



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF THE UNDER SECRETARY

MEMORANDUM

March 15, 2002

To: Regulations Officers
Program Officials
OGC Senior Staff
OGC Program Attorneys
DRS Regulations Coordinators

From: Gene Hickok, Under Secretary
Brian Jones, General Counsel

Subject: Well-written and timely regulatory documents

Passage of the No Child Left Behind Act of 2001 has resulted in a number of new and exciting programs and competitions to improve the education of America's children. To implement these new programs and competitions many program officials and program attorneys are working hard to develop documents for publication in the *Federal Register*. To the extent possible, expediting the procedures for drafting, review, and publication of these documents will help ensure that this Federal financial assistance gets to State and local grantees in time to create effective strategies and activities for the next school year.

At the same time, it is essential that these documents reflect well on the Administration, on the Secretary, and on this Department's efforts to improve America's schools. What we write and how well we write it will be a major factor in sustaining public interest and involving parents, educators, local officials, and other interested parties in our efforts. In short, we want to put a "new face" on the Department's regulatory documents (regulations, notices, and other documents published in the *Federal Register*) just as the No Child Left Behind Act has put a "new face" on elementary and secondary education.

Although we will focus initially on documents related to implementation of the No Child Left Behind Act, the principles we set out here will be applied to every regulatory document published by this Department. We want this to be a collaborative process involving active and ongoing communication among program officials, program attorneys, and personnel of the Division of Regulatory Services (DRS) of the Office of the General Counsel (OGC). We expect those who have the major responsibility for drafting, reviewing and editing a document to meet in advance, discuss the project, establish a timeline, and strictly adhere to deadlines. We believe this improved process will result in a more concise, readable document that will be prepared, reviewed, and published more quickly and efficiently.

Guidelines for Drafting

In developing a document for publication, we ask you to adhere to the following guidelines:

- Draft each document in clear, simple English so that the public can easily understand it. Our public includes not only educators and other professionals, but also the millions of young Americans who will benefit from this landmark legislation, and their parents.

- Avoid jargon, terms of art, and legalistic and bureaucratic language. Again, write for the general public, not for education “insiders.” Use technical terms only when they are essential to a full understanding of the program or activity. Try not to use passive voice, so that it is clear who is taking an action.
- Write short sentences, short paragraphs, and brief sections. Make sure headings fully reflect the material that follows.
- Do not begin drafting without deciding *first* what must be included in your document. Do not simply use prior publications as a template or assume that material previously published was correct. The Department’s Regulatory Quality Manual (RQM) is regularly updated to show changes in style, format, and required content, and the published document you copy from may be outdated.
- Include in your draft only material that *must* be published in the *Federal Register*. Do not include additional material, such as extensive backgrounds or summaries of related literature or studies. Even if you think this information might be helpful to your readers, including this material in your *Federal Register* document will slow down the processing of the document. Instead, your office should make this material available separately to interested readers on request, preferably on line.
- For the style and formatting of documents—including standard language developed by the Department to address various Executive Orders and other requirements—please use and follow strictly the Department’s RQM, which you will find on connectED. Click on Policies, then on Operational Policies, and then on Regulatory Quality Manual (or Regulatory Process if you wish to review procedures for the development, clearance, and publication of documents). The RQM will also tell you how you can download the Federal Register Document Drafting Handbook and the U.S. Government Printing Office Style Manual.
- Each chapter in the RQM has an introduction that contains general instructions and technical requirements (such as margins, font, etc.).
- If a particular chapter of the RQM does not address some special characteristics of your document, the Division of Regulatory Services (DRS) in OGC will help you adapt the material in the manual to meet your needs. Please contact the DRS Regulations Coordinator assigned to your program or document or Stan Cohen, the Department’s Regulations Quality Officer. Both can be reached at 401-8300.
- The General Counsel has approved use of the exemption from rulemaking requirements in section 437(d)(1) of the General Education Provisions Act (GEPA) (20 U.S.C. 1232(d)(1)) for the first year of any competitive grant program authorized by the No Child Left Behind Act of 2001. By using this exemption--and including in the application notice any priorities or other regulatory program requirements applicable to the first grant competition--you can reduce the number of documents you will need to publish in the *Federal Register*. This will significantly reduce the time needed by Department staff for the development and clearance of these documents. You will find standard language for this waiver in the RQM chapter on how to prepare an application notice. You should consult with OGC if you need clarification.

You may still go through public comment rulemaking for a particular program if you determine that public comment is appropriate and justifies the additional effort.

Initial Planning Meeting and Timeline

Before you begin the process of developing and drafting your document, we expect you to meet with your DRS Regulations Coordinator, your program attorney, and the Budget Office staff assigned to the

program involved. In certain cases, it may be appropriate to include, also, a DRS attorney. Be prepared to explain why you are issuing this document. Your program attorney will explain the minimum legal requirements regarding the content of the document. Your DRS Regulations Coordinator will explain anything else that you must include in the document. The meeting must establish (1) a general outline for the content of the document, (2) an accurate timeline for developing, clearing, and publishing your document, and (3) deadlines that can be met by everyone involved in the process and that address any special statutory requirements.

No written outline need be prepared, although you may find it useful. However, you should prepare for your project a written timeline, which you should distribute to all participants in advance, as well as append to the draft document during the review process. To the extent possible, all distributions and edits or comments should be done electronically to save time and paper.

Attached to this memo is a *sample* timeline for clearing and publishing a regulatory document that uses the GEPA exemption. If you have additional considerations—such as requesting public comment or needing OMB clearance under the Paperwork Reduction Act—you must build in additional time for these procedures and any additional documents that might be required. Your DRS Regulations Coordinator will help you develop the appropriate timelines to accommodate these special needs.

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If we work together, the well-written and timely documents we publish will make a difference -- not only in implementing programs that will improve the education of America's children, but in gaining the understanding and support of students, their parents, their teachers, and the American public. We look forward to working with you to improve regulatory documents, and we welcome your comments and suggestions for improving the process.