



Gainful Employment NPRM Summary

Aug. 9, 2010

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The following summary highlights regulatory changes proposed in the Gainful Employment Notice of Proposed Rulemaking published July 26, 2010. USA Funds® encourages schools to carefully examine the NPRM. Comments on these proposed regulations are due to the U.S. Department of Education by Sept. 9, 2010.

| Topic | Proposed Rule Change | Proposed Effective Date |
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| <p>Definitions: Gainful Employment 668.7(a)(3)</p> | <p>The following definitions would apply only to the provisions covered under gainful employment rules:</p> <ul style="list-style-type: none"> • Classification of Instructional Programs (CIP) — A reference, developed by the U.S. Department of Education, that includes instructional program classifications and descriptions. • Discretionary income — The difference between average annual earnings and 150 percent of the most current poverty guideline for a single person in the continental United States. • Earnings year — The most recent calendar year for which earnings data are available. • Program — Any educational program of at least one academic year in length that leads to a certificate, degree or other recognized educational credential and that prepares a student for gainful employment in a recognized occupation; or an eligible program offered at a proprietary institution of higher education or postsecondary vocational institution. • Three-year period (3YP) — The period covering the three most recently completed award years prior to the earnings year. • Prior three-year period (P3YP) — The period covering the fourth, fifth and sixth most recently completed award years prior to the earnings year (the three years preceding the three-year period). | <p>July 1, 2011</p> |
| <p>Definitions: Debt Measures Formula 668.7(c)(2) and (3)</p> | <p>The following would define elements of the debt measures calculations:</p> <ul style="list-style-type: none"> • Annual loan payment — The payment amount due in a single year, calculated based on the 10-year repayment schedule for the median loan debt of students who completed the program of study during the applicable 3YP, using current interest rates on unsubsidized Direct loans. Loan debt would comprise Title IV | <p>July 1, 2011</p> |

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| | <p>loan debt — less any applicable parent PLUS loans — and private education loan or other debts incurred as institutional loans. For purposes of this calculation, loan debt for any individual school does not include debt incurred for attendance at previous or subsequent schools unless those schools are under common ownership or control or are otherwise related.</p> <ul style="list-style-type: none"> • Average annual earnings — The most current actual average annual earnings amount, as obtained from a federal agency, of students who completed the program during the 3YP. P3YP data may also be used in some instances. | |
| <p>Definitions: Loan Repayment Rate Formula 668.7(b)</p> | <p>The following would be elements of the gainful employment calculations for deriving the repayment rate of students from a program:</p> <ul style="list-style-type: none"> • Original outstanding principal balance (OOPB) — The amount of principal and capitalized interest outstanding on Federal Family Education Loan Program and Federal Direct Loan Program loans owed by students who attended that program, calculated on the date that the loans entered repayment. • Loans paid in full (LPF) — Loans made to students who attended the program that have been paid in full by or on behalf of the student, except for loans paid in full through loan consolidation. • Reduced principal loan (RPL) — A loan for which outstanding principal balance has been reduced by borrower payments since the beginning of the applicable fiscal year. Also included in this sum would be the amount of loans for borrowers whose payments during that federal fiscal year qualify for Public Service Loan Forgiveness. <p>Exclusions — The following two sums would not be included in the loan repayment rate calculation:</p> <ul style="list-style-type: none"> • The original outstanding principal balance of borrowers in in-school or military-related deferments. • The original outstanding principal balance of borrowers entering repayment after March 31 of the most recent federal fiscal year. | <p>July 1, 2011</p> |
| <p>Gainful Employment 668.7(a)</p> | <p>A program would be considered to lead to “gainful employment” in a recognized occupation if any of these three criteria apply:</p> | <p>July 1, 2011</p> |

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| | <ul style="list-style-type: none"> • The program's annual loan repayment rate is at least 35 percent. • Using the three-year period, the program's annual loan payment is 30 percent or less of discretionary income, or 12 percent or less of average annual earnings for that occupation. • Using the prior three-year period, the program's annual loan payment is less than 20 percent of discretionary income or less than 8 percent of average annual earnings for that occupation. | |
| <p>Restricted Status 668.7(a)(2)</p> | <p>A category of school participation that the Department would impose if <i>both</i> of the following conditions apply:</p> <ul style="list-style-type: none"> • The program of study has an annual loan repayment rate of less than 45 percent. • The program has an annual loan payment amount that is more than 20 percent of discretionary income and more than 8 percent of average annual income using the three-year period and, if applicable, the prior three-year period. | <p>July 1, 2011</p> |
| <p>Average Annual Earnings 668.7(c)(3)</p> | <p>As part of the debt measures calculation, the Department would use the most current, available, actual average annual earnings of students completing the program in the three-year period and, if available, the prior three-year period.</p> <p>Prior three-year period earnings would be used if, based on instructions provided by the Department, the school provides the following information:</p> <ul style="list-style-type: none"> • Data to indicate that students completing the program usually experience a significant increase in earnings after an initial period of employment. • An explanation of the basis for that increase in earnings. • The Classification of Instructional Programs code applicable to the school's programs of study, and, for each student completing the programs, each of the following: <ul style="list-style-type: none"> ○ The student's completion date. ○ The amount of private education loans the student received. ○ The amount of debt the student incurred from any financing the school provided. | <p>July 1, 2011</p> |

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| Debt Warning Disclosure 668.7(d) | Unless the program of study has a loan repayment rate of 45 percent or more, and an annual loan payment that is at least 20 percent of discretionary income or 8 percent of average annual income, the Department would notify the school that it is required to provide warnings in published materials, and in admissions meetings with prospective students. The warnings would be required to disclose to both current and prospective students that they may have difficulty paying loans obtained for attending that program of study and also would be required to provide the program's most recent repayment information. | July 1, 2012 |
| Ineligible Program of Study 668.7(f)(1) | A program would become ineligible if it does not meet at least one of the debt thresholds prescribed in regulations. After the school received notice of that ineligibility, it would not be permitted to disburse any Title IV assistance to students who begin that program of study. The school would, however, be permitted to continue disbursing Title IV funds to students engaged in the program of study prior to the date the school received the ineligibility notice. Students already engaged in the program of study could continue to receive Title IV funds for the award year in which the program loses eligibility and the award year following the date of the Department's notice. | July 1, 2012 |
| Transition Year Cap 668.7(f)(2)(i)(A) | For the first year in which a program could lose eligibility (2012), the Department would place a cap on the number of programs deemed ineligible under these provisions. The proposed cap is 5 percent of each type of program credential awarded (certificate, associate degree, baccalaureate degree and graduate/professional degree). | July 1, 2012 |
| Transition Year Program Restrictions 668.7(f)(2)(ii) | If in the transition, a program fails to meet the required repayment and debt standards but does not fall within the 5 percent of programs deemed ineligible, the Department would notify the school that it must do all of the following: <ul style="list-style-type: none"> • Limit the number of Title IV-eligible students enrolled in the program to the average number of Title IV recipients enrolled during the prior three award years. • Provide to the Department certain affirmations from employers with respect to the need for workers with skills that the programs provide. | July 1, 2012 |

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| | <ul style="list-style-type: none"> • Provide the debt warning disclosure to students. | |
| Calculation Frequencies 668.7(b) and (c) | <p>The Department would calculate annually:</p> <ul style="list-style-type: none"> • Each applicable program's loan repayment rate. • Whether the annual loan repayment rate is less than the discretionary income and average annual earnings thresholds. | July 1, 2011 |
| New Program Application 668.7(g)(1) | <p>If a school wishes to add a new program that would fall under the gainful employment provisions, the school would be required to provide additional data to the Department, including at a minimum:</p> <ul style="list-style-type: none"> • Documentation that the school received approval of any substantive programmatic changes from the appropriate accrediting agency. • Projected student enrollment for the next five years. • Documentation from employers not affiliated with the school affirming aspects of the curriculum's pertinence. | July 1, 2011 |
| Restricted Approval | <p>The Department could choose to approve the program initially on a restricted basis.</p> | July 1, 2011 |
| Restricted Program 668.7(e) | <p>If a program is restricted, the school would receive notice from the Department that all of the following apply:</p> <ul style="list-style-type: none"> • The school must post, publish and include appropriate debt warning disclosures to current and prospective students, as applicable. • The school must provide an annual report to the Department including employer affirmations (documentation from employers not affiliated with the school affirming that the curriculum of the program aligns with recognized occupations at those employers' businesses and that there are projected job vacancies or expected demand for those occupations). • Limitations on the number of students that the school is permitted to enroll in the program. The proposed language limits enrollment to the average number of students enrolled during the prior three award years. | July 1, 2011 |