

HANGING OVERHEAD

Gainful employment looms larger as the U.S. Department of Education announces all but one of its rules targeting for-profit education

By Kevin Kuzma, Editor

Caught in an ugly brawl over the gainful employment rule, for-profit schools felt the sting from 13 other regulations delivered swiftly in October from the U. S. Department of Education.

Arriving in advance of the more notorious rule, the Department of Education issued regulations intended to improve its ability to monitor for-profits, including paying for recruiters and the option to reprimand schools engaging in deceptive advertising and marketing practices. The rules were about a year in the making and pushed forward the Obama administration's actions to tighten student aid rules by restricting incentive-based sales practices at for-profit colleges. But it also left a 14th rule – gainful employment – looming larger than ever before. The regulations will take effect next July.

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The for-profit sector will wait on edge until the more controversial proposal concerning gainful employment is released in January. Already the most contested the Department of Education has ever considered, gainful employment would eliminate federal aid to programs that are said to create high student debt and have low loan repayment rates at for-profit institutions. The proposed regulations could have a devastating impact on the economy, unemployment rates, thousands of schools, and millions of Americans who want to pursue careers in programs that could be eliminated.

After receiving more than 90,000 comments during the public comment period, the Department of Education changed its plans and moved the publication date for the final regulations from Nov. 1 to early 2011. The rules will still go into effect on or around July 1, 2012, as planned. The Department of Education held public hearings on Nov. 4 and 5 in Washington, D.C., to give individuals who issued public comments the opportunity to clarify the remarks they submitted and respond to questions from Department of Education officials.

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While the department held off on finalizing gainful employment regulations, the approved rules included a stipulation that requires for-profit colleges to provide prospective students with program graduation and employment rates, provide the department with reports on student debt and incomes, and provide notice when introducing a new program.

"We continue to be thoughtful as we move forward with finalizing new gainful employment eligibility rules," Duncan said in a statement. "We're taking additional time

to analyze all the feedback we've received to help us strike the right balance between holding these programs accountable to protect students and taxpayers from abuse and making sure we keep whole those programs that are doing a good job."

Sen. Tom Harkin, D-Iowa, who's led three Senate hearings with scathing critiques of for-profit schools and their practices, approved of the changes.

"This first package of regulations from the Department of Education closes the Bush-era loopholes that allowed this industry to expand predatory recruiting practices that

mislead students," Harkin said in an article appearing in *The Los Angeles Times*. "These rules are an important first step toward ensuring that both students and the billions of dollars invested by taxpayers in for-profit colleges are protected."

With the nation facing its worst recession since the Great Depression, "for-profit" schools – what has been the fastest-growing segment of higher education – will move forward under a new set of rules. Whether the total impact will be greater, equal to or less than the "gainful employment" rule's impact will play out in a different political climate and a new year. ■

The Wrong Path

The new regulations on "for-profit" schools did little to shift focus away from the department's looming "gainful employment" rule. As the sector moves forward while facing new rules, the gainful employment proposal remains as controversial as ever among sector leaders. *Career College Central* visited with Rene Champagne, the retired former Chairman/CEO of ITT, to look deeper at the Department of Education's actions.

Do you think the 90,000-plus public comments sent on the proposed gainful employment rule will cause the Department of Education to re-think its approach on the issue?

"I have read many responses from private sector colleges and universities, as well as some from the approximately 50 Democrat members of Congress, the Small Business Administration, various minority organizations, employers of graduates and other interested parties, all of whom have objected to the rule as proposed. One would assume the Department of Education would give those responses a fair hearing and make adjustments to the concept as warranted.

"The proposed rule discriminates against working adult students, women, minorities and lower-income people who choose to attend private sector colleges, and it is an "anti-business" regulation. Over 2,000 private sector college students conducted a rally in front of the Capitol to ensure that legislators heard their message: 'It's my education, my job and my choice!' Increasing numbers of congressional members are joining the students in this effort to preserve choice."

Private sector colleges have been receiving a great deal of negative press over the last 12 months. Do you believe this negative media has influenced the debate?

"In my opinion, the administration came into power with a very clear goal to make private sector colleges less attractive to prospective students in an effort to bolster community colleges. This agenda has been picked up by others who have attempted to vilify our sector in hopes that new regulatory restrictions would be imposed upon private sector colleges to limit growth and to negatively impact the business model."

Why do you believe the gainful employment rule is so wrong?

"First and foremost, it discriminates against students who choose to attend private sector colleges by making it difficult – if not impossible – to choose those schools in the future. It discriminates against for-profit colleges by attempting to implement the rule to them exclusively, excluding non-profit colleges. It's an anti-competition attempt or, more bluntly, it's anti-business. It's an effort to 'federalize' higher education. Literally, 'big brother' will determine which schools certain people can attend.

"This rule is not really about student debt or student repayment rates at for-profit colleges, because it has been well-documented that numerous community colleges, historically black colleges and other non-profit institutions serving high percentages of low-income minority students have similar, if not higher, student debt loads, higher cohort default rates; lower student loan repayment rates; and significantly lower graduation rates than private sector colleges. Further, publicly subsidized schools have been shown to be significantly more expensive for taxpayers than our sector.

"The real agenda is to remove profit-making businesses from higher education. In the minds of these folks, 'profit' is a four-letter word. I believe this creeping federalization is taking the country down the wrong path."