

441 G St. N.W.
Washington, DC 20548

B-333823

December 17, 2021

The Honorable Patty Murray
Chairwoman
The Honorable Richard Burr
Ranking Member
Committee on Health, Education, Labor, and Pensions
United States Senate

The Honorable Robert C. "Bobby" Scott
Chairman
The Honorable Virginia Foxx
Ranking Member
Committee on Education and Labor
House of Representatives

Subject: *Department of Education: Federal-State Relationship Agreements, Federal Pell Grant Program, Academic Competitiveness Grant, and National Science and Mathematics Access To Retain Talent Grant*

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 (DOE) entitled "Federal-State Relationship Agreements, Federal Pell Grant Program, Academic Competitiveness Grant, and National Science and Mathematics Access To Retain Talent Grant" (RIN 1840-AD46). We received the rule on December 6, 2021. It was published in the *Federal Register* as final regulations on October 28, 2021. 86 Fed. Reg. 59619. The effective date is October 28, 2021.

DOE stated the final rule amends the regulations implementing the Federal Pell Grant Program to conform to changes made by the Department of Education Appropriations Act, 2012, Pub. L. No. 112-74, div. F, title III, 125 Stat. 786, 1090 (Dec. 23, 2011), and the Department of Education Appropriations Act, 2017, Pub. L. 115-31, div. H, title III, 131 Stat. 135, 544 (May 5, 2017). DOE further stated the rule removes obsolete regulations for Federal-State Relationship Agreements and the Academic Competitiveness Grant (ACG) and National Science and Mathematics Access to Retain Talent Grant (National SMART Grant) programs.

The Congressional Review Act (CRA) requires a 60-day delay in the effective date of a major rule from the date of publication in the *Federal Register* or receipt of the rule by Congress, whichever is later. 5 U.S.C. § 801(a)(3)(A). The 60-day delay in effective date can be waived, however, if the agency finds for good cause that delay is impracticable, unnecessary, or contrary to the public interest, and the agency incorporates a statement of the findings and its reasons in the rule issued. 5 U.S.C. § 808(2). Here, DOE determined that because the final rule merely reflects statutory changes and removes and updates obsolete regulatory provisions, there is good cause to waive the delayed effective date.

Enclosed is our assessment of DOE's compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. 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 Shari Brewster, Assistant General Counsel, at (202) 512-6398.

A handwritten signature in black ink that reads "Shirley A. Jones". The signature is written in a cursive, flowing style.

Shirley A. Jones
Managing Associate General Counsel

Enclosure

cc: Lynn Mahaffie
Assistant General Counsel for Regulatory Services

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE
ISSUED BY THE
DEPARTMENT OF EDUCATION
ENTITLED
“FEDERAL-STATE RELATIONSHIP AGREEMENTS,
FEDERAL PELL GRANT PROGRAM,
ACADEMIC COMPETITIVENESS GRANT,
AND NATIONAL SCIENCE AND MATHEMATICS
ACCESS TO RETAIN TALENT GRANT”
(RIN 1840-AD46)

(i) Cost-benefit analysis

The Department of Education (DOE) discussed the costs, benefits, and transfers of this final rule. DOE stated the rule would result in increased costs in the form of Pell awards, at an estimated cost of \$16.3 billion over the 10-year budget window. DOE further stated the rule provides a substantial net benefit to students and changes in the transfers between the federal government and Federal Pell Grant recipients.

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

DOE stated the Regulatory Flexibility Act does not apply to this final rule because there is good cause to waive notice and comment under 5 U.S.C. § 553.

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

In its submission to us, DOE indicated that a written statement under the Act is not applicable to this final rule.

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

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

DOE stated there is good cause here for waiving rulemaking under the Act because this final rule merely rescinds regulations that have become obsolete due to statutory changes and revises others to conform to those changes. DOE further stated that the rule does not establish or affect substantive policy.

Paperwork Reduction Act (PRA), 44 U.S.C. §§ 3501–3520

DOE determined that this final rule contains no new information collection requirements under PRA.

Statutory authorization for the rule

DOE promulgated this final rule pursuant to section 1070a and 1070g of title 20, United States Code.

Executive Order No. 12866 (Regulatory Planning and Review)

DOE determined this final rule is economically significant and subject to review by the Office of Management and Budget.

Executive Order No. 13132 (Federalism)

In its submission to us, DOE stated that this final rule does not discuss the Order.