

New ED Audit Guide Now Requires Extensive Gainful Employment Compliance Testing

August 9, 2017

As noted in our [previous blog post](#) on ED's new Audit Guide, for the first time ED is requiring that independent audit firms conduct extensive testing relating to Gainful Employment (GE) data reporting and mandated disclosures as part of their annual Title IV compliance audits. The auditors are now tasked with evaluating the accuracy, completeness and timely submission of GE data reported to ED, assessing disclosures provided to prospective GE program students and determining whether institutions have complied with student warning requirements for programs at risk of losing Title IV eligibility based on debt-to-earnings thresholds. Becoming familiar with these new audit requirements is important to properly preparing for your compliance audit and attempting to avoid costly audit findings.

These new Audit Guide requirements are now in effect, to be implemented by a school's independent auditors, even though ED has taken other steps to delay implementation of certain elements of the GE rule.

Gainful Employment Reporting

Since 2015, institutions offering GE programs have been required to provide extensive GE data to ED. The reporting requirements mandate the collection and reporting of information about the enrollment status of GE program students who receive Title IV program funds, costs associated with the GE program for each individual student, the debt each student has incurred through institutional/private educational loans or financing programs and in some cases GE program placement rates. In addition to these requirements, ED enjoys wide discretion to request ancillary documentation relating to GE data reporting.

ED's new Audit Guide requires, for the first time, that compliance auditors (1) determine whether the institution timely submitted required GE data to ED, (2) test the completeness and accuracy of the reported information, (3) evaluate any written explanations provided to ED in the event of an incomplete or missing submission, (4) audit a sample of the institution's GE program approvals and data for accuracy and (5) test a sample of student records to ensure GE data for individual students were accurately reported.

Prospective Student Disclosures

The GE rule requires schools to implement ED's GE Program Disclosure Template by the extended date of July 1, 2017, and to disclose the following information to students and prospective students: (1) the occupations available following the student's completion of the program, including links to occupational profiles, (2) the graduation rate for program completers, (3) the typical costs for books and supplies for students enrolled in the program, (4) the costs for room and board, tuition and fees for students enrolled in the program, (5) the median loan debt for the program cohort, (6) the debt-to-earnings rates for the program, including performance against the GE rule's minimum thresholds and (7) where applicable, the placement rates of program completers.

The new Audit Guide requires compliance auditors to test the accuracy of an institution's disclosure template, and to confirm that the disclosure template is provided on the institution's internet homepage, including links to other pages describing the GE programs. The auditors are also required to verify, for the period prior to January 1, 2017 (given the extended implementation date, presumably prior to July 1, 2017), that information included on the institution's website is displayed in an "open format" and is easily retrievable via web search, and that the on-time completion rate was properly calculated for a sample of GE programs listed on the institution's Eligibility and Certification Approval Record (ECAR).

Student Warnings

Institutions that provide GE programs that are at risk of losing Title IV eligibility due to failing debt-to-earnings ratios are required to provide a warning to students and prospective students. The warning must disclose options available to students to pursue their education elsewhere, provide guidelines in anticipation of Title IV program ineligibility and discuss certain transfer credit policies. These institutions are also required to refer prospective and enrolled students to ED's College Navigator website (which provides information about similar programs) and update their disclosure template to include the warning within 30 days of receiving notice from ED.

The Audit Guide now requires compliance auditors to obtain ED's notice of determination for each GE program, identify all potentially ineligible programs and review the institution's written warning and ascertain its completeness. The auditors are also to determine if the institution updated its disclosure template within 30 days of receiving a warning notice from ED. The auditors must verify that the school provided the required warning to students no later than 30 days after receiving ED's notice of potential eligibility loss, and delivered the warning in the correct format using the proper delivery method. The auditors will also select a sample of students enrolled in GE programs and review them to confirm that the institution provided timely warnings prior to the student's enrollment (i.e., during the "first contact" about the program between the school and the prospective student) and at least three business days before enrolling the student.

Since the compliance auditors will be auditing schools' compliance with the GE requirements for the first time, we can expect that the process will be new and challenging for both the institution and the auditor. We recommend that schools prepare as much as possible for this aspect of their compliance audit, since there are many facets that the auditors must examine. We suggest that schools review their GE data submissions to ED and their disclosures to students carefully, and as time permits review a sample of students to verify that the required disclosures have been made properly and timely. For programs that are at risk of losing Title IV eligibility, determine if the mandated warning contained all required information and was provided timely to students.

Errors made in content or timeliness cannot be retroactively fixed, but it will behoove institutions to know going in to the audit if they have problems so that they can be prepared to discuss them with their auditors and correct any discovered problem areas as soon as possible. Please let us know if we can be of assistance as you review your GE compliance and prepare for your upcoming audit.

We will be issuing additional blog posts about other aspects of the new Audit Guide in the coming weeks. Do not hesitate to contact Cooley if you would like to discuss any issues related to your annual compliance audit.

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