



Understanding the New U. S. Department of Education Program Integrity Rules

The U. S. Department of Education (DOE) is revising its rules regarding federal student aid programs after receiving complaints from consumers reporting unfair practices and observing an increase in the default rate for federal student loans. A Department investigation found, among other issues, multiple instances of recruiters and admissions representatives misrepresenting expectations to students regarding income potential and job availability, leading to graduates' inability to pay back taxpayer-funded federal loans. The resulting new regulations are designed to tighten procedures around 14 specific issues, protect students and taxpayers from future fraudulent practices, and hold programs accountable for preparing students for gainful employment.

For-profit institutions became the focus of the investigation as, according to [an article on the DOE website](#), students at for-profit institutions represent only 11 percent of all higher education students, but receive 26 percent of all student loans and make up 43 percent of all loan defaulters. In addition, more than a quarter of for-profit institutions receive 80 percent of their revenues from taxpayer-financed federal student aid. In [an article on InsideHigherEd.com](#), Senator Tom Harkin (D-Iowa), chairman of the Health, Education, Labor, and Pensions Committee summarizes, "Over the last decade many for-profit colleges have used taxpayer subsidies to grow enormous profits with little regard for the interests of their students."

What is the DOE proposing?

The Department has developed regulations designed to strengthen the integrity of the federal student aid program and ensure that taxpayer funds are used appropriately. In the [DOE article](#) Education Secretary Arne Duncan says, "These new rules will help ensure that students are getting from schools what they pay for: solid preparation for a good job."

Department of Education website at www.ed.gov.

Review the proposed rules, including gainful employment, published June 18, 2010, visit: www2.ed.gov/legislation/FedRegister/proprule/2010-2/061810a.pdf.

Review the first set of final regulations published Oct. 29, 2010, visit: www2.ed.gov/legislation/FedRegister/finrule/2010-4/102910a.html.

Some of the areas being revised include:

■ ■ Misrepresentation in Recruiting Practices (§§ 668.71, 668.72, 668.73, and 668.74)

In response to complaints from students who felt misled about what courses were being offered, their options for paying for their program, and their job prospects after graduation, this rule strengthens the Department's ability to take action against schools using deceptive advertising, marketing, and sales practices. §§ 668.72, 668.73, and 668.74 deal with misrepresentation regarding the nature of the educational program, the nature of financial charges, and the employability of graduates.

What this means for massage and bodywork schools:

If you are currently using inaccurate or misleading information in your marketing materials—information that deceives prospective students about program content, program cost, or job prospects after graduation—you must stop doing so immediately or you may be subject to review and action from the Department of Education. Examples of language that could be considered misleading might include naming specific income expectations (e.g. “earn \$40–70 per hour”).

- ■ Incentive Compensation for Recruiters (§ 668.14)** These rules ban any person who makes admissions or aid decisions from being paid “in any part, directly or indirectly, upon success in securing enrollments or the award of financial aid.” Compensating recruiters based on enrollment numbers encourages aggressive behaviors that can result in students enrolling in programs they are not qualified for and applying for loans they cannot afford.

What this means for massage and bodywork schools:

If you currently compensate your admissions or recruiting staff based on the number of enrollments they secure, this practice must stop.

- ■ State Authorization of Programs (§§ 600.9 and 603.24)** Clarifies rules regarding state processes for approval and monitoring of postsecondary institutions, including schools that offer distance education. The Higher Education Act (HEA) requires state authorization of postsecondary institutions for programs to be eligible to participate in federal student aid.

What this means for massage and bodywork schools:

These rules will affect state governments and their approval and monitoring processes of postsecondary programs. The impact on massage schools will vary from state to state based on each state's current procedures and the changes specific states may make to become compliant with the new regulations. More administrative and oversight burden on states will be a tough sell; many states already are making difficult decisions regarding education funding because of budget issues.

- ■ Eligibility Standards for Students: High School Diplomas (§ 668.16)** Regulations require schools to have a procedure in place to evaluate the validity of a student's high school diploma if the school or the Department questions the validity of the diploma.

What this means for massage and bodywork schools:

If schools do not currently have evaluation procedures in place to verify the validity of a student's high school diploma, they will need to create and implement them. If procedures are in place, they must be followed.



■ Eligibility Standards for Students: Satisfactory Academic Progress (§ 668.34)

Regulations require schools to have a policy in place to determine if students are meeting satisfactory academic progress. Students may not receive federal financial aid if they are not meeting the institution's academic standards. § 668.34 states, "An institution must establish a reasonable satisfactory academic progress policy for determining whether an otherwise eligible student is making satisfactory progress in his or her educational program and may receive assistance under the title IV, HEA programs."

What this means for massage and bodywork schools:

Schools must have a process in place to measure academic progress and must evaluate their students' academic work consistently to determine eligibility for federal financial aid. Schools may not offer federal financial aid options to students who are not meeting the requirements of satisfactory academic progress. Schools with existing, effective policies in place need not be concerned about this change.

■ Credit Hour Standardization for Federal Program Purposes (§ 602.24)

Regulations in 34 CFR 600.2 create a standard definition of a credit hour for federal program purposes and distribution of financial aid. Institutions may continue to set their own standards for their own academic purposes. § 602.24 states, "The accrediting agency, as part of its review of an institution for initial accreditation or pre-accreditation or renewal of accreditation, must conduct an effective review and evaluation of the reliability and accuracy of the institution's assignment of credit hours."

What this means for massage and bodywork schools:

A school's accrediting agency may evaluate the school's definition of a credit hour to see if it is acceptable and in alignment with the federal definition of a credit hour. If this definition is not in alignment, the school may be asked to assign credit hours for its program, for federal aid purposes, based on the Department's standard definition of a credit hour

■ **Calculation of Returning Federal Funds Upon Withdrawal (§§ 668.22(a), 668.22(b), 668.22(f), and 668.22(l))** These rules eliminate loopholes and clarify the calculation of federal funds to be returned when a student withdraws from a program. Regulations clarify when a student is considered to have withdrawn and the criteria used to determine the percentage of the payment period completed.

What this means for massage and bodywork schools:

Verify that the school is calculating and documenting withdraw dates and percentage of program completed in accordance with these regulations.

■ **Timely Disbursement of Funds (§ 668.164)** These regulations ensure Pell Grant recipients receive funds by the seventh day of their payment period so they may buy books and supplies. § 668.164 states, "An institution must provide a way for a Federal Pell Grant eligible student to obtain or purchase, by the seventh day of a payment period, the books and supplies required for the payment period ..."

What this means for massage and bodywork schools:

If the school does not already provide an option for Pell Grant students to receive their required books and supplies by the seventh day of the payment period, a procedure will need to be implemented.





The Gainful Employment Rule: What is it?

The most controversial element of the DOE revisions is the proposed definition of gainful employment that would be used as one standard to determine a program's eligibility for Title IV funding. The gainful employment definition includes debt repayment rates and the ratio of graduates' debt service to their post-graduate income as guides to determine if a program is successfully preparing its graduates to become gainfully employed. The Department's original draft suggested eliminating federal aid to programs whose graduates could not repay their student loans in 10 years with an 8 percent debt-service-to-income ratio. Many in the industry felt these standards were too strict and over 90,000 comments about the proposed gainful employment regulations were submitted during the public comment period. This feedback led the Department to delay publishing final rules on the issue, organize additional meetings with key parties, and hold two public hearings in November 2010

as part of the negotiated rulemaking process. Taking the feedback from these sessions into consideration, final rules regarding gainful employment are expected to be published in the early part of this year. [In the DOE article](#), Secretary Duncan says, "We continue to be thoughtful as we move forward with finalizing new gainful employment eligibility rules. We're taking time to analyze all the feedback we've received to help us strike the right balance between holding these programs accountable to protect students and taxpayers from abuse and making sure we keep whole programs that are doing a good job."

What is the timeline for the DOE changes?

The changes are being applied in two phases. The first set of regulations on Program Integrity, published on October 29, 2010 (34 CFR Parts 600, 602, 603 et al., Program Integrity Issues, Final Rule) addresses 13 of the 14 issues and will be implemented on July 1, 2011 with the exception of regulations contained in subpart E of part

668 regarding verification and updating of student aid application information which are effective July 1, 2012. The second set, pertaining specifically to gainful employment, will be published early this year and will be implemented on July 1, 2012. ABMP will issue an update on regulations to be implemented in 2012 when information on gainful employment is published.

What does this mean for massage therapy schools?

Many massage therapy school owners are concerned about how these rules will impact their ability to offer Title IV federal funding. The true effects of the new rules will not be known until the final gainful employment regulations are published and we see how they relate to massage-specific concerns including the predominance of part-time workers in our field and the lag time for private practices to generate significant income.

STEPS SCHOOLS CAN TAKE NOW

to improve their debt-service-to-income ratio and debt repayment rates:

- Ensure the program's tuition is commensurate with what graduates are able to earn after graduation.
- Strengthen graduates' ability to earn income in the massage therapy profession by offering solid career service resources before and after graduation and you will increase their ability to pay their loans.
- Have realistic discussions about income expectations so your alumni can make smart choices regarding full-time, part-time, employee, and sole proprietor decisions.
- Communicate expectations around monthly loan payments so students are prepared and budget accordingly.
- Be proactive and use the DOE's actions as catalysts for positive change at your campus that will strengthen both your program and your graduates' opportunities to succeed in the field.