

POLITICS

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DeVos Ends Obama-Era Safeguards Aimed at Abuses by For-Profit Colleges

By Erica L. Green

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WASHINGTON — Education Secretary Betsy DeVos formally moved Friday to scrap a regulation that would have forced for-profit colleges to prove that the students they enroll are able to attain decent-paying jobs, the most drastic in a series of policy shifts that will free the scandal-scarred, for-profit sector from safeguards put in effect during the Obama era.

In a written announcement posted on its website, the Education Department laid out its plans to eliminate the so-called gainful employment rule, which sought to hold for-profit and career college programs accountable for graduating students with poor job prospects and overwhelming debt. The Obama-era rule would have revoked federal funding and access to financial aid for poor-performing schools.

After a 30-day comment period, the rule is expected to be eliminated July 1, 2019. Instead Ms. DeVos would provide students with more data about all of the nation's higher education institutions — not just career and for-profit college programs — including debt, expected earnings after graduation, completion rates, program cost, accreditation and other measures.

“Students deserve useful and relevant data when making important decisions about their education post-high school,” Ms. DeVos said in a statement. “That’s why instead of targeting schools simply by their tax status, this administration is working to ensure students have transparent, meaningful information about all colleges and all programs. Our new approach will aid students across all sectors of higher education and improve accountability.”

But in rescinding the rule, the department is eradicating the most fearsome accountability measures — the loss of federal aid — for schools that promise to prepare students for specific careers but fail to prepare them for the job market, leaving taxpayers on the hook to pay back their taxpayer-backed loans.

The DeVos approach is reversing nearly a decade of efforts to create a tough accountability system for the largely unregulated for-profit sector of higher education. In recent years, large for-profit chains, which offer training for everything from automotive mechanics to cosmetology to cybersecurity, have collapsed under mountains of complaints and lawsuits for employing misleading and deceptive practices.

The implosions of ITT Technical Institute and Corinthian Colleges generated tens of thousands of complaints from student borrowers who said they were left with worthless degrees. The Obama administration encouraged the expansion of public community colleges as it forgave at least \$450 million in taxpayer-funded student debt for for-profit graduates who could not find decent jobs with the degrees or certificates they had earned.

The regulations passed in the wake of those scandals remade the industry. Since 2010, when the Obama administration began deliberating the rules, more than 2,000 for-profit and career programs — nearly half — have closed, and the industry’s student population has dropped by more than 1.6 million, said Steve Gunderson, the president of Career Education Colleges and Universities, the for-profit industry’s trade association.

Even for-profit leaders concede the gainful employment rule has had its intended effect. Mr. Gunderson said that for-profit institutions had to adjust programming to be more affordable and responsive to the job markets.

“The other side should declare victory and go home,” he said. “The reality is every school that has a program that was failing gainful employment metrics — and they knew it couldn’t be fixed — they’ve already closed. The sector today is so much better.”

Former Obama administration officials said this was no time to leave the field.

“By withdrawing the gainful employment regulations, the Trump administration is once again choosing the interests of executives and shareholders of predatory for-profit higher education institutions over protecting students and taxpayers,” said John King, the Obama-era education secretary charged with enforcing the rule, who called the move “outrageous and irresponsible.”

Ms. DeVos has brought into her administration former for-profit leaders who are known for their strong opposition to the industry’s regulation.

Ethics filings show that Diane Auer Jones, a senior adviser on postsecondary education, lobbied against funding the rule while working for an operator of for-profit schools, Career Education Corporation. Another top-ranking official, Robert S. Eitel, who joined the department from a for-profit operator, Bridgepoint Education Inc., when it faced multiple government investigations. Mr. Eitel, who has also opposed the gainful employment regulations, recused himself from weighing in on the rule.

“Rescinding the rule is a derogation of the department’s duty to protect students from exploitation and taxpayers from the waste of federal funds,” said the New York attorney general, Barbara D. Underwood, whose office joined 17 other state attorneys general that sued the department for delaying its enforcement.

The 2014 rule required for-profit institutions to measure how much debt their students incurred against their post-graduation earnings and ordered them to disclose their failing marks in advertisements. A year ago, Ms. DeVos delayed those parts of the regulations for taking effect.

But one part of the rule that had already been put into place has identified hundreds of failing programs, many of which went on to shut their doors after they were measured against the new standards, according to an analysis by New America Foundation. That regulation will also be eliminated. In the first assessment of college graduates’ debt-to-earnings ratios, about 800 programs, or 10 percent of those examined, had failed to meet the requirements laid out in the gainful employment rule, the department announced; of those, 98 percent were for-profits.

But industry leaders say the rules had ample collateral damage.

More than 15 years ago, Michael Halmon was selling beauty supplies in Florida when he got into the business of helping people who were not cut out for college attain a craft. His American Institute of Beauty trained beauticians and barbers. But the Obama administration treated Mr. Halmon and his colleagues like predators, he said.

The American Institute of Beauty was among several schools that successfully sued the Education Department over the gainful employment rule, arguing that their earnings data did not reflect all sources of income, such as tips, that are unique to their industry.

“We are mom-and-pop businesses, not these huge Wall Street entities getting rich off of tens of thousands of students,” he said. “We have a thriving industry, and it could have been decimated.”

Jarrod Thoma, 35, an Army veteran who has a claim pending with the Education Department against the for-profit DeVry University, said he was “at a loss for words” by the idea that such schools had nothing more to prove.

He graduated from DeVry with a degree in electronics engineering in March 2015, and he only recently secured his first full-time engineering job with benefits this July. The school agreed to a \$100 million settlement over claims that they misled prospective students with inflated employment and earnings success rates.

“I busted my butt for years, doing far more than what my jobs entailed, to prove that I was worth more than \$18.50,” Mr. Thoma said. “It’s unbelievable.”

In its notification on Friday, the department said Ms. DeVos was rescinding the gainful employment rule entirely based on research that undermined the “validity of using the debt and earnings comparisons.” That research, the department contended, was not properly considered by the Obama administration when it was writing the rules in 2014.

Officials wrote that they also found “a troubling degree of inconsistency and potential error exists in job placement rates” that “could mislead students in making an enrollment decisions.” The department also said that requirement that schools disclose their data had proved to be “more burdensome than originally anticipated.”

The department also wrote that the Obama regulations “reinforce an inaccurate and outdated belief that career and vocational programs are less valuable to students and less valued by society, and that these programs should be held to a higher degree of accountability than traditional two- and four-year degree programs that may have less market value.”

The move further divided congressional leaders on the direction of higher education, as efforts stalled this year to rewrite the federal law governing higher education. A House bill drafted by Representative Virginia Foxx, Republican of North Carolina, would eliminate the gainful employment rule by statute.

Senator Lamar Alexander, Republican of Tennessee and the chairman of the Senate Education Committee, praised Ms. DeVos's plan, saying that it gave Congress an opportunity to hold all schools accountable.

"Secretary DeVos's regulation proposes to end a clumsy rule that consumed 945 pages to define two words in the higher education law and targeted just one segment of our 6,000 colleges and universities," Mr. Alexander said.

Senator Patty Murray, Democrat of Washington and the ranking member of the Senate committee, said in a statement that Ms. DeVos was undermining a "common-sense and effective consumer protection."

"Her extreme proposal to rescind this rule is further proof that there is no line Secretary DeVos won't cross to pad the pockets of for-profit colleges — even leaving students and taxpayers to foot the bill," she said.

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