Be A Superhero For Students: Advocacy
NAFAA 2017

Be A Superhero For Students: Advocacy
Helen Faith, Lane Community College

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
Tell me about yourselves!

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

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
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
Legislation—Creates the Law

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

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)
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

Process
What happens on “the Hill”
Schoolhouse Rock!

https://www.youtube.com/watch?v=Otbml6W1QPo

Interpreting the Law

REGULATIONS:
An Administrative Process
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

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
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

“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
“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)

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
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

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)
NegReg & You

- During NegReg
- After NegReg
- Where to send Comments

Your Role In Neg Reg

- Volunteer!
- Know who represents your segment and/or interests
- Follow the issues (IFAP, NASFAA)
Your Role After Neg Reg

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

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
### Publishing Regulations

<table>
<thead>
<tr>
<th>Publish NPRM in the Federal Register</th>
<th>Publish Final Regulations in the Federal Register</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Regulatory language</td>
<td>• Summary of comments</td>
</tr>
<tr>
<td>• Preamble language</td>
<td>• ED’s response to comments</td>
</tr>
<tr>
<td>• Request for public comments with deadline</td>
<td>• Explanation of any changes made to the regulations that differ from proposed regulations</td>
</tr>
</tbody>
</table>

### 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
Before You Begin

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

How To Be a Superhero

Tips and Tricks
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

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!
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

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
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

QUESTIONS?

Comments?
Thank you!

Helen Faith
FaithH@LaneCC.edu