

August 18, 2015

As additional elements of the Gainful Employment Rules¹ ("GE") have become effective, the Department of Education ("ED") has provided additional formal and informal guidance regarding its expectations for reporting, certification, and disclosures.

Reporting: new requirements and compliance timeline

On August 10, 2015, notably 10 days after the deadline for reporting the first set of student data for calculation of the GE debt-to-earnings rates passed, ED issued new guidance in an Electronic Announcement ("EA 58") requiring institutions to disclose additional data on discontinued programs. ED's original guidance stated that institutions were required to report data from programs that were active as of July 1, 2015. **The new guidance now requires reporting for all programs that were discontinued between July 1, 2012 and July 1, 2015 as well.** As a result, institutions now must disclose the required data for these discontinued programs for the 2008-2009 through 2013-2014 award years as soon as possible. ED explains in EA 58 that it will send compliance letters to institutions that have not reported, or who have reported incomplete data, by the end of August.

EA 58 is available [here](#).

GE program certification: transitional certifications required to process pending e-apps

GE does not obligate institutions to submit their transitional certifications until December 31, 2015, but ED staff members have notified certain institutions that the December 31, 2015 deadline has been advanced for institutions that have open electronic applications ("e-apps"). Recently, ED has required institutions to submit these transitional certifications before processing changes to the e-app, including routine changes that would not result in a new Program Participation Agreement and regardless of when the e-app was submitted.

Although ED has not issued any formal guidance on this requirement, these requests are becoming more common and therefore institutions should be aware that they may need to submit their transitional certifications well before the December 2015 deadline if they wish to make updates to their e-apps. We also encourage institutions that have not submitted transitional certifications, but have pending e-apps, to check in with the ED Case Teams to ensure that their incomplete certifications are not delaying the process.

Disclosures: New Distribution Requirements Become Effective in 2017

ED has also clarified in recent guidance that the 2014 GE Rule's new disclosure distribution procedure requirements do not go into effect until January 2017. However, institutions continue to be required to comply with the disclosure requirements published in the 2010 Program Integrity Rules (and subsequent guidance²), including publishing the GE disclosure information in program promotional materials it makes available to students. These include the requirements that institutions prominently provide a direct and prominent link to the required information on the program web page for any GE program and on any other webpage containing general, academic, or admissions information about the program. GE Disclosures, or a link to the disclosures, also must be provided on other promotional materials including print and non-print media advertising such as television, radio and outdoor advertising materials.

The implementation of the GE Rule continues to provide additional clarity regarding ED's expectations and we expect this trend to continue as more data and applications are processed.

NOTES

1. 34 CFR §600, §668
2. See Electronic Announcement #50: Release of the Updated Disclosure Template for Gainful Employment (GE) Programs available [here](#).

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