

From Margaret Reiter

11/20/2013

This contains language suggestions on the application section and smaller changes below that on a few other points.

§668.415 Application requirement for new GE programs.

Comment [MSOffice1]: Generally revised to remove ambiguous language and narratives, or recommendations.

(a) An institution must apply to the Secretary to establish a new GE program if--

(1) The program has the same CIP code as, or is substantially similar to, a program that--

(i) Became ineligible under this subpart; or

(ii) Was a ~~failing or zone~~ program that the institution voluntarily discontinued or is replacing a currently failing or zone program;

(2) The institution does not currently offer an eligible program within the same CIP family; or

(3) The institution currently has, or had within the previous three years, a failing program under its GE measures within the same CIP family.

(b) For a new program requiring the approval of the Secretary under paragraph (a), an institution must submit a materially complete application to the Secretary in a format prescribed by the Secretary and certified as accurate signed by

the institution's most senior executive officer. The application must include the following ~~information~~:

(1) The CIP code, credential level, and length ~~of~~ ~~program~~ of the program, and a description of how the institution determined the CIP code.

(2) The primary occupations, by name and the 6-digit SOC codes, that the institution represents the program will prepare students to enter, and a description of how the institution determined which SOC codes applied.

(3) The total cost of tuition and fees, ~~and~~ the total cost of books and supplies that a student would incur for completing the program; and the projected cost of attendance.

(4) The date of the expected first day of instruction of the program as a title IV eligible program.

(5) The projected total enrollment for each of the first three years that the institution will offer the program.

(6) The projected entry-level earnings of program completers as reported to the institution by at least 5 employers in the projected area of employment who have hired starting-level employees within the last 3 years in the primary occupations identified; or if the institution is unable to obtain the information from at least 5 such

employers, an explanation of why it is unable to do so (such as, in the projected area of employment, there are fewer than 5 such employers or the industry is new in the projected area of employment); and the projected entry-level earnings of program completers reported by those employers the institution supplied. likely employers.

~~(7) A narrative description of how the program was reviewed by, approved by, or developed in conjunction with an advisory committee, a government agency, businesses, or organizations that will likely employ completers of the program.~~

A description of the projected area of employment; if the institution believes the projected area of employment would take more than a one hour commute from the institution location, an explanation of how the institution selected the area.

~~(8) (8) Letters of recommendation for the program from at least three businesses or organizations that are likely to employ completers of the program signed by an executive officer of each business.~~

Documentation showing the identity and contact information for the employers that reported projected earnings to the institution, a description of their

businesses; the approximate number of employees each employer currently employs in the SOC codes identified; or if none are employed, an explanation of when and why the employer could be expected to hire employees in those occupations in the future.

(9) The projected ratio of debt to earnings, using the program's planned cost of attendance and projected entry-level starting earnings, documenting either,

(i) that the debt can be repaid with 8 percent of earnings or 20 percent of discretionary earnings [using the same definitions and parameters as provided in 34 CFR 668.403 and 668.404]; or

(ii) that the cost of tuition, fees, books and supplies is less than the Pell grant amount allowable for the program.

(910) Documentation that the program has been approved by the institution's accrediting agency or is otherwise included in the institution's accreditation by its accrediting agency, or comparable documentation if the institution is a public postsecondary vocational institution approved by a recognized State agency for the approval of public postsecondary vocational education in lieu of accreditation.

Comment [MSOffice2]: This is an exception Richard mentioned.

(11) For each occupation that the institution represents the program will prepare students to enter, ~~whether that~~ the program meets applicable State requirements, that completers of the program would have to satisfy in the State in which the program is offered, [and if the program is offered in a metropolitan area next to another state, also in that other state],

Comment [MSOffice3]: Added to attempt to address Sandra and others who pointed out the need for the reg to address schools located close to the state line, so that many completers will seek work in that other state.

(i) to be allowed to take a licensing or other exam necessary to obtain a state license or certification; and

Comment [MSOffice4]: Sometimes the requirement is just to be allowed to take the licensing exam, not to get the license

(ii) to mMeet State licensure or certification requirements, ~~if any, in the State in which the program is offered;~~

(12) For each occupation that the institution represents the program will prepare students to enter, documentation that the institution has programmatic accreditation and meets any other criteria the institution knows or should reasonably know, are generally needed for a student

Comment [MSOffice5]: To address Neil's point about how the school would know. This language is fairly common in the law: "knows or reasonably should know"

(i) to qualify to take an exam, such as a certification exam for the occupation,

(ii) to qualify for certification that is generally required or preferred by employers, and

(iii) Otherwise to obtain employment in the occupation in the State in which the program is offered.

The programmatic accreditation or other criteria are considered "generally needed," even if a student might be able to substitute experience in the occupation or alternative measures beyond program completion for the programmatic accreditation of the program or the other criteria.

(13) If the program is intended to replace a program that is currently offered or was offered within the previous three years, a description of the changes the institution made to improve the program's performance under the requirements of this subpart.

(14) For any program for which the program includes experiential placements, such as externships, documentation showing,

(i) the school has arranged sufficient placements that meet the requirements, if any, of the program's accreditation or the state in which the program will be offered;

(ii) the placements are consistent with the representations to be made to prospective students; and

(iii) the placements are either within one hour commute from the institution, or the institution justifies why the placements arranged are further away and

demonstrates that students will be fully informed before they enroll of the distances that may be required to travel to the experiential placement.

(c) Documentation -- The institution shall retain all substantiating information, data, and evidentiary material the institution relied on to provide the information required by the application.

(d) The Secretary approves the GE program if--

(1) The institution satisfies ~~provides~~ all the ~~information requirements required by~~ of paragraph (b);

(2) There are no material or unresolved issues relating to the institution's administration of or participation in the title IV, HEA programs; and

(3) The institution has complied with the reporting and disclosure requirements in §§668.412 and 668.413, respectively for all of its GE programs.

~~(e)~~ The Secretary notifies the institution if its application for the GE program is approved or denied. If the application is denied, the Secretary informs the institution of the reasons for the denial, and the institution may petition the Secretary to reconsider that denial.

~~(f)~~ An institution may begin disbursing title IV, HEA program funds to students enrolled in a new GE program subject

to this section on the date the Secretary approves the program under paragraph (d).

A few other small changes to other sections:

§668.403 Gainful employment framework

P. 7, 403(b)(3): *Add Perkins loans.*

P. 8, 403(c)(1)(ii)(A):

(ii) A GE program is "failing" the D/E rates if

either--

(A) Its discretionary income rate is greater than 30 percent or the income for the denominator of the rate is negative or zero; **and or**

(B) Its annual earnings rate is greater than 12 percent or the denominator is zero.

P. 9, 403(c)(1)(iv)(B):

"(B) Is not passing the D/E rates in one out of any ~~four~~ three consecutive award years for which the program's D/E rates are calculated."

§668.404 Calculating D/E rates

P. 11, 404(b)(2):

For undergraduate degree and certificate programs,
amortizing the median loan debt over a 10-year repayment
period using the ~~lowest~~ average of the annual interest rate
on Federal Direct Unsubsidized Loans for undergraduate
students during the four years prior to the start of the
two-year period; and for graduate programs, amortizing the
median loan debt over a 10-year repayment period using the
average of the annual interest rate on Federal Direct
Unsubsidized Loans for graduate students during the four
years prior to the start of the two-year period.

P. 12, 404(d)(1):

"(d) Loan debt. In determining the loan debt for a student, the Secretary--

(1) Includes the amount of FFEL, Perkins, and Direct Loans that the student borrowed for attendance in the GE program " (PLUS Loans made to parents of dependent students or Direct Unsubsidized Loans that were converted from TEACH Grants are not included), any private education loans reported by the institution, and any debt originating from the institution, such as from institutional financing or payment plans, that the student is obligated to repay, ~~upon the student's completion of the program~~ regardless of who holds the debt;

Comment [MSOffice6]: Here and everywhere the loans to be included are mentioned, add Perkins loans.

Comment [MSOffice7]: And correct possible ambiguous language to eliminate the possibility of this being interpreted to only include private loans that have a beginning due date of the student's completion of the program:

P. 44 Reporting: §668.412(a)(2)(ii)

The total amount the student received from private educational loans for attendance in the program, which the institution is, or reasonably should be aware of; and

P. 45,

Comment [MSOffice8]: *Is Cross reference to 668.419(a) for definition of prospective student needed? ("Prospective student means an individual who has contacted an eligible institution requesting information concerning admission to that institution.")*