

The National Association of Student  
Financial Aid Administrators (NASFAA)

# Legislation, Regulation and You!

May 1, 2018



# Public Law Process

I'm just a bill.  
Yes, I'm only a bill.  
And I'm sitting here on Capitol Hill.  
Well, it's a long, long journey  
To the capital city.  
It's a long, long wait  
While I'm sitting in committee,  
But I know I'll be a law someday  
At least I hope and pray that I will,  
But today I am still just a bill.



# The Relationship of Authorization and Appropriation

- Authorizing Legislation
  - Carry expiration dates
  - Congress must reauthorize prior to expiration
- Appropriation Legislation
  - Funds the authorized programs
  - Generally done through the annual budget/appropriations process

# Budget & Appropriations 101

What is *supposed* to happen...

- President releases budget in February
- House & Senate pass Budget Resolution in April
- Appropriations Committees draft bills
- Appropriations bills voted on and passed before Oct. 1



# Budget & Appropriations 101

But what *usually* happens...

- Omnibus spending bill—combines all 12 spending bills into one
- Continuing resolution (CR)

# Public Law (Pub. L. or P.L.)

- Example: Veterans Educational Assistance Act of 2017 (Public Law No: 115-48)
- Translation = The 48th law to be enacted by the 115<sup>th</sup> Congress
- Each Congress covers a two year period

# Public Law Numbering System

- **Title:** Upper-case Roman numerals
  - **Title IV**
- **Part:** Upper-case letters
  - **Part A**, which contains the grant programs
- **Subpart:** Arabic numerals, occurring fairly infrequently
  - **Subpart 1 of Part A** authorizes the Federal Pell Grant Program
- **Section:** Usually numbered in three-digit Arabic numerals
  - **Section 455** of Part D establishes the terms and conditions of Direct Loans

# Public Law Numbering System

- **Subsection:** Lower-case letters enclosed in parentheses
  - (a), (b), (c), etc.
- **Paragraph:** Arabic numerals enclosed in parentheses
  - (1), (2), (3), etc.
- **Subparagraph:** Upper-case enclosed in parentheses
  - (A), (B), (C), etc.
- **Division:** Lower-case Roman numerals enclosed in parentheses
  - (i), (ii), (iii), etc.
- **Clause:** Upper-case Roman numerals enclosed in parentheses
  - (I), (II), (III), etc.

## **Subchapter I—General Provisions > Part A—Definitions**

### **§ 1002. Definition of institution of higher education for purposes of student assistance programs [HEA § 102]**

**(a) Definition of institution of higher education for purposes of student assistance programs**

**(1) Inclusion of additional institutions**

Subject to paragraphs (2) through (4) of this subsection, the term “institution of higher education” for purposes of subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42 includes, in addition to the institutions covered by the definition in section 1001 of this title—

- (A)** a proprietary institution of higher education (as defined in subsection (b) of this section);
- (B)** a postsecondary vocational institution (as defined in subsection (c) of this section); and
- (C)** only for the purposes of part D of subchapter IV of this chapter, an institution outside the United States...1087b (d) of this title.

**(2) Institutions outside the United States**



# Numbering Structure for the U.S. Code

## Title 20—Education

**Chapter 28**—Higher Education Resources and Student Assistance

**Subchapter IV**—Student Assistance

**Part A**—Grants to Students in Attendance at Institutions of Higher Education

**Subpart 1**—**Section** numbering in the U.S. Code also differs from numbering in a public law. For example, Pell Grants are found under sec. 401 in the Higher Education Act, but at sec. 1070a in the U.S. Code. Otherwise, codified subsections, paragraphs, and so on follow the public law scheme.



# U.S. Code



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## Compiled Title IV Legislation

Compiled Title IV Legislation includes each of the major subchapters of the U.S. Code that relate to the student financial assistance programs for higher education. These webpages reflect the codified law under Title 20 (Education), Chapter 28 (Higher Education Resources and Student Assistance) and under Title 42 (The Public Health and Welfare), Chapter 34 (Economic Opportunity Program), and for the most part derive from the Higher Education Act (HEA) of 1965, as amended. The HEA is reauthorized approximately every five or six years, although interim legislation can also alter the authorizing language that details congressional intent with regard to student financial aid. We construct these compiled files by incorporating amendments to the law. We note effective dates if those dates will occur after posting.

For the Department of Education's regulations that interpret and implement these sections of law, see [Compiled Title IV Regulations](#). For the official version of the law, we recommend visiting [uscode.house.gov](#), maintained by the U.S. House of Representative's Office of the Law Revision Counsel.

### U.S. Code, Title 20, Chapter 28

#### Subchapter I - Part A - Definitions

20 U.S.C. §§1001 – 1003

- Contains statutory definitions of eligible institutions of higher education
- Based on Title I of the HEA
- Relates mostly to regulations found in 34 CFR Part 600

#### Subchapter IV - Part A - Subpart 1 - Federal Pell Grants

20 U.S.C. §§1070 – 1070a-1

- Contains statutory authority for the Federal Pell Grant, Academic Competitiveness Grant (ACG), and National SMART Grant programs
- Based on Title IV, Part A of the HEA
- Relates mostly to regulations found in 34 CFR Part 690



# Amendments to Existing Legislation

## **FROM Consolidated Appropriations Act, 2012**

### **SEC. 309(a). FEDERAL PELL GRANT ELIGIBILITY.**

...

(2) DURATION OF AWARD PERIOD.—Section 401(c)(5) of the HEA (20 U.S.C. 1070a(c)(5)) is amended—

- (A) by striking “18” each place it appears and inserting “12”; and
- (B) by striking the last sentence.



# Amendments to Existing Legislation

## HEA CHANGE:

### (c) Period of eligibility for grants

...

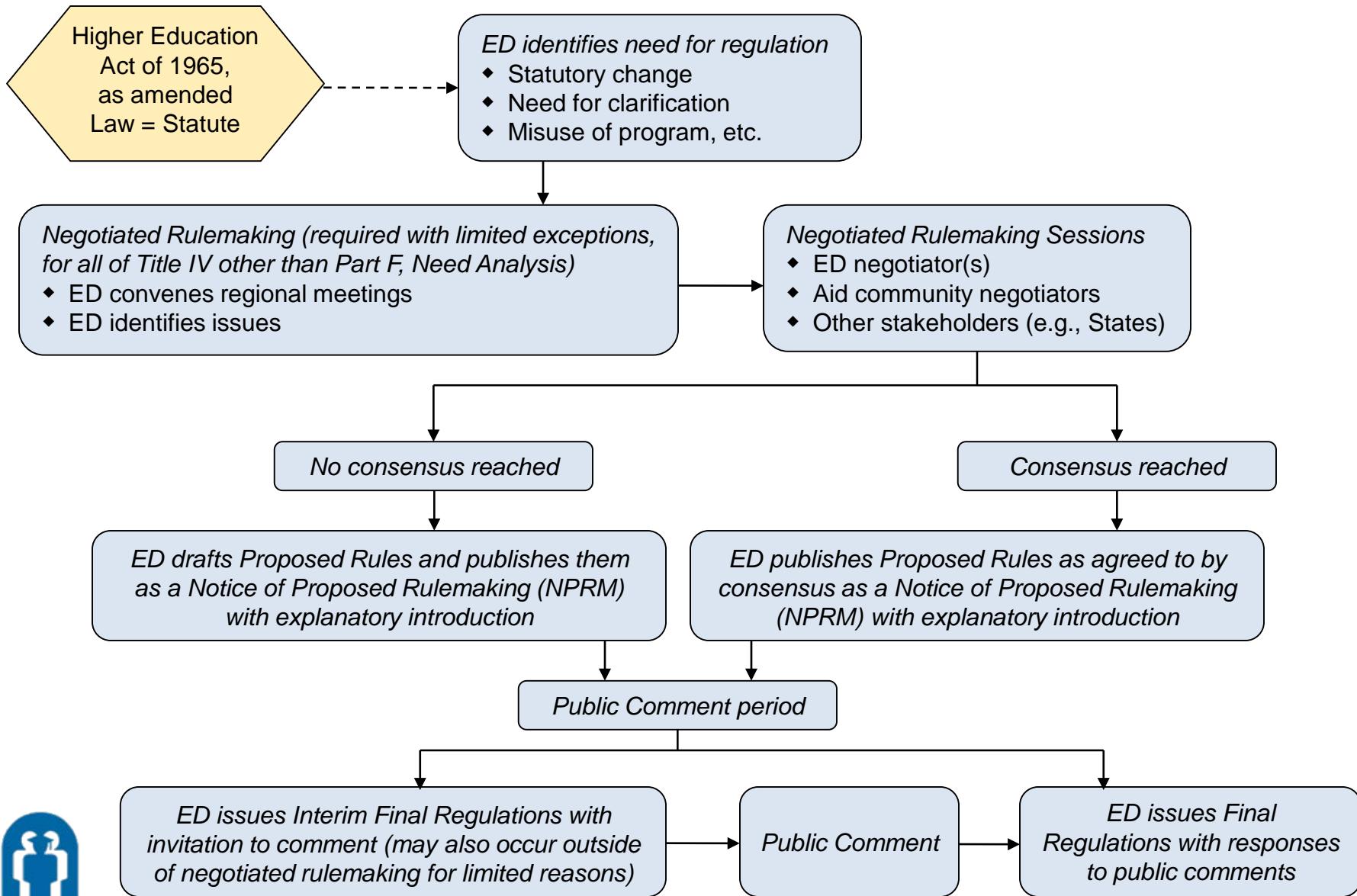
(5) The period during which a student may receive Federal Pell Grants shall not exceed ~~18~~ 12 semesters, or the equivalent of ~~18~~ 12 semesters, as determined by the Secretary by regulation. Such regulations shall provide, with respect to a student who received a Federal Pell Grant for a term but was enrolled at a fraction of full-time, that only that same fraction of such semester or equivalent shall count towards such duration limits. ~~The provisions of this paragraph shall apply only to a student who receives a Federal Pell Grant for the first time on or after July 1, 2008.~~



# The Relationship of Law to Regulations

- Regulations have the force of law, but are not the law
  - This difference is important in advocacy: is it a regulatory issue or statutory issue?
- Failure to comply with regulations can result in financial liabilities, fines, and limitations in Title IV participation

# Regulatory Process at a Glance



# Negotiated Rulemaking: Proposed Regulations and Final Rules

- Negotiated rulemaking consists of:
  - ED public hearing to identify or further refine issues that require regulation
  - *Federal Register* notice announcing intent to conduct negotiations, inviting nominations for negotiators
  - Negotiations



# Notice of Proposed Rulemaking (NPRM)

- Result of negotiations, published in the *Federal Register*
- Background information
- Proposed changes to current regulations (or proposed new regulations)
- Closing date for receiving comments from the public, and the procedures by which comments are submitted
  - Comment period between 30 and 120 days



# Final Rules

- ED reviews the comments from the financial aid community and other members of the public, incorporates any needed changes, and publishes final regulations in the *Federal Register*
- Preamble
  - Summarizes the comments ED received on the NPRM, and ED's responses to them
  - Any changes that resulted from the comments are noted
- Final regulations become part of the body of governing precepts known as the Code of Federal Regulations (CFR)



# Sections of a Final Rule

- **SUMMARY:** identifies the purpose of the regulation and the broad topics covered by the regulation
- **Analysis of Comments and Changes:** ED response to comments it received about the NPRM (Comment, Discussion, Changes)
- **Regulatory language itself:** includes roadmaps and descriptors on where and how to change existing regulations



# Numbering Structure for the Regulations

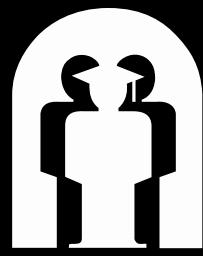
- **Code of Federal Regulations:** a uniform system for numbering federal regulations
- **Titles:** The CFR is divided into 50 titles according to subject matter
  - Federal regulations relating to education are designated as “Title 34 of the Code of Federal Regulations, or “34 CFR”
- **Part:** Each title is further divided into **parts**
  - For example, the subject of Part 668 addresses Student Assistance General Provisions regulations



# Numbering Structure for the Regulations

- **Section:** Each part is divided into **sections**
  - For example, sec. 668.22 governs the treatment of Title IV, HEA program funds when a student withdraws from an institution during a payment period
- **Subsection:** Each section is followed by **subsections** designated by a lower case letter. Subsections may be further divided into clauses and phrases with the following sequential lettering, Arabic numbering, and Roman numeral system: (a), (1), (i), (A), ( 1)
- NASFAA Compiled Regulations ([www.nasfaa.org](http://www.nasfaa.org))





# NASFAA

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NATIONAL ASSOCIATION OF STUDENT FINANCIAL AID ADMINISTRATORS