



Regulatory Update:
Financial Value Transparency
&
Gainful Employment
Initial Review of Final Rules

AGENDA



- Review of Financial Value Transparency & Gainful Employment FACT SHEET
- Initial Summary & Analysis of Key Components of The Final Rule
- Beginning of the Student Loan Debt Relief Federal Negotiated Rulemaking
- Financial Responsibility, Administrative Capability, Certification Procedures, Ability to Benefit (ATB) Status Report
- Anticipated Timeline for Second Federal Negotiated Rulemaking in 2024

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United States Department of Education



Regulatory UPDATE



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Financial Value Transparency and Gainful Employment

by the Education Department scheduled for publication on 10/10/2023.

DEPARTMENT OF EDUCATION 34 CFR Parts 600 and 668 [Docket ID ED-2023-OPE-0089] RIN 1840-AD57 Financial Value Transparency and Gainful Employment
AGENCY: Office of

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Fact Sheet: Biden-Harris Administration Announces Landmark Regulations on Accountability, Transparency & Financial Value for Postsecondary Students

The Biden-Harris Administration is announcing final regulations on financial value, accountability, and transparency that will provide students with the most effective set of protections against programs that leave them with unaffordable debt or no improvement to their earnings. The rules include a revitalized and strengthened Gainful Employment (GE) rule, that will protect approximately 700,000 students a year from career training programs that leave graduates with unaffordable loan payments or earnings no better than what someone with a high school diploma (who never pursued a college credential) earns in their State. In addition, the rules contain a new Financial Value Transparency (FVT) framework that will give all students the most detailed information ever available about the cost of postsecondary programs, and the financial outcomes they can expect. It will also help prospective students understand the potential risk involved in their program choices by requiring them to acknowledge viewing this information before enrolling in certificate or graduate programs whose graduates have been determined to face unaffordable debt levels.

Gainful Employment

The GE program accountability framework will improve the options available to students planning to enroll in certificate programs at all institutions as well as degree programs at private for-profit colleges. Collectively, there are 32,000 such programs that enroll about 2.9 million students who receive title IV, HEA aid (e.g., Direct Loans or Pell grants) each year.¹ The GE programs represent about 20% of the more than 155,000 title IV eligible programs, and about 15% of approximately 19.3 million title IV, HEA supported students each year. They account for 45% of all title IV enrollment in programs with unaffordable debt or low earnings.

GE Accountability Metrics

Under the GE program accountability framework, the Department assesses whether career programs meet the statutory requirement of preparing students for gainful employment in a recognized occupation using two separate and independent metrics:

- A **debt-to-earnings rate** that compares the median annual payments on loan debt borrowed for the program to the median earnings of its Federally aided graduates. For program to pass, its graduates' debt payments must be no more than 8% of annual earnings or 20% of discretionary earnings, which is defined as annual earnings minus 150% of the Federal poverty guideline for a single individual (about \$21,870 in 2023).
- A new **earnings premium test** that measures whether the typical graduate from a program who received Federal aid is earning at least as much as a typical high school graduate in the labor force (i.e., either working or unemployed) in their State between



Financial Value Transparency & Gainful Employment

FACT SHEET

Final Rule FACT SHEET



BIDEN-HARRIS ADMINISTRATION ANNOUNCES LANDMARK REGULATIONS ON ACCOUTABILITY

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GAINFUL EMPLOYMENT

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GAINFUL EMPLOYMENT – GE ACCOUNTABILITY METRIC

Under the GE program accountability framework, the Department assesses whether career programs meet the statutory requirement of preparing students for gainful employment in a recognized occupation using two separate and independent metrics:

- A **debt-to-earnings rate** that compares the median annual payments on loan debt borrowed for the program to the median earnings of its Federally aided graduates. For a program to pass, its graduates' debt payments must be no more than 8% of annual earnings or 20% of discretionary earnings, which is defined as annual earnings minus 150% of the Federal poverty guideline for a single individual (about \$21,870 in 2023).
- A new **earnings premium test** that measures whether the typical graduate from a program who received Federal aid is earning at least as much as a typical high school graduate in the labor force (i.e., either working or unemployed) in their State between the ages of 25 and 34. This is equal to roughly \$25,000 nationally but varies across States.

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GAINFUL EMPLOYMENT – GE ACCOUNTABILITY METRIC: DEBT-TO-EARNINGS RATES

The debt-to-earnings rates (D/E) measure loan affordability: the share of borrowers' annual earnings that need to be devoted to making student loan payments. Past research has shown that when D/E rates exceed the thresholds described above, debt is unaffordable. The Department estimates that borrowers in programs with unaffordable debt are 25% more likely to default on their student loans compared to borrowers in programs with passing D/E rates.

The D/E rates also help identify programs where taxpayers are likely to bear the costs of Federal loans. Since borrowers can repay their loans as a fraction of their discretionary earnings for a fixed number of years under income driven repayment plans (IDR), when debt is high relative to earnings borrowers will be less likely to repay their full balances: borrowers in programs with failing D/E are predicted to repay less than half the share of their loans that borrowers in programs that pass D/E will repay under the new Saving on a Valuable Education (SAVE) IDR plan.

The D/E rates establish reasonable levels of earnings that a borrower must have to sustain a given debt level. The amount of debt at a given earnings level varies by credential level because of differences in the interest rates charged to undergraduate versus graduate borrowers and different periods used to calculate how long a borrower would take to pay down their loans.

Final Rule FACT SHEET



GAINFUL EMPLOYMENT – GE ACCOUNTABILITY METRIC: EARNINGS PREMIUM TEST

The earnings premium (EP) captures the extent to which postsecondary programs enhance a student's earnings potential relative to not pursuing a college credential at all. **The vast majority of students cite improved earnings or job prospects as among the most important reasons they choose whether and where to attend college, and the earnings premium measures whether programs are meeting that basic expectation.** In the GE framework, it provides added protection to students, including those who take on small amounts of loans but who have earnings so low that even low levels of debt payments are unaffordable. Among individuals with at least some college experience, rates of material hardship (e.g., experiencing food insecurity or being behind on bills) are more than double for individuals with annual income below that of the median high school graduate in their State compared to those with income above that threshold. Given that these necessities are unaffordable at such low earnings levels, it is not surprising that even small amounts of debt are also unaffordable. The default rates among students in programs that pass the debt-to-earnings ratio thresholds but fail the earnings premium are very high: across all GE programs, default rates are higher among programs that only fail the earnings premium test than programs that only fail the debt-to-earnings ratio.

Final Rule FACT SHEET



GAINFUL EMPLOYMENT – IMPACT

Programs that fail either metric in a single year will be required to provide warnings to current and prospective students that the programs could be at risk of ineligibility for the title IV, HEA Federal student aid programs in subsequent years. Programs that fail the same metric in two of three consecutive years will not be eligible to participate in Federal student aid programs.

The Department projects that about 1,700 programs that enroll nearly 700,000 students per year will fail at least one of the two metrics in a single year—about one-quarter of all enrollment in GE programs. These programs have a disproportionate share of their total enrollment in failing programs, accounting for nearly half of all enrollment in high-debt-burden or low-earning programs.

Final Rule FACT SHEET



GAINFUL EMPLOYMENT – IMPACT

Nearly 90% of students in failing GE programs attend for-profit institutions. Among certificate programs, where all programs offered by all institutions are covered by the rule, about 80% of the enrollment in failing programs is in the for-profit sector. About 55% of for-profit institutions have at least one program that does not meet one of these standards. While more than two-thirds of public and private nonprofit colleges offer at least one GE program, the Department estimates that 92% of public institutions and 97% of private, non-profit institutions have no high-debt-burden or low-earning GE programs.

Of the students attending failing programs:

- about 274,000 attend GE programs that have high debt burdens but typical earnings above those of high school graduates;
- about 306,000 attend GE programs that lead to low earnings but do not produce high debt burdens; and
- about 115,000 are in GE programs that result in high debt burdens and low earnings.

Final Rule FACT SHEET



GAINFUL EMPLOYMENT – IMPACT

Failing programs leave borrowers with poor financial outcomes. **For instance, the median annual earnings for graduates is less than \$15,000 at undergraduate certificate programs that fail the debt-to-earnings test. At least half of completers in failing undergraduate certificate programs have annual loan payments greater than (i.e., over 100% of) their discretionary earnings.** Graduate GE programs that fail the D/E rates, meanwhile, have typical earnings of \$42,000 compared to debt of over \$79,000.



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GAINFUL EMPLOYMENT – ADMINISTRATION’S PREDICTION

The Department projects that the rules will lead to program improvements that will benefit students and institutions. To improve the D/E rates of their programs, institutions can reduce prices and increase institutional aid offers to students, since loan debt for the debt-to-earnings rates calculations are capped at the net direct costs charged to a student.

Students do not need to settle for programs with sub-standard outcomes if their programs cannot improve. **The Department projects that the vast majority of students in failing GE programs have better options available to them at passing programs in a similar field nearby or, in some cases, even at the same institution. We estimate the typical student at a failing GE program has at least five other programs available in a similar field in the students’ local area.**

On average, these alternative options serve students better: their graduates have 43% higher earnings and 22% less debt. The Department also estimates that institutions with programs that have better outcomes, including Historically Black Colleges and Universities and community colleges, are likely to gain enrollment because of the rule, as they offer better performing programs that compete for students with institutions that will have more enrollment in failing programs.

Final Rule FACT SHEET



GAINFUL EMPLOYMENT – ADMINISTRATION’S CONCLUSION

The GE program accountability framework will help protect students from entering programs that do not prepare students for gainful employment, which will ultimately improve the odds their educational investments pay off. Evidence from prior research and an analysis included in the final rule show that, while underserved students enroll in failing programs at high rates, program and institution quality play a critical role in determining student outcomes, more so than student demographics. Steering these students towards better performing programs will advance equity and economic mobility by improving their financial outcomes.

The GE program accountability framework will go into effect on July 1, 2024, with the first official metrics published in early 2025. The first year that programs may become ineligible is 2026.

Final Rule FACT SHEET



FINANCIAL VALUE TRANSPARENCY

The Higher Education Act acknowledges there are differences across programs and colleges, and this means we have different tools available to promote these goals in different contexts. The final rule therefore creates a Financial Value Transparency (FVT) Framework that will provide information to all students in all programs on the typical earnings outcomes, borrowing amounts, cost of attendance, and sources of financial aid to help students make more informed choices.

In advancing this FVT framework, the Department is not dismissing the myriad (of) non-financial benefits generated by a postsecondary education, including better health, job satisfaction, overall happiness, increased civic participation, and innumerable intangible benefits that elude quantification. For many students, financial considerations would, appropriately, be just one of many factors used in deciding whether and where to enroll. However, with college tuition at historically high levels and the growing need for student loans to finance these costs, it is critical for students, families, and taxpayers alike to have accurate and transparent information about the possible financial consequences of their postsecondary program options when choosing where to enroll.

Final Rule FACT SHEET



FINANCIAL VALUE TRANSPARENCY

The Department will help students be better informed by hosting a new program information website that provides standardized information about program costs (including tuition and fees, books, and supplies), non-Federal grant aid, loan burden (including both private and Federal loans), earnings of completers, and applicable occupational and licensing requirements. This website will give students and families a personalized estimate of what they'll pay out-of-pocket to earn credentials in specific postsecondary programs, along with key information on the debt and earnings outcomes of program graduates.

Past research has underscored the importance of ensuring information is proactively delivered to borrowers at salient moments in their decision-making. In situations where students may face higher risks of poor financial outcomes, the FVT provides added protections for prospective students. **The framework requires that such students acknowledge having seen the financial information on the website, including a plain language description of the fact that the program leaves its graduates with high debt burdens, before the student can enroll in the program. These requirements will apply to prospective students at certificate and graduate degree programs. The Department chose to exclude undergraduate degree programs from this provision in the final rule to better target the acknowledgment requirements to programs to which students tend to directly apply. In addition, our empirical analysis shows that high-debt-burden programs are relatively rare among undergraduate degree programs outside the proprietary sector.**

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FINANCIAL VALUE TRANSPARENCY

Some commenters on the rule expressed concern that programs that produce important societal benefits, but may lead to less remunerative careers, might be negatively affected by being disproportionately labeled high-debt-burden or low-earning. It is rarely the case, however, that such programs fail to meet the minimum standards outlined in the rule. For example, education training programs are less likely to fail the D/E rates or EP measure than other programs. Indeed, data from the National Education Association's Teacher Salary Benchmark Report indicate that even States with the lowest salaries have average starting salaries at least \$5,000 higher than the State's EP threshold. Similarly, healthcare professions fail at low rates—about 8.2% and 2.0% of GE and non-GE programs did not pass the D/E rates or the EP measure. Finally, arts programs do fail at a slightly higher rate than the average program, but the overall failure rate is low and the difference is small (3.7% vs. 1.2% for non-GE programs, with a smaller difference among GE programs (5.5% vs. 5.3%)).

The reporting requirements for these transparency provisions will start July 1, 2024, but the new website will be built and launched afterwards with the first acknowledgment requirements starting in 2026.



FINAL RULE



DEFINITIONS

§ 668.2 General Definitions

Gainful employment program (GE program)

An educational program offered by an institution under § 668.8(c)(3) or (d) and identified by a combination of the institution's six-digit 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.

Eligible non-GE Program

An educational program other than a gainful employment (GE) program offered by an institution and included in the institution's participation in the title IV, HEA programs, 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. Includes all coursework associated with the program's credential level.



FINAL RULE



DEFINITIONS

§ 668.2 General Definitions

Earning Threshold

Based on data from the Census Bureau, the median earnings for working adults aged 25-34, who either worked during the year or indicated they were unemployed (i.e., not employed but looking for and available to work) when interviewed, with only a high school diploma (or recognized equivalent)—

- 1) In the State in which the institution is located; or
- 2) Nationally, if fewer than 50 percent of the students in the program are from the State where the institution is located, or if the institution is a foreign institution.

Earning Premium

The amount by which the median annual earnings of students who recently completed a program exceed the earnings threshold, as calculated under § 668.404. If the median annual earnings of recent completers is equal to the earnings threshold, the earnings premium is zero. If the median annual earnings of recent completers is less than the earnings threshold, the earnings premium is negative.



FINAL RULE



DEFINITIONS

§ 668.2 General Definitions

Cohort Period

The set of award years used to identify a cohort of students who completed a program and whose debt and earnings outcomes are used to calculate debt-to-earnings rates and the earnings premium measure under subpart Q of this part. **The Secretary uses a 2-year cohort period to calculate the debt-to-earnings rates and earnings premium measure for a program when the number of students (after exclusions identified in §§ 668.403(e) and 668.404(c)) in the 2-year cohort period is 30 or more.** The Secretary uses a 4-year cohort period to calculate the debt-to-earnings rates and earnings premium measure when the number of students completing the program in the two-year cohort period is fewer than 30 and when the number of students completing the program in the 4-year cohort period is 30 or more.



FINAL RULE



DEFINITIONS

§ 668.2 General Definitions

Cohort Period

The cohort period covers consecutive award years that are—

- 1) For the 2-year cohort period—
 - i. The third and fourth award years prior to the year for which the most recent data are available from the Federal agency with earnings data at the time the D/E rates and earnings premium measure are calculated, pursuant to §§668.403 and 668.404; or
 - ii. For a qualifying graduate program, the sixth and seventh award years prior to the year for which the most recent data are available from the Federal agency with earnings data at the time the D/E rates and earnings premium



FINAL RULE



DEFINITIONS

§ 668.2 General Definitions

Cohort Period

The cohort period covers consecutive award years that are—

- 2) For the four-year cohort period—
 - i. The third, fourth, fifth, and sixth award years prior to the year for which the most recent data are available from the Federal agency with earnings data at the time the D/E rates and earnings premium measure are calculated, pursuant to §§ 668.403 and 668.404; or
 - ii. For a qualifying graduate program, the sixth, seventh, eighth, and ninth award years prior to the year for which the most recent earnings data are available from the Federal agency with earnings data at the time the D/E rates and earnings premium measure are calculated.



FINAL RULE



DEFINITIONS

§ 668.2 General Definitions

Substantially Similar Program

For the purposes of subpart Q and S of this part, a program is substantially similar to another program if the two programs share the same four-digit CIP code. The Secretary presumes a program is not substantially similar to another program if the two programs have different four-digit CIP codes, but the institution must provide an explanation of how the new program is not substantially similar to the ineligible or voluntarily discontinued program with its certification under § 668.604.

Federal Agency with Earnings Data

A Federal agency with which the Department enters into an agreement to access earnings data for the D/E rates and earnings threshold measure. The agency must have individual earnings data sufficient to match with title IV, HEA recipients who completed any eligible program during the cohort period and may include agencies such as the Treasury Department (including the Internal Revenue Service), the Social Security Administration (SSA), the Department of Health and Human Services (HHS), and the Census Bureau.



FINAL RULE



PROGRAM INFORMATION WEBSITE

§ 668.43 Institutional and Programmatic Information

Beginning on July 1, 2026, the Secretary will establish and maintain a website with information about institutions and their educational programs. For this purpose, an institution must provide to the Department such information about the institution and its programs as the Secretary prescribes through a notice published in the Federal Register. The Secretary may conduct consumer testing to inform the design of the website.

FINAL RULE



PROGRAM INFORMATION WEBSITE

§ 668.43 Institutional and Programmatic Information

The website must include, but is not limited to, the following items, to the extent reasonably available:

- A. The published length of the program in calendar time (i.e., weeks, months, years).
- B. The total number of individuals enrolled in the program during the most recently completed award year.
- C. The total cost of tuition and fees, and the total cost of books, supplies, and equipment, that a student would incur for completing the program within the published length of the program.
- D. Of the individuals enrolled in the program during the most recently completed award year, the percentage who received a Direct Loan Program loan, a private loan, or both for enrollment in the program.
- E. As calculated by the Secretary, the median loan debt of students who completed the program during the most recently completed award year or for all students who completed or withdrew from the program during that award year.
- F. As provided by the Secretary, the median earnings of students who completed the program or of all students who completed or withdrew from the program, during a period determined by the Secretary.
- G. Whether the program is programmatically accredited and the name of the accrediting agency, as reported to the Secretary.
- H. As calculated by the Secretary, the program's debt-to-earnings rates.
- I. As calculated by the Secretary, the program's earnings premium measure.

FINAL RULE



PROGRAM INFORMATION WEBSITE

§ 668.43 Institutional and Programmatic Information

The website may also include other information ***deemed appropriate by the Secretary***, such as the following items:

- A. The primary occupations (by name, SOC code, or both) that the program prepares students to enter, along with links to occupational profiles on O*NET (www.onetonline.org) or its successor site.
- B. As reported to or calculated by the Secretary, the program or institution's completion rates and withdrawal rates for full-time and less-than-full-time students.
- C. As calculated by the Secretary, the medians of the total cost of tuition and fees, and the total cost of books, supplies, and equipment, and the total net cost of attendance paid by students completing the program.
- D. As calculated by the Secretary, the loan repayment rate for students or graduates who entered repayment on Direct Loan Program loans during a period determined by the Secretary.
- E. Whether students who graduate from a program are required to complete postgraduation training program to obtain licensure before eligible for independent practice.



FINAL RULE



PROGRAM INFORMATION WEBSITE

§ 668.43 Institutional and Programmatic Information

Program Webpages

The institution must provide a prominent link to, and any other needed information to access, the website maintained by the Secretary on any webpage containing academic, cost, financial aid, or admissions information about the program or institution. The Secretary may require the institution to modify a webpage if the information is not sufficiently prominent, readily accessible, clear, conspicuous, or direct.

Distribution to Prospective Students

The institution must provide the relevant information to access the website maintained by the Secretary to any prospective student, or a third party acting on behalf of the prospective student, before the prospective student signs an enrollment agreement, completes registration, or makes a financial commitment to the institution.

Distribution to Enrolled Students

The institution must provide the relevant information to access the website maintained by the Secretary to any enrolled title IV, HEA recipient prior to the start date of the first payment period associated with each subsequent award year in which the student continues enrollment at the institution.



FINAL RULE



SUBPART Q – FINANCIAL VALUE TRANSPARENCY

§ 668.401 Financial Value Transparency Scope and Purpose

(a) General. Except as provided under paragraph (b) of this section, this subpart applies to a GE program or eligible non-GE program offered by an eligible institution, and establishes the rules and procedures under which—

- (1) An institution reports information about the program to the Secretary; and
- (2) Except as provided in paragraph (b)(1) of this section, the Secretary assesses the program's debt and earnings outcomes.

(b) Applicability.

(1) This subpart does not apply to institutions located in U.S. Territories or freely associated states, except that such institutions are subject to the reporting requirements in § 668.408 and the Secretary will follow the procedures in §§ 668.403(b) and (d) and 668.405(b) and (c) to calculate median debt and obtain earnings information for their GE programs and eligible non-GE programs.

(2) For each award year that the Secretary calculates D/E rates or the earnings premium measure under § 668.402, this subpart does not apply to an institution if, over the most recently completed four award years, it offered no groups of substantially similar programs, defined as all programs in the same **four-digit CIP** code at an institution, with 30 or more completers.



FINAL RULE



SUBPART Q – FINANCIAL VALUE TRANSPARENCY

§ 668.402 Financial Value Transparency Framework

(a) General.

The Secretary assesses the program's debt and earnings outcomes using debt-to-earnings rates (D/E rates) and an earnings premium measure.

(b) Debt-to-earnings rates.

The Secretary calculates for each award year two D/E rates for an eligible program, the discretionary debt-to-earnings rate, and the annual debt-to-earnings rate, using the procedures in §§ 668.403 and 668.405.

(c) Outcomes of the D/E rates.

(1) A program passes the D/E rates if—

- i. Its discretionary debt-to-earnings rate is less than or equal to 20 percent;
- ii. Its annual debt-to-earnings rate is less than or equal to 8 percent; **or**
- iii. **The denominator (median annual or discretionary earnings) of either rate is zero and the numerator (median debt payments) is zero.**

FINAL RULE



SUBPART Q – FINANCIAL VALUE TRANSPARENCY

§ 668.405 Process for Obtaining Data and Calculating D/E Rates and Earnings Premium Measure

Process Overview

The Secretary uses the administrative data to—

- 1) Compile a list of students who completed each program during the cohort period. The Secretary—
 - i. Removes from those lists students who are excluded under § 668.403(e) or § 668.404(c);
 - ii. Provides the list to institutions; and
 - iii. Allows the institution to correct the information reported by the institution on which the list was based, no later than 60 days after the date the Secretary provides the list to the institution;
- 2) Obtain from a Federal agency with earnings data the median annual earnings of the students on each list, as provided in paragraph (c) of this section; and
- 3) Calculate the D/E rates and the earnings premium measure and provide them to the institution.



FINAL RULE



SUBPART Q – FINANCIAL VALUE TRANSPARENCY

§ 668.405 Process for Obtaining Data and Calculating D/E Rates and Earnings Premium Measure

Obtaining Earnings Data

For each list submitted to the Federal agency with earnings data, the agency returns to the Secretary—

- 1) The median annual earnings of the students on the list whom the Federal agency with earnings data has matched to earnings data, in aggregate and not in individual form; and
- 2) The number, but not the identities, of students on the list that the Federal agency with earnings data could not match.



FINAL RULE



SUBPART Q – FINANCIAL VALUE TRANSPARENCY

§ 668.405 Process for Obtaining Data and Calculating D/E Rates and Earnings Premium Measure

Calculating D/E Rates and Earnings Premium Measure

- 1) If the Federal agency with earnings data includes reports from records of earnings on at least 30 students, the Secretary uses the median annual earnings provided by the Federal agency with earnings data to calculate the D/E rates and earnings premium measure for each program.
- 2) If the Federal agency with earnings data reports that it was unable to match one or more of the students on the final list, the Secretary does not include in the calculation of the median loan debt for D/E rates the same number of students with the highest loan debts as the number of students whose earnings the Federal agency with earnings data did not match.

For example, if the Federal agency with earnings data is unable to match three students out of 100 students, the Secretary orders by amount the debts of the 100 listed students and excludes from the D/E rates calculation the three largest loan debts



FINAL RULE



SUBPART Q – FINANCIAL VALUE TRANSPARENCY

§ 668.406 Determination of the D/E Rates and Earnings Premium Measure

For each award year for which the Secretary calculates D/E rates and the earnings premium measure for a program, the Secretary issues a notice of determination.

The notice of determination informs the institution of the following:

- 1) The D/E rates for each program as determined under § 668.403.
- 2) The earnings premium measure for each program as determined under § 668.404.
- 3) The determination by the Secretary of whether each program is passing or failing, as described in § 668.402, and the consequences of that determination.
- 4) Whether the student acknowledgment is required under § 668.407.
- 5) For GE programs, whether the institution is required to provide the student warning under § 668.605.
- 6) For GE programs, whether the program could become ineligible under subpart S of this part based on its final D/E rates or earnings premium measure for the next award year for which D/E rates or the earnings premium measure are calculated for the program.



FINAL RULE



SUBPART Q – FINANCIAL VALUE TRANSPARENCY

§ 668.407 Student Acknowledgments

(a) Beginning on July 1, 2026, if an eligible program, **other than an undergraduate degree program**, has failing D/E rates, the Secretary notifies the institution under § 668.406(b)(4) that student acknowledgments are required for such program in the manner specified in this section.

(b)(1) If student acknowledgements are required, prospective students must acknowledge that they have viewed the information provided through the program information website established and maintained by the Secretary described in § 668.43(d).

(2) The Department will administer and collect the acknowledgment from students through the program information website.

(3) Prospective students must provide such acknowledgments until:

- i. The Secretary notifies the institution pursuant to § 668.406 that the program has passing D/E rates; or
- ii. Three years after the institution was last notified that the program had failing D/E rates, whichever is earlier.



FINAL RULE



SUBPART Q – FINANCIAL VALUE TRANSPARENCY

§ 668.407 Student Acknowledgments

- (c)(1) A prospective student must provide the acknowledgment before the institution enters into an agreement to enroll the student.
- (2) The Secretary monitors the institution's compliance with the requirements in paragraph (c)(1) of this section through audits, program reviews, or other investigations.
- (d) The acknowledgment required in paragraph (c)(1) of this section does not mitigate the institution's responsibility to provide accurate information to students concerning program status, nor will it be considered as dispositive evidence against a student's claim if applying for a loan discharge.



FINAL RULE



SUBPART Q – FINANCIAL VALUE TRANSPARENCY

§ 668.408 Reporting Requirements

Data Elements

In accordance with procedures established by the Secretary, an institution offering any group of substantially similar programs, defined as all programs in the same four-digit CIP code at an institution, with 30 or more completers in total over the four most recent award years must report to the Department—

- (1) For each GE program and eligible non-GE program, for its most recently completed award year—
 - i. The name, CIP code, credential level, and length of the program;
 - ii. Whether the program is programmatically accredited and, if so, the name of the accrediting agency;
 - iii. Whether the program meets licensure requirements or prepares students to sit for a licensure examination in a particular occupation for each State in the institution's metropolitan statistical area;
 - iv. The total number of students enrolled in the program during the most recently completed award year, including both recipients and non-recipients of title IV, HEA funds; and
 - v. Whether the program is a qualifying graduate program whose students are required to complete postgraduate training programs, as described in the definition under § 668.2.



FINAL RULE



SUBPART Q – FINANCIAL VALUE TRANSPARENCY

§ 668.408 Reporting Requirements

Data Elements

2) For each student—

- i. Information needed to identify the student and the institution;
- ii. The date the student initially enrolled in the program;
- iii. The student's attendance dates and attendance status (e.g., enrolled, withdrawn, or completed) in the program during the award year;
- iv. The student's enrollment status (e.g., full time, three-quarter time, half time, less than half time) as of the first day of the student's enrollment in the program;
- v. The student's total annual cost of attendance (COA);
- vi. The total tuition and fees assessed to the student for the award year;
- vii. The student's residency tuition status by State or district;
- viii. The student's total annual allowance for books, supplies, and equipment from their COA under HEA section 472;
- ix. The student's total annual allowance for housing and food from their COA under HEA section 472;
- x. The amount of institutional grants and scholarships disbursed to the student;
- xi. The amount of other State, Tribal, or private grants disbursed to the student; and
- xii. The amount of any private education loans disbursed to the student for enrollment in the program that the institution is, or should reasonably be, aware of, including private education loans made by the institution;



FINAL RULE



SUBPART Q – FINANCIAL VALUE TRANSPARENCY

§ 668.408 Reporting Requirements

Data Elements

- (3) If the student completed or withdrew from the program during the award year—
- i. The date the student completed or withdrew from the program;
 - ii. The total amount the student received from private education loans, as described in § 668.403(d)(1)(ii), for enrollment in the program that the institution is, or should reasonably be, aware of;
 - iii. The total amount of institutional debt, as described in § 668.403(d)(1)(iii), the student owes any party after completing or withdrawing from the program;
 - iv. The total amount of tuition and fees assessed the student for the student's entire enrollment in the program;
 - v. The total amount of the allowances for books, supplies, and equipment included in the student's title IV, HEA COA for each award year in which the student was enrolled in the program, or a higher amount if assessed the student by the institution for such expenses; and
 - vi. The total amount of institutional grants and scholarships provided for the student's entire enrollment in the program; and



FINAL RULE



SUBPART Q – FINANCIAL VALUE TRANSPARENCY

§ 668.408 Reporting Requirements

Initial and Annual Reporting

(1) Except as provided under paragraph (c) of this section, an institution must report the information required under paragraph (a) of this section no later than—

- (i) For programs other than qualifying graduate programs, July 31, following July 1, 2024, for the second through seventh award years prior to July 1, 2024;
- (ii) For qualifying graduate programs, July 31, following July 1, 2024, for the second through eighth award years prior to July 1, 2024; and
- (iii) For subsequent award years, October 1, following the end of the award year, unless the Secretary establishes different dates in a notice published in the Federal Register.

(2) For any award year, if an institution fails to provide all or some of the information required under paragraph (a) of this section, the institution must provide to the Secretary an explanation, acceptable to the Secretary, of why the institution failed to comply with any of the reporting requirements.



FINAL RULE



SUBPART Q – FINANCIAL VALUE TRANSPARENCY

§ 668.408 Reporting Requirements

Transitional Reporting Period and Metrics

- 1) For the first six years for which D/E rates and the earnings premium are calculated under this part, institutions may opt to report the information required under paragraph (a) of this section for its eligible programs either—
 - i. For the time periods described in paragraphs (b)(1)(i) and (ii) of this section; or
 - ii. For only the two most recently completed award years.

- 2) If an institution provides transitional reporting under paragraph (c)(1)(ii) of this section, the Department will calculate transitional D/E rates and earnings premium measures using the median debt for the period reported and the earnings for six years.



FINAL RULE



SUBPART S – GAINFUL EMPLOYMENT

§ 668.601 Gainful Employment (GE) Scope and Purpose

(a) General

Except as provided under paragraph (b) of this section, this subpart applies to an educational program offered by an eligible institution that prepares students for gainful employment in a recognized occupation and establishes rules and procedures under which the Secretary determines that the program is eligible for title IV, HEA program funds.

(b) Applicability

- (1) This subpart does not apply to programs offered by institutions located in U.S. Territories or freely associated states.
- (2) For each award year that the Secretary calculates D/E rates or the earnings premium measure under § 668.402, this subpart does not apply to an institution if, over the most recently completed four award years, it offered no groups of substantially similar programs, defined as all programs in the same four-digit CIP code at an institution, with 30 or more completers in total.



FINAL RULE



SUBPART S – GAINFUL EMPLOYMENT

§ 668.602 Gainful Employment Criteria

A GE program provides training that prepares students for gainful employment in a recognized occupation if the program—

- 1) Satisfies the applicable certification requirements in § 668.604;
- 2) Is not a failing program under the D/E rates measure in § 668.402 in two out of any three consecutive award years for which the program's D/E rates are calculated; and
- 3) Is not a failing program under the earnings premium measure in § 668.402 in two out of any three consecutive award years for which the program's earnings premium measure is calculated.



FINAL RULE



SUBPART S – GAINFUL EMPLOYMENT

§ 668.603 Ineligible GE Programs

(a) Ineligible Programs

If a GE program is a failing program under the D/E rates measure in § 668.402 in two out of any three consecutive award years for which the program's D/E rates are calculated, or the earnings premium measure in § 668.402 in two out of any three consecutive award years for which the program's earnings premium measure is calculated, the program is ineligible and its participation in the title IV, HEA programs ends upon the earliest of—

- 1) The issuance of a new Eligibility and Certification Approval Report that does not include that program;
- 2) The completion of a termination action of program eligibility, if an action is initiated under subpart G of this part;
or
- 3) A revocation of program eligibility if the institution is provisionally certified.



FINAL RULE



SUBPART S – GAINFUL EMPLOYMENT

§ 668.603 Ineligible GE Programs

(b) Basis For Appeal

If the Secretary initiates an action under paragraph (a)(2) of this section, the institution may initiate an appeal under subpart G of this part if it believes the Secretary **erred in the calculation** of the program's D/E rates under § 668.403 or the earnings premium measure under § 668.404. Institutions may not dispute a program's ineligibility based upon its D/E rates or the earnings premium measure except as described in this paragraph (b).



FINAL RULE



SUBPART S – GAINFUL EMPLOYMENT

§ 668.603 Ineligible GE Programs

(c) Restrictions

1) Ineligible program

Except as provided in § 668.26(d), an institution may not disburse title IV, HEA program funds to students enrolled in an ineligible program.

2) Period of Ineligibility

An institution may not seek to reestablish the eligibility of a failing GE program that it discontinued voluntarily either before or after D/E rates or the earnings premium measure are issued for that program, or reestablish the eligibility of a program that is ineligible under the D/E rates or the earnings premium measure, until three years following the earlier of the date the program loses eligibility under paragraph (a) of this section or the date the institution voluntarily discontinued the failing program.

3) Restoring Eligibility

An ineligible program, or a failing program that an institution voluntarily discontinues, remains ineligible until the institution establishes the eligibility of that program under § 668.604(c).

FINAL RULE



SUBPART S – GAINFUL EMPLOYMENT

§ 668.604 Certification Requirements for GE Programs

(a) Transitional certification for existing programs.

(1) Except as provided in paragraph (a)(2) of this section, an institution must provide to the Secretary no later than December 31, 2024, in accordance with procedures established by the Secretary, a certification signed by its most senior executive officer that each of its currently eligible GE programs included on its Eligibility and Certification Approval Report meets the requirements of paragraph (d) of this section. The Secretary accepts the certification as an addendum to the institution's program participation agreement with the Secretary under § 668.14.

(2) If an institution makes the certification in its program participation agreement pursuant to paragraph (b) of this section between July 1 and December 31, 2024, it is not required to provide the transitional certification under this paragraph (a).



FINAL RULE



SUBPART S – GAINFUL EMPLOYMENT

§ 668.604 Certification Requirements for GE Programs

(b) Program Participation Agreement Certification

As a condition of its continued participation in the title IV, HEA programs, an institution must certify in its program participation agreement with the Secretary under § 668.14 that each of its currently eligible GE programs included on its Eligibility and Certification Approval Report meets the requirements of paragraph (d) of this section. As provided under 34 CFR 600.21(a)(11)(vi), an institution must update the certification within 10 days if there are any changes in the approvals for a program, or other changes for a program that render an existing certification no longer accurate.

FINAL RULE



SUBPART S – GAINFUL EMPLOYMENT

§ 668.604 Certification Requirements for GE Programs

(c) Establishing Eligibility and Disbursing Funds

(1) An institution establishes a GE program's eligibility for title IV, HEA program funds by updating the list of the institution's eligible programs maintained by the Department to include that program, as provided under 34 CFR 600.21(a)(11)(i). By updating the list of the institution's eligible programs, the institution affirms that the program satisfies the certification requirements in paragraph (d) of this section. Except as provided in paragraph (c)(2) of this section, after the institution updates its list of eligible programs, the institution may disburse title IV, HEA program funds to students enrolled in that program.

(2) An institution may not update its list of eligible programs to include a GE program, or a GE program that is substantially similar to a failing program that the institution voluntarily discontinued or became ineligible as described in § 668.603(c), that was subject to the three year loss of eligibility under § 668.603(c), until that three-year period expires.



FINAL RULE



SUBPART S – GAINFUL EMPLOYMENT

§ 668.604 Certification Requirements for GE Programs

(d) GE Program Eligibility Certifications

An institution certifies for each eligible GE program included on its Eligibility and Certification Approval Report, at the time and in the form specified in this section, that such program is approved by a recognized accrediting agency or is otherwise included in the institution's accreditation by its recognized accrediting agency, or, if the institution is a public postsecondary vocational institution, the program is approved by a recognized State agency for the approval of public postsecondary vocational education in lieu of accreditation.



FINAL RULE



SUBPART S – GAINFUL EMPLOYMENT

§ 668.605 Student Warnings

(a) Events Requiring a Warning to Students and Prospective Students

Beginning on July 1, 2026, the institution must provide a warning with respect to a GE program to students and prospective students for any year for which the Secretary notifies an institution that the GE program could become ineligible under this subpart based on its final D/E rates or earnings premium measure for the next award year for which D/E rates or the earnings premium measure are calculated for the GE program.

(b) Subsequent Warning

If a student or prospective student receives a warning under paragraph (a) of this section with respect to a GE program, but does not seek to enroll until more than 12 months after receiving the warning, the institution must again provide the warning to the student or prospective student, unless, since providing the initial warning, the program has passed both the D/E rates and earnings premium measures for the two most recent consecutive award years in which the metrics were calculated for the program.

FINAL RULE



SUBPART S – GAINFUL EMPLOYMENT

§ 668.605 Student Warnings

(c) Content of Warning

The institution must provide in the warning—

- (1) A warning, as specified by the Secretary in a notice published in the Federal Register, that—
 - i. The program has not passed standards established by the U.S. Department of Education based on the amounts students borrow for enrollment in the program and their reported earnings, as applicable; and
 - ii. The program could lose access to Federal grants and loans based on the next calculated program metrics;
- (2) The relevant information to access the program information website maintained by the Secretary described in § 668.43(d);
- (3) A statement that the student must acknowledge having viewed the warning through the program information website before the institution may disburse any title IV, HEA funds to the student;



FINAL RULE



SUBPART S – GAINFUL EMPLOYMENT

§ 668.605 Student Warnings

(c) Content of Warning

The institution must provide in the warning—

(4) A description of the academic and financial options available to students to continue their education in another program at the institution, including whether the students could transfer credits earned in the program to another program at the institution and which course credits would transfer, in the event that the program loses eligibility for title IV, HEA program funds;

(5) An indication of whether, in the event that the program loses eligibility for title IV, HEA program funds, the institution will—

- i. Continue to provide instruction in the program to allow students to complete the program; and
- ii. Refund the tuition, fees, and other required charges paid to the institution by, or on behalf of, students for enrollment in the program; and

(6) An explanation of whether, if the program loses eligibility for title IV, HEA program funds, the students could transfer credits earned in the program to another institution in accordance with an established articulation agreement or teach-out plan or agreement.



FINAL RULE



SUBPART S – GAINFUL EMPLOYMENT

§ 668.605 Student Warnings

(d) Alternative Languages

In addition to providing the English-language warning, the institution must also provide translations of the English-language student warning for those students and prospective students who have limited proficiency in English.

(e) Delivery to Enrolled Students

An institution must provide the warning required under this section in writing, by hand delivery, mail, or electronic means, to each student enrolled in the program no later than 30 days after the date of the Secretary's notice of determination under § 668.406 and maintain documentation of its efforts to provide that warning. The warning must be the only substantive content contained in these written communications.

FINAL RULE



SUBPART S – GAINFUL EMPLOYMENT

§ 668.605 Student Warnings

(f) Delivery to Prospective Students

(1) An institution must provide the warning as required under this section to each prospective student or to each third party acting on behalf of the prospective student at the first contact about the program between the institution and the student or the third party acting on behalf of the student by—

- i. Hand-delivering the warning as a separate document to the prospective student or third party, individually or as part of a group presentation;
- ii. Sending the warning to the primary email address used by the institution for communicating with the prospective student or third party about the program, provided that the warning is the only substantive content in the email and that the warning is sent by a different method of delivery if the institution receives a response that the email could not be delivered; or
- iii. Providing the warning orally to the student or third party if the contact is by telephone.

(2) An institution may not enroll, register, or enter into a financial commitment with the prospective student with respect to the program earlier than three business days after the institution delivers the warning as described in this paragraph (f).



FINAL RULE



SUBPART S – GAINFUL EMPLOYMENT

§ 668.605 Student Warnings

Acknowledgment Prior to Enrollment and Disbursement

An institution may not allow a prospective student seeking title IV, HEA assistance to sign an enrollment agreement, complete registration, or make a financial commitment to the institution, or disburse title IV, HEA funds to the student until the student or prospective student completes the acknowledgment described in paragraph (c)(3) of this section.

Discharge Claims

The provision of a student warning or the acknowledgment described in paragraph (c)(3) of this section does not mitigate the institution's responsibility to provide accurate information to students concerning program status, nor will it be considered as dispositive evidence against a student's claim if applying for a loan discharge.

THIS JUST IN



U.S. DEPARTMENT OF EDUCATION

September 29, 2023

Contact: Press Office

(202) 401-1576 or press@ed.gov

**Biden-Harris Administration Moves Forward with Student Debt Relief
Negotiated Rulemaking to Deliver Support to as Many Borrowers as Possible as
Quickly as Possible**



UNITED STATES DEPARTMENT OF EDUCATION
Washington, DC 20202

Issue Paper: Student Loan Debt Relief
Session 1: October 10 and 11, 2023

Issue: Legal powers and responsibilities for Federal student loan debt

Statutory citations: 5432(a) of the Higher Education Act of 1965, as amended (HEA)

Regulatory citations: 34 CFR 30.1(c)(6); 34 CFR Part 30; 34 CFR Parts 682 and 685

Summary of issues: Section 432(a) of the HEA outlines the legal powers and responsibilities of the Secretary of Education. In particular, Section 432(a)(6) provides that, “in the performance of, and with respect to, the functions, powers and duties, vested in him by this part, the Secretary may enforce, pay, compromise, waive, or release any right, title, claim, lien, or demand, however acquired, including any equity or any right of redemption.” These provisions apply to Federal Family Education Loans (FFEL) and Direct Loans through Sec. 455(a)(1), which states that Direct loans have parallel terms and conditions to FFEL loans.

In 2016, the Department modified 34 CFR 30.70(e)(1) and (e)(2) to further provide that, under the provisions of 31 CFR part 902 or 903, the Secretary may compromise a debt, or suspend or terminate collection of a debt, if the debt arises under the Federal Family Education Loan Program, the William D. Ford Federal Direct Loan Program, or the Perkins Loan Program. The Secretary refers a proposed compromise, or suspension or termination of collection, of a debt that exceeds \$1,000,000 to the Department of Justice for review.

The Federal Claims Collection Standards (FCCS) are regulations jointly prescribed by the Departments of Justice and Treasury. These regulations, in 31 CFR parts 902 and 903, provide more specific bases for compromise and termination of collection of a debt. Under §902.2(a), an agency may compromise a debt if the government cannot collect the full amount of the debt because:

- The debtor is unable to pay the full amount in a reasonable time, based on financial information;



Student Loan Debt Relief

Federal Negotiated Rulemaking

Student Loan Debt Issue Paper



QUESTIONS FOR THE COMMITTEE

1. Many borrowers have seen their balances grow due to the accrual of unpaid interest such that many borrowers now have overall balances higher than what they originally borrowed. Are there ways to help borrowers who are in this situation that could put them on a better path for successful repayment?
2. How could the Department better assist borrowers who are eligible for forgiveness under programs such as income-driven repayment but who do not apply for those programs?
3. How should the Department consider debts taken out by students to attend programs when we later find that such programs did not provide a minimum level of financial value sufficient to make loans affordable for many or most borrowers?



QUESTIONS FOR THE COMMITTEE

4. Congress and the Department have provided borrowers with many additional benefits for their student loans over time. There are many borrowers, however, who borrowed or entered repayment before the creation of those various benefits. Since those benefits were not available when those borrowers took out their loans, those borrowers may have struggled to repay their loans in ways that those taking on debts today may not. How should the Department treat loans that first entered repayment many years ago, including well prior to the creation of additional benefits? How should the Department apply the FCCS compromise principle to loans that the borrower is unable to repay in a reasonable amount of time?
5. Borrowers who experience hardship with respect to their student loans may have certain ways to reduce or delay loan payments or seek forgiveness on their loans. Yet borrowers may continue to experience hardship in ways that the current student loan system does not adequately address. What are potential types of hardship that borrowers may continue to face and how might the Department address those cases of hardship?





TIMELINE

Session 1: October 10–11, 2023

Session 2: November 6–7, 2023

Session 3: December 11–12, 2023

Session times will be from 10 a.m. to 12 p.m. and 1 to 4 p.m., with a public comment period from approximately 3:30 to 4 p.m., Eastern time.

All sessions will be conducted virtually and available for the public to view. Individuals who wish to observe the committee meetings will be required to register for each session they would like to observe.





Federal Student Aid
AN OFFICE OF THE U.S. DEPARTMENT OF EDUCATION

NEGOTIATED RULEMAKING UPDATES



FEDERAL REGISTER

The Daily Journal of the United States Government



PR Proposed Rule

Financial Value Transparency and Gainful Employment (GE), Financial Responsibility, Administrative Capability, Certification Procedures, Ability to Benefit (ATB)

A Proposed Rule by the [Education Department](#) on 05/19/2023



This document has a comment period that ends in 29 days. (06/20/2023)

SUBMIT A FORMAL COMMENT

3 comments received. [View posted comments](#)

PUBLISHED DOCUMENT



Start Printed Page 32300

AGENCY:

Office of Postsecondary Education, Department of Education.

DOCUMENT DETAILS

Printed version:
[PDF](#)

Publication Date:
05/19/2023



2021-2022 Federal Negotiated Rulemaking: Notice of Proposed Rulemaking



Master
Calendar
Deadline

November 1st



27
DAYS
AWAY



The image features a central rectangular sign with a red background and a gold grid pattern. The sign is framed by a thick gold border, which is further decorated with a blue and red inner border and a row of gold dots. The entire sign is set against a black background adorned with a border of gold stars and red stars with motion lines. The text 'COMING ATTRACTIONS' is written in a gold, serif font, centered on the sign.

COMING
ATTRACTIVEIONS



- Student Loans
- Grants
- Laws
- Data

Negotiated Rulemaking for Higher Education 2023-2024

Click on the menu buttons for more information

- General Information
- Student Loan Debt Relief
- Institutional Quality and Accountability

Click on the link with  to expand or collapse the information

General Information

This page provides information regarding the Department's negotiated rulemaking in 2023-2024 to make regulatory changes for the programs authorized by Title IV of the Higher Education Act of 1965, as amended. For more information about negotiated rulemaking in general, please see our [question and answer page](#).

New [Federal Register Notices and Fact Sheets](#) 

New [Public Hearing Information](#) 

Student Loan Debt Relief

Coming Soon

Institutional Quality and Accountability

Coming Soon

How Do I Find...

- Student loans, forgiveness
- Higher Education Rulemaking
- College accreditation
- Every Student Succeeds Act (ESSA)
- FERPA
- FAFSA
- 1098, tax forms

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Negotiated Rulemaking Committee; Public Hearings

A Proposed Rule by the [Education Department](#) on 03/24/2023



PUBLISHED DOCUMENT

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- 🖨️

📄 Start Printed Page 17777

AGENCY:
Office of Postsecondary Education, Department of Education.

ACTION:
Intent to establish a negotiated rulemaking committee.

SUMMARY:

DOCUMENT DETAILS

Printed version:
[PDF](#)

Publication Date:
[03/24/2023](#)

Agency:
[Department of Education](#)

Dates:
The dates, times, and locations of the public hearings are listed under the SUPPLEMENTARY INFORMATION section of this



2023 Negotiated Rulemaking



