

## Federal Register – March 2023

[Rescission of Implementing Legal Requirements Regarding the Equal Opportunity Clause's Religious Exemption Rule, 88 Federal Register 12842, March 1, 2023](#)

**FINAL RULE/RECISSION:** In December 2020, OFCCP promulgated a rule that purported to clarify the scope and application of the Executive Order 11246 religious exemption (hereinafter “2020 rule”). ... however, the 2020 rule increased confusion and uncertainty about the religious exemption, largely because it departed from and questioned longstanding Title VII precedents. OFCCP now believes that this could have the effects of diminishing the economy and efficiency of work performed on Federal contracts and weakening nondiscrimination protections for workers. ...for the reasons explained below, OFCCP is rescinding the entire 2020 rule so that the agency can return to its longstanding approach of aligning the Executive Order 11246 religious exemption with Title VII case law as applied to the facts and circumstances of each situation. OFCCP remains committed to protecting religious freedom in accordance with applicable law and will continue to provide any needed compliance assistance on the religious exemption.

**EFFECTIVE DATE:** March 31, 2023

[NSF Evaluation of Anti-Harassment Term and Condition New Information Request, 88 Federal Register 14180, March 7, 2023](#)

**NOTICE:** The purpose of the National Science Foundation's (NSF) Office of Equity and Civil Rights (OECR) Awardee Survey Form is to collect awardee feedback and input on NSF's awardee term and condition that requires NSF to be notified: (1) of any findings/determinations regarding the PI or co-PI that demonstrate a violation of awardee codes of conduct, policies, regulations or statutes relating to sexual harassment, other forms of harassment, or sexual assault; or (2) if the awardee places the PI, or co-PI on administrative leave or imposes an administrative action relating to a finding or investigation of a violation of awardee policies, codes of conduct, statutes or regulations relating to sexual harassment, other forms of harassment, or sexual assault. This survey will assist NSF OECR in assessing how the term and condition has been implemented at awardee organizations and whether improvements or adjustments to the term and condition are either necessary or appropriate to maximize its efficacy and ease of use. This survey will allow us to reach out directly to NSF awardees, to include Authorized Organizational Representatives, Title IX coordinators and researchers, to better understand their respective experiences with the term and condition and to gather their comments for adjustments or enhancements to it.

**COMMENTS DUE:** Within 30 days of publication

[OSTP Request for Information: NSPM Research Security Programs Standards Requirement, 88 Federal Register 14187, March 7, 2023](#)

**NOTICE:** The Office of Science and Technology Policy (OSTP) requests comments from the public on draft Research Security Programs Standard Requirement developed in response to National Security Presidential Memorandum 33 on National Security Strategy for United States Government-Supported Research and Development (R&D). The draft Standard Requirement has been created by OSTP, together with Federal

	<p>agencies and the Office of Management and Budget, to ensure that there is uniformity across Federal research agencies in implementing this requirement.</p> <p><b>COMMENTS DUE:</b> June 5, 2023</p>
<p><a href="#">Minimum Standards for Driver's Licenses and Identification Cards Acceptable by Federal Agencies for Official Purposes; Extending Enforcement Date, 88 Federal Register 14473, March 9, 2023</a></p>	<p><b>FINAL RULE:</b> On May 3, 2021, DHS published an interim final rule (IFR) extending the card-based enforcement deadline to May 3, 2023. This rule finalizes that IFR and further extends the date for card-based enforcement of the REAL ID regulations from May 3, 2023 until May 7, 2025. Beginning on that date, Federal agencies are prohibited from accepting a state-issued driver's license or identification card for official purposes unless such license or card is a REAL ID compliant driver's license or identification card issued by a state that DHS has determined is in full compliance as defined under this part. The current regulations also permit Federal agencies to accept noncompliant driver's licenses and identification cards for official purposes until May 2, 2023. This rule also extends that date, authorizing Federal agencies to continue to accept non-compliant driver's licenses and identification cards for official purposes until May 6, 2025.</p> <p><b>EFFECTIVE DATE:</b> March 9, 2023</p>
<p><a href="#">IRS Revision of Annual Return/Report of Employee Benefit Plan, 88 Federal Register 15121, March 10, 2023</a></p>	<p><b>NOTICE:</b> IRS is adding Form 5558 to the OMB approval for 1545-1610. Additionally, IRS is making the following revisions to the Form 5558 to allow for electronic filing with the Department of Labor's (DOL) ERISA Filing Acceptance System (EFAST2). Currently, Form 5558 is used by a filer to request an extension of time to file Form 5500 series, Form 8955-SSA as well as the Form 5330, Return of Excise Taxes Related to Employee Benefit Plans. Form 5558 does not extend the time to pay the excise taxes. Any tax due for Form 5330 filers must be paid with Form 5558 for the application for an extension of time to file Form 5330. The DOL EFAST2 system will not take the IRS tax payment. Thus, the IRS will revise Form 5558 to remove the items about the extension of time to file Form 5330. This will allow DOL to electronically collect the form. The Form 5558 will be used to solely request extensions on the Form 5500 series and Form 8955-SSA. The payment information from Form 5558 will be incorporated into Form 8868. The Form 8868 will be revised to allow extensions for Form 5330 and payment of excise tax due. Form 8868 will only allow for the extension to file, and will not extend the payment of the excise tax. The pension plan burden for the Form 8868 revision will be covered under 1545-0575.</p> <p><b>COMMENTS DUE:</b> April 10, 2023</p>
<p><a href="#">Guidance Documents Related to Coronavirus Disease 2019 (COVID-19), 88 Federal Register 15417, March 13, 2023</a></p>	<p><b>NOTICE:</b> On February 9, 2023, the Secretary of Health and Human Services (HHS) renewed the Coronavirus Disease 2019 (COVID-19) public health emergency declaration issued under section 319 of the Public Health Service Act (PHS Act) ("PHE declaration"), effective February 11, 2023. The declaration is expected to expire at the end of the day on May 11, 2023. The Food and Drug Administration (FDA, Agency, or we) has issued guidance documents to address the circumstances of the public health emergency and, more generally, COVID-19. Many of those guidance documents are tied to the duration of the PHE</p>

	<p>declaration. This notice is intended to provide clarity to stakeholders with respect to the guidance documents that will no longer be effective with the expiration of the PHE declaration and the guidances that FDA is revising to continue in effect after the expiration of the PHE declaration.</p>
<p><a href="#">Employment Authorization for Somali F-1 Nonimmigrant Students Experiencing Severe Economic Hardship as a Direct Result of the Current Crisis in Somalia, 88 Federal Register 15427, March 13, 2023</a></p>	<p><b>NOTICE:</b> This notice announces that the Secretary of Homeland Security (Secretary) is suspending certain regulatory requirements for F-1 nonimmigrant students whose country of citizenship is Somalia, regardless of country of birth (or individuals having no nationality who last habitually resided in Somalia), and who are experiencing severe economic hardship as a direct result of the current crisis in Somalia. The Secretary is taking action to provide relief to these Somali students who are lawful F-1 nonimmigrant students so the students may request employment authorization, work an increased number of hours while school is in session, and reduce their course load while continuing to maintain their F-1 nonimmigrant student status. The U.S. Department of Homeland Security (DHS) will deem an F-1 nonimmigrant student granted employment authorization by means of this notice to be engaged in a “full course of study” for the duration of the employment authorization, if the nonimmigrant student satisfies the minimum course load requirement described in this notice.</p> <p><b>EFFECTIVE DATE:</b> March 18, 2023 – September 17, 2024</p>
<p><a href="#">Agency Information Collection Activities; Comment Request; Federal Work Study (FWS) Wages for Student Aid Index, 88 Federal Register 15682, March 14, 2023</a></p>	<p><b>NOTICE:</b> This new collection will be used to gather information available to participating institutions of higher education (IHE) which is required to fully calculate eligibility for title IV student financial aid for applicants under the Higher Education Act of 1965, as amended (HEA). The FAFSA Simplification Act (Pub. L. 116-260) introduced a change to the manner in which the Department of Education (ED) may obtain the amount of income an applicant has earned from work under the Federal Work Study (FWS) Program, for the purposes of calculating the applicant's student aid index (SAI) and determine their eligibility for certain Title IV aid. Pursuant to section 483(a)(2)(F) of the FAFSA Simplification Act, ED is required to collect an applicant's income earned under the FWS program from the IHE participating in the FWS program and can no longer add additional questions to the FAFSA to obtain this information from the FAFSA applicant.</p> <p><b>COMMENTS DUE:</b> May 15, 2023</p>
<p><a href="#">Copyright Registration Guidance: Works Containing Material Generated by Artificial Intelligence, 88 Federal Register 16190, March 16, 2023</a></p>	<p><b>STATEMENT OF POLICY:</b> The Copyright Office issues this statement of policy to clarify its practices for examining and registering works that contain material generated by the use of artificial intelligence technology.</p> <p><b>EFFECTIVE DATE:</b> March 16, 2023</p>
<p><a href="#">Fulbright-Hays Doctoral Dissertation Research Abroad Fellowship Program and Faculty Research Abroad Fellowship Program, 88 Federal Register 16924, March 20, 2023</a></p>	<p><b>PROPOSED RULE:</b> The Secretary proposes to amend the regulations that govern the Fulbright-Hays Doctoral Dissertation Research Abroad (DDRA) Fellowship Program and the Faculty Research Abroad (FRA) Fellowship Program. The proposed changes would revise language proficiency qualifications for DDRA and FRA applicants and clarify the Secretary's discretionary use of eligibility criteria.</p>

<p><a href="#">Reducing Patent Fees for Small Entities and Micro Entities Under the Unleashing American Innovators Act of 2022, 88 Federal Register 17147, March 22, 2023</a></p>	<p><b>COMMENTS DUE:</b> April 20, 2023</p> <p><b>FINAL RULE:</b> The United States Patent and Trademark Office (Office or USPTO) amends patent fees for small and micro entities set forth in its regulations to implement the provisions of the Consolidated Appropriations Act, 2023—which included the Unleashing American Innovators Act of 2022 (UAIA). The UAIA, signed into law on December 29, 2022, supports the USPTO's efforts to reduce the innovation ecosystem's barriers to entry. The UAIA increased fee discounts for small entities from 50% to 60% and fee discounts for micro entities from 75% to 80% for fees for filing, searching, examining, issuing, appealing, and maintaining patent applications and patents. The UAIA also increased fee discounts for small entities from 75% to 80% for filing a basic nonprovisional utility application electronically.</p> <p><b>EFFECTIVE DATE:</b> March 22, 2023; Amendment 1.16 is effective on April 3, 2023</p>
<p><a href="#">Preventing the Improper Use of CHIPS Act Funding, 88 Federal Register 17439, March 23, 2023</a></p>	<p><b>PROPOSED RULE:</b> The CHIPS Act (the Act) established an incentives program to reestablish and sustain U.S. leadership across the semiconductor supply chain. To ensure that funding provided through this program does not directly or indirectly benefit foreign countries of concern, the Act includes certain limitations on funding recipients, such as prohibiting engagement in certain significant transactions involving the material expansion of semiconductor manufacturing capacity in foreign countries of concern and prohibiting certain joint research or technology licensing efforts with foreign entities of concern. The Department of Commerce (Department) is issuing, and requesting public comments on, a proposed rule to set forth terms related to these limitations and procedures for funding recipients to notify the Secretary of Commerce (Secretary) of any planned significant transactions that may be prohibited.</p> <p><b>COMMENTS DUE:</b> May 22, 2023</p>
<p><a href="#">Agency Information Collection Activities; Comment Request; 2024-2025 Free Application for Federal Student Aid (FAFSA®), 88 Federal Register 17560, March 23, 2023</a></p>	<p><b>NOTICE:</b> The Secretary of Education “. . . shall produce, distribute, and process free of charge common financial reporting forms as described in this subsection to be used for application and reapplication to determine the need and eligibility of a student for financial assistance . . .”. The determination of need and eligibility are for the following Title IV, HEA, federal student financial assistance programs: the Federal Pell Grant Program; the Campus-Based programs (Federal Supplemental Educational Opportunity Grant (FSEOG) and Federal Work-Study (FWS)); the William D. Ford Federal Direct Loan (Direct Loan) Program; the Teacher Education Assistance for College and Higher Education (TEACH) Grant; the Children of Fallen Heroes Scholarship; and the Iraq and Afghanistan Service Grant.</p> <p><b>COMMENTS DUE:</b> May 23, 2023</p>
<p><a href="#">ED Intent to Establish Negotiated Rulemaking Committee, 88 Federal Register 1777, March 24, 2023</a></p>	<p><b>NOTICE:</b> We announce our intention to establish one or more negotiated rulemaking committee(s), which may include a subcommittee, to prepare proposed regulations for the Federal Student Aid programs authorized under title IV of the Higher Education Act of 1965, as amended (HEA). The committee will include representatives of organizations or groups with interests</p>

	<p>that are significantly affected by the subject matter of the proposed regulations. We also announce three public hearings at which interested parties may comment on the topics suggested by the Department and may suggest additional topics that we should consider for action by the negotiating committee. In addition, we announce that the Department will accept written comments on the topics suggested by the Department and suggestions for additional topics that we should consider for action by the negotiating committee.</p> <p><b>COMMENTS DUE:</b> April 24, 2023</p>
<p><a href="#">Administrative Simplification: Adoption of Standards for Health Care Attachments Transactions and Electronic Signatures, and Modification to Referral Certification and Authorization Transaction Standard; Extension of Comment Period, 88 Federal Register 17780, March 24, 2023</a></p>	<p><b>PROPOSED RULE:</b> In the December 21, 2022 Federal Register (87 FR 78438), we published a proposed rule titled “Administrative Simplification: Adoption of Standards for Health Care Attachments Transactions and Electronic Signatures, and Modification to Referral Certification and Authorization Transaction Standard” (hereinafter referred to as the December 2022 proposed rule). This rule would implement requirements of the Administrative Simplification subtitle of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and the Patient Protection and Affordable Care Act, as amended by the Health Care and Education Reconciliation Act of 2010, enacted on March 30, 2010—collectively, the Affordable Care Act. Specifically, this proposed rule would adopt standards for “health care attachments” transactions, which would support both health care claims and prior authorization transactions, and a standard for electronic signatures to be used in conjunction with health care attachments transactions. To better support the use of the proposed standards for attachments transactions with prior authorization transactions, this rule also proposes to adopt a modification to the standard for the referral certification and authorization transaction (X12 278) to move from Version 5010 to Version 6020. We are extending the comment period for the December, 2022, proposed rule by 30 days.</p> <p><b>COMMENTS DUE:</b> April 21, 2023.</p>
<p><a href="#">Pell Grants for Prison Education Programs; Determining the Amount of Federal Education Assistance Funds Received by Institutions of Higher Education (90/10); Change in Ownership and Change in Control; Correction, 88 Federal Register 18255, March 28, 2023</a></p>	<p><b>FINAL REGULATIONS:</b> On October 28, 2022, the Department published in the Federal Register final regulations that, among other things, establish requirements for postsecondary educational institutions to offer PEPs (87 FR 65426), effective July 1, 2023. The approval process for new PEPs under § 668.237(b) requires review by the postsecondary educational institution's accrediting agency. Specifically, under § 668.237(b)(4), the accrediting agency must have reviewed and approved the methodology for how the institution, in collaboration with the oversight entity, made the determination that the prison education program meets the same standards as substantially similar programs that are not prison education programs at the institution. Under § 668.236(a)(3), however, the oversight entity is not required to make this determination until two years after the initial PEP is approved to operate by the Department. We are correcting § 668.237(b)(4) by adding the words “If the requirements of § 668.236(a)(3) are satisfied,” to make clear that, as part of its review of new PEPs, the</p>

	<p>accrediting agency reviews the referenced methodology only after the two-year period set forth in § 668.236(a)(3).</p> <p><b>EFFECTIVE DATE:</b> July 1, 2023</p>
<p><a href="#">Exchange Visitor Program-General Provisions, 88 Federal Register 18249, March 28, 2023</a></p>	<p><b>INTERIM FINAL RULE:</b> The U.S. Department of State (Department of State) is publishing an interim final rule with request for comment (interim final rule) for Exchange Visitor Program regulations, the regulations that apply to sponsors the Department of State designates to conduct international educational and cultural exchange programs. The Department of State is making administrative changes to the regulations to include providing sponsors two new options: using digital signature software to sign Certificates of Eligibility for Exchange Visitor (J-1) Status (Forms DS-2019) and electronically transmitting Forms DS-2019. Sponsors should experience cost savings and increased efficiencies from these changes.</p> <p><b>INTERIM RULE EFFECTIVE DATE:</b> April 27, 2023</p> <p><b>COMMENTS DUE:</b> May 30, 2023</p>
<p><a href="#">Schedule of Fees for Consular Services-Nonimmigrant and Special Visa Fees, 88 Federal Register 18243, March 28, 2023</a></p>	<p><b>FINAL RULE:</b> This rule adopts as final adjustments to the Schedule of Fees for Consular Services (Schedule of Fees) for several nonimmigrant visa (NIV) application processing fees...These adjustments are based on the findings of the most recently approved update to the Cost of Service Model (CoSM) and incorporate revised projections for nonimmigrant visa demand. This rule also addresses public comments received by the Department on the originally proposed fee recommendations found in the notice of proposed rulemaking (NPRM).</p> <p><b>EFFECTIVE DATE:</b> May 30, 2023</p>
<p><a href="#">Credit Card Penalty Fees (Regulation Z), 88 Federal Register 18906, March 29, 2023</a></p>	<p><b>PROPOSED RULE:</b> The Consumer Financial Protection Bureau (Bureau) proposes to amend Regulation Z, which implements the Truth in Lending Act (TILA), to better ensure that the late fees charged on credit card accounts are “reasonable and proportional” to the late payment as required under TILA. The proposal would adjust the safe harbor dollar amount for late fees to \$8 and eliminate a higher safe harbor dollar amount for late fees for subsequent violations of the same type; provide that the current provision that provides for annual inflation adjustments for the safe harbor dollar amounts would not apply to the late fee safe harbor amount; and provide that late fee amounts must not exceed 25 percent of the required payment.</p> <p><b>COMMENTS DUE:</b> May 3, 2023</p>
<p><a href="#">Video Description: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010, 88 Federal Register 18505, March 29, 2023</a></p>	<p><b>PROPOSED RULE:</b> In this document, the Commission proposes to expand its support for individuals who are blind or visually impaired and ensure they have nationwide access to video programming by expanding its audio description requirements to additional market areas. Specifically, the Commission proposes to phase in an additional 10 designated market areas each year until audio description is available in all such market areas.</p> <p><b>COMMENTS DUE:</b> April 28, 2023</p>
<p><a href="#">Agency Information Collection Activities; Comment Request; Higher Education Act (HEA) Title II Report Cards</a></p>	<p><b>NOTICE:</b> This request is for a revision of the State Report Card and Institution and Program Report Card required by the Higher Education Act of 1965, as amended in 2008 by the Higher</p>

[on State Teacher Credentialing and Preparation, 88 Federal Register 19285, March 31, 2023](#)

Education Opportunity Act (HEOA). States must report annually on criteria and assessments required for initial teacher credentials using a State Report Card (SRC), and institutions of higher education (IHEs) with teacher preparation programs (TPP), and TPPs outside of IHEs, must report on key program elements on an Institution and Program Report Card (IPRC). The revisions to the IPRC consist of the following:

- A new sub-section about the impact of COVID–19 in Section I: Program Information. The section would have four questions in the first data collection year in which it is implemented, due to retrospective questions going back to academic year 2019–20, but only one question in subsequent data collection years.
- A new question about student completion rate in Section I: Program Information.
- Minor revisions to the gender and race/ethnicity categories in Section I: Program Information.

The revisions to the SRC consist of the following:

- Two new items showing completion rate, total and by program, pre-loaded from the IPRC for state review, in Section I: Program Information.
  - Five new multiple choice questions in Section VII: Teacher Shortages and Teacher Preparation, which are replacing three open text items.
  - A new “other” response option for a multiple choice item in Section IX: Improvement Efforts.
  - A new multiple choice and open text item in Section IX: Improvement Efforts.
  - A new section (Section X) about the impact of COVID–19. The section would have three questions in the first data collection year in which it is implemented, due to retrospective questions going back to academic year 2019–20, but only one question in subsequent data collection years.
  - Minor revisions to the gender and race/ethnicity categories in Section I: Program Information.

**COMMENTS DUE:** May 30, 2023

[Research Involving Children as Subjects and Not Otherwise Approvable by an Institutional Review Board: Process for Referrals to Food and Drug Administration and Office for Human Research Protections, Guidance for Institutional Review Boards, Investigators, and Sponsors; Draft Guidance for Industry; Availability; Agency Information Collection Activities; Proposed Collection; Comment Request, 88 Federal Register 19310, March 31, 2023](#)

**NOTICE:** The Food and Drug Administration (FDA) is announcing the availability of a draft guidance for industry entitled “Research Involving Children as Subjects and Not Otherwise Approvable by an IRB: Process for Referrals to FDA and OHRP.” This guidance is intended to assist institutional review boards (IRBs), institutions, investigators, and sponsors in understanding the processes used for review of research involving children as subjects that is not otherwise approvable by an IRB and has been referred to FDA, the Office for Human Research Protections (OHRP), or both, for review. When final, this guidance will replace the final guidance issued by FDA in December 2006 entitled, “Guidance for Clinical Investigators, Institutional Review Boards and Sponsors: Process for Handling Referrals to FDA Under 21 CFR 50.54: Additional Safeguards for Children in Clinical Investigations” and the guidance issued by the OHRP entitled “Children as Research Subjects and the HHS

'407' Process," issued on May 26, 2005. This draft guidance is not final nor is it in effect at this time.

**COMMENTS DUE:** May 30, 2023

## Virginia Register – March 2023

[12VAC35-180, Regulations to Ensure the Protection of Subjects in Human Research, Volume 39, Issue 15, Virginia Register of Regulations, March 13, 2023](#)

**REPORT OF FINDINGS:** The State Board of Behavioral Health and Developmental Services conducted a periodic review and a small business impact review of 12VAC35-180, Regulations to Ensure the Protection of Subjects in Human Research, and determined that this regulation should be amended. The department is publishing its report of findings dated December 12, 2022, to support this decision.

As long as the Commonwealth allows human research, there is a continued need for the regulation. The regulation provides a straightforward framework for the conduct of research by any institution or agency as defined in the regulation. The regulation incorporates but does not fully overlap, duplicate, or conflict with federal or state laws or regulations. The regulation is reasonable and consistent with the statutory requirements, but some minor revisions are necessary to better align the regulation with federal requirements. The last periodic review of the regulation was in 2018. Since that time, federal regulation was updated, which requires this regulation to be updated. Therefore, the department plans to amend the regulation accordingly.

This regulation needs to remain in place to ensure the health, safety, and welfare of the individuals involved in human research. The only public comment received during the public comment period was not relevant to the regulation. The structure set out in the regulation is in accordance with other applicable federal and state laws and regulations. Since the previous periodic review, technology, economic conditions, or other factors have had no impact on Virginia's need for the regulation.