Issue Paper 2  
Session 2: February 5-8, 2018

Issue: D/E Rates


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 GEeducational 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 throughand 668.406-405.
(e) Outcomes of \( b \)  Comparison threshold for the D/E rates measure. (1) A GE An educational program is “passing” the 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\% \( \text{or} \) the income for the denominator of the rate (discretionary earnings) is negative or zero; and

(ii) Its annual earnings rate is greater than 12\% \( \text{or} \) 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 an 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 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)