

U.S. Department of Education Seeks Public Comment on Regulatory Reform Initiatives; Issues Regulatory Reform Task Force Progress Report

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On June 22, 2017, the U.S. Department of Education (the “Department”) published a Federal Register notice that it is seeking public input regarding regulations or guidance to be repealed, replaced or modified. The Department is particularly interested in regulatory provisions that members of the public find unduly costly or unnecessarily burdensome. The Department also published the first progress report of its Regulatory Reform Task Force, which was formed pursuant to a February 2017 presidential executive order requiring federal agencies to create such task forces to evaluate existing regulations for potential repeal, replacement or modification. Comments in response to the Federal Register notice must be submitted no later than August 21, 2017.

In the progress report, the task force identifies more than 150 regulations and a total of 1,772 items of policy-related guidance to be reviewed. The regulations range from matters of general applicability such as the Department Seal and Freedom of Information Act, to the Family Educational Rights and Privacy Act (“FERPA”) and Title IX anti-discrimination rules. The report also notes that the Gainful Employment and Borrower Defense to Repayment regulations will be part of its review and that those regulations are going to be further reviewed as part of rulemaking proceedings commencing later this year.

As we noted in a separate [alert earlier this month](#), the Department has also delayed implementation of the Borrower Defense to Repayment Regulations. While the initial report of the task force indicates that it will recommend keeping certain regulations (such as those regarding Direct Grant Programs and Drug and Alcohol Abuse Prevention), modify others (such as FERPA) and rescind other rules, this first progress report is silent with respect to the task force's views on a majority of the Department's regulations.

As a next step, the task force is requiring offices within the Department to recommend regulations to be repealed, replaced or modified. The task force also announced that it plans to meet with major constituencies and stakeholder groups, including some major higher education association groups to seek their input. The task force also intends to facilitate discussions on these issues at conferences, including at the Department's annual Federal Student Aid Conference, which this year will occur in November 2017 in Orlando, Florida.

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