

From Degrees to Dollars: How Wages, Not Graduates or Colleges, Will Determine Federal Student Loan Access Across All Institutions

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Earlier this month, the Department of Education (ED), in coordination with the Accountability in Higher Education and Access through Demand-driven Workforce Pell (AHEAD) committee, concluded its negotiated rulemaking session and reached the elusive “consensus” to implement the new Earnings Premium (EP) framework as [established](#) by the One Big Beautiful Bill (OB3). Although still subject to a public notice-and-comment period, the framework described in the [draft consensus language](#) overhauls existing regulations and significantly expands ED’s review of student earnings, with wide-ranging implications for programs previously free from federal metrics assessing program quality. If you work at an institution of any kind (public, private, nonprofit) that receives federal funding authorized by Title IV of the Higher Education Act, this is a seismic shift in accountability that could materially impact program offerings as early as next year. If you work at an institution that serves rural communities, understanding the new expectations and consequences requires your immediate attention. And if you work at an institution and think this must not apply to you, read on.

How did we get here?

The Higher Education Act of 1965 (HEA) specifies that certain programs are eligible for Title IV federal student aid only if they prepare students for “gainful employment in a recognized occupation” (20 USC 1088(b)). However, the statute does not define “gainful employment,” and, until 2010, no regulation or guidance attempted to define it. Under the Obama administration, ED took the position that the measure of gainful employment (GE) is whether graduates can pay their student loan debt based on their earnings. It was a debt-based metric attempting to assess program effectiveness based on earnings and essentially applied only to for-profit institutions and nondegree programs at nonprofit and public institutions, leaving most other degree programs free from any graduate earnings assessment. The GE rule was heavily debated, subject to litigation, reissued, rescinded and reinstated in the years that followed, and as a result, had little impact on program eligibility for Title IV funds for the subset of higher education subject to the assessments.

The development of the EP metric, however, marked a significant departure from this debt-centered approach. Under the Biden administration, ED first formally proposed the EP, together with the debt-to-earnings (DTE) ratio, to assess program effectiveness and continued eligibility for federal grant and loan funding for all programs at private for-profit institutions and certificate programs across all institution types. At its most basic level, the EP metric measures whether the typical graduate from a program who received federal aid is earning at least as much as a typical high school graduate between the ages of 25 and 34 in the labor force (i.e., either working or looking for work) in their state as reported by the voluntary participants in a Census Bureau survey.

Notably, the EP has nothing to do with student debt or program cost. Instead, the metric is intended to capture the extent to which postsecondary programs enhance a student’s potential earnings relative to not pursuing a college credential at all. Essentially, the theory assumes that if high school graduates without college make more than college graduates from a certain program, the program is not worthy of federal investment in the form of loans and grants. In practice (and in addition to the DTE ratio), if GE program graduates failed to earn more than the average high school graduate in their respective home state (or in some cases nationally), schools could still fail the GE test even if the program was offered for free and graduates did not incur debt.

The end of GE for some and rise of GE for all – the new Earnings Premium framework

[OB3 changed the game and codified the EP concept in statute \(whereas before it only existed in regulation\) and expanded it to apply to all programs at all institutions receiving Title IV funds, regardless of whether the institution is nonprofit, public or for-profit. Under the new framework, the EP, dubbed as the “Do Not Harm” test by ED, created a single metric applicable to all programs and eliminated the DTE ratio, leaving the modified EP as the single accountability measure for all Title IV programs.](#)

The stakes are high. A program that fails to meet this new metric in two out of any three consecutive award years will be

designated as a “low-earning outcome program” and will lose eligibility to participate in the Direct Loan Program. Significantly, ED has proposed tying the metric to broader institutional penalties under new Administrative Capability standards that could disqualify such programs from accessing all Title IV funds, including grants. Importantly, although this is a programmatic assessment, it is measured across the main campus and all branches and additional locations of the institution offering the same program.

How does the EP work?

The EP compares the median earnings of program completers who received Title IV funding to benchmark earnings thresholds.

- For undergraduate programs, the median earnings Title IV-funded program completers must exceed the median earnings of working high school graduates aged 25 – 34 in the state where the institution is located (or nationally depending on program size) who did not attend college during the year of the measured earnings.
- For graduate programs, including graduate certificates, the median earnings of Title IV-funded program completers must exceed the lowest of three benchmarks: the median earnings of working bachelor's degree recipients aged 25 – 34 (not enrolled in postsecondary education during the measured earnings year) either statewide, in the same field of study within the state or in the same field nationwide.

Earnings of program graduates are assessed in the fourth tax year after program completion regardless of age or work engagement (full-time, part-time, occasional, etc.), using data from federal agencies such as the IRS and Social Security Administration. A cohort of at least 30 completers is required for a single-year calculation, and smaller cohorts may be assessed over an extended period.

What are the consequences for failing programs?

Loss of access to loans and potentially grants

Programs that fail the EP metric for the first time receive a notice of that determination, and must issue student warnings about potential loss of loan eligibility. A second failure within three consecutive award years results in designation as a “low-earning outcome program” and loss of Federal Direct Loan eligibility for two years. Given the rule's expected July 1, 2026, effective date, the earliest a program could lose eligibility is July 1, 2028. Programs that fail the metric in a single year may elect to modify their Program Participation Agreement and commit to ceasing all new enrollments while teaching out the existing cohort, if ED determines it is in the best interest of the students.

Failure to meet administrative capability standards – loss of loan and grant eligibility

Institutions must also demonstrate that at least 50% of their Title IV recipients and funds are not from low-earning outcome programs. Failure to meet this threshold in two of three consecutive years triggers provisional certification status for the entire institution and loss of all Title IV aid –including Pell Grants – for low-earning outcome programs.

Appeals and reporting

Institutions can challenge ED's determination but must base their appeal on data and calculation errors. Institutions must submit required data to ED by October 1 annually, with EP results published the following July. Reporting requirements will be further streamlined beginning in 2027.

How soon does this take effect?

Before implementing the new accountability framework, ED must complete several regulatory steps, most notably publishing in the Federal Register the proposed rules for public comment, followed by the publication of the final rule. Public and institutional participation in this comment period will be key, as several open issues remain, and the comment period will be the last chance to revisit arguments that may not have been addressed in negotiated rulemaking. Despite the historical “master calendar” requirements associated with most agency rulemakings allowing additional time to adjust course, this rule will take effect on July 1, 2026, as established in OB3.

What should I do to prepare?

In two words – start now.

Prior to the rulemaking process, ED estimated that more than 600,000 students were enrolled in programs that would fail

the EP. While ED has since disclaimed this data, and the rulemaking revised the metric used to reach those estimates, institutions should work now to prepare for a significant ongoing compliance commitment and operational impact.

This is especially urgent for institutions offering programs in public service or traditionally lower-paying fields, and those located in lower-wage regional or rural labor markets. Programs offered in states with lower earnings benchmarks for high school graduates (undergraduate programs) or baccalaureate recipients (graduate programs) and serving a smaller local employment market are at a greater risk for failing the EP and losing access to federal funds, while identical programs offered in the same or neighboring states may yield different outcomes based on local employment markets.

Regardless of the institutional profile, waiting for the EP to take effect is not a winning strategy. All institutions should prioritize preparing for the EP, and should take immediate steps to identify at-risk programs by:

- Comparing earnings estimates from internal and external sources, including national earnings surveys from public and private entities, to identify programs that may be at risk under the metric.
- Identifying the appropriate CIP coding classification for programs to ensure dissimilar programs are not improperly grouped together. If the institution already reports this information to ED (usually existing GE programs), confirm those numbers are accurate. If it does not, begin the process of identifying the correct CIP codes.
- Collecting (or continuing collecting) data on prior program completers, and establishing a system to do so going forward. The appeals process allows challenges to EP calculations that depend on student status and income data, so institutions should strengthen post-completion communications and records to maintain contact with recent alumni – especially four years after completion – to align with information ED collects. The only basis to challenge an ED classification of a low-earnings outcome program is inaccurate (generated from information the institution cannot access), so cultivating and maintaining an internal and verifiable record of completer earnings is a best practice.

Identifying at-risk programs will inform potential solutions and strategies for compliance with the EP.

As noted above, ED has not published the proposed rules for public comment, but

institutions likely to be most affected by the EP and those that have concerns with the proposed language should start preparing comments to submit during the upcoming formal notice-and-comment process.

Cooley's education team can support your efforts to understand and strategize for the EP. We are prepared to discuss any aspect of this proposal.

<https://www.federalregister.gov/d/2014-25594/p-10>

<https://www.federalregister.gov/documents/2023/10/10/2023-20385/financial-value-transparency-and-gainful-employment>

Vanessa Agudelo practices education law with an emphasis on helping postsecondary institutions, K-12 schools and education-related companies navigate complex regulatory challenges.

Caitlyn Shelby advises postsecondary institutions, K-12 schools and education companies on matters involving accreditation, state authorization and the provision of online education, and monitors legislative and regulatory developments in these areas.

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