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The First Set of Rules About For-Profit Colleges

by Ben Miller on October 28, 2010

in Undergraduate Education

This morning, the U.S. Department of Education released its first set of new rules regarding for-profit colleges. Though not as high-profile as the still forthcoming regulations around gainful employment, the rules do deal with a number of noteworthy issues like credit hours, completion rates, and incentive compensation.

If you want to read the entire set of rules, complete with the department's discussion and rationale based on comments, then you can see that PDF here. A separate set of regulations about new programs and gainful employment can be found here. *Inside Higher Ed* has a link to a document listing the changes between the proposed rules and final ones here.

Since the rules cover such a wide area of topics (and encompass over a hundred pages of regulations plus another 700 or so pages of discussion) here are some assorted summaries and thoughts after the jump.

New Programs

The rules released over the summer stated that colleges offering new programs that would be subject to gainful employment would have to get approval from the education secretary before being able to take in students. Gaining that approval required the school to get assurances from employers about a need for the program in question, among other conditions.

The final rules released today reverse the burden from institutions to the department. Institutions must notify the department 90 days before a program is offered for the first time. The department reviews the notice and can decide to step in and deny a program. This determination is supposed to be based on a number of factors, such as the school's administrative capability and how the program fits in its current offerings. If the department says nothing, then the program is implemented uninterrupted.

While the department still has the leeway to intervene, it's an approach that indicates a greater level of trust–the presumption is a program is approved unless action is taken, not the other way around.

Credit Hours

I already discussed some of the credit hour issues in this post from earlier today, but one of the interesting things about the rules released today is that they also include summaries of public comments received paired with the department's response to those comments. It's a very useful discussion, especially with regard to credit hours, where a number of commenters raised concerns about the department overstepping its bounds.

While the department largely left the credit hour language without significant modifications, its comments in the discussion portion of the rules indicates a distinction being drawn between the multiple uses of credit hours. Schools are still given the freedom to do what they want with credits internally–provided they meet requirements of states and accreditors–but there are still certain baselines to be met for the purposes of federal financial aid limits. It will be interesting to see how colleges balance this going forward.

Shared Accountability

The new rules require that for-profit colleges meet all state requirements to operate as an institution of higher education for any state in which they are educating students, even if they don't have a physical presence there. It's an interesting idea that suggests states will become a much larger player in accountability for for-profit higher education than they have to date. While the extent to which this provision has any effect will vary on the strength of the various state oversight agencies, it does give additional authority to states like Wisconsin that want to exercise greater control.

Getting states more involved in accountability for online higher education programs signals the difficulty of adapting place-based oversight agencies to large national colleges. We have national accreditors that are supposed to provide some of these functions, but they are generally of a lesser quality than the regional accreditors and clearly cannot provide this function on their own. It will be worth seeing whether a greater state-specific role helps improve oversight or instead creates a patchwork system that varies significantly depending on how the quality of a given state's agencies.

Disclosure of Information and Completion Rates

In anticipation of the gainful employment regulations, these new rules list a number of items that schools must disclose to prospective students. Three things really stick out about this section. First, schools will eventually have to use a new placement rate methodology being developed by the National Center for Education Statistics. While that means they could still be inaccurate due to the limits of schools' ability to track graduates, creating a set standard is a great step forward that will make rates more comparable across institutions.

Second, schools now have to report an on-time completion rate that is simply the number of students who completed in normal time divided by the total number of completers. This is a useful indication of whether students are graduating quickly or taking too long and it even includes transfers. When a student enters the school they are treated as if they came in with no credits. So a transfer pursuing an

associate degree graduates on time if they finish within two years of entering.

Finally, schools will have to disclose all this information and more data about loan debt on all its promotional materials. That's really useful for students who will now get greater exposure to a set of important data points that can be used to compare institutions and programs.

Misrepresentation

Many of the stories about dissatisfied students from for-profit colleges revolve around being misled about the quality of facilities, the opportunities for licensure, or the lack of state approval for a given program. False claims in any of these areas would now be considered misrepresentation and could lead to an institution losing access to federal aid.

It's especially encouraging to see the inclusion of misleading statements about specialized accreditation or being able to sit for licensing tests end up on this list. This matters because several vocational programs require specialized accreditation or state approval in order for graduates to sit for the necessary licensing test but a school can still offer federal financial aid without either of those things. As a result, students were taking programs that they thought could prepare them for a job and a license, only to find out afterward that their program had no value.

Other Items

- The highest-profile change in these rules are around the elimination of any exceptions to compensating recruiters, admissions officers, and anyone else who works with taking in students or dealing with financial aid. That's a very big deal that has large implications for how for-profit institutions will pay to get students now. But it's also well covered here and here.
- Students who lack a high school diploma have to take what is called an Ability to Benefit Test in order to show that college could provide some value to them. But in the past there have been concerns that students were coached on the tests by admissions staff or were not of a high quality. The new rules are much more specific about these tests–requiring them to be approved by the secretary and administered by an independent proctor.

Tagged as: federal student aid, For-Profit Colleges and Universities, U.S. Department of Education

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William Patrick Leonard October 29, 2010 at 3:11 am

> The American higher education community contains three separate constituencies They are public and private non-profit institutions, and proprietary or for-profit enterprises. There has long been a polite tension between the nation's public and private non-profit higher education institutions. With both in competition, in one way or another, for prestige, students, faculty, and philanthropy and of at the state and federal troughs. They expend millions of their operating budgets on lobbyists to promote individual institutions and their sectors in state capitals and Washington. Their respectful squabbles are periodically noted in the higher education and public media. Both not for profits appear to have a common perceived enemy that prompts their public indignation. In a tacit your enemy is my enemy alliance, they share a common enemy,

for-profit higher education.

The Government Accountability Office's, "the investigative arm of Congress" undercover investigation of for-profit recruiting practices has been predictably followed by Congressional hearings and accompanying media attention. The latter has been particularly true in higher education's dominant trade press. These loyal allies which tend to consistently promote a non-profit/public agenda at the expense of the for profits. One higher education trade paper described the investigation as uncovering the" rot" in the for profit sector. The whole spectacle has prompted predictable sanctimonious delight among higher education's self-ordained elite sectors—nonprofit private and publicly funded institutions and their trade group lobbyists. The findings confirm their zealot belief that any enterprise that does not share their nonprofit orientation must be suspect. How else could the for-profits' steadily attracting more students in recent years. They cheat and have finally be caught in the act. Or so the non-profits want to rationalize. The College Board and National Center for Education Statistics report:

The proportion of all degrees that were awarded by for-profit institutions increased from 3% to 7% between 1995-96 and 2005-06. In 1995-96, 9% of associate degrees were granted by for-profit institutions. A decade later, that proportion was 15%.
The ratio of students attending private nonprofit colleges to for-profit colleges has fallen from 3 to 1 to approximately 2 to 1.
A relatively few bad actors have actually been caught yet the whole for-profit higher education sector is now being castigated for unscrupulously selling degree programs to naïve prospective students that lead to careers with low pay, limited employment opportunities and huge education debt.

A cursory examination of the program recruitment brochures published by many non-profits and publics will suggest similar questionable marketing practices. The disparity between their brochure hype and the realities presented in the Bureau of Labor Statistics' Occupational Outlook Handbook is sobering. These sanctimonious not for profits should undergo the same undercover scrutiny. Higher education consumers deserve a level playing field.

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