

# The Final Gainful Employment Regulations

## What CAAHEP Educators Need to Know



Donald A. Balasa, JD, MBA  
AAMA CEO and Legal Counsel

**O**n October 10, 2023, the U.S. Department of Education (USDE) issued final regulations for the Financial Value Transparency (FVT) and the Gainful Employment (GE) requirements that must be met for a program to participate in financial assistance programs for students under Title IV of the Higher Education Act. These regulations will go into effect July 1, 2024. The purpose of this article is to provide an inexhaustive and basic summary of some of the key elements of the GE regulations that will be of relevance for educators in Commission on Accreditation of Allied Health Education Programs (CAAHEP)-accredited programs.

*(See my previous articles in Communiqué, the bimonthly publication of CAAHEP, that address other aspects of the USDE regulations.)*

### What Are GE Programs?

The Higher Education Act defines a GE program as one that “[prepares] students for gainful employment in a recognized occupation.”<sup>1</sup>

### What GE Programs Are Covered by the USDE Regulations?

Generally, “all nondegree programs (e.g., certificate programs, diploma programs)

that lead to recognized credentials at public or private-nonprofit institutions are GE programs. ... [And] all educational programs offered by for-profit (proprietary) institutions are GE programs.”<sup>2</sup>

### What Two Tests Must GE Programs Pass to Continue to Be Eligible for Title IV Participation and for Its Students to Be Eligible for Participation in Financial Assistance Programs under Title IV?

A program must pass two tests to continue to be eligible for Title IV participation. Note the following from *Fact Sheet: Biden-Harris Administration Announces Landmark Regulations on Accountability, Transparency & Financial Value for Postsecondary Students*:

- A **debt-to-earnings [D/E] 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 [EP]** 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.<sup>1</sup>

### What Will Trigger the Loss of Title IV Eligibility for GE Programs?

The following is an excerpt from the “(GEN-24-04) Regulatory Requirements for Financial Value Transparency and Gainful Employment”:

The GE regulations:

- Provide that a GE program loses Title IV eligibility if it either fails the D/E rates measure in two out of any three consecutive award years for which rates are calculated or the EP measure in two out of any three consecutive award years for which rates are calculated.
- ...
- Establish a three-year period of ineligibility for failing GE programs that have been voluntarily discontinued or withdrawn from Title IV eligibility by an institution, or that lose eligibility as a result of failing the D/E rates or EP metric, during which the Department

For more reading, visit the AAMA Legal Counsel's blog:

# Legal Eye *On Medical Assisting*



AMERICAN ASSOCIATION  
OF MEDICAL ASSISTANTS



will not approve a substantially similar program in the same 4-digit CIP [Classification of Instructional Programs] code range as the failing program.

- Require institutions to provide warnings to current and prospective students for GE programs that are at risk of a loss of Title IV eligibility due to having failed one of the metrics in one of the two most recent award years for which the program received metrics, content and delivery of which to be specified by the Department, and provide that students must acknowledge having seen these warnings before the institution may enter into an enrollment agreement with the student or disburse any Title IV funds.<sup>2</sup>

## What Are the Reporting Deadlines for GE Programs?

The following is also from the “(GEN-24-04) Regulatory Requirements for Financial Value Transparency and Gainful Employment”:

### Reporting Deadlines

**Initial Reporting:** As described in an Electronic Announcement, we have announced some flexibilities to the timing for required data reporting for FVT/GE.

- Institutions will have the ability to start reporting FVT/GE data through a new Department system starting July 1, 2024.

- Institutions will have until **October 1, 2024**, to provide all required reporting. The Department is providing institutions additional time to report such information by allowing institutions to submit the information that was previously due by July 31, 2024, to be submitted by no later than October 1, 2024.

**Subsequent Reporting:** Following this initial reporting, institutions must report data annually by October 1 following the end of the award year (e.g., October 1, 2025, for the 2024-2025 award year), unless the Secretary establishes a different reporting date.<sup>2</sup>

## Does There Have to Be a Minimum Number of Students in the Program to Be Subject to the GE Regulations?

Note the following:

### Size of the Cohort

For D/E rates or the EP measure to be calculated for an award year, at least 30 students who received Title IV aid must have completed the program during the applicable cohort period. The two-year cohort will be used if 30 or more students (net of any excluded students) completed the program during that period. If fewer

than 30 students completed the program during the two-year cohort period, the four-year cohort period will be used. If fewer than 30 students completed the program during the four-year cohort period, D/E rates and the EP measure will not be calculated for the program.<sup>2</sup>

As indicated above, this summarizes some but not all of the points in the USDE regulations. CAAHEP program directors and faculty must understand these regulations to avoid the negative consequences of failing the D/E and/or the EP tests. ♦

---

Questions and thoughts about this article may be directed to the author at [DBalasa@aama-ntl.org](mailto:DBalasa@aama-ntl.org).

### References

1. *Fact Sheet: Biden-Harris Administration Announces Landmark Regulations on Accountability, Transparency & Financial Value for Postsecondary Students*. Accessed June 15, 2024. <https://www2.ed.gov/policy/highered/reg/hearulemaking/2021/gainful-employment-notice-of-final-review-fact-sheet.pdf>
2. (GEN-24-04) regulatory requirements for financial value transparency and gainful employment. March 29, 2024. Accessed June 15, 2024. <https://fsapartners.ed.gov/knowledge-center/library/dear-colleague-letters/2024-03-29/regulatory-requirements-financial-value-transparency-and-gainful-employment>