

## Program Integrity Regulations


MASFAA Annual Conference  
June 15-17, 2011

### Program Integrity Final Regulations:




### Program Integrity

- Notice of Proposed Rulemaking issued June 18, 2010 to improve the integrity of the Title IV student assistance programs.
- Final regulations October 29, 2010
  - *Generally* effective July 1, 2011 (2011-2012 award year)
    - Exception
      - Verification and Updating - July 1, 2012
      - State Authorizations – possible one year extensions through July 1, 2012 and July 1, 2013
  - *No early implementation*




### Credit Hour Definition & Clock-to-Credit Conversion

Regulations- 600.2, 602.24, 603.24 & 668.8  
DCL – GEN-11-06 ( Q & As)



### Key Point – Credit Hour


- Ensure accreditation agency approves credit hour assignment and current hours reasonably approximates ED definition



### Credit Hour Definition


- An amount of work represented in intended learning outcomes and verified by evidence of student achievement that is an institutionally established equivalency that reasonably approximates NOT LESS than—
  - (1) One hour of classroom or direct faculty instruction and a minimum of two hours of out of class student work each week for approximately
    - Fifteen weeks for one semester/trimester hour of credit, or
    - Ten or twelve weeks for one quarter hour of credit, or
    - The equivalent amount of work over different amount of time

OR



### Credit Hour Definition

- (2) At least an equivalent amount of work for other academic activities as established by the institution including laboratory work, internships, practica, studio work, and other academic work leading to the award of credit hours
  - Discretion to determine in-class and out-of-class components to approximate requirements
- Regulations create procedures that accrediting agencies must use to determine if an institution’s assignment of a credit hour is acceptable




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## Program Integrity Regulations

**Key Points –  
Clock-to-Credit Hour Conversion**

- ONLY for credit hour programs
- Current exceptions still apply
- New conversion rates


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**Clock-to-Credit Hour Conversion**

- Undergraduate credit hour programs must use clock-to-credit conversion *unless*:
  - At least 2 academic years long and leads to a degree,
    - or
  - Each course in program is fully acceptable to a degree program of at least 2 academic years in length at that institution
    - *Institution must demonstrate that students enroll in and graduate from that degree program*
      - If NEW degree program used for exception, must use conversion formula until students graduate program


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**Clock-to-Credit Hour Conversion**

- For those programs subject to the clock to credit hour conversion, the new conversion formula provided in regulation is
  - One semester or trimester credit hour is equal to at least 37.5 clock hours
  - One quarter credit hour is equal to at least 25 clock hours


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**Clock-to-Credit Hour Conversion**

- Exception (optional) for schools that can demonstrate credit hours meet new definition in 600.2 and no accrediting or State deficiencies related to school's policies for assigning credit hours to programs/courses
  - May combine work outside of the class (analysis for each course) with the clock hours of instruction to meet ratio requirements but must be at least 30 clock hours to one semester/trimester hour and at least 20 clock hours to one quarter hour


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**Clock-to-Credit Hour Conversion**

- For students enrolled in programs subject to the conversion *as of July 1, 2011*, school may choose:
  - To use current regulations until students complete program; OR
  - Apply new regulations for all students enrolled in payment periods or assigned to 2011-2012 and subsequent award years
- For students that enroll or reenroll *on or after July 1, 2011*, school must use new regulations


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**Key Point –  
Clock Hour Programs**

- Programs that meet ED's definition of a clock hour program must use clock hours in all facets of administering TIV funds

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## Program Integrity Regulations

### Clock Hour Program Definition

- Considered a clock hour program for Title IV purposes if:
  - Must be measured in clock hours for Federal/State approval or licensure
  - Completing clock hours is a requirement for graduates to apply for licensure or authorization to practice occupation
  - Credit hours awarded don't meet credit hour definition; or
  - School does not offer the clock hours necessary to support the credit hours awarded in program or each course and requires attendance in clock hours as the basis for the credit hours awarded


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### Clock Hour Program Definition

- *NOT considered a clock hour program* if a limited portion of a program includes a practicum, internship or clinical experience that must include a minimum number of clock hours for Federal or State approval or licensure
- *Clock hour programs cannot use clock-to-credit conversion for Title IV purposes*


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### Clock Hour Programs

- For students enrolled in programs subject to being a clock hour program *as of July 1, 2011*, school may choose:
  - To use current regulations until students complete program; OR
  - Apply new regulations for all students enrolled in payment periods or assigned to 2011-2012 and subsequent award years
- For students that enroll or reenroll *on or after July 1, 2011*, school must use new regulations


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## State Authorization

**Regulations - 600.9; 668.43**  
**DCL – GEN-11-05 (Q & As)**


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### Key Points – State Authorization

- Development of State complaint process
- Defined State Authorization
- Must be authorized to offer postsecondary education
- State authorization applies to distance education provided to students residing in other States


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### State Authorization of Institution

- Institution considered to be legally authorized by a State if:
  - State has a process to review and act on complaints concerning the institution, including enforcing State laws
    - Independent of institution complaint/sanction process
  - Institution is established *by name* as an *educational institution* by a State through a charter, statute, constitutional provision, or other action issued by an appropriate State agency/entity; **and** authorized to *operate educational programs beyond secondary education*, including programs leading to a degree or certificate.

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## Program Integrity Regulations

### State Authorization of Institution


- Institution considered to be legally authorized by a State if:
  - Complies with State approval or license requirements
    - State *may exempt* if -
      - Accredited from ED recognized accrediting agency; or
        - » Not preaccredited or candidacy status
      - In operation for 20 years or more
    - If authorized by State to conduct business or as a nonprofit organization but **NOT** established by name as an educational institution:
      - State *must* approve/license by name to offer programs beyond secondary education; AND
      - *Not exempt* from State approval or license requirements



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### State Authorization


- Institutions must be licensed by the State to provide post-secondary educational programs
  - State charter, constitution, license, or other document
  - Federal Government approval
  - Indian Tribe
  - Religious institution exempt from state authorization
- The license must be subject to adverse action
- States must establish a process to review and act on complaints about an institution and enforce state laws



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### State Authorization of Institution


- If an institution is offering postsecondary education through *distance or correspondence education* to students in a State in which it is not physically located or in which it is otherwise subject to State jurisdiction as determined by the State, the institution must -
  - Meet State requirements to be legally offering postsecondary distance or correspondence education in that State
- Examples of legally authorized and not authorized schools in preamble of final federal register



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### State Authorization - GEN-11-11


- ED will not initiate action to access liabilities or limit student eligibility for distance education activities undertaken before *July 1, 2014*, if the institution is making good faith efforts to obtain necessary State authorizations. Evidence of good faith efforts includes:
  - Distance education management process for tracking students' place of residence when engaged in distance education.
  - Documentation that an institution has contacted a State directly to discuss programs the institution is providing to students in that State to determine whether authorization is needed.
  - An application to a State, even if it is not yet approved.
  - Documentation from a State that an application is pending.



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### State Authorization - GEN-11-11


- If a State has no applicable regulation or law, then no action on the part of the institution is required.
  - May have to demonstrate no requirement
- Where States are in the process of establishing new requirements or creating application procedures, institutions acting in good faith would be expected to seek authorization under the new requirements or procedures only after they are established.
- Focuses on State in which the student *is located while receiving instruction*



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### Repeated Coursework

Regulation - 668.2



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## Program Integrity Regulations

### Key Point – Repeated Coursework

- May receive TIV aid for repeating a passed course (received credit) ONE time regardless if credit is provided again

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### Repeated Coursework

- Amends definition of full-time student to allow repeated coursework to count toward enrollment status in term-based programs
  - May repeat previously passed course ONCE
    - *NO repetition* of a previously passed course due to the student failing other coursework in a prior term
  - May repeat failed course until it is passed

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### Written Agreements Between Institutions

Regulations  
668.5, 668.43

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### Key Points – Written Arrangements

- Conditions involving common ownership
- Program eligibility issues when entering into a contractual arrangement with an ineligible school/entity
- Required Disclosures

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### Written Arrangements

- Any program offered in a written arrangement must meet the requirements of an eligible program
- If arrangement between 2 or more eligible schools *owned or controlled by the same individual, partnership, or corporation*
  - The school that grants the degree/certificate must provide MORE than 50% of the program
    - The degree granting institution is responsible for limiting the amount of the program taken at other institutions
- Does NOT apply to public or nonprofit institutions

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### Written Arrangements

- If arrangement between an eligible and an ineligible school/organization, the program is not eligible if the ineligible school or organization was:
  - Terminated
  - Withdrew due to administrative action (by ED, accreditation, State)
  - Certification or re-certification revoked or denied

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## Program Integrity Regulations


### Written Arrangements

- Requires disclosures to prospective & enrolled students
  - Portion of program NOT being offered by the degree/certificate granting school
  - Name and location of the other school/organization
  - Method of delivery NOT being offered by the degree/certificate granting school
  - Estimated additional costs may incur due to arrangement
- Applies to all institutions with program-by-program agreements (blanket)
  - Not applicable to individual student-initiated agreements




## Incentive Compensation

### Regulation - 668.14 DCL – GEN-11-05 (Q & As)




### Key Point – Incentive Compensation

- Reverts to statute language supported by 2-part question test




### Incentive Compensation

- School will not provide a commission/bonus or other incentive payment based *in any part*, directly or indirectly on success in securing enrollments or financial aid to any person or entity engaged in any student recruiting or admission activities or in making decisions regarding awarding Title IV funds
  - Does NOT apply to recruitment of foreign students residing in foreign countries not eligible for TIV
- 12 Safe Harbors removed




### Incentive compensation

- Definitions
  - *commission, bonus, or other incentive payment* - a sum of money or something of value (not fixed salaries) paid or given to a person or entity for services rendered
  - *enrollment* - admission or matriculation of a student into an eligible institution
- *securing enrollments or the awards of financial aid*
  - Activities a person/entity engages in *at any point in time through completion of an educational program* for the purpose of admission or matriculation of students for any period of time or the award of financial aid to students



### Incentive Compensation

- *Entity/person engaged in any student recruitment or admission activity or in making decisions about the award of financial aid means* —
  - Any *institution or organization* that undertakes the recruiting or the admitting of students or that makes decisions about and awards Title IV funds; and
  - Any *employee* who undertakes recruiting or admitting of students or who makes decisions about and awards Title IV funds, *and any higher level employee with responsibility* for recruitment or admission of students, or making decisions about awarding Title IV funds



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## Program Integrity Regulations

**Incentive Compensation**

- *Two-part test* to evaluate if incentive compensation –
  - (1) Whether the payment is a commission, bonus, or other incentive payment, defined as an award of a sum of money or something of value paid to or given to a person or entity for services rendered; and
  - (2) Whether the commission, bonus, or other incentive payment is provided to any person based in any part, directly or indirectly, upon success in securing enrollments or the award of financial aid,

If the answer is YES to both questions,  
then the payment would be prohibited

START HERE  
GO FURTHER  
FEDERAL STUDENT AID

**Satisfactory Academic Progress**

**Regulations  
668.16, 668.34**

START HERE  
GO FURTHER  
FEDERAL STUDENT AID

**Key Points – SAP**

- Codified policies into regulations
- Evaluation timing impacts exception periods
- Formal development of Warning period
- Probation period limitations
- Maintain flexibility

START HERE  
GO FURTHER  
FEDERAL STUDENT AID

**Satisfactory Academic Progress**

- Consolidates SAP regulations
- Describes all of the required elements of a satisfactory academic progress policy
- Retains institutional flexibility to set policy
  - Such as evaluating categories of students differently
- Additional flexibility allowed for institutions that monitor SAP more frequently than annual requirement

START HERE  
GO FURTHER  
FEDERAL STUDENT AID

**SAP Policy**

- Policy must include the following:
  - Pace of progression required to insure student completes within maximum time frame
  - Measurement of student’s progress at each evaluation
  - Calculate the pace at which the student is progressing by –
    - Dividing the cumulative number of hours the student has successfully completed by
    - The cumulative number of hours the student has attempted
    - Not required to include remedial courses

START HERE  
GO FURTHER  
FEDERAL STUDENT AID

**SAP Policy**

- Policy must include the following:
  - Describe how student’s GPA and pace of completion affected by incompletes, withdrawals, repetitions, or transfers of credits
    - Transfer credits accepted toward completion of student’s program must count as both hours attempted and hours completed
  - Student’s SAP evaluations, whether each payment period, annually or less often than each payment period, must occur at the end of a payment period

START HERE  
GO FURTHER  
FEDERAL STUDENT AID


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## Program Integrity Regulations

### Monitoring SAP Each Payment Period

- In general, a student who is not making SAP is no longer eligible for Title IV aid
- For an institution that chooses to evaluate SAP at the end of each payment period, a “financial aid warning” status *may* be used
  - Student may continue to receive Title IV aid for one payment period
  - No appeal necessary


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### Monitoring SAP

- If measure each payment period –
  - The payment period following a payment period in which the student did not make SAP, the school *may*:
    - Place the student on Financial Aid Warning; or
    - Place the student on Financial Aid Probation
- If evaluate SAP annually or less often than each payment period
  - When student loses eligibility for Title IV aid
    - May be placed on Financial Aid Probation


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### Monitoring SAP

- If on Financial Aid Warning -
  - After 1 payment period, student must make SAP; or
  - *May* be placed on Probation after successful appeal
- To be placed on Probation
  - Student expected to be making SAP in next payment period; or
  - Be successfully following an academic plan designed to ensure student will be able to meet SAP by a specific point in time
    - Not required to develop academic plans
    - Can set conditions on developing plans


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### Monitoring SAP

- A student on Probation may only receive Title IV funds for ONE payment period
- A student on Probation may not receive Title IV funds for the subsequent payment period unless:
  - Student is now making SAP; or
  - Institution determines student met requirements specified by the school in the academic plan
    - *A student reinstated to eligibility under an academic plan and making progress under the plan is considered to be eligible*
    - May be evaluated at the same time as other TIV recipients or at more frequent periods based on plan


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### SAP Policy - Appeal

- Appeals
  - Process by which student who is not meeting school’s SAP policy petitions for reconsideration of eligibility for Title IV
  - Policy must specify the conditions under which a student may appeal
    - Appeal must include:
      - Why the student failed to make SAP; and
      - What has changed that will allow the student to make SAP at the next evaluation
  - Federal Register reminds schools that 150% maximum timeframe can be appealed


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### SAP – Appeal Notification

- Notification to students
  - Must notify student of results of SAP review that impacts student’s eligibility for Title IV aid
  - If institution has an appeal process, must describe the specific elements required to appeal SAP
    - May specify how often and how many appeals are allowed
  - *If institution does not have an appeal process*, must describe how a student who has failed SAP can reestablish eligibility for Title IV aid

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## Program Integrity Regulations

### SAP Implementation

- 2011 Summer crossover payment period
  - School may choose to use current SAP policy or any new SAP policy based on new regulations
- Must publicize any changes to students and state when any new SAP policy is effective


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### Evaluating the Validity of High School Diplomas

Regulation  
– 668.16(p)


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### Key Points – High School Diploma Validation

- Develop High School Diploma Validation policy
- Applies to ALL schools
- May impact any high school graduate


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### Valid High School Diploma

- An institution must develop and follow procedures to evaluate the *validity of a student's high school completion* if the institution OR the Secretary has reason to believe
  - High school diploma is not valid, or was not obtained from an entity that provides secondary school education


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### Valid High School Diploma

- 2011-2012 FAFSA (question 27)
  - One question with 3 fields for those indicating will have H.S. diploma
    - Name of high school, city and state where the school is located
  - Not allowed to skip on FOTW (for 2011-2012 only presented to 1<sup>st</sup> time undergrads)
    - *But must review any student if concerns arise*


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### Valid High School Diploma

- 2011-2012 FAFSA
  - Drop down list of most public & private high schools from NCES
    - If not found (or on paper FAFSA), students will write in information
    - Being on or off the list does not make the school legitimate or not legitimate
  - No additional H.S. information on ISIR

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## Program Integrity Regulations

### High School Diploma

- Documentation may include a copy of:
  - High school diploma
  - Final high school transcript
  - Information from companies that evaluate foreign diplomas
- Student-certification not sufficient
- No appeal process in regulations
- ED analysis & further guidance as needed
  - Electronic Announcements
  - DCLs
  - FSA Handbook


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### Return of Title IV Funds & Programs Offered In Modules

Regulation  
668.22(a), (b) and (f)


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### Key Points – R2T4 and Modules

- Does not matter if a course is completed within a payment period prior to withdrawal
- Develop written confirmation process
- Ability to “undo” R2T4 within a term


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### Program Definitions

- New rules define a program “offered in modules”
  - A course or courses in program do not span entire length of payment period or period of enrollment
- Doesn’t matter what “modules” are called at the institution


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### Credit Hour Programs Offered in Modules

- Student considered to be withdrawal if does not complete ALL days scheduled to complete within payment period/term
- School must document completed all courses with a passing grade
- If no passing grade in last scheduled course, school must demonstrate student completed period


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### Credit Hour Programs Offered in Modules

- Student in modular program not considered a withdrawal if
  - Provides written confirmation of intent to attend a future module in period of enrollment
    - Must be provided at the time of withdrawal
  - Student may change return date in writing
    - Must provide change prior to original return date
- Future module must begin within 45 calendar days from end of module ceased attending in a *non-standard and non-term program*

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## Program Integrity Regulations



### Is Student A Withdrawal?

1. Did the student cease to attend before completing or fail to begin attendance in a course scheduled to attend?
  - If yes, go to question 2.
  - If no, student not a withdrawal
2. When ceased to attend or failed to begin attendance in a scheduled course, was the student attending other courses?
  - If yes, student not a withdrawal
  - If no, go to question 3
3. Did the student confirm attendance in a later module in the payment/enrollment period (45 day rule, if applicable)?
  - If no, student is a withdrawal.
  - If not a withdrawal, Pell recalculations may apply

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### Return After Withdrawal ("undo" R2T4)

- Modular term-based credit hour program
  - Withdrawn student may return to same program prior to end of payment period/period of enrollment
    - Student eligible for any Title IV funds for which eligible prior to withdrawal
- Clock hour/nonterm credit hour program
  - Withdrawn student may return to same program within 180 calendar days
    - Student eligible for any Title IV funds for which eligible prior to withdrawal

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### R2T4 Calendar Days Modular Programs

- Total calendar days include all days on which the student was scheduled to attend
  - Days of completed courses count if course does not span length of term
  - Exclude scheduled breaks of at least 5 consecutive days when student not scheduled to attend a module or other course offered during that period
- For a withdrawn student who has made schedule changes
  - Do not count days of courses officially dropped prior to complete cessation of attendance

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### After Written Confirmation Of Return

- Student considered to be withdrawal if does not return as scheduled
- Withdrawal dates back to time that confirmation originally provided
  - Determine withdrawal date and days of attendance as if confirmation of future attendance never provided

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### Transition Timeframe

- Electronic Announcement 5/6/11:
  - New R2T4 rules apply to students who withdraw from payment periods (terms) or periods of enrollment that BEGIN ON OR AFTER July 1, 2011.
  - The new rules do NOT apply to students who withdraw from a 2011 crossover payment period
    - Even if the student received Title IV, HEA program funds from the 2011-2012 award year for that crossover payment period.

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## Return of Title IV Funds & Attendance

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## Program Integrity Regulations

### Key Points – R2T4 and Attendance

- Definition expanded to include institutional attendance requirements
- Clarified academic-related activities


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### R2T4 Required to take attendance

- An institution is required to take attendance if:
  - An outside entity (such as an accrediting or State agency) OR the *institution* itself requires instructors to take attendance
    - Either at the program, department or institutional level
  - An outside entity OR the *institution* has a requirement that can only be met by taking attendance or a comparable process
    - Example – requiring students in a program to demonstrate attendance in the program’s classes, or a portion of that program


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### Required To Take Attendance

- If required to take attendance—
  - For some students—use attendance records for those students
  - For a limited period of time—use attendance records for withdrawals during that limited period of time
  - On a specific date—NOT considered to be required to take attendance
  - If faculty *choose* to take attendance (but not required), then school is NOT required to take attendance


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### R2T4 Documenting Attendance

- Attendance could be academic attendance and attendance at an academically-related activity
  - Includes:
    - Physically attending class with direct interaction with instructor
    - Submitting academic assignment
    - Taking exam, interactive tutorial or computer-based instruction
    - Attending school assigned study group
    - *Participating in online discussions about academic matters and/or initiating contact with faculty to ask questions about subject studied*


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### R2T4 Documenting Attendance

- Attendance could be academic attendance and attendance at an academically-related activity
  - Does NOT include:
    - Living in school housing
    - Using school meal plan
    - *Logging into an online course without active participation*
    - Academic counseling or advisement
  - Student’s certification of attendance without school documentation is not acceptable


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### Transition Timeframe

- Electronic Announcement 5/6/11:
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## Program Integrity Regulations

## Verification and Updating of Student Aid Application Information

Regulations  
668.51 through 668.61



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## Key Points – Verification

- Requirement to verify all CPS selected applicants
- Updating Marital Status Option
- Annual adjustment of verification items
- Individual selection of verification items
- Reduction in dollar tolerance level

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## Verification - Definitions

- **Subsidized student financial assistance programs**
  - Eligibility uses EFC
  - Verification Applies
  - Pell, FSEOG, FWS, Perkins, Subsidized Loan
- **Unsubsidized student financial assistance programs**
  - Eligibility does not use EFC
  - Verification does not apply
  - TEACH Grant, Unsubsidized Loan, PLUS Loan
- Uses “**FAFSA information**” instead of “application”
- “**Specified year**” – base year or year prior to base year



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## Verification & PJ

- All applicants selected for verification (either by ED or school) *must complete verification before any PJ adjustments* to FAFSA or COA are made
- The results of verification and PJ cannot be submitted on the same day
  - After the school receives the ISIR created from verification, the school would use the ISIR transaction to make adjustments to the applicants FAFSA using PJ
- Statement must be included in school’s written policies and procedures about verification

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## Verification Selection

- Institutions must verify *all applicants selected by CPS* for verification
  - Removes 30% limitation



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## Verification - Exclusions

- Exclusions -
  - Not required to verify FAFSA information for parents of dependent student *or* spouse of independent student if parents or spouse’s *contact information* is unknown
- Eliminated exclusions for:
  - Recent immigrants
  - Legal residents of Palau, RMI, FSM, Northern Marianas or Samoa

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## Program Integrity Regulations

### Verification – Marital Status

- *MAY* require student to update FAFSA if change in marital status necessary to address an inequity or reflect more accurately ability to pay IF: (1) student dependency status changes or (2) selected for verification (by school or CPS)
  - If updating due to a dependency change then the FAFSA needs to reflect *accurate household size, number in college, dependency status and correct financial information*
  - If updating due to verification but no change in dependency status, household size and number in college are updated
    - Other FAFSA items, such as income, could also be updated under Professional Judgment
- May establish a cut-off date after which school will not consider marital status updates
- May not project marital status



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### Information to be Verified

- ED will publish Federal Register Notice each award year listing possible verifiable items and acceptable documentation
  - SAR/ISIR will specify required verification items for *individual applicant*
- Publish potential verification items 4-6 months prior to the start of the application processing year
  - January 1, 2012 for the 2012-2013 award year



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### Acceptable Documentation

- Codifies policy that schools may use IRS data imported to FAFSA in lieu of tax return if data unchanged
- School *may* require an individual granted a tax filing extension to provide a copy of their completed and signed tax return when filed
  - If school receives a copy of the return, it **MUST** verify AGI and taxes paid
- Clarifies that tax returns submitted with preparer signature (wet, stamped, typed or printed) with the name and address of the preparer must also have their SSN, EIN, or PTIN



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### Verification – Updating Changes

- As a result of verification, school must submit any changes for:
  - Any nondollar item; or
  - A *single* dollar item of \$25 or more
- If required to submit one change, must submit all changes



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### Verification – Disbursements

- Interim disbursements may be made without receipt of corrected ISIR if completed verification makes no change to aid eligibility
  - However all required corrections must be made
- Must have valid ISIR/SAR to support disbursements
  - No longer limits student to lesser Pell award if verification completed after enrollment
  - Student would receive Pell payment based upon correct EFC



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### Verification Implementation

- Effective date delayed until July 1, 2012
  - Effective for the 2012-2013 award year
  - Processing year starts January 1
- Institutions may need time to make changes to their institutional processing systems



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## Program Integrity Regulations

## IRS Data and Verification

**For 2010-11 & 2011-12**


- An institution may consider IRS retrieved information as acceptable verification documentation if
  - The Secretary has identified those items as having come from the IRS and have not been changed
    - IRS Request Flag = 02



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## Misrepresentation


**Regulations - 668.71 through 668.75**  
**DCL – GEN – 11-05 (Q & As)**



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## Key Point – Misrepresentation


- Clarifies when misrepresentation occurs, and by whom and possible consequences



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## Misrepresentation


- An eligible institution is deemed to have engaged in *substantial misrepresentation* when the institution itself, one of its representatives, or any ineligible institution, organization, or person with whom the eligible institution has an agreement to provide *educational programs, marketing, advertising, recruiting or admissions services*, makes a substantial misrepresentation regarding:
  - the eligible institution
  - nature of its educational program
  - financial charges
  - employability of its graduates



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## Misrepresentation

- Misrepresentation includes:
  - Any false, erroneous, or misleading statement (confuse, deceive) made *directly or indirectly* by the school, or its agents, to a student, prospective student, member of the public, and others.
    - Includes suggestions that ED approves/endorses the quality of school's educational programs
    - Includes dissemination of a student endorsement or testimonial that a student gives either under duress or because the institution required the student to make such an endorsement or testimonial to participate in a program



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## Misrepresentation

- Substantial misrepresentation includes:
  - Information on which a person to whom it was made could reasonably be expected to rely on to their detriment
  - Statement can be in any form of communication
    - Written, oral, visual, etc.
    - Marketing/sales, advertizing, promotional materials



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## Program Integrity Regulations

**Ability to Benefit (ATB)**

Regulation  
668.32  
GEN-11-08


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**Key Points – ATB**

- Regulates hour completion option
- Added/clarified definitions
- Increased test publisher requirements and oversight responsibilities
- Addressed non-native English speaking tests and students with disabilities


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**Ability to Benefit – Credit Earned**

- ATB provisions in HEOA expanded to include *satisfactory completion* of 6 credit hours applicable to degree/certificate offered by institution
  - Clarifies that new standard is
    - 6 semester, trimester or quarter hours, *or*
    - 225 clock hours
  - Hours do not have to be successfully completed in the eligible program in which the student is enrolled
  - Testing out credit does not satisfy ATB option


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**Ability To Benefit**

- Not an “optional requirement” if school admits students without high school diploma as regular students
  - Institution cannot fail to accept the satisfactory completion of 6 credit hours or equivalent coursework that is applicable toward a degree or certificate at that institution as student’s ability to benefit


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**Ability to Benefit – Credit Earned**

- A student successfully completing the 6 hour or 225 clock hour progression requirement is NOT eligible for TIV aid until the subsequent payment period
  - Modules independently graded/completed *prior* to end of payment period – may be possible to earn 6 hours prior to end of payment period
    - Could disburse Title IV aid based on credits in remaining modules with adjusted COA


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**Ability to Benefit – Definitions**

- New or revised definitions -
  - ATB test irregularity
  - Formally define Independent Test Administrator
    - Testing at other than an assessment center
    - Must also meet the definition of a test administrator
  - Test Administrator
  - Test
  - Test Publisher – individual/organization/agency (includes States)
  - Individual with a disability

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For discussion purposes only

## Program Integrity Regulations

### Ability to Benefit - Test Publishers

- Establish requirements under which test publishers/States must provide descriptions of
  - Processes related to test score abnormalities,
  - Testing environment integrity (corrective actions/periodic reviews), and
  - Certification and decertification of test administrators (along with reporting names)
- Requires test publishers to describe any accommodations available for individuals with disabilities and related processes for test administrators


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### Ability to Benefit - Test Publishers

- Require institutions to maintain:
  - Name of test taker, test, date taken and score
  - Name/address of test administrator, and unique identifier assigned to the administrator by publisher/State
  - If disabled test taker
    - Documentation of the disability
    - Any special arrangements provided
  - Assessment Centers
    - Provide copies of test and test takers' scores on a weekly basis including test administrator identification information


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### Ability To Benefit

- Non-native speakers of English taking programs taught in native language with ESL component or with a portion taught in English
  - student must take approved English proficiency test prior to beginning English portion of program
- For individuals with disabilities, the regulation revises acceptable documentation of disability
- *GEN-11-08*
  - *Until ED approves a Spanish ATB test, may continue to use tests that meet our current standard*


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## Disbursement for Books and Supplies

Regulation  
668.164


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### Key Points – Book/Supply Disbursements

- Pell eligible students must meet 2 conditions
- 7 day timeframe
- Various funding options

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### Disbursement for Books & Supplies

- Institution must provide a way for *Pell eligible students* to purchase or obtain books and supplies by the *7<sup>th</sup> day of a payment period* if:
  - Funds could have been disbursed 10 days before beginning of payment period

AND

  - Disbursed funds would have created a TIV credit balance
- School provides student with lesser of presumed credit balance or amount needed by student as determined by the school

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## Program Integrity Regulations

**Disbursement For Books & Supplies**

- The school may use a variety of options to assist students in obtaining or purchasing books and supplies
  - Options may include:
    - Cash disbursements, bookstore vouchers, stored-value cards, school credit, check, and EFT transfer to student bank account
- Schools may use one or more options to assist students


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**Disbursement For Books & Supplies**

- If a student *uses the way provided* by the institution to get the books/supplies, the student is considered to have authorized the use of TIV funds and does not need a written authorization for this purpose only.


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**Disbursement For Books & Supplies**

- Institution must have a policy whereby a student may *opt out* of the way an institution provides for the student to obtain or purchase books and supplies
- Disbursement of books and supplies policy for Pell eligible students must be provided to students in their consumer information


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**Gainful Employment**

Regulations - 600.2, 600.4, 600.10, 600.20, 668.6  
GEN-11-10


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**Key Points – Gainful Employment**

- Impacts ALL types of schools
- Annual submission requirements to ED
- Student disclosure requirements and the 5 informational items
- New requirements for adding gainful employment programs


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**Gainful Employment**

- Notices of Proposed Rulemaking published 6/18/10 & 7/26/10
- Two sets of Final Rules published on 10/29/10 with effective date of 7/01/11
  - Program Integrity; GE Reporting and Disclosures
  - Gainful Employment – New Programs
- More final rules yet to be published
  - Performance Metrics
- For gainful employment information and updates go to: <http://ifap.ed.gov/GainfulEmploymentInfo/>

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For discussion purposes only

## Program Integrity Regulations

### Gainful Employment

- Applies to certain programs that are Title IV eligible because they lead to *gainful employment in a recognized occupation*
- All programs at for-profit schools except for –
  - Program leading to baccalaureate degree in liberal arts (proprietary institution)
  - Preparatory coursework


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### Gainful Employment

- Any program at a public or not-for-profit school that is not –
  - A program leading to degree
  - A transfer program of at least two years fully transferable into a bachelor's degree program
  - Preparatory coursework
- Please Note: Teacher certification programs are considered GE programs IF the school awards a certificate*


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### Recognized Occupation

- Recognized occupation is redefined as:
  - One identified by a Standard Occupational Classification (SOC) code established by OMB, or
  - One identified by an Occupational Network O\*NET-SOC code established by DOL
- Outdated reference to the Dictionary of Occupational Titles is replaced with current references to SOC codes established by OMB and DOL


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### Gainful Employment Annual Submission

- Institution (*even if do not participate in a loan program*) must annually submit information on students (TIV and non-TIV) enrolled in *TIV eligible* GE programs
  - Report includes :
    - Identifying information about student & school
    - Name & CIP code of program if began program in award year
    - Name, CIP *and* date student completed the program
    - Amount student received from private loans and institutional finance plans
  - Use Enrollment Reporting Process in NSLDS
    - DCL GEN-11-10 contains preliminary list of reportable items


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### Gainful Employment Annual Submission

- Reporting deadlines:
  - By October 1, 2011
    - 2006-2007 award year information (if available)
    - 2007-2008, 2008-2009, 2009-2010 award year information
    - 2010-2011 data will also be included in this report
  - If can't produce award year information, the institution must provide an explanation
    - Explanation sent to GE-Missing-Data@ed.gov

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### Gainful Employment Disclosures

- Institution is required to disclose:
  - Occupations its programs prepare students to enter
    - Providing link to occupational profiles on O\*NET
    - If 6 digit CIP produces more than 10 jobs, may provide a link to a representative sample of jobs (by name and SOC) its graduates typically find employment
  - Costs – tuition/fees, room/board and books and supplies
    - May include additional costs

Effective July 1, 2011

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For discussion purposes only

## Program Integrity Regulations

### Gainful Employment Disclosures

- Institution is required to disclose:
  - On-time completion rate for each program
    - Determine the number of students who completed the program during most recently completed award year
    - Determine number of students who completed within normal timeframe regardless of whether transferred into program or changed programs at institution
    - Divide the number students who completed in normal timeframe by the total number of who completed the program; and
    - Multiply by 100


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### Gainful Employment Disclosures

- Institution is required to disclose:
  - Placement rate for students completing each program
    - NCES developing methodology
    - Until developed, as of July 1, 2011:
      - If accrediting or State agency requires the calculation of a placement rate by program, the school must disclose the rate and who required it
      - If accrediting or State agency requires the calculation of a placement rate at the institutional level, the school must use the methodology to calculate a program rate and disclose it


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### Gainful Employment Disclosures

- Institution is required to disclose:
  - Median loan debt incurred by students as provided by ED
    - Identified separately as Title IV loan debt, private educational loan debt and debt from institutional finance plans
      - Institutional finance plan - amount student obligated to pay at completion of program
    - Examples provided in federal register for students switching programs, or transferring into programs at other schools


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### Gainful Employment Disclosures

- Disclosures must be in promotional materials made available to prospective students and on website
- Program home page website
  - Information simple and meaningful
  - Contain direct link to any other webpage with general, academic or admission information about the program
  - Information in an open format that can be retrieved, downloaded, indexed and searched
    - Made available to public without restrictions
- ED developing disclosure form
  - Online Web application

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### Gainful Employment – New Programs

Notification Timeframes:

- GEN-11-10
  - Institutions must notify the Department by July 1 of any new GE program where the first day of class will be on or after July 1, 2011, and before October 1, 2011.
  - For new GE programs where the first day of class will begin on or after October 1, 2011, institutions must provide notification to the Department at least 90 days prior to the first day of class.
  - *If the institution cannot provide a materially complete application at least 90 days in advance – regardless of the reason – it will have to wait for the Department to approve the program before disbursing Title IV funds*


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### Gainful Employment New Programs


- Notification must include:
  - How institution determined need for the program
  - How the program was designed to meet local market needs
  - If an online program, how designed to meet regional or national market needs
  - Contain any wage analysis performed
  - How program was reviewed/approved/developed with business advisory committees, program integrity boards, public/private oversight agencies, and any businesses likely to employ graduates
  - Demonstrate approved by, or included in, school accreditation
  - Provide the date of the first day of class

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## Program Integrity Regulations



### Gainful Employment New Programs

- Approval process
  - Unless ED requires school to obtain approval for additional programs (school status; program type), once notification is submitted, school is not required to get ED approval
  - If notification is not timely, school must obtain ED approval
  - If ED needs to approve the program, an alert notice will be sent to the school at least 30 days before the first day of class
- Program Denials
  - If denied, ED will:
    - Explain how program failed
    - Provide opportunity for school response
    - School may request reconsideration

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# THANK YOU!

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