the institute for college access & success

WHAT TO KNOW ABOUT THE GAINFUL EMPLOYMENT RULE

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The Higher Education Act (HEA) requires that all career education programs receiving federal student aid "prepare students for gainful employment in a recognized occupation."[1] The HEA does not define "gainful employment," but in 2014 the Education Department adopted the gainful employment (GE) rule providing a definition of how career training programs could demonstrate they met this requirement. Although the rule worked to improve quality, lower cost and save taxpayer money, on July 1, 2019 the Trump Administration rescinded the rule and immediately allowed schools to stop complying.

The Gainful Employment Rule Identified Programs that Routinely Left Graduates with Unaffordable Debts:

- The GE rule was based on a simple idea: typical graduates need to earn enough to afford to repay their loans. The rule required any program where typical graduates' debts exceed both 8 percent of their total income and 20 percent of discretionary income to improve or lose access to federal financial aid.[2]

- The rule applied to all career programs: sixty-one percent of the programs that were covered by the GE Rule were offered by public colleges, primarily community colleges, while the majority of remaining programs were offered by for-profit colleges.[3]

- It ensured that schools provided prospective students and consumers with information about career programs that has included what the typical graduate earns, how much debt graduates have, and what share of graduates find employment in their field.

- More than 350,000 students have completed programs at schools that failed to meet the guidelines established by the GE Rule. These students hold nearly $7.5 billion in student debt they are unlikely to be able to repay.[4]

The Gainful Employment Rule Saved Money:

- Because it reduced the amount of student aid wasted at low-quality programs, repealing the GE rule costs money. In rescinding the rule the Department of Education acknowledged that eliminating the GE Rule would cost $6.2 billion over the next ten years.[5]

The Gainful Employment Rule Worked to Improve Quality and Lower Costs:

- College officials and industry observers acknowledge that the GE rule has driven improvement at colleges, leading to free trial periods, more scholarships, lower tuitions, greater focus on employer needs, and other efforts to improve the value they offer students.[6]

- Data released by the Education Department in January 2107 using the debt-to-earnings measure set out in the GE rule demonstrated that fewer than 9 percent of career programs failed to show they offered good value for students.[7]

- Of the programs that failed, almost 98 percent were offered by for-profit colleges.[8] Encouragingly, at least 65 percent of these programs are no longer enrolling new students.[9]

- Students of color account for more than half of the undergraduate enrollment at for-profit colleges, and they are disproportionately impacted by the high-cost, low-quality programs identified and addressed by the GE Rule.[10]

The Gainful Employment Rule was Carefully Considered and Continues to Have Strong Support:

- The GE rule was the culmination of nearly nine years of research and analysis, consideration of nearly 190,000 public comments and a negotiated rulemaking process involving a broad array of stakeholders.

- It was upheld by two federal district courts and unanimously affirmed by an appellate court.[11] Eighteen state attorneys general sued to force the Education Department to implement the GE rule.[12]

- The rule included reasonable provisions for appeals using alternate earnings data, and allowed failing programs at least two years to improve before facing loss of access to federal financial aid.

- The Education Department received over 14,000 concerned comments, when it initially sought to repeal the rule in 2018, and missed its own deadline before finalizing the repeal in 2019.[13]

- Over 65 organizations working on behalf of students, consumers, and civil rights, state attorneys general, more than 30 organizations representing veterans and servicemembers and 18 state attorneys general continue to support the rule and oppose its elimination.[14]

1. Gainful Employment Information, undated, U.S. Department of Education Federal Student Aid, http://bit.ly/2WCSXCJ.
2. Failing programs are those where typical graduates' estimated student loan payments exceed both 12 percent of total income and 30 percent of discretionary income; programs that fail in two out of three years lose eligibility for federal financial aid. "Zone" programs are those where typical graduates' estimated student loan payments exceed both 8 percent of total income and 20 percent of discretionary income; zone programs lose eligibility if they fail in four consecutive years. Passing programs are those where typical graduates' estimated student loan payments are below either 8 percent of total income or 20 percent of discretionary income. U.S. Department of Education. "Education Department Releases Final Debt -to-Earnings Rates for Gainful Employment Programs." January 9, 2017.
3. 79 FR 64889, Gainful Employment, Final Rule, October 31, 2014, http://bit.ly/2Z0Xg8b.
4. The Institute for College Access & Success, August 22, 2018, How Much Did Students Borrow to Attend the Worst-Performing Career Education Programs? http://bit.ly/2YF7jEB.
5. 84 FR 31392, Gainful Employment Final Rule, July 1, 2019, http://bit.ly/2MYrciX.
6. The Institute for College Access & Success, September 13, 2018, Detailed comments on the gainful employment notice of proposed rulemaking, pp 6- 8, http://bit.ly/2Z0YWCw.
7. TICAS calculation from gainful employment data, available from Federal Student Aid, http://bit.ly/2Mep9rp.
8. Fernanda Zamudio-Suaréz, January 9, 2017, "Here Are the Programs That Failed the Gainful-Employment Rule" The Chronicle of Higher Education, http://bit.ly/2yQ1XHh.
9. Comments of Clare McCann, Deputy Director for Federal Policy, Higher Education Initiative, New America in response to Gainful Employment notice of proposed rulemaking, http://bit.ly/31xemvZ.
10. National Center of Education Statistics, February 2017, "A Profile of the Enrollment Patterns and Demographic Characteristics of Undergraduates at For-Profit Institutions", http://bit.ly/2YEpQki.
11. APSCU v. Duncan, Judgment of the United States Court of Appeals, March 8, 2016, http://bit.ly/2H3ZxZZ.
12. Paul Fain, October 18, 2017, "AGs Sue DeVos Over Gainful-Employment Rule", Inside Higher Ed, http://bit.ly/2Tr3kpb.
13. Andrew Kreighbaum, October 4, 2018, "Missed Deadline Stalls DeVos Agenda", Inside Higher Ed, http://bit.ly/2ZWqrKT.
14. Letter from 68 organizations in support of gainful employment, September 13, 2018, http://bit.ly/2YZ7ndl; Public comment from veterans organizations & military service organizations, July 12, 2017, http://bit.ly/2YJfM9T; Maryland et al v. DeVos is an ongoing lawsuit filed by 18 state attorneys general that seeks to compel the Education Department to implement the 2014 rule. http://bit.ly/2Ks9mTI.