

Issue Paper 1
Session 3: March 12-15, 2018

Issue: Scope and Purpose

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); 20 U.S.C. § 1082; 20 U.S.C. § 1092; 20 U.S.C. § 1094

Regulatory cites: 34 CFR § 668.401 and 668.402

Summary of Changes:

Summary of Changes Since Session 2: Since the second negotiating session, we propose to limit the scope of the regulations to undergraduate programs. We also propose to add a loan repayment measure, which we address substantively in issue papers 3 and 6.

Summary of Changes Provided Before Session 2: We propose to change the focus of these regulations from programs that prepare students for gainful employment in a recognized occupation to all “educational programs.” Significantly, we propose to remove the provision of section 668.401 that provides that subpart Q establishes procedures under which the Secretary determines whether a program is eligible for title IV, HEA program funds. We discuss the substantive changes to definitions in the issue papers corresponding to the topic of the defined term.

Subpart ~~P~~—~~[Added and Reserved]~~

~~11. Add and reserve subpart P.~~

~~12. Add subpart Q to read as follows:~~

~~Subpart Q—Gainful Employment (GE)—~~Undergraduate Educational Programs; Benchmarks,

Disclosures, and Certifications

Sec.

668.401 Scope and purpose.

668.402 Definitions.

668.403 ~~Gainful employment~~Debt to earnings rateUndergraduate Educational program

framework.

668.404 Calculating D/E rates.

668.405 Issuing and challenging D/E rates.

668.406 ~~D/E rates alternate earnings appeals.~~ Calculating and issuing loan repayment rates. ~~[Reserved].~~

668.407 [Reserved].

668.408 [Reserved].

668.409 Final determination of the undergraduate educational program benchmarks ~~D/E rates measure.~~

668.410 ~~Consequences of the D/E rates measure~~ Notification for programs that do not meet benchmarks relatively high debt programs.

668.411 ~~Reporting requirements for GE programs.~~ ~~[Reserved].~~

668.412 Disclosure requirements ~~for GE programs.~~ ~~;~~

668.413 ~~Calculating, issuing, and challenging completion rates, withdrawal rates, repayment rates, median loan debt, median earnings, and program cohort default rate.~~ ~~[Reserved].~~

668.414 Certification requirements ~~for GE~~ undergraduate educational programs.

668.415 Severability.

Subpart Q—~~Gainful Employment (GE)~~ Undergraduate Educational Programs; Benchmarks, Disclosures, and Certifications.

§668.401 Scope and purpose.

This subpart applies to an undergraduate educational program offered by an eligible institution ~~that prepares students for gainful employment in a recognized occupation,~~ and establishes ~~the rules and procedures under~~

(a)

Procedures by which—

~~(a) The the Secretary determines that calculates the program is eligible for title IV, HEA program funds; program's debt-to-earnings rates and loan repayment rate;~~

~~(b) Actions that may be taken based on the program's rates; and~~

~~(b) An institution reports information about the program to the Secretary; and~~

~~(c) An institution discloses information about the program to students and prospective students.~~

~~(cb) Program-level disclosure and certification requirements.~~

(Authority: 20 U.S.C. 1001, 1002, 1088, 1231a)

§668.402 Definitions.

The following definitions apply to this subpart.

Annual earnings rate.— The percentage of a GE program's undergraduate educational program's completers' annual loan payments compared to the annual earnings of the students who completed the program of that same cohort, as calculated under §668.404.

Classification of instructional program (CIP) code.— A taxonomy of instructional program classifications and descriptions developed by the U.S. Department of Education's National Center for Education Statistics (NCES). The CIP code for a program is six digits.

Cohort period.— The two-year cohort period ~~or the four-year cohort period, as applicable,~~ during which those students who complete an undergraduate educational program are identified in order to assess their loan debt and earnings for the purpose of the D/E rates measure. The

Secretary uses the cohort period covers two-year cohort period when the number of students completing the program is 30 or more, consecutive award years that are —

(1) The Secretary uses the four-year cohort period when the number of students completing the program in third and fourth award years prior to the award year for which the D/E rates are calculated pursuant to §668.404. For example, if D/E rates are calculated for award year 2016-2017, the two-year cohort period is less than 30 award years 2012-2013 and when the number of 2013-2014; or

(2) For an educational program whose students completing are required to complete a medical or dental internship or residency, the sixth and seventh award years prior to the program in award year for which the four D/E rates are calculated. For example, if D/E rates are calculated for award year cohort period 2016-2017 the two-year cohort period is award years 2011-2012 and 2012-2013. For this purpose, a required medical or dental internship or residency is 30 or more, a supervised training program that —

(i) Requires the student to hold a degree as a doctor of medicine or osteopathy, or as a doctor of dental science;

(ii) Leads to a degree or certificate awarded by an institution of higher education, a hospital, or a health care facility that offers post-graduate training; and

(iii) Must be completed before the student may be licensed by a State and board certified for professional practice or service.

Credential level.— The level of the academic credential awarded by an institution to students who complete an undergraduate the educational program, which includes,— F for the purposes of this subpart, the undergraduate credential levels are: undergraduate certificate or diploma, associate degree, bachelor's degree, and post-baccalaureate certificate; and the graduate

~~credential levels are graduate certificate (including a postgraduate certificate), master's degree, doctoral degree, and first professional degree (e.g., MD, DDS, JD).~~

Debt-to-earnings rates (D/E rates). - The discretionary income rate and annual earnings rate as calculated under §668.404.

Discretionary income rate. - The percentage of a GE program's undergraduate educational program's completers' annual loan payment compared to the discretionary income of that cohort students who completed the program, as calculated under §668.404.

~~*Four-year cohort period.* The cohort period covering four consecutive award years that are—~~

~~(1) The third, fourth, fifth, and sixth award years prior to the award year for which the D/E rates are calculated pursuant to §668.404. For example, if D/E rates are calculated for award year 2014–2015, the four-year cohort period is award years 2008–2009, 2009–2010, 2010–2011, and 2011–2012; or~~

~~(2) For a program whose students are required to complete a medical or dental internship or residency, the sixth, seventh, eighth, and ninth award years prior to the award year for which the D/E rates are calculated. For example, if D/E rates are calculated for award year 2014–2015, the four-year cohort period is award years 2005–2006, 2006–2007, 2007–2008, and 2008–2009. For this purpose, a required medical or dental internship or residency is a supervised training program that—~~

~~(i) Requires the student to hold a degree as a doctor of medicine or osteopathy, or a doctor of dental science;~~

~~(ii) Leads to a degree or certificate awarded by an institution of higher education, a hospital, or a health care facility that offers post-graduate training; and~~

~~(iii) Must be completed before the student may be licensed by a State and board certified for professional practice or service.~~

~~*Gainful employment program (GE program).* An educational program~~Educational program. An educational program (as defined in §600.2) offered by an institution under §668.8(c)(3) or (d) and identified by a combination of the institution's six-digit Office of Postsecondary Education ID (OPEID) number, the program's six-digit CIP code as assigned by the institution or determined by the Secretary, and the program's credential level, and other identifiers as determined by the Secretary.

Length of the program. - The amount of time in weeks, months, or years that is specified in the institution's catalog, marketing materials, or other official publications for a student to complete the requirements needed to obtain the degree or credential offered by the program.

Loan Repayment Rate. The loan repayment rate as calculated under §668.406.

Metropolitan Statistical Area (MSA). - The Metropolitan Statistical Area as published by the U.S. Office of Management and Budget and available at www.census.gov/population/metro/ or its successor site: www.census.gov/programs-surveys/metro-micro.html or its successor site. For an educational program offered by a foreign medical school, the applicable MSAs are the MSAs of the program's clinical sites. For an undergraduate educational program offered by any other type of a foreign school, the MSA is the MSA for Washington, DC.

Poverty Guideline.- The Poverty Guideline for a single person in the continental United States as published by the U.S. Department of Health and Human Services and available at ~~<http://aspe.hhs.gov/poverty>~~ <https://aspe.hhs.gov/poverty-guidelines> or its successor site.

Prospective student.- An individual who has contacted an eligible institution for the purpose of requesting information about enrolling in ~~a GE~~ **an undergraduate educational** program or who has been contacted directly by the institution or by a third party on behalf of the institution about enrolling in a ~~GE~~ program.

Student.- An individual who received title IV, HEA program [Direct Loan or Pell Grant](#) funds for enrolling in ~~the GE~~ **an undergraduate educational** program.

~~*Title IV loan.* A loan authorized under the Federal Perkins Loan Program (Perkins Loan), the Federal Family Education Loan Program (FFEL Loan), or the William D. Ford Direct Loan Program (Direct Loan).~~

~~*Two-year cohort period.* The cohort period covering two consecutive award years that are—~~

~~(1) The third and fourth award years prior to the award year for which the D/E rates are calculated pursuant to §668.404. For example, if D/E rates are calculated for award year 2014–2015, the two-year cohort period is award years 2010–2011 and 2011–2012; or~~

~~(2) For a program whose students are required to complete a medical or dental internship or residency, the sixth and seventh award years prior to the award year for which the D/E rates are calculated. For example, if D/E rates are calculated for award year 2014–2015, the two-year cohort period is award years 2007–2008 and 2008–2009. For this purpose, a required medical or dental internship or residency is a supervised training program that—~~

~~(i) Requires the student to hold a degree as a doctor of medicine or osteopathy, or as a doctor of dental science;~~

~~(ii) Leads to a degree or certificate awarded by an institution of higher education, a hospital, or a health care facility that offers post graduate training; and~~

~~(iii) Must be completed before the student may be licensed by a State and board certified for professional practice or service.~~

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