American Council on Education
Leadership and Advocacy

Division of Government & Public Affairs

New U.S. Department of Education Regulations for Gainful Employment Programs

The U.S. Department of Education (ED) has recently issued final rules for gainful employment (GE) programs. GE programs are programs that are required "to lead to gainful employment in a recognized occupation" in order to be eligible for Title IV federal financial aid.

Determining GE Programs

Virtually all programs at for-profit institutions–both degree and non-degree–are GE programs with some limited exceptions. Typically, programs at public and non-profit private institutions that lead to a certificate or non-degree credential are GE programs. We have prepared a Q&A document and decision tree to further assist you in identifying GE programs on your campus.

Reporting and Disclosures; Approval for New Programs

On Oct. 28, 2010, ED issued its first set of final GE program rules. These regulations, which take effect July 1, 2011, impose extensive new reporting and disclosure requirements for all GE programs as well as a new notice and approval process for the creation of new GE programs.

Debt Measures for Continued Title IV Eligibility

On June 2, 2011, ED issued a second set of final GE program rules. These regulations establish highly intricate and detailed "debt measures" that GE programs will be required to meet in order to remain eligible for Title IV aid. Although the regulations take effect July 1, 2012, the first year a program could lose Title IV eligibility would be 2015.

To remain eligible for Title IV aid, GE programs will need to satisfy at least one of the following three tests:

1) A federal loan repayment rate of at least 35 percent. (Generally, a loan qualifies when it has been paid in full, the balance of the loan is reduced by at least $1, the student is on track for public service forgiveness, or the student is making income-based payments.)
2) the annual loan payment does not exceed 12 percent of a typical graduate's total income; or
3) the annual loan payment does not exceed 30 percent of a typical graduate's discretionary income.

Failure to satisfy the debt measures (i.e., at least one of the three tests) in a single year will result in additional disclosures to students. Failure to satisfy the debt measure two times in a three-year period will require warnings to students including that their debts may be unaffordable, and that the program may lose Title IV eligibility. A program that fails to satisfy the debt measure requirements three times in a four-year period will be ineligible for Title IV aid and prohibited from reapplying for at least three additional years.

If I do have a GE program, what steps do I need to take now?

We strongly encourage you to confirm that efforts are underway on your campus to meet the July 1 disclosure and reporting requirements for GE programs. ED has issued a Dear Colleague Letter and has conducted an online webinar (an archived version can be located here), which both provide additional guidance on these new requirements. ED also has issued the National Student Loan Data System (NSLDS) Gainful Employment User Guide, which institutions may use to submit required gainful employment information to ED. ED has created a Gainful Employment Information website, located at http://www.ifap.ed.gov/GainfulEmploymentInfo/index.html, which includes, among other materials, the materials referenced here and FAQs. We encourage you to review the materials on that website and to monitor it for additional postings.

How will I know if my GE program will satisfy ED's new debt measures?

Institutions generally will not have access to all data necessary to calculate independently the debt measures. ED will use actual earnings data provided by the Social Security Administration (SSA) when applying the debt-to-income tests. While institutions will be permitted to verify the list of students submitted to SSA, they will not have access to individual earnings data due to privacy concerns. The rule permits institutions to challenge ED's debt-to-income calculation through use of earnings from state-sponsored data systems, an institutional survey conducted in accordance with strict standards for reliability, and, for a three-year transitional period, Bureau of Labor Statistics data.