Student Protections and the Value of a GAINFUL EMPLOYMENT RULE

TICAS

The Higher Education Act (HEA) requires that all career education programs receiving federal student aid "prepare students for gainful employment in a recognized occupation." 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. As issued in 2014, the federal GE rule provided a safeguard against career education programs leaving their graduates with debts that were unaffordable relative to their eventual incomes, while also providing prospective students with key information about program costs and outcomes.

Students lost this protection when the Education Department (ED) rescinded the GE rule in 2019, leaving them vulnerable to unscrupulous colleges and saddled with debts they cannot afford to repay. These colleges often misrepresent themselves to boost their profits using students' financial aid dollars, then provide students with effectively nothing in return.

Predatory for-profit colleges target communities of color.[1] For example, for-profit institutions graduate their Black and Latinx students at lower rates than any other racial or ethnic groups. Recent data show that the six-year graduation rate for Black students at for-profit institutions is only 18 percent. Forty-two percent of Black borrowers and 31 percent of Latinx borrowers default within six years of starting at for-profit institutions.[2] This reality raises serious equity concerns, as heavy loan burdens remain a major obstacle to intergenerational wealth creation and economic mobility for communities of color.[3]

ED must use the current negotiated rulemaking process to reinstate a strong GE rule to protect students and taxpayer dollars.

Gainful Employment Formula

The GE rule establishes Debt-to-Earnings rates (D/E rates) to determine whether a program prepares students for gainful employment in a recognized occupation. A D/E rate is based on the typical loan debt and earnings of a cohort of the program's former students who completed the program.

For a career education program to pass the GE rule, the majority of graduates' expected student loan payments had to be below both 8 percent of their total income and 20 percent of their discretionary income. Programs whose typical graduates' debt payments exceeded both 12 percent of total income and 30 percent of discretionary income failed.

If a program failed for two consecutive years or stayed in "zone" status for four consecutive years, it lost eligibility to participate in federal financial aid, meaning that students could not use federal grants or loans to attend that poorly performing program. Zone programs would lose eligibility if they failed for four consecutive years.[4]

The Equity Imperative of the Gainful Employment Rule

Students of Color are Disproportionately Harmed by Programs that Do Not Pass the Rule

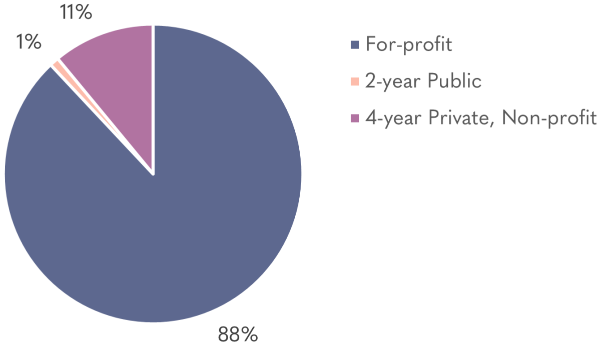
In January 2017, the Education Department released the first evaluation of career education using the debt-to-earnings measure set out in the GE rule. Fewer than 9 percent of career programs failed, with 14 percent of programs falling into the zone of at-risk programs. [5] Of the programs that failed, almost 98 percent were offered by for-profit colleges. [6]

The for-profit sector targets communities of color and engages in predatory practices.[7] The demographics of students caught up in institutions with failing programs mirror the demographics of for-profit attendance writ large—Black and Latinx students are disproportionately represented.

In 2019-20 institutions that previously had over half of their career education programs designated as zone or failing comprised:

- 482,000 total students across all institutional sectors;
- 189,000 Black and Latinx students across all institutional sectors; and
- 166,000 Black and Latinx students in for-profit institutions alone.[8]

Black and Latinx Students in Programs Designated as Zone or Failing by Institution



Calculations by TICAS on header data (2020) from the U.S. Department of Education's Integrated Postsecondary Education Data System (IPEDS) and the Department's Gainful Employment rate data (2015, updated in April 2018). Total Enrollment at GE Schools Still Operating in 2020, by Race/Ethnicity. Please see, https://bit.ly/3ql0rID.

> ***Students of Color are Disproportionately Burdened by Debt Incurred to Attend Programs that Don't Pass the Rule***

Heavy debt burdens are a major obstacle to intergenerational wealth and economic mobility for communities of color.

» Black and Latinx students attending two-year for-profit programs pay more than twice as much and leave with over $7,000 more in debt than peers attending a comparable public two-year program.
» Overall, students who attended for-profit colleges account for more than one-third of all student loan defaults although they make up fewer than 10 percent of total students.
» Students that have completed programs at schools that failed to meet the guidelines established by the GE rule hold nearly $7.5 billion in student debt.

Programs unable to prepare students for career placements that clear even the baseline expectations of gainful employment exacerbate racial income disparities while continuing to reap profits from their low-quality offerings.

Student Demographics, HBCUs, and the GE Rule

Some opponents of the GE claim the rule has a disproportionately negative effect on institutions with high enrollments of students of color and low-income students--populations too often targeted by predatory for-profit schools. They also claim their program completers may earn too little to repay their loans because of persistent labor market discrimination. But debt-to-earnings metrics and thresholds used in GE have effectively no correlation with a school's share of students of color, as detailed in a 2015 regulatory impact analysis by the Department of Education.[9]

A newer analysis using the 2017 GE data further supported ED's findings that programs in HBCUs are less likely to fail the D/E ratio than any other institution. Under the 2014 rule, no HBCU failed the metric.[10]

Why Students Need a Strong Gainful Employment Rule Now

Data from 2017, the first and only year of GE's effect, highlighted the importance and value of a strong GE rule to protect students:

- In 2017, 2,616 institutions—including 1,541 for-profit institutions—had at least one program that qualified as a career education program under the rule.[11]
- As of 2020, 81 percent of those institutions and 83 percent of programs were still in operation.[12]

Of the institutions operating under the prior rule, 712 had at least one zone or failing program.

- In 2020, 468 (65 percent) of those institutions were still enrolling students.[13]
- Of the 535 institutions that had **over half** of their programs designated as zone or failing under the prior rule, 340 (64 percent) still operated in 2020.[14]

> ***These 340 institutions still operate 1,963 programs, accounting for 51 percent of all failing and warning zone programs under the GE Rule.[15]***

There are currently no guarantees that the amount of debt a student can take on to pay for a high-cost career education program will lead to anything more than extremely limited career prospects. As the for-profit college industry seeks to enhance profitability and push back against regulatory guardrails, the Department must strengthen key accountability mechanisms that have proven successful in protecting students and improving the value offered by colleges.

Endnotes

1. Student Borrower Protection Center. (2021). Mapping Exploitation: Examining For-Profit Colleges as Financial Predators in Communities of Color. https://bit.ly/2VT-SIVs
2. National Center for Education Statistics. (2019). Postsecondary Graduation Rates. https://bit.ly/3FG26y8
3. Ibid.
4. The Institute for College Access and Success. (2019) What to Know about the Gainful Employment Rule. https://bit.ly/3CK1Rzg
5. The Institute for College Access & Success. (2019). What to Know About the Gainful Employment Rule. https://bit.ly/3nfcvt3
6. Ibid.
7. Student Borrower Protection Center. (2021). Mapping Exploitation: Examining For-Profit Colleges as Financial Predators in Communities of Color. https://bit.ly/2VT-SIVs
8. Calculations by TICAS on header data (2020) from the U.S. Department of Education's Integrated Postsecondary Education Data System (IPEDS) and the Department's Gainful Employment rate data (2015, updated in April 2018). In 2020, how many students were enrolled at schools that had operated at least one zone or fail GE program? Please see, https://bit.ly/3nLbKsf.
9. 79 FR 64889
10. Ibid.
11. 5. Although CEHE closed its schools, the lawsuit brought against the chain by the state of Colorado remains pending. In the most recent action, the Colorado appeals court upheld the lower court in part and reversed it in part, remanding the case back to the District Court for a new trial to resolve the outstanding consumer issues.
12. "System-Wide Review Probation Order" (PDF). Accrediting Commission of Career Schools and Colleges. September 6, 2018. Retrieved September 11, 2018; Kreighbaum, Andrew (September 11, 2018). "Probation for For-Profit College Chain". Inside Higher Ed. Retrieved September 11,2018; Colorado v Center for Excellence in Higher Education, 14cv34530, Finding of Fact, Conclusions of Law, and Judgement (hereinafter, "Order"), filed Aug, 21, 20120, available at https://bit.ly/3AqOW5b; Please also see, David Halperin. (2021). Independence U. Lays Off Staff, Says Feds Stopped Aid. The Republic Report. https://bit.ly/2XKcK5R
13. Calculations by TICAS on header data (2020) from the U.S. Department of Education's Integrated Postsecondary Education Data System (IPEDS) and the Department's Gainful Employment rate data (2015, updated in April 2018). See https://bityl.co/9NhE. Institutional counts based on six-digit OPEIDs, which can combine multiple campus locations into a single institution. Programs are unique combinations of six-digit OPEIDs, six-digit CIP codes, and credential level. Institution type refers to the institution control reported in the Gainful Employment data
14. Ibid.
15. Ibid.