



Completers List Challenges, Debt Challenges, and Alternative Earnings Appeals

Part of the *Navigating Gainful Employment*
Webinar Series | February 2016



WELCOME & INTRODUCTION

- Aaron D. Lacey
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- Higher Education Practice
 - Provide regulatory counsel on federal, state, and accrediting agency laws and standards (*e.g.*, Title IV, Title IX, Clery, consumer information).
 - Assist with postsecondary transactions, contract drafting and negotiation, policy creation, and compliance systems design.
 - Represent institutions in student and employee litigation, government investigations, administrative proceedings, audits, and reviews.

WELCOME & INTRODUCTION

- **Prior Experience**
 - Senior Vice President of Regulatory Affairs & Strategic Development for postsecondary institution. Oversaw regulatory, compliance, and government affairs matters for 24 campus locations in Midwest and Southeast United States, as well as for online division.
 - Attorney in DC Higher Education Practice. Provided regulatory and policy guidance, managed agency proceedings, drafted and negotiated wide variety of agreements.

GE WEBINAR SERIES SCHEDULE

- How to Project Reliable Debt-to-Earnings Rates (February 11, 2016)
- Strategies for Improving Debt-to-Earnings Rates (February 18, 2016)
- **Completers List Challenges, Debt Challenges, and Alternative Earnings Appeals (February 25, 2016)**
- Preparing for and Managing Required “Student Warnings” (March 3, 2016)
- Managing (and Challenging) the New GE Disclosures (March 10, 2016)

PRESENTATION OUTLINE

- GE Timeline
- D/E Rate Refresher
- Completers List Challenge
- Loan Debt Challenge
- Alternative Earnings Appeal
- GE Resources

THE GAINFUL EMPLOYMENT TIMELINE



GE TIMELINE (2015)

DATE	2015 GAINFUL EMPLOYMENT EVENTS
July 1	<ul style="list-style-type: none">• New gainful employment regulations become effective
July 31	<ul style="list-style-type: none">• Report data for AY 08-09 to AY 13-14
October 1	<ul style="list-style-type: none">• Report data for AY 14-15
November	<ul style="list-style-type: none">• <u>Register to receive Completers Lists through SAIG Enrollment Web site</u>• <u>Enroll in Data Challenges and Appeals Solution (DCAS) service</u>
December 31	<ul style="list-style-type: none">• Complete GE transitional certification

GE TIMELINE (2016)

DATE	2016 GAINFUL EMPLOYMENT EVENT
Spring	<ul style="list-style-type: none">• Issuance of AY 14-15 Completers Lists• Prepare and submit AY 14-15 Completers List Challenges
Summer	<ul style="list-style-type: none">• Issuance of AY 14-15 Draft D/E Rates• Prepare and submit AY 14-15 Loan Debt Challenges
Fall	<ul style="list-style-type: none">• Report data for AY 15-16 (October 1)• Prepare and submit AY 14-15 Alternative Earnings Appeals

GE TIMELINE (2017)

DATE	2017 GAINFUL EMPLOYMENT EVENT
January	<ul style="list-style-type: none">• New GE Disclosures effective
Winter/Spring	<ul style="list-style-type: none">• Issuance AY 14-15 Final D/E Rates• Continue to prepare and submit AY 14-15 Alternative Earnings Appeals• Begin disseminating Student Warning Disclosures for programs with failing AY 14-15 Final D/E Rates

D/E RATE REFRESHER



D/E RATE REFRESHER

$$\text{Annual Earnings Rate} = \frac{\text{Annual Loan Payment}}{\text{Annual Earnings}}$$

$$\text{Discretionary Income Rate} = \frac{\text{Annual Loan Payment}}{\text{Discretionary Income}}$$

D/E RATE REFRESHER

PASS	ZONE	FAIL
AER less than or equal to 8% OR DIR less than or equal to 20%	AER greater than 8% and less than or equal to 12% <i>and</i> DIR <i>not passing</i> OR DIR greater than 20% and less than or equal to 30% <i>and</i> AER <i>not passing</i>	AER greater than 12% AND DIR greater than 30%

D/E RATE REFRESHER

- GE program becomes **ineligible** if the program:
 - Fails two out of any three consecutive award years for which the program's D/E rates are calculated; or
 - Has a combination of zone and failing rates for four consecutive award years for which the program's D/E rates are calculated.
- **Student warnings** must be issued if program is within a year of losing eligibility.

D/E RATE CHALLENGES

What if I disagree with ED's calculations?

- Institutions will have two opportunities to challenge numbers before final D/E rates issued:
 - Completers List Challenge
 - Loan Debt Challenge
- Institutions will have one opportunity to challenge rates after final D/E rates issued:
 - Alternative Earnings Appeal

COMPLETERS LIST CHALLENGE



COMPLETERS LIST CHALLENGE

What is a “Completers List” challenge?

- For each GE program, ED will create a list of students who completed during the applicable cohort period and provide list to institutions for review.
- Institutions can challenge data on list.
- ED presumes Completer List data is accurate; institution must provide evidence to overcome presumption.

COMPLETERS LIST CHALLENGE

What completers data would I challenge?

- Data Errors
 - Student identity (name, DOB)
 - Program identifiers (CIP code, Credential Level)
 - Attendance information (dates of enrollment, enrollment status)
 - Financial information (tuition and fees, books and supplies, private loan debt, institutional debt)
- This is institution's **last chance** to correct reported GE data.

COMPLETERS LIST CHALLENGE

- Exclusion (or Inclusion) Errors:
 - Did not receive any Title IV
 - Did not complete during cohort period
 - Military deferment during earnings period
 - Permanent disability during earnings period
 - Further education during earnings period
 - Student completed higher-credentialed program
 - Student is deceased

COMPLETERS LIST CHALLENGE

Where do I get my Completers List?

- ED will generate and send draft Completers List to school's designated SAIG mailbox.
 - ED also will post Electronic Announcement announcing distribution (like draft CDRs).
- Designate an SAIG mailbox for GE purposes **now** at fsawebenroll.ed.gov.
 - If institution does not designated a GE SAIG mailbox, will have to request list through the [NSLDSFAP](https://www.nslDSFAP.org) website under the Reports tab.

COMPLETERS LIST CHALLENGE

When do I get my Completers List?

- ED initially announced distribution would occur in December 2015.
- BETA group raised significant issues with distribution protocol.
- As a consequence, ED has delayed distribution to “Spring 2016.”

COMPLETERS LIST CHALLENGE

How do I file my Completers List challenge?

- ED has developed new web-based application called Data Challenges and Appeals Solution (DCAS).
- First function will be managing completers list challenges.
 - Ultimately will manage data challenges from institutions re D/E calculations, Cohort Default Rates (institutional and programmatic), and Disclosure rates and metrics.

COMPLETERS LIST CHALLENGE

- School's Primary Destination Point Administrator can enroll in DCAS **now** at fsawebenroll.ed.gov.
- Additional information has been promised:
 - High-level information about access to DCAS
 - Upcoming webinar and training module opportunities
 - DCAS User Guide forthcoming

COMPLETERS LIST CHALLENGE

How long do I have to file my Completers List challenge?

- No later than 45 days after ED provides completer list, institution must:
 - Provide evidence showing that a student should be included or removed.
 - Correct or update student's identity or attendance information.
- After 45-day period expires, institution may no longer seek to modify list.

COMPLETERS LIST CHALLENGE

What results from a completers list challenge?

- ED considers evidence and either accepts correction or notifies institution of reasons for rejection.
- If ED accepts the correction, uses corrected data to create final completer list for D/E calculations.
 - SSA only gets copy of final completers list.
 - ED provides institution with final list and indicates cohort period used to create final list.
 - Institution updates data in NSLDS GE reporting so correct data will be used in subsequent GE calculations and GE disclosures.

COMPLETERS LIST CHALLENGE

COMPLETERS LIST CHALLENGE – ED RESOURCES

Oct. 22, 2015	GE Elect. Ann. #64 - Upcoming Implementation of Data Challenges and Appeals Solution (DCAS) : Provides High-level information about DCAS.
Oct. 26, 2015	GE Elect. Ann. #67 - SAIG Enrollment Now Available for DCAS Online Service : Provides detailed instructions for Primary DPA to enroll in DCAS Online Service.
Nov. 18, 2015	Interpreting the GE Completers List (webinar): Discusses how institutions receive, access, and review Completers Lists.
Nov. 19, 2015	How to Submit a Challenge to the GE Completers List (webinar): focuses on using DCAS system for challenges.
Dec. 11, 2015	GE Elect. Ann. #71 - Reviewing and Correcting GE Completers Lists : Provides additional information on challenges and links to webinars.
Dec. 18, 2015	Release of updated NSLDS Gainful Employment User Guide with section concerning completers list data formats.
Feb. 3, 2016	GE Elect. Ann. #73 - Spring 2016 Distribution of Draft GE Completers Lists : Provides updates regarding timing and resources.

LOAN DEBT CHALLENGE



LOAN DEBT CHALLENGE

What is a loan debt information challenge?

- When ED issues draft D/E rates, it will provide individual loan debt for each student in each GE program.
- ED presumes loan debt information is accurate; institution must provide evidence to overcome presumption and to show how debt information should be corrected.

LOAN DEBT CHALLENGE

What loan debt data would I challenge?

- Actual cost information
- Institutional or private loan debt
- Title IV debt and net adjustments
- Calculation of median and mean

LOAN DEBT CHALLENGE

What is the timing for a loan debt information challenge?

- No later than 45 days after ED provides draft D/E rates, institution must:
 - Provide evidence showing that the loan debt information used by ED to calculate the loan debt is incorrect.
- After 45-day period expires, institution may no longer submit challenge.

LOAN DEBT CHALLENGE

What results from a loan debt challenge?

- ED considers evidence and notifies institution whether it accepts or rejects challenge.
- If ED accepts challenge, uses corrected data to recalculate D/E rates.
- ED informs institution of final D/E rates by issuing notice of determination.
- After NOD is distributed, ED cleared to publish final rates.

ALTERNATIVE EARNINGS APPEAL



ALTERNATIVE EARNINGS APPEAL

What is an alternative earnings appeal?

- When ED issues draft D/E rates, it will provide institutions with the mean and median annual earnings obtained from SSA for each program.
- Institutions can challenge the earnings component of the D/E ratio (i.e., the data provided by SSA) if:
 - The GE program is failing or in the zone under the D/E rates measure; and
 - The appeal will move the program out of failing or zone status, respectively.

ALTERNATIVE EARNINGS APPEAL

Where do I get alternative earnings?

- Institutions must provide alternative earnings data from:
 - A **state-sponsored data** system; or
 - An institutional survey using ED's **Recent Graduates Employment and Earnings Survey (RGEES)** standards and survey form.
- Data must be from the correct calendar year, and must satisfy related ED requirements.

ALTERNATIVE EARNINGS APPEAL

What is a state-sponsored data system and where do I find one?

- In theory, a state system that has alternative earnings information for graduates during the requisite timeframes
 - ED did not identify any states that have a data system that would suffice for this purpose
- Institutions must secure alternative earnings data for more than 50% of students in cohort and provide recalculated D/E rates using official debt numbers.

ALTERNATIVE EARNINGS APPEAL

- Challenges abound with the State-sponsored data system approach, even where they may exist:
 - Data regarding individual graduate earnings may be considered private.
 - Data may not be maintained in a form that can be correlated with graduate population.
 - Members of graduate cohort may work in other states.
- At present, may not be an option for many schools

ALTERNATIVE EARNINGS APPEAL

How do I go about conducting a graduate survey?

- National Center for Education Statistics (NCES) is developing Recent Graduates Employment and Earnings Survey (RGEES) standards and survey form.
- ED also developing online platform to facilitate RGEES survey administration.
- Institutions are not required to use form or platform, but must adhere to standards.

ALTERNATIVE EARNINGS APPEAL

- Appeal submission must include:
 - Survey results and supporting documentation.
 - CEO certification attesting that survey was conducted in accordance with ED standards and revised median and mean were accurately calculated.
 - An “examination-level attestation engagement report” prepared by independent CPA attesting that survey was conducted in accordance with ED standards.

ALTERNATIVE EARNINGS APPEAL

- Survey must be administered to **every** student on final completers list.
- At least 50% of graduates surveyed for a GE program must submit a completed survey for data to be used to support an appeal.
 - A “completed” RGEES must include sufficient responses “to calculate graduates’ earnings, including zero earnings.”

ALTERNATIVE EARNINGS APPEAL

- A “nonresponse bias” analysis must be conducted if response rate is between 50% and 80% percent (RGEES platform will do this automatically).
- ED proposes to use Pell grants, zero EFC, and gender to measure bias.
- The maximum allowable level of the absolute value of the relative bias is an average of 10% across the three variables.

ALTERNATIVE EARNINGS APPEAL

What is the timing for an alternative earnings appeal?

- May file notice of intent to appeal as early as issuance of draft D/E rates and as late as 14 days following issuance of notice of determination.
- Must file recalculated D/E rates, all certifications, and supporting documentation no later than 60 days after ED issues the notice of determination.

ALTERNATIVE EARNINGS APPEAL

What results from an alternative earnings appeal?

- If ED denies appeal, provides notice to institution and explains basis for denial.
- If ED affirms appeal, notifies institution and updates published final D/E/ rates.
- Institutions not subject to any **sanctions** relating to D/E rates while appeal is pending.
 - If final D/E rates published, will include annotation re appeal.

ALTERNATIVE EARNINGS APPEAL

ALTERNATIVE EARNINGS APPEAL – ED RESOURCES

August 2015

[Draft RGEES Best Practices Guide](#): Provides detailed insight into ED's thinking regarding alternative earnings appeal process.

November 2015

[Proposed RGEES Survey Form and Standards](#): Sets out draft versions of form and standards, and discusses each at length.

ALTERNATIVE EARNINGS APPEAL

When will the RGEES form and alternative earnings appeal process be finalized?

- Background materials suggested a target date of December 2015 for release of final survey instrument.
- Though not yet released, final survey form and standards expected soon.
- Platforms for receiving earnings data, conducting surveys, and submitting appeals expected much later in the year.

D/E RATE CHALLENGES TIMELINE



D/E RATE CHALLENGES TIMELINE

Spring 2016		Summer/Fall 2016		Early 2017
Issuance of Draft Completers List		Issuance of Final Completers List	Issuance of Draft D/E Rates	Issuance of Final D/E Rates in Notice of Determination
				ED authorized to publish final D/E rates
45 days to file compelters list challenge	ED accepts or rejects challenge			
		45 days to file loan debt challenge	ED accepts or rejects challenge	Institution receives final D/E rates; recalculated if debt challenge successful
		Earliest date to file notice of earnings appeal		<ul style="list-style-type: none"> • 14 days remain to file notice of earnings appeal • 60 days remain to file actual appeal with data

GE RESOURCES



GE RESOURCES FROM ED

IFAP - Gainful Employment Information Page

- [Federal Register Notices](#)
- [Dear Colleague Letters and Electronic Announcements](#)
- [Frequently Asked Questions](#)
- [Webinars and Presentations](#)
- [Resource Manuals](#)
 - NSLDS Gainful Employment User Guide
 - RGEES Best Practices Guide
 - GE Operations Manual

GE RESOURCES FROM TC

- Gainful Employment webinar series.
- [REGucation](#) higher education law and policy blog.



REGucation

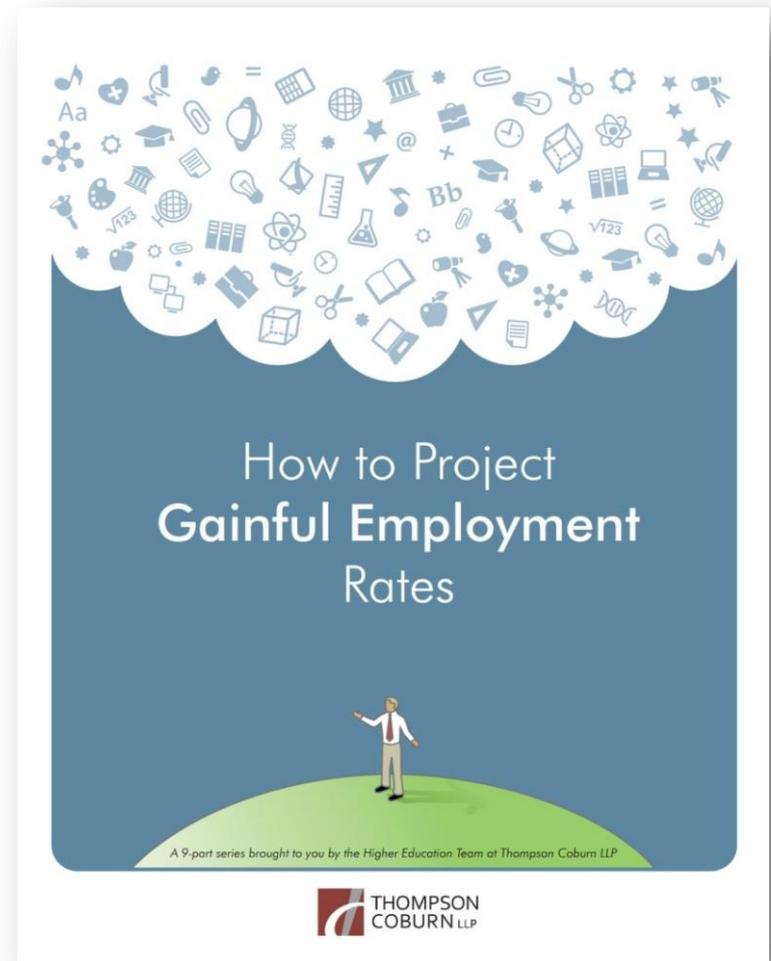
Regulatory and Policy Insights
from the Thompson Coburn
Higher Education Team

Higher Education Team

GE RESOURCES FROM TC

GE Desk Guide

- Provides step-by-step instructions for projecting reliable D/E rates.
- Offers detailed insight into how D/E rates are calculated.



CONTACT INFORMATION

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