



Competency-Based Education, Direct Assessment, and Financial Aid:

Background, Concerns, and Guiding Principles

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ISSUE Current Title IV financial aid eligibility is limited to students enrolled in eligible programs as defined in 34 C.F.R. §668.8. Historically, eligibility requirements revolved around several factors including whether the programs were tied to a credential, the length of the program, and whether a student made satisfactory academic progress (SAP). In 2005, the Higher Education Reconciliation Act (HERA) created direct assessment programs as an alternative path to Title IV financial aid eligibility for students enrolled in programs approved by the Department of Education. Although enacted as a means of opening financial aid eligibility to students enrolled in competency-based education (CBE), the current regulations have not mitigated eligibility challenges around satisfactory academic progress, credit hour, and academic year regulations. As a result, only a few institutions have chosen to use the direct assessment option and CBE programs continue to struggle with financial aid regulatory compliance.

BACKGROUND

Statutory Reference

There are three sections of 34 C.F.R. which outline Title IV financial aid eligibility for competency-based education and direct assessment programs: 34 C.F.R. §600.2, 34 C.F.R. §668.8, and 34 C.F.R. §668.10.

- 34 C.F.R. §600.2
Provides a definition a credit hour, which is at the heart of non-direct and direct assessment eligibility for financial aid, as:

Credit hour: Except as provided in 34 CFR 668.8(k) and (l), a credit hour is 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 or trimester hour of credit, or ten to twelve weeks for one quarter hour of credit, or the equivalent amount of work over a different amount of time; or
(2) At least an equivalent amount of work as required in paragraph (1) of this definition 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.
- 34 C.F.R. §668.8
Outlines several standards for financial aid program eligibility, all of which revolve around seat time, including definitions of week of instructional time, undergraduate educational

program in credit hours, and a formula for determining credit hour equivalencies. Although the entire section is not quoted below, the most relevant section, the formula for determining credit hour equivalency, follows.

(l) **Formula.**

- (1) Except as provided in paragraph (l)(2) of this section, for purposes of determining whether a program described in paragraph (k) of this section satisfies the requirements contained in paragraph (c)(3) or (d) of this section, and determining the number of credit hours in that educational program regarding the title IV, HEA programs-
 - (i) A semester hour must include at least 37.5 clock hours of instruction;
 - (ii) A trimester hour must include at least 37.5 clock hours of instruction; and
 - (iii) A quarter hour must include at least 25 clock hours of instruction.
- (2) The institution's conversions to establish a minimum number of clock hours of instruction per credit may be less than those specified in paragraph (l)(1) of this section if the institution's designated accrediting agency, or recognized State agency for the approval of public postsecondary vocational institutions for participation in the title IV, HEA programs, has not identified any deficiencies with the institution's policies and procedures, of their implementation, for determining the credit hours that the institution awards for programs and courses, in accordance with 34 C.F.R. 602.24(f) or, if applicable, 34 C.F.R. 603.24(c), so long as –
 - (i) The institution's student work outside of class combined with the clock hours of instruction meet or exceed the numeric requirements in paragraph (l)(1) of this section; and
 - (ii)
 - (A) A semester hour must include at least 30 clock hours of instruction;
 - (B) A trimester hour must include at least 30 clock hours of instruction; and
 - (C) A quarter hour must include at least 20 hours of instruction. ...

- 34 C.F.R. §668.10

Defines direct assessment programs and outlines the regulatory requirements to make direct assessment programs eligible for Title IV federal financial aid. Although the entire section is not quoted here, the most relevant section, the definition of a direct assessment program, follows.

(a)

- (1) A **direct assessment program** is an instructional program that, in lieu of credit hours or clock hours as a measure of student learning, utilizes direct assessment of student learning, or recognizes the direct assessment of student learning by others. The assessment must be consistent with the accreditation of the institution or program utilizing the results of the assessment.
- (2) Direct assessment of student learning means a measure by the institution of what a student knows and can do in terms of the body of knowledge making up the educational program. These measures provide evidence that a student has command of a specific subject, content area, or skill or that the student demonstrates a specific quality such as creativity, analysis or synthesis associated

with the subject matter of the program. Examples of direct measures include projects, papers, examinations, presentations, performances, and portfolios.

- (3) All regulatory requirements in this chapter that refer to credit or clock hours as a measurement apply to direct assessment programs. Because a direct assessment program does not utilize credit or clock hours as a measure of student learning, an institution must establish a methodology to reasonably equate the direct assessment program (or the direct assessment portion of any program, as applicable) to credit or clock hours for the purpose of complying with applicable regulatory requirements. The institution must provide a factual basis satisfactory to the Secretary for its claim that the program or portion of the program is equivalent to a specific number of credit or clock hours.
- (i) An academic year in a direct assessment program is a period of instructional time that consists of a minimum of 30 weeks of instructional time during which, for an undergraduate educational program, a full-time student is expected to complete the equivalent of at least 24 semester or trimester credit hours, 36 quarter credit hours or 900 clock hours...
 - (iii) A week of instructional time in a direct assessment program is any seven-day period in which at least one day of educational activity occurs. Educational activity in a direct assessment program includes regularly scheduled learning sessions, faculty-guided independent study, consultations with a faculty mentor, development of an academic action plan addressed to the competencies identified by the institution, or, in combination with any of the foregoing, assessments. It does not include credit for life experience....
 - (iv) A full-time student in a direct assessment program is an enrolled student who is carrying a full-time academic workload as determined by the institution under a standard applicable to all students enrolled in the program. However, for an undergraduate student, the institution's minimum standard must equal or exceed the minimum full-time requirements specified in the definition of **full-time student** in §668.2 based on the credit or clock hour equivalency established by the institution for the direct assessment program.

History

At the heart of program eligibility for Title IV financial aid are the questions of what constitutes a credit hour and how should financial aid eligibility be determined for programs that award credit based on student mastery of competencies rather than credits determined by seat time. Initially developed as a tool to measure faculty workloads for pension programs, the credit hour has become the default measure of learning. As Laitinen wrote in *Cracking the Credit Hour*, "The credit hour may be an illusion—studies suggest that typical students work nothing close to two hours out of class for every one hour in—but it is an illusion that everyone understands and agrees to believe" (Laitinen, 2012). This is particularly problematic for competency-based education programs attempting to move away from seat time to a focus on student mastery. Although this focus on competency over credit hour impacts numerous areas, perhaps the most difficult (and critical) area is financial aid eligibility.

As early as 2005, Congress recognized that CBE programs might need an alternative pathway for Title IV student financial aid eligibility. As such, the 2005 Higher Education Reconciliation Act (HERA) changed 34 CFR §668.10 to allow for financial aid eligibility based on direct assessment rather than enrolled credit hours. This section defines a direct assessment program as “an instructional program that, in lieu of credit hours or clock hours as a measure of student learning, utilizes direct assessment of student learning or recognizes the direct assessment of student learning by others.” The statute goes on to require that direct assessment programs wishing to be eligible for financial aid must “establish a methodology to reasonably equate the direct assessment program...to credit or clock hours for the purpose of complying with applicable regulatory requirements.” Furthermore, such programs must adhere to the definition of an academic year and ensure that there are at least 30 weeks of instructional time as well as ensure that students are enrolled full-time. Additionally, students must maintain satisfactory academic progress in order to be eligible to receive federal financial aid. Institutions wishing to receive approval to offer direct assessment must also apply to the Department of Education.

Despite referencing credit hours in 2005, the Department of Education did not provide a definition of a credit hour until 2011 after a 2010 Office of Inspector General audit of the Higher Learning Commission and a subsequent hearing before the House Committee on Education and Workforce. On May 24, 2010, the Department of Education’s Office of Inspector General issued its *Review of The Higher Learning Commission of the North Central Association of Colleges and Schools’ standards for program length*. This report faulted the Higher Learning Commission (HLC) for not “establish[ing] the definition of a credit hour or set minimum requirements for program length and the assignment of credit hours” (OIG, 2010). The report asserted,

Without establishing a minimum acceptable level for program length, credit hours, or student learning outcomes, HLC cannot ensure that the programs and courses being offered are of sufficient quality and quantity to be considered postsecondary education at the level represented to students, especially regarding programs and courses offered in asynchronous, accelerated, or other nontraditional formats. (OIG 2010)

Two weeks after the OIG released the audit, the House Committee on Education and the Workforce held a public hearing to discuss the challenges associated with online learning and the credit hour definition. At that time, Kathleen Tighe, Inspector General at the Department of Education, testified that the failure of HLC to establish a definition for credit hour

...could result in inflated credit hours, the improper designation of full-time student status, the over-awarding of federal student aid funds, and the excessive borrowing by students, especially with distance, accelerated, and other programs not delivered through the traditional classroom format... With the explosion of on-line postsecondary education and accelerated programs, the value of a credit hour becomes increasingly important to ensure that students and taxpayers get what they are paying for. (Committee on Education and Labor, 2010)

In response to the accusations against HLC, its executive director, Dr. Sylvia Manning, testified in response that “... the concept of credit hours is mushy.... The apparent precision of the credit hour as originally defined, based on the fact that it has numbers, is an illusion: underneath the numbers lies the mush” (Committee on Education and Labor, 2010).

Wishing to provide more explicit guidance and minimize the “mush,” the Department of Education issued a formal definition of the credit hour in 2011 as defined in 34 C.F.R. §600.2. This definition attempted to find a balance between the traditional definition of a credit hour as clock hours and the credit hour as a measure of student work and learning. In other words, the Department’s definition sought to create a bridge between time (an input measure) and learning (on output measure). The Department’s primary concern, however, remained using the credit hour to determine student financial aid and safeguarding against financial aid fraud.

Despite the fact that in 2005 HERA allowed direct assessment to be used in lieu of credit hours for financial aid eligibility, it wasn’t until 2013 that Southern New Hampshire University became the first institution approved by the Department for direct assessment eligibility. Since then, relatively few institutions have applied for and received direct assessment approval—in part because of the internal complexities involved in developing and enacting separate financial aid policies and disbursement procedures, and in part because of a lack of clear guidelines from the Department of Education, especially regarding federal financial aid regulations around definitions of full- and part-time students and their application to direct assessment programs.

Departmental Guidance

At the heart of the competency-based education and direct assessment financial aid discussion is the credit hour since it remains the “basic unit of student aid eligibility” (Ochoa, 2011). Considering the 2010 OIG Higher Learning Commission audit report and the subsequent Congressional hearings, the Department of Education issued program integrity regulations on October 29, 2010 that included the definition of a credit hour as:

...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 or trimester hour of credit, or ten to twelve weeks for one quarter hour of credit, or the equivalent amount of work over a different amount of time; or
- (2) At least an equivalent amount of work as required in paragraph (1) of this definition 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. (34 C.F.R. §600.2).

However, in its 2011 letter to institutions providing direction on interpreting and implementing the new credit hour definition, the Department of Education noted that it was the responsibility of institutions to determine how to establish credit hour equivalency for programs that do not rely on traditional seat time. In fact, the Department was careful to note that the new credit hour definition was “completely consistent with innovative practices that do not rely on seat time” because “we do not intend to limit the methods by which an institution may measure a student’s work in his or her activities” (Ochoa, 2011). Furthermore, the Department noted that the new definition of a credit hour should not interfere with the development of innovative, non-seat time dependent educational modalities since “to the extent an institution believes that complying with the Federal definition of a

credit hour would not be appropriate for academic and other institutional needs, it may adopt a separate measure for those purposes” (Ochoa, 2011).

Although direct assessment was never specifically mentioned in the October 2011 letter, this guidance clearly opened the way for the development of direct assessment competency-based education programs. On March 19, 2013, the Department issued a Dear Colleague letter outlining the application process and requirements for approval to receive financial aid based on direct assessment. These regulations primarily focused on establishing semester credit hour equivalencies, determining weeks of instructional time, determining full-time status, and disbursement of financial aid (Department of Education, 2013). Noting that “[c]ompetency-based approaches to education have the potential for assuring the quality and extent of learning, shortening the time to degree/certificate completion, developing stackable credentials that ease student transitions between school and work, and reducing the overall cost of education for both career-technical and degree programs,” the Department committed to working with accrediting agencies and the higher education community to identify promising practices in competency-based education that can inform future policy development (Department of Education, 2013). In outlining the application process, the Department indicated that institutions applying for direct assessment approval needed to focus attention on explaining:

- (1) How student learning will be assessed
- (2) How the direct assessment program will be structured and, specifically, the ways in which the institution will determine what each student needed to learn
- (3) How the institution will assist students in gaining any knowledge required to pass assessments
- (4) The number of credit hours equivalent to the amount of learning being assessed for the program credential and the methodology used to determine that equivalency
- (5) Documentation from the institution’s accreditor demonstrating that the organization has reviewed and approved the direct assessment program, including evidence that the accreditor has reviewed and approved the institution’s credit hour equivalencies.
- (6) How financial aid will be administered including:
 - a. How the minimum number of instructional weeks is determined
 - b. How a payment period is defined
 - c. How weekly academic activity will be documented
 - d. How students will engage in regular and substantive interaction with faculty
 - e. How a full-time student is defined (Department of Education, 2013)

In September 2014, the Department’s Office of Inspector General issued an audit report finding that, despite the issuance of the 2013 guidelines for direct assessment, the Department “did not adequately address the risks that schools offering direct assessment programs pose to the Title IV programs and did not establish sufficient processes to ensure that only programs meeting Federal regulatory requirements are approved as Title IV eligible” (OIG, 2014). In its report, *Direct assessment programs: Processes for identifying risks and evaluating applications for Title IV eligibility need strengthening to better mitigate risks posed to the Title IV programs*, OIG specifically posed concerns that students might receive Title IV funds for life experience, that a direct assessment program might really be a correspondence program, and that credit-hour equivalencies for direct assessment programs might not be based on the regulatory definition of a credit hour established in 2011. In

response, the Department committed to developing direct assessment application review guidelines, specifically reviewing the level of faculty involvement in instruction, and issuing further clarification on the differences between direct assessment and credit hour competency-based education.

On December 19, 2014, the Department issued a Dear Colleague letter to provide clarity regarding CBE and financial aid as well as to respond to the OIG's findings. The thirteen-page document provided direction on a number of financial aid related issues, including:

- the distinction between credit hour-based CBE and direct assessment CBE;
- requirements on establishing credit hour equivalencies for direct assessment programs;
- CBE and regular and substantive interaction requirements;
- prohibition on using Title IV financial aid for prior learning assessment (PLA)
- satisfactory academic progress;
- provisions for returning Title IV financial aid;
- the role of accreditors in reviewing and approving CBE programs (Department of Education, 2014).

Although the Dear Colleague letter provided some direction on CBE and financial aid, confusion has remained. Recognizing the need to develop a set of promising practices around CBE and financial aid eligibility and disbursement, the Department issued an invitation for institutions to participate in an experimental site program that would test alternative aid distribution methods such as split disbursement, satisfactory academic progress dependent disbursement, and subscription period disbursement (Federal Register, 2014). Unfortunately, although the Department approved over forty institutions to participate in this experiment, it wasn't until September 2015 that institutions received guidance from the Department of Education. Data from these experiments have yet to be reported.

CONCERNS

The most significant issues related to CBE and financial aid involve CBE's break from measuring time to measuring learning. In its efforts to address CBE financial aid pathways, the negotiated rulemaking's Accreditation and Innovation Committee and its Distance Learning and Educational Innovation Subcommittee will need to examine and resolve a number of issues.

1. Use of the credit hour
 - The credit hour is currently being used as a default measure of learning despite the fact it was never designed to do so.
 - Can competencies function as an alternative to credit hours for measuring financial aid?
 - If so, is it necessary for direct assessment programs to map back to credit hour equivalencies?
2. Financial aid disbursement
 - Financial aid is currently disbursed at the beginning of academic terms. However, for CBE programs that are subscription based and allow students to complete as many competencies/credit hours as possible during a fixed period, does the traditional academic term disbursement calendar make sense?

- Would an alternative model that disburses a portion of student aid at the beginning of a term and the remainder upon completion of competencies be feasible? Would such a model help or hurt students?
3. Student financial aid eligibility
 - A key component for determining student financial aid eligibility is full-time vs part-time status. How should full-time and part-time status be measured in CBE programs? Is a different definition necessary for direct assessment programs?
 - Should students who fail to master a minimum threshold of competencies be required to return a portion of their financial aid for that term?
 - Another key component for determining student financial aid eligibility is satisfactory academic progress. How should satisfactory academic progress be defined for competency-based programs?
 4. Expansion of program eligibility for financial aid
 - Current regulations prevent blended direct assessment and non-direct assessment programs from being eligible for Title IV financial aid. Should such programs be eligible for financial aid and, if so, how should that aid be awarded?
 - Current regulations prevent awarding financial aid for prior learning assessment (PLA). Are there circumstances under which PLA should be eligible for financial aid? For example, should a student who is able to move straight to an assessment be afforded the same amount of aid as a student who still needs to acquire the skills and knowledge necessary to master a course's competencies?
 - Remedial coursework delivered as a part of a direct assessment program is currently ineligible for financial aid. Should remedial coursework delivered as a part of a direct assessment program be eligible for financial aid?
 5. Competency-based education and indirect costs
 - Should CBE programs, whether they be credit based or direct assessment, allow financial aid to be used for indirect costs?
 - If so, should the indirect costs of CBE programs be calculated differently than non-CBE programs?

GUIDING PRINCIPLES

1. **Fairness** to all students regardless of program modality of instruction.
 - Students should have the same access to federal financial aid regardless of instructional modality. This means that access to financial aid for programs that utilize adaptive technology, and other non-standard instructional models must be assured.
 - The Department should remove restrictions around the use of Title IV financial aid for certain modalities, including:
 - Programs that blend direct assessment and non-direct assessment
 - Programs that use direct assessment for remedial coursework
 - The Department should consider ways that Title IV financial aid can be used to support students pursuing prior learning assessment and other similar modalities. Because these programs can come at considerable cost to students, the inability to

use Title IV aid for these programs effectively renders them inaccessible to underserved student groups.

2. **Simplify** regulations around financial aid program eligibility requirements.
 - Current requirements that CBE and direct assessment programs map back to credit hours can be time consuming, expensive, and, sometimes, contradictory.
 - The Department should consider developing new standards that would be alternatives to credit hours, such as standardizing the definition of a competency.
 - Treat all modalities the same. Do not hold non-face-to-face modalities to a different set of standards.
3. Develop new measures of **quality assurance** and transparency that rely less on “input” measures and more on “outputs.”
 - The Department of Education plays a critical role in student consumer protection as well as protecting the multi-billion-dollar investment of taxpayer money. The Department must continue this critical role while also finding ways to balance protection with expanding educational access for an increasingly post-traditional student population.
 - The Department currently relies on “input” measures like credit hours and regular and substantive interaction as proxies for quality assurance. However, input measures are not always dependable indicators of educational quality, something that is essentially an “output.” The Department should work with higher education stakeholders to develop alternative measures of quality assurance that focus on demonstrations of quality.
 - Although the Department plays a critical role in quality assurance, it is only one part of the triad—there are equally important roles for accreditors and state government. All three parts of the triad should be equally engaged in quality assurance discussions and responsibilities.

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