**Issue Paper 2**

**Session 2: February 5-8, 2018**

**Issue:** D/E Rates

**Statutory cites:** 20 U.S.C. § 1221e-3; 20 U.S.C. § 3474; 20 U.S.C. § 1231a; 20 U.S.C. §§ 1001(b)(1), 1002(b)(1)(A)(i), (c)(1)(A); 20 U.S.C. § 1088(b)

**Regulatory cites:**  34 CFR §668.403

**Summary of**

**Changes:** We propose to amend section 668.403 so that programs are no longer considered to be “passing” or failing” based on their debt-to-earnings rates. Instead, we propose to refer to programs as “acceptable” if they meet the established standards, and “low-performing” if they do not meet the established standards. We also propose to remove the concept of a “zone” from the regulations. Finally, we propose to remove the provision that a program is no longer eligible to participate in the title IV, HEA programs based on poor debt-to-earnings rates. We also propose that if the Secretary does not calculate or issue D/E rates for an award year, an educational program would disclose the program’s D/E rates for the previous year.

§668.403 Debt-to-earnings rate framework.

(a) Debt-to-earnings rates (D/E rates). For each award year and for each eligible educational program offered by an institution, the Secretary calculates two D/E rates, the discretionary income rate and the annual earnings rate, using the procedures in §§668.404 and 668.405.

(b) Comparison threshold for the D/E rates measure. (1) An educational program is considered to have an acceptableD/E rates measure if--

(i) Its discretionary income rate is less than or equal to 20 percent; or

(ii) Its annual earnings rate is less than or equal to eight percent.

(2) An educational program is deemed to be a low-performing program under the D/E rates measure if--

(i) Its discretionary income rate is greater than 20 percent or the income for the denominator of the rate (discretionary earnings) is negative or zero; and

(ii) Its annual earnings rate is greater than 8 percent or the denominator of the rate (annual earnings) is zero.

(3) (a) If an educational program does not it have a completer cohort of under 10 borrowers in an award year, then the Secretary does not calculate or issue an D/E rate for that educational program for an award year pursuant to §668.404(f).

(b) In this circumstance, the institution discloses the educational program’s D/E rates for the previous award year, if available, with the following disclaimer: “This program had a completer cohort of less than 10 borrowers during the applicable year and therefore, the listed rate represents the prior year results when it had at least 10 completers.”

(c) If the same educational program continues to have a completer cohort under 10 borrowers for a second consecutive year, the institution will not be required to disclose any D/E rate and will include the following disclaimer: “N/A. This program has had a completer cohort of less than 10 borrowers for at least two consecutive years.”

(Authority: 20 U.S.C. 1001, 1002, 1088)