



Gainful Employment: How It Will Happen Is Still Unclear

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What happened to America, the land of the free and the brave? I feel like I went to sleep one night and woke up in another country.

The fact that the proposed federal regulations for Gainful Employment are discriminatory because they unfairly target those schools and programs that cater to low-income, high-risk students seems to be irrelevant in the eyes of officials and politicians in Washington. Aren't these the people who were the targeted recipients for Title IV when the Higher Education Act was written in 1965?

In a conference call hosted by the U.S. Department of Education on August 11, 2010, stated, "We don't see inputs as the critical variable; we see the quality of the programs as the critical variable." They are making it abundantly clear that they are not recognizing high-risk students as an important variable.

And why are those under the harshest scrutiny the institutions that are *paying* taxes instead of those that are *taking* tax money to be in business?

As a taxpayer, I'd much rather pay for a defaulted loan and have someone in the workforce than pay for welfare any day. Feelings on this could be an entire narrative; however, the focus of this piece is the impact of the proposed regulations.

Concerns are high because the definitions are complicated and many are not written clearly for institutions to successfully navigate through the responsibilities. Data needed as defined is antiquated because of the retroactive nature of the definitions.

Repayment Rate definitions cover a date range of five (5) Federal Fiscal Years (FFY). The associated loans can be several years older in addition to the definition. The date range definition applies to determining the borrower eligibility for inclusion or exclusion in the calculation. After determining those included, the student loan dollar amounts are applied to calculate the actual repayment rate.

The following chart shows the date ranges for the definition as intended. The language does not clearly state that the numerator is the year after the denominator is determined; however, the Department has stated that is their intent.

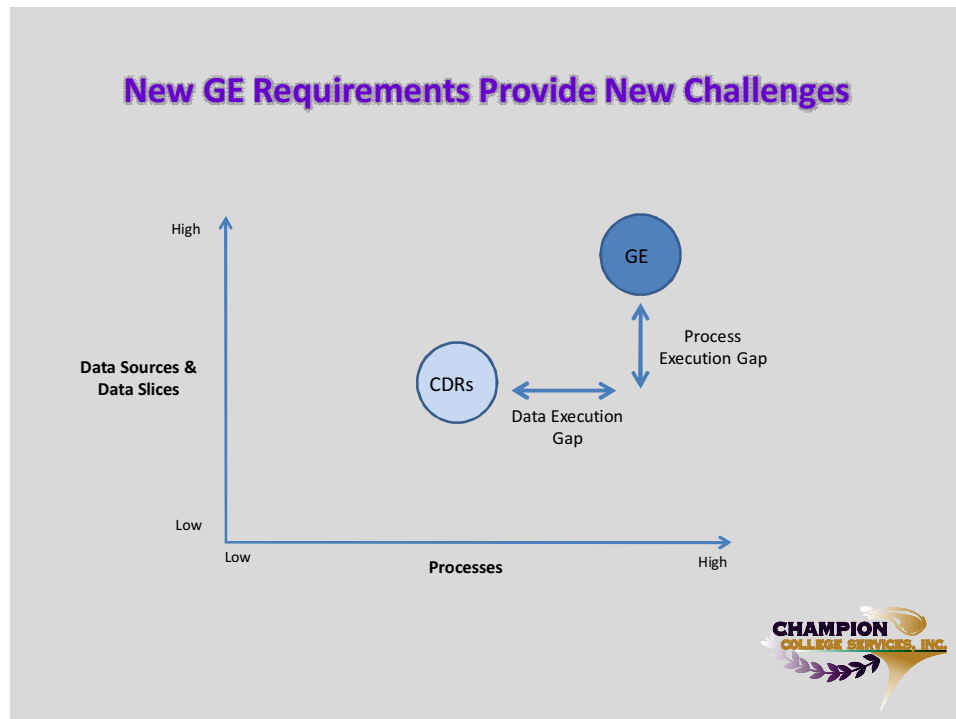
Denominator			Numerator
<i>FFY Included</i>	<i>LDA's Included</i>	<i>RPMT Dates Included</i>	<i>Principal Reduction Dates</i>
FFY1	3/30/Year1-1 - 3/29/Year1	10/1/Year1-1 - 9/30/Year1	10/1/Year4 - 9/30/Year5
FFY2	3/30/Year1 - 3/29/Year2	10/1/Year1 - 9/30/Year2	10/1/Year4 - 9/30/Year5
FFY3	3/30/Year2 - 3/29/Year3	10/1/Year2 - 9/30/Year3	10/1/Year4 - 9/30/Year5
FFY4 - to 3/31 1st 6 Months	3/30/Year3 - 9/30/Year3	10/1/Year3 - 3/31/Year4	10/1/Year4 - 9/30/Year5

Champion College Services has submitted suggested amended regulatory language to clearly define the FFY's.

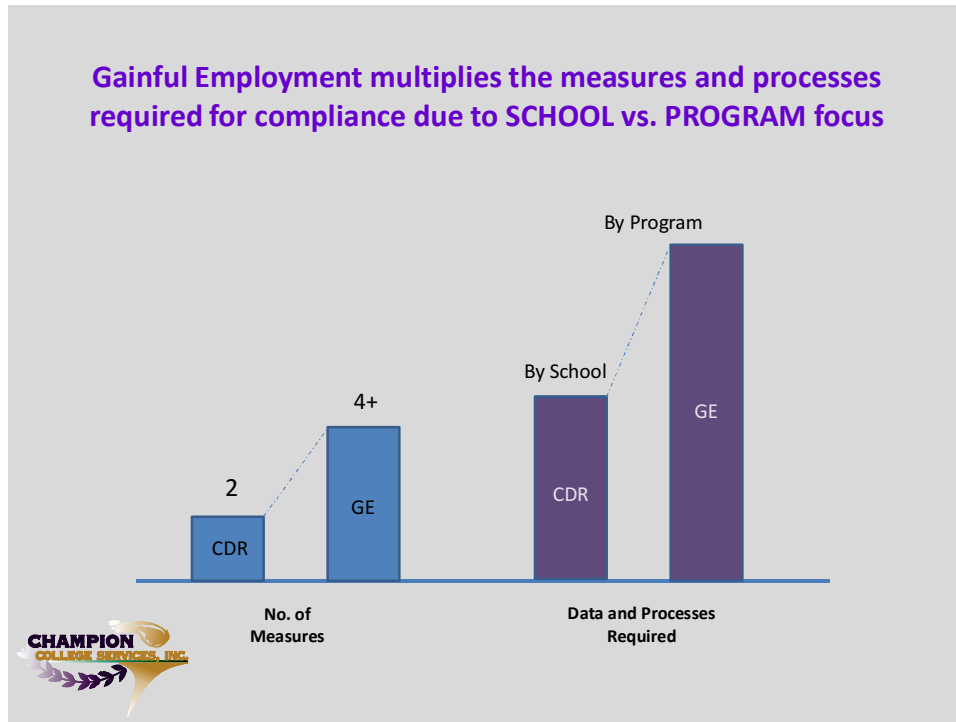
The following chart shows the date range associated with the FFY 2009 repayment rate calculation, as intended by the Department of Education. These are the parameters that the Department used for the data released to the public in August 2010.

Example: FFY 2009			
Denominator (FFY 2005-2008)			Numerator (FFY 2009)
FFY Included	LDA's Included	RPMT Dates Included	Principal Reduction Dates
FFY1 (2005)	3/30/2004 - 3/29/2005	10/1/2004 - 9/30/2005	10/1/2008 - 9/30/2009
FFY2 (2006)	3/30/2005 - 3/29/2006	10/1/2005 - 9/30/2006	10/1/2008 - 9/30/2009
FFY3 (2007)	3/30/2006 - 3/29/2007	10/1/2006 - 9/30/2007	10/1/2008 - 9/30/2009
FFY4 (2008) - to 3/31 1st 6 Months	3/30/2007 - 9/30/2007	10/1/2007 - 3/31/2008	10/1/2008 - 9/30/2009

The most dominant concerns are the fact that the data for calculating is not available to schools and that there is no appeal process in place for determining if the data used is valid and accurate. These federal regulations will operate on the “guilty until proven innocent” basis and there is nothing in place to allow schools to prove their innocence.



The processes and procedures for collecting and tracking data have exponentially increased by the level of definition for Gainful Employment. Schools will have to track these student loan and debt data points by program instead of by school.

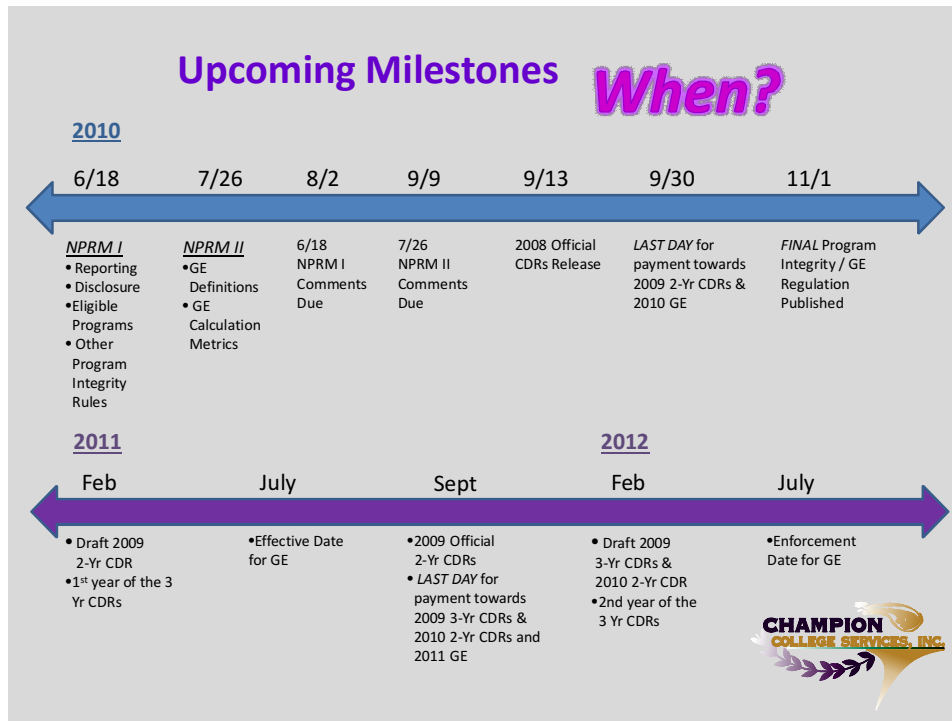


Institutions are forced to handle many new responsibilities and there are many moving parts.

The transition from a 2-year Cohort Default Rate (CDR) definition to a 3-year CDR definition will mean that the schools have to track multiple rates that determine the Title IV eligibility for the institution. At the same time, they must implement processes for tracking Gainful Employment data, including retroactive and old data.

Starting in 2010, institutions will be responsible for completing data corrections and appeals for two different CDR rates simultaneously. They will be working on a 2-year CDR and 3-year CDR correction at the same time.

Let's not forget that the consequences of high Cohort Default Rates determines eligibility at an institutional level, affecting all branch campuses associated with a main campus institution. The Gainful Employment regulations determine eligibility at a programmatic level, so an institution could lose eligibility for a program while maintaining eligibility for the rest of the institutional programs.



The comment period for Gainful Employment metrics ends on September 9, 2010. Final regulations must be published by November 1, 2010. They will become effective on July 1, 2010.

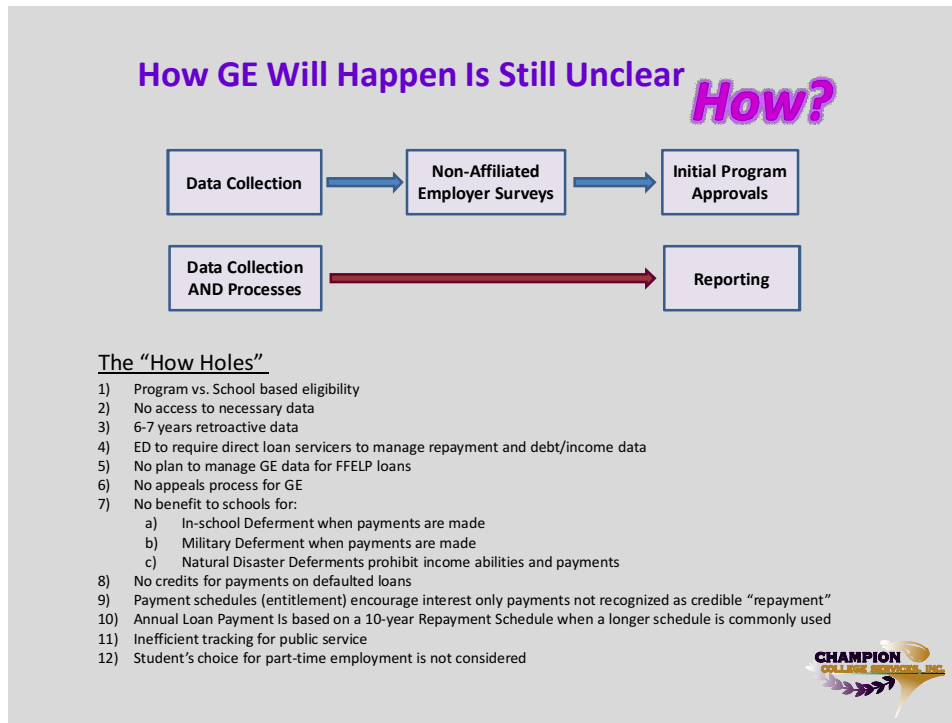
When “consensus” is not reached between the appointed and federal negotiators in the negotiated rulemaking process, the Department of Education is not obligated to any consistency with what was discussed or agreed upon during the process. In other words, they can write whatever they want to write although they say that they try to stay close to what was agreed upon in certain parts of the negotiations.

Detailed data behind the repayment rates has not been released as of the date that this article was written although the Department has said that they were trying to do so. Because we have no details, it is difficult to identify the errors in data in order to properly write suggestions for a fair and equitable appeal process. The detailed data is crucial because the data is not consistent with existing school records and there is absolutely no consistency between the Gainful Employment data and Cohort Default Rates, where a natural trend should be evident.

Schools are not given “credit” for principal reduction payments made when students are on In-school or Military Deferment or in default. A very large percent of defaulted loans are paid after the date of default. These payments are reflective of students being gainfully employed and, yet, they are not reflected in the repayment rate.

Students living in areas of natural disaster, also a variable not attributable to quality of education, are placed on administrative forbearance. These students are not excluded from the calculation even though they are unable to pay and it has nothing to do with the institution.

As outlined below, there are many holes in the process of “How do we make this happen?”



The nature of the regulations throws conflict of interest into the mix. In a time when our country is experiencing the highest unemployment rates in the history of being tracked and there have been many undesirable trickle-down effects of the transition from FFELP to Direct loans, institutions are responsible for circumstances way beyond their control.

Unavailable jobs are more reflective of the economy than of the quality of education. Schools are not responsible for the economy.

Defaults that have occurred as a result of multiple loans with multiple loan servicers are more reflective of the adversities from the transition from FFELP to Direct Loans. The servicers have not successfully serviced students during this transition and many have been left with bad credit ratings and unmanageable loan payments as a result of this decision. Again, none of these decisions were made by the schools and they are not responsible for the damage that has been cause on a very large scale.

For-profit institutions are prohibited from limiting the amount of loans a student can have. At the same time, Congress has increased what is available. Again, something that the schools are held responsible for when they have their hands tied behind their backs. How can you teach responsible borrowing when the government is dangling money in front of students who don’t otherwise have money?

If these measurements are so important, then we only ask for them to be fair. We ask that they be applied to all institutions and that there be a fair and equitable due process for accurate data based on the true variables that affect repayment rates.

And, yet, the folks in Washington continue to blame negative statistics that reflect the bad economy and transition from FFELP to Direct on the institutions who are serving the high-risk students. We all keep asking, "How did this happen?" More importantly, we continue to ask, "Why?"