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From: Heath, Richard C <rcheath@[redacted]
Sent: Tuesday, November 19, 2013 5:37 PM
To: Kolotos, John; charlie pou
Cc: Wilson, Amy; Kevin Jensen; Rhonda Mohr; Sandra
Subject: FYI: Proposal for Passing Programs

Good job today John,
Here are the changes we are proposing:

Additions in red.

§668.403 Gainful employment program framework.
(a) General. A program provides training that prepares students for gainful employment in a recognized occupation if the program--
(1) Satisfies the applicable application and certification requirements in §§668.415 and 668.416; and (2) Is not an ineligible program under the provisions for the D/E rates described in paragraph (b)(1), the provisions for the pCDR described in paragraph (b)(2), or because of the repayment performance of its loan portfolio as described in paragraph (b)(3).
(b) GE measures. (1) Debt-to-earnings rates. For each award year and for each eligible GE program offered by an institution, the Secretary calculates two D/E rates, the discretionary income rate and the annual earnings rate, using the procedures in §§668.404-668.406.
(2) Program cohort default rate. For each fiscal year and for each eligible GE program offered by an institution, the Secretary calculates the pCDR as described in §668.407.
(3) Loan portfolio repayment performance. For each award year and for each eligible GE program offered by an institution, the Secretary determines whether the FFEL and Direct Loan portfolio of the program is negatively amortized, using the procedures in §668.409.
(c) Outcomes of GE measures.
(1) D/E rates.
(i) A GE program is "passing" the D/E rates if--
(A) Its discretionary income rate is less than or equal to 20 percent; or
(B) Its annual earnings rate is less than or equal to eight percent.
(ii) A GE program is "failing" the D/E rates if--
(A) Its discretionary income rate is greater than 30 percent or the income for the denominator of the rate is negative or zero; and
(B) Its annual earnings rate is greater than 12 percent or the denominator is zero.
(iii) A GE program is in the "zone" for the purpose of the D/E rates if it is not passing and its--

(A) Discretionary income rate is greater than 20 percent but less than or equal to 30 percent; or

(B) Annual earnings rate is greater than eight percent but less than or equal to 12 percent.
(iv) For the purpose of the D/E rates, a GE program is ineligible if it--
(A) Is failing the D/E rates in two out of any three consecutive award years for which the program's D/E rates are calculated; or
(B) Is not passing the D/E rates in one out of any four consecutive award years for which the program's D/E rates are calculated.
(2) pCDR.

(i) A GE program is “passing” pCDR if its pCDR for the most recent fiscal year for which pCDR is calculated is less than 30 percent.
(ii) A GE program is “failing” pCDR if its pCDR for the most recent fiscal year for which pCDR is calculated is greater than or equal to 30 percent unless the GE program is ineligible under paragraph (c)(2)(iii)(A).
(iii) For the purpose of pCDR, a GE program is ineligible if--
(A) Its pCDR for the most recent fiscal year for which pCDR is calculated is greater than 40 percent; or
(B) It fails pCDR for three consecutive fiscal years for which pCDR is calculated.
(3) Loan portfolio repayment performance.
(i) A GE program’s loan portfolio repayment performance is “passing” if its loan portfolio for the most recent award year for which the loan portfolio repayment performance is determined is not negatively amortized.
(ii) A GE program’s loan portfolio repayment performance is “failing” if its loan portfolio for the most recent award year for which the loan portfolio repayment performance is determined is negatively amortized.
(iii) For the purpose of loan portfolio repayment performance, a GE program is ineligible if it fails in two out of any three consecutive award years for which the loan portfolio repayment performance is measured.
(d) Low-risk programs
(1) A program is "passing" the GE measures if the program--
(i) has a federal median loan debt of zero for all program completers, both those who received title IV, HEA program funds and those who did not, as established by an institution or state reporting GE program borrowing rates below 50.0 percent, or alternatively, a certification signed by the institution’s most senior executive officer; OR
(ii) has a published cost of tuition and fees that a full-time student would incur during an award year that is less than or equal to the maximum Pell Grant for that award year.

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