

Gainful Employment – Reporting and Disclosure Requirements and New Programs

Objectives

- ▼ Establish school reporting and disclosure requirements for programs intended to prepare students for gainful employment in a recognized occupation. Non-degree programs at *public and private nonprofit schools* and nearly all programs at *for-profit schools* are considered “gainful employment” programs.
- ▼ Provide prospective students with answers to the following types of questions:
 - What specific job(s) is the program designed to prepare its graduates to perform?
 - How successful have the program’s graduates been in finding employment in the targeted job(s)?
 - Do students generally graduate from the program within the expected (normal) amount of time?
 - What is the total cost of the program that students will need funding to cover?
 - How much loan debt (federal, private, and school-based) do students typically incur in the program?
- ▼ Require schools to notify the Department of any plans to offer new programs of this nature, and describe the Department’s process to approve, deny, or request more information on them.

Regulatory requirements [see also DCL GEN-11-10 and electronic announcement #3]

A school’s historical data is used to answer the above questions. Data is reported to the Department beginning in 2011 for the 2006-2007 through 2010-2011 award years. In subsequent years, the school reports data for the most recent award year. If any data is unavailable, the school must explain why.

A school must also notify the Department if it plans to offer a new program to prepare students for gainful employment. The notice should be submitted at least 90 days before the first class date, and should include:

- ▼ An explanation of why and how the new program was developed, how the school determined the need for the program, and how the program is designed to meet job market needs.
- ▼ A description of how the program was developed with, or was reviewed or approved by, business advisory, program integrity, or oversight entities, as well as businesses likely to employ its graduates.
- ▼ If the school performed any wage analysis for the program, a description of that analysis.
- ▼ Documentation of the program’s approval or inclusion in the school’s accreditation.

The Department may require a school to obtain approval for its new program. If the school submits a timely notification as described above, the Department will notify the school at least 30 days before the first day of class if approval must be obtained. Otherwise, the school may proceed to offer the new program as planned. DCL GEN-11-10 states that a provisionally certified school must obtain approval for any new program.

A description is provided in the final rules as to what constitutes an “additional educational program.”

Effective date

These final rules are effective July 1, 2011. Program disclosures must be provided by that date.

A school’s first reporting of program data is due by October 1, 2011, for award years 2006-2007 through 2010-2011. Reporting deadlines in future years will be September 30 or later (as announced in the *Federal Register*).

More detailed guidance on the new rules is available at <http://ifap.ed.gov/GainfulEmploymentInfo/>.

Other gainful employment final rules, published on June 13, 2011, establish [program-level success measures](#) for student debt management. These will be effective July 1, 2012.

For more information:

Visit <http://www.tgslc.org/policy/integrity-rules.cfm> or contact TG Customer Assistance at (800) 845-6267 or cust.assist@tgslc.org

Gainful Employment Debt Measures: Loan Repayment Rate

Objective

- ▼ Determine if a **GE program** does an adequate job of preparing students for gainful employment in a recognized occupation, by evaluating the students' recent success in paying down Title IV loan balances.

Regulatory requirements

- ▼ A GE program's success is evaluated by computing its loan repayment rate and debt-to-earnings ratios. These are determined annually, based on federal fiscal year (FY) periods of October 1 – September 30. A program satisfying the minimum standard for at least one of these measures is considered successful.
- ▼ The loan repayment rate focuses on a program's former students (completers and non-completers) whose FFELP and FDLP loans entered repayment in a **specified period**. The success of these borrowers in making payments sufficient to reduce their Title IV loan debt during the most recent FY is evaluated. A GE program satisfies this measure if at least 35 percent of its former students accomplish this result.
 - Generally, borrowers included in the loan repayment rate entered repayment on their Title IV loans during the 3rd or 4th FY prior to the most recently completed FY. This is known as the "2YP". For example, borrowers included in a program's FY12 rate entered repayment on loans in FY08 or FY09.
 - If a program has 30 or fewer borrowers who entered loan repayment during the 2YP, the period is extended two years earlier (5th and 6th prior FYs) to include additional borrowers who entered loan repayment during a four-year period or "4YP". For an FY12 rate, the 4YP would include FY06 – FY09.
 - The 2YP and 4YP are adjusted for a medical or dental program with a required residency/internship.
 - If the 2YP and 4YP include 30 or fewer borrowers, the program is deemed to satisfy this measure.
 - For FY12, FY13, and FY14, ED will also calculate this rate using an alternate "2YP-A" consisting of the 1st and 2nd FYs prior to the most recent FY (if more than 30 borrowers are included). A program may meet the 35 percent requirement using the 2YP or 2YP-A. For FY12, the 2YP-A includes FY10 – FY11.
- ▼ Title IV loans included in the loan repayment rate consist of FFELP and FDLP Stafford and Grad PLUS loans borrowed by former students to attend the program, and Consolidation loans that include these.
- ▼ The rate excludes any loans in an in-school or military-related deferment during any part of the most recent FY, as well as loans dischargeable due to a borrower's death or total and permanent disability.

Definitions for Title IV program purposes

- ▼ Original Outstanding Principal Balance (OOPB): Total loan balance when a loan first entered repayment
- ▼ Loans Paid in Full (LPF): Never-defaulted loans paid in full by a borrower except via a Consolidation loan
- ▼ Payments-Made Loans (PML): Never-defaulted Stafford, Grad PLUS, and Consolidation loans for which a borrower's payments during the most recently completed FY reduced the total outstanding balance (including accrued, non-capitalized interest) to an amount *less than* the outstanding balance at the beginning of the year. For a Consolidation loan that paid off loans for a post-baccalaureate certificate or master's, doctoral, or first-professional degree program, the total outstanding balance at the end of the most recent FY may be *less than or equal to* the total outstanding balance at the beginning of the year.
 - PML includes loans with qualifying payments made during the FY for public service loan forgiveness.
 - PML also includes loans for which a borrower's scheduled payments during the FY were less than or equal to the amount of accruing interest, up to a limit of 3 percent of the total OOPB of all loans.

Calculation

$$\frac{\text{OOPB of LPF} + \text{OOPB of PML}}{\text{OOPB of all included loans borrowed by students to enroll in the program}}$$

Effective date

The final rule is effective July 1, 2012. A **failing program** will not lose Title IV eligibility until 2015 or later.

For more information:

Visit <http://www.tgslc.org/policy/integrity-rules.cfm> or contact TG Customer Assistance at (800) 845-6267 or cust.assist@tgslc.org.



Gainful Employment Debt Measures: Debt-to-Earnings Ratios

Objective

- ▼ Determine if a **GE program** does an adequate job of preparing students for gainful employment in a recognized occupation, by comparing a program completer's typical educational debt and income levels.

Regulatory requirements

- ▼ A GE program's success is evaluated by computing its loan repayment rate and debt-to-earnings ratios. These are determined annually, based on federal fiscal year (FY) periods of October 1 – September 30. A program satisfying the minimum standard for at least one of these measures is considered successful.
- ▼ The debt-to-earnings ratios focus on students who completed a GE program during a **specified period**. The portion of a typical program completer's recent annual earnings or discretionary income consumed by repayment of educational debt incurred to attend the program is evaluated. A program satisfies these measures if a typical completer's annual loan payment represents no more than 12 percent of annual earnings or 30 percent of discretionary income, using median loan debt and mean or median earnings.
 - Generally, students included in the debt-to-earnings ratios completed the school's program during the 3rd or 4th FY prior to the most recently completed FY. This is known as the "2YP". For example, students included in a program's FY12 ratios completed the school's program during FY08 or FY09.
 - If a program has 30 or fewer students who completed the program during the 2YP, the period is extended two years earlier (5th and 6th prior FYs) to include additional students who completed the program during a four-year period or "4YP". For an FY12 rate, the 4YP would include FY06 – FY09.
 - The 2YP and 4YP are adjusted for a medical or dental program with a required residency/internship.
 - If the 2YP and 4YP include 30 or fewer students, the program is deemed to satisfy this measure.
- ▼ Educational debt includes FFELP and FDLP Stafford and Grad PLUS loans borrowed for the program and Consolidation loans that include these, as well as private education loans and institutional financing debt.
- ▼ Median loan debt is derived from information provided by the school and NSLDS data available to ED.
- ▼ The Social Security Administration provides ED with mean and median earnings of completer cohorts. If ED cannot obtain earnings data for some program completers, computational adjustments are made. In certain limited circumstances, a school may provide alternative earnings data to calculate the ratios.
- ▼ Students with military-related loan deferments during the calendar year used for earnings data, as well as students who died or whose loans are dischargeable for total and permanent disability, are excluded.
- ▼ Special rules govern attribution or exclusion of debt for students attending multiple programs or schools.

Definitions for Title IV program purposes

- ▼ Median loan debt: the "middle" value in a complete list of educational debt amounts owed by program completers, listed in order by amount, using each student's total loan debt or total tuition and fees
- ▼ Annual loan payment: the yearly sum owed by a typical completer based on median loan debt, current Federal Direct Unsubsidized Loan interest rate, and ED-specified repayment period for the program
- ▼ Discretionary income: annual earnings above 150 percent of the poverty guideline for a single person

Calculations

$$\text{Earnings rate} = \frac{\text{Annual loan payment}}{\text{Mean or median annual earnings}}$$

$$\text{Discretionary income rate} = \frac{\text{Annual loan payment}}{\text{Mean or median discretionary income}}$$

Effective date

The final rule is effective July 1, 2012. A **failing program** will not lose Title IV eligibility until 2015 or later.

For more information:

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State Authorization

Objective

Establish minimum standards for state authorization required for a school to participate in the Title IV programs.

Program integrity principles

- Each member of the “program integrity triad” of oversight entities for schools participating in the Title IV programs — state approval agencies, accreditors recognized by the Department, and the Department — plays an important role in providing appropriate oversight of schools and protection of students.
- State authorization to offer postsecondary education programs must be explicitly provided or affirmed.
- States need to enforce applicable state laws regarding schools and their prospective/enrolled students.
- States need a process to handle complaints about schools that enroll (or seek to enroll) students there.
- If a state has other licensing or approval requirements, a school must comply unless the state exempts the school and the Department’s rules permit exempted schools to participate in the Title IV programs.

Regulatory requirements [see also Dear Colleague Letters (DCLs) GEN-11-05 and GEN-11-11]

State requirements are categorized by the Department based on a school’s authority to operate. A school may be: (1) established by name as a postsecondary educational institution, (2) authorized by name as a business entity operating in the state, or (3) authorized by name as a nonprofit charitable organization operating in the state. The nature of the authority granted by the state determines school requirements:

- For an “educational institution” (public, private nonprofit, or for-profit): a school’s state authorization is acceptable to the Department if the school meets or is exempt by name from other state requirements. State exemptions acceptable to the Department include accreditation or 20 years or more in operation.
- For a “business entity operating in a state” (for-profit): a school’s state authorization is acceptable to the Department if the school meets all applicable state requirements and is approved/licensed by name to offer postsecondary programs. No exemptions from state rules are acceptable to the Department.
- For a “nonprofit charitable organization operating in a state” (nonprofit): same rules as for a business entity operating in a state. No exemptions from state rules are acceptable to the Department.

Schools offering distance education must meet state requirements wherever they offer their programs.

Special rules, definitions, and exclusions apply to federally-authorized and tribally-authorized schools, as well as to religious schools that are exempt from state requirements.

A state must have a process to review and address complaints either directly or through referrals. This requirement applies to all schools offering programs in the state, except for federal and tribal schools.

Effective date

The final rule is effective July 1, 2011.

The Department realizes that in some cases, adjustments to state authorizations may be required. If needed, a school may request a one-year extension until July 1, 2012, and a second one-year extension until July 1, 2013, if a state provides an explanation that the additional time is needed for compliance.

For state authorizations of distance education, schools making good-faith efforts to comply with these rules will be permitted to provide coursework in that manner without Title IV program penalties until July 1, 2014. See DCL GEN-11-11 for more details.

For more information:

Visit <http://www.tgslc.org/policy/integrity-rules.cfm> or contact TG Customer Assistance at (800) 845-6267 or cust.assist@tgslc.org

Retaking Coursework

Objective

Expand the circumstances in which a repeated course in a term-based program (using either standard or nonstandard terms) may be counted toward a student's enrollment status for Title IV program purposes.

Program integrity principle

Within reasonable limits to ensure Title IV program integrity, schools should be permitted to include a repeated course taken in a term-based program as a part of a student's Title IV enrollment status.

Regulatory requirements

- ▼ Current federal rules permit a student retaking a *failed* course in a term-based program to include the repeated course in the student's Title IV enrollment status. The new regulations do not change this rule.
- ▼ The new regulation permits a student retaking a *previously-passed* course in a term-based program (e.g., to earn a higher grade) to include the repeated course in the student's Title IV enrollment status.
- ▼ There are two limitations placed on the inclusion of a repeated, previously-passed course in a student's Title IV enrollment status. First, only one repetition of a previously-passed course may be included in the student's enrollment status. Second, a previously-passed course may *not* be included in the student's enrollment status if it is being retaken because the student failed other coursework.
- ▼ The new rule does not impact the current one-year academic limitation on noncredit or reduced-credit remedial coursework.
- ▼ A school's own academic rules or satisfactory academic progress (SAP) policy requirements may further limit or prevent a student from retaking a course in a program. The new federal rule does not override the school's discretionary authority in this regard. The federal rule indicates that if a school's policies permit a student to retake a previously-passed course, and if the student can do so without violating federal SAP policy requirements (both qualitative and quantitative), then the retaken course may be counted toward the student's Title IV enrollment status subject to the two limitations noted above.

Effective date

The final rule is effective July 1, 2011.

For more information:

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Written Arrangements between Schools

Objectives

- ▼ If a school has a written arrangement with one or more other schools to provide a portion of a program, the arrangement should be disclosed and the implications explained to prospective and enrolled students.
- ▼ If a school's written arrangement is with a school that does not participate in the Title IV programs, strengthen the restrictions on whether the ineligible school can provide a portion of an eligible program. (There are already restrictions on *how much* of an eligible program an ineligible school can provide.)
- ▼ If a for-profit school's written arrangement involves schools under common ownership or control, ensure that the credential-granting school provides more than 50% of the program to students. Additionally, if a school offers more than 50% of a program through distance education, ensure that the school has obtained all of the necessary approvals to deliver the program in that manner.

Program integrity principles

- ▼ Prospective and enrolled students need to be informed of a written arrangement involving a school's delivery of a program, and be aware of which schools other than the credential-granting school will offer what courses, how and where those courses will be offered, and any additional resulting student costs.
- ▼ Programs offered in part through ineligible schools or organizations should be carefully regulated, so that a school whose Title IV eligibility is denied, revoked, terminated, or withdrawn under adverse conditions cannot provide a portion of an eligible program to another school through a written arrangement.
- ▼ In cases involving common ownership or control, some for-profit schools might be inclined to use written arrangements to structure programs in a manner that mitigates potentially adverse eligibility outcomes. It is important for a school that offers a program to teach the majority of it and own its student outcomes.

Regulatory requirements

- ▼ A school must provide to prospective and enrolled students a description of *any* written arrangements the school has entered into, including the portion of the program the school is not providing itself, the name and location of the other school(s) or organization(s) providing a portion of the program, the method of delivery for the portion of the program not provided by the school itself, and the estimated additional costs students may incur by enrolling in the program offered in the specified manner.
- ▼ A school whose request for Title IV program certification or re-certification has been denied, or whose certification has been revoked, may not provide a portion of an eligible program for another school.
- ▼ If a written arrangement is between two or more eligible for-profit schools that are owned or controlled by the same individual, partnership, or corporation, a program provided under the arrangement is Title IV eligible only if the credential-granting school provides more than 50% of the program to its students.
- ▼ These requirements pertain only to program-level "outsourcing" types of arrangements. They do not impact transfer students or articulation agreements between schools for individual students.

Effective date

The final rule is effective July 1, 2011.

For more information:

Visit <http://www.tgslc.org/policy/integrity-rules.cfm> or contact TG Customer Assistance at (800) 845-6267 or cust.assist@tgslc.org



Incentive Compensation

Objective

Clearly prohibit incentive-based payments from a school to any person or entity involved in recruiting or admitting students or awarding financial aid, including payments to management involved in these activities.

Program integrity principle

A school's management, employees, contractors, and third-party servicers responsible for student recruitment or admission activities, or awarding Title IV funds to students, must avoid conflicts of interest that may arise when compensation or other payments are linked to successful outcomes in these activities:

- ▶ May include compensation and payments to a school's senior management team, in some cases
- ▶ Applies to compensation for athletic coaches and staff; however, payments made on the basis of successful athletic or academic team performance, or other measures of team success, are permissible
- ▶ Prohibits incentive payments linked to a student's retention or program completion
- ▶ Permits payments to a third party assisting with Internet-based recruitment and admission services, *if* those payments are based on number of "clicks" rather than outcomes described above
- ▶ Also applies to arrangements for shared services (e.g., may pay based on volume, but not outcomes)

Regulatory requirement [see also Dear Colleague Letter (DCL) GEN-11-05, dated March 17, 2011]

A school must not provide any

- ▶ Commission, bonus, or other incentive payment
 - Based in any part, directly or indirectly, on success in securing enrollments or awarding financial aid
 - To any person or entity engaged in any student recruitment or admission activity, or in making decisions about the awarding of Title IV funds to students.

This does not apply to foreign students residing in foreign countries who are ineligible for Title IV aid.

Annual, merit-based salary adjustments are permissible, if not based on success in outcomes above. However, if an employee receives multiple compensation adjustments in a single calendar year and is engaged in any student enrollment or admission activities, or in making decisions about Title IV awards, it will be considered to be a violation if those adjustments are based on these activities in any manner.

Special considerations apply to profit-sharing payments to employees involved in student recruitment or admission activities, or in making decisions about Title IV awards; see both final rules and DCL for details.

Definitions for Title IV program purposes

- ▶ Commission, bonus, or other incentive payment: "A sum of money or something of value, other than a fixed salary or wages, paid to or given to a person or an entity for services rendered."
- ▶ Securing enrollments or the award of financial aid: "Activities that a person or entity engages in at any point in time through completion of an educational program for the purpose of the admission or matriculation of students for any period of time or the award of financial aid to students."

Effective date

The final rule is effective July 1, 2011.

For more information:

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Satisfactory Academic Progress (SAP)

Objective

Clarify and strengthen federal SAP rules, and introduce more consistent terminology and requirements among schools, to ensure that progress is appropriately monitored throughout a student's enrollment in a program.

Program integrity principle

Responsible stewardship of the federal taxpayer investment in Title IV funding requires that those funds be provided only to students who demonstrate success in meeting SAP requirements for program completion.

Regulatory requirements

Current rules require a school to evaluate progress (qualitative and quantitative components) at intervals no longer than half of a student's program or one academic year, whichever is less. New rules permit this also.

- ▶ The new rules encourage, but do not require, a school to evaluate student progress (qualitative and quantitative components) at the end of each payment period. A school that evaluates SAP after each payment period is permitted to continue to provide Title IV funds for one additional payment period to an otherwise eligible student who is not making SAP, without an appeal or other action by the student in response to the school's SAP notification. The student is on "financial aid warning" for the next period.
- ▶ A school that evaluates SAP less frequently than after each payment period must immediately stop providing Title IV funds to a student who is determined not to be making satisfactory progress, unless in response to the school's SAP notification, the student submits a successful appeal for reinstatement of Title IV eligibility for one additional payment period. This is known as "financial aid probation" status. A student on financial aid probation may be required to fulfill certain academic terms and conditions.

A school is not required to accept student appeals for reinstatement of Title IV eligibility, but if a school does so, federal criteria for granting appeals are provided. Otherwise, a student must regain SAP to reestablish Title IV eligibility. Rules for approving appeals vary based on whether a school evaluates SAP after each payment period:

- ▶ A school that evaluates SAP after each payment period must determine that a student should be able to *meet SAP standards by the end of the next payment period*, or must develop an academic plan with the student to ensure that the student is able to meet overall SAP requirements by a specified point in time.
- ▶ A school that evaluates SAP less frequently must determine that a student should be able to *make SAP during the next payment period and meet SAP standards at the end of that period*, or develop an academic plan with the student to ensure the student is able to meet overall SAP requirements by a specified time.

In both cases, the academic plan may include interim progress improvement milestones that must be met. If a student complies with the requirements of the plan, the student is considered to be making SAP.

A student's "pace" of program completion must be consistent with the federal and school maximum timeframe requirements. Pace is defined as total clock or credit hours completed divided by total hours attempted.

Finally, a school is allowed to evaluate different categories of students differently (with regard to SAP standards or frequency), provided the academic requirements are consistently applied to all students within each category.

Effective date

The final rule is effective July 1, 2011. However, a summer crossover period can be covered by current SAP policy.

For more information:

Visit <http://www.tgslc.org/policy/integrity-rules.cfm> or contact TG Customer Assistance at (800) 845-6267 or cust.assist@tgslc.org



Evaluating the Validity of a High School Diploma

Objective

Ensure that a student who reports having a high school diploma for purposes of establishing eligibility to receive Title IV aid does, in fact, have a valid high school diploma.

Program integrity principle

Responsible stewardship of the federal taxpayer investment in Title IV program funding requires that those funds be provided only to students who meet federal eligibility requirements to receive such aid.

Regulatory requirements [see also Dear Colleague Letter GEN-12-03]

A school must develop and follow procedures to evaluate the validity of a student's high school program completion, if the school or Department has reason to question the legitimacy of the student's diploma.

The Department has added a question to the Free Application for Federal Student Aid (FAFSA) to request the name and location of the high school awarding a diploma to a student who indicates that he or she will possess a high school diploma prior to attending college in the 2011-2012 award year. For the 2011-2012 FAFSA on the Web, this question will be presented only to first-time undergraduate students; however, as indicated above, the high school diploma validation requirement is not limited to those students. The FAFSA on the Web will include a drop-down list of schools provided by the Department's National Center for Education Statistics (NCES) to facilitate completion of the question, and the student will select the high school from the list or provide the information.

- ▼ The Department will indicate on a student's Institutional Student Information Record (ISIR) if the Department requires a school to validate that student's high school program completion.
- ▼ If a school has reason to question the validity of a student's high school program completion, the school must perform an evaluation — even if not required to do so for that student by the Department. A certified statement of high school program completion provided by the student is not sufficient documentation. If a school is unable to determine if a student's high school diploma is valid, the school may permit the student to establish Title IV eligibility using an alternative federal regulatory provision, such as ability to benefit.
- ▼ The school's evaluation must be completed before the student can receive any Title IV funds.

The Department plans to supplement the regulatory guidance it has provided to schools for implementing this new requirement, using *Dear Colleague Letters*, electronic announcements, and the *Federal Student Aid Handbook* as appropriate.

This new requirement does not affect students who completed high school in a home-school setting.

Effective date

The final rule is effective July 1, 2011.

For more information:

Visit <http://www.tgslc.org/policy/integrity-rules.cfm> or contact TG Customer Assistance at (800) 845-6267 or cust.assist@tgslc.org



Return of Title IV Funds — Programs with Modules or Compressed Courses

Objective

Provide for more consistent and equitable treatment of students who withdraw from a program measured in credit hours, regardless of whether courses in the program span the entire term or consist of shorter modules.

Program integrity principles

- ▼ Title IV funds are awarded to a student to attend an entire payment period or period of enrollment, and the funds are intended to cover the student's educational and living expenses for the entire period.
- ▼ The law specifies that a student earns Title IV funds on a pro rata basis through 60 percent of a period, based on days completed in a credit-hour program or clock hours completed in a clock-hour program.

Regulatory requirements

A student is considered to have withdrawn from a payment period or period of enrollment in which the student began enrollment if the student ceased attendance in all scheduled courses without completing:

- ▼ All of the days the student was scheduled to complete in the period, in a credit-hour program
- ▼ All of the student's scheduled clock hours and weeks of instructional time, in a clock-hour program

However, if a student provides written confirmation to a school — at the time of ceasing attendance — that the student plans to attend another course later in the same period, the student is not considered to have withdrawn from a standard-term program. For a nonstandard-term or nonterm program, the next course the student plans to attend during the period must begin within 45 days after the end of the course the student ceased or failed to attend, in order for the student not to be considered withdrawn. If a student does not resume attendance within the scheduled timeframe, the student is considered to have withdrawn as of the date on which attendance ceased.

If a student does not provide written confirmation of plans to return to school later in the same period, a school considers the student to have withdrawn and performs a return of Title IV funds (R2T4) calculation to determine if any funds must be returned. However, if the student does return to school in the same period — even if the student did not provide written confirmation of plans to do so — the student is not considered to have withdrawn after all and is eligible to receive Title IV funds for which the student was eligible before ceasing attendance. A school must reverse the R2T4 process and provide any additional funds the student is eligible to receive at the time of return.

The new rule replaces prior guidance provided in *Dear Colleague Letter* GEN-00-24 regarding student withdrawals in term-based programs that include courses shorter than the length of an entire term.

The rule impacts all programs offering courses shorter than an entire term, including semester-based programs with a summer term consisting of two, consecutive six-week summer sessions.

Effective date

The final rule is effective July 1, 2011, for students who withdraw from a payment period or period of enrollment that begins on or after that date. See e-announcement posted on May 6, 2011, which clarifies that 2011 crossover payment periods are not impacted by this rule.

For more information:

Visit <http://www.tgslc.org/policy/integrity-rules.cfm> or contact TG Customer Assistance at (800) 845-6267 or cust.assist@tgslc.org



Return of Title IV Funds — Taking Attendance

Objective

Use the best date available to determine the amount of time a student is in attendance for Title IV purposes.

Program integrity principle

Using the most accurate attendance information available ensures the most equitable treatment of students.

Regulatory requirements

The final rule does not require schools to take attendance. However, the rule does specify which schools are considered to be “required to take attendance” for Title IV purposes, based on the school’s own requirements and/or requirements imposed on the school by an outside entity:

- ▶ If an outside entity requires a school to take attendance — or has a requirement that can only be met by taking attendance or a comparable process — the school is considered by the Department to be a school that is required to take attendance for Title IV purposes.
- ▶ If a school has its own attendance-taking requirements, the school is also considered to be required to take attendance for Title IV purposes. This applies if a school requires its faculty to take attendance, but not if a faculty member chooses to take attendance without being required to do so. However, the Department encourages schools to use the best information available to determine withdrawal dates.
- ▶ If a school or outside entity’s attendance-taking requirements cover only certain students or programs, the school is considered to be required to take attendance only for those students or programs.
- ▶ If a school or outside entity’s attendance-taking requirements cover only a certain period of time, the school is considered to be required to take attendance only during that period. If a student is not in attendance at the end of that period, the school’s attendance records must be used to determine the student’s withdrawal date during the period. If a student subsequently withdraws, the rules applicable to a school that is not required to take attendance apply to determining the student’s withdrawal date.
- ▶ A special provision applies to attendance-taking requirements for a single day (rather than a period of time). If attendance is taken only on a single day — or for classes meeting on alternate dates, on a single day for each class schedule — the school is not considered to be required to take attendance.

Schools that are considered to be required to take attendance must use their attendance records in determining a student’s withdrawal date for purposes of the return of Title IV funds (R2T4) calculation.

Both schools that are considered to be required to take attendance and those that are not considered to be required to take attendance may use a student’s last date of school-documented attendance at an academically-related activity as the student’s withdrawal date. The definition of “attendance at an academically-related activity” has been revised to exclude a student’s participation in academic counseling or advisement activities.

The definition of attendance in the context of distance education is also addressed in the preamble and final rule.

Effective date

The final rule is effective July 1, 2011, for students who withdraw from a payment period or period of enrollment that begins on or after that date. See e-announcement posted on May 6, 2011, which clarifies that 2011 crossover payment periods are not impacted by this rule.

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Verification

Objectives

- Update rules to reflect changes in statute and Free Application for Federal Student Aid (FAFSA) processing.
- Improve FAFSA information accuracy to enable the Department to improve its data analysis capabilities.
- Tailor verification requirements to validate most error-prone data rather than a uniform set of data items.
- Strengthen and codify current policy requirements to improve program integrity in the Title IV programs.

Program integrity principles

- The growing public investment in Title IV program funding warrants improved accountability for making awards only to eligible applicants, and for collecting and maintaining accurate data on all such applicants.
- To the extent possible, pursuit of greater accountability should also consider school and applicant burdens.

Regulatory requirements [see also electronic announcement dated February 24, 2012]

- Schools and applicants must update or correct FAFSA information, in addition to verifying specified items.
- Schools must complete verification prior to exercising professional judgment authority (current policy).
- Verification must be completed for all enrolled applicants selected by the Department (30% cap removed).
- An applicant's FAFSA information is subject to re-verification if the Department makes a subsequent verification request involving information that has changed for the applicant during an award year.
- Permissible exclusions from verification are revised, and tolerances are reduced to \$25 for dollar items.
- Applicant dependency status changes — except those resulting from marital status changes — must be reported throughout an award year (current policy). A school also may elect to require applicants to update marital status, if it determines updates are needed to address inequities or reflect applicants' ability to pay.
- The Department will annually publish a notice of potential data items to be verified in the *Federal Register*. The data to be verified for a particular applicant will include some or all of those items, as appropriate.
- Guidance is provided for using the IRS Data Retrieval Process for FAFSA completion and data corrections.
- A number of clarifications and updates are provided regarding applicants utilizing IRS tax filing extensions and/or tax preparers to submit returns, and related school verification and documentation requirements.
- Interim disbursement flexibility is outlined for applicants with data changes that would not change awards. A liability is assessed if a school disburses Title IV aid without submitting changes to receive a corrected Student Aid Report (SAR) or Institutional Student Information Record (ISIR) within a specified timeframe.
- To make a *late disbursement* of any Title IV aid — including a parent PLUS loan — a school must receive a valid SAR or ISIR by the deadline date published in the *Federal Register*. Parent PLUS loans were formerly excluded from the requirement that a valid SAR or ISIR be produced before a student becomes ineligible.
- Cash management procedures must be followed for overpayments of subsidized Stafford loan proceeds.

Effective date

The final rule is effective **July 1, 2012**, for the 2012-2013 award year.

For more information:

Visit <http://www.tgslc.org/policy/integrity-rules.cfm> or contact TG Customer Assistance at (800) 845-6267 or cust.assist@tgslc.org

Misrepresentation

Objective

Strengthen the Department's regulatory enforcement authority against a school that engages in substantial misrepresentation by providing more specific, clear, and comprehensive guidance in the regulatory provisions.

Program integrity principles

- ▼ A potential student needs to have a clear understanding of any program in which he may enroll.
- ▼ A school is responsible for providing complete and accurate information about its programs.

Regulatory requirements [see also Dear Colleague Letter (DCL) GEN-11-05, dated March 17, 2011]

A school must not make any substantial misrepresentations regarding the following:

- ▼ The nature of its educational programs (approvals, credentials, completion requirements, coursework)
- ▼ The financial charges to its students (costs, required payments, refunds, financial aid options)
- ▼ The employability of its graduates (current or likely future conditions, pay, requirements, qualifications)

The *Federal Register* notices and DCL GEN-11-05 describe potential consequences for violations of this rule, and explain due process provisions for fully certified and provisionally certified schools.

Definitions for Title IV program purposes

- ▼ Misrepresentation (expanded): "Any false, erroneous or misleading statement an eligible institution, one of its representatives, or any ineligible institution, organization, or person with whom the eligible institution has an agreement to provide educational programs, or to provide marketing, advertising, recruiting or admissions services makes directly or indirectly to a student, prospective student or any member of the public, or to an accrediting agency, to a State agency, or to the Secretary..."
 - Includes student endorsements/testimonials made under duress or based on a school requirement
- ▼ Misleading statement (new): "Includes any statement that has the likelihood or tendency to deceive or confuse. A statement is any communication made in writing, visually, orally, or through other means."
- ▼ Substantial misrepresentation (unchanged): "Any misrepresentation on which the person to whom it was made could reasonably be expected to rely, or has reasonably relied, to that person's detriment."

Effective date

The final rule is effective July 1, 2011.

For more information:

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Ability to Benefit (ATB)

Objectives

- ▼ Implement a recent statutory provision allowing students to establish eligibility to receive Title IV aid by demonstrating an ability to benefit from a school's training through successful completion of six credit hours or equivalent coursework applicable toward an educational credential offered by the school.
- ▼ For schools that admit as regular students individuals who do not possess a high school diploma or its recognized equivalent, provide stronger, clearer, and updated rules to ensure that the ATB alternatives used by students to establish eligibility for Title IV aid are appropriately offered and administered.
- ▼ Improve requirements for test publishers regarding development, approval, and monitoring of ATB tests.
- ▼ Strengthen the rules for test administrator qualifications, training, and safeguarding of exam results.

Program integrity principles

- ▼ Since ATB provisions permit otherwise ineligible students to gain access to Title IV funds, it is important to ensure that the ATB gatekeeping function is performed by schools in the intended manner.
- ▼ The Department relies heavily on test publishers to develop effective exams and appropriate rules for test administration, and to be vigilant about reporting and investigating anomalies or concerns in test results.
- ▼ It is vital to the integrity of the testing process that test administrators appropriately perform their duties.

Regulatory requirements [see also Dear Colleague Letters GEN-11-08, GEN-12-01, and GEN-12-03]

- ▼ If a school admits individuals lacking a high school diploma or the equivalent as regular students in a program, the school must permit students to use the new ATB option to become eligible for Title IV aid. When such a student has satisfactorily completed six semester, trimester, or quarter credit hours or 225 clock hours of coursework that counts toward completion of a program at the school, the student is considered to have demonstrated an ability to benefit from the school's program. The coursework used to meet the ATB requirement may be taken at the same or another school, and need not apply to a student's own program (in case the student changes programs). A student relying on this option cannot receive Title IV funds to cover the required courses, since the student does not become Title IV eligible until a payment period ends and grades are given. The final rule preamble notes a possible exception for modular courses.
- ▼ Schools must keep records of all students who took ATB tests and the individuals who administered them.
- ▼ Test publishers, and states with processes approved by the Department to make similar ATB assessments, will be required to comply with more rigorous approval, evaluation, and monitoring rules, including timely notification of concerns, actions, and decertification of test administrators to the Department. Test results for a decertified administrator must be reviewed, and schools and students must be notified of any issues.
- ▼ A number of new and modified definitions are provided to clarify terms and explain related requirements.
- ▼ Assessment center rules require that individuals administering ATB tests be *certified* by the test publisher. Centers scoring the tests must provide to the test publisher copies of completed tests and reports *weekly*.
- ▼ Accommodations available for individuals with disabilities and non-native English speakers are addressed.

Effective date

The final rule is effective July 1, 2011.

For more information:

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Disbursements of Title IV Funds for Books and Supplies

Objective

Provide timely access to Title IV funds for needy students with credit balances to obtain books and supplies.

Program integrity principles

- ▼ Pell grant-eligible students generally have limited financial resources to obtain books and supplies.
- ▼ Title IV funds awarded in excess of school charges should be made promptly available for this purpose.

Regulatory requirements

If a Pell grant-eligible student meets all requirements to receive Title IV funds at least 10 days before the start of a payment period, any Title IV funds in excess of the amount owed to the school at that time (Title IV credit balance funds) are to be made available to the student up to the amount needed to obtain books and supplies:

- ▼ The school must make the Title IV credit balance funds for books and supplies available to the student by the 7th day of the payment period. A number of options are available to the school to provide the funds, and the student is permitted to opt out of the school's process. If the student opts out, the school may, but is not required to, make the funds available in another way at that time per the school's policy.
- ▼ The amount needed for books and supplies may be the actual cost or the cost-of-attendance allowance.
- ▼ If a student has not yet established eligibility to receive Title IV funds at least 10 days before the beginning of a payment period due to outstanding verification requirements, unresolved "C" codes on the Student Aid Report (SAR) and Institutional Student Information Record (ISIR), or conflicting information, this requirement does not apply.

In determining whether a Title IV credit balance exists, the school considers all Title IV funds that *could be disbursed* at least 10 days before the payment period. This does not include first disbursements of Stafford loans subject to the federal delayed-disbursement rule for first-year, first-time borrowers. It does, however, include all Title IV funds that could be disbursed to a student at the beginning of the payment period, *even if those funds have not yet been received by the school to deliver to the student*. It is the student's eligibility to receive Title IV funds at that time, rather than the school's schedule for receiving or disbursing those funds, that determines the existence and amount of a Title IV credit balance for this purpose.

A number of clarifications are provided in the final rule preamble as to disbursement and return requirements.

Effective date

The final rule is effective July 1, 2011.

For more information:

Visit <http://www.tgslc.org/policy/integrity-rules.cfm> or contact TG Customer Assistance at (800) 845-6267 or cust.assist@tgslc.org