

# TEACH Grant Program

## Guide for Public Comment on Notice of Proposed Rulemaking (NPRM)

NPRM published March 21, 2008  
Comments due on or before April 21, 2008

Comments must be submitted by one of the following methods (follow directions in NPRM, p. 15336):

- Electronically through the Federal eRulemaking Portal at <http://www.regulations.gov>
- Via postal mail;
- Via commercial delivery; or
- Hand delivery.

### **Docket ID ED–2008–OPE–0001**

<http://www.ifap.ed.gov/fregisters/attachments/FR03212008TECH.pdf>

The discussion of the issues provided in the preamble to the proposed regulatory language can give you insight into the intent of the proposed regulations. However, reading the proposed regulatory language itself and commenting on its clarity is important, because the regulatory language determines future requirements for compliance. The preamble constitutes sub-regulatory guidance and is not binding should it not accurately reflect the regulatory language.

In formulating your response, bear in mind that the Department of Education (ED) cannot change law through the regulatory process. However, ED's interpretation of the meaning of the statutory language and the manner in which legislated requirements are implemented is at the heart of the regulatory process.

Your comments can:

- Request clarification of specific segments of the proposed regulatory language
- Ask how a particular rule would be applied in a scenario you present
- Express your support of a particular part of the proposed rule
- Express your opposition to any particular part of the proposed rule
- Support or challenge ED's interpretation of an aspect of the law
- Offer alternative approaches for implementing any particular requirement of the law

Comment in support of a proposed regulation is as important as voicing your objections: a proposed rule can be changed in the final regulation on the basis of one persuasive dissenting argument in the absence of any support. However, you should be careful to specify your understanding of the rule with which you are agreeing in case there are multiple possible interpretations of the proposed language.

If you object to a proposed rule or procedure, try to suggest an alternative solution to the underlying requirement. Your argument would be strengthened by any data or scenarios that you can present.

When it issues final regulations, ED responds to every comment. Requesting clarification of an issue or procedure that is unclear to you in the NPRM often triggers helpful information in the preamble to the final regulation. Apply a proposed provision to your own office procedures to see if there are any flaws in concept or execution.

The following questions may help you focus your responses to each issue:

- Does the preamble clearly explain the statutory requirement?
- Is the regulation that will implement the statutory requirement clearly explained in the preamble?
- Is the proposed regulatory language itself clear and does it reflect the preamble discussion?
- Does the organization of the proposed regulations (i.e., section, subsection, paragraph) contribute to or hinder clarity?
- Are there unanswered questions that will inhibit your efforts to put the regulation into practice?
- Does compliance with the proposed regulation raise issues or considerations not addressed in the preamble?
- Are there better alternatives to implementing the statutory requirement?
- Are you satisfied with the proposed regulation?

Identify the specific section or sections of the proposed regulations that each of your comments addresses and arrange your comments in the same order as the proposed regulations.

In addition to responding to the proposed rules themselves, you can also submit comments about the burden imposed by any information collection requirements in these regulations, in accordance with the Paperwork Reduction Act, to the Office of Information and Regulatory Affairs at the Office of Management and Budget (see pp. 15355 – 15358 of the *Federal Register*).

In proposing new regulations, ED must, under the Regulatory Flexibility Act, attest to the cost burden on small entities, which are defined as for-profit or nonprofit institutions with total annual revenue below \$5,000,000, or institutions controlled by governmental entities with populations below 50,000. For purposes of this TEACH Grant NPRM, ED states that while a significant percentage of institutions participating in the TEACH Grant program meet the definition of small entities, it believes that the benefits provided under the proposed regulations through increased Federal student aid and additional incentives to address teacher shortages would outweigh the relatively small additional burdens, including economic burdens, particularly given that institutions finding the program's requirements onerous have the option of not participating. ED nevertheless invites comments from small institutions as to whether they believe the proposed changes would have a significant economic impact on them and, if so, requests evidence to support that belief (see p. 15355 of the *Federal Register*).

Please copy NASFAA on your responses to the proposed rules at [GovtAffairs@nasfaa.org](mailto:GovtAffairs@nasfaa.org).