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Gainful Employment Rule and Student Loan Debt Counseling: A Perfect Match?

New regulations that will impose severe requirements on for-profit colleges and career training programs may open the door to an increased need for independent third-party student loan debt counseling. On March 14, 2014, the Obama administration released its “**gainful employment**” rule that would establish student-loan default thresholds that, if exceeded, could lead to schools losing access to student financial assistance programs authorized under Title IV of the Higher Education Act of 1965, as amended (HEA).

The 841-page rule uses student-loan default rates to determine whether a program’s students are burdened with unpaid debt. Programs with a cohort default rate higher than 30% for three consecutive years may lose access to federal financial aid. Training programs could lose funding if the annual education-debt payments of typical graduates exceed 20% of their discretionary earnings or 8% of their total income. Schools that fail to comply for two out of three years would lose eligibility for funding. At the same time, the Department of Education predicts one million students will lose access to post-secondary education. The gainful employment rule would also require programs to meet applicable accreditation requirements, state or federal licensure standards, and publicly disclose information about the cost, debt, and student outcomes of those programs.

Even before the recent announcement of the gainful employment rule, there are incentives for schools to focus on ways to keep student loan defaults low. Integrating third-party student loan debt counseling into a lending program may help increase retention, and making counseling available to graduates may help with repayment. The CFPB Student Loan Ombudsman concluded that “students borrowing substantial amounts of private student loans would be well-served by individual counseling, potentially with third parties, on how to enroll in alternative payment programs to comfortably service their debt.” (**CFPB Annual Report of the Student Loan Ombudsman, Oct. 16, 2012**).

An earlier set of requirements was challenged in court and blocked in 2012. See **Association of Private Sector Colleges and Universities v. Duncan**, 870 F. Supp. 2d 133 (D.D.C. 2012). Thus, this round of requirements – still viewed as controversial – represents a second attempt by the Department of Education.

The regulations are open for comment for 60 days after they are published in the *Federal Register*. Based on the timetable the Department of Education is working within and public statements, it appears a final rule should be available this summer and that the requirements would take effect in July 2015.

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