

Advocacy Requests that the Department of Education Consider the Impact of the “Gainful Employment” Proposed Rule on Small Entities

On September 8, 2010, The Office of Advocacy (Advocacy) filed a letter with the U.S. Department of Education’s Office of Postsecondary Education on the proposed rulemaking entitled, “Program Integrity: Gainful Employment.” The NPRM establishes measures for determining whether certain postsecondary educational programs lead to gainful employment in recognized occupations, for the purposes of determining eligibility for the student financial assistant programs authorized under title IV of the Higher Education Act of 1965, as amended. Small institutions and their representatives have expressed concern regarding the proposal and Advocacy has asked the agency to consider their concerns as the agency proceeds. A complete copy of Advocacy’s letter may be accessed at: <http://www.sba.gov/advo/laws/comments/misc.html>.

- Advocacy is concerned that the Initial Regulatory Flexibility Analysis prepared by the agency did not fully capture the potential economic impact on small entities. Advocacy urged the agency to provide additional information on the potential impact for smaller schools, many of which have fewer resources and fewer programs than the larger schools and may be more vulnerable to the burdens of the proposal.
- Small entities also expressed concern about the proposed metrics used to define “gainful employment,” which include a debt-to-income ratio and repayment rate test applied to former students. Small entities suggested additional considerations that may be used by the agency to determine if an institution is preparing its students for gainful employment.
- Small entities are also concerned about their ability to access the information needed to fully assess whether they will pass the debt-to-income ratio and repayment tests. Advocacy noted that with few resources and limited access to some of the financial information required to fully assess the implications of the rule, it may be difficult for small institutions to prepare adequately for this rule’s implementation.
- Advocacy also noted additional alternatives for the agency to consider in order to reduce the potential impact on small entities. These alternatives included creating an exemption for the small institutions from some or all of the requirements of the rule and providing the smaller institutions with additional time to comply.

For more information, visit Advocacy’s website at <http://www.sba.gov/advo> or contact Kate Reichert at 202-205-6972.