

Gainful Employment Negotiated Rulemaking Committee Meetings

Opening Remarks of
Julie Miceli, Deputy General Counsel, U.S. Department of Education
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1. Good morning. I am Julie Miceli, Deputy General Counsel at the U.S. Department of Education. Deputy Under Secretary Jeff Appel was not able to be with us this morning, so he has asked me to welcome the Committee back for the third and final round of negotiated rulemaking on gainful employment.
2. Welcome also to members of the public.
3. I want to start by first acknowledging how incredibly fruitful these negotiating sessions have been. We received constructive feedback from this Committee on our draft proposals, we heard novel ideas that we have taken back to consider as a team, and we have learned more about the concerns of the communities each of the negotiators represent.
4. We have made improvements to the proposed rule in response to your comments throughout this process. All told, the robust discussions and debates at this table have been thoughtful, thorough, and extremely valuable to the Secretary and the Department staff working on the proposed rule.
5. It is clear that this Committee has put a lot into this to effort. Secretary Duncan extends his sincere appreciation to each of the negotiators for your commitment to this issue, your care in preparing for each session, and your dedication to the negotiated rulemaking process.

6. At the last session, we heard the request of Committee members for additional time to consider the proposed rule and the forthcoming data. In response, the Department was pleased to host this third negotiating session.
7. Since the last session, the Department has worked to revise the draft regulatory text to reflect the decisions the Department made based on the Committee members' proposals. We have also revised parts of the regulatory text to add clarity to the few remaining sections that the Committee did not get through at the last session.
8. And our data analysts have worked tirelessly to produce data that the Committee could reference in your discussions on the non-completer metric today.
9. I want to extend an apology to the Committee that the materials for today's session were only sent to you on Wednesday evening. We know that you have all put a lot of effort into being prepared for each session and that this was a shorter window to review the materials before this session.
10. Please know that we have been working *very* hard to carefully consider all of the input we received from the Committee at the last session, and to make sure that the draft rule and the data you have before you today is as precise and useful as possible.
11. Today, the Committee is charged with finishing its review of the proposed rule, and going through each component for the purpose of reaching consensus on the proposed package.
12. We recognize that there are diverse interests and perspectives at the table and that reconciling these views will be challenging. But we remain optimistic that the Committee is working to develop a rule that

accomplishes the Department's policy goals in a balanced, reasonable and practical manner.

13. As we have said previously, we are looking for a rule that satisfies our key policy goals:
 - (1) Define what it means for a program to prepare a student for gainful employment in a recognized occupation;
 - (2) Develop measures to evaluate the extent to which programs meet this requirement and construct an accountability system that distinguishes between programs that do and do not meet it;
 - (3) Protect students and taxpayers by identifying GE programs with poor student outcomes and ending taxpayer support of programs that do not prepare students as required; and
 - (4) Support students in deciding where to pursue education and training by increasing transparency about the costs and outcomes of GE programs.
14. To further these goals, the Department has made a few changes to the proposed rule from the last version. John Kolotos is going to walk through these today in more detail, but I would like to take a minute to highlight a few of the key changes.
15. First, we removed in this proposal the part of the Program Cohort Default Rate metric that would make programs ineligible if their default rates are above 40% in the first year.
16. For most of this rule, we have taken the approach that programs should be allowed the opportunity and time to improve, but this provision would have not allowed for that improvement time.

17. We understand that a default rate of 40% or more is high, but in keeping with the general spirit and policy approach for the rule, under this proposal, programs will now have 3 years to improve their default rates before they face ineligibility under this metric.
18. Additionally, we removed the Loan Portfolio Repayment metric from this proposal.
19. This metric was introduced for the purpose of gauging interest and receiving feedback at the table. But after hearing from the Committee, we felt that having one measure for completers and one that included non-completers, rather than two, was preferred, and that a Program level CDR metric was more in line with our broader policy goals.
20. And while we believe that repayment rates provide valuable information for students and prospective students and are including a borrower-based repayment rate in our required disclosures, we only had limited data available to help us analyze the loan portfolio performance as a metric. As a result, we could not draw policy conclusions about the stability of the metric over multiple years, and did not feel we had the information we needed to keep this metric in this proposal.
21. Finally, we thank the Committee members for submitting proposals on how the Department could structure the rules to account for schools with very low default rates or situations where few students borrow.
22. Although we believe these proposals address valid concerns, they are not included in the draft rule before you today. There is a high bar for including any provisions in the rules. We do not feel this was met in this case.

23. I know everyone is anxious to get started, so I will close by saying that on behalf of Secretary Duncan, I thank the Committee for your time and for lending your expertise to this very important process.

24. Thank you.