

THE CHRONICLE OF HIGHER EDUCATION



The Ticker

Breaking news from all corners of academe.

March 14, 2014 by Nick DeSantis

Reactions to the Education Dept.'s New Gainful-Employment Proposal

The Obama administration on Friday set the stage for a new round in the years-long fight over its controversial gainful-employment rule, with the [formal release \(http://www.ed.gov/news/press-releases/obama-administration-takes-action-protect-americans-predatory-poor-performing-ca\)](http://www.ed.gov/news/press-releases/obama-administration-takes-action-protect-americans-predatory-poor-performing-ca) of a [new proposal \(http://www2.ed.gov/policy/highered/reg/hearulemaking/2012/notice-proposed-rulemaking-march-14-2014.pdf\)](http://www2.ed.gov/policy/highered/reg/hearulemaking/2012/notice-proposed-rulemaking-march-14-2014.pdf) that comes some 20 months after a federal judge blocked key parts of the original version.

The proposal seeks to cut off federal financial aid to career-oriented programs whose graduates have high student-loan debt relative to their incomes.

The Association of Private Sector Colleges and Universities, the main trade group representing for-profit colleges, has waged a bitter fight against the rule and sued the department in federal court in a bid to block the initial measure. A judge in 2012 [vacated portions \(http://chronicle.com/article/Ruling-on-Gainful-Employment/132737\)](http://chronicle.com/article/Ruling-on-Gainful-Employment/132737) of the original rule but ruled that the Education Department still had the authority to issue the regulations.

The department last year convened a panel of negotiators to help shape a new rule, but those talks [ended in deadlock, \(http://chronicle.com/article/Gainful-Employment-Talks-End/143641/\)](http://chronicle.com/article/Gainful-Employment-Talks-End/143641/) leaving the department to write the new version itself.

The new proposal is unlikely to cool the debate over the department's efforts on gainful employment. Consult this [Chronicle article \(http://chronicle.com/article/Revised-Gainful/145329/\)](http://chronicle.com/article/Revised-Gainful/145329/) for details of the new rule, and these [key points \(http://chronicle.com/article/5-Things-to-Know-About-the/145327/\)](http://chronicle.com/article/5-Things-to-Know-About-the/145327/) that explain what you need to know.

Here's a look at what others are saying about the new gainful-employment proposal.

Breaking Down an '841-Page Behemoth' (http://www.edcentral.org/gainful-employment-nprm/?utm_source=hootsuite&utm_campaign=hootsuite) — Ben Miller, a senior policy analyst at the New America Foundation, is blogging about the proposed regulation. A key difference between this one and a draft version from December, he writes, “is the loss of provisions that would have required programs that lose eligibility to provide some measure of debt relief for enrolled students.” He says it's clear that this version is crafted to be “much more legally sound” than previous drafts. Ed Central

'Highly Biased, Flawed, and Arbitrary' (<http://apscu.org/news-and-media/press-releases/Education-Dept-Releases-Highly-Biased-Flawed-Arbitrary-Regulation.cfm>) — “The U.S. Department of Education's actions confirm that they engaged in a sham negotiated rule-making process with the sole goal of reaching a predetermined conclusion that will result in eliminating higher-education access and opportunity for millions of students based on the type of institution they attend,” said Steve Gunderson, Apscu's president. Association of Private Sector Colleges and Universities

House Panel's Leaders Condemn New Proposal (<http://edworkforce.house.gov/news/documentsingle.aspx?DocumentID=372950>) — In a written statement, three key members of the U.S. House of Representatives' Committee on Education and the Workforce—Rep. John P. Kline Jr., Republican of Minnesota; Rep. Virginia Foxx, Republican of North Carolina; and Rep. Alcee L. Hastings, Democrat of Florida—criticized the department's new draft. Mr. Kline said he was “extremely troubled” by the revised regulation. Committee on Education and the Workforce

Proposal Will Be 'Highly Destructive' (<http://www.help.senate.gov/newsroom/press/release/?id=1432065c-ff18-4081-9ac7-f5834c0a131d&groups=Ranking>) — Sen. Lamar Alexander, Republican of Tennessee, criticized the length of the proposal, saying its 841-page effort to define gainful employment “shows exactly what is wrong with Washington and its desire to overregulate institutions of higher education.” He said the proposal would be “highly destructive” to the higher-education system. Sen. Lamar Alexander

'Serious Concerns' About Rule's Ability to Protect Students (<http://www.help.senate.gov>) — Sen. Tom Harkin, Democrat of Iowa, said he was “grateful” that the department had moved forward on the creation of a new rule. “Based on

what I've seen so far, however, I once again have serious concerns with this proposed rule's ability to protect students and taxpayers from costly programs that consistently overpromise and underdeliver," he said. "I will review the rule closely and hope that it will be strengthened during the comment process." Mr. Harkin, as chairman of the Senate Health, Education, Labor, and Pensions Committee, led a two-year investigation of for-profit colleges that resulted in a damning report (<http://chronicle.com/article/A-Damning-Portrait-of/133253/>) about the sector. Sen. Tom Harkin

'Soft' on Career-Education Programs That Leave Students With High Debt (http://www.ticas.org/pub_view.php?idx=932) — Pauline Abernathy, vice president of the Institute for College Access and Success, which was among the advocacy groups that had pressed the department to toughen the rule, said the new proposal was "soft on career-education programs that consistently leave students with debts they can't repay, and too hard on low-cost programs where most students do not borrow at all." Institute for College Access and Success

'Weakened Protections for Students' (<http://younginvincibles.org/2014/03/dept-of-educations-draft-gainful-employment-rule-ignores-students-and-weakens-consumer-protections/>) — Rory O'Sullivan, policy and research director for Young Invincibles, a youth advocacy group, said the department had "weakened protections for students in several ways," such as dropping a provision on granting debt relief for students who attend failing programs. Young Invincibles

Reconsider a 'Low-Cost, Low-Risk' Proposal (<http://www.acct.org/news/acct-statement-gainful-employment>) — The Association of Community College Trustees said the proposed rules "do not account for programs that are low cost or which have few borrowers, which includes a significant number of community- and technical-college programs." Association of Community College Trustees

by Chronicle

3 days ago

Another Shot at Gainful Employment

The Education Department released its latest proposal for a controversial gainful-employment rule. Here's a look at what some observers are saying about it.

**Ben Miller**

@EduBenM

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How big is [#gainful](#)? ED estimates ~50k programs, 4 mil students, \$9.7 B in Grant aid and \$26 B in loans

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[#gainful](#) impact: Looks like 16% of programs fail, 8% of programs in zone, and 75% pass (buried on pages 669 and 670)

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Of 1,300 failing [#gainful](#) programs, 1,218 (94%) are at for-profits, 53 (4%) at publics, 29 (2%) at nonprofits

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Of 665 zone [#gainful](#) programs, 660 are at for-profits

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From consumer perspective, loss of [#gainful](#) borrower relief did weaken rule. But would've been very hard to do for pCDR fails and at publics

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[#gainful](#) NPRM issues for far: No relief for low-borrower-count community colleges. beats the hell out of the innocent to teach guilty lesson

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[#gainful](#) NPRM so far: Creates handy loophole for schools to pull high-debt/low-income students out of cohort by re-enrolling for 1 day

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