



## Defining 'Gainful Employment'

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WASHINGTON -- A proposal by the U.S. Department of Education to assess the performance of vocational programs and most course offerings at for-profit institutions by linking the prices they charge to their graduates' salaries may have hit a wall Wednesday as concerns surfaced publicly that the department was reaching outside its statutory purview to place price controls on higher education.

Included in the department's first draft of revised rules to guard against the abuse of federal financial aid funds, the proposal suggests two possible methods aimed at ensuring that students and taxpayers aren't paying for programs that don't lead to "gainful employment" or that impose too big a debt burden on students in relation to their expected earnings in the field for which the program is training them. But many on a federally appointed panel of college officials, consumer advocates, financial aid administrators and others tasked with providing input as the department revises the rules were vocal in their opposition to the department's ideas.

"I think that Congress has given you a lot of tools over the years to deal with the viability of programs and institutions," said Joan Berkes, director of legislative and regulatory analysis for the National Association of Student Financial Aid Administrators. "And they have consistently declined to give you price controls -- and that's what this is, in point of fact."

Elaine Neely, senior vice president of regulatory affairs for Kaplan Higher Education, said she was "flabbergasted that [the department] would impose price controls when clearly Congress itself has not been able to come to the decision to do that on higher education."

"This not only applies to private career schools," Neely added, but also technical and vocational programs at nonprofit institutions and would begin the descent down a "slippery slope" toward price controls elsewhere in higher education.

Title IV funding has, since the passage of the Higher Education Act in 1965, been available for programs that "prepare students for gainful employment in a recognized occupation." In the current climate, this means non-degree programs at public and private nonprofit institutions, and all offerings at for-profit institutions other than those clearly designated as "liberal arts." The department's current regulations include no official definition of "gainful employment," but the proposals it has drafted for the negotiating panel would attempt to create one.

The first option suggested by the department would seek to define the value added by a program -- the difference in annual earnings between a high school graduate and an entry-level

worker with a degree or certificate in the same field -- and determine an appropriate price for it. A formula would, the department's draft suggests, "consider the cost/earnings relationship to be reasonable if the cost of the program is less than 3 times (or some other multiple) the value added."

The other option set forth would be to look at whether the starting annual income in the field was sufficient to repay the average debt obligation of a student with a degree or certificate in that field while still being able to pay living expenses. For instance, the proposal suggests, if the average debt load for a student completing a certain program was \$9,000, the student would have loan obligations of \$1,250. With a debt-to-income ratio of 5 percent, the starting income in that field would have to be at least \$25,000 to be considered "gainful employment."

Panelists questioned both the specific details of the two options as well as whether any formulaic definition of "gainful employment" was even necessary.

The alternate representative for business officers, Anne Gross, vice president of regulatory affairs at the National Association of College and University Business Officers, said there was no need to come up with a regulatory definition. "You can Google 'gainful employment,'" she said. "It's something that's been used for years and has a fairly well-understood definition. It's been used in the Higher Education Act for 40 years without difficulty."

She added: "I'm just kind of amazed at the path that we're going down without any statutory authority to do so that I can see... Congress is not shy about being quite prescriptive in what it puts in the Higher Education Act and to think that Congress put in gainful employment 40 years ago because they thought it would be a good idea for us to sit here ... and write pages and pages of formulas and regulations to define it just kind of blows me away."

Joan Zanders of Northern Virginia Community College, the alternate representing two-year colleges, said she didn't see the need for another layer of regulations governing vocational programs. There are "two stops already in the process" before a program is approved, she said -- accreditation or state authorization and an initial Education Department assessment of the program for Title IV eligibility.

"If all of this information is out there ... why are we having to wait until after the fact, after the programs are approved, after students are in the programs to then say, 'let's put a Band-aid on it so the students are not spending too much?,' " she said.

Support for rules in line with the department's proposals came from Margaret Reiter, a former California deputy attorney general, who is representing consumer advocates, and Rich Williams, higher education associate for U.S. PIRG, who represents students.

Williams said he saw the proposals as countering high-tuition programs that might lead to a job the student could've gotten without spending time and money on a certificate or degree. Institutions, he said, "are offering programs which are plunging students into debt for careers that they can't use that certificate for, such as getting a degree in counterterrorism and then all you have at the tail end is a minimum wage job working as a security guard in an airport. You are not gaining off of that."

Reiter said that after two decades of “nibbling around the edges” of the problem Williams described, “this is the first time the department has come to the crux of the situation and I’m delighted to see it.”

She continued: “I think this is really the time. Our country is in a situation where we have huge debt, where we need well-trained people. I don’t think the country is going to have a stomach much longer to keep throwing money at programs that are supposed to prepare students for gainful employment but do not.”

But other panelists did not substantively support the arguments coming from Reiter and Williams.

The alternate representing college presidents, Bob Moran, director of federal relations and policy analysis at the American Association of State Colleges and Universities, said he worried that both proposals would not take into account the long-term gains a student has from a course of study.

“I guess my concerns are strictly associated with the approach and that is this is very microcosmic, this is a very moment-in-time approach. When you go to postsecondary education, whatever level, you’re making an investment in yourself and you’re making an investment so that you can better yourself over your lifetime,” he said. “So to look at comparisons when [a student first graduates], I think, is shortsighted.”

The alternate representing financial aid officers, Val Meyers, associate director of financial aid at Michigan State University, said that though she doesn’t “personally have a dog in this fight” because her institution doesn’t offer many programs that fit the requirements of the regulation, she was worried by it.

“I’m sorry to say this seems to be a cost-containment method which we all know doesn’t work and I know Congress and other places have tried to get kind of past that to influence what colleges and universities charge their students. I find this whole thing to be kind of amazing, and not in a good way.”

— Jennifer Epstein