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Overview of Gainful Employment Regulations and Reporting Requirements

Introduction

In October of 2014, amendments to the Higher Education Act of 1965 (HEA) gave the US Department of Education the authority to establish regulations to determine whether educational programs at postsecondary institutions participating in Federal Student Aid programs (Title IV, HEA programs) prepare students for gainful employment (GE) in a recognized occupation and assess whether they remain eligible to participate. These regulations also gave the Department the authority to set the criteria or conditions to assess and determine the eligibility for Federal student financial aid. For public institutions, such as community colleges, GE programs are non-degree programs offered at the institutions, such as certificates of achievement.

GE regulations are meant to address the following concerns:[1]

- As part of their eligibility to participate in Title IV and HEA program funds, educational programs are required to provide training that prepare students for gainful employment in a recognized occupation. However, some of these programs are "leaving students with unaffordable levels of loan debt in relation to their earnings, or leading to default."
- Specific concerns of the Department of Education are that some GE programs:
    - Fail to provide adequate training in the skills the students need to obtain and maintain jobs in the occupations for which the programs purports to provide training
    - Provide training for occupations with low wages and do not justify the program costs
    - Show a large number of withdrawals (i.e., students who do not complete the program), which has been associated with student loan default

[1] Gainful Employment; Final Rule, 79 Fed. Reg.79, 211 (October 31, 2014) (to be codified at 34 C.F.R. pt. 600, 668).

- Use “aggressive and deceptive marketing and recruiting practices” that pressure or mislead students or their families regarding the likely outcomes of their investments (i.e., time and money)

To address these concerns, the Department of Education has created (a) an accountability framework that defines what it means to prepare students for gainful employment in a recognized occupation and establishes the criteria to evaluate whether educational programs are eligible, or remain eligible, for Title IV, HEA program funds, and (b) a transparency framework to increase the availability and quality of information on specific outcomes for students who enrolled in educational programs to inform:

- Prospective students and their families, so that they can make informed decisions regarding their educational investments (i.e., time and money)
- Public, taxpayers, and the government agencies to enable better protection of public investments
- Educational institutions by providing accurate and comparable data to help them improve the quality of their programs, as evidenced by improvements in student outcomes

The Accountability Framework of GE Regulations

The accountability framework establishes a process to assess whether an educational program is eligible to Title IV, HEA funds by certifying, among other things, that the program meets applicable State or Federal program-level licensing or certification requirements necessary to assure that students will be able to obtain and maintain a job related to the training provided by the program. To certify that a program remains eligible to receive funds, three debt measures based on student loan repayment activity are calculated for former students of the program and used to determine whether the program meets regulatory standards. Debt measures standards used to determine whether an educational program leads to gainful employment (remain eligible for Title IV, HEA funds) include[2]:

- Loan repayment rate:
  - Student loan repayment rate of at least 35%
- Debt-to-earnings ratios:
  - Annual loan payment amount of 12% or less of annual income
  - Annual loan payment amount of 30% or less of discretionary income

An educational program will also meet the debt measures standards when:

[2] An educational program must meet at least one of the criteria to remain eligible. The program also remains eligible if the debt measures could not be calculated (e.g., less than 30 students in the program, or less than 30 students entered loan repayment during the cohort period).

- Any of the following is less than 30: number of students in the related cohort periods, number of borrowers who entered repayment, or students who completed the program; or
- The SSA (Social Security Administration) did not provide the mean and median earnings for the program; or
- The median loan calculated is zero

Institutions will be notified when programs fail to meet required debt measures standards (repayment rate or any of the debt-to-earnings ratio measures). Once a program has failed to meet standards on three of the four most recent fiscal years, the Department of Education will notify the institution that the program has loss eligibility. Similar programs (i.e., same CIP code[3]), will also loose eligibility. The institution must then end disbursement of any Title IV funds to students enrolled in the program, except those permitted in Section 34 CFR 668.26.

Cohort Periods

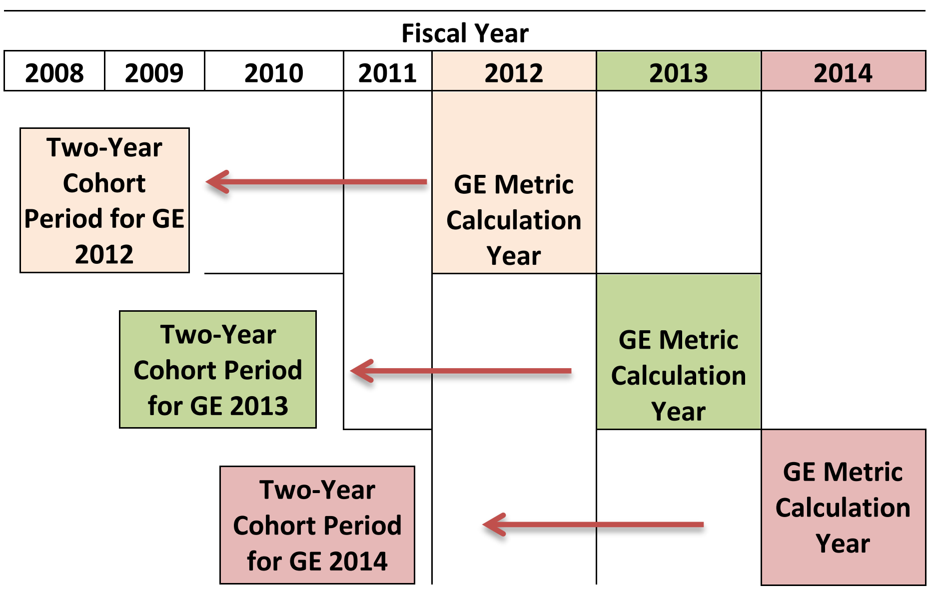
Debt measures are based on data of loan activity or income for former students in the program. For the repayment rates, the cohort is comprised of students who entered repayment for a Title IV loan (taken out for the program) during a specific time period or fiscal years. For the debt-to-earnings ratio, the cohort is comprised of students who completed the program during a specific time period or fiscal years. The standard cohort time period used for repayment and debt-to-earnings includes the third and fourth fiscal years preceding the GE metric calculation year (i.e., the year for which the debt measure was calculated). For example, the 2012 GE metric year for repayment rates debt measures includes former students who began loan repayment in 2008 or 2009 (fiscal year: October 1 to September 30). For debt-to-earnings measures, the cohort for the 2012 GE metric year will include students who completed the program in 2008 or 2009. (See Figure 1.)

When the standard 2-year period cohort is formed for each debt measure and GE metric calculation year and less than 30 students are identified in the cohort for the program, then an alternate cohort 4-year cohort is used, which is comprised of students who began loan repayment or completed the program in the preceding third to sixth year. This alternate 4-year period cohort adds two additional years to the standard 2-year period cohort for it includes the preceding third, fourth, fifth and sixth fiscal years. (See Figure 2.)

[3] Classification of Instructional Programs: Taxonomic scheme created by the US Department of Education's National Center for Education Statistics (NCES).

There is also an alternate 2-year period cohort applicable only to repayment calculation rates for GE metric years of 2012, 2013, and 2014. These cohorts will include students who began repayment in the preceding two years of the GE metric year. For example, the alternate 2-year period cohort for the 2012 GE metric year will include students in the program who began repayment in 2011 and 2010.[4] Both, the 2-year period standard and the 2-year alternate cohort will be used to calculate repayment rates for the GE metric calculation years of 2012, 2013, and 2014 for each program. The highest repayment rate for the GE metric year will become the official repayment rate.

Figure 1
Two-Year Cohort Period for GE Metric Calculation Years 2012, 2013, and 2014

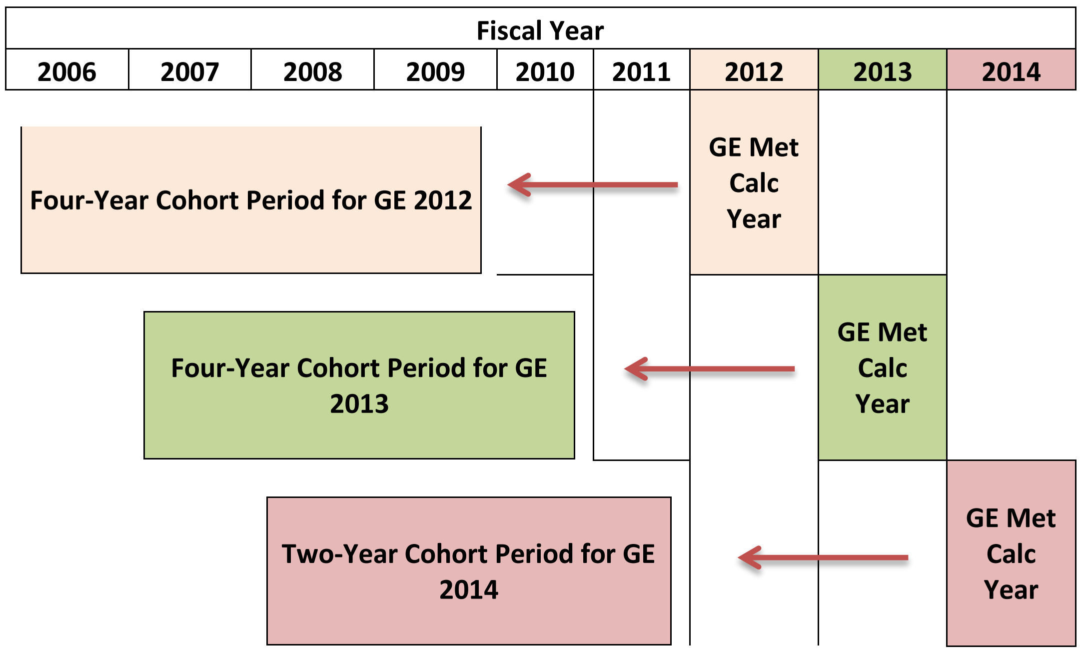


Notes
GE Metric Calculation Year: Fiscal Year (October 1 to September 30) for which the debt measures (repayment rate and debt-to-earnings ratios) are calculated.
Two-Year Cohort Period: Includes the third and fourth fiscal years preceding the GE metric calculation year. For repayment rates, the cohort includes students (independently of whether they completed or withdrew the program) who began loan repayment during the time period. For debt-to-earnings ratios, the cohort includes only student who completed the program during the time period.

[4] Additional alternate cohorts not discussed are used for medical and dental programs for which students are required to complete internships or residency.

Figure 2

Four-Year Cohort Period for GE Metric Calculation Years 2012, 2013, and 2014



Notes

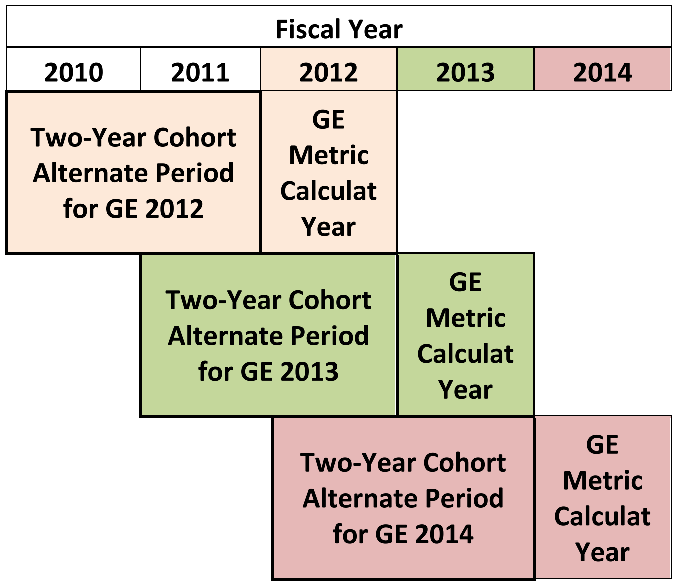
GE Metric Calculation Year: Fiscal Year (October 1 to September 30) for which the debt measures (repayment rate and debt-to-earnings ratios) are calculated.

Four-Year Cohort Period: Includes the third, fourth, fifth, and sixth fiscal years preceding the GE metric calculation year and will be used when the student headcount in the two-year cohort period is less than 30.

For repayment rates, the cohort includes students (independently of whether they completed or withdrew the program) who began loan repayment during the time period. For debt-to-earnings ratios, the cohort includes only student who completed the program during the time period.

Figure 3

Alternate Two-Year Cohort Period for GE Metric Calculation Years 2012, 2013, and 2014



Notes

GE Metric Calc Year: Fiscal Year (October 1 to September 30) for which the debt measures (repayment rate and debt-to-earnings ratios) are calculated.

Alternate Two-Year Cohort Period: Includes the first and second preceding fiscal years of the GE metric calculation year and it will only be used for loan repayment rate calculations for 2012, 2013, and 2014.

For repayment rates, the cohort includes students (independently of whether they completed or withdrew the program) who began loan repayment during the time period. For debt-to-earnings ratios, the cohort includes only student who completed the program during the time period.

Repayment Rate

The repayment rate measures the degree to which former students in the educational program (including those who completed the program or withdrew) are repaying their Title IV loans. Most repayment rates will use the 2-year period cohort, which includes students who began student loan repayment in the third and fourth preceding years to the GE metric calculation year. For programs with 2-year period cohorts with a student count of less than 30, repayment rates for the 4-year period cohort will then be calculated.

The repayment rate is calculated by dividing the total amount of the original outstanding principal balance (OOPB) for all students in the program who began repayment in the cohort period by the total amount of the OOPB paid (loans paid in full or total payments made) by these students, then multiply by 100. (See Figure 4.)

Figure 4

Repayment Rate Formula

$$\frac{\text{Total paid amount of the OOPB (amounts for loans paid in full + total amount for payments made to the loan)}}{\text{Total OOPB (Original Outstanding Principal Balance)}} \times 100 = \text{Repayment Rate}$$

Notes
OOPB: Original outstanding principal balance, including any capitalized interest.
Loan amounts for former students who began repayment during cohort year period. Amounts include payments up to September 30 of the GE metric calculation year. Any payment for a loan in default is excluded from the numerator. Other exclusions apply.

Debt-to-Earnings Ratios

The debt-to-earnings ratios are meant to show the degree to which the income of former students in the program must be used to repay student loan debt or program expenses, taking into account annual and discretionary income.[5] Only data for students who completed the program during the cohort period applicable to the GE metric calculation year are used. Two debt-to-earnings ratios are used: (1) annual income debt-to-earnings ratio, and (2) discretionary income debt-to-earnings ratio.

Both debt-to-earnings ratio formulas (see Figures 5 and 6) use as the numerator the annual loan payment, which is calculated taking into account the median loan debt for the program's completers in the cohort year period and the annual current interest rate of direct unsubsidized loans for the repayment period (e.g., 10-year repayment schedule for certificates). The median loan debt for the group is the lesser of the following: (a) total tuition and fees assessed, or (b) total loan debt (Federal Family Education Loan or Direct Loan programs, institutional or private loans).

The key difference between the debt-to-earnings ratio formulas is the denominator. In the annual income debt-to-earnings ratio, the denominator is the mean or median, whichever is greater, of annual earnings, based on data provided by the Social Security Administration, for the program's completers in

[5] Discretionary income is an individual's income left after taking into account personal necessities (e.g., money left for luxury items, vacations, or other non-essential goods.

the cohort year period. For the discretionary debt-to-earnings ratio, 150% of the HHS (Department of Health Services) poverty guideline for a single person is subtracted from the annual income mean/median to calculate discretionary income, the denominator.

Figure 5

Formula for Annual Income Debt-to-Earnings Ratio

$$\frac{\text{Calculated annual loan payment}}{\text{Mean/Median annual earnings}} = \text{Annual income debt-to-earnings ratio}$$

Notes

Calculated annual loan payment: Median loan debt for program's completers in cohort year period, after taking into account annual interest rate of direct unsubsidized loans (median loan debt for related repayment period). The median loan debt is the lesser of the following: total tuition and fees assessed for the program, or total debt (Federal Family Education Loan program, Direct Loan program; institutional and private loans).

Mean/Median annual earnings: Based on income data provided by the Social Security Administration, the mean or median (the higher value) for program's completers in the cohort year period.

Figure 6

Formula for Discretionary Income Debt-to-Earnings Ratio

$$\frac{\text{Calculated annual loan payment}}{\text{(Mean/Median annual earnings) minus (150\% of HSS Poverty Guidelines)}} = \text{Discretionary income debt-to-earnings ratio}$$

Notes

Calculated annual loan payment: Median loan debt for program's completers in cohort year period, after taking into account annual interest rate of direct unsubsidized loans (median loan debt for related repayment period). The median loan debt is the lesser of the following: total tuition and fees assessed for the program, or total debt (Federal Family Education Loan program, Direct Loan program; institutional and private loans).

(Mean/Median annual earnings) minus (150% of HSS Poverty Guidelines): Income data is provided by the Social Security Administration. The difference between the mean/median (the higher value) for program's completers in the cohort year period and 150% of HSS poverty guideline for a single person is defined as the discretionary income.

Failing Programs

Any instructional program that fails to meet any of the debt measures during a year will be classified as a failing program and the institution must provide the following information (orally or in writing) to currently enrolled and prospective students:

- Explain debt measures and identify the percentage difference by which the educational program failed to meet the standard.
- Describe action plans to improve program's performance

If the program fails to meet standards during a second year, the institution must also provide the following information in writing to current and prospective students:

- Explain risks associated with enrollment in the failing program
- Inform about the College Navigator website (https://nces.ed.gov/collegenavigator/), so that students can explore options and compare program costs
- Explain that due to the program failing to meet gainful employment standards, students should expect difficulties in repaying student loans
- Explain any actions the institutions plans to take in response to the second failure
- If the institution decides to discontinue offering the program, provide a timeline for this process and any options available to currently enrolled students
- If the institution decides to discontinue the program's Title IV eligibility, inform current students prior or at the same time it does to the Department of Education. Also, any student who applied to the program or delayed enrollment must also be informed.

Transparency Framework of GE Regulations

Under the transparency framework, gainful employment (GE) regulations establish reporting and disclosure requirements for institutions to increase transparency regarding student outcomes and overall performance of educational programs receiving Title IV program funds. To comply with GE regulations, institutions must submit data annually to the Department of Education (DE) for all students enrolled on GE programs and who received Title IV financial aid, prior or during the reporting year. The submitted data files (student level data related to educational program attendance and related costs) are used by DE to calculate debt measures developed under the accountability framework by program. Institutions are also required to disclose information about all GE programs using a disclosure template to ensure that students and their families, the public, taxpayers and the Government will have access to meaningful and comparable data on student outcomes and overall program performance.

The disclosure template is a webpage created for each GE program, which includes following information:

- Occupations related to the training provided by the program (based on program CIP-SOC codes[6])
- Published length of time for the program
- On-time completion rate
- Program costs
- Placement rates, if applicable
- Median loan debt (Title IV debt, private and institutions student loan debt)

Length of time for the program is based on information on the ECAR[7] or the time it would normally take a student to complete the coursework required for the program, assuming a load of at least 12 quarter units—the minimum to be eligible for financial aid. For community colleges, program costs usually include tuition, required fees, and allowances for books and supplies, as posted in the financial aid or admission and record office at the college web site. To protect the privacy of students, the on-time completion rate and median loan debt are only published when at least 10 students complete the program during the reporting year. (Formula for on-time completion rate is shown in Figure 7; median loan debt, Figure 8.)

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[6] CIP codes are used by the Department of Education to identify and classify d instructional programs (majors or areas of study). SOC codes are used by the US federal government to classify occupations. Crosswalk of CIP and SOC codes are provided by the O*Net website.
[7] The ECAR (Eligibility and Certification Approval Report) identifies programs that are Title IV eligible.

Figure 7

Formula for On-Time Completion Rate

$$\frac{\text{Number of students who completed the program within normal time, award year}}{\text{Number of students who completed the program, award year}} \times 100 = \text{On-time completion rate}$$

Figure 8

Calculating Median Student Loan Debt for the GE program

Rank #	Total loan debt
1	$0
2	$0
3	$0
4	$0
5	$0
6	$500
7	$526
8	$600
9	$1,000
10	$1,500
11	$1,500

To calculate the median: After ranking all data points, find the middle point. For distributions with an even number count, add numbers in the middle pair and divide by two.

The GE disclosures (see Figure 9) must be placed or be easily accessible (i.e., through a hyperlink) from the home web page for the program and how to access the information should be included in all promotional materials, such as:

- Postcards
- Invitations/Solicitations
- Flyers
- Billboard and transit advertising
- Radio/Television advertising
- Web and similar advertising
- Social networks

Figure 9

Information Provided by Gainful Employment Disclosure Template

References

Gainful Employment; Final Rule, 79 Fed. Reg.79, 211 (October 31, 2014) (to be codified at 34 C.F.R. pt. 600, 668).

IFAP - Gainful Employment Operations Manual. (n.d.). Retrieved February 11, 2016, from http://ifap.ed.gov/GainfulEmploymentOperationsManual/GainfulEmploymentOperationsManual2015.html