



DJA August 2010 Newsletter

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Notice of Proposed Rulemaking – What could become law:

The Office of Postsecondary Education, Department of Education has published 2 Notices of Proposed Rulemaking (NPRM) in Federal Registers addressing Program Integrity. The public comment time period ended on August 2 for the NPRM published on June 18 addressing a broad range of topics. A separate NPRM published in a July 26 Federal Register addressing Gainful Employment requests public comment by September 9.

June 18, 2010 Federal Register

<http://www.ifap.ed.gov/fregisters/FR061810ProgramIntegrityIssuesNPRM.html>

These proposed regulations would address program integrity issues by:

Requiring institutions to develop and follow procedures to evaluate the validity of a student's high school diploma if the institution or the Secretary has reason to believe that the diploma is not valid or was not obtained from an entity that provides secondary school education;
Expanding eligibility for title IV, HEA program assistance to students who demonstrate they have the ability to benefit by satisfactorily completing six credits of college work, or the equivalent amounts of coursework, that are applicable toward a degree or certificate offered by an institution;

Amending and adding definitions of terms related to ability to benefit testing, including "assessment center", "independent test administrator", "individual with a disability", "test", "test administrator" and "test publisher";

Consolidating into a single regulatory provision the approval processes for ability to benefit tests developed by test publishers and States;

Establishing requirements under which test publishers and States must provide descriptions of processes for identifying and handling test score abnormalities, ensuring the integrity of the testing environment, and certifying and decertifying test administrators;

Requiring test publishers and States to describe any accommodations available for individuals with disabilities, as well as the process a test administrator would use to identify and report to the test publisher instances in which these accommodations were used;

Revising the test approval procedures and criteria for ability to benefit tests, including procedures related to the approval of tests for speakers of foreign languages and individuals with disabilities;

Revising the definitions and provisions that describe the activities that constitute substantial misrepresentation by an institution of the nature of its educational program, its financial charges, or the employability of its graduates;

Removing the “safe harbor” provisions related to incentive compensation for any person or entity engaged in any student recruitment or admission activity, including making decisions regarding the award of title IV, HEA program assistance;

Clarifying what is required for an institution of higher education, a proprietary institution of higher education, and a postsecondary vocational institution to be considered legally authorized by the State;

Defining a credit hour and establishing procedures that certain institutional accrediting agencies must have in place to determine whether an institution’s assignment of a credit hour is acceptable;

Modifying provisions to clarify whether and when an institution must award student financial assistance based on clock or credit hours and the standards for credit-to-clock-hour conversions;

Modifying the provisions related to written arrangements between two or more eligible institutions that are owned or controlled by the same person or entity so that the percentage of the educational program that may be provided by the institution that does not grant the degree or certificate under the arrangement may not exceed 50 percent;

Prohibiting written arrangements between an eligible institution and an ineligible institution that has had its certification to participate in title IV, HEA programs revoked or its application for recertification denied;

Expanding provisions related to the information that an institution with a written arrangement must disclose to a student enrolled in a program affected by the arrangement, including, for example, the portion of the educational program that the institution that grants the degree or certificate is not providing;

Revising the definition of unsubsidized student financial aid programs to include TEACH Grants, Federal PLUS Loans, and Direct PLUS Loans;

Codifying current policy that an institution must complete verification before the institution may exercise its professional judgment authority;

Eliminating the 30 percent verification cap;

Retaining the ability of institutions to select additional applicants for verification;

Replacing the five verification items for all selected applicants with a targeted selection from items included in an annual Federal Register notice published by the Secretary;

Allowing interim disbursements when changes to an applicant's FAFSA information would not change the amount that the student would receive under a title IV, HEA program;

Codifying the Department's IRS Data Retrieval System Process, which allows an applicant to import income and other data from the IRS into an online FAFSA;

Requiring the processing of all changes and corrections to an applicant's FAFSA information;

Modifying the provisions related to institutional satisfactory academic progress policies and the impact these policies have on a student's eligibility for title IV, HEA program assistance;

Expanding the definition of full-time student to allow, for a term-based program, repeated coursework taken in the program to count towards a full-time workload;

Clarifying when a student is considered to have withdrawn from a payment period of enrollment for the purpose of calculating a return of title IV, HEA program funds;

Clarifying the circumstances under which an institution is required to take attendance for the purpose of calculating a return of title IV, HEA program funds;

Modifying the provisions for disbursing title IV, HEA program funds to ensure that certain students can obtain or purchase books and supplies by the seventh day of a payment period;

Updating the definition of the term recognized occupation to reflect current usage; and

Establishing requirements for institutions to submit information on program completers for programs that prepare students for gainful employment in recognized occupations.

July 26, 2010 Federal Register

(<http://www.ifap.ed.gov/fregisters/FR072610ProgramIntegrity.html>)

The Secretary proposes to amend the Student Assistance General Provisions to establish measures for determining whether certain postsecondary educational programs lead to gainful employment in recognized occupations, and the conditions under which these educational programs remain eligible for the student financial assistance programs authorized under title IV of the Higher Education Act of 1965, as amended (HEA).

Under these proposed regulations, the Department would assess whether a program provides training that leads to gainful employment by applying two tests: One test based upon debt-to-income ratios and the other test based upon repayment rates. Based on the program's performance under these tests, the program may be eligible, have restricted eligibility, or be ineligible. A program that meets both of these tests, or whose debt-to-income ratio is very low, would continue to be eligible for title IV, HEA program funds without restrictions, while a program that does not meet any of the tests would become ineligible. A program that meets only one of the tests would be placed in a restricted eligibility status, unless it has a high repayment rate.

Under certain circumstances, the proposed regulations would also require an institution to disclose the test results and alert current and prospective students that they may have difficulty repaying their loans.

This proposed use of two measures is a balanced approach that gives institutions flexibility in how to demonstrate that they prepare students for gainful employment. The debt-to-income ratio provides a measure of program completers' ability to repay their loans, and the proposed targets were set based upon industry practices and expert recommendations. The use of discretionary income would recognize that borrowers with higher incomes can afford to devote a larger share of their income to loan repayments, while the use of annual income would benefit programs whose borrowers have lower earnings.

Under the debt-to-income test, programs whose completers typically have annual debt service payments that are 8 percent or less of average annual earnings or 20 percent or less of discretionary income would continue to qualify, without restrictions, for title IV, HEA program funds. Programs whose completers typically face annual debt service payments that exceed 12 percent of average annual earnings and 30 percent of discretionary income may become ineligible.

Debt service rates have a connection to whether borrowers will default on their loans. Borrowers with rates above the 8 percent threshold, for example, have a default rate of 10.2 percent, compared to a rate of 5.4 percent for those below the threshold. Borrowers with debt rates above the 12 percent threshold, for example, have a default rate of 10.9 percent.

The repayment rate is a measure of whether program enrollees are repaying their loans, regardless of whether they completed the program. This measure would provide some assurance to programs that may have high debt-to-income ratios for completers but enroll prepared and responsible students who understand their financial obligations. Programs whose former students have a loan repayment of at least 45 percent will continue to be eligible. Programs whose former students have loan repayment rates below 45 percent but at least 35 percent may be placed on restricted status. Programs whose former students have loan repayment rates below 35 percent may become ineligible.

A program that does not satisfy either the debt-to-income ratio or the 45 percent rate but has a loan repayment rate of at least 35 percent would be subject to restrictions and additional oversight by the Department.

The proposed regulations also would require an institution whose program does not have a loan repayment rate of at least 45 percent and an annual loan payment that is either 20 percent or less of discretionary income or 8 percent or less of average annual income, to alert current and prospective students that they may have difficulty repaying their loans.

Temporary Authority for the Consolidation of Loans in an In-School Status

A June 29, 2010, Dear Colleague Letter provides schools and lenders with information on the statutory provision that makes certain borrowers eligible to consolidate loans that have not yet entered the grace period or repayment status (loans in an in-school status) into a Direct Consolidation Loan during the period from July 1, 2010 through June 30, 2011.

If a borrower's Consolidation Loan Application and Promissory Note is received by the U. S. Department of Education on or after July 1, 2010 and before July 1, 2011, the borrower may consolidate a loan that has not yet entered repayment status, including a loan that is in an in-school status, if the borrower meets the following requirements:

1. The borrower has one or more loans from two or more of the following categories: (i) FFEL Program loans that are held by an eligible lender; (ii) FFEL Program loans that have been purchased by the Department ("PUT" Loans); and (iii) Direct Loan Program Loans.
2. The borrower has not yet entered repayment on one or more of the loans in any of the categories in #1.
3. The borrower is not consolidating any loans other than loans from the categories listed in #1.

For interest rate information and factors to consider before consolidating, see the Dear Colleague Letter in its entirety at <http://www.ifap.ed.gov/dpcletters/GEN1013.html>

Fiscal Operations Report for 2009-2010 and Application to Participate for 2011-2012 (FISAP)

All schools that wish to request funding under the Campus-Based programs for the 2011-2012 Award Year, and all schools that had Campus-Based expenditures for the 2009-2010 Award Year, are required to electronically submit a FISAP via the eCB Web site at <https://cbfisap.ed.gov/ecb/CBSWebApp/>. The deadline for the electronic submission of the FISAP is 11:59 P.M. (ET) on October 1, 2010. Transmission must be completed and accepted by 12:00 midnight.

2009-2010 Campus-Based Reallocation Form and Process

The deadline date by which a school must electronically submit the 2009-2010 Campus-Based Reallocation Form is Friday, August 20, 2010.

A school must complete the Campus-Based Reallocation Form if it:

1. does not intend to spend its entire 2009-2010 FWS or FSEOG allocation; or
2. wants to request supplemental 2010-2011 FWS funds to pay students in community service jobs (not for any other purpose), **and** the school

- a. spent at least 5 percent of its total 2009-2010 FWS funds to compensate students employed as reading tutors of children or in family literacy activities as part of its community service activities; and
- b. has an FWS fair share shortfall as shown on line 28 of the school's 2009-2010 final funding worksheet, provided with its final allocation letter.

For further information, see

<http://ifap.ed.gov/eannouncements/062910CBReallocationForm0910.html>

2010 Federal Student Aid Conference Information

FSA's fall conference will be held in Orlando, Florida at the Walt Disney World Swan and Dolphin Hotel from November 30 to December 3, 2010. The planned agenda includes Federal student loan regulations, processing, servicing, reconciliation, and system(s) usage, as well as data security updates, program integrity issues, cohort default rates, and more. New this year, are sessions with the Departments of Labor and Veterans Affairs.

Master Promissory Note, Entrance Counseling, and PLUS Search Issues in COD

Federal Student Aid had identified several issues when schools searched for Direct Loan Master Promissory Notes (MPNs), Direct Loan Entrance Counseling results, or Direct PLUS Loan Requests via the COD Web site. On July 25, 2010 and July 27, 2010, Federal Student Aid implemented system updates to resolve most of these search issues. For more information, please see the Common Origination and Disbursement COD Processing Update at <http://www.ifap.ed.gov/eannouncements/attachments/073010CODProcUpdateDLPG.pdf>

Calendar

Next month's DJA webinar topic will be Cash Management and will be held on Wednesday, September 1, 2010 at 11:00 AM Central Time.

DJA will be an exhibitor at the 2010 Annual CCST Conference to will be held at the Moody Gardens Resort in Galveston, TX from October 6-8 and also the AACS(American Association of Cosmetology Schools) Annual Convention and Exposition. This year's Convention will be held in Orlando, FL at the Renaissance Orlando Resort at SeaWorld from October 29-November 2, 2010.