

Be A Superhero For Students: Advocacy NAFAA 2017



Agenda

- ✦ Why are you here today?
- ✦ A little about your presenter
- ✦ Brief overview of laws and regulations
- ✦ Federal legislative process
- ✦ Regulatory process
 - ✦ Negotiated Rulemaking
- ✦ Paths for Advocacy



Be A Superhero For Students: Advocacy
NAFAA 2017

Tell me about yourselves!

- ✦ What involvement have you had so far?
- ✦ What do you hope to learn?



3

A Little About Me

- ✦ My current role at Lane and with WASFAA
- ✦ OASFAA Legislative Committee
- ✦ WASFAA Federal Relations Committee
- ✦ NASFAA Advocacy Pipeline
- ✦ ED Negotiated Rulemaking



4

Be A Superhero For Students: Advocacy NAFAA 2017



Where do all these (Federal) rules come from?

- ✦ Legislation
 - ✦ Creates the law
- ✦ Regulation
 - ✦ Interprets the law and provides directions for implementation
- ✦ The Rules!
 - ✦ Sub-regulatory detailed guidance

Be A Superhero For Students: Advocacy
NAFAA 2017

Legislation—Creates the Law

- ✦ Congress passes & President signs or vetoes
- ✦ State legislature passes & Governor signs or vetoes
- ✦ “In Statute”



7

Regulations

- ✦ Regulations interpret law and provide instructions for implementation
 - ✦ Cannot change the law
 - ✦ Should follow the intent of the law
 - ✦ Written by administrative departments/offices
 - ✦ Negotiated with the community
 - ✦ Can be challenged if they not comply with law (GE suits)

8

The Rules! Sub-Regulatory Guidance

- ✦ Federal Dear Colleague letters
- ✦ Financial Aid Handbook
- ✦ Letters from Dept. of Education
- ✦ Chancellor's Office guidance
- ✦ Does not carry legal weight of law or regulation but can carry penalties



9



Process

What happens on "the Hill"

10

Be A Superhero For Students: Advocacy NAFAA 2017

Federal Regulations

- Hearings may be held
 - Announced in Federal Register
- Federal Negotiated Rulemaking panels draft regulations
 - Reviewed by ED, OMB and USDE Attorney General
- Notice of Proposed Rulemaking (NPRM)
 - Issued in Federal Register with 60-day comment period
- Final Regulations
 - Issued in Federal Register

13

Negotiated Rulemaking

- ✦ The HEA Amendments of 1992 mandated negotiated rulemaking for Title IV programs as well as public hearings to obtain input on issues to be negotiated
- ✦ ED began implementation of negotiated rulemaking within weeks after President Bush signed the bill
- ✦ First negotiations were held in January 1993 and the issues centered on the program integrity triad
 - ✦ State Postsecondary Education Review Agencies, Accrediting Agencies, and ED

14

Negotiated Rulemaking: Process

- Non-federal negotiators nominated by peers, associations, etc. appointed by the Secretary of Education
- Issues proposed for regulation—may include items negotiators or public ask to add
- Agenda and proposed language from the Department—negotiated by all
- Regulatory “package” requires full consensus
- If no consensus on all items, authority to write all regulations under discussion reverts to the Secretary of Education

15

“Inside Baseball” Process, p. 1

- ✦ Consensus=unanimous concurrence among committee members on all issues being negotiated
- ✦ Usually 12-15 constituencies represented.
- ✦ Primary and alternate for each constituency represented – only one vote
- ✦ Agreement to participate fully and negotiate in good faith
- ✦ Absence or silence equates with no dissent

16

“Inside Baseball” Process, p. 2

- All agreements are tentative until all of the issues are considered
- Members may not withdraw their consensus once given
- Use of neutral third party for facilitation
- ED uses consensus-based regulatory language in its NPRM and negotiators and those persons and entities whom they represent may not comment negatively
- If no consensus – Secretary of Education may use language from negotiation or publish their own in NPRM (Notice of Preliminary Rulemaking)

17

Characteristics of Successful Negotiated Rulemakings

What works in each case depends on a variety of factors, such as—

- Substantive issues
- Perception of agency’s position by affected parties
- Authority of party representatives in negotiations
- Representatives’ negotiation style
- Divergence of views within each constituency represented
- Skill of agency personnel
- Skill of mediator

18

Characteristics of Successful Negotiations, continued

- Appropriate use of caucuses to resolve conflicting interests and/or agree on a negotiating strategy
- Use of workgroups to prepare proposals for the committee as a whole
- Issues must be ripe for resolution and sufficiently multifarious to allow trade-offs
- Opportunity for mutual gain (“win-win” bargaining)
- Definitive deadline
- Lots of unhealthy snack food

19

Recent NegRegs

- ✦ Cash Management (no consensus)
- ✦ Income contingent loan repayment (consensus: REPAYE, Participation Rate Appeals, Treatment of Active Duty Service member loans, Rehabilitation Transitions)
- ✦ Loan defense for school closures (no consensus)

20

NegReg & You

- During NegReg
- After NegReg
- Where to send Comments



21

Your Role In Neg Reg

- ✦ Volunteer!
- ✦ Know who represents your segment and/or interests
- ✦ Follow the issues (IFAP, NASFAA)



22

Your Role After Neg Reg

- ✦ Review Notice of Proposed Rulemaking (NPRM) in Federal Register
- ✦ Respond within the comment period



23

Submitting Comments

- ✦ Where to submit comments?
 - ✦ USED (see Federal Register)
 - ✦ Federal Issues Committees for your region and state
 - ✦ Your segmental representative
 - ✦ The Secretary of Education

24

Publishing Regulations

Publish NPRM in the Federal Register	Publish Final Regulations in the Federal Register
<ul style="list-style-type: none">• Regulatory language	<ul style="list-style-type: none">• Summary of comments
<ul style="list-style-type: none">• Preamble language	<ul style="list-style-type: none">• ED' s response to comments
<ul style="list-style-type: none">• Request for public comments with deadline	<ul style="list-style-type: none">• Explanation of any changes made to the regulations that differ from proposed regulations

25

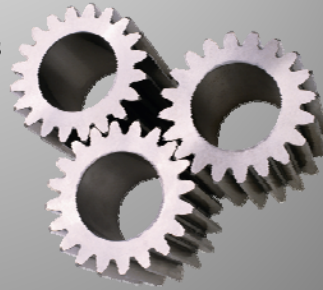
Regulations to Rules

- ✦ Department of Education makes the Regulations into “English” language rules
- ✦ Office of Postsecondary Education
- ✦ FSA Office of Policy Liaison
- ✦ FSA Handbook, Dear Colleague Letters, etc.
- ✦ Conferences and Trainings

26

Before You Begin

- ✦ First: Check with your institution!
 - ✦ President, provost, chancellor
 - ✦ Media relations, Marketing
 - ✦ Government/Community Relations
- ✦ Data: Institutional Research
- ✦ Who do you represent?



27

Ho ero



Tips and Tricks

Be A Superhero For Students: Advocacy NAFAA 2017

Paths for Advocacy

- ✦ Start where you are!
 - ✦ Institutional
 - ✦ Grant and scholarship funds
 - ✦ State
 - ✦ NAFAA, State need grant
 - ✦ Regional
 - ✦ WASFAA Federal Relations
 - ✦ National
 - ✦ NASFAA committees, NASFAA Leadership Expo



29

How to Be an Advocate

- ✦ Learn the issues
- ✦ Identify the constituents and understand their concerns
- ✦ Always be student-centered
- ✦ Use your resources
- ✦ Craft your talking points
- ✦ Speak up!



30

Your One-Pager

- ✦ Sort of like a resume for advocacy
- ✦ A little about you
- ✦ A little about your institution
- ✦ Who your students are
- ✦ A few main points that you can easily explain
- ✦ Goes with your elevator speech

31

Advocacy Tips

- ✦ Get your institution's blessing when appropriate
- ✦ Give examples—tell stories
- ✦ Think about law vs. regulation when making suggestions
- ✦ Follow proposed bills (especially from your state) and provide comments
- ✦ Enlist students when appropriate
- ✦ Think globally about your profession—beyond your institution

32

Be A Superhero For Students: Advocacy
NAFAA 2017

Getting Involved and Making Change



- Write or visit your congressional representatives
- Give feedback to or volunteer for advocacy committees
- Join NASFAA advocacy pipeline
- Meet your school's government relations folks and give feedback, ideas

33

QUESTIONS?



Comments?

Thank you!

Helen Faith
FaithH@LaneCC.edu