

August 29, 2013

On June 12, 2013, the Department published a notice in the Federal Register announcing its intention to establish a negotiated rulemaking committee for the purpose of preparing proposed regulations that would establish standards for programs that prepare students for gainful employment in a recognized occupation. Because gainful employment has raised a high level of interest from numerous sectors, we have created a separate committee for this important topic to ensure that we are able to engage in a thorough discussion with all stakeholders.

In the June 12th notice, we requested nominations for individual negotiators who represent organizations or groups with interests that would be significantly affected by the proposed regulations to serve on the negotiating committee. At the end of July, we selected 28 negotiators (14 primary and 14 alternate) to represent each of the following 14 constituencies: students; legal assistance organizations that represent students; consumer advocacy organizations; financial aid administrators; State higher education executive officers; State attorneys general and other appropriate State officials; business and industry; minority serving institutions; two-year public institutions; four-year public institutions; private, non-profit institutions; private, for-profit institutions that are publicly traded; private for-profit institutions that are not publicly traded; and accrediting agencies.

The Department's goals for the regulations are to:

- 1) Define what it means for a program to prepare a student for gainful employment in a recognized occupation and construct an accountability system that distinguishes between programs that prepare students for gainful employment in a recognized occupation and those that do not;
- 2) Provide institutions with metrics to assess whether their programs prepare students for gainful employment and an opportunity to improve program performance;
- 3) Protect students and taxpayers by identifying gainful employment programs with poor student outcomes and ending the flow of federal funds to programs that do not prepare students for gainful employment; and
- 4) Support students in deciding where to pursue a postsecondary education by increasing transparency with respect to the costs and outcomes of gainful employment programs.

In preparation for the first meeting of the negotiating committee on September 9-11, 2013, the Department is providing the negotiators with, and posting on our web site, draft regulatory language that will be used as a starting point for discussion. Negotiators should share the draft

language in consultations with their constituents so that they can be better prepared to represent their constituents' views at the September meeting.

Although the draft regulations will be used to help frame the negotiations and solicit input and feedback from the negotiators and their constituents, the discussion among the parties should by no means be limited by it. The Department welcomes a robust debate on the draft regulatory language and also encourages the negotiators to present any and all ideas for how to best define and evaluate whether a program prepares students for gainful employment in a recognized occupation. Accordingly, all negotiators are invited to contact the Department if they wish to make any relevant materials available to the other members of the negotiating committee in advance of the first session.

In addition to the draft regulatory language, the Department is providing the negotiators with, and posting on our web site, the following materials to further inform the discussion at the negotiation sessions:

- Data relating to gainful employment programs;
- A high-level analysis of the data; and
- Documents comparing the draft regulatory language with previous regulations.

The Department looks forward to discussing the draft regulatory language and responding to questions at the first negotiating session and throughout the rulemaking process, which will include a second meeting of the negotiators in October 2013 and a subsequent public comment period that will occur after the Department issues a notice of proposed rulemaking. Prior to the first meeting, however, we will not respond to questions with respect to the draft language or supporting information so that the negotiators have a fair opportunity and sufficient time to independently consider the materials and consult with their constituents.

For more information on the gainful employment negotiated rulemaking effort, including meeting times, locations, and materials, see

<http://www2.ed.gov/policy/highered/reg/hearulemaking/2012/gainfulemployment.html>