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### WELCOME & INTRODUCTION

**Aaron D. Lacey**

- Partner, Higher Education Practice, Thompson Coburn LLP.
  - Provide regulatory counsel on federal, state, and accrediting agency laws and standards (e.g., Title IV, Title IX, Clery, consumer information).
  - Assist with postsecondary transactions, contract drafting and negotiation, policy creation, and compliance systems design.
  - Represent institutions in student and employee litigation, government investigations, administrative proceedings, audits, and reviews.

UMA THOMPSON COBURN LLP

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### WELCOME & INTRODUCTION

**Nick S. Janiga**

- General Counsel and Chief Legal Officer, Ultimate Medical Academy
  - Oversee all legal functions for Tampa, Florida based non-profit institution with residential and on-line programs.
  - Serve as a peer evaluator for the Accrediting Bureau of Health Education Schools.
  - Member of the National Association of Student Financial Aid Administrators and the National Association of College and University Attorneys.
  - Previously practiced higher education law for seven as member of postsecondary education practice of prominent Washington, D.C. law firm.

UMA THOMPSON COBURN LLP

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**PRESENTATION OUTLINE**

- The Gainful Employment Timeline
- D/E Rate Refresher
- Preparing for D/E Rate Challenges
- Preparing for January 2017
- GE Resources




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**THE GAINFUL EMPLOYMENT  
TIMELINE**





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**GE TIMELINE (2015)**

DATE	2015 GAINFUL EMPLOYMENT EVENTS
July 1	• New gainful employment regulations become effective
July 31	• Schools reported data for AY 08-09 to AY 13-14
October 1	• Schools reported data for AY 14-15
December 31	• Schools completed GE transitional certification




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### GE TIMELINE (2016)

DATE	2016 GAINFUL EMPLOYMENT EVENT
Spring	<ul style="list-style-type: none"> <li>ED issues AY 14-15 Completers Lists</li> <li>Schools prepare and submit AY 14-15 Completers List Challenges</li> </ul>
Summer	<ul style="list-style-type: none"> <li>ED issues AY 14-15 <b>Draft</b> D/E Rates</li> <li>Schools prepare and submit AY 14-15 Loan Debt Challenges</li> </ul>
Fall	<ul style="list-style-type: none"> <li>Schools report data for AY 15-16 (October 1)</li> <li>Schools prepare and submit AY 14-15 Alternative Earnings Appeals</li> </ul>




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### GE TIMELINE (2017)

DATE	2017 GAINFUL EMPLOYMENT EVENT
January	<ul style="list-style-type: none"> <li>New GE Disclosures effective January 1</li> </ul>
Winter/Spring	<ul style="list-style-type: none"> <li>ED issues AY 14-15 <b>Final</b> D/E Rates</li> <li>Schools continue to prepare and submit AY 14-15 Alternative Earnings Appeals</li> <li>Schools with failing AY 14-15 Final D/E Rates begin disseminating Student Warning Disclosures</li> </ul>




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### GE TIMELINE

The School Perspective




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## D/E RATE REFRESHER





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## D/E RATE REFRESHER

$$\text{Annual Earnings Rate} = \frac{\text{Annual Loan Payment}}{\text{Annual Earnings}}$$

$$\text{Discretionary Income Rate} = \frac{\text{Annual Loan Payment}}{\text{Discretionary Income}}$$



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## D/E RATE REFRESHER

PASS	ZONE	FAIL
AER less than or equal to 8% <b>OR</b> DIR less than or equal to 20%	AER greater than 8% and less than or equal to 12% <i>and DIR not passing</i> <b>OR</b> DIR greater than 20% and less than or equal to 30% <i>and AER not passing</i>	AER greater than 12% <b>AND</b> DIR greater than 30%



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### D/E RATE REFRESHER

- GE program becomes **ineligible** if the program:
  - Fails two out of any three consecutive award years for which the program's D/E rates are calculated; or
  - Has a combination of zone and failing rates for four consecutive award years for which the program's D/E rates are calculated.
- **Student warnings** must be issued if program is within a year of losing eligibility




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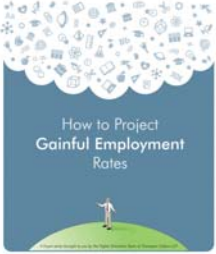

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### D/E Rate Refresher

- **GE Desk Guide**
  - Provides step-by-step instructions for projecting reliable D/E rates.
  - Offers detailed insight into how D/E rates are calculated.


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### PREPARING FOR D/E RATE CHALLENGES





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**D/E RATE CHALLENGES**

**What if a school disagrees with ED's calculations?**

- Institutions will have two opportunities to challenge numbers before final D/E rates issued:
  - Completers List Challenge
  - Loan Debt Challenge
- Institutions will have one opportunity to challenge rates after final D/E rates issued:
  - Alternative Earnings Appeal


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**COMPLETERS LIST CHALLENGE**

**What is a "Completers List" challenge?**

- For each GE program, ED will create a list of students who completed during the applicable cohort period and provide list to institutions for review.
- Institutions can challenge data on list.
- ED presumes Completer List data is accurate; institution must provide evidence to overcome presumption.


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**COMPLETERS LIST CHALLENGE**

**What completers data would a school challenge?**

- Data Errors
- Exclusion/Inclusion Errors

**How long does a school have to file a Completers List challenge?**

- No later than 45 days after ED provides completer list


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**COMPLETERS LIST CHALLENGE**

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The School Perspective




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**COMPLETERS LIST CHALLENGE**

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**COMPLETERS LIST CHALLENGE – ED RESOURCES**

Oct. 22, 2015	<a href="#">GE Elect. Ann. #64 - Upcoming Implementation of Data Challenges and Appeals Solution (DCAS)</a> : Provides High-level information about DCAS.
Oct. 26, 2015	<a href="#">GE Elect. Ann. #67 - SAIG Enrollment Now Available for DCAS Online Service</a> : Provides detailed instructions for Primary DPA to enroll in DCAS Online Service.
Nov. 18, 2015	<a href="#">Interpreting the GE Completers List</a> (webinar): Discusses how institutions receive, access, and review Completers Lists.
Nov. 19, 2015	<a href="#">How to Submit a Challenge to the GE Completers List</a> (webinar): focuses on using DCAS system for challenges.
Dec. 11, 2015	<a href="#">GE Elect. Ann. #71 - Reviewing and Correcting GE Completers Lists</a> : Provides additional information on challenges and links to webinars.
Dec. 18, 2015	Release of updated <a href="#">NSLDS Gainful Employment User Guide</a> with section concerning completers list data formats.
Feb. 3, 2016	<a href="#">GE Elect. Ann. #73 - Spring 2016 Distribution of Draft GE Completers Lists</a> : Provides updates regarding timing and resources.

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**LOAN DEBT CHALLENGE**


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**What is a loan debt information challenge?**

- When ED issues draft D/E rates, it will provide individual loan debt for each student in each GE program.

**What loan debt data would a school challenge?**

- Actual cost information
- Institutional or private loan debt
- Title IV debt and net adjustments
- Calculation of median and mean




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**LOAN DEBT CHALLENGE**

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**What is the timing for a loan debt information challenge?**

- No later than 45 days after ED provides draft D/E rates, institution must:
  - Provide evidence showing that the loan debt information used by ED to calculate the loan debt is incorrect.
- After 45-day period expires, institution may no longer submit challenge.

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**LOAN DEBT CHALLENGE**

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The School Perspective

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**ALTERNATIVE EARNINGS APPEAL**

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**What is an alternative earnings appeal?**

- When ED issues draft D/E rates, it will provide institutions with the mean and median annual earnings obtained from SSA for each program.
- Institutions can challenge the earnings if:
  - The GE program is failing or in the zone under the D/E rates measure; and
  - The appeal will move the program out of failing or zone status, respectively.

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**ALTERNATIVE EARNINGS APPEAL**

**Where does a school get alternative earnings?**

- Institutions must provide alternative earnings data from:
  - A state-sponsored data system; or
  - An institutional survey using Recent Graduates Employment and Earnings Survey (RGEES) standards and survey form.
- Data must be from the correct calendar year, and must satisfy related ED requirements.


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**ALTERNATIVE EARNINGS APPEAL**

**What is a state-sponsored data system and where does a school find one?**

- In theory, a state system that has alternative earnings information for graduates during the requisite timeframes
  - ED did not identify any states that have a data system that would suffice for this purpose
- Institutions must secure alternative earnings data for more than 50% of students in cohort and provide recalculated D/E rates using official debt numbers.


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**ALTERNATIVE EARNINGS APPEAL**

**How does a school go about conducting a graduate survey?**

- National Center for Education Statistics (NCES) is developing Recent Graduates Employment and Earnings Survey (RGEES) standards and survey form.
- ED also developing online platform to facilitate RGEES survey administration.
- Institutions are not required to use form or platform, but must adhere to standards.


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**ALTERNATIVE EARNINGS APPEAL**

**What is the timing for an alternative earnings appeal?**

- May file notice of intent to appeal as early as issuance of draft D/E rates and as late as 14 days following issuance of notice of determination.
- Must file recalculated D/E rates, all certifications, and supporting documentation no later than 60 days after ED issues the notice of determination.



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**ALTERNATIVE EARNINGS APPEAL**

The School Perspective



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**ALTERNATIVE EARNINGS APPEAL**

**ALTERNATIVE EARNINGS APPEAL – ED RESOURCES**

August 2015	<a href="#">Draft RGEES Best Practices Guide</a> : Provides detailed insight into ED's thinking regarding alternative earnings appeal process.
November 2015	<a href="#">Proposed RGEES Survey Form and Standards</a> : Sets out draft versions of form and standards, and discusses each at length.



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### D/E RATE CHALLENGES TIMELINE

Spring 2016		Summer/Fall 2016		Early 2017
Issuance of Draft Completers List	Issuance of Final Completers List	Issuance of Draft D/E Rates		Issuance of Final D/E Rates in Notice of Determination
45 days to file completers list challenge	ED accepts or rejects challenge			ED authorized to publish final D/E rates
		45 days to file loan debt challenge	ED accepts or rejects challenge	Institution receives final D/E rates; recalculated if debt challenge successful
		Earliest date to file notice of earnings appeal		<ul style="list-style-type: none"><li>14 days remain to file notice of earnings appeal</li><li>60 days remain to file actual appeal with data</li></ul>

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### PREPARING FOR 2017

- Programs with failing AY 14-15 rates will be subject to student warning requirements.
  - Schools must consider how to integrate student warnings most effectively into enrollment process.
- New GE disclosure requirements, and challenge processes, debut in 2017.

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## GE RESOURCES FROM ED

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[IFAP - Gainful Employment Information Page](#)

- [Federal Register Notices](#)
- [Dear Colleague Letters and Electronic Announcements](#)
- [Frequently Asked Questions](#)
- [Webinars and Presentations](#)
- [Resource Manuals](#)
  - o NSLDS Gainful Employment User Guide
  - o RGEES Best Practices Guide
  - o GE Operations Manual




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## CONTACT INFORMATION

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An electronic version of this presentation with [embedded hyperlinks](#) is available upon request.




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