American Council on Education

Leadership and Advocacy

Summary of 2014 Gainful Employment Regulation Proposed by The U.S. Department of Education

Last week, the U.S. Department of Education (ED) released a draft of its proposed rule for gainful employment (GE) programs. GE programs are programs that are required "to lead to gainful employment in a recognized occupation" in order to be eligible for Title IV federal financial aid.

Most programs at for-profit institutions—both degree and non-degree—are GE programs. At public and nonprofit institutions, GE programs are generally limited to certificate and other non-degree credential programs. Under the proposed rule, GE programs with high debt-to-earnings ratios or high program-level cohort default rates would lose Title IV eligibility for three years.

The proposed rule sets out two separate GE metrics: (1) a debt-to-earnings metric, and (2) a program cohort default rate metric. These metrics operate independently of each other, which means GE programs must satisfy the requirements of both tests in order to maintain Title IV eligibility.

In general, under the debt-to-earning metric, students who complete a GE program would need to spend, on average, no more than 8 percent of their annual income, or 20 percent of their discretionary income, on their student loan payments. Under the program cohort default metric, no more than 30 percent of the students who enrolled or completed a particular GE program could default on their student loans. In addition, the proposed rule provides some protections for GE programs with a low percentage of student borrowers. For example, GE programs where less than 50 percent of students took out federal student loans would be able to appeal a negative determination under the debt-to-earning metric.

Under the proposed rule, GE programs would be obligated to meet necessary programmatic accreditation requirements as well as applicable state licensure standards for any state in the institution's regional area. Institutions would attest that their GE programs meet these requirements as part of the program participation agreement.

Finally, like the 2011 version of the GE rule, the 2014 proposed rule includes significant new disclosure requirements for GE programs, as well as a notice and approval process for the creation of new GE programs.

On the following page is a table providing additional details about how the GE metrics operate.

GE Metrics	**Debt-to-Earnings (DTE)**	**Program Cohort Default Rate**
Students covered	Completers	Completers and Non-completers
	Pass: • Annual DTE is 8% or less, or discretionary DTE is 20% Zone: A program is in the "zone" if it does not pass and: • Annual DTE is more than 8% but less than 12%; OR • Discretionary DTE is more than 20% but less than 30% Fail: • Annual DTE is greater than 12%; AND • Discretionary DTE is greater than 30%	Pass: • Program-level cohort default rate of less than 30% [no zone] Fail: • Program-level cohort default rate of 30% or higher
Multi-year test	A program becomes ineligible for T4 for 3 years if: • It fails in any 2 out of 3 year period; OR • It does not pass in 1 out of 4 years. (e.g., yr 1: fail; yr 2: zone; yr 3: zone; yr 4: zone)	A program becomes ineligible for T4 for 3 years if: • The 3-year default rate of 3 consecutive cohorts of students is greater than 30%
Additional restrictions	• Institutions must issue debt warnings to students if the program could become ineligible at the end of the year • T4 enrollment is limited to the previous year's level for failing (but not zone) programs	• Institutions must issue debt warnings to students if the program could become ineligible at the end of the year • T4 enrollment is limited to the previous year's level if the program could become ineligible at the end of the year.