

**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, Department of Education.

**ACTION:** Semiannual regulatory agenda.

**SUMMARY:** This document is required pursuant to the Regulatory Flexibility Act. It provides information about the Unified Agenda published on December 9, 2020 at [www.reginfo.gov/public/do/eAgendaMain](http://www.reginfo.gov/public/do/eAgendaMain) under the previous administration. 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 the regulatory actions we plan to take.

**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. Other questions or comments on this agenda should be directed to LaTanya Cannady, Program Specialist, Jackie Collins, Program Specialist, Levon Schlichter, Attorney, or Hilary Malawer, Deputy General Counsel, Division of Regulatory Services, Department of Education, Room 6C128, 400 Maryland Avenue SW, Washington, DC 20202-2241; telephone: LaTanya Cannady (202) 401-9676, Jackie Collins (202) 401-6310,

Levon Schlichter (202) 453-6387, or Hilary Malawer (202) 401-6148. Individuals who use a telecommunications device for the deaf or a text telephone may call the Federal Relay Service 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 (78 FR 1361, published January 8, 2013), ED is committed to regulations that improve the quality and equality of services it provides to its customers. ED will regulate only if absolutely necessary and then in the most flexible, most equitable, and 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 any uncompleted actions in this agenda that ED plans to review under section 610 of the Regulatory Flexibility Act (5 U.S.C. 610) to determine their economic impact on small entities.

This publication 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. Dates of future regulatory actions are subject to revision in subsequent agendas.

*Electronic Access to This Document:* The entire Unified Agenda is published electronically and is available online at [www.reginfo.gov](http://www.reginfo.gov).

**Lynn Mahaffie,**  
Assistant General Counsel, Division of Regulatory Services.

**OFFICE OF POSTSECONDARY EDUCATION—COMPLETED ACTIONS**

Sequence No.	Title	Regulation Identifier No.
200 .....	Ensuring Student Access to High Quality and Innovative Postsecondary Educational Programs .....	1840-AD38

**DEPARTMENT OF EDUCATION (ED)**

*Office of Postsecondary Education (OPE)*

Completed Actions

**200. Ensuring Student Access to High Quality and Innovative Postsecondary Educational Programs**

*E.O. 13771 Designation:* Deregulatory.  
*Legal Authority:* 20 U.S.C. 3474; 20 U.S.C. 1221e-3; 20 U.S.C. 1011 *et seq.*

*Abstract:* The Department created and amended, through negotiated rulemaking, regulations relating to institutional eligibility and operations for participation in Federal student financial aid under title IV of the Higher Education Act of 1965, as amended HEA, including those relating to credit hour, competency-based education, direct assessment programs, and regular and substantive interaction between faculty and students in the delivery of distance education programs, in order to

promote greater access for students to high-quality, innovative programs of postsecondary education.

*Timetable:*

Action	Date	FR Cite
Notice of Intention to Commence Negotiated Rulemaking.	07/31/18	83 FR 36814
NPRM .....	04/02/20	85 FR 18638
NPRM Comment Period End.	05/04/20	

Action	Date	FR Cite
Final Rule .....	09/02/20	85 FR 54742
Final Rule Effective.	07/01/21	

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RIN: 1840-AD38

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*Regulatory Flexibility Analysis*

*Required:* Yes.

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