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[Home](#) [News](#) [Administration](#) [Government](#)

October 28, 2010

In Final Rules, Education Dept. Makes Several Concessions to Colleges

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Washington

The Education Department, under heavy pressure from for-profit colleges, is backing down from a plan to require the colleges to seek federal approval of new programs.

The change is one of several concessions the department has made to colleges and student-aid administrators in a package of final regulations that will be made public today

Under the revised rules, for-profit colleges would be required to notify the department when they create new programs, but only a small percentage of those programs would be subject to formal approval.

The changes being announced today do not affect the even more unpopular "[gainful employment](#)" rule, which will not be published until [next year](#). That rule, which would cut off federal student aid to programs whose graduates carry high student-debt burdens and have low loan-repayment rates, could force for-profits to shutter thousands of programs or lower their tuition considerably.

But the revisions, which department officials discussed in a conference call with reporters on Wednesday, do represent a rare bit of good news for a sector that has been on the defensive for months. Over the last year, for-profits have come under intense criticism from Congress and the Obama administration for their aggressive recruiting of students, high costs, and overdependence on federal aid.

The department also made some concessions to traditional colleges in the final rules, clarifying that colleges could continue to use their own definition of credit hour when awarding academic credit, and making it easier for them to prove that they have state approval to operate, for example. It also exempted religious and tribal institutions from the state oversight requirements.

In total, the department made more than 80 changes to its proposed

rules in the final package.

Terry W. Hartle, senior vice president for government and public affairs at the American Council on Education, said that it appeared that the department "genuinely tried to address some of the concerns that have been raised." But he said colleges were reserving judgment on the revisions until the final rules are published.

"Everybody in D.C. knows that the devil is in the details," he said. "They haven't provided any."

The department's reversal on the program-approval requirement came amid intense lobbying by for-profits and their Democratic allies, including liberal lobbyist Lanny Davis, a spokesman for the industry group the Coalition for Educational Success. Only hours before the department's call, Mr. Davis held his own call with reporters to blast the prior-approval requirement, warning that it would make it harder for for-profits to respond quickly to work-force needs, and slow job growth in emerging fields. He urged the department to delay a final version of that rule until it releases the gainful-employment measure next year.

During the call, Mr. Davis also rattled off the names of more than a dozen Democratic lawmakers who oppose the gainful-employment rule and said there was "deep concern" in the Democratic party about the effect the changes could have on low-income and minority students.

Under the original approval requirement, colleges would have had to provide the department with five-year enrollment projections and documentation from prospective employers that the program would prepare students for future jobs.

The final rule requires colleges to simply notify the department when it creates a new program. However, the department could ask the institution to formally apply for approval if it suspected that the college was trying to skirt the gainful-employment rule.

The issues are linked because the draft gainful-employment rule would base a program's eligibility on four years of student-loan repayment data and three years of employment history. During Wednesday's conference call, department officials said they were concerned that some colleges might try to game the system by creating a flood of new programs or renaming existing ones—in effect, resetting the clock on the rule.

In such cases, the department would base a program's approval in part on whether it would replace similar programs and whether the

number of programs being proposed was consistent with the college's historical growth rate.

In a statement, Mr. Davis said he was pleased the department had taken for-profits' concerns into account. "While still subject to the details, the new language is a real step in the right direction," he said.

The final rules will be published [online](#) today, and in the *Federal Register* on Friday. Next week, the department will hold two days of hearings to solicit additional input on the gainful-employment rule.

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The Chronicle of Higher Education 1255 Twenty-Third St, N.W. Washington, D.C. 20037