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Posted Date: September 13, 2019

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Subject: Gainful Employment Electronic Announcement #123 – Gainful Employment

Reporting for 2018–19

On July 1, 2019, the Department of Education will publish a final rule rescinding the Department's gainful employment (GE) regulations (2014 Rule) in the Federal Register. In this electronic announcement, we provide guidance to institutions on what the rescission means and what institutions can do should they choose early implementation.

Section 482 (c) of the Higher Education Act of 1965, as amended, requires that regulations affecting programs under Title IV of the HEA be published in final form by November 1, prior to the start of the award year (July 1) to which they become effective. This section also permits the Secretary to designate any regulation as one that an entity subject to the regulations may choose to implement earlier, as well as conditions for early implementation. For this rescission, the Secretary is exercising her authority under section 482 (c) of the HEA to designate the regulatory changes to subpart Q and subpart R of the Student Assistance General Provisions at Title 34 part 668 of the Code of Federal Regulations for early implementation.

An institution that early implements the rescission must document its early implementation internally. It does not have to publish its decision to do so; however, it must make such documentation available upon request by the Department. Institutions that do not early implement the rule are expected to comply with the 2014 rule until the rescission becomes effective on July 1, 2020.

Institutions that early implement the rescission of the GE rule will not be required to report GE data for the 2018-2019 award year to NSLDS, which will be due October 1, 2019. Additionally, those institutions that early implement will not be required to comply with the current requirements in 34 CFR 668.412 (d) and (e) that require institutions to include the disclosure template, or a link thereto, in their GE program promotional materials and directly distribute the disclosure template to prospective students, which will be required starting on July 1, 2019. Institutions that early implement will no longer be required to post the GE Disclosure Template and may remove the template and any other GE disclosures that are required under 34 CFR 668.412 from their web pages. Finally, an institution that early implements will not be required to comply with the certification requirements for GE programs under 34 CFR 668.414.

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