

Last Minute Reprieve in GE Rule

June 30, 2017

With minutes to spare before the close of business today, the Department of Education (ED) issued a Notice in advance of official publication in the Federal Register, announcing a delay in a number of requirements relating to the Gainful Employment (GE) Rule scheduled for implementation tomorrow, July 1, 2017.

In its [Notice](#), ED took the following action:

1. In response to a District Court decision two days ago, the deadline for filing Alternate Earnings Appeals has been indefinitely deferred. Originally due tomorrow (July 1, 2017), ED now says that it will publish new timelines for the appeals within the next 30 days.
2. Institutions that timely filed a Notice of Intent to Appeal and would have been required to submit their appeals tomorrow will not be required to distribute student warnings until such time as ED issues new guidance on the appeals process. While not stated in ED's Notice, we recommend that institutions should continue to mark their affected programs as 'under appeal' and describe their rates as 'not yet final' in the GE disclosure template.
3. While schools are still required to post the new GE program disclosure templates on any web page containing academic, cost, financial aid or admissions information about a GE program starting tomorrow, July 1, 2017, the requirement to include the GE template link in all promotional materials and to individually distribute the GE templates to students has been pushed back one year, until July 1, 2018.

ED has acknowledged that the action to extend the deadline for earnings appeals is largely in response to the June 28 ruling in *American Association of Cosmetology Schools (AACS) v. DeVos*, Civil Action No. 17-0263, D.D.C. in which the Court ordered the Department to provide new appeal processes for the member schools of AACS. ED's action broadens the extension of time to all affected institutions, regardless of program type.

Importantly, ED's Notice does **not** provide relief to those institutions that did not issue a timely Notice of Intent to Appeal their GE rates in January and which have been issuing the required student warnings since earlier this year. At least until ED provides guidance to the contrary, those institutions will need to continue issuing the student warnings.

Cooley is closely watching the continuing saga surrounding the implementation of the GE Rule and the implications for the future of this controversial regulation. Watch for our additional thoughts [here](#).

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