



LoanNotes

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AMERICAN EDUCATION
SERVICES

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American Education Services

Compliance Spotlight: Gainful Employment Regulations

In the Federal Register, dated October 29, 2010, the U.S. Department of Education (ED) published Final Rules on Program Integrity Issues (34 CFR Parts 600, 602, 603, 668, 682, 685, 686, 690, and 691). The below information represents changes made to Gainful Employment regulations as a result of comments provided by parties of the higher education community on the NPRM. Additional changes to gainful employment regulations are anticipated later this year as the Department continues to work with the higher education community on this topic. The following changes are effective for any new educational program offered by a school that prepares the student for gainful employment and in which initial enrollment begins on or after July 1, 2011 and for any gainful employment reporting and disclosure provided by a school on or after July 1, 2011.

The Higher Education Act of 1965, as amended, requires that for-profit colleges provide “an eligible program of training to prepare students for gainful employment in a recognized occupation” but does not define gainful employment. The Department of Education has defined “recognized occupation” in the final rules as, “identified by either a Standard Occupational Classification (SOC) code established by the Office of Management and Budget or an Occupational Information Network O*NET-SOC code established by the Department of Labor and available on its site (<http://online.onetcenter.org>) or its successor site; or determined to be a recognized occupation by the Department of Education, in consultation with the Department of Labor.”

Based on the Final Rules, schools will be subject to the gainful employment as follows:

PUBLIC AND PRIVATE NONPROFIT INSTITUTIONS

a program that does not lead to a degree will be subject to the eligibility requirement that the program lead to gainful employment in a recognized occupation. A program leading to a degree, including a two-academic-year program fully transferrable to a baccalaureate degree will not be subject to this eligibility requirement.

PROPRIETARY INSTITUTIONS

all eligible degree and nondegree programs will be required to lead to gainful employment in a recognized occupation, except for a liberal arts baccalaureate program under section 102(b)(1)(A)(ii) of the HEA.

» NEW PROGRAMS

Additional Educational Programs

An eligible school that wants to add a new program of study that prepares its students for gainful employment in a recognized occupation must ensure that the Department receives the required notification at least 90 days prior to the first day of class. An additional educational program is subject to the 90-day advanced notification rule if:

- It has a Classification of Instructional Program (CIP) code that is different from any other program offered by the school;
- It has the same Classification of Instructional Program (CIP) code as another program at the school, but leads to a different degree or certificate; or
- The school's accrediting agency determines that it is an additional program.

Schools are not required to provide advanced notification to the Department if the program is not designed to prepare graduates for gainful employment in a recognized occupation, unless the new program is a direct assessment program, or if advanced notification is required as part of the school's Program Participation Agreement with the Department.

A school that properly notifies the Department of its intent to offer a new program is not required to obtain approval to offer the program to its students, unless the school is notified by the Department at least 30 days before the first day of class that the program must be approved for title IV program purposes. If the school receives notice from the Department that approval is required, then the initial notice to the Department will be considered the application for the program. The Department may either grant approval immediately or request additional information about the program.

A school that does not notify the Department of its intention to offer a new program at least 90 days prior to the first day of class will be required to obtain the Department's approval prior to offering the new program.

Notice to the Department

At a minimum, the school must describe to the Department how it determined the need for the new program, how the program is designed to meet local market needs, and, for online programs, the regional and national market needs. The school may provide wage analysis information to support the application. The school must also describe how the new program was reviewed or approved, developed in conjunction with, business advisory committees, program integrity boards, public or private oversight or regulatory agencies, and businesses that will likely hire program graduates. In addition, the school must submit (a) documentation confirming that the new program has been approved by the school's accrediting agency or is included in the school's current accreditation, or (b) any comparable documentation if the school is an approved public postsecondary vocational school approved by a recognized State agency in lieu of accreditation, and provide the date of the first day of the classes for the new program.

If the school fails to obtain the Department's approval to offer a new program or incorrectly determines that a program is not subject to approval, the school must repay all title IV funds it received for the program, and all title IV funds received by, or on behalf, of the students enrolled in the program.

Review Process

The Department will review a school's application for a new program and consider all of the following:

- The school's demonstrated financial responsibility and administrative capability with respect to its existing programs.
- Whether the proposed program is intended to replace existing programs provided by the school or if the program will supplement or expand the school's current programs.
- Whether the proposed program is consistent with the school's historic program offerings, growth, and operations.
- Whether the school has demonstrated a sufficient effort in determining that the proposed program leads to gainful employment in a recognized occupation.

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Review Denials and Denial Appeals

If the Department denies a school's application to add a new program, it will be based on the factors identified in the final three bullets under "Review Process". In addition, an explanation will be provided on how the school failed to demonstrate that the program will lead to gainful employment in a recognized occupation. A school may appeal a denial by responding to the reasons for denial and requesting that the Department reconsider the application.

Adding a Location

A school wishing to expand its title IV eligibility and certification by adding a new location that will offer 50 percent or more of an education program, must apply to the Department and wait for approval if the school:

- Participates in title IV programs under a provisional certification.
- Received title IV program funds under reimbursement or cash monitoring payment methods.
- Acquires assets of another school that provided educational programs at that location during the previous year and participated in title IV programs during that year.
- Would be subject to a loss of title IV funds if it adds that location.
- Is notified or has been notified by the Department that it is required to apply for approval of a new educational program or location.

Disclosures

Schools are required to make available all of the following information to prospective students:

- The on-time graduation rate, as defined in §668.6(c), for each program of study.
- The tuition and fees charged to a student for completing a program within the normal time as defined in §668.41(a).
- The typical cost of books and supplies (unless they are included as part of the tuition and fees), and the cost of room and board, if applicable.

Schools may provide information regarding transportation and living expenses, but it is not required.

Placement Rate

Schools must also provide the placement rate for students completing the program, as determined by the National Center for Education Statistics (NCES), when the rate is available. Beginning July 1, 2011, if a school is required by its accrediting agency or State agency to calculate the placement rate on a program basis, that rate must be disclosed by the school and the accrediting agency or State agency under whose requirements the rate was calculated must be identified. If a school is required by its accrediting agency or State agency to calculate a placement rate at a school level, the school must calculate a placement rate for each program of study based on its accrediting agency or State agency methodology for calculating placement rates, and disclose that information to prospective students.

Median Loan Debt

Schools must disclose the median loan debt incurred by students who have completed a program of study. Median loan debt includes Title IV, HEA program loans, and the median loan debt from private education loans and institutional financing plans.

Method of Disclosure

A school must provide all of the required information in promotional materials it makes available to prospective students, and must prominently display the required information for each program of study in a simple and meaningful way on the homepage of its program Web site. Schools are required to provide links to this page on any other Web pages that contains general, academic, or admissions information about the program.

In addition, a school must provide information on its Web site for the occupations (names and Standard Occupational Classification (SOC) codes) that each program prepares students to enter, along with a link to occupational information on the O*NET site or its successor site. If the number of occupations for a program exceeds ten, the school may provide prospective students with web links to a representative sample of the identified occupations (names and SOC codes) for which its graduates typically

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find employment within a few years after completion of the program. Information must be accessible on the school's Web site in an 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, machine-readable, and is made available to the public without restrictions that would obstruct the reuse of the information.

Disclosure Form

The Department will be developing a disclosure form and will seek comment through the information collection process under the Paperwork Reduction Act of 1995 (PRA).

The Department commented that while the form is being developed, regulations require schools to provide clear and prominent notice, delivered to students at appropriate times and in promotional materials prior to enrollment. Until the form is developed and approved under the PRA, schools are required to comply with these disclosure requirements independently. Once the form is made available, the school must use the disclosure form and make it accessible on the school's Web site in an open format that can be retrieved, downloaded, indexed, and searched by commonly used Web search applications. The school must also make this information available in promotional materials provided to prospective students.

» REPORTING

Schools are required to report information on each student who enrolled in a program of study under §668.8 (c)(3) or (d) during an award year. If the student began attending a program during an award year, the school must report the name and CIP code of the program.

If the student completed a program during an award year, the school must report the following:

- the name and CIP code of the program;
- the date the student completed the program;
- the amounts the student received from private education loans; and
- the amount the student received from institutional financing plans that the student owes the school upon completion of the program.

In addition, the Department is requiring that the school report whether or not the student matriculated to a higher credentialed program at that school, or if available, any information that the student transferred to a higher credentialed program at another school. For each program, by name and CIP code, schools are also required to provide the number of students that are enrolled in the program at the end of each award year along with each student's identifying information.

Dates for Reporting Information

Schools are required to report this information no later than October 1, 2011, for information from the 2006-07 award year (to the extent that information is available) and for the 2007-08 through 2009-10 award years. Information from the most recently completed award year must be provided to ED no earlier than September 30, 2011, but no later than the date established by the Secretary through a notice published by the Federal Register. If a school is not able to provide any information for the award years, the school must provide an explanation of why the missing information is not available.

Note: Debt reported to ED by a school for institutional financing plans is the amount a student is obligated to repay at the time of program completion, not the amount of debt the student incurs at the beginning of the program. In addition, schools are required to report the amount of private education loans the school knows a student received. The Department provides a comprehensive explanation of what constitutes a private education loan and the school's requirements for reporting those private education loans on page 66840 of the Final Rules.

Discharge Application: Total and Permanent Disability

On August 16, 2010, The U.S. Department of Education (ED) published *Dear Colleague Letter* GEN-10-15/FP-10-05 to announce the revision of the Discharge Application: Total and Permanent Disability for use by borrowers in the Direct Loan Program, the Federal Family Education Loan Program (FFELP), and the Perkins Loan Program, as well as TEACH Grant Program recipients.

The Office of Management and Budget (OMB) approved the revised Discharge Application: Total and Permanent Disability under OMB Control Number 1845-0065. The revised discharge form incorporates changes to the total and permanent disability discharge provisions made by the final regulations published on October 29, 2009.

Lenders and Servicers are reminded that ED will no longer accept a previous version of the Discharge Application: Total and Permanent Disability with a receipt date after January 31, 2011. Borrowers wishing to be considered for the total and permanent disability discharge must submit the revised discharge form. The revised form can be identified by the expiration date of 12/31/2011 in the top right corner of the form and a "Revised 07/2010" date in the lower right corner of the form.

If you have any questions regarding this topic, please feel free to contact the AES/PHEAA Loan Assets Management Department at 800.892.7576.

Imaging Technology

The borrower and physician are required to sign the form in ink to accommodate imaging technology; however, a pencil signature does not invalidate the form.

Printing Instructions

The Discharge Application: Total and Permanent Disability form must be printed with blank ink on white paper. The typeface, point size, and general presentation of the form may not be changed from the version approved by the OMB. However, program participants may change the order of the program names that appear in the header of the form so that the program for which the form is being used appears first. Program participants may also remove bold type in section headings or may add bold or italic type to the instructions. FFEL Program loan holders and Perkins school lenders are encouraged to print the return address to which the completed form should be returned, along with contact information, at the bottom of Page 1 of the form.

Note: The expiration date of this revised Discharge Application: Total and Permanent Disability form is the same as the expiration date of the previous version of the form (12/31/2011).

*** LOAN HOLDER USE ONLY ***
ORIGINAL RECEIPT DATE:

OMB No. 1845-0065
Form Approved
Exp. Date 12/31/2011

**DISCHARGE APPLICATION:
TOTAL AND PERMANENT DISABILITY**

Federal Family Education Loan Program / Federal Perkins Loan Program /
William D. Ford Federal Direct Loan Program / Teacher Education Assistance for College and Higher Education Grant Program

WARNING: Any person who knowingly makes a false statement or misrepresentation on this form or on any accompanying documents will be subject to penalties that may include fines, imprisonment, or both, under the U.S. Criminal Code and 20 U.S.C. 1097.

READ THIS FIRST: This is an application for a total and permanent disability discharge of your Federal Family Education Loan (FFEL) Program, Federal Perkins Loan (Perkins Loan) Program, and/or William D. Ford Federal Direct Loan (Direct Loan) Program loan(s), and/or your Teacher Education Assistance for College and Higher Education (TEACH) Grant Program service obligation.

To qualify for this discharge (except for certain veterans as explained below), a physician must certify in Section 4 of this form that you are unable to engage in any substantial gainful activity (see definition in Section 5) by reason of a medically determinable physical or mental impairment that (1) can be expected to result in death; (2) has lasted for a continuous period of not less than 60 months; or (3) can be expected to last for a continuous period of not less than 60 months. This disability standard may differ from disability standards used by other federal agencies (for example, the Social Security Administration) or state agencies. Except as noted below for certain veterans, a disability determination by another federal or state agency does not establish your eligibility for this discharge.

If you are a veteran, you will be considered totally and permanently disabled for purposes of this discharge if you provide documentation from the U.S. Department of Veterans Affairs (VA) showing that you have been determined to be **unemployable due to a service-connected disability**. If you provide this documentation, you are not required to have a physician complete Section 4 of this form or provide any additional documentation related to your disabling condition. You only need to complete Sections 1 and 3.

Private Education Loans: Dodd-Frank Consumer Financial Protection Act of 2010 -continued-

On July 21, 2010, President Obama signed into law the Dodd-Frank Wall Street Reform and Consumer Protection Act. This legislation creates and specifically extends the jurisdiction of the new Consumer Financial Protection Bureau (CFPB) to any person or entity that offers “private education loans.”

Section 1100F of the Dodd-Frank Act requires creditors to include a consumer’s numerical credit score in both an adverse action notice and a risk-based pricing notice when the creditor relies upon a consumer report to make its credit decision.

The Dodd-Frank Act requires that the following changes be implemented by July 21, 2011.

Adverse action notices – FCRA Section 615(a):

12 CFR PART 202—EQUAL CREDIT OPPORTUNITY ACT (REGULATION B)

Regulation B requires creditors to notify applicants of the action taken on their applications. Adverse action means a refusal to grant credit in substantially the amount or on substantially the terms requested in an application.

The Dodd-Frank Act amends the Fair Credit Reporting Act by requiring a lender to provide a consumer with the consumer’s numerical credit score as well as the factors that affected the score if the lender took any adverse action against the consumer based at least in part on that credit score. The adverse action notice must now disclose the following:

- The range of possible scores for the scoring model used.
- Up to four reason codes, or top factors that negatively impacted the score, listed in the order of their effect on the score.
- The date on which the score was created.
- Who developed the score.

Risk-based pricing notices - FCRA Section 615(h):

In general, if any person uses a consumer report in connection with an application to extend credit on material terms that are materially less favorable than the most favorable terms available to a substantial proportion of consumers from or through that person, based in whole or in part on a consumer

report, the person shall provide an oral, written, or electronic notice to the consumer in the form and manner required by regulations.

The Dodd-Frank Act amends the Fair Credit Reporting Act to require all risk-based pricing notices (not only the credit score exception notice) to include the numerical credit score and also the other information set forth in Section 609(f)(1)(B) – (E):

- B.** The range of possible credit scores under the model used;
- C.** All of the key factors that adversely affected the credit score of the consumer in the model used, the total number of which shall not exceed 4;
- D.** The date on which the credit score was created; and
- E.** The name of the person or entity that provided the credit score or credit file upon which the credit score was created.

Note: Adverse Action Notice – a creditor is not required to provide a risk-based pricing notice to the consumer if the creditor provides an adverse action notice to the consumer.

2011-2012 FAFSA Now Available

The 2011-2012 Free Application for Federal Student Aid (FAFSA) is now available online at www.fafsa.ed.gov. Printable versions of this application in both English and Spanish formats can be found within the U.S. Department of Education's Electronic Announcement dated January 13, 2011 available online at www.ifap.ed.gov.

» DELETIONS AND SIMPLIFICATIONS

Several changes were made to the 2011-2012 FAFSA in accordance with regulatory changes and the Secretary of Education's ongoing simplification initiative. These changes include the deletion of the questions:

- When you begin the 20XX-20XX school year, what do you expect your enrollment status to be?
- Are you planning to complete course work necessary to become an elementary or secondary school teacher, either now or in the future?

Question 31 has also been reworded to state "Are you interested in being considered for work-study?" The available responses are 'Yes', 'No', and 'Don't Know'.

» COLLECTION OF HIGH SCHOOL DATA

Web Applicants

ED added FAFSA question 27 to gather the name and location (city, state) of the high school from which the student will earn his or her diploma. Students completing the FAFSA on the web who answer that he or she will receive a high school diploma and provide a grade level of 0 (never attended college and first year undergraduate) or 1 (attended college before and first year undergraduate) are required to provide the name and location (city, state) of the high school from which they will earn their diploma. The applicant is then presented with a list of high schools from the National Center for Education Statistics (NCES) high school list. If the applicant selects a school from the search results, that school's information will display in the school name and location fields. If the student does not select a school from the presented list or if there are no matching results, the applicant's school information is captured as entered on the application by the student.

Paper Applicants

Paper applicants indicating that they will receive a high school diploma for question 26, will now be directed to answer

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Home - FAFSA on the Web - F

http://www.fafsa.ed.gov/

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Information about your deadlines.

School Code Search
Find your college's school code. Also find detailed information about your college.

FAFSA Filing Options
Learn about the other options for filing your FAFSA.

question 27. A paper applicant, who selects a response of General Educational Development (GED) certificate, homeschooled, or none of the choices for question 26, will be directed to skip question 27 and proceed to question 28.

EDE Applicants

Financial aid administrators who have the student's graduating high school information can submit the data in an electronic application record layout (EAPS12IN file).

FAA Access Applicants

For FAFSA/Renewal Application entry and Corrections entry in FAA Access, the school completes questions 27 only if the student will be a freshman (grade level 0 or 1) when he or she begins the 2011-2012 academic year, has a high school diploma, and can provide the information. FAA Access will display the high school name, city, state, and code field with a Search button that the school can use to populate the high school code field. To search the NCES high school list, the high school name, city, and state must be entered. Once a high school is selected from the list, the selected school's NCES code is populated in the high school code field.

High School Information Included on Output Files

If an applicant indicates that he or she has a high school diploma in question 26 and is a first year undergraduate, the applicant's high school information will appear on the individual's output documents such as the Student Aid Report (SAR) and Institutional Student Information Record (ISIR). This information will also be viewable on the Web.

High School Information includes:

- The name of the high school.
- The city where the high school is located.
- The state where the high school is located.
- The high school code. This code is used for analytical purposes only by ED.
- A High School Flag.

The High School Flag is set when the high school name, city, and state are not found following a search of the NCES high school list. A 'Y' in this field indicates that the applicant has a high school diploma, is a first year undergraduate, and that one of the following applies:

- The applicant's reported high school was not found on the NCES high school list during FAFSA processing,
- The high school information was not provided, was incomplete, or was illegible on a paper transaction, or
- The high school information the student provided resulted in more than one match.

High school information included in the output files will vary as described below:

ISIR FILE AND EDEXPRESS ISIR

The high school name, city, state, code, and High School Flag are included in the ISIR file and printed on the ISIR report. The High School Flag prints in the "FAA Information" section.

SAR, SAR ACKNOWLEDGEMENT, AND ESAR

The high school name, city, and state are printed on the SAR, SAR Acknowledgement, and FAFSA on the Web eSAR.

FAA ACCESS

The high school name, city, state, code, and High School Flag are displayed in FAA Student Inquiry and ISIR Compare. The High School Flag is displayed in the "FAA Information" section.

FAA ACCESS ESAR

The high school name, city, state, and High School Flag are printed on the FAA Access eSAR. The High School Flag is printed in the "For Financial Aid Use Only" section.

2011 POVERTY GUIDELINES PUBLISHED

The U.S. Department of Health and Human Services (HHS) recently published 2011 Poverty Guidelines in the Federal Register dated January 20, 2011 (Vol. 76, No 13; pages 3637 to 3638).

THESE AMOUNTS REPRESENT ANNUAL INCOME.			
PERSONS IN FAMILY	48 CONTIGUOUS STATES AND THE DISTRICT OF COLUMBIA	STATE OF ALASKA	STATE OF HAWAII
1	\$10,890	\$13,600	\$12,540
2	\$14,710	\$18,380	\$16,930
3	\$18,530	\$23,160	\$21,320
4	\$22,350	\$27,940	\$25,710
5	\$26,170	\$32,720	\$30,100
6	\$29,990	\$37,500	\$34,490
7	\$33,810	\$42,280	\$38,880
8	\$37,630	\$47,060	\$43,270
For each additional person, add:	\$3,820	\$4,780	\$4,390

American Education Services (AES) was created to guarantee and service a variety of Federal Family Education Loan Program (FFELP) and private student loan products for lending partners throughout the nation. AES is a national leader in providing quality customer service to millions of student loan borrowers through its highly-trained and experienced customer service representatives. For more information, visit aesSuccess.org.

Pennsylvania Higher Education Assistance Agency conducts its student loan servicing activities nationally as American Education Services (AES) and FedLoan Servicing.



American Education Services

CONTACT

**BUSINESS DEVELOPMENT
& OPERATION/LOAN GUARANTY**
Mon - Fri, 7:30 am to 9:00 pm ET

**STUDENT/PARENT
GRANT & LOAN INQUIRIES**
800.692.7392
granthelp@aesSuccess.org
studentloans@aesSuccess.org

SCHOOL/LENDER INQUIRIES
800.443.0646
loanhelp@aesSuccess.org

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