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.
Public Law Process

How Our Laws Are Made

The code of a bill
H. R. 301 [110]

Committee Work

The President

The People

A State Legislature

Executive Branch

Bill

Introducing Legislation

Committee Work

Conduct of Business

Simplifying Complex Issues

Legislation

Aspects of Legislative Operations

Public Hearings

Collect information and testimony from proponents and supporters.

Mark Up

Bill includes final amendments proposed by conference committee.

A Pocket Veto occurs when the President fails to sign a bill into law and Congress adjourns before signing it.

The President has 10 days to sign a bill into law or veto it. If the bill automatically becomes a law, Congress can override with a 2/3 majority.

Final Approval or Disapproval

Public Law

The code of a bill
H. R. 301 [110]

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Final Approval or Disapproval

Public Law
Authorization and Appropriation

**AUTHORIZING Legislation**
- Establishes programs
- Subject to expiration dates (usually 5-6 years)
- Congress must reauthorize prior to expiration

**APPROPRIATION Legislation**
- Funds the authorized programs
- Generally done through annual budget and appropriations process
Budget & Appropriations 101

What is *supposed* to happen ...

1. President Proposes Budget in February
2. Congress Passes Budget Resolutions
3. Appropriations Subcommittees Draft Spending Bills
4. Full Appropriations Committee Approves Draft Bills
5. Appropriations Bills Pass House and Senate
6. President Signs Appropriations Bills Into Law by October 1
What is supposed to happen...

Congress rarely follows this process

What usually happens ...

- Omnibus spending bill – combines all 12 spending bills into one
- Continuing Resolution (CR) – temporary funding measure
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 115th Congress

• Each Congress covers a two year period
  - The 115th Congress covers 2017 and 2018
Public Law Numbering System

- **Title**: Upper-case Roman numerals
  - **Title IV** authorizes all federal student aid programs

- **Part**: Upper-case letters
  - **Part A** 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.
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 Representatives 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 660
- Statutory authority for the ACG and SMART Grant programs (34 CFR 691) sunsets at the conclusion of the 2010-11 award year

Subchapter IV - Part A - Subpart 3 - Federal Supplemental Educational Opportunity Grants
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 1/2 semesters, or the equivalent of 18 1/2 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.
Amendments to Existing Legislation

FROM Department of Defense and Labor, Health and Human Services, and Education Appropriations Act, 2019

SEC. 309. (a). Section 455(f) of the Higher Education Act of 1965 (20 U.S.C. 1087e(f)) is amended—

(1) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and
(2) by inserting after paragraph (2) the following:

“(3) DEFERMENT FOR BORROWERS RECEIVING CANCER TREATMENT.—

“(A) EFFECT ON PRINCIPAL AND INTEREST.—A borrower of a loan made under this part who meets the requirements of subparagraph (B) shall be eligible for a deferment, during which periodic installments of principal need not be paid, and interest shall not accrue.

“(B) ELIGIBILITY.—A borrower of a loan made under this part shall be eligible for a deferment during— ““(i) any period in which such borrower is receiving treatment for cancer; and ““(ii) the 6 months after such period.

...
Relationship between Law and Regulation

• 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

Higher Education Act of 1965, as amended (Law = Statute)

**ED identifies need for regulation**
- Statutory change
- Need for clarification
- Misuse of program, etc.

**Negotiated Rulemaking (required with limited exceptions, for all of Title IV other than Part F, Need Analysis)**
- ED convenes regional meetings
- ED identifies issues

**Negotiated Rulemaking Sessions**
- ED negotiator(s)
- Aid community negotiators
- Other stakeholders (e.g., States)

**No consensus reached**

**ED drafts Proposed Rules and publishes them as a Notice of Proposed Rulemaking (NPRM) with explanatory introduction**

**Consensus reached**

**ED publishes Proposed Rules as agreed to by consensus as a Notice of Proposed Rulemaking (NPRM) with explanatory introduction**

**Public Comment Period**

**ED issues Interim Final Regulations with invitation to comment (may also occur outside of negotiated rulemaking for limited reasons)**

**Public Comment**

**ED issues Final Regulations with responses to public comments**
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**: includes roadmaps and descriptors on where and how to change existing regulations
Numbering Structure for 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”

• **Parts**: Each title is further divided into parts
  - For example, the subject of Part 668 addresses Student Assistance General Provisions regulations
Numbering Structure for Regulations

• **Sections**: 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

• **Subsections**: 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), (I)

• NASFAA Compiled Regulations (www.nasfaa.org)