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July 15, 2008

The Honorable Edward M. Kennedy
Chairman
The Honorable Michael B. Enzi
Ranking Minority Member
Committee on Health, Education, Labor, and Pensions
United States Senate

The Honorable George Miller
Chairman
The Honorable Howard P. "Buck" McKeon
Ranking Minority Member
Committee on Education and Labor
House of Representatives

Subject: *Department of Education: The Teacher Education Assistance for College and Higher Education (TEACH) Grant Program and Other Federal Student Aid Programs*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Department of Education (Department), entitled "The Teacher Education Assistance for College and Higher Education (TEACH) Grant Program and Other Federal Student Aid Programs" (RIN: 1840-AC93). We received the rule on June 30, 2008. It was published in the *Federal Register* as final regulations on June 23, 2008. 73 Fed. Reg. 35,472.

The final rule amends regulations pertaining to the TEACH grant program, a non-need based grant program that provides up to \$4,000 per year to students who are enrolled in an eligible program and who agree to teach in a high-need field, at a low-income elementary or secondary school for at least 4 years. The final rule also amends regulations related to other federal student aid programs. The final rule implements provisions of the Higher Education Act of 1965 (HEA), as amended by the College Cost Reduction and Access Act (CCRAA). Pub. L. No. 110-84, 121 Stat. 784 (2007). The Department notes that it has "exercised limited discretion in implementing the CCRAA provisions." 73 Fed. Reg. 35,487. As example of such discretion, the final rule includes a definition of "elementary and secondary academic year" and includes a provision that explains the calculation of the grade-point average for transfer students. 73 Fed. Reg. 35,496.

The Administrative Procedure Act requires that a substantive rule be published at least 30 days before its effective date, except as otherwise provided for good cause, 5 U.S.C. § 553(d)(3). The Secretary has determined that a delayed effective date for this final rule is unnecessary and contrary to the public interest, and that good cause exists to waive the requirement for a delayed effective date. In addition, section 104 of the CCRAA provided that funds for the TEACH grants are available as of July 1, 2008. *See* 20 U.S.C. § 1070g-3. Moreover, the Department states that it is using the authority found at 5 U.S.C. § 808(2), which provides for an exemption for the 60-day delay in the effective date of a major rule under the Congressional Review Act if the agency finds that there is good cause to do so. The final rule has an effective date of July 1, 2008.

Enclosed is our assessment of the Department's compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. Our review indicates that the Department complied with the applicable requirements.

If you have any questions about this report or wish to contact GAO officials responsible for the evaluation work relating to the subject matter of the rule, please contact Michael R. Volpe, Assistant General Counsel, at (202) 512-8236.

signed

Robert J. Cramer
Associate General Counsel

Enclosure

cc: Elizabeth A.M. McFadden
Assistant General Counsel for
Reg. Services
Department of Education

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE
ISSUED BY THE
DEPARTMENT OF EDUCATION
ENTITLED
"THE TEACHER EDUCATION ASSISTANCE FOR COLLEGE AND
HIGHER EDUCATION (TEACH) GRANT PROGRAM AND
OTHER FEDERAL STUDENT AID PROGRAMS"
(RIN: 1840-AC93)

(i) Cost-benefit analysis

The TEACH grant program is estimated to have a net budget impact of \$7 million in 2008 and \$74 million over fiscal years 2008-2012. With respect to the final rule as a whole, the Department has assessed potential costs and benefits of this regulatory action and has determined the benefits justify the costs.

(ii) Agency actions relevant to the Regulatory Flexibility Act, 5 U.S.C. §§ 603-605, 607, and 609

The Secretary of Education certified that the final rule will not have a significant economic impact on a substantial number of small entities.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

There is no discussion of the Unfunded Mandates Reform Act in the final rule.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 et seq.

The final rule was issued using the notice and comment procedures found at 5 U.S.C. § 553. On March 21, 2008, the Department published a Notice of Proposed Rulemaking and Request for Comment in the *Federal Register* regarding the proposed rule. 73 Fed. Reg. 15,336. The Department received comments from 132 parties. In the final rule, the Department responded to the comments received in response to the proposed rule.

Paperwork Reduction Act of 1995, 44 U.S.C. §§ 3501-3520

The final rule contains new or modified information collection requirements subject to the Paperwork Reduction Act. The Department submitted a copy of these

information collection requirements to the Office of Management and Budget (OMB) for review, as required by section 3507(d) of the Act.

Statutory authorization for the rule

The final rule was promulgated under the authority in the College Cost Reduction and Access Act of 2007, which amended the Higher Education Act of 1965. Pub. L. No. 110-84, 121 Stat. 784 (2007).

Executive Order No. 12,866

The Department determined that the final rule is “economically significant” and, therefore, submitted the rule to OMB for review.