

August 23, 2017

Hilary Malawer
Assistant General Counsel
Office of the General Counsel
U.S. Department of Education
400 Maryland Avenue SW
Room 6E231
Washington, DC 20202

Re: Docket ID: ED-2017-OS-0074, Evaluation of Existing Regulations

Dear Ms. Malawer:

The National Disability Rights Network (NDRN) writes in response to the above referenced docket number.

NDRN is the non-profit membership organization for the federally mandated Protection and Advocacy (P&A) and Client Assistance Program (CAP) agencies for individuals with disabilities. The P&A and CAP agencies were established by the United States Congress to protect the rights of people with disabilities and their families through legal support, advocacy, referral, and education. P&As and CAPs are in all 50 states, the District of Columbia, Puerto Rico, and the U.S. Territories (American Samoa, Guam, Northern Mariana Islands, and the US Virgin Islands), and there is a P&A and CAP affiliated with the Native American Consortium which includes the Hopi, Navajo and San Juan Southern Piute Nations in the Four Corners region of the Southwest. Collectively, the 57 P&A and CAP agencies are the largest provider of legally based advocacy services to people with disabilities in the United States.

Two critical areas of focus for the P&A/CAP agencies are education and vocational rehabilitation. In 2016 the P&As worked on nearly 14,000 individual cases related to enforcing the civil rights of students with disabilities and the CAP agencies worked on nearly 18,000 cases, including information and referral, related to vocational rehabilitation. Both of these are under the jurisdiction of the U.S Department of

Education. As such, the P&As' enforcement work is inextricably linked to U.S. Department of Education. NDRN views the work of the U.S. Department of Education as critical and the effort to repeal, replace or modify existing regulations and guidance as irresponsible. Our concerns are detailed below.

For nearly 50 years, the civil rights of students, including those with disabilities – from infancy into adulthood – have been the focus of key federal laws passed by the U.S. Congress. These laws, upheld by the courts, regularly reauthorized, and consistently aligned to create unified federal policy, provide the strong basis to promote and uphold equity and access to a public education for America's children, including students with disabilities. Some of these laws were enacted in response to widespread discrimination, which was confronted by strong citizen activism and litigation brought by individuals facing discrimination.

The following laws we believe are the most significant to correcting discrimination and sustaining equity in our education system. NDRN firmly stands behind these laws, their federal implementing regulations and non-regulatory guidance, which are essential to assuring states and school districts fulfill their obligations to students with disabilities and their families including:

- Civil Rights Act of 1964
- Elementary and Secondary Education Act (ESEA), currently known as the Every Student Succeeds Act (ESSA)
- Section 504 of the Rehabilitation Act of 1973
- Individuals with Disabilities Education Act (IDEA)
- Higher Education Act;
- Americans with Disabilities Act (ADA); and
- Workforce Innovation and Opportunity Act (WIOA) amending Title I of the Rehabilitation Act of 1973.

NDRN rejects the notion that the process the Department is engaging in, in response to Executive Order 13777 "Enforcing the Regulatory Reform Agenda," will benefit the 50.4 million K-12 students and will aid the Department in fulfilling its stated mission to "promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access."

The process of promulgating regulations is codified in the Public Law (P.L.) 404-49, the Administrative Procedures Act (APA) and is a bedrock of administrative law. The stated purpose of P.L. 404-70 is to, "improve the administration of justice by prescribing fair administrative procedure." In describing the APA more than forty years ago, Senator McCarran noted that the APA was, "a bill of rights for the hundreds of thousands of Americans whose affairs are controlled or regulated by federal government agencies."

The regulations listed for possible “repeal, replace or modify” by the U.S. Department of Education have already gone through the open, transparent, and prescribed procedure as mandated by the APA. For all regulations, the rulemaking process begins after Congress passes a bill and the President signs it into law. Before the draft rule is published by the federal agency, it is reviewed by the Office of Management and Budget (OMB). It is important to note that draft regulations are written by dedicated career staff who are independent of political affiliation. The public then has 30 to 90 days to provide feedback. Agencies must consider all comments, document responses to them, and develop a revised regulation that is then sent to OMB for final review. In some cases, these regulations undergo a second comment period before final regulations are published.

Further, in promulgating regulations agencies must assess costs and benefits of regulatory action (Executive Order 12866), provide estimates of time necessary for reporting of information required by the regulations (Paperwork Reduction Act of 1995), provide opportunities for consultation by elected officials of those state and local governments affected by the regulations (Executive Order 12372) and determine whether the regulations require transmission of information that another agency gathers or makes available (20 U.S. Code § 1221e–4, Educational impact statement). This process ensures that development of regulations is based on a wide range of input and sound information and that the statute in question will be implemented as intended.

Executive Order 13777 requires each Regulatory Reform Task Force to attempt to identify regulations that:

- (i) eliminate jobs, or inhibit job creation;
- (ii) are outdated, unnecessary, or ineffective;
- (iii) impose costs that exceed benefits;
- (iv) create a serious inconsistency or otherwise interfere with regulatory reform initiatives and policies;
- (v) are inconsistent with the requirements of section 515 of the Treasury and General Government Appropriations Act, 2001 ([44 U.S.C. 3516](#) note), or the guidance issued pursuant to that provision, in particular those regulations that rely in whole or in part on data, information, or methods that are not publicly available or that are insufficiently transparent to meet the standard for reproducibility; or
- (vi) derive from or implement Executive Orders or other Presidential directives that have been subsequently rescinded or substantially modified (Executive Order 13777 Sec. 3(d)).

It is important to note that the normal process of promulgating regulations already takes these factors into account.

Agencies should review their regulations from time to time to ensure that they remain relevant and effective. However, we believe that eliminating regulations for the sake of elimination is misguided and will more be more harmful than some purely speculative benefit that may arise.

All agencies should conduct their activities in a way that furthers their mission. The U.S. Department of Education should work to ensure that its regulations “promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access” (U.S. Department of Education Mission Statement, <https://www2.ed.gov/about/landing.jhtml>). Any efforts of the Department to repeal, replace, or modify regulations without regard to the impact on the students and families served by this Department carries the risk of doing harm to the very students and families it serves.

As Education Secretary DeVos recently commented to a gathering of the nation’s special education leaders, “We should celebrate the fact that unlike some countries in the world, the United States makes promises that we will never send any student away from our schools. Our commitment is to educate every student. Period. It’s but one of America’s many compelling attributes.”

Federal regulations and non-regulatory guidance help states and school districts fully implement each of the above-mentioned laws, which are critical to Secretary DeVos’ promise stated above. Stakeholders rely on these authorities to assist them in understanding and complying with the statutes. As such, none should be modified or rescinded by the Administration.

NDRN opposes any effort by this administration to repeal, replace, or modify any of the regulations or significant guidance documents listed in Appendices A and B of this letter.

Should you have any questions, please do not hesitate to contact Amanda Lowe, Senior Public Policy Analyst at Amanda.lowe@ndrn.org or at 202-408-9514, ext. 101.

Sincerely,



Curt Decker
Executive Director

Appendix A

NDRN opposes the repeal, replacement or modification of the below regulations as they directly affect the work of the P&A/CAP agencies.

Workforce Innovation Opportunity Act (WIOA)

Definition of a “Competitive, Integrated Employment (CIE) Outcome [34 CFR § 361.5(c)(9)]

Although this term was embedded within the statutory language of the 1998 reauthorization of the Rehab Act, it had not been defined until the enactment of the Workforce Innovation and Opportunity Act (WIOA). Under 29 U.S.C. § 705(5), the term “competitive, integrated employment” is clearly defined.

The term “competitive integrated employment” means work that is performed on a full-time or part-time basis (including self-employment)--

(A) for which an individual--

(i) is compensated at a rate that--

(I)(aa) shall be not less than the higher of the rate specified in [section 206\(a\)\(1\)](#) of this title or the rate specified in the applicable State or local minimum wage law; and

(bb) *is not less than the customary rate paid by the employer for the same or similar work performed by other employees who are not individuals with disabilities, and who are similarly situated in similar occupations by the same employer and who have similar training, experience, and skills; or*

(II) in the case of an individual who is self-employed, yields an income that is comparable to the income received by other individuals who are not individuals with disabilities, and who are self-employed in similar occupations or on similar tasks and who have similar training, experience, and skills; and

(ii) is eligible for the level of benefits provided to other employees;

(B) *that is at a location where the employee interacts with other persons who are not individuals with disabilities (not including supervisory personnel or individuals who are providing services to such employee) to the same extent that individuals who are not individuals with disabilities and who are in comparable positions interact with other persons and*

(C) that, as appropriate, presents opportunities for advancement that are similar to those for other employees who are not individuals with disabilities and who have similar positions.

The existing comments to this regulation clarify the intended nature of these interactions. Such interactions must take place during the *performance of the individual’s job duties* (emphasis added), not during mere casual or social contact. (*Federal Register, August 18, 2016, page 55645*)

NDRN previously commented in support of the definition of competitive, integrated employment and vehemently opposes any alteration. This definition is one of the most significant changes to the Rehab Act under WIOA. The significance lies in the message underlying the chosen terminology. By consistently emphasizing the importance of this

definition, the Vocational Rehabilitation (VR) program is affirming the principle that all individuals with disabilities, even those with the most significant disabilities, are capable of achieving high quality jobs in the community.

Furthermore, the current definition for competitive, integrated employment is *completely consistent with the statutory language* and does not contradict such language in any way. Therefore, it would be incorrect to alter the regulatory definition.

NDRN realizes that there has been some pushback about this definition from individuals who support the segregated, “enclave” employment model. The enclave model is absolutely inappropriate in 2017. Integration should be evident in all aspects of the work place. Altering this definition so that it would correspond with the characteristics of an enclave would change its power, meaning, and the underlying purpose of the statutory provision.

Most importantly, changing the definition would contradict the statute. *Based upon the statutory language, it would be impossible to simultaneously meet the criteria for an enclave and the criteria for competitive, integrated employment.*

The current definition of “integrated setting” is entirely consistent with the definition of “integrated setting” in prior § 361.5(b)(33)(ii). Additionally, the long-standing interpretation of that definition reflects that the criteria in the statutory definition of “competitive integrated employment” would have satisfied the definition of “integrated settings” in prior regulations and current RSA guidance strongly supports the definition of “competitive integrated employment” as written in the existing regulations.

Embracing an enclave (a group of individuals with disabilities assigned to a job task - though the task itself may take place in the community, the enclave consists solely of people with disabilities and they have little or no interaction with their non-disabled peers) as a legitimate CIE outcome would create a slippery slope. For example, if only 2-3 people with disabilities comprise a particular enclave, that circumstance might be considered an integrated setting. But, if you apply such a theory to a small group like that, what will prevent the same rationale from being applied to a segregated work unit of 10-15 people with disabilities?

The goal of the VR program, and of the amendments to the Rehab Act under WIOA, is to eliminate segregated employment options for people with disabilities so that they can more fully participate in community employment opportunities. AbilityOne, which employs people with disabilities in segregated environments, has complained that the CIE definition has prevented them from finding employees to fulfill their contracts.

NDRN opposes any changes to this regulation.

Pre-Employment Transition Services (361.48(a))

The statutory language under 29 U.S.C. § 733(d) requires that VR must reserve not less than 15 percent of its allotment for the provision of pre-employment transition services. Some have suggested opening this allotment up to other uses.

NDRN opposes changes to the regulations which place heightened emphasis on the provision of services to students and youth with disabilities to ensure that they have meaningful opportunities to receive the training and other services to achieve competitive integrated employment outcomes. Most importantly, *in order to maintain consistency with the statutory language, the 15% allotment cannot – and should not – be changed.* This set aside is necessary in order to shine a spotlight on the transition-aged population and is explicitly required by the statute.

Required pre-employment transition services are listed under 361.48(a)(2) and in the statute under 29 U.S.C. § 733(b). These services, paid for with a percentage of funds reserved from the State's VR allotment, are available only to those individuals who meet the definition of a student with a disability:

- Job exploration counseling
- Work-based learning experiences – internships; in-school/out-of-school experiences
- Counseling on opportunities for enrollment in comprehensive transition programs or post-secondary ed programs at institutions of higher education
- Workplace readiness training to develop social and independent living skills; and
- Instruction in self-advocacy which may include peer mentoring.

NDRN fully supports the implementation of these required services. *Again, these services must remain in the regulations in order to maintain consistency with the statutory language.*

We realize that some people wish that the list included a broader range of services so they could more easily allocate and spend the pre-employment transition portion of the budget. However, given the number of transition-aged students in each state and the fact that these individuals do not even have to be VR clients, it makes sense to limit the list, at least for now. VR agencies can and should be able to spend 15% of their overall budget solely on the required services. The goal should be to provide all of the above services to every eligible student in each state.

If a VR agency accomplishes that goal and still has money remaining, they should dedicate the funds to the authorized activities listed under CFR 361.48(a)(3) *which is entirely consistent with the statutory language under 29 U.S.C. § 733(c).*

NDRN opposes any changes to this regulation.

Individuals with Disabilities Education Act (IDEA)

Disproportionality 34 CFR 300.646- 300.647

The “disproportionality” regulations, 34 CFR 300.646- 300.647, implement a key provision of the IDEA ([20 U.S.C. 1418\(d\)](#)). In the spring of 2016, the Department requested comment on a proposed formula to calculate disproportionality in the provision of services within the special education program. That formula was intended to supplement the current regulations with additional information for stakeholders. NDRN and many others commented in support of the formula. The formula that was added as a result of the 2016 NPRM is necessary for effective and consistent compliance with the statutory requirement.

When NDRN submitted its comments, we noted our appreciation of the Department’s support of those provisions of the IDEA, which address the misidentification and disproportionate over-representation and under-representation of students in special education on the basis of race, ethnicity, and gender. These provisions help to ensure the implementation of the IDEA as well as reinforce existing legal protections under the Civil Rights Act of 1964, the Americans with Disabilities Act, Title IX of the Education Amendments Act of 1972, and Section 504 of the Rehabilitation Act. The U.S. Department of Education’s actions advance civil rights and educational opportunity for all students.

The disproportionality provisions were added to the IDEA because data showed that some specific groups of students with disabilities were prevented from obtaining the benefit of special education and in effect the system only existed in full for certain students. Each individual child who is deprived of a Free Appropriate Public Education (FAPE) is severely impacted by this inequity, and the integrity of the special education system as a whole is compromised by it.

NDRN strongly supports state and local efforts to mitigate problematic racial disproportionality in special education in the three distinct areas of identification, placement in restrictive settings, and discipline. The regulations are needed to accomplish that goal.

NDRN opposes any changes to this regulation.

Every Student Succeeds Act (ESSA)

Title I Improving the Academic Achievement of the Disadvantaged Part 200, 34 C.F.R. Part 200

Proposed regulations implementing Section 1111(b) of the Every Student Succeeds Act (ESSA) were developed through negotiated rulemaking pursuant to Section 1601(b). Members of the negotiated rulemaking committee included representatives from every stakeholder group listed in the Department’s REGULATORY REFORM TASK FORCE PROGRESS REPORT, May 2017, Appendix 3, page 10. See, 81 Fed. Reg. 49929-30 for the members of the negotiating team. Ron Hager, Senior Staff Attorney of NDRN, was a member of the team, representing the disability community. Negotiations were held over a total of 8 days and there was vigorous debate on all of the issues. Pursuant to the protocol

adopted by the committee, the committee operated on consensus, meaning that unanimous agreement was required. “The negotiating committee reached consensus on all of the proposed regulations related to assessments under section 1111(b)(2) of the” ESSA. 81 Fed. Reg. 49930. The proposed regulations were subject to notice and comment and final regulations were promulgated after considering all of the comments received. 81 Fed. Reg. 88886.

Given the amount of government time and resources recently expended to develop these regulations, including the active participation and consent of all of the stakeholder groups, it would make no sense to re-visit these regulations at this time.

NDRN opposes any changes to this regulation.

Appendix B

NDRN opposes any effort to repeal, replace or modify any of the below regulations or significant guidance documents listed below:

REGULATIONS:

Title of ED Regulation (CFR part)	Most Recent Amendments
Official Seal (Part 3)	2000
Service of Process (Part 4)	1982
Availability of Information to the Public (FOIA) (Part 5)	2010
Privacy Act Regulations (Part 5b)	1980
Inventions and Patents (Part 6)	1980
Employee Inventions (Part 7)	1980
Demands for Testimony or Records in Legal Proceedings (Part 8)	2008
Disposal and Utilization of Surplus Federal Real Property for Educational Purposes (Part 12)	1992
Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs (Part 15)	1987 cross reference to 49 CFR Part 24
Equal Access to Justice (Part 21)	1993
Debt Collection (Part 30)	1989
Salary Offset for Federal Employees Who are Indebted to the United States under Programs Administered by the Secretary of Education (Part 31)	1989
Salary Offset for Recover Overpayments of Pay or Allowances from Department of Education Employees (Part 32)	1987
Program Fraud Civil Remedies Act (Part 33)	1988
Administrative Wage Garnishment (Part 34)	2003
Tort Claims Against the Government (Part 35)	1980
Adjustment of Civil Monetary Penalties for Inflation (Part 36)	2017
Indemnification of Department of Education Employees (Part 60)	1989
Standards of Conduct (Part 73)	1995 – cross reference to standards of conduct
Direct Grant Programs (Part 75)	2016
State- Administered Programs (Part 76)	2016
Definitions that Apply to Department Regulations (Part 77)	2015
Intergovernmental Review of Department of Education Programs and Activities (Part 79)	1986
General Education Provisions Act Enforcement (Part 81)	1996
New Restrictions on Lobbying (Part 82)	1990 government wide

Governmentwide Requirements for Drug-Free Workplace (Financial Assistance) (Part 84)	2003 government wide
Drug and Alcohol Abuse Prevention (Part 86)	1996
Protection of Human Subjects (Part 97)	2017 (final rules published 11/29/2016 delayed until 3/21/2017.
Student Rights in Research, Experimental Programs, and Testing (Part 98)	1984
Family Educational Rights and Privacy (FERPA) (Part 99)	2017
Nondiscrimination Under Programs Receiving Federal Assistance Through The Department Of Education Effectuation Of Title VI Of The Civil Rights Act Of 1964 (Part 100)	2000
Practice And Procedure For Hearings Under Part 100 Of This Title (Part 101)	2014
Nondiscrimination on the Basis of Handicap in Programs or Activities Receiving Federal Financial Assistance (Part 104)	2000
Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities Conducted by the Department of Education (Part 105)	1990
Nondiscrimination on the Basis of Sex In Education Programs Or Activities Receiving Federal Financial Assistance (Part 106)	2006
Equal Access To Public School Facilities For The Boy Scouts Of America And Other Designated Youth Groups (Part 108)	2006
Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance (Part 110)	2000
Title I Improving The Academic Achievement Of The Disadvantaged (Part 200)	2016; 2017 (on 1/30/17, effective date of final rules amending 200.73 was delayed until 3/21/17).
Special Educational Programs For Students Whose Families Are Engaged In Migrant And Other Seasonal Farmwork-- High School Equivalency Program And College Assistance Migrant Program (Part 206)	2014
Impact Aid Programs (Part 222)	2016
Credit Enhancement For Charter School Facilities Program (Part 225)	2014
State Charter School Facilities Incentive Program (Part 226)	2014
Innovation for Teacher Quality (Troops to Teachers) (Part 230)	2005
Christa McAuliffe Fellowship Program (Part 237)	1992
Indian Education Discretionary Grant Programs (Part 263)	2015
Equity Assistance Center Program (Part 270)	2016
Magnet Schools Assistance Program (Part 280)	2014
General Provisions (Part 299)	2016
Assistance to States for the Education of Children with Disabilities (Part 300)	2015
Early Intervention Program for Infants and Toddlers with Disabilities	2014

(Part 303)	
Service Obligations under Special Education Personnel Development to Improve Services and Results for Children with Disabilities (Part 304)	2006
Disability and Rehabilitation Research Projects and Centers Program (Part 350)	2014
Disability and Rehabilitation Research: Research Fellowships (Part 356)	1995
Disability and Rehabilitation Research: Special Projects and Demonstrations for Spinal Cord Injuries (Part 359)	1985, 1993
State Vocational Rehabilitation Services Program (Part 361)	2016
The State Supported Employment Services Program (Part 363)	2016
State Independent Living Services Program and Centers for Independent Living Program: General Provisions (Part 364)	2014
State Independent Living Services (Part 365)	2014
Centers For Independent Living (Part 366)	1995
Independent Living Services for Older Individuals Who Are Blind (Part 367)	2016
Client Assistance Program (Part 370)	2016
Vocational Rehabilitation Service Projects for American Indians with Disabilities (Part 371)	2016
Special Demonstration Projects (Part 373)	2016
Protection and Advocacy of Individual Rights (Part 381)	2016
Rehabilitation Training (Part 385)	2016
Rehabilitation Training: Rehabilitation Long-Term Training (Part 386)	2016
Experimental and Innovative Training (Part 387)	2016
Rehabilitation Short-Term Training (Part 390)	2016
Vending Facility Program for the Blind on Federal and Other Property (Part 395)	1981
Training of Interpreters for Individuals who are Deaf and Individuals who are Deaf-Blind (Part 396)	2016
Limitations on Use of Subminimum Wage (Part 397)	2016
Vocational and Applied Technology Education Programs; General Provisions (Part 400)	1992
Indian Vocational Education Program (Part 401)	1992
Native Hawaiian Vocational Education Program (Part 402)	1992
State Vocational and Applied Technology Education Program (Part 403)	1992
State- Administered Tech-Prep Education Program (Part 406)	1992
Tribally- Controlled Postsecondary Vocational Institutions Program (Part 410)	1992
Vocational Education Research Program (Part 411)	1992
National Network for Curriculum Coordination in Vocational and Technical Education (Part 412)	1992

National Center or Centers for Research in Vocational Education (Part 413)	1992
Demonstration Centers for the Training for Dislocated Workers Program (Part 415)	1992
Business and Education Standards Program (Part 421)	1992
Demonstration Projects for the Integration of Vocational and Academic Learning Program (Part 425)	1992
Bilingual Vocational Training Program (Part 427)	1992
Bilingual Vocational Instructor Training Program (Part 428)	1992
Bilingual Vocational Materials, Methods, and Techniques Program (Part 429)	1992
Adult Education State- Administered Basic Grant Program (Part 461)	1992
Measuring Educational Gain in the National Reporting System for Adult Education (Part 462)	2016
Adult Education and Family Literacy Act (Part 463)	2016
Institutional Eligibility under the Higher Education Act of 1965, as amended (Part 600)	2014; Some updates to take effect 2018.
Institution and Lender Requirements Relating to Education Loans (Part 601)	2009
The Secretary's Recognition of Accrediting Agencies (Part 602)	2010
Secretary's Recognition Procedures for State Agencies (Part 603)	2010
Federal-State Relationship Agreements (Part 604)	1980
Developing Hispanic- Serving Institutions Program (Part 606)	2014
Strengthening Institutions Program (Part 607)	2014
Strengthening Historically Black Colleges and Universities Program (Part 608)	2014
Strengthening Historically Black Graduate Institutions Program (Part 609)	2014
Teacher Quality Enhancement Grants Program (Part 611)	2014
TITLE II REPORTING SYSTEM (Part 612)	2016
Preparing Tomorrow's Teachers to Use Technology (Part 614)	2014
Endowment Challenge Grant Program (Part 628)	2014
Minority Science and Engineering Improvement Program (Part 637)	2014
Training Programs for Federal TRIO Programs (Part 642)	2014
Talent Search (Part 643)	2014
Educational Opportunity Centers (Part 644)	2014
Upward Bound Program (Part 645)	2014
Student Support Services Program (Part 646)	2014
Ronald E. McNair Postbaccalaureate Achievement Program (Part 647)	2014
Graduate Assistance in Areas of National Need (Part 648)	2014
Jacob K. Javits Fellowship Program (Part 650)	2014
Robert C. Byrd Honors Scholarship Program (Part 654)	2014
International Education Programs; General Provisions (Part 655)	2014
National Resource Centers Program for Foreign Language and Area Studies or Foreign Language and International Studies (Part 656)	2009 (technical edits only)
Foreign Language and Area Studies Fellowship Program (Part 657)	2009 (technical edits only)
Undergraduate International Studies and Foreign Language Program	2009

(Part 658)	(technical edits only)
The International Research and Studies Program (Part 660)	2009 (technical edits only)
Business and International Education Program (Part 661)	2014
Fulbright- Hays Doctoral Dissertation Research Abroad Fellowship Program (Part 662)	2014
Fulbright- Hays Faculty Research Abroad Fellowship Program (Part 663)	2014
Fulbright- Hays Group Projects Abroad Program (Part 664)	2014
Student Assistance General Provisions (Part 668)	As needed (GE 2017 Delayed)
Language Resource Centers Program (Part 669)	2005
General Provisions for the Federal Perkins Loan Program, Federal Work- Study Program, And Federal Supplemental Educational Opportunity Grant Program (Part 673)	2009
Federal Perkins Loan Program (Part 674)	– 2013; (scheduled amendments to take effect 7/1/2017)
Federal Work- Study Programs (Part 675)	– 2009
Federal Supplemental Educational Opportunity Grant Program (Part 676)	– 2008
Federal Family Education Loan (FFEL) Program (Part 682)	2015; (scheduled amendments to take effect 7/1/2017)
William D. Ford Federal Direct Loan Program (Part 685)	2015; (scheduled amendments to take effect 7/1/2017)
Teacher Education Assistance for College and Higher Education (TEACH) Grant Program (Part 686)	2010
Federal Pell Grant Program (Part 690)	2009, 2012
Academic Competitiveness Grant (ACG) and National Science and Mathematics Access to Retain Talent Grant (National Smart Grant) Programs (Part 691)	2010
Leveraging Educational Assistance Partnership Program (Part 692)	2014
Gaining Early Awareness and Readiness for Undergraduate Programs (GEAR UP) (Part 694)	2014
Enforcement of Nondiscrimination on the Basis of Handicap Programs or Activities Conducted by the National Council on Disability (Part 1200)	1993
Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (current version) (Part 3474)	2017
Nonprocurement Debarment and Suspension (Part 3485)	2012

SIGNIFICANT GUIDANCE DOCUMENTS:

- 2016-04-06 Establishing Expected Levels of Performance and Negotiating Adjusted Levels of Performance for Program Years (PY) 2016-17 and 2017-18
- 2016-01-11 Integrated English Literacy and Civics Education under the Workforce Innovation and Opportunity Act – Frequently Asked Questions
- 2015-12-08 Competition and Award of Adult Education and Family Literacy Act Funds under the Workforce Innovation and Opportunity Act – Frequently Asked Questions
- 2015-08-18 Vision for the Adult Education and Family Literacy Act in the Workforce System and Initial Implementation of the Workforce Innovation and Opportunity Act
- 2014-10-24 Use of Carryover Funds Awarded Under the Adult Education and Family Literacy Act, Title II of the Workforce Investment Act
- 2015-03 Guidance on School Improvement Grants Under Section 1003(g) of the Elementary and Secondary Education Act of 1965
- 2012-03-01 Updated Guidance on School Improvement Grants under Section 1003(g) of the Elementary and Secondary Education Act of 1965
- 2012-06-08 Teacher Incentive Fund -- Frequently Asked Questions for the FY 2012 Competition (Cohort 4)
 - Teacher Incentive Fund -- Frequently Asked Questions For the 2010 Competition and Grant Award
 - Teacher Incentive Fund – Frequently Asked Questions – Addendum 1 (07/01/2010)
- 2010-05-27 Race to the Top Program - Guidance and Frequently Asked Questions (including subsequent updates)
- 2010-05-21 Race to the Top Assessment Program Guidance and Frequently Asked Questions Investing in Innovation Fund (i3) Guidance and Frequently Asked Questions
 - Investing in Innovation Fund (i3) FAQs Addendum (March 30, 2010)
 - Investing in Innovation Fund (i3) FAQs Addendum 2 (April 8, 2010)
 - Investing in Innovation Fund (i3) FAQs Addendum 3 (April 21, 2010)
 - Investing in Innovation Fund (i3) FAQs Addendum 4 (April 30, 2010)
 - Investing in Innovation Fund (i3) FAQs Scale-up and Validation Competitions (June 3, 2013)
 - Investing in Innovation Fund (i3) FAQs Development Competition (July 18, 2013)
- 2010-03 Guidance – Funds Under Title I, Part A of the Elementary and Secondary Education Act of 1965 Made Available Under the American Recovery and Reinvestment Act of 2009
- 2009-09-02 Using Title I, Part A ARRA Funds for Grants to Local Educational Agencies to Strengthen Education, Drive Reform, and Improve Results for Students
- 2009-07 Guidance on Enhancing Education through Technology (Ed Tech) Program Funds Made Available under the American Recovery and Reinvestment Act of 2009
- 2009-04-10 Guidance on McKinney-Vento Homeless Children and Youth Program Funds Made Available Under the American Recovery and Reinvestment Act of 2009
- 2016-06-15 Dear Colleague Letter on Gender Equity in Career and Technical Education
- 2015-04-24 Questions and Answers Regarding the Implementation of the Carl D. Perkins Career and Technical Education Act of 2006 – Version 4.0

Questions and Answers Regarding the Implementation of the Carl D. Perkins Career and Technical Education Act of 2006 – Version 3.0

- Update to Questions and Answers Regarding the Implementation of the Carl D. Perkins Career and Technical Education Act of 2006 – Version 2.0 (Issued on June 6, 2007)
 - Update to Questions and Answers Regarding the Implementation of the Carl D. Perkins Career and Technical Education Act of 2006 – Version 1.0 (Issued on January 9, 2007)
- 2007-03-13 Student Definitions and Measurement Approaches for the Core Indicators of Performance under the Carl D. Perkins Career and Technical Education Act of 2006
- 2007-03-12 Transmittal of the Carl D. Perkins Career and Technical Education Act of 2006 State Plan Guide (Program Memo and Guide for Submission of State Plans)
- 2002-06-18 The Role of Tech-Prep Education in Preparing America's Future Comment on this guidance document
- 2000-05-19 Permissible State Uses of Tech-Prep Funds
- 1999-10-15 Accountability Systems Development for the Carl D. Perkins Vocational and Technical Education Act of 1998
- 1999-06-30 Second Jointly Issued Guidance Regarding the Non-Duplication Provision in the Workforce Investment Act
- 1999-05-27 Services That Prepare Individuals for Nontraditional Training and Employment and Related Issues
- 1999-05-24 Responsibilities and Opportunities Created by Title I of the Workforce Investment Act of 1998
- 2016-12-28 Frequently Asked Questions About the Rights of Students with Disabilities in Public Charter Schools under the Individuals with Disabilities Education Act
- 2016-12-28 Dear Colleague Letter on Restraint and Seclusion of Students with Disabilities
- 2016-07-26 Dear Colleague Letter and Resource Guide on Students with Attention-Deficit/Hyperactivity Disorder (ADHD)
- 2016-06-15 Dear Colleague Letter on Gender Equity in Career and Technical Education
- 2015-12-15 Dear Colleague Letter on Voluntary Youth Service Organizations
- 2015-01-07 English Learner Students and Limited English Proficient Parents
- 2014-12-01 Questions and Answers on Title IX and Single-Sex Elementary and Secondary Classes and Extracurricular Activities
- 2014-10-01 Dear Colleague Letter: Guidance to Ensure All Students Have Equal Access to Educational Resources
- 2014-04-29 Questions and Answers on Title IX and Sexual Violence
- 2014-01-08 Dear Colleague Letter on the Nondiscriminatory Administration of School Discipline
- 2013-09-27 Questions and Answers About Fisher v. University of Texas at Austin
- 2013-01-25 Students with Disabilities in Extracurricular Athletics
- 2012-01-20 Dear Colleague Letter and Questions and Answers on the ADA Amendments Act of 2008 for Students with Disabilities Attending Public Elementary and Secondary Schools
- 2011-12-02 Guidance on the Voluntary Use of Race to Achieve Diversity and Avoid Racial Isolation in Elementary and Secondary Schools

- 2011-12-02 Guidance on the Voluntary Use of Race to Achieve Diversity in Postsecondary Education
Joint "Dear Colleague" Letter: Electronic Book Readers
 - Frequently Asked Questions about the June 29, 2010, Dear Colleague Letter (May 5, 2011)
 - Dear Colleague Letter on Title IX Requirements and How They Relate to Sexual Harassment and Sexual Violence
 - Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students or Third Parties (January 19, 2001)
- 2010-04-20 Dear Colleague Letter about the standards OCR uses to assess compliance with Part Three of the "three-part test" to determine whether institutions are meeting the Title IX regulatory requirement to accommodate students' athletic interests and abilities
- 2009-12 Questions and Answers on Providing Services to Children with Disabilities During an H1N1 Outbreak
- 2009-01-08 Dear Colleague Letter – Title VI and Public School Choice
- 2008-10-17 Dear Colleague Letter – Non-Regulatory Guidance Regarding Disclosure of Disability on Report Cards and Transcripts for Students with Disabilities Attending Public Elementary and Secondary Schools
- 2008-09-17 Dear Colleague Letter – Non-Regulatory Guidance Regarding Athletic Activities Counted for Title IX Compliance
- 2008-02-01 Guidance on Homeless Children with Disabilities
- 2007-10-19 Final Guidance on Maintaining, Collecting, and Reporting Racial and Ethnic Data to the U.S. Department of Education
- 2007-03-17 Transition of Students with Disabilities from High School to Postsecondary Institutions ("Dear Colleague" letter from Assistant Secretary for Civil Rights Stephanie J. Monroe, enclosing a "Dear Parent" letter and an OCR pamphlet entitled "Transition of Students with Disabilities to Postsecondary Education: A Guide for High School Educators")
- 2004-09-13 Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments Act of 1972, and Religious Discrimination in Schools and Colleges ("Dear Colleague" letter from Kenneth L. Marcus, Deputy Assistant Secretary for Enforcement, Delegated the Authority of the Assistant Secretary for Civil Rights)
- 2003-07-14 Letter on the Participation of Private School Students in Federally-Funded Programs
- 2001-01-19 Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students or Third Parties
- 2000-07-25 Prohibited Disability Harassment ("Dear Colleague" letter from Assistant Secretary for Civil Rights Norma V. Cantú and Assistant Secretary for Special Education and Rehabilitative Services Judith E. Heumann)
- 1998-07-23 Title IX of the Education Amendments of 1972 and Athletic Scholarships ("Dear Colleague" letter from Assistant Secretary for Civil Rights Norma V. Cantú, enclosing July 23, 1998 letter from Dr. Mary Frances O'Shea, OCR's National Coordinator for Title IX Athletics, to Bowling Green State University)
- 1994-03-10 Nondiscrimination in Federally Assisted Programs: Racial Incidents and Harassment Against Students at Educational Institutions; Investigative Guidance
- 1994-01-31 Notice of Application of Supreme Court Decision in United States v. Fordice

- 1991-09-27 Policy Update on Schools' Obligations Toward National Origin Minority Students With Limited-English Proficiency
- 1985-12-03 Policy Regarding the Treatment of National Origin Minority Students Who Are Limited English Proficient (originally issued December 3, 1985; reissued April 6, 1990)
- 1979-12-11 Policy Interpretation – Title IX and Intercollegiate Athletics
- 1970-07-18 Identification of Discrimination and Denial of Services on the Basis of National Origin
- 2017-01-06 Every Student Succeeds Act Consolidated State Plan Guidance
- 2017-01-06 Every Student Succeeds Act State and Local Report Cards Non-Regulatory Guidance
- 2017-01-06 Every Student Succeeds Act High School Graduation Rate Non-Regulatory Guidance
- 2016-12-07 ESSA Assessment Use of Funds
- 2016-11-21 Non-Regulatory Guidance: Fiscal Changes and Equitable Services Requirements under the Elementary and Secondary Education Act of 1965
- 2016-10 Early Learning in the Every Student Succeeds Act: Expanding Opportunities to Support our Youngest Learners
- 2016-10 Student Support and Academic Enrichment Grants
- 2016-09 Supporting School Reform by Leveraging Federal Funds in a Schoolwide Program
- 2016-09-27 Non-Regulatory Guidance for Title II, Part A: Building Systems of Support for Excellent Teaching and Leading
- 2016-07-27 Education for Homeless Children and Youth Program
- 2016-06-29 Transitioning to the Every Student Succeeds Act FAQs
- 2016-06-23 Ensuring Educational Stability for Children in Foster Care
- 2016-05-04 Transitioning to the Every Student Succeeds Act (ESSA) Frequently Asked Questions
- 2015-09-25 Peer Review of State Assessment Systems and Letter to Chief State School Officers
- 2015-07-30 Supporting School Reform by Leveraging Federal Funds in a Schoolwide Program
- 2015-04-10 State Plans to Ensure Equitable Access to Excellent Educator Frequently Asked Questions
- 2014-11 Charter Schools Program: Guidance on the Use of Funds to Support Preschool Education
 - Preschool Development Grants Guidance and Frequently Asked Questions
 - Addendum 1 to Preschool Development Grants Guidance and Frequently Asked Questions (September 19, 2014)
 - Addendum 2 to Preschool Development Grants Guidance and Frequently Asked Questions (October 3, 2014)
- 2014-07-18 Questions and Answers Regarding Inclusion of English Learners with Disabilities in English Language Proficiency Assessments and Title III Annual Measurable Achievement Objectives
- 2013-05-23 New Frequently Asked Questions and Answers on Expanded Learning Time (ELT) Under the ESEA Flexibility Optional Waiver
- 2013-02-08 State and Local Report Cards Title I Part A, Non-Regulatory Guidance

- 2012-10 Serving Preschool Children Under Title I Non-Regulatory Guidance
 - ESEA Flexibility Policy Documents – ESEA Flexibility Review Guidance
 - ESEA Review Guidance Submission Windows 1 and 2 (February 10, 2012)
 - ESEA Review Guidance Submission Window 3 (June 7, 2012)
 - ESEA Flexibility Frequently Asked Questions (August 3, 2012)
 - ESEA Flexibility Frequently Asked Questions Addendum (March 5, 2013)
 - ESEA Flexibility: Guidance for Renewal Process (November 13, 2014)
- 2012-05-12 Race to the Top –Early Learning Challenge Frequently Asked Questions (including subsequent updates)
- 2011-06-14 Equal Access Act and the Recognition of Student-Led Noncurricular Group (Open letter from Secretary Duncan, enclosing Legal Guidelines Regarding the Equal Access Act and the Recognition of Student-Led Noncurricular Groups)
- 2011-04 Nonregulatory Guidance on Charter Schools, Title V, Part B of the ESEA
- 2010-10 Title I, Part C -- Migrant Education Program Non-Regulatory Guidance
- 2010-06-29 Guidance on School Improvement Grants under Section 1003(g) of the Elementary and Secondary Education Act of 1965
- 2010-05-11 Promise Neighborhoods FAQs (including subsequent updates)
- 2009-10 Family Educational Rights and Privacy Act (FERPA) and H1N1
- 2009-09 Guidance on Flexibility and Waivers for SEAs, LEAs, Postsecondary Institutions, and Other Grantee and Program Participants in Responding to Pandemic Influenza (H1N1 Virus)
- 2009-04-06 Guidance – The State Charter School Facilities Incentive Grants Program
- 2009-01-14 Supplemental Educational Services -- Non-Regulatory Guidance
- 2009-01-14 Public School Choice – Non-Regulatory Guidance
- 2008-12-22 Non-Regulatory Guidance Regarding High School Graduation Rate
- 2008-10-02 Non-Regulatory Guidance Regarding Title III Non-Supplanting Provisions (Letter to Chief State School Officers) (Guidance)
- 2008-07-28 Guidance on Coordinated Early Intervening Services
- 2008-05-14 Fiscal Year 2008 Guidance for Title V, Part A of the Elementary and Secondary Education Act of 1965, as Reauthorized by the No Child Left Behind Act of 2001 (State Grants for Innovative Programs)
- 2008-02-06 Non-regulatory Guidance on Title I Fiscal Issues: Maintenance of Effort, Comparability, Supplement, not Supplant, Carryovers, Consolidating Funds in Schoolwide Programs, and Grantback Requirements
- 2007-07-20 Additional Title I Provisions included in the Regulations Package on Modified Academic Achievement Standards Published in the Federal Register on April 9, 2007 – Non-Regulatory Guidance
- 2007-05 Assessment and Accountability for Recently Arrived and Former Limited English Proficient (LEP) Students -- Non-Regulatory Guidance
- 2007-01-23 Credit Enhancement for Charter School Facilities Program Non-Regulatory Guidance
- 2006-10-05 Improving Teacher Quality State Grants—Title II; Part A
- 2006-09 Ensuring Equitable Services to Private School Children
- 2006-07-21 Non-Regulatory Guidance--"LEA and School Improvement"
- 2006-06-19 Non-Regulatory Guidance--The Prevention and Intervention Programs for Children and Youth Who Are Neglected, Delinquent, or At-Risk, Title I, Part D

- 2006-05-01 Questions and Answers on the Participation of Private Schools in Providing Supplemental Educational Services (SES) Under No Child Left Behind
- 2006-04-24 Revised Guidance on Allowable Uses of "Immediate Aid to Restart School Operations" Funds to Assist Private Schools
- 2006-03 Non-Regulatory Guidance--“Designing Schoolwide Programs”
- 2006-02-01 Uses of Funds under the Restart Program
- 2006-01-17 Letter to heads of Federal Departments and Agencies asking for support of a new federal government-wide effort to assist the nation's charter schools
- 2006-01-06 FAQs: Immediate Aid to Restart School Operations
- 2005-09-29 Pro-Children Act Guidance Comment on this guidance document
- 2004-10-12 NCLB Policy Letters to States—Use of Funds for Districts and Schools Identified for School Improvement
- 2004-07 The Impact of the New Title I Requirements on Charter Schools
- 2004-07-21 Education for Homeless Children and Youth Non-Regulatory Guidance
- 2004-06-08 Transferability Authority Non-Regulatory Guidance
- 2004-05 Unsafe School Choice Option Non-Regulatory Guidance
- 2004-04-23 Parental Involvement: Title I, Part A, Non-Regulatory Guidance
- 2004-03-09 NCLB Policy Letters to State –School Improvement - Delay in Identifying Schools for School Improvement
- 2004-03-01 Title I Paraprofessionals Non-Regulatory Guidance
- 2004-01-22 Guidance Concerning State and Local Responsibilities under the Gun-Free Schools Act
- 2003-10-17 Title I Services to Eligible Private School Children Non-Regulatory Guidance
- 2003-08-21 Non-Regulatory Guidance: Local Educational Agency Identification and Selection of School Attendance Areas and Schools and Allocation of Title I Funds to Those Areas and Schools
- 2003-06-24 Rural Education Achievement Program
- 2003-05-23 State Educational Agency Procedures for Adjusting Basic, Concentration, Targeted, and Education Finance Incentive Grant Allocations
- Joint Education/Agriculture Letter Providing Guidance on Implementation of the New Requirements of Title I by Schools that Operate School Lunch Programs -- Title I, Part A Program
 - Follow-up to: Joint Education/Agriculture Letter Providing Guidance on Implementation of the New Requirements of Title I by Schools that Operate School Lunch Programs -- Title I, Part A Program (Issued on December 17, 2002)
- 2003-02-07 Guidance on Constitutionally Protected Prayer in Public Elementary and Secondary Schools
- 2002-08-28 State Grants for Innovative Programs—Title V, Part A, Non-Regulatory Guidance
- 2002-03-11 Enhancing Education through Technology (Ed Tech) Program Non-Regulatory Guidance
- 2007-06-05 Extension of Liquidation Periods and Related Accounting Adjustments for Grantees under Department of Education State-Administered Programs
- 2016-08-25 Dear Colleague Letter to School Officials at Institutions of Higher Education regarding the disclosure of student medical records under FERPA

- 2014-07-24 GEN-14-14 - Additional Guidance on the Supreme Court's Ruling on the Defense of Marriage Act and Its Implications for the Title IV Student Financial Assistance Program
- 2014-07-24 GEN-14-15 - Additional Guidance on the Supreme Court's Ruling on the Defense of Marriage Act
- 2013-01 College Access Challenge Grant (CACG) Program Maintenance of Effort (MOE) Requirements and Waiver Requests
- 2006-10-06 FP-06-15 - Payment of Special Allowance on Loans Made or Acquired with Funds from a Tax-Exempt Obligation
- 2016-12-28 FAQs About the Rights of Students with Disabilities in Public Charter Schools under the IDEA
- 2016-08-01 Dear Colleague Letter on the Inclusion of Behavioral Supports in Individualized Education Programs
- 2016-03-09 Workforce Innovation and Opportunity Act (WIOA) Requirements for Unified and Combined State Plans
- 2015-11-16 Dear Colleague Letter on Free and Appropriate Public Education
- 2015-08-17 Vision for the State Vocational Rehabilitation Services Program as a Partner in the Workforce Development System under the Workforce Innovation and Opportunity Act
- 2015-08-13 Vision for the One-Stop Delivery System under the Workforce Innovation and Opportunity Act (WIOA)
- 2015-07-27 Q&A Regarding LEA Maintenance of Effort
- 2014-07-18 Questions and Answers Regarding Inclusion of English Learners with Disabilities in English Language Proficiency Assessments and Title III Annual Measurable Achievement Objectives
- 2014-07 Cover Letter
- 2015-07 Addendum
- 2014-05-27 Guidance on the Amendments to the Family Educational Rights and Privacy Act by the Uninterrupted Scholars Act
- 2013-07-23 Memo and Questions and Answers on Dispute Resolution
- 2013-07-19 Highly Mobile Dear Colleague Letter
- 2011-09 Questions and Answers on Secondary Transition
- 2011-09 Questions and Answers on IEPs, Evaluations and Reevaluations
- 2011-05 Part B IDEA MOE Guidance for States on the Education Jobs Fund Program
- 2011-04 Questions and Answers on Private School
- 2010-08 Questions and Answers on the National Instructional Materials Accessibility Standard
- 2009-08 Implementing Response to Intervention (RTI) Using Title I, Title III, and CEIS Funds
- 2009-06 Questions and Answers on Disproportionality
- 2009-06 Questions and Answers on Discipline Procedures
- 2009-06 Questions and Answers on Monitoring, Technical Assistance and Enforcement
- 2009-04-01 Guidance – Funds for Part B of the Individuals with Disabilities Education Act Made Available Under the American Recovery and Reinvestment Act of 2009
- 2009-04-01 Guidance – Funds for Part C of the Individuals with Disabilities Education Act Made Available Under the American Recovery and Reinvestment Act of 2009

- 2005-11-21 TAC-06-01--Factors State Vocational Rehabilitation Agencies Should Consider When Determining Whether a Job Position Within a Community Rehabilitation Program is Deemed to be in an "Integrated Setting" for Purposes of the Vocational Rehabilitation Program
- 2003-08-08 PD-03-06--Whether Centers that do not Receive Title VII, Part C Grants are Included as Centers for Independent Living Under the Rehabilitation Act of 1973, as amended and the Implications for SILC Composition, Network of Centers, and Part B and Part C Funding
- 2002-07-03 PD-02-03--Satellite Centers for Independent Living
- 2001-01-17 PD-01-03--Implementation of Informed Choice
- 1997-08-19 PD-97-04--Employment Goal for an Individual with a Disability
- 1997-02-24 TAC-97-01--What a Designated Client Assistance Program Agency Must Do to Satisfy the Mediation Procedures Requirement
- 2016-05-13 Dear Colleague Letter on Transgender Students