

Proposal for Prior Provisional Approval for Gainful Employment Programs

Introduction:

DE's proposed metrics at the first session of negotiated rulemaking begin to measure whether a program prepares students for gainful employment only after four years of results from the program are available and allow up to another two to three years before a program would be eliminated from receiving Title IV funding. While upfront measures cannot as precisely determine if a program prepares a student for gainful employment as the metrics to be used to measure actual student experience (e.g., D/E, repayment), there must at least be some up-front means for identifying programs that patently will not prepare students for gainful employment.

Some clear ways in which programs do not prepare students for gainful employment include:

1. Programs are longer or provide a higher level of credential than needed for the occupation (often a low-wage occupation) for which training is being offered. These programs burden students with debt, without providing the likelihood of greater income than if they did not take the program; for example, occupations for which employers generally do not expect or require postsecondary education, or for which employers generally provide their own training without regard to whether the potential employee has only a high school diploma or already obtained a diploma or degree in the field. The school has not prepared the student for gainful employment if the student's education before beginning the program was already generally what is needed for that employment. Predatory schools may lengthen programs because students may receive greater student financial aid for a longer program. If employers generally do not differentiate employees based on whether they had a longer or shorter program, the extra length of the program is not preparing students for gainful employment because the students would already have been prepared by a shorter program.
2. Employers generally require "certification," often in health-related occupations. To obtain the preferred certification, the student must pass a particular exam offered by a private organization. To take the exam, the student must have completed a program that has a particular kind of programmatic approval or have several years of experience (which the student can't get without the certification). Programs may not prepare students for gainful employment in these occupations in several ways.
 - a. An eligible institution starts a new program, applies for programmatic accreditation, but even if the school later receives the programmatic accreditation, it does not receive it in time to apply to the first several classes of students.
 - b. The school starts a new program, applies for programmatic accreditation, but does not receive accreditation. The students enrolled in the program are not eligible to take the needed exam.
 - c. The school has a programmatic accreditation, but one that is either not generally recognized in the industry at all, or that is not the accreditation recognized as sufficient to allow the student to take the needed exam.

3. Similar to 2, but in this case, for one of the occupations identified by a SOC identified with the program, the school does not meet requirements needed for its students to take a necessary state licensing exam or obtaining a necessary state license.
4. The occupation for which the program prepares students pays such low wages that a student would not have sufficient income to pay necessities of life, as well as repay a student loan. I.e., the occupation pays less than 150% of the poverty level.
5. The projected debt to earnings ratio is too high (compare to debt metrics after the fact).
6. Employers generally expect applicants to have completed experiential learning, such as a clinical placement, internship, or apprenticeship. The school offers the program without having secured sufficient legitimate experiential placements. Consequently, students are either unable to complete that part of their program, are placed in inappropriate experiential situations, or are unable to travel to placements that are located too far from the school for students reasonably to travel to the placement.

To begin to offer Title IV aid for a new GE program, schools must have provisional approval for the program.

Because the up-front information is limited and not based on the actual repayment or debt-to-earnings metrics, the up-front approval is only provisional. A program is “approved” only after it demonstrates with the after-the-fact metrics that it is a passing program.

To begin to offer Title IV aid for a new GE program, schools must identify to DE the following:

1. The name, CIP code, credential level, and normal time [the time within which the school specifies in its promotional materials and catalog that the program can be completed; DE indicated it intended to define further, especially re part-time students] of the program;
2. The occupations (by name and SOC code) that the GE program prepares students to enter;
3. Any programmatic accreditation the program currently has;
4. The level of education generally required by a majority of employers for employment in each of the SOC codes identified;
5. The projected ratio of debt to earnings using the program’s planned cost of attendance and projected starting earnings shows that the debt can be repaid with 8 percent of earnings or 20 percent of discretionary earnings [consistent with proposed 34 CFR 668.403 and .404];

6. Any programmatic accreditation
 - a. needed to take an exam which employers generally prefer applicants have taken and passed, for any starting position in any of the SOC codes identified;
 - b. needed as a prerequisite for obtaining a certification that employers generally prefer for applicants for any of the SOC codes identified
 - c. that employers generally prefer for applicants for any of the SOC codes identified (even if not needed to take an exam);
 - c. the program currently has;

7. Any exam graduates generally must pass for employment in any of the SOC codes identified;

8. For the state in which the school will offer the program to residents of the state, any state license required for any of the SOC codes identified;

9. For the state in which the school will offer the program to residents of the state, any programmatic accreditation or other requirements the program must have to allow its graduates to take any exam required for state licensure in any of the SOC codes identified with the program;

10. For the state in which the school will offer the program to residents of the state, the state requirements for its program that the school meets;

11. The employers with which the school has arranged experiential placements, the number of students the school will accept for enrollment in the program, the number of placements each employer has agreed to provide, the distance between the location where the student takes the program classes and the placement locations, the length of the placements that will be provided, and the SOC code for the occupation for which each placement will prepare the student.

To begin to offer Title IV aid for a new GE program, the program must meet the following criteria:

1. The occupations the school identifies as those for which the program prepares students must fit the O-net Crosswalk for the CIP codes for the program, (or if there are particular occupations the school identifies and justifies do not fit the crosswalk, then as reasonably approved by DE);

2. Before offering students any Title IV aid, the program must have any programmatic accreditation
 - (a) employers generally expect of employees in any of the SOC codes identified, or
 - (b) graduates generally need to be eligible to take any exam employers generally expect of employees for employment in any of the SOC codes identified; or

(c) graduates generally need as a prerequisite to obtaining a certification employers generally expect of employees for employment in any of the SOC codes identified.

The fact that experience in the field may be substituted for graduation from a program with the generally needed program accreditation is not a factor to be considered in whether the programmatic accreditation is generally needed;

3. The level of education is not higher than that generally considered sufficient by employers;

4. The program is no more than 10% longer than that generally considered sufficient by employers, or if a needed programmatic accreditation includes specifications for length or level of program, no more than 10% longer than that;

5. Projected starting earnings are greater than the poverty level income for two persons, and for earnings after two years of employment, are greater than 150% of the poverty level income for two persons;

6. The projected ratio of debt to earnings using the program's planned cost of attendance and projected starting earnings shows that the debt can be repaid with 8 percent of earnings or 20 percent of discretionary earnings [using the same definitions and parameters as are proposed in 34 CFR 668.403 and 668.404].

7. The school has arranged experiential placements that prepare students for occupations in the SOC codes identified, for length of time needed for those placements and that are within twice the median commuting distance (see below) from the school.

Methodology

Prior provisional approval will only be meaningful if DE can rely on the information submitted. Generally, to the extent schools are left to come up with their own methods for determining, e.g., potential earnings, programmatic accreditations needed, or level or length of education generally expected by employers, the methods selected can be expected to vary greatly. DE will not be able to measure them against the standard with confidence. Predatory schools, which we are all trying to eliminate, are sophisticated enough to come up with submissions that may appear to support the program. On the other hand, legitimate schools should not be burdened with unnecessary tasks. And DE should be able to concentrate its efforts where the problems are.

Ideally, DE, through NCES should be able to develop a methodology for gathering and analyzing the needed information, including, questions to be included in survey, number of employers to be surveyed, etc. But if NCES does not figure out an appropriate methodology, we should not be left with no standard, as occurred with the effort to devise a way to compare employment outcomes. There needs to be a standard method to determine the following:

- Projected Earnings
- Starting Salaries/Salaries after Two Years
- Needed Programmatic Accreditation
- Level of Education/Length of Program Necessary for Identified SOC Codes

There may be local or area data available via the Internet or from experts or other sources. For example, DE may be able to gather and publish a list of programmatic accreditations or exams for certification generally relied on in certain occupations; and BLS has data available by state. DE may decide that BLS or O-net information about levels of education needed for particular occupations can be used. We list below alternatives to be considered by DE and the negotiators for determining which uniform method schools must use to obtain the required information for each of these four categories of information, if there is no valid, reliable survey methodology provided by NCES .

Alternative 1. Employer Survey - for Each of the Four Categories (Projected Earnings; Starting Salaries/Salaries after Two Years; Needed Programmatic Accreditation; and Level of Education/Length of Program Necessary for Identified SOC Codes)

Area of Survey:

The employers included in the survey shall have locations where such jobs are offered within twice the average commuting distance from the physical location where the student takes the classes in the program. [There seem to a number of sources providing commuting times for different areas. For example, see indexmuni.com's county by county average commute times.] DE, perhaps through NCES should identify which source schools may use to determine the commuting distance within which employers should be surveyed.

Programs offering distance education may have students in dozens of different areas in any particular state. Distance programs should have a survey of employers for each state in which they intend to offer their program. However, to require a survey for smaller areas, i.e., twice the commuting distance from the location where the student takes the classes does not exactly fit because students even in the same city take the program at their homes. The survey required should be for the state as a whole, as well as for any county in which there is a concentration of more than [the size of concentration to be determined]students.

Employers to be surveyed:

The information to be provided shall be obtained for each SOC code the institution identifies as those for which the program prepares students. It shall be obtained by surveys of employers who offer employment in the particular SOC code. It shall include the dominant employer for each SOC code in the area. It shall include the range of types of employers which hire persons for each SOC

code. For example, for certain medically-related occupations, doctors, hospitals, clinics, out-patient surgery centers should all be included in the survey. If the number of employers who hire for a SOC code is more than 100, the survey shall include at least 20 of those employers. If the number of such employers is less than 100, the survey shall include at least 20% of the employers.

Alternative 2: Other Sources of Data as Follows:

Projected Earnings

From <http://www.careerinfonet.org>, use the tenth percentile level of wages for the area closest in size to twice the commuting distance area (see above).

Starting Salaries/Salaries after Two Years

For starting salaries, from <http://www.careerinfonet.org>, use the tenth percentile level of wages for the area closest in size to twice the commuting distance area (see above).

For salaries after two years, from <http://www.careerinfonet.org>, use the tenth percentile level of wages plus 10% or use the twenty-fifth percentile, whichever is less, for the area closest in size to twice the commuting distance area (see above).

Needed Programmatic Accreditation

DE provides listing of generally needed programmatic accreditation for SOC codes identified with the program; or

School monitors major sources of job postings and help wanted ads in the target area (see above) for 8 weeks and follows up with employers as needed to determine if employers expect the type of certification or other credential that generally depends on the potential employee having completed a program with a particular programmatic accreditation. For example, if help wanted ads for any of the SOC codes identified with the program seek a "CMA," the school must verify which particular accreditation(s) qualify one to take the certification exam by contacting the exam sponsor.

Level of Education/Length of Program Necessary

The school must use the www.onetonline.org to determine the level of education needed for each SOC identified with the program. For example, if fewer than 50% of employers are shown to require an AA degree for the SOC codes identified with the program, offering an AA degree would not qualify as a GE program. If fewer than 50% require more than a high school diploma, any postsecondary level program would not qualify as a GE program. If for some of the SOC codes identified with the program, 50% of employers do require the level of program offered, the program would meet this criterion, but only as to those SOC codes that do require that level of education.

Adequate Experiential Placement

For this criterion, to demonstrate the adequacy of the placements, the school may rely on state licensing requirements, if any; placement criteria, if any, of programmatic accreditors identified as required above; or if neither of these exist, then by an employer survey as described above.

Attestation and Documentation

All schools will have to attest to the information they provide. Generally, they must meet the attestation requirements DE previously proposed for prior approval.

To the extent that does not already include the following, attestation must also include: The CEO and CFO of the institution (and its parent company if any) shall certify the accuracy of the submission, and attest that the submitted information is true and complete, that there is no substantial contrary internal information or any relevant and material planning documents on any of the requested data points that is being withheld, and that documentation is accurate and has been maintained, as specified below.

Institutions and parent companies (and any agents they use to prepare for or conduct any of the required submissions) shall retain any evidential matter (all job postings, employer interview minutes which are circulated to all participants and initialed, all other written communications with employers, programmatic accreditors or licensing authorities or documentation of programmatic or licensing requirements from their currently published documents, calculations done in support of this program, the date(s) when the information was obtained, the identity of the individual and the individual's title and contact information (telephone, email and address) of any individual from whom information was obtained, as well as the name of the company that person represents, its telephone, address and type of business, and the individuals at the school who obtained the information from employers, programmatic accreditors, or from any other sources of information so that if necessary to verify the information provided, the steps taken to obtain the information can be tracked and verified. This information shall be maintained in a well-organized and easily retrievable manner.

The required documentation shall be maintained for four years after the cohort of each application year's Title IV borrowers' data have been used to calculate GE compliance (seven years from when the cohort completed the program).

Changes in Cost of Attendance or other Data

After submitting information which is sufficient to receive provisional approval or which does receive provisional approval, if a school changes a program required to prepare students for gainful employment in a recognized occupation, so that it will be unlikely to meet the requirements for provisional approval (e.g., by increasing tuition, shortening experiential placements, or changing the SOC codes identified with the program) , the school must submit 90

days before making the change, a revised notice based on the proposed change, which meets the requirements for provisional approval for such a program.

Consequences of Offering Title IV Aid Improperly

An institution must repay to the Secretary all HEA program funds received by the institution for an educational program, and all the title IV, HEA program funds received by or on behalf of students who enrolled in that program if the institution—

1. Fails to obtain the Secretary's provisional approval to offer an additional educational program that prepares students for gainful employment in a recognized occupation;
2. Is unable to document its representations seeking provisional approval of a program that is required to prepare students for gainful employment in a recognized occupation;
3. Offers a program required to prepare students for gainful employment in a recognized occupation that does not meet the requirements for provisional approval; or
4. After submitting information which is sufficient to receive provisional approval or which does receive provisional approval, changes a program required to prepare students for gainful employment in a recognized occupation, so that it will be unlikely to meet the requirements for provisional approval, unless it submits 90 days before making the change, a revised notice based on the proposed change, which meets the requirements for such a program.

Levels of Review

DE has expressed an interest in being able to focus its attention on programs that are more likely to be predatory and not have to review programs that have little chance of not being passing GE programs. If DE does not develop a standard survey methodology, compliant with NCES standards, then the kinds of information we suggest must be provided we believe is similar to what good programs are already doing and will continue to do to comply with state or other standards. If that is correct, there is no need to relieve the schools from providing and attesting to the information.

In that situation, we recommend that schools that meet certain criteria (see examples below) provide the required attestation, but need not provide the underlying documentation to DE, so long as they maintain it as required. Those schools would be:

Schools in which fewer than 50% of students receive student loans; or after the D/E and repayment metrics have been applied to actual experiences, schools that have all passing programs. (Alternatively, if DE could legally use the D/E and repayment data already obtained under the prior regulation, but with the new criteria applied to that existing data to distinguish schools beginning in 2014, then schools with all passing programs.)

Schools that do not meet that standard would have to provide their underlying documentation to DE, as well as provide the results and attest to them.

Alternatively, if NCES can develop a sound survey, we would propose distinguishing whether a school had to do an NCES valid and reliable survey instead of the procedures we outline above by these same standards.

Existing GE Programs

Although we couch these proposals as applying to new programs, because there will be no determination on existing programs for several years, we believe that schools should have to submit the same type of information as they will have to for new programs. This is especially critical if students do not have relief from programs that are not passing for which they have taken out loans. A means can be devised to require these submissions on a rolling basis so they are not all due at once, but they are carried out well before four years.