disabilities Education Act. The regulations would provide States with additional flexibility regarding the State, local educational agency, and school accountability for

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Final Rule Stage

the achievement of a group of students with disabilities who can make significant progress but may not reach grade-level achievement standards within the same time frame as other students. The regulations would permit a State to measure the achievement of this group of students based on modified achievement standards.

Timetable:

Action	Date	FR Cite
NPRM	12/15/05	70 FR 74624

Action	Date	FR Cite
NPRM Comment	02/28/06	
Period End		
Final Action	06/00/06	

Regulatory Flexibility Analysis Required: No**Small Entities Affected:** No**Government Levels Affected:** None**Agency Contact:** Jacquelyn Jackson, Director, Student Achievement and School 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

Troy Justesen, Department of Education, Office of Special Education and Rehabilitative Services, Room 5138, PCP, 400 Maryland Ave SW, Washington, DC 20202-2570
Phone: 202 245-7468

RIN: 1810-AA98

Department of Education (ED)

Final Rule Stage

Office of Special Education and Rehabilitative Services (OSERS)

767. NATIONAL INSTRUCTIONAL MATERIALS ACCESSIBILITY STANDARD**Priority:** Other Significant**Legal Authority:** 20 USC 1411 to 1420**CFR Citation:** 34 CFR 300**Legal Deadline:** None

Abstract: These regulations would establish the National Instructional Materials Accessibility Standard (NIMAS or Standard) as required under sections 612(a)(23)(A) and 674(e)(4) of the Individuals With Disabilities Education Act, as amended by the Individuals With Disabilities Education Improvement Act of 2004. The purpose of the NIMAS is to help increase the availability and timely delivery of print instructional materials in accessible formats to blind or other persons with print disabilities in elementary schools and secondary schools. This action would add an appendix to 34 CFR part 300 that would set forth the technical elements and specifications for the Standard.

Timetable:

Action	Date	FR Cite
NPRM	06/29/05	70 FR 37302
NPRM Comment	09/12/05	
Period End		
Final Action	05/00/06	

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

Agency Contact: Troy Justesen, Department of Education, Office of Special Education and Rehabilitative Services, Room 5138, PCP, 400 Maryland Avenue SW, Washington, DC 20202-2570
Phone: 202 245-7468

RIN: 1820-AB56**768. ASSISTANCE TO STATES FOR THE EDUCATION OF CHILDREN WITH DISABILITIES; PRESCHOOL GRANTS FOR CHILDREN WITH DISABILITIES; AND SERVICE OBLIGATIONS UNDER SPECIAL EDUCATION—PERSONNEL DEVELOPMENT (SECTION 610 REVIEW)****Priority:** Other Significant**Legal Authority:** 20 USC 1221e-3, 1406, 1411 to 1419, 1462(h)**CFR Citation:** 34 CFR 300, 301 and 304**Legal Deadline:** None

Abstract: These regulations would amend the regulations governing the Assistance to States for Education of Children With Disabilities Program, the Preschool Grants for Children With

Disabilities Program, and Service Obligations Under the Special Education Personnel Development To Improve Services and Results for Children With Disabilities Program. These amendments are needed to implement changes to the Individuals With Disabilities Education Act made by the Individuals With Disabilities Education Improvement Act of 2004.

Timetable:

Action	Date	FR Cite
Notice	01/10/02	67 FR 1411
NPRM	06/21/05	70 FR 35781
NPRM Comment	09/06/05	
Period End		
Final Action	05/00/06	

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

Agency Contact: Troy Justesen, Department of Education, Office of Special Education and Rehabilitative Services, Room 5138, PCP, 400 Maryland Avenue SW, Washington, DC 20202-2570
Phone: 202 245-7468

RIN: 1820-AB57

Department of Education (ED)

Proposed Rule Stage

Office of Innovation and Improvement (OII)

769. 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 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 schools, in conjunction 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

Action	Date	FR Cite
NPRM Comment Period End	10/27/95	
Second NPRM	07/00/06	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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

Related RIN: Previously reported as 1880-AA66

RIN: 1855-AA03

[FR Doc. 06-2035 Filed 04-21-06; 8:45 am]

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