

**Subject:**

Fwd: some final thoughts - negotiated rule making on gainful employment

From: Chip Cameron

Sent: 9/7/2013 3:53 PM

To: Kolotos, John; Rory O'sullivan; Eileen Connor; Whitney Barkley; Margaret Reiter; Tom Tarantino; Kevin Jensen; Mohr, Rhonda (rmohr@██████████); Warner, Jack; Sandra Kinney; Ted Daywalt; tkriger@██████████; Helga Greenfield; rhiggs@██████████; Richard Heath; Glen Gabert; Nassirian, Barmak; barbara.hoblitzell@██████████; Jenny Rickard; tdalton@██████████.edu; Brian Jones; Raymond Testa; Marc Jerome; JBerkowitz@██████████; Belle Wheelan Private; nharvison@██████████

Cc: charlie pou; Macias, Wendy

Subject: Fwd: some final thoughts - negotiated rule making on gainful employment

Ideas from Della Justice and Libby DeBlasio (State attorney generals community of interest) for your consideration next week.

----- Forwarded message -----

From: Justice, Della (KYOAG) <██████████@██████████>

Date: Fri, Sep 6, 2013 at 10:33 PM

Subject: RE: some final thoughts - negotiated rule making on gainful employment

To: Chip Cameron <██████████@██████████>

Cc: Libby.DeBlasio@██████████

Dear Mr. Cameron,

Per your request, we are providing the following ideas and questions for the Department's preparation for the negotiations next week.

I. JOB PLACEMENT.

The rate at which students actually obtain jobs in the career studied seems a logical and necessary factor for determining whether the program is preparing students for gainful employment in a recognized occupation. Like the debt measures, job placement rates should be a gainful employment metric. The Department already requires short programs to demonstrate a job placement rate of 70%, but no such standard has been set with respect to other gainful employment programs. Institutions should demonstrate compliance with a job placement standard set by the Department and pass the other metrics in order to retain eligibility.

Further, consumers rely on job placement rates when deciding whether the program will lead to a better paying job. Yet, at this time the Department only requires schools to disclose job placement rates if they are required to calculate a rate by the accreditor/state authority. Because different methods of calculation are employed and because some accreditors/states do not require the calculation of a job placement rate, the disclosure is not as useful and meaningful as it needs to be.

While institutions must still be required to comply with state law requirements for calculating job placement rates, the Attorney General negotiators urge the Department to establish a uniform standard for calculating job placement rates and establish a minimum rate to be used as a metric for determining gainful employment. The Department should also require use of the uniform standard for reporting and for the required consumer disclosure.

After reviewing the different ways in which job placement has been defined by some of the larger accreditors and government agencies, we have drafted a definition of job placement that combines different parts of those definitions to devise a definition that may be suitable for these purposes. This is not an attempt to comprehensively address all aspects of a job placement regulation and the definition is being provided only as a starting point to begin discussion. We may provide additional and different ideas and language during the course of negotiations.

For these purposes, we propose the following definition:

Job Placement means within 180 days of completion/graduation the student has been employed for at least 13 weeks with the employer in a full-time paid position in the field or related field of study. In field of study/related field of study means employment is--

- (1) Included in the list of job titles for the program published by the institution and included in the list of Classification of Instructional Program (CIP ) job titles on O\*NET crosswalk for which the programs were approved by the Department; or
- (2) In a position where the routine work predominantly requires using the core skills and knowledge expected to have been taught in the program and the position requires education beyond high school level; or
- (3) In instances where completers/graduates are continuing in prior employment, the prior employment must be reasonably related to the program training and the completer/graduate attests in his/her own handwriting at the time of enrolling in the program and upon completion of the program, with reference to a specific written policy of the employer, to the benefit of the training as a catalyst for maintaining or advancing in a position.

For part-time employment to be considered as placement, there must be a handwritten statement from the graduate/completer at time of completion that part-time employment is his/her objective for employment including a general explanation for such objective.

The job placement rates must be subject to regular audits by an independent entity or the Department. With respect to #1 above, we have presumed that the CIP and O\*Net crosswalk provides a list of job titles certified by the Department as a recognized occupation for the particular program. If this is not the case, then a reference to the appropriate list certified by the Department would need to be substituted. If there is no such list, then #1 could not be a basis for placement and the employment must meet the requirements of #2. Therefore, could the Department confirm if there is a list of job titles which the Department has certified as recognized occupations for the programs of study?

Also, can the Department describe what information and methods are used to ensure that the short programs comply with the job placement rate of 70%?

## II. EVIDENCE THAT PROGRAM WILL LEAD TO GAINFUL EMPLOYMENT PRIOR TO APPROVAL.

Additionally, we would like to ask the Department what regulations or requirements are in place to ensure that institutions comply with 34 CFR 668.14, the Program Participation Agreement, which requires the institution to agree that it will "establish the need for the training of the student to obtain employment in the recognized occupation for which the program prepares the student." Also, more generally what regulations or requirements are in place to ensure that prior to the program being approved there has been an assessment that that the program will prepare students for gainful employment in a recognized occupation? The matter of programs being evaluated prior to approval was raised in the written comments submitted by Kentucky Office of Attorney General on June 4, 2013.

Thank you for the opportunity to raise these issues prior to the negotiations.

Della Justice and Libby DeBlasio