
CLIENT BRIEF

Summary of Title IV Regulations Affecting School Marketing Practices for Private Post Secondary Institutions

ENROLLMENT RESOURCES HAS COMPLETED A thorough review of regulations being enacted by the Department of Education on July 1, 2011. This document provides a summary of the regulations and is designed as a guide to assist clients in adherence to compliance.



Below are guidelines from the DOE's new regulations for federally funded programs. Most notable are the gainful employment requirements that include disclosure of program costs, median loan requirements and employability.

By October 2011, a Net price calculator will also need to be implemented on institutional websites. Installation guidelines & requirements are listed at the end of this document. Information on the Net Price Calculator requirement can be found here: <http://ifap.ed.gov/presentations/attachments/24TheNewInstitutionalNetPriceCalculatorRequirementinHEOAV1.pdf>

Gainful Employment

As defined by the DOE for Private Post Secondary Schools: In order to be eligible for funding under the Title IV programs, an educational program must lead to a degree (Associate, Bachelor's, Graduate, or Professional) or prepare students for "gainful employment in a recognized occupation." In addition, virtually all programs - degree and nondegree - offered by proprietary institutions must prepare students for "gainful employment in a recognized occupation."

Collectively, the DOE refers to these programs, all nondegree educational programs offered by public and nonprofit institutions and virtually all academic programs offered by proprietary institutions, as "GE Programs."

Programs will need to be identified as to whether or not they are GE Programs (eligible for Title IV funding) and approved by the DOE. All programs that lead to a certificate or degree for Private Post

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Secondary Schools will need to be compliant with the gainful employment disclosure requirements as outlined below in order to receive Title IV funding.

Interesting to note: Public or Not for Profit school degree programs are not required to follow the GE Program guidelines.

The DOE has outlined in the final regulations (October 29, 2010) that disclosures must be “clear, timely, and in a meaningful manner....An institution must disclose, for each program, all of the required information in its promotional materials and on a single web page”. The institution must provide a prominent and direct link to the disclosure page on the program home page of its website or on any other page containing general, academic, or admissions information about the program.”

Disclosure Form: All schools must use the DOE disclosure form as part of the regulation requirement when it becomes available. This form will be provided as an online web application where the school will input program details that follow the gainful employment requirements. It will be similar to the Net Price Calculator and will generate an HTML file to **“be posted on the website home page for that program.”**

In the meantime, the school will need to disclose the following for each GE program on promotional materials and the website:

- Name and Classification (SOC) code of the occupations that the program prepares students to enter, along with links to occupation profiles on the US Department of Labor’s O*NET website of employment which graduates have typically found in the past 2 years. (<http://online.onetcenter.org>) If the list is more than 10 career titles, a representative sample of links may be provided. (Eg. Business Administration may offer a wide range of occupations – in this case, a list of 10 titles could be provided based on employment of graduates) ***When copy includes “career titles” schools will***

need to use this resource as it pertains to employment of graduates.

- On-time graduation rate for students completing the program
- Tuition and fees the institution charges a student for completing the program within normal time
- Typical cost of books and supplies (unless those costs are included), cost of room and board if the school provides it.
- Job placement rate for students completing the program when the rate is available by the National Center for Educational Statistics (NCES). In the meantime, “if the school is required by an accrediting agency or state to calculate the placement rate on a program basis, it must disclose the rate and identify the agency under whose requirements the rate was calculated. If the calculation is at the institutional level or other than a program basis, the institution must use the state or accrediting agency methodology to calculate a placement rate per program.”
- Median loan debt incurred by students who completed the program (separately by Title IV loans and by other educational debt to include both private education loans and institutional financing) provided by the Secretary (of the DOE) in November 2011. ***To meet the July 1, 2011 deadline for disclosure, an institution must include its own calculation of the median debt as classified by loan type until the department can provide this information.***

As outlined in the final regulations, the above information “must be in open format that can be retrieved, downloaded, indexed, and searched by commonly used web search applications.” An open format is one that is platform-independent, is

machine-readable, and is made available to the public without restrictions that would impede the reuse of that information. An HTML document would fall under these requirements.

Program Disclosures

Websites will need to note the type of completion documents received (certificate, diploma or degree) and whether the individual programs have been authorized by the state educational board.

Employability – “institutions must disclose clear information about the employability of graduates from a program, including likely compensation, and other requirements necessary to perform the job.”

Misrepresentation

As defined by the DOE...**misrepresentation is “any false, erroneous, or misleading statement** an eligible institution, one of its representatives, or any ineligible institution, organization, or person with whom the eligible institution has an agreement, makes directly or indirectly to a student, prospective student or any member of the public, or to an accreditation agency, to a State agency or the secretary. Such misrepresentation is prohibited in all forms including advertising, promotional material, or in marketing or sale of courses or programs offered by the school.”

According to the DOE definitions, a misleading statement includes any statement (which is any communication made in writing, visually, orally, or through other means) that has the capacity, likelihood, or tendency to deceive or confuse. While this issue was originally seen as a marketing issue, these constraints should also be effectively dealt with within all admissions activities.

Misrepresentation would also apply to student testimonials that are made under duress or as a requirement to participate in the program. Below is a list of prohibited statements, designed to ensure students do not become victims of false promises or misunderstanding:

Examples of Misrepresentation Related to the Nature of Education Programs.

Misrepresenting;

- the particular type, specific source, nature and extent of its institutional, programs, or specialized accreditation
- whether a student may transfer course credits earned at the institution to another institution
- conditions under which the institution will accept transfer credits earned at another institution
- whether successful completion of course qualifies a student for acceptance to a labor union, or similar organization or, to be eligible to take examination for licensure or nongovernmental certification required as a precondition of employment or perform a certain function in the state the program is offered.
- it’s size, location, facilities or equipment
- availability, frequency and appropriateness of its programs to employment objectives that it states courses are designed to meet
- the nature, age and availability of its training devices or equipment
- the number, availability, and qualifications, including the training and experience, of its faculty and other personnel
- availability of part-time employment or other forms of financial assistance
- nature and availability of any tutorial or specialized instruction, guidance and counseling, or other supplementary assistance it will provide its students before, during and after completion of course
- prerequisites required for enrollment

- subject matter, content of the course of study or any other fact relating to the degree, diploma or certificate of completion
- failure to disclose that program has not been authorized by state educational agency or that it requires specialized accreditation
- requirements to complete the course of study and conditions that would lead to termination of enrollment
- availability of unsolicited testimonials or endorsements
- content of course of study and facts about degree, certificate, or other completion document
- whether completion document has been authorized by appropriate state educational agency
- cost of program or financial aid eligibility

Examples of Misrepresentation as related to the Employability of Graduates

Misrepresenting;

- false statements of employability, compensation or employment opportunities for its graduates
 - (example: good jobs and high salaries not representative of the industry)
- government job market statistics in relation to potential placement
- an institution’s relationship with any organization, employment agency, or any other agency providing authorized training leading directly to employment
- an Institution’s plans to maintain placement service to graduates
- whether employment is being offered by the institution or that a talent hunt or contest is being conducted... through the use of such

phrases as “Men/Women wanted to train for ***, Help Wanted, Employment, and Business Opportunities.” (page 34882 June 18,2010 DOE proposed rules).

- or failure to disclose factors that would prevent an applicant from qualifying for employment requirements such as criminal record checks, pre existing medical conditions, license or certifications.
- an Institution’s knowledge of current or future employment opportunities in the industry or occupation students are preparing for

Examples of Misrepresentation as related to the Financial Charges

Misrepresenting;

- offers of scholarships to pay all or part of the course
- the cost of program and refund policy
- the availability of financial assistance offered to students including their responsibility to repay loans regardless of completion or obtaining employment
- or misinforming regarding the student’s right to reject any particular type of financial aid or whether a student must apply for financial assistance, such as financing offered by the institution

Examples of Misrepresentation as related to the Relationship to Department

Misrepresenting;

An institution’s participation in the title IV, HEA programs in a manner that ‘suggests approval or endorsement’ by the US Department of Education of the ‘quality’ of its educational programs.”

- statements that suggest US Department of Education approves or endorses the quality of an institution’s educational program

simply because the institution is eligible to participate in the title IV program. (do not mention US Department of Education as an endorsement).

Certification and Licensure

Schools will need to be careful about wording around certification & licensure as it's mentioned in the misrepresentation documents. It will need to be disclosed whether certification or licensure is a precondition of employment or required to perform employable functions represented in the program (rather than merely qualifying a student to seek such a license or certification).

It is recommended by Enrollment Resources that schools not use the term "certified" too loosely.

Accreditation

Accreditation will need to be disclosed for each program if that program is authorized by appropriate State educational agency. If not authorized by the State that must be disclosed as well. "An institution's failure to disclose a lack of accreditation should constitute misrepresentation".

Notable Deadlines:

July 1, 2011

- Gainful employment disclosures
- Ensure misrepresentation is not present in any promotional material

October 2011

- Net Price Calculator installed on school sites
- Installation Resource: http://nces.ed.gov/ipeds/resource/net_price_calculator.asp

July 1, 2012

- On or after July 1, 2012, if a program exceeds the debt threshold (based on loan value with 10year repayment term and employable income), the Department notifies the institution that it must include a prominent warning in it promotions, enrollment, registration, and other materials describing the program, including those on its web site, designed and intended to alert prospective and currently enrolled students that they may have a difficulty repaying loans obtained for that program.

June 30th, 2013

- Job placement rate for students completing the program

For a complimentary Program Disclosure Checklist, please contact:



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