



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF POSTSECONDARY EDUCATION

GEN-11-10

April 20, 2011

Subject: Implementation of Regulatory Requirements Related to Gainful Employment Programs

Summary: This letter provides guidance on new requirements for institutions that offer educational programs that prepare students for gainful employment in a recognized occupation.

Dear Colleague:

Final regulations published in the Federal Register on October 29, 2010, [75 FR 66665 and FR 66832], by the U.S. Department of Education (the Department), require institutions that participate in the student financial assistance programs authorized under Title IV of the Higher Education Act of 1965, as amended (the HEA), to report certain information about students who enrolled in Title IV-eligible educational programs that lead to gainful employment in a recognized occupation (GE Programs). Those regulations also provide that institutions must disclose to prospective students certain information about their GE Programs. Finally, the new regulations require an institution to notify the U.S. Secretary of Education (the Secretary) if it wishes to add additional GE Programs to its list of Title IV-eligible programs. All of these requirements are effective July 1, 2011.

This letter does not discuss issues related to the eligibility of GE Programs proposed in the Notice of Proposed Rulemaking (NPRM) that was published in the Federal Register on July 26, 2010. The Department is in the process of finalizing those regulations.

This letter provides information on the statutory definition of a GE Program. It also provides preliminary information on the process that will be used by institutions to meet the GE Program reporting requirements. Finally, this letter provides initial guidance on certain aspects of the disclosure requirements and on the notification requirements when an institution proposes to add a new GE Program. Note that this letter provides summary information and operational guidance on the requirements of the new gainful employment regulations. Institutions must review the final regulations as published in the Federal Register on October 29, 2010, to ensure that they are in compliance with all of the GE Program requirements.

Designation of a Gainful Employment Program

In order to be eligible for funding under the Title IV programs, an educational program must lead to a degree (associate, bachelor's, graduate, or professional) or prepare students for "gainful employment in a recognized occupation." In addition, virtually all programs – degree and nondegree – offered by proprietary institutions must prepare students for "gainful employment in a recognized occupation."

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Collectively, we refer to these programs, all nondegree educational programs offered by public and nonprofit institutions and virtually all academic programs offered by proprietary institutions, as “GE Programs.” Many institutions that participate in the Title IV student assistance programs, even those that are public or nonprofit and that predominantly offer degrees, will likely have one or more GE Programs. In fact, fewer than 1,000 out of the approximately 6,000 institutions that are currently participating in the Title IV programs have no GE Programs. Therefore, all institutions must be aware of the new regulatory requirements and the information in this letter to ensure that they will be in compliance with the new gainful employment regulations.

The following provides specific information, presented separately for different types of institutions, on the educational programs that are considered to be GE Programs and, therefore, subject to the new rules relating to reporting, disclosures, and the addition of new GE programs.

Domestic Proprietary Institutions and Domestic Postsecondary Vocational Institutions

- Gainful Employment Programs - The following educational programs offered by these institutions are GE Programs subject to the new regulations –
 - Undergraduate and graduate degree programs.
 - Certificate programs. Certificate programs include undergraduate certificate programs, post-baccalaureate certificate programs, graduate certificate programs, and postgraduate certificate programs.
 - Teacher certification programs, including both programs that result in a certificate awarded by the institution and those where the institution itself does not provide a certificate but which consist of a collection of course work necessary for the student to receive a State professional teaching credential or certification.
 - Approved “Comprehensive Transition Programs” for students with intellectual disabilities.
- Not Gainful Employment Programs – The following educational programs offered by these institutions are not subject to the new GE Program regulations –
 - Programs that lead to a baccalaureate degree in liberal arts if the institution has been accredited by a regional accrediting agency since October 2007 and the institution has offered the program since January 2009.
 - Preparatory courses of study that provide course work necessary for enrollment in an eligible program.

Domestic Public and Domestic Nonprofit Institutions

- Gainful Employment Programs - The following educational programs offered by these institutions are GE Programs subject to the new regulations –
 - Nondegree programs, including all certificate programs. Certificate programs include undergraduate certificate programs, postbaccalaureate certificate programs, graduate certificate programs, and postgraduate certificate programs. Note that awarding students one or more certificates as part of a degree program does not create GE programs based upon the awarding of the certificate(s).
 - Teacher certification programs, including both programs that result in a certificate awarded by the institution and those where the institution itself does not provide a certificate but which consist of a collection of course work necessary for the student to receive a State professional teaching credential or certification.
 - Approved “Comprehensive Transition Programs” for students with intellectual disabilities.
- Not Gainful Employment Programs – The following educational programs offered by these institutions are not subject to the new GE Program regulations –
 - Programs that lead to a degree, including associate’s degrees, bachelor’s degrees, graduate degrees, and professional degrees.
 - Programs that are at least two years in length that are fully transferable to a bachelor’s degree program.
 - Preparatory courses of study that provide course work necessary for enrollment in an eligible program.

Foreign Proprietary Institutions

- Gainful Employment Programs - The only programs at foreign proprietary institutions that are eligible for the HEA Loan Programs are degree programs in medicine, nursing, and veterinary science. These programs offered at these institutions are GE Programs subject to the new requirements.
- Not Gainful Employment Programs – None.

Foreign Public and Nonprofit Institutions

- Gainful Employment Programs — Same as domestic public and domestic nonprofit institutions, as provided above.

- Not Gainful Employment Programs — Same as domestic public and domestic nonprofit institutions, as provided above.

Reporting Requirements

Summary

The October 29, 2010, regulations that go into effect on July 1, 2011, include a provision, at 34 CFR 668.6(a), that requires institutions to report certain information about students who were enrolled in each GE Program during an award year [see 75 FR 66948]. Under the regulations, the first reports must be submitted to the Department no later than October 1, 2011, and must include information on students who were enrolled in a GE Program during the 2006-2007 award year, the 2007-2008 award year, the 2008-2009 award year, and the 2009-2010 award year. For the 2006-2007 award year, institutions must report the information to the extent that it is available. If an institution is unable to provide some of the information required for any award year, it must provide an explanation to the Department of why the missing information is not available.

Students to Include

Institutions must report to the Secretary certain information about all of its students who enrolled in GE Programs, regardless of whether a student received Title IV student aid. However, institutions should not report students for whom the institution does not have a Social Security Number (SSN).

Foreign institutions need only include on their required gainful employment reports students who are U.S. citizens or Title IV eligible noncitizens. These students should be reported whether or not the student received Title IV aid. Additionally, foreign institutions need not report on a GE Program if the number of reportable students who were enrolled in that program during the award year was ten or fewer.

Process and Technology to be Used

Institutions will use the existing Enrollment Reporting Process to submit the GE Program information to the Department. This is the reporting system currently used by schools to submit enrollment information to the National Student Loan Data System (NSLDS).

The Enrollment Reporting data format will be modified to include the additional data items needed for gainful employment reporting. Additional information will be provided after the Department finalizes the GE Program reporting process.

Information to Be Reported

The Department is still finalizing the complete list of GE Program data items that institutions will report, but a preliminary list is attached to this letter. An updated list will be provided after the development of the gainful employment reporting process is finalized.

Disclosure Requirements

Summary

The October 29, 2010, regulations that go into effect on July 1, 2011, include a provision, at 34 CFR 668.6(b), that requires institutions to disclose, for each of their GE Programs, certain information about the programs to prospective students. The institution must include the information required in promotional materials it makes available to prospective students and on its Web site. The regulations also provide that the institution must “Use the disclosure form issued by the Secretary to provide the information … when that form is available” (34 CFR 668.6(b)(2)(iv)). These disclosures must begin no later than July 1, 2011. Institutions are responsible for meeting these disclosure requirements using their own form until the Department releases its form.

Information to Disclose

The following is a summary of the information that must be disclosed by an institution for each of its GE Programs. Institutions must review the final regulations as published in the Federal Register to ensure that they are in compliance with this and all other gainful employment requirements.

- The name and U.S. Department of Labor’s Standard Occupational Classification (SOC) code of the occupations that the program prepares students to enter, along with links to occupational profiles on the U.S. Department of Labor’s O*NET Web site or its successor site.
- The on-time graduation rate for students completing the program.
- The tuition and fees the institution charges a student for completing the program within normal time.
- The typical costs for books and supplies (unless those costs are included as part of tuition and fees), and the cost of room and board, if applicable.
- The job placement rate for students completing the program.
- The median loan debt incurred by students who completed the program (separately by Title IV loans and by other educational debt to include both private educational loans and institutional financing) as provided by the Secretary.

- Other information the Secretary provided to the institution about the program.

Median Loan Debt

As noted, one of the informational items that must be disclosed to prospective students is the median loan debt incurred by students who completed the GE Program. In anticipation of the receipt of student-level information from the institutions and to provide consistency among institutions, the regulation provides that these median amounts will be provided to the institution by the Secretary for the institution's disclosure to prospective students. However, since the first disclosures under the new regulation must be made no later than July 1, 2011, and the first reporting by institutions is not required until October 1, 2011, an institution must include in its disclosures its own calculation of median debt – separately showing Title IV debt and other educational debt – until such time as the Department provides that loan debt information. The loan debt information disclosed by institutions should be consistent with the information the institutions report to the Department.

Disclosure Form

As noted, the regulations provide that the institution must use the disclosure form issued by the Secretary, when available. This form will be provided to institutions through an online Web-application that institutions will be required to use to disclose information about their GE Programs. This application will allow institutions to create a Web page containing the required disclosure information. Similar to the net price calculator template developed by the Department, the institution will enter each GE Program's required data into the online form, resulting in an 'html' file that the institution will post to the Web site home page for that program.

Using this process, an institution will first enter (or upload) data into the Web-based application for each of its GE Programs. Some of the information entered (such as the OPEID of the institution and CIP code for the program) will be used to look up and import data from Department databases for use in the output disclosure Web page. Additional institutional program-level data will be entered by the institution and included on the output page. Access to the Web-application and a more detailed description of the data elements required to be entered will be made available at a later date.

New Programs

Summary

The October 29, 2010 regulations that go into effect on July 1, 2011 require an institution to notify the Secretary when it intends to add a new GE Program. 34 CFR 600.10(c) and 600.20(c) and (d). The notification must describe the institution's determination that the new program will meet employment market needs. It must describe how the program was reviewed or approved by, or developed in conjunction with, external groups and its accrediting agency. The notification must also include the date classes will start for that program.

An institution that provided notice of a new GE Program at least 90 days before the first day of class of that new program may begin offering the additional program without receiving Departmental approval unless the Department requests, at least 30 days prior to the date the program is scheduled to begin, additional information or otherwise informs the institution to delay the start of the additional program.

Consistent with regulations in effect prior to these final regulations, in 34 CFR 668.13(c)(4), the Secretary requires institutions that are on provisional certification to have the Secretary's approval before beginning any new program.

Effective Date:

The provisions for reporting new GE programs go into effect on July 1, 2011. Therefore, institutions must notify the Department by July 1 of any new GE program where the first day of class will be on or after July 1, 2011, and before October 1, 2011. For new GE programs where the first day of class will begin on or after October 1, 2011, institutions must provide notification to the Department at least 90 days prior to the first day of class. All notifications to the Department must include information to support the institution's determination of the need for the program, as required by the regulation at 34 CFR 600.20(d)(2).

The requirement for an institution to obtain approval for a new GE program when additional information is requested by the Department at least 30 days before the first day of class will also take effect on July 1, 2011.

For more gainful employment information and updates, please regularly visit
<http://ifap.ed.gov/GainfulEmploymentInfo/>.

For questions on the contents of this letter, please send an e-mail to ge-questions@ed.gov.

Thank you for your continued cooperation.

Sincerely,



David A. Bergeron
Deputy Assistant Secretary
for Policy, Planning and Innovation

Attachment