

THOUGHT LEADERSHIP

LEGAL UPDATES

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Proposed Regulations Concerning Gainful Employment

The Department of Education recently released a Notice of Proposed Rule Making to establish measures for determining whether certain postsecondary educational programs prepare students for gainful employment in a recognized occupation. The regulations will affect nearly all programs at for-profit institutions, as well as certificate programs at public and private non-profit institutions.

The proposed regulatory framework consists of three components: (1) certification requirements; (2) accountability requirements; and (3) public disclosure requirements.

First, the new rules will require institutions to certify that each of their gainful employment programs meets applicable institutional or program-level accreditation requirements and state or federal licensure standards.

Next, to maintain Title IV eligibility, gainful employment programs will be required to meet minimum standards related to debt-to-earnings ratios and program cohort default rates. Under the proposed rules, estimated loan payment for graduates cannot exceed 20 percent of their discretionary earnings or 8 percent of their annual earnings. The programmatic cohort default rate cannot exceed 30 percent for three consecutive years.

Lastly, the new rules will require institutions to make public disclosures regarding the performance and outcomes of their gainful employment programs. The disclosures will be required to include information on costs, earnings, debt, default rates, and completion rates.

What This Means to You

The regulations will be open for public comment for 60 days after they are published in the Federal Register. The regulations are currently scheduled to

be published on March 25, 2014. The final rules should be available later this year and will likely take effect in the summer of 2015.

A complete copy of the proposed regulation can be found on the Department of Education's website at <https://www2.ed.gov/policy/highered/reg/hearulemaking/2012/gainfulemployment.html>.