GAINFUL EMPLOYMENT AND ELIGIBILITY NPRMS: POTENTIAL IMPACT ON COMMUNITY COLLEGES

JUNE 8, 2023
HISTORY OF GAINFUL EMPLOYMENT

- June 2011: Obama administration publishes first gainful employment rule; had not been regulated previously
- July 2012: GE rule struck down by U.S. District Court over “repayment rate” metric
- October 2014: ED publishes new GE regulations, which were upheld in subsequent lawsuits
- October 2017: Trump administration stops enforcing GE rule
- June 2019: ED formally rescinds GE rule
- January 2022: Biden administration begins broad negotiated rulemaking with GE on the table
  - AACC represented by two negotiators
IMPETUS FOR REGULATIONS

- Biden’s ED, like Obama’s, has strong regulatory propensity and Congress is not acting in relevant areas
- For-profits still in ED’s crosshairs and would be impacted most intensively
- Debt “crisis”/cancellation has created calls for greater accountability across all higher education
- Reg follows revised 3rd party servicer guidelines, Low Value Program RFI
GE FORMULA -- DEBT TO EARNINGS

- For community colleges, GE program = Title-IV eligible certificate and other non-degree programs

- Annual debt-to-earnings is the ratio of a program’s annual loan payment amount to completers’ median annual earnings

- Discretionary debt-to-earnings is the percentage of a program’s annual loan payments compared to completers’ discretionary earnings (Median Earnings – 150% of Federal Poverty Guideline)

- Program fails if annual D/E rate is above 8% and discretionary D/E rate is above 20%

- If it isn’t possible to calculate D/E rates for an award year, the program remains in the same status as the previous award year for up to four years
EARNINGS PREMIUM

- Compares median annual earnings of completers to an earnings threshold
  - Program passes if completers’ earnings exceeds threshold
  - Threshold is the median annual earnings for an adult ages 25 to 34 with only a high school diploma in the state where the college is located (or nationally if fewer than 50% of students are in that state)
    - Earnings threshold will vary by state but is about $25,000 nationally
- If it isn’t possible to calculate the earnings premium for an award year, the program remains in the same status as the previous award year for up to four years
WHAT HAPPENS IF A PROGRAM FAILS A METRIC?

- Programs that fail either or both metrics in a single year will be required to provide a warning to students that the program could be at risk of losing federal aid eligibility

- If a program fails the same measure for two out of three consecutive years, it loses Title IV eligibility
  - Three years must pass before program can re-seek eligibility
  - Institutions can only appeal a program eligibility termination action on the basis that ED miscalculated the D/E rates or earnings premium
PREDICTED OUTCOMES

- Most community colleges do not have certificate programs that would fail either the D/E or earnings metrics
  - 93% of two-year public institutions have zero enrollment in programs that would fail GE metrics

- Metrics cannot be calculated for most programs
  - Only 4.8% of public undergraduate certificate programs will have sufficient program completers to produce D/E rates and earnings premiums, but that encompasses 21.4% of enrollees

- ED wants to capture greatest percentage of enrollment, not greatest number of programs
  - The 4,100 GE programs across all sectors that will have metrics calculated constitute 65.3% of all students enrolled in GE programs
ED projects nearly **700,000** students in 1775 failing GE programs

The NRPM indicates 195 public GE programs (representing 38,000 students), 84 private, non-profit degree programs (representing 35,200 students), and 1,496 proprietary GE programs (representing 626,500 students) would fail at least one of the D/E rate or earnings premium tests

Of the 1,496 proprietary GE programs that fail one of the two tests, 916 (61%) are undergraduate certificate programs that fail only the earnings premium test

- The highest rate of failure is in Personal and Culinary Services, where 76 percent of enrolled students are in programs that would have failing metrics
ESTIMATED COST AND BURDEN

- ED’s cost and burden estimates are likely far lower than what the actual cost and burden will be
  - Last GE was tremendously costly, though aggregate sectoral impact could not be determined

- ED’s time estimation (for the first year):
  - 95.75 hours per college + 7.75 hours per GE program at the college
  - A total of 1.2 million hours across all public two-year institutions

- ED estimates it will cost all public two-year institutions a total of $57.7 million to implement GE in the first year and $5.5 million annually in subsequent years
FINANCIAL VALUE TRANSPARENCY

➢ Provides information to students about the “financial value” of programs

➢ Part of GE regulations but applies to nearly all Title IV higher education programs, GE and non-GE, at the undergraduate and graduate levels

➢ ED will make the same D/E rate and earnings premium calculations as under GE

➢ Programs with failing D/E rates will be labeled “high-debt-burden”

➢ Programs with a failing earnings premium will be labeled “low earning”
FINANCIAL VALUE TRANSPARENCY
(CONTINUED)

- ED will create a disclosure website that includes outcomes data about each program at a college.
- Colleges will be required to provide current and prospective students with information about how to access the website.
- For non-GE programs labeled high-debt-burden:
  - Students will have to acknowledge that they’ve seen the information about the program through the disclosure website.
  - Students cannot receive Title IV funds until they provide the acknowledgement.
REPORTING REQUIREMENTS

- Data will have to be submitted to ED for both GE and non-GE programs.
- Institutions will have to report program-level data and student-level data annually.
  - Student-level data only includes Title IV recipients except in reports about program data.
- Considerable retroactive data reporting will be necessary – as many as seven award years prior by July 31, 2024, though colleges can opt for two-year window.
REPORTING - COHORT PERIODS

- ED will use either a two-year or four-year cohort period to calculate D/E rates and earnings premium
  - Four-year cohort will be used if <30 completers in two-year cohort
- Two-year cohort will consist of third and fourth award years prior to the year for which the most recent data are available
  - For AY 2024-25, metrics would be calculated in late 2024 or early 2025. The two-year cohort period would be AY 2017-2018 and AY 2018-2019, and earnings data would be used for calendar years 2021 and 2022, respectively.
- Four-year cohort will consist of third, fourth, fifth, and sixth award years prior to the year for which the most recent data are available
AACC’S PERSPECTIVE

➢ Agrees with the need for transparency for all higher education programs

➢ Supports debt-oriented GE metric as reinforcing community college financing structure

➢ Rejects earnings premium metric because it does not make a fair comparison to the wages of high school graduates and is ultimately arbitrary

➢ Regulations will be onerous and costly for community colleges and every effort must be made to minimize cost
CERTIFICATION PROCEDURES

- Supplemental Performance Measures – Secretary Assumes New Authority
  - Secretary may consider certain indicators in determining whether to certify an institution—extent of this is big unknown:
    - Withdrawal rates
    - Debt-to-earnings rates
    - Earnings premium measure
    - Educational and pre-enrollment expenditures
    - Licensure pass rate
CERTIFICATION PROCEDURES

GE Program Length

If a GE program is required for employment in a certain occupation (i.e., licensure), the program length must be limited to the greater of:

- The minimum length of the program as required by the State in which the institution is located, federal agency, or accreditor; or
- The required minimum length of a program as established by another state, if most of the students in the program reside or work in that state
CERTIFICATION PROCEDURES

Licensure and Programmatic Accreditation

The institution must determine – for every state in which students in the program are located – whether a program:

- Is programmatically accredited, if required by a state or federal agency
- Satisfies the prerequisites for licensure or certification in the state; and
- Complies with all state consumer protection laws related to closure, recruitment and misrepresentation (generally applicable laws as well as those specific to higher education institutions)
ADMINISTRATIVE CAPABILITY

- More Elaborate Financial Aid Counseling Requirement
  - Communications must “advise students and families to accept the most beneficial types of financial assistance available to them”

- Bolstered Requirements Around Cohort Default Rates and Determining Validity of High School Diplomas
ADMINISTRATIVE CAPABILITY

- New requirement to provide “adequate career services” – not mentioned in statute
  - Adequacy based on:
    - Share of institution’s students enrolled in GE programs
    - Number and distribution of career services staff
    - Career services that were promised to students
    - Institutional partnerships with recruiters and employers

- Geographically accessible clinical or externship opportunities that are required for credential or licensure must be provided within 45 days of completion of coursework
Institutions will be required by ED to report data necessary for a new website to disclose certain information to students. The website may include:

- Primary occupation a program prepares students to enter
- Completion and withdrawal rates for full and part-time students
- Program length and enrollment
- Program D/E and loan repayment rates, and earnings premium measure
- Cost of tuition, fees, books and equipment
- Percentage of students who receive a federal or private loan
- Median loan debt and earnings of program completers or all students
- Whether program is programmatically accredited
- Supplementary performance measures added to the certification regulation
- Link to the College Navigator website
HELP YOUR COLLEGE -- SUBMIT COMMENTS

- Regs can be found here
- ED is sensitive to community college perspectives
- Comment letters on the NPRM may want to address:
  - Merits of the D/E and earnings premium metrics
  - Potential cost and burden of implementing the rules
  - Experiences with previous GE rules
KEY DATES

- Comment Period Ends: June 20
- Final day to Finalize Regulations: November 1
- Expected Effective Date: July 1, 2024
- First Year Reporting Due: July 31, 2024
- Subsequent Years Reporting Due: October 1
QUESTIONS?

☑ No, Can’t Be Questions, It’s all Very Simple
SAVE THE DATE!

ADVOCATES IN ACTION
RETURNS
SEPT. 18-19!

AMERICAN ASSOCIATION OF COMMUNITY COLLEGES
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