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## **Appellate Court Sides With For-Profit Colleges on Tossing Out a Controversial Rule**

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Washington

For-profit colleges are celebrating a federal appeals court decision that tosses out portions of the U.S. Department of Education's controversial "program integrity" rules.

In a unanimous [opinion](#) handed down Tuesday, a three-judge panel of the U.S. Court of Appeals for the District of Columbia Circuit upheld a lower court's decision that struck down a portion of the "state authorization rule," agreeing that colleges had not been given enough time to review it. The ruling also requires the department to revise regulations barring "misrepresentation" in college recruiting and to explain portions of a rule limiting the commissions colleges can pay to student recruiters.

The appellate court's decision comes almost a year after a federal judge [threw out a requirement](#) that colleges offering online programs in other states [seek approval from each of those states](#) but upheld the department's misrepresentation and incentive-compensation rules. The Association of Private Sector College and Universities, which represents for-profit colleges, appealed that decision last July. The appellate court's opinion rejects the college association's broad challenge to the rules, but accepts its argument that the misrepresentation rule is too broad and fails to provide procedural protections to colleges accused of wrongdoing. It also orders the department to justify its decision to ban bonuses based on student completion and explain the effect the recruiting rule could have on minority student enrollment.

In a statement, Steve Gunderson, president of the for-profit college association, praised Tuesday's decision, saying it would provide "significant relief" to the group's members.

"APSCU is pleased that the court agreed that there were significant flaws with the department's rulemaking process and with the resulting regulations in three areas," he said.

The department, which issued the rules as part of an effort to shield federal funds from misuse, remained focused on the positive.

"We are pleased that the court has largely upheld our regulations to protect students and taxpayers," said Justin Hamilton, a spokesman for the department. "On balance, the decision paints a very positive picture of our work and highlights why these regulations were needed." He said the department was evaluating its next steps.

Because the rules interpret portions of the Higher Education Act, any changes to them will likely require another round of negotiated rulemaking, said Terry W. Hartle, senior vice president for government and public affairs at the American Council on Education. That could occur as early as this summer, when the department will convene a panel to craft rules focused on Pell Grant fraud and student-aid debit cards.

In the meantime, though, colleges will be "looking at more regulatory uncertainty," Mr. Hartle said. "And that really isn't good for anybody."