

Federal Negotiated Rulemaking: Institutional planning for advocacy

Regulations are developed by the Department of Education to implement aspects of the Higher Education Act, which is Federal law. The process to create the language for the regulations is through the Negotiated Rulemaking Process ("Neg Reg"). Visit wcetsan.wiche.edu/resources/federal-regulations for more on the purpose and steps of rulemaking.

Why should an institution stay apprised of "Neg Reg"?

Failure to comply with Federal regulations could have the effect of fines or withholding of title IV funds from institutions. Thus, following potential and forthcoming changes to these provisions is essential.

How does an institutional compliance professional contribute to the process?

Compliance staff *across the institution* play an important role to elevate key issues to senior administrators and leadership. Furthermore, installed in the rulemaking process, are opportunities for institutions to listen and provide written comments to policymakers through the lens of their lived-compliance and student experience.

Actions to consider:*

- **Inform Your Leadership.** It is always good to operate with the "no surprises" strategy relative to those to whom you report. You want them to hear any possible "bad news" from you first to show that you are in the know and are looking into it. You can give them the heads-up, but they will probably ask questions that will quickly lead you to the practical actions outlined below.
- **Notify Your Institutional Government Relations Staff.** They may want to work with your Congressional Representatives or Senators especially if they are in the House Education & Labor Committee or the U.S. Senate Committee on Health, Education, Labor, & Pensions (HELP). Additionally, if you have a governor who was involved in your state joining SARA, they may be interested that a state-to-state agreement is being greatly affected by regulation.
- **Prepare to Officially Comment.** Department personnel hope to release the language for comment in late Spring or early Summer. Stories about institutional burden will not gain much traction. Stories about negative impacts on students will be more accepted as the goal of this proposal was to protect students as consumers of higher education. It will take time to gather your thoughts and stories to comment.

Catalyzing the institutional compliance community

Compliance obligations intersect with multiple institutional divisions (ex. State Authorization, Financial Aid, Admissions, etc.). Consider *who* and *how* compliance staff may coordinate to develop a shared internal strategy, align leadership, and distill shared institutional concerns. *Consider the following questions to get started:*

- What is the title of the first person you will inform?
- What form of communication will you use for the initial communications? What are the benefits of this communication strategy?
- Do you have a pathway at your institution to elevate the communications with more senior administrators? How can institutional offices help one another to connect and elevate information?
- What are the top **three** issues that you would suggest be articulated in a public comment?

*Excerpted from WCET Frontiers Blog "[More Federal Rulemaking Excitement for Distance Ed Fans... and Next Steps](#)" published March 24, 2022.

Note: This document was created by the [State Authorization Network \(SAN\)](#) and is current as of April 2022. Regulatory language and references are subject to change. The information should not be considered legal advice. Legal questions should be directed to legal counsel.