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## For-Profit Colleges May Lose U.S. Aid Over Violations

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By John Lauerman

(Updates with opening share prices in the sixth paragraph, department's response to senators' letter in the ninth.)

Nov. 22 (Bloomberg) -- For-profit colleges that pay recruiters on the basis of the number of students they sign up may lose access to U.S. government student aid, which provided the colleges with \$26.5 billion last year and can account for as much as 90 percent of company revenue.

The Department of Education, seeking to strengthen oversight of the for-profit college sector, is considering boosting fines and disqualifying colleges from participating in federal-aid programs when they give bonuses to admissions officers for enrolling more students, said James Kvaal, deputy undersecretary of education, in a telephone interview. For-profit colleges got about 23 percent of all federal student grants and loans that went to U.S. universities in 2008-2009, according to the U.S. Government Accountability Office, while educating about 12 percent of all students.

The Education Department plans, in July, to make incentive compensation for recruiters illegal, removing 12 types of exemptions, or "safe harbors," that were put into place in 2002 under President George W. Bush. At that time, the department's enforcement power was reduced to levying fines, Kvaal said. Revoking aid eligibility would be used rarely to punish widespread violations, Kvaal said.

"We take our responsibility to prevent these abuses very seriously," Kvaal said. "We're going to look at what tools we need to make sure the law is being followed."

### Apollo Shares

For-profit colleges have come under growing scrutiny as Secretary Arne Duncan prepares tighter industry regulations and Senate and House committees examine how for-profit colleges mislead applicants, target veterans and register student default rates that are at least double those of traditional universities. Republicans are raising objections to tougher regulations as they prepare to take control of the House of Representatives in January.

Phoenix-based Apollo Group Inc., which operates the University of Phoenix, fell 18 cents, or less than a percent, to \$35.18 at 9:30 a.m. New York time in Nasdaq Stock Market composite trading. The shares had declined 35 in the 12 months through Nov. 19. An index of 13 education companies fell less than a percent.

Republican Senators Richard Burr and Tom Coburn on Nov. 17 called for an investigation of government disclosure of proposed regulations restricting federal aid to Apollo, Education Management Corp. and other for-profit colleges.

### 'Gainful Employment'

The senators said they were concerned that the U.S. Education Department may have leaked the proposed regulations, known as "gainful employment," to supporters of the rules and investors who stood to benefit, according to a letter to the agency's Office of the Inspector General. The proposed rules, which would tie eligibility for student aid to loan repayment rates by for-profit college graduates, contributed to the decline in education company stocks.

The Education Department gave the rules under embargo to reporters, who then contacted sources for comment after the close of normal market trading, Justin Hamilton, a department spokesman, said Nov. 18. The department operated with "transparency and integrity," he said.

Wyoming Senator Mike Enzi, the highest-ranking Republican on the education committee, said in a Sept. 30 hearing that Iowa Democratic Senator Tom Harkin, who has held three hearings on for-profit college abuses, was "beating up" on for-profit colleges.

The Education Department has never made a college ineligible for financial aid programs for incentive-compensation violations and stopped considering the penalty in 2002 under the Bush administration. Kvaal declined to say when officials will decide whether to restore the enforcement measure.

### No Comment

Harris Miller, president of the Washington-based Association of Private Sector Colleges & Universities, which represents the industry, declined to comment.

For-profit colleges are permitted to get as much as 90 percent of their revenue from U.S. student grants and loans. Apollo's University of Phoenix, the biggest U.S. for-profit college with an enrollment of about 470,000, got 88 percent of its revenue from such aid in fiscal 2010, the company said Oct. 13.

On Aug. 4, the GAO, the investigation arm of Congress, released the results of an undercover probe in which investigators taped Apollo's University of Phoenix recruiters making misleading statements to "mystery shopper" agents. Recruiters from Pittsburgh-based Education Management Corp. and Washington Post Co.'s Kaplan education unit were also taped making misleading statements to GAO investigators.

### Whistleblower Lawsuit

Last year, Apollo agreed to pay \$78.5 million to settle a whistleblower lawsuit charging recruiters received incentive compensation at the University of Phoenix.

Apollo eliminated enrollment targets from its recruiters' payment terms as of Sept. 1, said Manny Rivera, a company spokesman, in an e-mail.

The Education Department has hired 60 investigators in its Federal Student Aid office and plans to increase the number of annual program reviews at institutions by 50 percent, to 300, over the next two years, Kvaal said. Both Apollo and DeVry Inc., the Downers Grove, Illinois-based parent company of DeVry University, will undergo program reviews beginning in December, the companies have said.

Incentive compensation was banned by the Education Department from 1992 until 2002, when the George W. Bush administration created safe harbors. The exceptions allowed the practice when recruiters weren't paid solely on the basis of enrollments.

#### Fines Urged

The same year, William Hansen, then undersecretary of education, issued a memo advising that violators of the ban be punished with fines, rather than the suspension or loss of student-aid eligibility.

In most cases, "the appropriate sanction to consider will be the imposition of a fine," Hansen said in the memo, dated Oct. 20, 2002, and addressed to Terri Shaw, then the chief operating officer of the department's Federal Student Aid branch. Hansen, president of Eagan, Minnesota-based Scantron Corp., which collects data on student performance, declined to comment.

The Education Department's restoration of the full ban on incentive pay is part of a package of rules published Oct. 28 that will establish guidelines for course credits and require schools to notify the government of new job-training classes. The package affects both for-profit and nonprofit universities.

Iowa's Harkin has held three hearings on for-profit colleges and is planning a fourth for early 2011. The hearings have investigated the colleges' recruitment practices, student achievement and use of government funds.

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