


A prior part H consisting of sections 6571 to 6578, was redesignated part F of this subchapter, by Pub. L. 114–95, title I, §1501(a)(2), Dec. 10, 2015, 129 Stat. 1905.

§ 6571. Federal regulations

(a) In general

The Secretary may issue, in accordance with subsections (b) through (d) and subject to section 6311(e) of this title, such regulations as are necessary to reasonably ensure that there is compliance with this subchapter.

(b) Negotiated rulemaking process

(1) In general

Before publishing in the Federal Register proposed regulations to carry out this subchapter, the Secretary shall obtain the advice and recommendations of representatives of Federal, State, and local administrators, par-
§ 6571  TYPICAL OF EDUCATION  Page 1398

rents, teachers, principals, other school leaders (including charter school leaders), paraprofessionals, and members of local school boards and other organizations involved with the implementation and operation of programs under this subchapter.

(2) Meetings and electronic exchange
Such advice and recommendations may be obtained through such mechanisms as regional meetings and electronic exchanges of information. Such regional meetings and electronic exchanges of information shall be public and notice of such meetings and exchanges shall be provided to interested stakeholders.

(3) Proposed regulations
After obtaining such advice and recommendations, and before publishing proposed regulations, the Secretary shall—

(A) establish a negotiated rulemaking process on, at a minimum, standards, assessments under section 6311(b)(2) of this title, and the requirement under section 6321 of this title that funds under part A be used to supplement, and not supplant, State and local funds;

(B) select individuals to participate in such process from among individuals or groups that provided advice and recommendations, including representation from all geographic regions of the United States, in such numbers as will provide an equitable balance between representatives of parents and students and representatives of educators and education officials; and

(C) prepare a draft of proposed policy options that shall be provided to the individuals selected by the Secretary under subparagraph (B) not less than 15 days before the first meeting under such process.

(4) Process
Such process—

(A) shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.); and

(B) shall, unless otherwise provided as described in subsection (c), follow the provisions of subchapter III of chapter 5 of title V 1 (commonly known as the “Negotiated Rulemaking Act of 1990”).

c (c) Alternative process for certain exceptions
If consensus, as defined in section 562 of title 5, on any proposed regulation is not reached by the individuals selected under subsection (b)(3)(B) for the negotiated rulemaking process, or if the Secretary determines that a negotiated rulemaking process is unnecessary, the Secretary may propose a regulation in the following manner:

(1) Notice to Congress
Not less than 15 business days prior to issuing a notice of proposed rulemaking in the Federal Register, the Secretary shall provide to the Committee on Health, Education, Labor, and Pensions of the Senate, the Committee on Education and the Workforce of the House of Representatives, and other relevant congressional committees, notice of the Secretary’s intent to issue a notice of proposed rulemaking that shall include—

(A) a copy of the proposed regulation;

(B) the need to issue the regulation;

(C) the anticipated burden, including the time, cost, and paperwork burden, the regulation will impose on State educational agencies, local educational agencies, schools, and other entities that may be impacted by the regulation;

(D) the anticipated benefits to State educational agencies, local educational agencies, schools, and other entities that may be impacted by the regulation; and

(E) any regulations that will be repealed when the new regulation is issued.

(2) Comment period for Congress
The Secretary shall—

(A) before issuing any notice of proposed rulemaking under this subsection, provide Congress with a comment period of 15 business days to make comments on the proposed regulation, beginning on the date that the Secretary provides the notice of intent to the appropriate committees of Congress under paragraph (1); and

(B) include and seek to address all comments submitted by Congress in the public rulemaking record for the regulation published in the Federal Register.

(3) Comment and review period; emergency situations
The comment and review period for any proposed regulation shall be not less than 60 days unless an emergency requires a shorter period, in which case the Secretary shall—

(A) designate the proposed regulation as an emergency with an explanation of the emergency in the notice to Congress under paragraph (1);

(B) publish the length of the comment and review period in such notice and in the Federal Register; and

(C) conduct immediately thereafter regional meetings to review such proposed regulation before issuing any final regulation.

(d) Limitation
Regulations to carry out this subchapter may not require local programs to follow a particular instructional model, such as the provision of services outside the regular classroom or school program.

(e) Rule of construction
Nothing in this section affects the applicability of subchapter II of chapter 5, and chapter 7, of title 5 (commonly known as the “Administrative Procedure Act”) or chapter 8 of title 5 (commonly known as the “Congressional Review Act”).


REFERENCES IN TEXT

1 So in original. Probably should be “5”.

117x303 (commonly known as the “Negotiated Rulemaking Act of 1990”).

117x98 Such process—

117x104 The Secretary shall—

117x110 An emergency with an explanation of the emergency in the notice to Congress under paragraph (1);

117x116 Nothing in this section affects the applicability of subchapter II of chapter 5, and chapter 7, of title 5 (commonly known as the “Administrative Procedure Act”) or chapter 8 of title 5 (commonly known as the “Congressional Review Act”).

117x122 Regulations to carry out this subchapter may not require local programs to follow a particular instructional model, such as the provision of services outside the regular classroom or school program.

117x128 Nothing in this section affects the applicability of subchapter II of chapter 5, and chapter 7, of title 5 (commonly known as the “Administrative Procedure Act”) or chapter 8 of title 5 (commonly known as the “Congressional Review Act”).

shall conform to agreements that result from the rulemaking described in section 6571 of this title unless the Secretary reopens the negotiated rulemaking process.

(b) Records

The Secretary shall ensure that an accurate and reliable record of agreements reached during the negotiations process is maintained.

PRIORITY PROVISIONS

A prior section 1602 of Pub. L. 89–10 was classified to section 6512 of this title, prior to repeal by Pub. L. 114–95.

Another prior section 1602 of Pub. L. 89–10 was classified to section 6511 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

AMENDMENTS

2015—Subsec. (a). Pub. L. 114–95, § 1602(b), added subsec. (a) generally. Prior to amendment, text read as follows: “All published proposed regulations shall conform to agreements that result from negotiated rulemaking described in section 6571 of this title unless the Secretary reopens the negotiated rulemaking process."

(b) Records

The Secretary shall ensure that an accurate and reliable record of agreements reached during the negotiations process is maintained.

PRIORITY PROVISIONS

A prior section 1602 of Pub. L. 89–10 was classified to section 6512 of this title, prior to repeal by Pub. L. 114–95.

Another prior section 1602 of Pub. L. 89–10 was classified to section 6511 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

AMENDMENTS

2015—Subsec. (a). Pub. L. 114–95, § 1602(b), added subsec. (a) generally. Prior to amendment, text read as follows: “All published proposed regulations shall conform to agreements that result from negotiated rulemaking described in section 6571 of this title unless the Secretary reopens the negotiated rulemaking process or provides a written explanation to the participants involved in the process explaining why the Secretary decided to depart from, and not adhere to, such agreements.”

Effective Date of 2015 Amendment

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

§ 6573. State administration

(a) Rulemaking

(1) In general

Each State that receives funds under this subchapter shall—

(A) ensure that any State rules, regulations, and policies relating to this subchapter conform to the purposes of this subchapter and provide any such proposed rules, regulations, and policies to the committee of practitioners created under subsection (b) for review and comment;

(B) minimize such rules, regulations, and policies to which the State’s local educational agencies and schools are subject;

(C) eliminate or modify State and local fiscal accounting requirements in order to facilitate the ability of schools to consolidate funds under schoolwide programs;

(D) identify any such rule, regulation, or policy as a State-imposed requirement; and

(E)(i) identify any duplicative or contrasting requirements between the State and Federal rules or regulations; and

(ii) eliminate the State rules and regulations that are duplicative of Federal requirements.

(2) Support and facilitation

State rules, regulations, and policies under this subchapter shall support and facilitate