



# **The Regulatory Gauntlet**

## **Part 1: What to Expect on July 1, 2024**

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November 14, 2023

# Agenda

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- Borrower Defense to Repayment Claims
- Regulatory Gauntlet:
  - I. Financial Value Transparency and Gainful Employment
  - II. Accountability Regulations



# Borrower Defense to Repayment

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# Borrower Defense to Repayment

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Related to a court settlement agreement affecting claims between June-November 2022

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Nearly all schools getting notices

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Smallest number of claims out first

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**Does not mean** borrower's claim is valid

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Schools will have another chance to respond if Department forgives loan(s) and tries to hold schools liable



Regulatory Gauntlet I.  
Financial Value Transparency and Gainful Employment  
(September 30, 2023)

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# Financial Value Transparency – Degree Programs Only

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New rule released  
on Sept. 27; effective  
July 1, 2024

Accountability for  
providing financial  
value to students

All programs will have  
a published debt-to-  
earnings ratio and  
earnings premium

Earnings threshold set  
by state but national  
median is \$25,000

Consequences for  
failure on metrics

Aided prospective  
**graduate** students  
must sign an  
acknowledgement

Review during  
recertification

# Gainful Employment – Certificate Programs ONLY

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New rule released  
on Sept. 27; effective  
July 1, 2024

Accountability for  
providing financial  
value to students

All programs will  
have a debt-to-  
earnings ratio and  
earnings premium

Consequences for  
failure on metrics

Aided students  
(prospective &  
enrolled) must sign a  
warning

Loss of Title IV Aid if  
program fails EITHER  
metric in 2 of 3  
consecutive years



# Regulatory Gauntlet II. Institutional Accountability (October 24, 2023)

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# Key Provisions in Part II

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Transcript  
Withholding

Distance  
Education: Laws on  
State Licensure and  
Closings

Career Services

Review of  
Completion and  
Licensure Pass  
Rates

Marketing vs.  
Academic Spending

Financial Aid  
Counseling and  
Disclosures

Discontinuation of  
Programs

Financial  
Responsibility  
Standards

# Transcript Withholding

Institutions must, upon request, provide an official transcript that shows all the credits for payment periods in which the student received Title IV funds and for which all institutional charges were paid (or included in an agreement to pay) at the time the request was made.....

SUBJECT	REPORT 1		REPORT 2		PUPIL'S RESULT	STANDARD AVERAGE
	PUPIL'S RESULT	STANDARD AVERAGE	PUPIL'S RESULT	STANDARD AVERAGE		
Mathematics	79	63	87	67	83	65
General Science	82	62	87	64	88	65
Geography	75	61	81	64	79	63
History	82	68	89	68	87	69
Health	85	67	80	69	85	69
Biblical Studies	67	60	87	68	82	66
Art	A	C	A	C	A	C
Physical Education	B	C	B	C	B	C
PUPIL'S AVERAGE			78	64	85	67
REMARKS	DAYS ABSENT TO DATE: 0					

# Distance Education: Compliance with Out-of-State Laws

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- Laws on state licensure
  1. The state where each student is located upon initial enrollment; or
  2. The state where students attest that they intend to seek employment.
- Laws on school closing



# Career Services

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During recertification, the Department will review:



The number and distribution of staff



The services the institution has promised to students



The presence of partnerships with recruiters and employers who regularly hire graduates



# Review of Completion Rates and Licensure Pass Rates

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During the recertification process, the Department may consider:

- Institutional withdrawal rates of students within 100% or 150% of the published program length
- Licensure pass rates



# Financial Aid Counseling and Disclosures

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Institutions must advise students and families of:



The most beneficial types of aid available to them



Information on cost of attendance, net price, the source and type of aid offered, among other things

# Discontinuation of Programs

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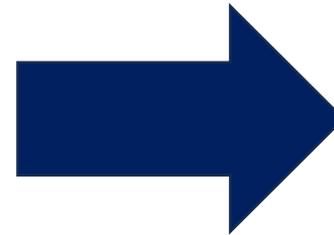
If an institution ...



Discontinues academic programs or



Closes locations that affect more than 25% of its enrolled Title IV students



The Department has the discretion to seek financial protection

# Expenditures on Marketing vs. Academic Support

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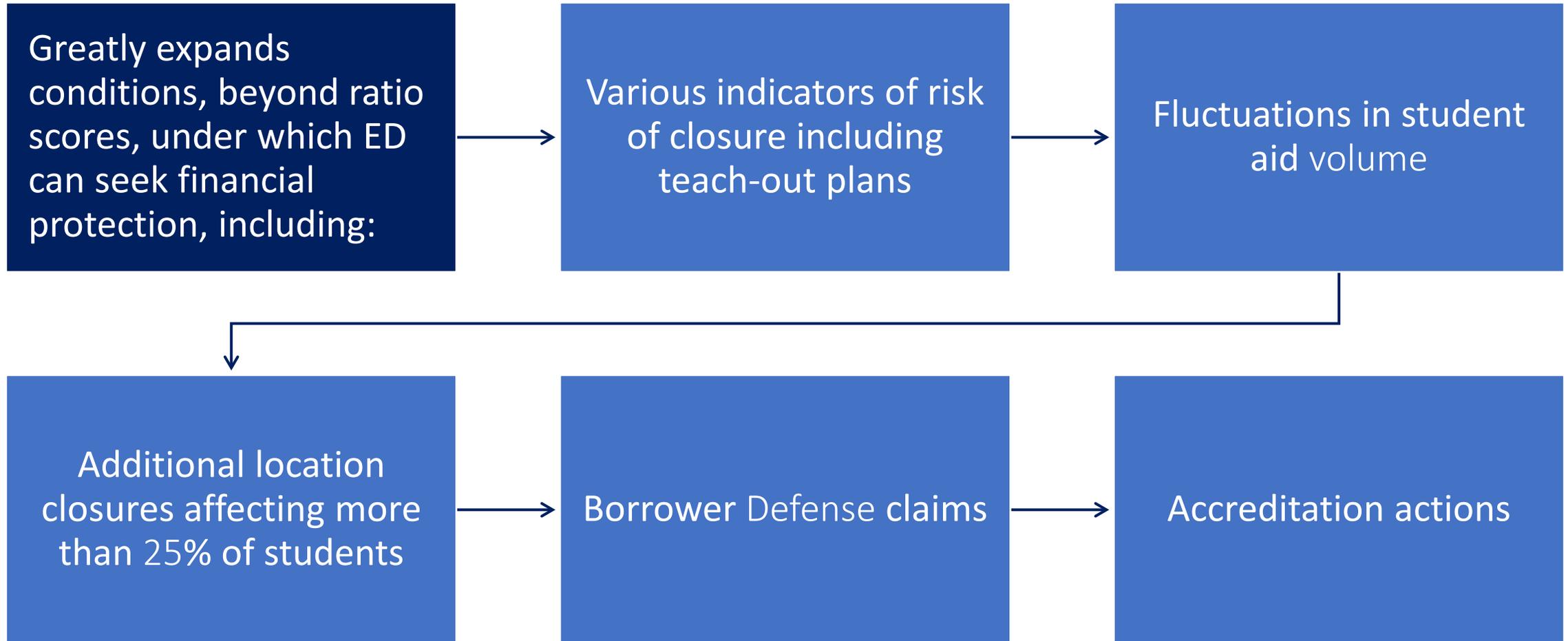
vs

ACADEMIC  
SUPPORT



# Financial Responsibility Standards

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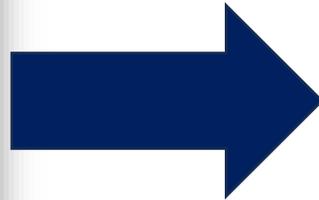


# More Resources

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# Regulatory Summaries and Analyses

1,500 Pages of  
New Regulations



Financial Value  
Transparency and GE

**NAICU** National Association of Independent Colleges and Universities 1025 Connecticut Ave. N.W. State 700 Washington, DC 20036-5405 Tel: (202)785-8866 Fax: (202)835-0003 www.naicu.edu

### FINANCIAL VALUE TRANSPARENCY AND GAINFUL EMPLOYMENT SUMMARY OF FINAL RULES

The Department of Education issued [final rules](#) on financial value transparency (FVT) and gainful employment (GE) that will go into effect on July 1, 2024. The Department also created a [fact sheet](#) summarizing the major regulatory provisions.

The new regulations establish an accountability framework for all higher education programs, including non-GE (degree) and GE programs. Non-GE programs consist of degree programs in both the nonprofit and public sectors, while GE programs consist of all programs in the for-profit sector and certificate programs in the nonprofit and public sectors.

The accountability framework consists of two components:

1. A financial value transparency accountability framework that applies to non-GE programs; and
2. An accountability and eligibility framework that applies to GE programs.

Both frameworks rely upon two metrics: (1) a debt-to-earnings rate; and (2) an earnings premium test, though the consequences for failing these metrics differ under the two frameworks.

Below is a detailed summary of the requirements contained in the final rules.

- This summary begins with a discussion of the general provisions that apply to both the FVT and GE frameworks, including the debt-to-earnings rate and earnings premium test that apply to both non-GE and GE programs.
- The next two sections examine provisions that apply only to non-GE or to GE programs, respectively, including the consequences for either type of program that fails one or more of the metrics.

**General Provisions Governing Non-GE and GE Programs**

**Accountability Framework.** The Department will assess all non-GE and GE higher education programs...

Accountability  
Regulations

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### Financial Responsibility, Administrative Capability, Certification Procedures, and Ability to Benefit Summary of Final Rules – November 2023

Less than a month after issuing final regulations on financial value transparency and gainful employment, the Department of Education finalized a second set of [rules](#) to address the agency's concerns over institutional accountability and consumer protection. **These regulations will go into effect on July 1, 2024.**

The new rules address regulatory provisions governing financial responsibility, administrative capability, certification procedures, and ability to benefit. Within these broad categories, the regulations specifically address numerous issues of critical importance to institutions of higher education, including, but not limited to:

- Transcript withholding;
- Career services;
- Financial aid counseling and disclosures;
- Compliance with state laws governing licensure requirements and closures;
- Discontinuation of academic programs affecting more than 25 percent of Title IV students;
- Completion rates;
- Oversight of institutional expenditures on academic services versus marketing and recruitment;
- Increased circumstances under which institutions may be provisionally certified and increased restrictions on such institutions; and
- Financial responsibility, including teach-out plans for colleges at risk of closure and other changes.

A detailed summary of the new rules is below, following a brief description of the history of the regulations.

**History**

The new rules have a somewhat confusing history. The regulations stem from the negotiated...

# Regulatory Gauntlet Webinar Series

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**Nov. 14 (2:00-3:00 – p.m. EST)**

*What to Expect on July 1, 2024*

NAICU Team

**Nov. 30 (2:00-3:00 – p.m. EST)**

*The Proposed New Overtime Rules*

NAICU & CUPA-HR

**Dec. 14 (2:00-3:00 – p.m. EST)**

*The Dept. of Ed's Goals & Rationale*

NAICU & ED Leadership

# Preparing Your Campus IR Staff

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## IN DEVELOPMENT

Deep dive *with* research experts *for* research experts (with AIR)



Open to ALL sectors



January 2024

Save the Date!

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NAICU

**Annual Meeting  
& Advocacy Day**

**SUNDAY, FEBRUARY 4 – WEDNESDAY, FEBRUARY 7**



# Questions and Discussion

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