



Projecting Debt-to-Earnings Rates

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



WELCOME & INTRODUCTION

- Aaron D. Lacey
 - Partner, Higher Education Practice, Thompson Coburn LLP.
- 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.

PRESENTATION OUTLINE

- GE Timeline
- D/E Rates Overview
- Projecting D/E Rates
- 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 (DACS) 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
Winter/Spring	<ul style="list-style-type: none">• New GE Disclosures effective (Jan.)• Issuance AY 14-15 Final D/E Rates (Jan.)• Prepare and submit AY 14-15 Alternative Earnings Appeals
Spring	<ul style="list-style-type: none">• Begin disseminating Student Warning Disclosures for programs with failing AY 14-15 Final D/E Rates

D/E RATES OVERVIEW

Which Title IV programs are “gainful employment” programs?

- Almost all programs offered by for-profit institutions.
- Almost all **non**-degree programs offered by any postsecondary institution.
 - Additional information regarding exceptions in [Gainful Employment Electronic Announcement #53](#) - *What is a Gainful Employment (GE) Program?* (May 20, 2015).

D/E RATES OVERVIEW

What are the D/E Rates?

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

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

D/E RATES OVERVIEW

What are the D/E Rate thresholds?

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% OR DIR greater than 20% and less than or equal to 30%	AER greater than 12% AND DIR greater than 30%

D/E RATES OVERVIEW

What happens if D/E Rates fall below the required thresholds?

- 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.

PROJECTING D/E RATES



STEP ONE: INSTITUTIONAL SCOPE

- When first approved to participate in Title IV programs, ED assigns each institution a unique six-digit Office of Postsecondary Education Identification number (“OPEID”).
- When ED calculates D/E rates, it does so **by OPEID**.
- Thus, first step in projecting D/E rates is to identify your OPEID(s), and ensure you know the universe of locations (*e.g.*, main, branch, satellite, extension, etc.) included within the scope of each OPEID.

STEP TWO: IDENTIFYING GE PROGRAMS

- When calculating rates, ED defines a “GE program” as a Title IV-eligible program identified by a combination of (1) OPEID, (2) six-digit Classification of Instructional Programs (CIP) code, and (3) credential level.
- Within a single OPEID, only credential level and CIP code distinguish one GE program from another.
- Begin by dividing all programs within your OPEID by credential level.

STEP TWO: IDENTIFYING GE PROGRAMS

ED recognizes eight credential levels for purposes of the GE analysis:

1. Undergraduate certificate or diploma
2. Associate degree
3. Bachelor's degree
4. Post-baccalaureate certificate
5. Graduate certificate (including a postgraduate certificate)
6. Master's degree
7. Doctoral degree
8. First professional degree (*e.g.*, MD, DDS, JD)

STEP TWO: IDENTIFYING GE PROGRAMS

- Next, within each credential level, divide programs by CIP code (CIP codes also listed on ECAR).
- Any programs with identical credential levels and CIP codes **must be consolidated**.
- You could be required to combine programs even if they have separate names and are offered at different locations and at different prices.

STEP THREE: IDENTIFYING GE STUDENTS

- ED defines “student” as any “individual who received Title IV funds for enrolling in the GE program.”
- This includes individuals who received **any** form of federal financial aid (*e.g.*, a student who received only Pell grants would be included, even if she did not receive any loans).

STEP THREE: IDENTIFYING GE STUDENTS

- When determining students to include in your cohort, eliminate students who did **not** receive **any** Title IV aid for enrolling in the program.
- In addition, exclude from your cohort any student satisfying one or more of the following six criteria:
 1. One or more of the student's Title IV loans were in a **military-related deferment** status at any time during the calendar year for which earnings information is being gathered (*e.g.*, for the 2014-2015 D/E rates, calendar year 2014);

STEP THREE: IDENTIFYING GE STUDENTS

2. ED is considering or has approved a discharge of one or more of the student's Title IV loans on the basis of the student's total and permanent **disability**;
3. The student is **deceased**;
4. The student was **enrolled** in any other eligible program at the institution or at another institution during the calendar year for which earnings information is being gathered (*e.g.*, for the 2014-2015 D/E rates, calendar year 2014);

STEP THREE: IDENTIFYING GE STUDENTS

5. For undergraduate GE programs, the student completed a subsequent higher-credentialed undergraduate GE program at your institution by the end of the most recently completed award year prior to the calculation of your D/E rates (*e.g.*, for the 2014-2015 D/E rates, award year 2014-2015); or
6. For graduate GE programs, the student completed a higher credentialed graduate GE program at the institution subsequent to completing the program by the end of the most recently completed award year prior to the calculation of the your D/ E rates (*e.g.*, for the 2014-2015 D/E rates, award year 2014-2015).

STEP THREE: IDENTIFYING GE STUDENTS

- Any student who received Title IV funds for enrolling in his or her GE program, and who fails to fall into one of the excluded categories detailed above, would be included in your GE Program cohort (a “GE Student”).

STEP FOUR: IDENTIFYING COHORT PERIOD

- The D/E rates for each GE program are based on data for GE Students who completed the program **during the applicable cohort period**.
- To finalize your student cohort for each GE program, determine whether to use a two-year cohort period or a four-year cohort period.

STEP FOUR: IDENTIFYING COHORT PERIOD

- Two-year cohort period: the period covering the two consecutive award years that are the third and fourth award years prior to the award year for which your D/E rates are calculated.
- Four-year cohort period: the third, fourth, fifth, and sixth award years prior to the award year for which your D/E rates are calculated.

STEP FOUR: IDENTIFYING COHORT PERIOD

Cohort Rates: Prior-Year Illustration

2008-2009	2009-2010	2010-2011	2011-2012	2012-2013	2013-2014	2014-2015
6 th Prior AY	5 th Prior AY	4 th Prior AY	3 rd Prior AY	2 nd Prior AY	1 st Prior AY	AY for which D/E Rates are being calculated.
		Two-Year Cohort Period				
Four-Year Cohort Period						

STEP FOUR: IDENTIFYING COHORT PERIOD

- Use a two-year cohort period when number of GE Students completing the program is 30 or more.
- Use a four-year cohort period when number of GE Students completing the program in the two-year cohort period is less than 30 and the number of GE Students completing the program in the four-year cohort period is 30 or more.

STEP FOUR: IDENTIFYING COHORT PERIOD

- If the expanded 4-year cohort does not have 30 qualifying students, ED will **not** calculate D/E rates for that program for the applicable award year.
 - If ED does not calculate D/E rates for a program, it does not mean that the program passes. Rather, the GE program receives a “no result” for that award year and remains in the same status as in the previous award year, when rates were calculated.
 - If ED does not calculate rates for four or more consecutive award years, it will disregard rates for any award year **prior** to the four-year period when determining the program’s eligibility.

THE “TRANSITIONAL RATES” COHORT

- For a limited period, for any GE program deemed “failing” or in the “zone” under standard calculations, ED will calculate a “transitional” D/E rate.
 - Transitional rates calculated using standard methodology, except ED will use median loan debt only of the students who completed program during the most recently completed award year.
 - ED will assess GE program’s compliance using lower of standard or transitional D/E rates.
- If transitional cohort has fewer than 30 students, ED will **not** calculate transitional rates (and traditional rates will stand).

THE “TRANSITIONAL RATES” COHORT

Transitional Rates: Period Illustration

Award Year	2014-2015	2015-2016	2016-2017	2017-2018	2018-2019	2019-2020	2020-2021
2-Year Cohort (AY)	2010-2011 - 2011-2012	2011-2012 - 2012-2013	2012-2013 - 2013-2014	2013-2014 - 2014-2015	2014-2015 - 2015-2016	2015-2016 - 2016-2017	2016-2017 - 2017-2018
4-Year Cohort (AY)	2008-2009 - 2011-2012	2009-2010 - 2012-2013	2010-2011 - 2013-2014	2011-2012 - 2014-2015	2012-2013 - 2015-2016	2013-2014 - 2016-2017	2014-2015 - 2017-2018
Transitional Cohort (AY)	2014-2015	2015-2016	2016-2017	2017-2018	2018-2019	2019-2020	2020-2021
	Transitional rate period for programs of one year or less.						
	Transitional rate period for programs between one and two years.						
Transitional rate period for programs of more than two years.							

STEP FIVE: CALCULATING STUDENT DEBT

- The amount used for each student’s “loan debt” in the D/E rate calculations is, in fact, the **lesser** of the student’s (1) actual loan debt, or (2) total costs.
 - For each GE student, you must select which number to include when projecting the median loan debt for the cohort.
 - The lesser number may vary from student to student, depending on his personal circumstances.

STEP FIVE: CALCULATING STUDENT DEBT

When calculating student's **actual loan debt**, you will need to include any debt that falls into the following three categories:

1. Any **Title IV loans** that the student borrowed (total amount disbursed less any cancellations or adjustments) for enrollment in the GE program (excluding Federal PLUS Loans made to parents of dependent students, Direct PLUS Loans made to parents of dependent students, and Direct Unsubsidized Loans that were converted from TEACH Grants); **AND**

STEP FIVE: CALCULATING STUDENT DEBT

2. Any private education loans, including private education loans made by the institution that the student borrowed for enrollment in the program;
AND
3. The amount outstanding, as of the date the student completes the program, on any other credit (including any unpaid charges) extended by or on behalf of the institution for enrollment in any GE program attended at the institution that the student is obligated to repay after completing the GE program.

STEP FIVE: CALCULATING STUDENT DEBT

When calculating **total costs** for each student, you will need to include the following amounts:

- The total amount of tuition and fees assessed the student for the student's entire enrollment in the GE program; **AND**
- The total amount of the allowances for books, supplies, and equipment included in the student's Title IV Cost of Attendance for each award year in which the student was enrolled in the program, **OR** a higher amount if assessed the student by the institution.

STEP FIVE: CALCULATING STUDENT DEBT

- Rolling up debt:
 - All actual loan debt/total costs incurred by student for attendance in your undergraduate GE Programs attributed to highest credentialed undergraduate GE Program she completed at your school as of the end of the most recently completed award year prior to the calculation of the D/E rates.
 - All actual loan debt/total costs incurred by student for attendance in your graduate GE Programs attributed to highest credentialed graduate GE Program she completed at your school as of the end of the most recently completed award year prior to the calculation of the D/E rates.

STEP SIX: MEDIAN LOAN DEBT

- The median of a set of values is the “middle” value. To determine the median loan debt, place the loan debt numbers in value order and identify the middle number.
- In instances where cohort includes an even number of students, identify middle pair of numbers and calculate value that would be halfway between them (*i.e.*, add them together and divide by two).

STEP SIX: MEDIAN LOAN DEBT

Median Illustration	
Student Number	Total Debt/Cost
Student 12	\$0
Student 10	\$0
Student 2	\$2,552
Student 13	\$11,064
Student 7	\$13,400
Student 6	\$13,550
Student 11	\$18,000

The median loan debt for the GE Program cohort set out above is the highlighted value: \$11,064.

STEP SIX: MEDIAN LOAN DEBT

- For those using Excel, you can calculate the median of a group of numbers by using the MEDIAN function. (For the example above, the function would be [median=(A2:A7)]).

STEP SEVEN: ANNUAL LOAN PAYMENT

- Final step in determining Annual Loan Payment (numerator for D/E rates) is to amortize the median loan debt for each GE Program over a 10-, 15-, or 20-year repayment period.
- The credential level of the program determines the repayment period.
 - **10 Years**: undergraduate certificate, post-baccalaureate certificate, associate degree, or graduate certificate.
 - **15 years**: bachelor's degree, master's degree.
 - **20 years**: doctoral or first-professional degree.

STEP SEVEN: ANNUAL LOAN PAYMENT

- Applicable interest rate will vary in future years, depending on past loan rates and the length and type of GE program, among other things.
- Because interest rate for all undergraduate, graduate, and professional level Direct Unsubsidized Loans first disbursed between July 1, 2006, and June 30, 2013, **was fixed at 6.8%**, it will be 6.8% for all GE program calculations relating to 14-15 AY.

STEP SEVEN: ANNUAL LOAN PAYMENT

- With median loan debt, annual interest rate, and repayment period , you can calculate each program's Annual Loan Payment.
- We'll actually determine the *monthly* loan payment associated with each GE program, then multiply by twelve to determine the Annual Loan Payment.

STEP SEVEN: ANNUAL LOAN PAYMENT

$$A = P \frac{r(1+r)^n}{(1+r)^n - 1}$$

A = monthly loan payment

P = median loan debt for the GE Program

r = monthly interest rate (annual interest rate divided by 12)

n = total number of monthly payments (number of years for repayment multiplied by 12)

STEP SEVEN: ANNUAL LOAN PAYMENT

Here is the spreadsheet-friendly version of the formula that you can use to calculate the Annual Loan Payment for your GE Programs:

Annual Loan Payment =

$$12 * (D * ((I/12) * ((1 + (I/12))^{(Y * 12)})) / ((1 + (I/12))^{(Y * 12)} - 1))$$

D = median loan debt for the GE Program

I = annual interest rate

Y = number of years for repayment

STEP EIGHT: ANNUAL EARNINGS

The denominator for both rates is based on graduates' annual earnings.

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

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

STEP EIGHT: ANNUAL EARNINGS

- When determining Annual Earnings for a GE program, ED will obtain from SSA most currently available mean and median annual earnings for GE Students who completed during applicable cohort period.
- ED will use the higher of mean or median annual earnings for purposes of D/E Rate calculation.

STEP EIGHT: ANNUAL EARNINGS

Thus, when computing the 2014-15 D/E rates, ED will use SSA earnings data from calendar year 2014.

Calendar Year Earnings Illustration

Award Year	2014-2015	2015-2016	2016-2017	2017-2018	2018-2019	2019-2020	2020-2021
Calendar Year Earnings Data	2014	2015	2016	2017	2018	2019	2020

STEP EIGHT: ANNUAL EARNINGS

Because SSA data is not available to the public, for each GE Program, you will have to develop a proxy for the SSA earnings information.

- Actual salary data obtained through graduate surveys.
- Feedback from regional employers regarding salary practices.
- Feedback from faculty, staff, program advisory committees, and experienced career services personnel.

STEP EIGHT: ANNUAL EARNINGS

- Use estimated data included with the 2012 GE Informational Rates released by ED in connection with the 2014 negotiated rulemaking.
- For every GE Program (at every institution), 2012 GE Informational Rates spreadsheet includes 2011 calendar year annual earnings data for GE Students who completed between October 1, 2007, and September 30, 2009, as reported by SSA.

STEP EIGHT: ANNUAL EARNINGS

- Note, data also can be sorted and filtered by state, zip code, industry sector, and CIP code, permitting calculation of average earnings for programs in a select area, for example, or nation earnings information for programs offered by a certain sector.
 - <http://www2.ed.gov/policy/highered/reg/hearulemaking/2012/gainfulemployment.html>
- If you use 2011 earnings data, consider adjustments for occupational demand, inflation, and other relevant variables.

STEP EIGHT: ANNUAL EARNINGS

- Also can estimate average earnings using data made available by BLS, or by one or more State Employment Security Agencies (regional earnings data likely will be a better proxy for actual earnings where most graduates find employment within a specific geographic area).
- Best starting point may be [O*NET Online website](#). Sponsored by the U.S. Department of Labor, Employment and Training Administration, compiles both federal and state wage data in a single location.

STEP NINE: DISCRETIONARY INCOME

- For each GE program, Discretionary Income is calculated by subtracting from program's Annual Earnings 150% of Poverty Guideline for a single person residing in the continental United States, as published by the U.S. Department of Health and Human Services.
- ED applies the Poverty Guideline for the calendar year immediately following the calendar year for which annual earnings are obtained.

STEP NINE: DISCRETIONARY INCOME

- 2015 Poverty Guideline for a single person residing in the United States is \$11,770. Thus, Discretionary Income for a program with estimated Annual Earnings of \$28,000 is:

$$\$28,000 - (\$11,770 \times 1.5) = \$10,345$$

CONSOLIDATED GE TIMETABLE

Award Year	2014-2015	2015-2016	2016-2017	2017-2018	2018-2019	2019-2020	2020-2021
2-Year Cohort (AY)	2010-2011 - 2011-2012	2011-2012 - 2012-2013	2012-2013 - 2013-2014	2013-2014 - 2014-2015	2014-2015 - 2015-2016	2015-2016 - 2016-2017	2016-2017 - 2017-2018
4-Year Cohort (AY)	2008-2009 - 2011-2012	2009-2010 - 2012-2013	2010-2011 - 2013-2014	2011-2012 - 2014-2015	2012-2013 - 2015-2016	2013-2014 - 2016-2017	2014-2015 - 2017-2018
Transitional Cohort (AY)	2014-2015	2015-2016	2016-2017	2017-2018	2018-2019	2019-2020	2020-2021
	Transitional rate period for programs of one year or less.						
	Transitional rate period for programs between one and two years.						
	Transitional rate period for programs of more than two years.						
Earnings Data (CY)	2014	2015	2016	2017	2018	2019	2020
Data Submission Due	7/31/15 & 10/1/15	10/1/2016	10/1/2017	10/1/2018	10/1/2019	10/1/2020	10/1/2021
Final Rates Released	Early 2017	Early 2018	Early 2019	Early 2020	Early 2021	Early 2022	Early 2023
					Early 2020: First-time ineligibility for GE Programs with 4 consecutive years in the Zone.		
					Early 2019: First-time warning sanctions for GE Programs with 3 consecutive years in the Zone.		
				Early 2018: First-time ineligibility for GE Programs that have failed 2 consecutive years.			
	Early 2017: First-time warning sanctions for GE Programs that fail.						

GE RESOURCES



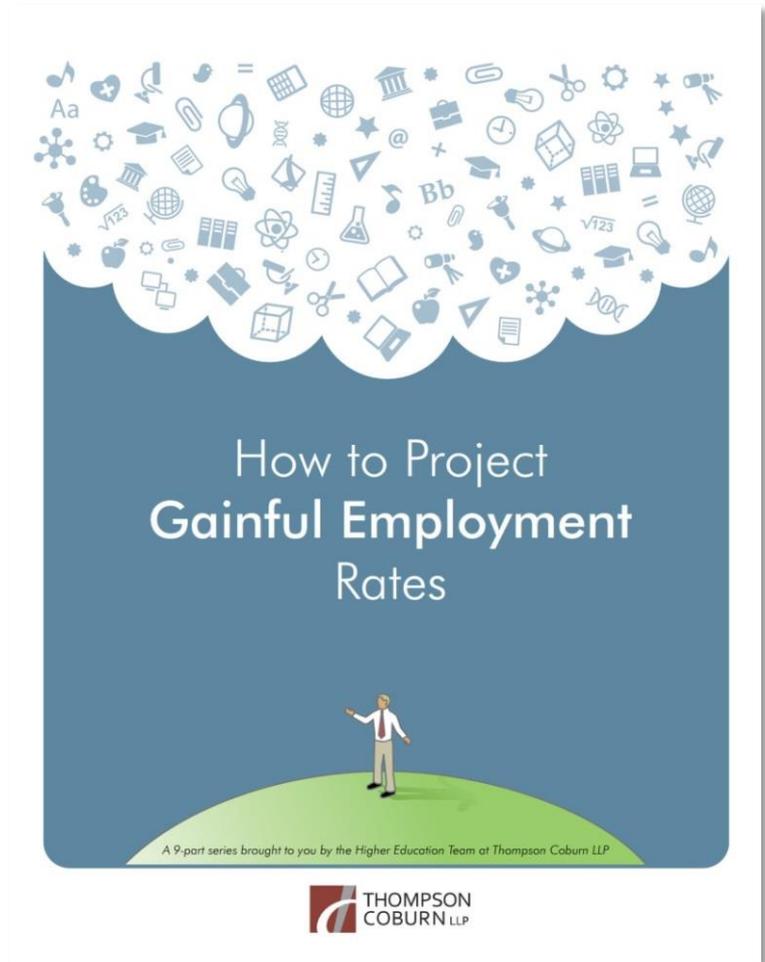
GE RESOURCES FROM ED

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

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



GE RESOURCES FROM TC



Navigating Gainful Employment

A Webinar Series from the
Thompson Coburn Higher Education Team



Five-part webinar series on gainful employment
(free, recorded, available on demand).

GE RESOURCES FROM TC

- Webinar series schedule:
 - How to Project Reliable Debt-to-Earnings Rates (February 11, 2016)
 - Strategies for Improving Debt-to-Earnings Rates (February 18, 2016)
 - Completer 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)
- Register at: <http://www.thompsoncoburn.com/news-and-information/tcle.aspx>

GE RESOURCES FROM TC

- [REGucation](#) higher education law and policy blog.



REGucation

Regulatory and Policy Insights
from the Thompson Coburn
Higher Education Team

Higher Education Team

CONTACT INFORMATION

Aaron D. Lacey, Esq.

Partner, Higher Education Practice

Thompson Coburn LLP

alacey@thompsoncoburn.com

314-552-6405

An electronic version of this presentation with [embedded hyperlinks](#) is available upon request.

CONDITIONS OF USE / DISCLAIMER

- Please note that the purpose of this presentation is to provide news and information on legal issues and all content provided is for informational purposes only and should not be considered legal advice.
- The transmission of information from this presentation does not establish an attorney-client relationship with the participant. The participant should not act on the information contained in this presentation or any accompanying materials without first consulting retained legal counsel.
- If you desire legal advice for a particular situation, you should consult an attorney.