

Gainful Employment Regulations: Recent Updates from the Department of Education

June 16, 2015

EA #54 provides additional details and the forms (see link below) for institutions to use to make the required certifications for their GE programs, which entail a complex mix of federal, state, accrediting, and professional licensure issues. The top-ranking officer at each institution will be required to certify that each of their GE programs meets all three of these requirements if applicable:

1. Is approved by its institutional accrediting agency or otherwise included in the institution's accreditation by such agency (or by the appropriate state agency, for public postsecondary vocational institutions);
2. Is programmatically accredited if such accreditation is required by a federal governmental entity or a state governmental entity in the state in which the institution is located or any other state in which the institution is required to obtain state approval under the ED state authorization rule at 34 CFR §600.9; and
3. Satisfies the educational prerequisites for professional licensure so that a student who completes the program and seeks employment qualifies to take any licensure or certification examination that is needed for the student to find employment in an occupation that the program prepares students to enter into in the state in which the institution is located or any other state in which the institution is required to obtain state approval under 34 CFR § 600.9.

Institutions must be especially diligent in determining the states from which they are required to obtain approval. ED's current state authorization rule at 34 CFR § 600.9 requires institutions to be legally authorized in states in which it is physically located, but ED may re-introduce the distance learning provisions of the state authorization rules vacated by the courts in 2012 (formerly at 34 CFR § 600.9c) requiring institutions to demonstrate to ED that they meet the approval requirements of the states in which they offer distance education programs.

Certification action items

EA #54 also directs institutions to update their Eligibility and Certification Approval Reports so that such reports correctly list the current GE programs offered by the institution. This will be quite important for the first set of reports to be filed, as discussed below.

EA #54 repeats the deadlines for institutions to submit the certifications. Institutions that expect to receive a new program participation agreement before December 31, 2015, will be able to make the certification on their new PPA. Other institutions will need to execute a separate "Transitional Certification" to be filed by December 31, 2015.

The Transitional Certification forms and detailed instructions are available [here](#).

Reporting action items

ED's GE Reporting deadline is also quickly approaching. By July 31, 2015, all proprietary institutions and approximately 1400 public and non-profit institutions must report the required data on all Title IV students who were enrolled in their GE programs from the 2008-2009 to the 2013-2014 award years. Programs with medical or dental residencies must report information back to the 2007-2008 award years. This will be a massive effort—covering more than 10 data points on millions of students enrolled in more than 37,000 GE programs across six award years—so it is essential to begin preparations. The [NSLDS Gainful Employment User Guide](#) has detailed instructions on how to prepare and make the submissions.

Additional information

ED maintains a "Frequently Asked Question" website which provides information and operational guidance on GE requirements. The FAQs are updated about once a month with additional questions and answers. ED also recently released a [Gainful Employment Operations Manual](#) which provides an overview of the GE Rule and will be updated with additional guidance from ED.

Jonathan Glass specializes in higher education law, with concentrated emphasis on the institutional eligibility and financial responsibility requirements for institutions to participate in the Title IV federal student aid programs.

Kate Lee Carey focuses on the legal, accreditation, administrative and regulatory aspects of regionally and nationally accredited higher education institutions and companies that provide services to the education industry.

This content is provided for general informational purposes only, and your access or use of the content does not create an attorney-client relationship between you or your organization and Cooley LLP, Cooley (UK) LLP, or any other affiliated practice or entity (collectively referred to as "Cooley"). By accessing this content, you agree that the information provided does not constitute legal or other professional advice. This content is not a substitute for obtaining legal advice from a qualified attorney licensed in your jurisdiction, and you should not act or refrain from acting based on this content. This content may be changed without notice. It is not guaranteed to be complete, correct or up to date, and it may not reflect the most current legal developments. Prior results do not guarantee a similar outcome. Do not send any confidential information to Cooley, as we do not have any duty to keep any information you provide to us confidential. This content may have been generated with the assistance of artificial intelligence (AI) in accordance with our [AI Principles](#), may be considered Attorney Advertising and is subject to our [legal notices](#). Copyright © 2026