

GAINFUL EMPLOYMENT DEBT MEASURES

Presented by:

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CCST Conference
October 7, 2011

Statute Underlying Gainful Employment Regulation

- To be eligible to participate in the Title IV Programs:
 - Proprietary (for-profit) institutions of higher education and
 - Non-degree-granting public institutions of higher education

MUST

“Provide[] an eligible program of training to prepare students for gainful employment in a recognized occupation.”

20 U.S.C. 1002(b) & (c).



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Summary of Regulation

Debt
Metrics

New
Program
Approval

Reporting
and
Disclosure



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DEBT MEASURES/ METRICS

Effective July 1, 2012



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DEBT MEASURES METRICS

Loan Repayment Rate at Least 35%



Annual Loan Payment is Less than or Equal to:

30% of Discretionary income

12% of Annual Earnings



Data Necessary to Conduct Above Calculations Not Available



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LOAN REPAYMENT RATES



Loan Repayment Rate: Ratio

$$\frac{\text{(OOPB of LPF) + (OOPB of PML)}}{\text{OOPB}}$$



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Loan Repayment Rate Calculation: Denominator

- Original Outstanding Principal Balance (OOPB), including capitalized interest, on FFEL and Direct Loans owed by students for attendance on the date loans entered repayment
- Does not include PLUS or TEACH Grant-related unsub loans.



Loan Repayment Rate: Denominator Calculation in 2012, 2013, & 2014

- Two Loan Repayment Rates Calculated
 - One with OOPB for loans that entered repayment in 3rd and 4th FY's prior to the most recently completed FY (2YP) (FY's 2008 & 2009 for FY 12 rate) and
 - Other with OOPB for loans that entered repayment in 1st and 2nd FY's prior to the most recently completed FY (2YP-A) (FY's 2010 & 2011 for FY 12 rate) .



Loan Repayment Rate: Denominator

- Consolidation Loans
 - OOPB is amount of FFEL and Direct Loans attributable to borrowers' attendance in program.



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Loan Repayment Rate: Numerator

OOPB of LPF + OOPB of PML



Loan Repayment Rate: Numerator

- **Loans Paid in Full (LPF):**
 - Borrower paid loan in full.
 - If the loan that was paid was consolidated with other loans or under another HEA refinancing process, it is not considered paid until the consolidation loan or other financial instrument paid in full.
 - Loan has never been in default.
 - If a consolidation loan, neither the consolidation loan nor underlying loans have ever been in default.



Loan Repayment Rate: Numerator

- **Payments-Made Loans (PML):**

- Loan has never been in default.
 - If a consolidation loan, neither the consolidation loan nor underlying loans have ever been in default.

- **AND**

- Payments made on the loan **during the most recently completed FY** reduce outstanding balance of loan (including consolidated loan) to an amount less than outstanding balance at beginning of that FY.

- Outstanding balance includes unpaid accrued interest that has **not** been capitalized.



Loan Repayment Rate: Numerator

- **Payments Made Loan (PML) also includes:**
 - Loan where borrower is in process of qualifying for **Public Service Loan Forgiveness** and submits certification to ED to show that borrower:
 - Engaged in qualifying employment and
 - Made qualifying payments on loan during most recently completed FY.



Loan Repayment Rate: Numerator

- **Payments Made in Full (PML) Also Includes:**
 - Loans for which borrowers are in income-based (IBR) or income-contingent (ICR), or other repayment plan if borrower:
 - Makes scheduled payments on loan during most recently completed FY for an amount **equal to or less** than interest that accrued during the FY.
 - **But**, the amount of these loans that can be included in the numerator can be no more than 3% of the total OOPB in the denominator.



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Loan Repayment Rate: Excluded Loans

- For the most recently completed FY the OOPB of:
 - Loans in an in-school deferment during any part of the FY;
 - Loans in a military-related deferment during any part of the FY;
 - Loans discharged as result of death of borrower; and
 - Loans considered for discharge or discharged as result of total and permanent disability of borrower.



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Loan Repayment Rate: Calculation Implications

- Most loans in deferment or forbearance during most recently completed fiscal year will be included in the denominator but not the numerator.
- Consequently, legitimate and legal default management tool can harm loan repayment rate.
- Also may mean that schools will be motivated to encourage earlier deferment and forbearance and to get students out of that status in measurement year.



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DEBT TO EARNINGS RATIOS

Discretionary Income Measure

Annual Earnings Measure



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Debt to Earnings Ratios: Which Students Included

- **Program Completers:**
 - **FY 2012:** completed in FYs 2008 & 2009
 - **FY 2013:** completed in FYs 2009 & 2010
 - **FY 2014:** completed in FYs 2010 & 2011
 - **FY 2015:** completed in FYs 2011 & 2012



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Debt to Earnings Ratio: Excluded Students

- Student excluded from ratio if :
 - Loan was in military-related deferment at any time during earnings calendar year;
 - Student died;
 - Loan was assigned or transferred to ED and is being considered for total and permanent disability discharge or was discharged on that basis
 - Student was enrolled in any other eligible program during earnings calendar year.



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Debt to Earnings Ratios: Cohort Issue

- **Calculation:** Drawn from students who completed in **fiscal year** (10/1 to 9/30)
- **Debt:** Reported by school to ED based on students who completed in **award year** (7/1 to 6/30)
- **Annual earnings:** Determined by ED based on earnings in **calendar year** (1/1 to 12/31)



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Debt to Earnings Ratio: Cohort Confusion

Assumptions:

- **FY 2012 rate calculation**
- **Student completes program on 9/29/08**
 - Student included in **calculation** based on **fiscal year** completion date (10/1/07 to 9/30/08).
 - Student debt **reported** by school in cohort of students who completed in **award year** 2008-09 (7/1/08 to 6/30/09)
 - ED calculates earnings based on **calendar year** 2011 (1/1/11 to 12/31/11).



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Discretionary Income Rate: Standard

Annual Loan Payment =

< or = 30% of discretionary income



Discretionary Income Rate: Discretionary Income Threshold

Annual loan payment

Discretionary Income Threshold

- Discretionary Income Threshold =(Mean or Median Annual Earnings –(1.5 x Poverty Guideline))



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Discretionary Income Rate: Median Loan Debt

Annual loan payment

Discretionary Income Threshold

- Median Loan Debt=
 - Lesser of:
 - Median of all FFEL + Direct + private educational loans + institutional financing plans **OR**
 - Median of all Tuition + Fees

Calculated on Student-by-Student Basis



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Discretionary Income Rate: Annual Loan Payment (Numerator)

Annual Loan Payment on “**Median Loan Debt**” based on:

- Current annual interest rate on Federal Direct Unsub
- 10-year repayment schedule for:
 - Undergraduate or post baccalaureate certificate or
 - Associate’s degree
- 15-year repayment schedule for:
 - Bachelor’s or master’s program
- 20-year repayment schedule for:
 - Doctoral or first professional degree



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Discretionary Income Rate: Example

Assumptions:

- Associate degree program
- Median Loan Debt-\$15,000
- Mean (Average) Annual Earnings-\$22,000
- Median Annual Earnings-\$19,000
- 1.5 x Poverty Guideline-\$16,742
- Federal Direct Unsub Interest Rate-6.8%

Fraction:

$\frac{\$2071}{\$5258} = .39$

\$5258



Annual Earnings Rate: Standard

Annual Loan Payment =

< 12% of Mean or Medium Annual Earnings



Annual Earnings Rate: Ratio

Annual loan payment

Mean or Medium Annual Earnings



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Alternative Earnings for Failing Programs

- **Earnings Data from State-Sponsored Data System**
 - Data is for more than 50% and at least 31 program completers
 - Mean or median earnings may be used
 - Accurate use of actual state data
- **Survey Data**
 - Data is for at least 31 students
 - Mean or medium earnings may be used
 - Conducted in accordance with NCES standards and procedures
 - Accompanied by accountant or auditor attestation
- **BLS Data: May be used only for FYS 2012, 2013, and 2014**
 - Must establish that at least 50% and at least 31 of program completers are employed in field
 - May use no higher than 25th percentile earnings
 - Must submit placement records upon request of ED



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TWC Commission Wage Data

TWC Open Records Office

101 East 15th Street

Room 266

Austin, TX 78778-001



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Alternative Earnings for Failing Programs

- Must notify ED of intent to use alternative earnings data no later than **14 days** after school is notified of final debt measures
- Must submit all supporting documentation for alternative earnings data no later than 60 days after notification of final debt measures
- Debt warnings/ineligibility not effectuated until ED decides on submission



Sanctions:

Require Failure in all 3 Metrics

- **1 Year Failure:**
 - Debt warnings to enrolled & prospective students until program meets at least 1 measure
 - 3-day waiting period before enrolling new student
- **2 Years in 3-Year Period**
 - Same debt warnings **plus**
 - Timeline for any plans to discontinue program & student options
 - Explanation of risks associated with enrolling or continuing in program
 - Explanation of resources available to research other educational options & compare program costs
 - Statement that student should expect to have difficulty repaying loans
 - Displayed on home page and promotional materials
 - Warning must be continued until program meets at least 1 measure for 2 of 3 last FYs
- **3 Years in a 4-Year Period**
 - Transitional FYs 2012, 2013 & 2014 loss of eligibility for lowest performing programs **by repayment rate** capped at 5% of students who completed program. Separated by school category (public, private nonprofit, proprietary)
 - After FY 2014 rates issued: Loss of program's Title IV eligibility for at least 3 fiscal years



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A Few Words on Process

- ED provides list of students for debt to earnings ratios
- School has 30 days to challenge list
- ED calculates debt to earnings to earnings ratios based on SSA data for students on corrected list
- ED issues draft debt measures for all 3 metrics
- School has 45 days to:
 - Challenge accuracy of loan data for all 3 metrics
 - Challenge list of borrowers for repayment rate



What Can Be Done Now?

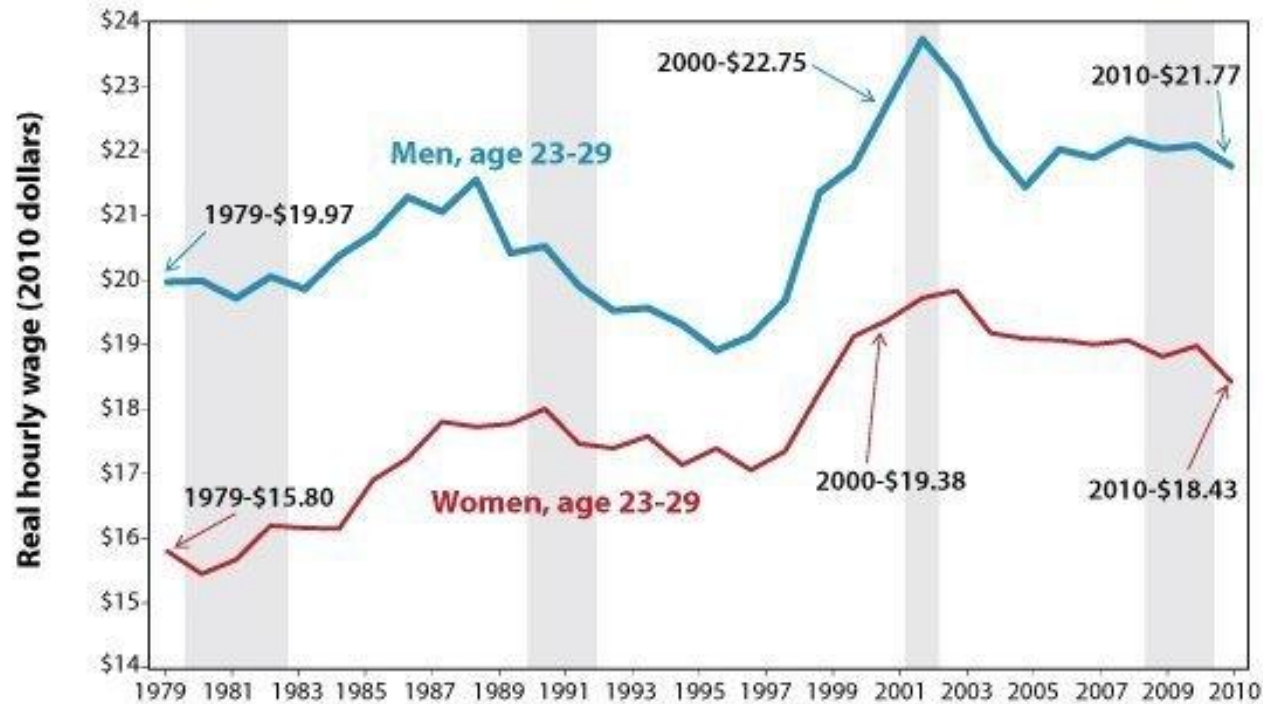
- Open Records Act requests with TWC
- Prepare your list of students for all measures (students who entered repayment in relevant FYs; program completers for relevant Fys)
- Improve placement efforts
- Review BLS data to forecast GE performance
- Ensure that default management team understands:
 - Harmful effects of most deferments and forbearances in measurement year
 - Reduction of outstanding balance in measurement year
- Interview accountants to conduct earnings surveys
- Ensure accurate placement records



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Do Not Underestimate the Challenge

New college graduates losing ground on wages
Entry-level wages of male and female college graduates, 1979-2010



Source: EPI's analysis of the Current Population Survey, Outgoing Rotations Group.



EPI



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Yolanda R. Gallegos has been representing private sector colleges and universities across the nation for well over 20 years. She established her firm, Gallegos Legal Group, in 1998 in Albuquerque, New Mexico. Yolanda focuses her practice on federal and state regulatory matters unique to the postsecondary sector, such as issues related to participation in the federal student aid programs, accreditation, and state licensing. She has successfully defended dozens of institutions in program reviews and audits before the U.S. Department of Education.



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