

Accountability in Higher Education and Access through Demand-driven Workforce Pell (AHEAD)

Negotiated Rulemaking

Preliminary Discussion Guide: Student Tuition and Transparency System (STATS) and Earnings Accountability

Background: The One Big Beautiful Bill Act (OBBB), signed into law by President Trump on July 4, 2025, includes provisions modifying the Higher Education Act of 1965, as amended (HEA) that establish an accountability framework for all postsecondary programs of study that participate in the Direct Loan Program. This framework will compare the median earnings of graduates to those of working adults and will discontinue a program's Direct Loan Program eligibility if its graduates earn less than the comparison group.

Although certain elements of the statutory framework resemble elements of the Department's existing Financial Value Transparency (FVT) and Gainful Employment (GE) regulations, there are key differences in the populations of institutions and programs covered by the new framework, in the methodology used to evaluate program outcomes, and in consequences for failing programs.

Proposal Summary: To implement the required OBBB framework, provide the most consistent and helpful information to students, families, and other stakeholders, and prevent additional costs and administrative burden from competing frameworks for program accountability, the Department seeks to revise the existing FVT/GE regulations to align with the OBBB requirements and to provide a simplified transparency and accountability framework that would—

- Adapt the transparency framework under 34 CFR Part 668, Subpart Q and the accountability framework under Part 668, Subpart S to align with the requirements in HEA Sec. 454(c), as revised by OBBB Sec. 84001, and apply both frameworks consistently across Title IV-eligible GE and non-GE programs, regardless of institutional sector and program type;
- Remove the debt-to-earnings (D/E) rate metric, including all references and definitions under Part 668, Subparts Q and S specific to that metric;

- o *NOTE: We seek to discuss with negotiators the positive and negative consequences of eliminating the debt-to-earnings rates given the limited number of programs that would be captured by this metric and not the revised earnings premium metric.*
- Limit the consequences under Part 668, Subpart S for GE programs failing the earnings premium measure to loss of Direct Loan Program eligibility only;
- Amend the earnings threshold used in calculating the earnings premium under Part 668, Subpart Q to align with the earnings comparison group codified in HEA Sec. 454(c), as revised by OBBB Sec. 84001;
 - o *NOTE: We seek to discuss with negotiators the limitations of the metric as it pertains to programs offered by institutions in the U.S. Territories, Freely Associated States, and foreign institutions.*
- Establish cohort expansion procedures for small programmatic cohorts, first by aggregating additional years of program completers, then by aggregating similar programs at the same credential level if needed;
- Streamline reporting requirements under Part 668, Subpart Q to more narrowly collect information needed to calculate the earnings premium measure and information needed to produce informational disclosures of net price;
- Reduce the period of ineligibility for failing programs under Part 668, Subpart S from three years to two years
- Tailor the student warning requirements under Part 668, Subpart S for programs at risk of losing Direct Loan Program eligibility to more closely reflect the student notice information required under HEA Sec. 454(c), as revised by OBBB Sec. 84001; and
- Remove student acknowledgment requirements under Part 668, Subpart Q for programs other than undergraduate degree programs that fail the D/E rates metric

Topic 1: Accountability Technical and Conforming Changes

The Department proposes various changes to the regulations under 34 CFR Part 600, 34 CFR Part 668, and 34 CFR Part 685 to implement the statutory Accountability framework.

PART 600—INSTITUTIONAL ELIGIBILITY UNDER THE HIGHER EDUCATION ACT OF 1965, AS AMENDED

Subpart A—General

§ 600.10 Date, extent, duration, and consequence of eligibility.

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(c) * * *

(3) For a gainful employment program or eligible non-GE program under 34 CFR part 668, subpart S, subject to any restrictions in 34 CFR 668.603 on establishing or reestablishing the Direct Loan eligibility of the program, an eligible institution must update its application under § 600.21.

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Subpart B—Procedures for Establishing Eligibility

§ 600.21 Updating application information.

(a) *Reporting requirements.* Except as provided in paragraph (b) of this section, an eligible institution must report to the Secretary, in a manner prescribed by the Secretary and no later

Commented [A1]: Currently, institutions are permitted to self-certify the eligibility of most programs and are only required to report GE programs to the Department, including programs offered by proprietary institutions and non-degree programs.

The OBBB's accountability requirements require the Department to more closely monitor the eligibility of all programs, not just GE programs. Therefore, we propose expanding this reporting requirement to include all GE and eligible non-GE programs.

Note that, unlike the change made to 34 CFR 600.10 to require Department approval of eligible workforce programs, this change would not require the Department to approve all programs before they become Title IV-eligible. This only requires an institution to report the programs to the Department within 10 days of offering the program. The Department would evaluate the eligibility of those programs during the institution's recertification.

Commented [A2]: This change is the first of many that would harmonize the requirements and limitations imposed by the GE regulations with the OBBB accountability framework. In this case, the Department is limiting the consequences of failing the earnings premium metric to loss of Direct Loan eligibility rather than the loss of all Title IV eligibility, which is currently the consequence for GE programs that fail the metric in two out of three consecutive award years. The result would be that the consequence of failing the OBBB earnings premium metric in two out of three consecutive award years is the same for all programs: loss of Direct Loan eligibility.

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than 10 days after the change occurs, any change in the following:

* * * * *

(11) * * *

(v) Changing the program's name, CIP code, or credential level;
or

(vi) Updating the certification pursuant to 34 CFR 668.604(ba).

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PART 668—STUDENT ASSISTANCE GENERAL PROVISIONS

Subpart D—Institutional and Financial Assistance Information for Students

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§ 668.43 Institutional and programmatic information.

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(d) (1) *Program information website.* ~~Beginning on July 1, 2026,~~
~~†~~The Secretary will establish and maintain a website with information about institutions and their educational programs. For this purpose, an institution must provide to the Department such information about the institution and its programs as the Secretary prescribes through a notice published in the *Federal Register*. The Secretary may conduct consumer testing to inform the design of the website.

(i) The website must include, but is not limited to, the following items, to the extent reasonably available:

(A) The published length of the program in calendar time (i.e., weeks, months, years).

(B) As calculated by the Secretary, the median length of calendar time (i.e., weeks, months, years) taken for full-time and less-than-full-time students to complete the program's academic requirements and obtain the degree or credential awarded by the program.

(CB) The total number of individuals enrolled in the program during the most recently completed award year.

(DE) The total cost of tuition and fees, and the total cost of books, supplies, and equipment, that a student would incur for completing the program within the published length of the program.

(ED) Of the individuals enrolled in the program during the most recently completed award year, the percentage who received a Direct Loan Program loan, a private loan, or both for enrollment in the program.

(FE) As calculated by the Secretary, the median loan debt of students who completed the program during the most recently completed award year or for all students who completed or withdrew from the program during that award year.

Commented [A3]: We propose adding this provision to obtain a clearer idea of the actual amount of calendar time (in weeks, months, or years) that students take to complete the requirements for a program of study and to obtain the degree or credential awarded by such program.

We believe that students and consumers should be aware that many students do not finish their programs within the published program length. For example, according to the National Student Clearinghouse, the average time enrolled is 3.3 years for an associate degree program and 5.1 years for a bachelor's degree program.

(GF) As provided by the Secretary, the median earnings of students who completed the program as obtained under 34 CFR 668.404(c), or of all students who completed or withdrew from the program, during a period determined by the Secretary.

(HG) Whether the program is programmatically accredited and the name of the accrediting agency, as reported to the Secretary.

~~(H) As calculated by the Secretary, the program's debt-to-earnings rates.~~

(I) As calculated by the Secretary, the program's earnings premium measure.

(ii) The website may also include other information deemed appropriate by the Secretary, such as the following items:

(A) The primary occupations (by name, SOC code, or both) that the program prepares students to enter, along with links to occupational profiles on O*NET (www.onetonline.org) or its successor site.

(B) As reported to or calculated by the Secretary, the program or institution's completion rates and withdrawal rates for full-time and less-than-full-time students.

(C) As calculated by the Secretary, the medians of the total cost of tuition and fees, and the total cost of books, supplies, and equipment, and the total net cost of attendance paid by students completing the program.

(D) As calculated by the Secretary, the loan repayment rate for students or graduates who entered repayment on Direct Loan Program loans during a period determined by the Secretary.

~~(E) Whether students who graduate from a program are required to complete a postgraduation training program to obtain licensure before becoming eligible for independent practice.~~

~~(2) Program webpages. The institution must provide a prominent link to, and any other needed information to access, the website maintained by the Secretary on any web page containing academic, cost, financial aid, or admissions information about the program or institution. The Secretary may require the institution to modify a webpage if the information is not sufficiently prominent, readily accessible, clear, conspicuous, or direct.~~

(32) *Distribution to prospective students.* The institution must provide the relevant information to access the website maintained by the Secretary to any prospective student, or a third party acting on behalf of the prospective student, before the prospective student signs an enrollment agreement, completes registration, or makes a financial commitment to the institution.

(43) *Distribution to enrolled students.* The institution must provide the relevant information to access the website maintained by the Secretary to any enrolled title IV, HEA recipient prior to the start date of the first payment period

Commented [A4]: This item was included in the existing FVT/GE regulations in part to acknowledge a different calculation process for programs with postgraduate training requirements that allows for a longer earnings time frame for certain programs. Here the item is simply a disclosure, but we believe the disclosure is no longer needed because the Department will no longer treat such programs differently in the earnings premium metric. This is related to the Department's striking of the definition of a "qualifying graduate program"

Commented [A5]: Consistent with our desire to limit regulatory burden, we propose to eliminate this set of requirements because we do not believe that they provide adequate value to students and taxpayers given the burden they impose on institutions. This is particularly true because the regulations already require institutions to provide warnings to students in programs that fail the metric.

associated with each subsequent award year in which the student continues enrollment at the institution.

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Subpart G—Fine, Limitation, Suspension and Termination

Proceedings

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§ 668.91 Initial and final decisions.

(a) * * *

(3) * * *

(vi) In a termination action against a GE program or eligible non-GE program based upon the program's failure to meet the requirements in § 668.403 ~~or § 668.404~~, the hearing official must terminate the program's eligibility unless the hearing official concludes that the Secretary erred in the applicable calculation.

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PART 685—WILLIAM D. FORD FEDERAL DIRECT LOAN PROGRAM

Subpart A—Purpose and Scope

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§ 685.102 Definitions

(a)

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(1) The definitions of the following terms used in this part are set forth in the Student Assistance General Provisions, 34

CFR part 668:

Academic year

Campus-based programs

Dependent student

Disbursement

Eligible program

Eligible non-GE program

Eligible student

Enrolled

Expected family contribution (EFC)

Federal Consolidation Loan Program

Federal Pell Grant Program

Federal Perkins Loan Program

Federal PLUS Program

Federal Supplemental Educational Opportunity Grant Program

Federal Work-Study Program

Full-time student

Gainful employment program (GE program)

Graduate or professional student

Half-time student

Independent student

One-third of an academic year

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Parent

Payment period

Teacher Education Assistance for College and Higher Education
(TEACH) Grant Program

TEACH Grant

Two-thirds of an academic year

Undergraduate student

U.S. citizen or national

William D. Ford Federal Direct Loan (Direct Loan) Program

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**Subpart C—Requirements, Standards, and Payments for Direct Loan
Program Schools**

**§ 685.300 Agreements between an eligible school and the
Secretary for participation in the Direct Loan program**

(a) *General.* Participation of a school in the Direct Loan Program means that eligible students at the school may receive Direct Loans. To participate in the Direct Loan Program, a school must—

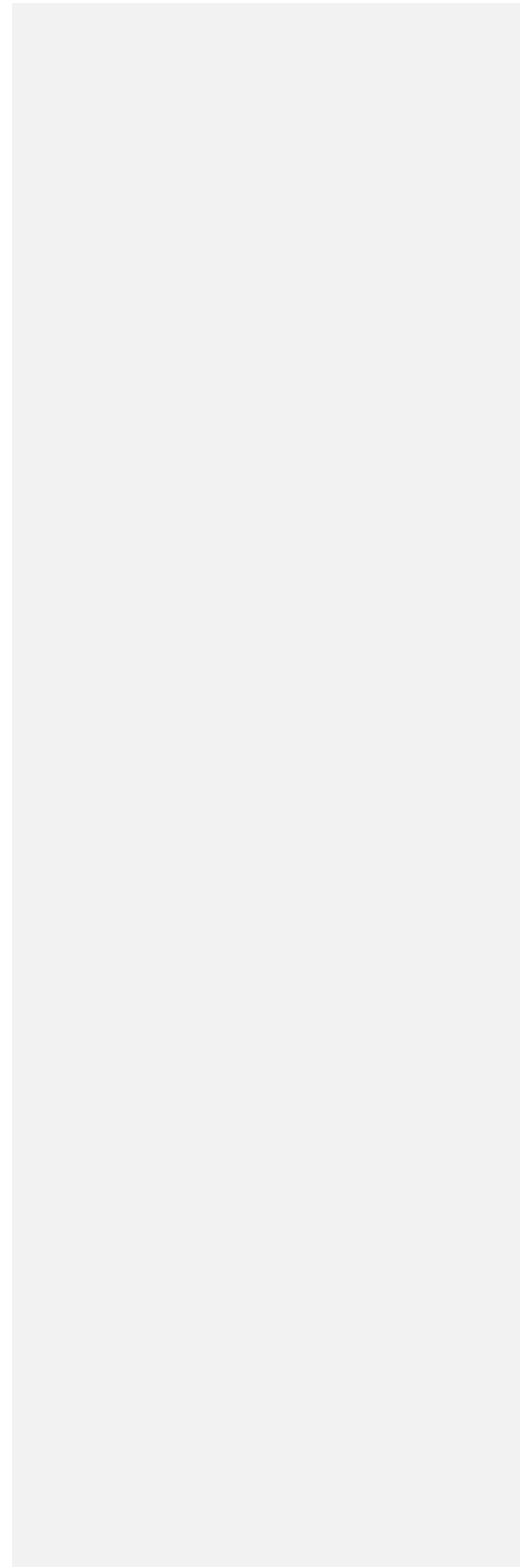
(1) Demonstrate to the satisfaction of the Secretary that the school meets the requirements for eligibility under the Act and applicable regulations; ~~and~~

(2) Enter into a written program participation agreement with the Secretary; ~~and-~~

Commented [A6]: We propose to add these provisions to the Direct Loan regulations to cross-reference the requirements in Subparts Q and S as a condition of an institution's agreement to participate in the Direct Loan program.

(3) For a GE program or an eligible non-GE program, meet the student tuition and transparency system requirements under 34 CFR part 668, subpart Q, and the earnings accountability requirements under 34 CFR part 668, subpart S.

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Topic 2: General Definitions, Cohort Construction and Comparison Groups

The Department proposes various changes to definitions under 34 CFR 668.2, including to alter the process for establishing cohorts of individuals whose earnings will be measured and the comparison groups to which the median earnings of program completers will be compared.

PART 668—STUDENT ASSISTANCE GENERAL PROVISIONS

Subpart A—General

§ 668.2 General definitions.

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(b) * * *

~~Annual debt-to-earnings rate (Annual D/E rate). The ratio of a program's annual loan payment amount to the annual earnings of the students who completed the program, expressed as a percentage, as calculated under § 668.403.~~

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Classification of instructional program (CIP) code. A taxonomy of instructional program classifications and descriptions developed by the U.S. Department of Education's National Center for Education Statistics (NCES). Specific programs offered by institutions are classified using a six-digit CIP code.

Commented [A7]: This change, in addition to several other changes below, would eliminate the debt-to-earnings rate in order to harmonize the requirements for GE programs with those of other programs covered by the OBBB's accountability framework. The Department's intent is for all programs to be subject to the earnings premium requirements described in the OBBB.

Cohort period. The set of award years used to identify a cohort of students who completed a program and whose ~~debt and~~ earnings outcomes are used to calculate ~~debt to earnings rates and~~ the earnings premium measure under subpart Q of this part. The Secretary uses a 2single-year cohort period to calculate the ~~debt to earnings rates and~~ earnings premium measure for a program when the number of students (after exclusions identified in ~~§§ 668.403(e) and~~ 668.4034(c)) in the 2single-year cohort period is 30 or more. The Secretary ~~uses a 4-year cohort period to calculate the debt to earnings rates and earnings premium measure~~sequentially expands the cohort period when the number of students completing the program in the ~~two~~single-year cohort period is fewer than 30 ~~and when the number of students completing the program in the 4-year cohort period is 30 or more~~. The cohort period ~~covers consecutive~~includes award years that are—

- (1) For the 2single-year cohort period, —
- ~~(i) The third and fourth award years~~ prior to the year for which the most recent data are available from the Federal agency with earnings data at the time the ~~D/E rates and~~ earnings premium measure ~~are~~is calculated, pursuant to §§ 668.403 ~~and~~ 668.404; ~~or~~
 - ~~(ii) For a qualifying graduate program, the sixth and seventh award years prior to the year for which the most recent data are~~

Commented [A8]: This definition explains how the Department will identify the cohorts of individuals whose earnings will be included in the earnings premium metric. It requires substantial revision to conform with cohort construction under new HEA Sec. 454(c)(4), revised by OBBB Sec. 84001.

The statutory text specifies that the calculation is for “who completed such program during the academic year that is 4 years before the year of the determination,” so for the base cohort year we used the fourth award year prior to the year of the earnings data, and worked backward from there.

The process would first identify additional completers one award year at a time in the same program for four additional award years prior to the original cohort period until 30 were identified. If 30 cannot be identified after including completers from the same 6 digit CIP Code program four additional award years, the Department would repeat the process for all programs with the same 4-digit CIP Code and credential level, and then again for programs with the same 2-digit CIP Code and credential level.

~~available from the Federal agency with earnings data at the time the D/E rates and earnings premium measure are calculated.~~

(2) For the ~~four-year~~expanded cohort period, the Secretary will sequentially add prior award year data to the single-year cohort in the following order until the cohort equals or exceeds 30 students ~~|(unless the Secretary determines the data are unreliable, in which case the cohort size may be increased until the Secretary determines the data are statistically reliable)~~—

(i) Sequential prior award years within the same program—

(A) The ~~third, fourth, fifth, and sixth~~ award years prior to the year for which the most recent data are available from the Federal agency with earnings data at the time the ~~D/E rates and earnings premium measure are is~~ calculated, pursuant to §§ 668.403; ~~and 668.404; or~~

(iiB) ~~For a qualifying graduate program, the sixth, seventh, eighth, and ninth award years prior to the year for which the most recent earnings data are available from the Federal agency with earnings data at the time the D/E rates and earnings premium measure are calculated.~~ The sixth award year prior to the year for which the most recent data are available from the Federal agency with earnings data at the time the earnings premium measure is calculated, pursuant to §§ 668.403;

(C) The seventh award year prior to the year for which the most recent data are available from the Federal agency with earnings

Commented [A9]: The Department is concerned about situations where a minimum of 30 students is insufficient because the data are unreliable. We included this provision to ensure that there is flexibility to select larger cohorts in those cases.

data at the time the earnings premium measure is calculated, pursuant to §§ 668.403;

(D) The eighth award year prior to the year for which the most recent data are available from the Federal agency with earnings data at the time the earnings premium measure is calculated, pursuant to §§ 668.403;

(ii) Sequential award years for all programs within the same 4-digit CIP code and credential level-

(A) The fourth award year prior to the year for which the most recent data are available from the Federal agency with earnings data at the time the earnings premium measure is calculated, pursuant to §§ 668.403;

(B) The fifth award year prior to the year for which the most recent data are available from the Federal agency with earnings data at the time the earnings premium measure is calculated, pursuant to §§ 668.403;

(C) The sixth award year prior to the year for which the most recent data are available from the Federal agency with earnings data at the time the earnings premium measure is calculated, pursuant to §§ 668.403;

(D) The seventh award year prior to the year for which the most recent data are available from the Federal agency with earnings data at the time the earnings premium measure is calculated, pursuant to §§ 668.403;

(E) The eighth award year prior to the year for which the most recent data are available from the Federal agency with earnings data at the time the earnings premium measure is calculated, pursuant to §§ 668.403;

(iii) Sequential award years for all programs within the same 2-digit CIP code and credential level-

(A) The fourth award year prior to the year for which the most recent data are available from the Federal agency with earnings data at the time the earnings premium measure is calculated, pursuant to §§ 668.403;

(B) The fifth award year prior to the year for which the most recent data are available from the Federal agency with earnings data at the time the earnings premium measure is calculated, pursuant to §§ 668.403;

(C) The sixth award year prior to the year for which the most recent data are available from the Federal agency with earnings data at the time the earnings premium measure is calculated, pursuant to §§ 668.403;

(D) The seventh award year prior to the year for which the most recent data are available from the Federal agency with earnings data at the time the earnings premium measure is calculated, pursuant to §§ 668.403;

(E) The eighth award year prior to the year for which the most recent data are available from the Federal agency with earnings

data at the time the earnings premium measure is calculated, pursuant to §§ 668.403.

Credential level. The level of the academic credential awarded by an institution to students who complete the program. For the purposes of this subpart, the undergraduate credential levels are: undergraduate certificate or diploma, associate degree, bachelor's degree, and post-baccalaureate certificate; and the graduate credential levels are master's degree, doctoral degree, first-professional degree (e.g., MD, DDS, JD), and graduate certificate (including a postgraduate certificate).

~~Debt to earnings rates (D/E rates). The discretionary debt to earnings rate and annual debt to earnings rate as calculated under § 668.403.~~

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~~Discretionary debt to earnings rate (discretionary D/E rate). The percentage of a program's annual loan payment compared to the discretionary earnings of the students who completed the program, as calculated under § 668.403.~~

Earnings premium. The amount by which the median annual earnings of students who recently completed a program exceed the earnings threshold, as calculated under § 668.40³⁴. If the median annual earnings of recent completers is equal to the earnings threshold, the earnings premium is zero. If the median

Commented [A10]: The statutory accountability framework under OBBB Sec. 84001 uses many of the elements of the "earnings premium" previously developed in the 2024 FVT/GE regulations, so we have maintained that framework here but adapted it to the statutory conditions so that all programs are treated alike.

annual earnings of recent completers is less than the earnings threshold, the earnings premium is negative.

Earnings threshold.

~~(1) For undergraduate programs, based on data from the Census Bureau, the median earnings for working adults aged 25-34, with only a high school diploma (or recognized equivalent), who either worked during the year or indicated they were unemployed (i.e., not employed but looking for and available to work) when interviewed, and were not enrolled in an institution during the year of the associated measured earnings with only a high school diploma (or recognized equivalent)–~~

~~(1i) In the State in which the institution is located; or
(2ii) Nationally, if fewer than 50 percent of the students enrolled in the institution program are from the State where the institution is located, or if the institution is a foreign institution.~~

~~(2) For graduate programs, based on data from the Census Bureau, the median earnings of working adults aged 25-34, with only a baccalaureate degree, who were not enrolled in an institution of higher education during the year of the associated measured earnings. The median earnings will be–~~

~~(i) The lowest of the median earnings of working adults–~~

~~(A) In the State in which the institution is located;~~

Commented [A11]: These changes implement the process described in new HEA Sec. 454(c)(3)(B)(i), revised by OBBB Sec. 84001, for establishing earnings comparison groups for undergraduate programs.

Although HEA Sec. 454, as revised by OBBB Sec. 84001, refers only to undergraduate and graduate degree programs and graduate certificate programs (and not undergraduate certificate programs), because the Department proposes to align the GE requirements that apply to undergraduate certificate programs, we also include undergraduate certificate programs in this part of the definition.

Commented [A12]: This implements the more complicated statutory process for establishing the comparison group under revised HEA Sec. 454(c)(3)(B). For graduate programs, the comparison group is more strict, and is sometimes drawn from the same field of study if that value is lower than state or national values.

(B) In the same field of study under the two-digit CIP code in the State in which the institution is located; or

(C) Nationally in the same field of study under the two-digit CIP code; or

(ii) If fewer than 50 percent of the students enrolled in the institution reside in the State where the institution is located, the lowest of the median earnings of working adults—

(A) Nationally; or

(B) Nationally in the same field of study under the two-digit CIP code.

(3) For programs offered by institutions located in the U.S. Territories and the Freely Associated States—

(i) For undergraduate programs in these territories, based on data from the Census Bureau, the median earnings for working adults aged 25-34, with only a high school diploma (or recognized equivalent), who worked and were not enrolled in an institution during the year of the associated measured earnings—

(A) In Puerto Rico; or

(B) If fewer than 50 percent of the students enrolled in the institution reside in the territory where the institution is located, based on data from the Census Bureau, the median earnings of working adults aged 25-34 in the United States, with only a high school diploma or recognized equivalent, who were

Commented [A13]: We added this section to address two unique types of institutions that are not specifically addressed in the statute.

This test (for programs at foreign institutions) is designed to be as similar as possible to the regular earnings threshold measures defined in statute, but includes slight adjustments due to a lack of data from the Census Bureau.

For US territories other than Puerto Rico, the US Census Bureau does not have territory-level data on the median earnings of working adults. Thus, for these territories, we cannot make an "in state high school earnings threshold." We therefore propose to use the earnings data available for Puerto Rico, which we believe provides a comparable benchmark to that of other territories. Likewise, for out-of-territory serving programs, we would apply the same national benchmark that is used in the statute and regulations.

not enrolled in an institution during the year of the associated measured earnings; or

(ii) For graduate programs in these territories, based on data from the Census Bureau, the median earnings of working adults aged 25-34, with only a baccalaureate degree, who were not enrolled in an institution of higher education during the year of the associated measured earnings. The median earnings will be—

(A) The lowest of the median earnings of working adults—

(1) In Puerto Rico;

(2) In the same field of study under the two-digit CIP code in Puerto Rico; or

(3) Nationally in the same field of study under the two-digit CIP code; or

(B) If fewer than 50 percent of the students enrolled in the institution reside in the territory where the institution is located, the lowest of the median earnings of working adults—

(1) Nationally; or

(2) Nationally in the same field of study under the two-digit CIP code; or

(4) For programs offered by ~~foreign institutions~~—

(i) For undergraduate programs at these institutions, based on data from the Census Bureau, the median earnings of working adults aged 25-34 in the United States, with only a high school

Commented [A14]: We propose a slightly different treatment for foreign institutions in this section. Comparison groups for these institutions would be drawn from U.S. national data rather than state-by-state data.

diploma or recognized equivalent, who were not enrolled in an institution during the year of the associated measured earnings;

or

(ii) For graduate programs at these institutions, based on data from the Census Bureau, the median earnings of working adults aged 25-34, with only a baccalaureate degree, who were not enrolled in an institution of higher education during the year of the associated measured earnings. The median earnings will be the lowest of the median earnings of working adults—

(A) Nationally in the United States; or

(B) Nationally in the United States in the same field of study under the two-digit CIP code.

Eligible non-GE program. An educational program other than a GE program offered by an institution and included in the institution's participation in the title IV, HEA programs, identified by a combination of the institution's six-digit Office of Postsecondary Education ID (OPEID) number, the program's six-digit CIP code as assigned by the institution or determined by the Secretary, and the program's credential level. Includes all coursework associated with the program's credential level.

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Federal agency with earnings data. A Federal agency with which the Department enters into an agreement to access earnings data

for the ~~D/E rates and~~ earnings threshold or value-added earnings measure. The agency must have individual earnings data sufficient to match with title IV, HEA recipients who completed any eligible program during the cohort period and may include agencies such as the Treasury Department (including the Internal Revenue Service), the Social Security Administration (SSA), the Department of Health and Human Services (HHS), and the Census Bureau.

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Gainful employment program (GE program). An educational program offered by an institution under § 668.8(c)(3) or (d) and identified by a combination of the institution's six-digit Office of Postsecondary Education ID (OPEID) number, the program's six-digit CIP code as assigned by the institution or determined by the Secretary, and the program's credential level.

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Institutional grants and scholarships. Assistance that the institution or its affiliate controls or directs to reduce or offset the original amount of a student's institutional costs and that does not have to be repaid. Typically, an institutional grant or scholarship includes a grant, scholarship, fellowship, discount, or fee waiver. An

institutional grant or scholarship does not include Federal education benefits; State, Tribal, local, or private grants and

Commented [A15]: We added this clause to provide for earnings data to also be used for value-added earnings calculations under Workforce Pell.

Commented [A16]: This data point created substantial confusion for institutions during the original implementation of FVT/GE. This is an attempt to clarify types of assistance that aren't considered institutional grants and scholarships. This language reflects sub-regulatory guidance through the FVT/GE FAQs. In addition, the concept of aid an institution controls or directs is familiar to institutions through the Department's longstanding sub-regulatory guidance pertaining to overawards and overpayments.

scholarships that the institution does not control or direct;
the institutional share of Federal Supplemental Education
Opportunity Grants; or assistance that must be repaid.

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Length of the program. The amount of time in weeks, months, or years that is specified in the institution's catalog, marketing materials, or other official publications for a student to complete the requirements needed to obtain the degree or credential offered by the program.

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~~Metropolitan statistical area. A core area containing a substantial population nucleus, together with adjacent communities having a high degree of economic and social integration with that core.~~

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~~Poverty Guideline. The Poverty Guideline for a single person in the continental United States, as published by the U.S. Department of Health and Human Services and available at <http://aspe.hhs.gov/poverty> or its successor site.~~

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Prospective student. An individual who has contacted an eligible institution for the purpose of requesting information about enrolling in a program or who has been contacted directly

by the institution or by a third party on behalf of the institution about enrolling in a program.

* * * * *

~~Qualifying graduate program.~~

~~(1) (i) For the first three award years that the Secretary calculates debt-to-earnings rates and the earnings premium measure under subpart Q of this part ("initial period"), a graduate program—~~

~~(A) Whose students must complete required postgraduation training programs to obtain licensure in one of the following fields: medicine, osteopathy, dentistry, clinical psychology, marriage and family counseling, clinical social work, and clinical counseling; and~~

~~(B) For which the institution attests, in the manner established by the Secretary, that—~~

~~(1) If necessary for licensure, the program is accredited by an accrediting agency that meets State requirements; and~~

~~(2) At least half of the program's graduates obtain licensure in a State where the postgraduation training requirements apply.—~~

~~(2) (i) After the initial period, the graduate programs that are on the list described in paragraph (2) (ii) of this definition and for which the Secretary has received an~~

Commented [A17]: This change would remove the concept of a qualifying graduate program in order to be consistent with OBBB changes. In the previous FVT/GE regulations, this concept was used to extend the time between graduation and earnings measurement for certain individuals studying for professions involving residencies. To harmonize the GE requirements with the OBBB accountability framework, this concept would no longer be used to extend the amount of time between graduation and earnings measurement under these regulations.

~~attestation that meets the requirements in paragraph (1)(i)(B) of this definition.~~

~~(ii) For the first award year following the initial period, and every three years thereafter, using publicly available information and information received in response to a request for information, the Secretary publishes in the Federal Register a list of graduate degree fields (based on their credential level and CIP codes) that may contain qualifying graduate programs by identifying fields—~~

~~(A) That lead to a graduate (master's, first-professional, or doctoral) degree;~~

~~(B) For which the Department determines that graduates must complete a required postgraduate training program that takes, on average, three or more years to complete; and~~

~~(C) For which, based on College Scorecard data, the Secretary determines that a majority of programs with the same credential level and CIP code have outlier earnings growth. An individual program has outlier earnings growth if the percent change in median earnings between its earnings measured one or three years post-completion and its earnings measured either five or ten years post-completion is more than two standard deviations above the average earnings growth for other programs with the same credential level.~~

~~(3) For the purpose of this definition, a "required postgraduation training program" is a supervised training program that~~

~~(A) Requires the student to hold a degree in one of the listed fields in paragraph (1)(i)(a) or one of the fields identified in the list described in paragraph (2)(ii) of this definition; and~~

~~(B) Must be completed before the student may be licensed by a State and board certified for professional practice or service.~~

Student. For the purposes of subparts Q and S of this part and of § 668.43(d), an individual who received title IV, HEA program funds for enrolling in the program.

* * * * *

~~Substantially similar program. For the purposes of subpart Q and S of this part, a program is substantially similar to another program if the two programs share the same four digit CIP code. The Secretary presumes a program is not substantially similar to another program if the two programs have different four digit CIP codes, but the institution must provide an explanation of how the new program is not substantially similar to the ineligible or voluntarily discontinued program with its certification under § 668.604.~~

* * * * *

Commented [A18]: The Department proposes removing this definition because we also propose eliminating one of its applications to exempt a program from reporting requirements. The substance of the definition is still used when we discuss the limitations on a program in the same 4-digit CIP code range regaining eligibility, but we do not believe the definition itself is necessary when it only has a single application.

Topic 3: Student Tuition and Transparency System (STATS): Metric Calculation

The Department proposes changes to 34 CFR 668 Subpart Q to align the requirements for the earnings premium calculation with the statutory Accountability framework.

Subpart Q—~~Financial Value Transparency~~ Student Tuition and Transparency System

§ 668.401 ~~Financial value~~ Student tuition and transparency system scope and purpose.

~~(a) General. Except as provided under paragraph (b) of this section, t~~This subpart applies to a GE program or eligible non-GE program offered by an eligible institution, and establishes the rules and procedures under which—

~~(1a)~~ An institution reports information about the program to the Secretary; and

~~(2b) Except as provided in paragraph (b)(1) of this section, t~~The Secretary assesses the program's ~~debt and~~ earnings outcomes.

~~(b) Applicability.~~

~~(1) This subpart does not apply to institutions located in U.S. Territories or Freely Associated States, except that such institutions are subject to the reporting requirements in § 668.409 and the Secretary will follow the procedures in §§~~

Commented [A19]: The current version of these regulations does not apply to institutions in the Territories and the Freely Associated States except insofar as those institutions are required to report data under FVT. Elsewhere the Department proposes updating the regulations to create a measure that applies to those institutions, so we are striking this exemption language.

~~668.403(b) and (d) and 668.405(b) and (c) to calculate median debt and obtain earnings information for their GE programs and eligible non-GE programs.~~

~~(2) For each award year that the Secretary calculates D/E rates or the earnings premium measure under § 668.402, this subpart does not apply to an institution if, over the most recently completed four award years, it offered no groups of substantially similar programs, defined as all programs in the same four-digit CIP code at an institution, with 30 or more completers.~~

Commented [A20]: The Department does not believe this exemption was appropriate given the statutory framework going back numerous years into the past to obtain individuals for the cohorts. We propose to strike it. Note that this is one of the places where the “substantially similar programs” definition was used.

§ 668.402 ~~Financial value~~ Student tuition and transparency system framework.

(a) *General.* The Secretary assesses the program’s ~~debt and~~ earnings outcomes using ~~debt-to-earnings rates (D/E rates)~~ and an earnings premium measure.

~~(b) Debt to earnings rates. The Secretary calculates for each award year two D/E rates for an eligible program, the discretionary debt-to-earnings rate, and the annual debt-to-earnings rate, using the procedures in §§ 668.403 and 668.405.~~

~~(c) Outcomes of the D/E rates.~~

~~(1) A program passes the D/E rates if~~

~~(i) Its discretionary debt-to-earnings rate is less than or equal to 20 percent;~~

~~(ii) Its annual debt to earnings rate is less than or equal to 8 percent; or~~

~~(iii) The denominator (median annual or discretionary earnings) of either rate is zero and the numerator (median debt payments) is zero.~~

~~(2) A program fails the D/E rates if-~~

~~(i) Its discretionary debt to earnings rate is greater than 20 percent or the income for the denominator of the rate (median discretionary earnings) is negative or zero and the numerator (median debt payments) is positive; and~~

~~(ii) Its annual debt to earnings rate is greater than 8 percent or the denominator of the rate (median annual earnings) is zero and the numerator (median debt payments) is positive.~~

(db) *Earnings premium measure.* For each award year, the Secretary calculates the earnings premium measure for an eligible program, using the procedures in §§ 668.40³⁴ and 668.40⁴⁵.

(ec) *Outcomes of the earnings premium measure.*

(1) A program passes the earnings premium measure if the median annual earnings of the students who completed the program equal or exceed the earnings threshold.

(2) A program fails the earnings premium measure if the median annual earnings of the students who completed the program are ~~equal to or~~ less than the earnings threshold.

~~§ 668.403 Calculating D/E rates.~~

~~(a) General. Except as provided under paragraph (f) of this section, for each award year, the Secretary calculates D/E rates for a program as follows:~~

~~(1) Discretionary debt to earnings rate = annual loan payment / (the median annual earnings - (1.5 x Poverty Guideline)). For the purposes of this paragraph, the Secretary applies the Poverty Guideline for the most recent calendar year for which annual earnings are obtained under paragraph (c) of this section.~~

~~(2) Annual debt to earnings rate = annual loan payment / the median annual earnings.~~

~~(b) Annual loan payment. The Secretary calculates the annual loan payment for a program by~~

~~(1)(i) Determining the median loan debt of the students who completed the program during the cohort period, based on the lesser of the loan debt incurred by each student as determined under paragraph (d) of this section or the total amount for tuition and fees and books, equipment, and supplies for each student, less the amount of institutional grant or scholarship funds provided to that student;~~

~~(ii) Removing, if applicable, the appropriate number of largest loan debts as described in § 668.405(d)(2); and~~

~~(iii) Calculating the median of the remaining amounts;~~

- ~~(2) Amortizing the median loan debt—~~
- ~~(i) (A) Over a 10-year repayment period for a program that leads to an undergraduate certificate, a post baccalaureate certificate, an associate degree, or a graduate certificate;~~
- ~~(B) Over a 15-year repayment period for a program that leads to a bachelor's degree or a master's degree; or~~
- ~~(C) Over a 20-year repayment period for any other program; and~~
- ~~(ii) Using an annual interest rate that is the average of the annual statutory interest rates on Federal Direct Unsubsidized Loans that were in effect during—~~
- ~~(A) The three consecutive award years, ending in the final year of the cohort period, for undergraduate certificate programs, post-baccalaureate certificate programs, and associate degree programs. For these programs, the Secretary uses the Federal Direct Unsubsidized Loan interest rate applicable to undergraduate students;~~
- ~~(B) The three consecutive award years, ending in the final year of the cohort period, for graduate certificate programs and master's degree programs. For these programs, the Secretary uses the Federal Direct Unsubsidized Loan interest rate applicable to graduate students;~~
- ~~(C) The six consecutive award years, ending in the final year of the cohort period, for bachelor's degree programs. For these~~

~~programs, the Secretary uses the Federal Direct Unsubsidized Loan interest rate applicable to undergraduate students; and~~
~~(D) The six consecutive award years, ending in the final year of the cohort period, for doctoral programs and first professional degree programs. For these programs, the Secretary uses the Federal Direct Unsubsidized Loan interest rate applicable to graduate students.~~

~~(c) Annual earnings.~~

~~(1) The Secretary obtains from a Federal agency with earnings data, under § 668.405, the most currently available median annual earnings of the students who completed the program during the cohort period and who are not excluded under paragraph (c) of this section; and~~

~~(2) The Secretary uses the median annual earnings to calculate the D/E rates.~~

~~(d) Loan debt and assessed charges.~~

~~(1) In determining the loan debt for a student, the Secretary includes—~~

~~(i) The amount of Direct Loans that the student borrowed (total amount disbursed less any cancellations or adjustments except for those related to false certification, borrower defense discharges, or categorical debt relief initiated under the Secretary's statutory authority) for enrollment in the program, excluding Direct PLUS Loans made to parents of dependent~~

~~students and Direct Unsubsidized Loans that were converted from TEACH Grants;~~

~~(ii) Any private education loans as defined in 34 CFR 601.2, including private education loans made by the institution, that the student borrowed for enrollment in the program and that are required to be reported by the institution under § 668.408; and~~

~~(iii) 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 program attended at the institution that the student is obligated to repay after completing the program, including extensions of credit described in clauses (1) and (2) of the definition of, and excluded from, the term "private education loan" in 34 CFR 601.2;~~

~~(2) The Secretary attributes all the loan debt incurred by the student for enrollment in any~~

~~(i) Undergraduate program at the institution to the highest credentialed undergraduate program subsequently completed by the student at the institution as of the end of the most recently completed award year prior to the calculation of the D/E rates under this section; and~~

~~(ii) Graduate program at the institution to the highest credentialed graduate program subsequently completed by the student at the institution as of the end of the most recently~~

~~completed award year prior to the calculation of the D/E rates under this section; and~~

~~(3) The Secretary excludes any loan debt incurred by the student for enrollment in any program at any other institution. However, the Secretary may include loan debt incurred by the student for enrollment in programs at other institutions if the institution and the other institutions are under common ownership or control, as determined by the Secretary in accordance with 34 CFR 600.31.~~

~~(c) Exclusions. The Secretary excludes a student from both the numerator and the denominator of the D/E rates calculation if the Secretary determines that~~

~~(1) One or more of the student's Direct Loan Program loans are under consideration by the Secretary, or have been approved, for a discharge on the basis of the student's total and permanent disability, under 34 CFR 674.61, 682.402, or 685.212;~~

~~(2) The student was enrolled full time in any other eligible program at the institution or at another institution during the calendar year for which the Secretary obtains earnings information under paragraph (c) of this section;~~

~~(3) For undergraduate programs, the student completed a higher credentialed undergraduate program at the institution subsequent to completing the program as of the end of the most recently~~

~~completed award year prior to the calculation of the D/E rates under this section;~~

~~(4) For graduate programs, the student completed a higher credentialed graduate program at the institution subsequent to completing the program as of the end of the most recently completed award year prior to the calculation of the D/E rates under this section;~~

~~(5) The student is enrolled in an approved prison education program;~~

~~(6) The student is enrolled in a comprehensive transition and postsecondary program; or~~

~~(7) The student died.~~

~~(f) D/E rates not issued. The Secretary does not issue D/E rates for a program under § 668.406 if~~

~~(1) After applying the exclusions in paragraph (c) of this section, fewer than 30 students completed the program during the two-year or four-year cohort period; or~~

~~(2) The Federal agency with earnings data does not provide the median earnings for the program as provided under paragraph (c) of this section.~~

§ 668.40~~34~~³⁴ Calculating earnings premium measure.

(a) *General.* Except as provided under paragraph (d) of this section, for each award year, the Secretary calculates the earnings premium measure for a program by determining whether

the median annual earnings of the students who completed the program ~~equal or exceed the earnings threshold~~.

(b) *Median annual earnings; earnings threshold.*

(1) The Secretary obtains from a Federal agency with earnings data, under § 668.40~~45~~, the most currently available median annual earnings of the students who completed the program during the cohort period, ~~who are working~~ and ~~who~~ are not excluded under paragraph (c) of this section; and

(2) The Secretary uses the median annual earnings of ~~students with a high school diploma or GED~~ working adults using data from the Census Bureau to calculate the earnings threshold described in § 668.2.

(3) The Secretary determines the earnings thresholds and publishes the thresholds annually ~~through a notice in the Federal Register~~.

(c) *Exclusions.* The Secretary excludes a student from the earnings premium measure calculation if the Secretary determines that—

(1) One or more of the student's Direct Loan Program loans are under consideration by the Secretary, or have been approved, for a discharge on the basis of the student's total and permanent disability, under 34 CFR 674.61, 682.402, or 685.212;

(2) The student was enrolled ~~full-time~~ in any other eligible program at the institution or at another institution during the

Commented [A21]: We are updating this to implement the language in new HEA Sec. 454(c)(1)(2), amended by OBBA Sec. 84001, stating that a program fails if the median earnings of its graduates is "less than the median earnings of a working adult" as described in (c)(1)(3).

Note also the changes below referring to the earnings of program graduates "who are working." The current regulations include both working and non-working students in the calculation of median earnings for a program, but the OBBA accountability framework only includes working students in that median calculation.

Commented [A22]: Although we still believe it is important to publish these earnings thresholds annually, given the number of different thresholds, including by field and State, we do not believe it is appropriate for this to be included in a Federal Register notice each year. The Department would publish these in other guidance, such as Dear Colleague Letters.

Commented [A23]: This change is needed to be consistent with the OBBA changes to the HEA under revised Sec. 454(c)(3)(A)(ii):

"...for which the median earnings (as determined by the Secretary) of the programmatic cohort of students who received funds under this title for enrollment in such program, who completed such program during the academic year that is 4 years before the year of the determination, **who are not enrolled in any institution of higher education**, and who are working..."

calendar year for which the Secretary obtains earnings information under paragraph (b) (1) of this section;

(3) For undergraduate programs, the student completed a higher credentialed undergraduate program at the institution subsequent to completing the program as of the end of the most recently completed award year prior to the calculation of the earnings premium measure under this section;

~~(4) For graduate programs, the student completed a higher credentialed graduate program at the institution subsequent to completing the program as of the end of the most recently completed award year prior to the calculation of the earnings premium measure under this section;~~

(54) The student is enrolled in an approved prison education program;

(65) The student is enrolled in a comprehensive transition and postsecondary program; or

(76) The student died.

(d) *Earnings premium measures not issued.* The Secretary does not issue the earnings premium measure for a program under § 668.4056 if—

(1) After applying the exclusions in paragraph (c) of this section, fewer than 30 students completed the program during the ~~two-year or four-year~~ fully expanded cohort period; or

Commented [A24]: The Department believes that it is less likely for a graduate program to have a natural “roll up” as there is for an associate’s degree to a bachelor’s degree or an undergraduate certificate to an associate’s degree. For this reason, this item caused a great deal of confusion, and we also believe it does not make sense generally to exclude students from the earnings premium calculation in this situation.

(2) The Federal agency with earnings data does not provide the median earnings for the program as provided under paragraph (b) of this section.

§ 668.40~~45~~ Process for obtaining data and calculating ~~D/E rates~~ and earnings premium measure.

(a) *Administrative data.* In calculating the ~~D/E rates and~~ earnings premium measure for a program, the Secretary uses student enrollment, disbursement, and program data, or other data the institution is required to report to the Secretary to support its administration of, or participation in, the title IV, HEA programs. In accordance with procedures established by the Secretary, the institution must update or otherwise correct any reported data no later than 60 days after the end of an award year.

(b) *Process overview.* The Secretary uses the administrative data to-

(1) Compile a list of students who completed each program during the cohort period. The Secretary-

(i) Removes from those lists students who are excluded under ~~§ 668.403(e) or~~ 668.40~~34~~(c);

(ii) Provides the list to institutions; and

(iii) Allows the institution to correct the information reported by the institution on which the list was based, no

later than 60 days after the date the Secretary provides the list to the institution;

(2) Obtain from a Federal agency with earnings data the median annual earnings of the students on each list, as provided in paragraph (c) of this section; and

(3) Calculate the ~~D/E rates and the~~ earnings premium measure and provide ~~them~~ it to the institution.

(c) *Obtaining earnings data.* For each list submitted to the Federal agency with earnings data, the agency returns to the Secretary ~~—~~

~~(1) The median annual earnings of the students on the list who are working and whom the Federal agency with earnings data has matched to earnings data, in aggregate and not in individual form, and~~

~~(2) The number, but not the identities, of students on the list that the Federal agency with earnings data could not match.~~

(d) *Calculating ~~D/E rates and~~ earnings premium measure.*

~~(1)~~ If the Federal agency with earnings data includes reports from records of earnings on at least ~~30~~ **16** students, the Secretary uses the median annual earnings provided by the Federal agency with earnings data to calculate the ~~D/E rates and~~ earnings premium measure for each program.

~~(2) If the Federal agency with earnings data reports that it was unable to match one or more of the students on the final~~

Commented [A25]: The IRS is the agency most likely to serve as the Federal agency with earnings data, and it sets its threshold for returning aggregated earnings data at more than 15 individuals. Therefore, we propose to establish that threshold here.

~~list, the Secretary does not include in the calculation of the median loan debt for D/E rates the same number of students with the highest loan debts as the number of students whose earnings the Federal agency with earnings data did not match. For example, if the Federal agency with earnings data is unable to match three students out of 100 students, the Secretary orders by amount the debts of the 100 listed students and excludes from the D/E rates calculation the three largest loan debts.~~

§ 668.40~~5~~6 Determination of the D/E rates and earnings premium measure.

(a) For each award year for which the Secretary calculates ~~D/E rates and~~ the earnings premium measure for a program, the Secretary issues a notice of determination.

(b) The notice of determination informs the institution of the following:

~~(1) The D/E rates for each program as determined under § 668.40~~3~~.~~

~~(2)~~ (1) The earnings premium measure for each program as determined under § 668.40~~3~~4.

~~(3)~~ (2) The determination by the Secretary of whether each program is passing or failing, as described in § 668.402, and the consequences of that determination.

~~(4) Whether the student acknowledgment is required under § 668.40~~7~~.~~

~~(53) For GE programs, w~~Whether the institution is required to provide the student warning under § 668.605.

~~(64) For GE programs, w~~Whether the program could become ineligible under subpart S of this part based on its final ~~D/E rates or~~ earnings premium measure for the next award year for which ~~D/E rates or the earnings premium measure are~~ it is calculated for the program.

~~§ 668.407 Student acknowledgments.~~

~~(a) Beginning on July 1, 2026, if an eligible program, other than an undergraduate degree program, has failing D/E rates, the Secretary notifies the institution under § 668.406(b)(4) that student acknowledgments are required for such program in the manner specified in this section.~~

~~(b)(1) If student acknowledgements are required, prospective students must acknowledge that they have viewed the information provided through the program information website established and maintained by the Secretary described in § 668.43(d).~~

~~(2) The Department will administer and collect the acknowledgment from students through the program information website.~~

~~(3) Prospective students must provide such acknowledgments until (i) the Secretary notifies the institution pursuant to § 668.406 that the program has passing D/E rates or (ii) three~~

Commented [A26]: We propose to remove the Department-run student acknowledgement process, which is not required under the OBBB framework.

That process would have added an additional layer of administration for the Department and schools while adding an additional layer of transparency and information to students. We are concerned that too much information would overwhelm students and would not be worth the associated burden on all parties. Additionally, this process would overlay another institutional warning process that is required under the OBBB.

~~years after the institution was last notified that the program had failing D/E rates, whichever is earlier.~~

~~(c)(1) A prospective student must provide the acknowledgment before the institution enters into an agreement to enroll the student;~~

~~(2) The Secretary monitors the institution's compliance with the requirements in paragraph (c)(1) through audits, program reviews, or other investigations.~~

~~(d) The acknowledgment required in paragraph (c)(1) of this section does not mitigate the institution's responsibility to provide accurate information to students concerning program status, nor will it be considered as dispositive evidence against a student's claim if applying for a loan discharge.~~

Topic 4: Student Tuition and Transparency System (STATS):

Reporting Requirements

The Department proposes changes to 34 CFR 668 Subpart Q to limit reporting requirements for institutions consistent with the Department's proposed elimination of the debt-to-earnings rate and its intent to limit administrative burden.

§ 668.40~~68~~ Reporting requirements.

(a) *Data elements.* In accordance with procedures established by the Secretary, an institution offering any ~~group of substantially similar programs, defined as all programs in the same four digit CIP code at an institution, with 30 or more completers in total over the four most recent award years~~ GE program or eligible non-GE program must report to the Department—

(1) For each GE program and eligible non-GE program, for its most recently completed award year—

(i) The name, CIP code, credential level, and length of the program;

(ii) Whether the program is programmatically accredited and, if so, the name of the accrediting agency;

~~(iii)~~ Whether the program meets licensure requirements or prepares students to sit for a licensure examination in a

Commented [A27]: The Department sought to remove as many reporting items as possible. Some items were removed because they supported metrics or processes that will not be used; other items were removed because they did not support the Department's more focused priorities for transparency data.

Commented [A28]: We propose to simplify this reporting element to only ask whether a program prepares students for licensure in any state. This is intended to substantially reduce the complexity of reporting, which we heard from institutions was extremely challenging.

~~particular occupation for each State in the institution's metropolitan statistical area~~ any State; and

(iv) The total number of students enrolled in the program during the most recently completed award year, including both recipients and non-recipients of title IV, HEA funds; ~~and.~~

~~(v) Whether the program is a qualifying graduate program whose students are required to complete postgraduate training programs, as described in the definition under § 668.2.~~

(2) For each student—

(i) Information needed to identify the student and the institution;

(ii) The date the student initially enrolled in the program;

~~(iii) The student's attendance dates and attendance status (e.g., enrolled, withdrawn, or completed) in the program during the award year; and~~

~~(iv) The student's enrollment status (e.g., full time, three-quarter time, half time, less than half time) as of the first day of the student's enrollment in the program;~~

~~(iii)~~ (v) The student's total ~~annual~~ cost of attendance (COA) for the award year under HEA section 472;

~~(iv)~~ (vi) The total actual tuition and fees assessed to the student for the award year;

~~(vii)~~ (vii) The student's residency tuition status by State or district, as applicable;

Commented [A29]: We propose removing this reporting element because under the new OBBB accountability framework there is no separate consideration for programs with postgraduate training requirements.

Commented [A30]: We propose adding "actual" here due to a concern that schools might be confused about whether we are asking for the "sticker" tuition and fees amount supposedly charged to all students, or the actual amount charged to that specific student, which might differ.

Commented [A31]: We propose this change recognizing that many institutions do not distinguish between States or districts or have residency status distinctions of any kind related to tuition charges.

(~~vi~~) The student's total ~~annual~~-allowance for books, supplies, and equipment from their COA for the award year under HEA section 472;

(~~ix~~~~vii~~) The student's total ~~annual~~-allowance for housing and food from their COA for the award year under HEA section 472;

(~~*viii~~) The amount of institutional grants and scholarships disbursed to the student for the award year;

(~~ix~~) The amount of other Federal, State, Tribal, or private grants disbursed to the student for the award year; and

(~~xii~~) The amount of any private education loans disbursed to the student for the award year for enrollment in the program that the institution is, or should reasonably be, aware of, including private education loans made by the institution;

(3) If the student completed or withdrew from the program during the award year—

~~(i) The date the student completed or withdrew from the program;~~

(~~i~~) The total amount the student received from private education loans, as described in § 668.403(d)(1)(ii), for enrollment in the program that the institution is, or should reasonably be, aware of;

~~(iii) The total amount of institutional debt, as described in § 668.403(d)(1)(iii), the student owes any party after completing or withdrawing from the program;~~

Commented [A32]: The Department now believes it can obtain this information from normal NSLDS enrollment reporting data, and does not need a separate reporting item under the STATS requirements.

Commented [A33]: We propose to remove this item because it would no longer be needed for purposes of the debt-to-earnings rate (which we propose to eliminate) and because of the complicated way that institutions were required to report this information, particularly for withdrawn students. We believe this would substantially reduce burden for institutions.

(~~ii~~) The total amount of tuition and fees assessed the student for the student's entire enrollment in the program;

(~~viii~~) The total amount of the allowances for books, supplies, and equipment included in the student's title IV, HEA COA for each award year in which the student was enrolled in the program, or a higher amount if assessed the student by the institution for such expenses; and

(~~vi~~) The total amount of institutional grants and scholarships provided for the student's entire enrollment in the program;

(v) The total amount of Federal, State, private, or other grants and scholarships provided for the student's entire enrollment in the program; and

(4) As described in a notice published by the Secretary in the *Federal Register*, any other information the Secretary requires the institution to report.

(b) *Initial and annual reporting.*

(1) ~~Except as provided under paragraph (c) of this section, a~~An institution must report the information required under paragraph

(a) of this section no later than—

(i) ~~For programs other than qualifying graduate programs July 31~~October 1, following the date these regulations take effect, for the ~~second through seventh~~two most recently completed award years prior to that date; and

Commented [A34]: We added this to obtain a more complete picture of the amount of aid an individual is receiving from an institution in order to calculate a more accurate net price.

In reality, the Department has been collecting this through FVT for the 2024 and 2025 poverty cycle. So although this is not actually adding a new requirement, we believe it is appropriate to add a regulatory requirement for something that we need to collect.

Commented [A35]: With this change, the Department is limiting the scope of information that must be reported under these regulations from five years' worth to only two. The Department has already collected data from the prior period through the existing regulations.

~~(ii) For qualifying graduate programs, July 31, following the date these regulations take effect, for the second through eighth award years prior to that date; and~~

(~~i~~ii) For subsequent award years, October 1, following the end of the award year, unless the Secretary establishes different dates in a notice published in the *Federal Register*.

(2) For any award year, if an institution fails to provide all or some of the information required under paragraph (a) of this section, the institution must provide to the Secretary an explanation, ~~acceptable to the Secretary,~~ of why the institution failed to comply with any of the reporting requirements that is acceptable to the Secretary.

~~(c) Transitional reporting period and metrics.~~

~~(1) For the first six years for which D/E rates and the earnings premium are calculated under this part, institutions may opt to report the information required under paragraph (a) of this section for its eligible programs either~~

~~(i) For the time periods described in paragraph (b)(1)(i) and~~

~~(ii) of this section; or~~

~~(ii) For only the two most recently completed award years.~~

~~(2) If an institution provides transitional reporting under paragraph (c)(1)(ii) of this section, the Department will calculate transitional D/E rates and earnings premium measures~~

Commented [A36]: In the Department's view, there is no need for a transitional reporting process under the revised accountability framework because the new framework does not demand institutional reporting of debt and scholarship/grant values for numerous years in the past.

~~using the median debt for the period reported and the earnings for six years.~~

§ 668.40~~7~~⁹ Severability.

If any provision of this subpart or its application to any person, act, or practice is held invalid, the remainder of the part and this subpart, and the application of this subpart's provisions to any other person, act, or practice, will not be affected thereby.

Topic 5: Earnings Accountability and Student Warnings

The Department proposes changes to 34 CFR 668 Subpart S to align the program eligibility consequences and requirements for student warnings in the OBBB's Accountability framework with the Department's Gainful Employment regulations.

Subpart S—~~Gainful Employment (GE)~~Earnings accountability
§ 668.601 ~~Gainful employment (GE)~~Earnings accountability scope and purpose.

~~(a) General. Except as provided under paragraph (b) of this section, t~~This subpart applies to an ~~educational-eligible non-GE program or a GE program~~ offered by an eligible institution ~~that prepares students for gainful employment in a recognized occupation~~ and establishes rules and procedures under which the Secretary determines that the program is eligible for ~~title IV,~~ ~~HEA~~Direct Loan ~~p~~Program funds.

~~(b) Applicability.~~

- ~~(1) This subpart does not apply to programs offered by institutions located in U.S. Territories or Freely Associated States.~~
- ~~(2) For each award year that the Secretary calculates D/E rates or the earnings premium measure under § 668.402, this subpart does not apply to an institution if, over the most recently~~

Commented [A37]: The Department proposes to apply the Subpart S provisions to all programs in order to harmonize requirements for GE and Eligible Non-GE programs that are now subject to program eligibility consequences under the OBBB accountability framework.

Commented [A38]: As described elsewhere, we do not believe it is appropriate to completely exempt these institutions from consideration.

~~completed four award years, it offered no groups of substantially similar programs, defined as all programs in the same four digit CIP code at an institution, with 30 or more completers in total.~~

§ 668.602 ~~Gainful employment~~Earnings accountability criteria.

(a) A GE program ~~or eligible non-GE program~~ provides training that ~~prepares students for gainful employment in a recognized occupation~~leads to acceptable earnings outcomes if the program—

(1) Satisfies the applicable certification requirements in § 668.604; and

~~(2) Is not a failing program under the D/E rates measure in § 668.402 in two out of any three consecutive award years for which the program's D/E rates are calculated; and~~

~~(3)~~ (2) Is not a failing program under the earnings premium measure in § 668.402 in two out of any three consecutive award years for which the program's earnings premium measure is calculated.

~~(b) If the Secretary does not calculate or issue D/E rates for a program for an award year, the program receives no result under the D/E rates for that award year and remains in the same status under the D/E rates as the previous award year.~~

~~(c) In determining a program's eligibility, the Secretary disregards any D/E rates that were calculated more than five calculation years prior.~~

(~~ab~~) If the Secretary does not calculate or issue earnings premium measures for a program for an award year, the program receives no result under the earnings premium measure for that award year and remains in the same status under the earnings premium measure as the previous award year.

~~(c) In determining a program's eligibility, the Secretary disregards any earnings premium that was calculated more than five years prior.~~

§ 668.603 ~~Ineligible GE~~Low-earning outcome programs.

(a) ~~Ineligible-Low-earning outcome~~ programs. If a GE program or eligible non-GE program is a failing program under ~~(i) the D/E rates measure in § 668.402 in two out of any three consecutive award years for which the program's D/E rates are calculated, or (ii) the earnings premium measure in § 668.402 in two out of any three consecutive award years for which the program's earnings premium measure is calculated, the program is ineligible a low-earning outcome program and its participation in the title IV, HEA Direct Loan pPrograms ends upon the earliest of~~

~~(1) The issuance of a new Eligibility and Certification Approval Report that does not include that program;~~

~~(2) The completion of a termination action of Direct Loan pProgram eligibility, if an action is initiated under subpart G of this part, or~~

Commented [A39]: The Department believes that additional due process is needed for programs that lose eligibility under the revocation and Program Participation Agreement options described below. The current regulations include three options for losing eligibility, but two of those two options do not include a mandatory appeal process. New Sec. 454(c)(5) mandates an appeal for all programs that lose eligibility under this framework, and we believe it is appropriate to provide that appeal opportunity to GE programs as well. Therefore, these changes would require all terminations of program eligibility to undergo the full Subpart G process for terminations, which would involve an option for institutions to appeal.

~~(3) A revocation of program eligibility if the institution is provisionally certified.~~

(b) *Basis for appeal.* If the Secretary initiates an action under paragraph (a) ~~(2)~~ of this section, the institution may initiate an appeal under subpart G of this part if it believes the Secretary erred in the calculation of the program's ~~D/E rates under § 668.403 or the~~ earnings premium measure under § 668.403³⁴. Institutions may not dispute a program's Direct Loan Program ineligibility based upon its ~~D/E rates or the~~ earnings premium measure except as described in this paragraph (b).

(c) *Restrictions.*

(1) ~~Ineligible program~~Direct Loan Program ineligibility.

Except as provided in § 668.26(d), an institution may not disburse ~~title IV, HEA~~Direct Loan program funds to students enrolled in ~~an ineligible a low-earning outcome~~ program.

(2) *Period of ineligibility.* An institution may not seek to reestablish the Direct Loan Program eligibility of a failing ~~GE~~ program that it discontinued voluntarily either before or after ~~D/E rates or the~~ earnings premium measure ~~are~~is issued for that program, or reestablish the Direct Loan Program eligibility of a program that is ineligible under ~~the D/E rates or the~~ earnings premium measure, until three-two years following the earlier of the date the program loses eligibility under paragraph (a) of

Commented [A40]: Updated per revised HEA Sec. 454(c)(7), which prevents programs from regaining eligibility for only two years after failing or being voluntarily discontinued.

this section or the date the institution voluntarily discontinued the failing program.

(3) *Restoring eligibility.* A low-earning outcome program ~~ineligible program~~, or a failing program that an institution voluntarily discontinues, remains ineligible for Direct Loan Program participation until the institution establishes the eligibility of that program under § 668.604 ~~(eb)~~.

§ 668.604 Certification requirements for GE programs and eligible non-GE programs.

~~(a) Transitional certification for existing programs.~~

~~(1) Except as provided in paragraph (a) (2) of this section, an institution must provide to the Secretary no later than December 31 of the year in which this regulation takes effect, in accordance with procedures established by the Secretary, a certification signed by its most senior executive officer that each of its currently eligible GE programs included on its Eligibility and Certification Approval Report meets the requirements of paragraph (d) of this section. The Secretary accepts the certification as an addendum to the institution's program participation agreement with the Secretary under § 668.14.~~

~~(2) If an institution makes the certification in its program participation agreement pursuant to paragraph (b) of this section between July 1 and December 31 of the year in which this~~

Commented [A41]: Institutions will ultimately have to agree to these provisions in their PPAs, and the regulatory requirements apply regardless of the certification. Therefore, although we believe the certification in the PPA is useful because it provides a clear and direct acknowledgement by the institution that it will comply with these requirements, we do not see the value in transitional certifications.

~~regulation takes effect, it is not required to provide the transitional certification under this paragraph.~~

~~(ba)~~ *Program participation agreement certification.*

As a condition of its continued participation in the title IV, HEA programs, an institution must certify in its program participation agreement with the Secretary under § 668.14 that each of its currently eligible GE programs and eligible non-GE programs included on its Eligibility and Certification Approval Report meets the requirements of paragraph ~~(dc)~~ of this section. As provided under § 600.21(a)(11)(vi), an institution must update the certification within 10 days if there are any changes in the approvals for a program, or other changes for a program that render an existing certification no longer accurate.

~~(eb)~~ *Establishing eligibility and disbursing funds.*

(1) An institution establishes a ~~GE~~-program's eligibility for ~~title IV, HEA p~~Direct Loan Program funds by updating the list of the institution's Direct Loan-eligible programs maintained by the Department to include that program, as provided under 34 CFR 600.21(a)(11)(i). By updating the list of the institution's Direct Loan-eligible programs, the institution affirms that the program satisfies the certification requirements in paragraph ~~(dc)~~ of this section. Except as provided in paragraph ~~(eb)~~ (2) of this section, after the institution updates its list of Direct Loan-eligible programs, the institution may disburse

~~title IV, HEA~~ Direct Loan Program funds to students enrolled in that program.

(2) An institution may not update its list of Direct Loan-eligible programs to include a ~~GE~~-program, or a ~~GE~~-program ~~that is substantially similar to~~ sharing the same 4-digit CIP code, ~~as~~ a failing program that the institution voluntarily discontinued or became ineligible as described in § 668.603(c), at the same credential level that was subject to the ~~three~~two-year loss of eligibility under § 668.603(c), until that ~~three~~year-period expires.

~~(d)~~ ~~GE~~-Direct Loan ~~P~~Program eligibility certifications. An institution certifies for each Direct Loan-eligible ~~GE~~-program included on its Eligibility and Certification Approval Report, at the time and in the form specified in this section, that—

(1) The institution agrees to comply with the requirements of subparts Q and S of this part; and

(2) sSuch program is approved by a recognized accrediting agency or is otherwise included in the institution's accreditation by its recognized accrediting agency, or, if the institution is a public postsecondary vocational institution, the program is approved by a recognized State agency for the approval of public postsecondary vocational education in lieu of accreditation.

§ 668.605 Student warnings.

Commented [A42]: Although we propose to eliminate the definition of “substantially-similar” programs, we are incorporating the same general concept here by preventing programs with the same 4-digit CIP code as one that has lost eligibility or that was voluntarily discontinued after failing for one year.

(a) *Events requiring a warning to students and prospective students.* ~~Beginning on July 1, 2026, t~~The institution must provide a warning with respect to a GE program or eligible non-GE program to students and prospective students for any year for which the Secretary notifies an institution that the ~~GE~~ program could become ineligible for the Direct Loan Program under this subpart based on its final ~~D/E rates or~~ earnings premium measure for the next award year for which ~~D/E rates or the earnings premium measure are~~ it is calculated for the ~~GE~~ program.

~~(b) Subsequent warning. If a student or prospective student receives a warning under paragraph (a) of this section with respect to a GE program, but does not seek to enroll until more than 12 months after receiving the warning, the institution must again provide the warning to the student or prospective student, unless, since providing the initial warning, the program has passed both the D/E rates and earnings premium measures for the two most recent consecutive award years in which the metrics were calculated for the program.~~

~~(eb) Content of warning.~~ The institution must provide in the warning—

(1) A warning, as specified by the Secretary in a notice published in the *Federal Register*, that—

(i) The program has not passed standards established by the U.S. Department of Education based on the ~~amounts students~~

Commented [A43]: This clause was included in the existing regulations to delay the warning requirement until after the effective date of the rest of the rule. Assuming the warning requirement will be effective with the rest of the accountability framework, we believe this phrase can be removed.

~~borrow for enrollment in the program and their reported earnings of program graduates, as applicable;~~ and

(ii) The program could lose access to ~~Federal grants and Direct Loans~~ based on the next calculated program metrics;

(2) The relevant information to access the program information website maintained by the Secretary described in § 668.43(d);

~~and~~

(3) A statement that the student must acknowledge having viewed the warning ~~through the program information website~~ before the institution may disburse any title IV, HEA funds to the student.

~~(4) A description of the academic and financial options available to students to continue their education in another program at the institution, including whether the students could transfer credits earned in the program to another program at the institution and which course credits would transfer, in the event that the program loses eligibility for title IV, HEA program funds;~~

~~(5) An indication of whether, in the event that the program loses eligibility for title IV, HEA program funds, the institution will~~

~~(i) Continue to provide instruction in the program to allow students to complete the program; and~~

Commented [A44]: We propose revising this item to remove the mention of acknowledging “through the program information website” because we propose to eliminate the acknowledgment process that is managed by the Department.

Additionally, we removed the items below because they are not explicitly required by HEA Sec. 454(c)(6) and are burdensome for institutions. This is consistent with the Department’s implementation of Executive Order 14192, “Unleashing Prosperity Through Deregulation.”

~~(ii) Refund the tuition, fees, and other required charges paid to the institution by, or on behalf of, students for enrollment in the program; and~~

~~(6) An explanation of whether, if the program loses eligibility for title IV, HEA program funds, the students could transfer credits earned in the program to another institution in accordance with an established articulation agreement or teach-out plan or agreement.~~

~~(d) Alternative languages. In addition to providing the English-language warning, the institution must also provide translations of the English language student warning for those students and prospective students who have limited proficiency in English.~~

(ec) *Delivery to enrolled students.* An institution must provide the warning required under this section in writing, by hand delivery, mail, or electronic means, to each student enrolled in the program no later than 30 days after the date of the Secretary's notice of determination under § 668.40~~56~~ and maintain documentation of its efforts to provide that warning. The warning must be the only substantive content contained in these written communications.

~~(fd)~~ *Delivery to prospective students.*

(1) An institution must provide the warning as required under this section to each prospective student or to each third party

acting on behalf of the prospective student at the first contact about the program between the institution and the student or the third party acting on behalf of the student by—

(i) Hand-delivering the warning as a separate document to the prospective student or third party, individually or as part of a group presentation;

(ii) Sending the warning to the primary email address used by the institution for communicating with the prospective student or third party about the program, provided that the warning is the only substantive content in the email and that the warning is sent by a different method of delivery if the institution receives a response that the email could not be delivered; or

(iii) Providing the warning orally to the student or third party if the contact is by telephone.

(2) An institution may not enroll, register, or enter into a financial commitment with the prospective student with respect to the program earlier than three business days after the institution delivers the warning as described in paragraph (f) of this section.

(~~g~~) *Acknowledgment prior to enrollment and disbursement.* An institution may not allow a prospective student seeking title IV, HEA assistance to sign an enrollment agreement, complete registration, or make a financial commitment to the institution, or disburse title IV, HEA funds to the student until the student

or prospective student completes the acknowledgment described in paragraph (e**b**) (3) of this section.

(h**f**) *Discharge claims.* The provision of a student warning or the acknowledgment described in paragraph (e**b**) (3) of this section does not mitigate the institution's responsibility to provide accurate information to students concerning program status, nor will it be considered as dispositive evidence against a student's claim if applying for a loan discharge.

§ 668.606 Severability.

If any provision of this subpart or its application to any person, act, or practice is held invalid, the remainder of the part and this subpart, and the application of this subpart's provisions to any other person, act, or practice, will not be affected thereby.

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