Session 1: December 4-7, 2017

**Issue Paper #1**

**Issue:** Scope and Purpose

**Statutory cites:** 20 U.S.C. § 1221e-3; 20 U.S.C. § 3474; 20 U.S.C. § 1231a; 20 U.S.C. §§ 1001(b)(1), 1002(b)(1)(A)(i), (c)(1)(A); 20 U.S.C. § 1088(b)

**Regulatory cites:** 34 CFR § 668.401

**Summary of issue:** On October 31, 2014,the Department published final regulations establishing standards and other requirements for title IV-eligible programs that prepare students for gainful employment (GE) in a recognized occupation. Those regulations went into effect on July 1, 2015.

The regulations established an accountability and transparency framework for GE programs. The accountability framework conditions the eligibility of a GE program based on (1) the program’s performance under a debt-to-earnings (D/E) rate measure and (2) the institution’s certification that the program meets certain accrediting agency and State requirements. The transparency framework provides students, prospective students, and their families with accurate and comparable information about a GE program to better inform their educational and financial decisions about enrolling or continuing in the program. Finally, the GE regulations included reporting requirements to provide the Department with information required under both the accountability and transparency frameworks. In adopting the accountability framework, the Department acted under its authority under sections 101, 102, and 481(b) of the HEA, which pertain solely to GE programs, among other authorities. The Department also relied on its broader authority under the General Education Provisions Act and the Department of Education Organization Act.

A common criticism of the GE regulations is that one of the problems the rules aim to address—students being saddled with unaffordable levels of loan debt in relation to their earnings—is an issue across all institutions, and not just those that offer GE programs. In addition, some have argued that many of the factors contributing to poor student outcomes, as measured by the D/E rates, are outside of the control of an institution. Accordingly, some have suggested that the regulations should apply to all programs, not just GE programs, and that the loss of eligibility resulting from poor D/E rates is unfairly punitive. Critics have also argued that the reporting and compliance requirements are overly burdensome.

In the issue papers that follow, we discuss in detail the individual components of the GE regulations. Here we address broad issues of scope and purpose of the regulations.

**Questions for consideration by the committee:**

* Should the regulations apply, in whole or in part, to all programs or just GE programs?
* Should the Department retain, amend, or eliminate the accountability framework?
  + Should the Department retain, amend, or eliminate the D/E rates? For all programs or just GE programs?
  + If retained or amended, should the D/E rates measure be used to determine eligibility, result in other sanctions (e.g., warnings or other enhanced disclosures), and/or be used as a disclosure? If retained or amended for purposes of disclosure, should this pertain to all programs or just GE programs?
  + Should the Department retain, amend, or eliminate the certification requirements? For all programs or just GE programs?
* Should the Department retain, amend, or eliminate the transparency framework? For all programs or just GE programs?
  + If D/E rates are removed from the accountability framework, should D/E rates be used for disclosures under the transparency framework?
* Are program disclosures alone effective in helping enrolled and prospective students identify lower-performing programs with respect to job earnings?