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# U.S. Department of Education Issues New Guidance on Implementation of Program Length Regulations

On April 15, 2024, the U.S. Department of Education ("Department") issued new [guidance](#) regarding the implementation of the program length restrictions for Gainful Employment ("GE") programs. These restrictions are included in the Department's [Financial Responsibility, Administrative Capability, Certification Procedures and Ability to Benefit Final Rule](#) ("Final Rule") published in the *Federal Register* on October 31, 2023. The Final Rule takes effect on July 1, 2024.

The Final Rule impacts the operations of all types of schools, colleges and universities across all sectors of higher education. We reviewed and summarized certain provisions of the Final Rule dealing with state authorization and professional licensure requirements in a [video webinar](#) that is available on YouTube. The accompanying slide deck is available [here](#).

### Maximum Program Length Background

One of the more problematic provisions of the Final Rule is a further restriction on the length of GE programs for Title IV eligibility purposes. As a reminder, GE programs include virtually all programs at proprietary institutions, as well as nondegree programs at private and public nonprofit institutions.

As with many other regulations impacting higher education, the program length provisions have undergone a series of changes over the last decade or so under successive Administrations. Federal regulations have long required institutions offering GE programs designed to prepare students for employment in a recognized occupation to "demonstrate a reasonable relationship between the length of the program and entry level requirements for the recognized occupation for which the program prepares the student." 34 C.F.R. § 668.14(b)(26)(i).

Prior to the Trump Administration, the Department interpreted that regulation to limit a program to no more than 150% of the minimum number of required clock hours of training in the state where the institution is located, if the state in fact established such a minimum requirement, or any minimum established by a federal agency. Recognizing that many institutions are located in areas where their students and graduates routinely reside and work in multiple states and that minimum training requirements differ, sometimes significantly, from state to state, the Trump Administration relaxed the rule. Under the rule that remains in effect today, a program's length is considered to be reasonable if it does not exceed the greater of either 150% of the institution's home state or federal minimum length, if any, or 100% of any adjacent state's minimum requirement.

### The New Program Length Restrictions

Under the Final Rule, the maximum program length that will allow a GE program offered on or after July 1, 2024, to be eligible for Title IV funding is the greater of (a) 100% of the minimum number of training clock hours or credits established by the state in which the institution is located or any federal agency, or (b) 100% of the minimum number of training clock hours or credits established by *another state*, if certain conditions are met. Specifically, the institution can rely on the minimum training requirements established by a state other than its home state

"if the institution documents, with substantiation by a certified public accountant who prepares the institution's compliance audit report as required under § 668.23 that— 1) A majority of students resided in that State while enrolled in the program during the most recently completed award year; (2) A majority of students who completed the program in the most recently completed award year were employed in that State; or (3) The other State is part of the same metropolitan statistical area as the institution's home State and a majority of students, upon enrollment

in the program during the most recently completed award year, stated in writing that they intended to work in that other State[.]”

85 FR 74568, 74696.

This new program length limitation does not apply to programs that prepare students for occupations in fields in which the training requirement established by the state includes the completion of an associate's or higher degree. Programs that are offered *entirely* online or through correspondence courses also are exempt from this maximum program length restriction.

### Implementation Guidance

The Final Rule forces many institutions to revise their GE programs by reducing the number of clock hours or credits offered to meet the new program length restrictions so that the programs maintain Title IV eligibility. The Department's new [guidance](#) provides for a transition from earlier versions of these GE programs to the new shorter versions.

The Department makes clear that students who are enrolled in programs that exceed the maximum permissible length on or before June 30, 2024, will not be impacted by the new regulations. Said differently, institutions will be permitted to continue offering these longer programs until all students enrolled prior to July 1, 2024, have graduated or withdrawn. There will be no changes to these students' or program's current Title IV eligibility, but institutions will not be permitted to enroll any new students into these longer programs on or after July 1. Thus, institutions may be offering two versions of the same program simultaneously for some period of time.

The Department recognizes that in some cases the program changes required by the Final Rule will impact the eligibility of some GE programs. If the shorter program that will be offered to new students as of July 1 continues to include at least 600 clock hours, 16 semester credits, or 24 quarter credits, the Department will not require the institution to report the new shorter program version until after all students have graduated or withdrawn from the longer pre-July 1 program version. At that time, the institution will be required to report the updated program length to the Department through Partner Connect.

If, however, the modifications to a GE program reduces its length to less than 600 clock hours, 16 semester credits, or 24 quarter credits, it is considered to be a short-term program, and different procedures will apply. Short-term programs currently are not eligible for the Pell Grant program or campus-based programs, but they may retain Direct Loan eligibility if they meet certain other requirements discussed in the following paragraph. An institution must report a newly designated short-term program as a new program to the Department through Partner Connect and wait for the Department's approval to offer Direct Loans to students.

In order to be eligible for Direct Loans, short-term programs must be offered in clock hours, include at least 300 clock hours, and maintain a verified completion rate of 70% as calculated pursuant to [Section 668.8\(f\)](#) and a verified placement rate of 70% as calculated under [Section 668.8\(g\)](#). In such cases, institutions must maintain the minimum completion and placement rate requirements beginning with the 2024-25 award year and report these rates in their compliance audits for fiscal years beginning on or after July 1, 2025.

### For Further Assistance

If you need further assistance with these program length provisions, or any other aspect of the Final Rule, please do not hesitate to contact [Roger Swartzwelder](#), [Aaron Lacey](#) or other members of our team. The Thompson Coburn Higher Education Practice comprises professionals deeply familiar with a broad range of federal and state regulatory requirements, accreditation standards, transactional activities and operational practices. More information about the team and our services is available at our [Higher Education](#) homepage and our [Higher Education Resources](#) page.

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