

Late on Friday afternoon, June 10, the U.S. Department of Education released Electronic Announcement #81 announcing that the official 45-day correction period for the Draft GE Completers List would begin on Tuesday, June 14, 2016 and end on Thursday, July 28, 2016. And a few minutes ago, at 8:30AM ET, the Department released an unofficial copy of the Borrower Defense to Repayment Notice of Proposed Rulemaking that has been submitted for publication to the Federal Register. The "soft launch" of the NPRM, is to be followed by the release of an embargoed Administration/U.S. Department of Education Press Release at 9:00AM.

Draft GE Completers Lists

As previously noted, the Department has posted a series of Electronic Announcements over the past two weeks, with the most recent announcing access beginning today, Monday June 13, 2016 to the GE Completers List Correction Submission process under the Gainful Employment tab of the National Student Loan Data System Professional Access Website (https://www.nsldsfa.ed.gov/nslds_FAP/default.jsp) and clarifying that the 45-day period for institutions to correct/challenge information contained in the Draft GE Completers Lists will begin tomorrow, June 14, 2016 and extend through Thursday, July 28, 2016.

A complete review of the most recent Electronic Announcement can be reviewed, along with several other equally important EAs posted over the past two weeks, at <http://www.ifap.ed.gov/GainfulEmploymentInfo/GEDCLandEAV2.html>.

Borrower Defense to Repayment Notice of Proposed Rulemaking

As noted above, the Administration and the U.S. Department of Education just released ("soft launch") the heavily anticipated Borrower Defense to Repayment on their webpage at <http://www2.ed.gov/policy/highered/reg/hearulemaking/2016/index.html>. In addition, to the actual NPRM, the just released information provides a brief summary of the proposed regulations and a set of anticipated questions and answers for interested parties review. CSPEN and affiliates have already begun to review the posted documents, as well as the just leaked press release (attached), and will begin to share our initial observations in later today and throughout the week.

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FOR RELEASE:

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Education Department Proposes New Regulations to Protect Students and Taxpayers from Predatory Institutions

The Department of Education today proposed regulations to further protect student borrowers and taxpayers against predatory practices by postsecondary institutions. The regulations clarify, simplify, and strengthen existing regulations that grant students loan forgiveness if they were defrauded or deceived by an institution. The proposed regulations would also hold financially risky institutions accountable for their behavior and ban schools' use of legal clauses to sidestep accountability.

This new regulatory effort builds on the Obama Administration's commitment to protect taxpayers' and students' investments and ensure that all Direct Loan borrowers can engage in a process that is efficient, transparent and fair when applying for a loan discharge based on the misconduct of the institution.

"We won't sit idly by while dodgy schools leave students with piles of debt and taxpayers holding the bag," said [U.S. Secretary of Education John B. King Jr.](#) "All students who are defrauded deserve an efficient, transparent, and fair path to the relief they are owed, and the schools should be held responsible for their actions."

The proposed regulations would streamline relief for student borrowers who have been wronged and create a process for group-wide loan discharges when whole groups of students have been subject to the misconduct. They also establish triggers that would require institutions to put up funds if they engage in misconduct or exhibit signs of financial risk.

Additionally, the proposed regulations require financially risky schools and proprietary schools in which students have poor loan outcomes to provide clear, plain-language warnings to prospective and current students, and the public. The rules also make it simpler for eligible students to receive closed-school discharge.

Finally, in a major step to protect student borrowers and prevent schools from shirking responsibility for the injury they cause, the proposed regulations would prohibit the use of so-called mandatory pre-dispute arbitration clauses and class action waivers that deny students their day in court if they are wronged. Under these regulations, schools would no longer be able to use their enrollment agreements, or other pre-dispute arbitration agreements or clauses in other documents, in order to force students to go it alone by signing away their right to pursue relief as a group, or to impose gag rules that silence students from speaking out.

“These regulations would prevent institutions from using these clauses as a shield to skirt accountability to their students, to the Department and to taxpayers,” said [U.S. Under Secretary of Education Ted Mitchell](#). “By allowing students to bring lawsuits against a school for alleged wrongdoing, the regulations remove the veil of secrecy, create increased transparency, and give borrowers full access to legal redress.”

Last September, the Department began a [negotiated rulemaking process](#) to clarify how Direct Loan borrowers who believe they have been wronged by their institutions can seek relief and to strengthen provisions to hold colleges accountable for their actions. Current provisions in federal law and regulations allow borrowers to seek discharge of their Direct Loans if their college's acts give rise to a state law cause of action.

The third and final session of negotiated rulemaking was held in March, but the committee did not come to a consensus on a draft of the rule. The Department took the committee's feedback into account when drafting this proposed regulation.

The proposed rule publishes in the Federal Register on June 16, and the public comment period ends Aug. 1. The Department will publish a final regulation by Nov. 1.

The proposed regulations build on years of work by the Obama Administration to protect students and taxpayers from fraudulent or failing institutions of higher education. Those efforts include the landmark Gainful Employment regulations ending Federal student aid eligibility for career colleges that are not paying off for their students, establishing tougher regulations targeting misleading claims by colleges and incentives that drove sales people to enroll students through dubious promises, requiring States to step up their oversight through the state authorization regulation, creating a new Enforcement Unit to protect students and taxpayers from unscrupulous colleges, and calling for improved accreditation practices that focus on student outcomes.

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