

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—Gainful employment program framework.~~

~~(a) General. A program provides training that prepares students for gainful employment in a recognized occupation if the program—~~

~~(1) Satisfies the applicable certification requirements in §668.414; and~~

~~(2) Is not an ineligible program under the D/E rates measure.~~

~~(b) Debt-to-earnings rate framework.~~

~~(a) Debt-to-earnings rates (D/E rates).— For each award year and for each eligible ~~E~~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~~

~~through and 668.406-405.~~

~~(e) Outcomes of b) Comparison threshold for the D/E rates measure.~~ (1) ~~A GE An educational program is “passing” the Dconsidered~~ to have an acceptable D/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) ~~A GE An educational program is “failing” deemed to be a low-performing program~~ under the D/E rates measure if ~~---~~

(i) Its discretionary income rate is greater than ~~30~~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 ~~12~~8 percent or the denominator of the rate (annual earnings) is zero.

~~(3) A GE program is “in the zone” for the purpose of the D/E rates measure if it is not a passing GE program and its~~

~~(i) Discretionary income rate is greater than 20 percent but less than or equal to 30 percent;~~

~~or~~

~~(ii) Annual earnings rate is greater than eight percent but less than or equal to 12 percent.~~

~~(4) For the purpose of the D/E rates measure, subject to paragraph (c)(5) of this section, a GE program becomes ineligible if the program either~~

~~(i) Is failing the D/E rates measure in two out of any three consecutive award years for which the program's D/E rates are calculated; or~~

~~(ii) Has a combination of zone and failing D/E rates for four consecutive award years for which the program's D/E rates are calculated.~~

~~(5) If award year that the Secretary does not calculate or issue D/E rates for a program for an award year, the educational program receives no result under the D/E rates measure for that award year and remains in pursuant to §668.404(f), the same status under institution discloses the program's D/E rates measure as for the previous award year; provided that if the Secretary does not calculate D/E rates for the program for four or more consecutive award years, the Secretary disregards the program's D/E rates for any award year prior to the four-year period in determining the program's eligibility, if available.~~

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