THE INSTITUTE FOR COLLEGE ACCESS & SUCCESS

Gainful Employment

Using Data to Examine Potential Effects of a High School Earnings Threshold

JUNE 2022

The U.S. Department of Education (ED) designed the Gainful Employment (GE) rule as a baseline accountability metric to ensure that career education programs leave their graduates with debts that are affordable relative to their eventual earnings. The rule worked on multiple fronts, from improving institutional quality, lowering costs, and saving taxpayer money to advancing racial equity in how career education programs served historically marginalized students. The GE rule also worked to mitigate the large number of students at for-profit colleges – disproportionately Black and Latino students – from ending up in student loan default.[1]

But, in 2019, newly appointed ED officials rescinded the rule at an estimated cost to taxpayers of more than $6 billion.[2] Since then, ED has lacked this baseline accountability measure to hold low-performing career education programs accountable for low earnings and saddling their students with unmanageable student loan debt. For a full background on GE, see TICAS' December 2021 brief, *Accountability That Works: Restoring Gainful Employment and Strengthening Higher Education Accountability Measures*.

Since taking office, the Biden administration has moved to restore GE. In early 2022, the Department presented a proposal to create an earnings threshold metric that would complement the 2014 rule's debt-to-earnings (D/E) metric to constitute a new GE rule. For this brief, we modeled how the proposed threshold would potentially impact GE programs, using ED's published data, with a particular focus on implications for racial equity.

Under the proposed earnings threshold measure, for-profit institutions would operate the largest share of failing GE programs — more than 40 percent of GE programs at for-profits would fall short. As Members of Congress consider potentially opening Pell grant eligibility for students pursuing very short-term training programs, an earnings threshold presents a potential accountability metric for programs that may not result in debt for completers, but who nonetheless encounter low earnings potential.

WHAT TO KNOW ABOUT THE GAINFUL EMPLOYMENT RULE

The Higher Education Act (HEA) requires that all career education programs receiving federal student aid "prepare students for gainful employment in a recognized occupation," yet the law does not define "gainful employment."[3] The HEA does define which programs offered by colleges are classified as career programs.[4] Through the 2014 GE rule, the Department established a threshold by which schools could demonstrate that they met the HEA's gainful employment expectation of career programs.

The rule was a response to a decades-long history of underperformance and abuses by for-profit colleges. In designing the rule, ED sought to distinguish programs that provided affordable training that led to well-paying jobs from those that did not, based on the D/E ratio of their graduates.

A D/E rate was based on the typical loan debt and earnings of a cohort of a program's completers. For a college program to pass the GE rule, the majority of graduates' expected student loan payments had to be below both eight percent of their total income and 20 percent of their discretionary income. Programs for which typical graduates' debt payments exceeded both 12 percent of total income and 30 percent of discretionary income failed the D/E metric. If a program failed for two consecutive years, it risked losing eligibility for students to use federal grants or loans to attend.[5]

In 2017, the Department released the first set of official career education program passage rates under the 2014 GE rule. Fewer than nine percent of career programs failed; another 14 percent of programs fell into a zone of at-risk programs.[6] **Despite operating only about one-third of GE-eligible programs, for-profit colleges operated nearly 98 percent of failing programs.[7]**

The relatively high failure rate of many for-profit programs reflected how poorly they were preparing students for career opportunities with a strong earning potential. One analysis found that for-profit borrowers defaulted at twice the rate of community college borrowers (52 percent versus 26 percent after 12 years), "but because for-profit students [we]re more likely to borrow, the rate of default among all for-profit entrants [wa]s nearly four times that" of community college entrants (47 percent versus 13 percent). Among students who attended for-profit colleges, borrowers who began in 2004 defaulted on their loans at twice the rate of borrowers who began their studies in 1996.[8]

At the time of the 2017 GE data release, over 2,600 institutions — including 1,541 for-profit institutions — had at least one program that qualified as a career education program under the rule. By 2018, two-thirds of failing programs in the first cohort of gainful employment data no longer enrolled students. However, 81 percent of the institutions that offered at least one failing career education program remained in operation.[9]

Failing for-profit programs enroll Black and Latino students at disproportionately higher rates.[10] Heavy debt burdens are a major obstacle to intergenerational wealth and economic mobility for communities of color. Programs unable to prepare students for career placements that clear even the baseline expectations of gainful employment exacerbate racial/ethnic income disparities while continuing to reap profits from their low-quality offerings. As the 2017 GE data showed, "only four percent of white graduates who never attended a for-profit defaulted within 12 years of entry, compared to 67 percent of Black dropouts who enrolled at a for-profit."[11]

NEGOTIATED RULEMAKING ON GAINFUL EMPLOYMENT AND THE HIGH SCHOOL EARNINGS METRIC

In January 2022, members of an ED-appointed committee began a three-month negotiated rulemaking period. ED facilitated these negotiations to design a rule that would strengthen the Department's oversight of institutions of higher education receiving government funding.

In addition to restoring key elements of the previous GE rule, including the D/E metric and the consumer information disclosures template, the Department proposed adding a high school earnings threshold metric as a student safeguard. This high school earnings metric would compare GE program graduates' earnings to the median earnings of working 25- to 34-year-olds in their states with a high school diploma as their highest educational credential.[12] Programs graduating students whose earnings did not lead to earning more than high school graduates in their states for two consecutive years out of a three-year period would lose access to federal financial aid. Because negotiators did not reach consensus on language for the new rule, ED is expected to release proposed regulatory language through a Notice of Proposed Rulemaking in the summer of 2022.

DATA AND ANALYTIC APPROACH

We used data from ED's Postsecondary Education Participants System (PEPS) and the College Scorecard to examine how well GE programs would fare under the Department's D/E rates and proposed high school earnings threshold metrics. ED's universe of programs included GE programs offered by all domestic institutions currently in operation and participating in Title IV (Higher Education Act, HEA) programs, as of February 22, 2022 (*n*=40,377). GE programs account for nearly a quarter of all programs at U.S. institutions of higher education.

To protect the privacy of students in these small graduating cohorts, ED only reported earnings data of individuals in the 2014-15 and 2015-16 cohort, three years post-completion for GE programs with at least 30 individuals (inflation-adjusted to 2019 dollars). Therefore, in this brief, our universe of programs represents 10 percent of all GE programs considered under the D/E rates measure (*n*=3,989) and the same share of GE programs that would be considered under the proposed earnings threshold metric (*n*=4,184).[13] Some of our findings differ from those of ED because we only analyzed GE programs with reported earnings data.

For-profit GE programs tend to enroll larger cohorts of students than private non-profit and public institutions. As a result, both the D/E and the proposed earnings metrics include a sizeable number of programs offered at for-profit colleges. For-profit institutions operate most (70%) of GE-eligible programs with reported earnings data, while public institutions operate one-quarter of GE programs with reported earnings data, followed by six percent of GE programs offered at private non-profit institutions with reported earnings data.

We also examined whether ED's proposed earnings threshold would have a disproportionate effect on Historically Black Colleges and Universities (HBCUs) and Hispanic-Serving Institutions (HSIs) — institutional types with fewer resources than non-minority-serving institutions, but explicitly committed to ensuring the collegiate success of students from racially marginalized backgrounds. HBCUs and HSIs operate relatively few GE programs among all their offerings. From the total number of GE programs with reported earnings data, 170 (4%) of GE programs are located at HSIs; HBCUs operate just 26 GE programs (less than 1%).

Key contributions from Matsudaira and Turner (2020) and Cellini (2022) have been crucial in analyzing the design, implementation, and influence of a high school earnings metric to improve institutional accountability.[14] We referenced this prior scholarship to inform our analysis of the updated data released in March 2022 by the Department of Education and found similar results.

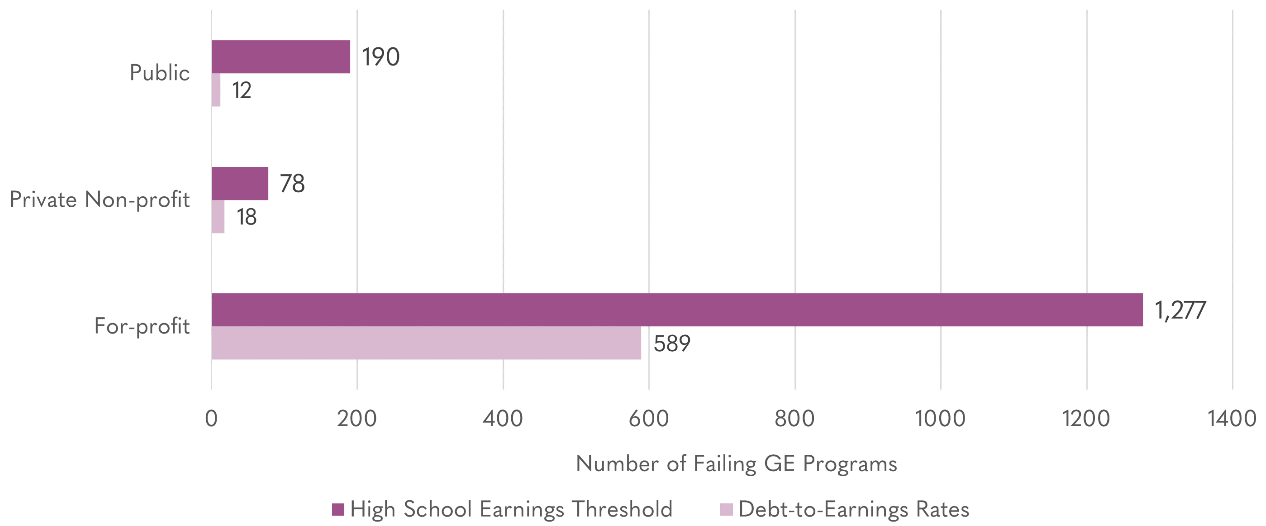
COMPARED TO RELYING ON THE D/E RATIO MEASURE ALONE, THE NUMBER OF FAILING GE PROGRAMS WOULD DOUBLE AT FOR-PROFIT COLLEGES

For-profit colleges comprise a disproportionately larger share of failing GE programs. Under the proposed earnings threshold, we found that over 40 percent of GE programs at for-profit institutions would fail — translating to 1,277 failing GE programs (Figure 1). Compared to the D/E rates measure, the number of failing GE programs at for-profits would double under the proposed earnings threshold.

Of the 240 GE programs with reported earnings data at private non-profits, 78 programs would fail under the earnings threshold. Among the 1,032 GE programs at public institutions, 190 programs would not pass the earnings threshold metric.

FIGURE 1. FAILING PROGRAMS AT COLLEGES WITH DEBT-TO-EARNINGS RATES VS. HIGH SCHOOL EARNINGS THRESHOLD BY SECTOR

Under the proposed high school earnings threshold, over 40 percent of GE programs at for-profits would fail — translating to twice as many failing GE programs compared to the D/E rates measure.



Note: To protect the privacy of students in these small graduating cohorts, ED only reported earnings data of individuals in the 2014-15 and 2015-16 cohort, three-years post-completion for GE programs with at least 30 individuals (inflation-adjusted to 2019 dollars).

Source: TICAS analysis of the U.S. Department of Education (ED), Postsecondary Education Participants System (PEPS). See PEPS, "GE Information Rates Data 03-15-22 FINAL" (last accessed March 2022).

> Under the proposed earnings threshold, we found that over 40 percent of GE programs at for-profit institutions would fail.

Of the 170 GE programs with reported earnings data at HSIs, 38 programs would fail under the earnings threshold. Among the 26 GE programs with reported earnings data at HBCUs, five programs would not pass the earnings threshold metric. As mentioned above, the overall shares of GE programs at HSIs and HBCUs are only four percent and less than one percent, respectively. Therefore, care should be taken not to overstate or understate the impact of the proposed earnings metric on the limited number of GE programs at HBCUs and HSIs.

FAILING GE PROGRAMS AT THE UNDERGRADUATE CERTIFICATE/ DIPLOMA AND ASSOCIATE'S DEGREE LEVELS ARE HEAVILY CONCENTRATED AT FOR-PROFITS

Collectively, undergraduate certificates/diplomas, associate's degrees, and bachelor's degrees comprise 90 percent of all GE programs with reported earnings data. Undergraduate certificate/ diploma programs are nearly six times as likely to fail the proposed earnings threshold as D/E — almost half of these programs would fail the earnings threshold compared to just eight percent that fail D/E (Table 1). Under the earnings threshold, undergraduate certificate/diploma programs are the only credential level that would increase in the share of failing GE programs compared to using D/E rates alone.

At the associate's degree level, a quarter of GE programs would fail under the proposed earnings threshold, although overall failure for these programs is lower than the D/E measure.

> Most GE programs at the undergraduate certificate/ diploma level and all GE programs at the associate's degree level are concentrated at for-profit colleges. At for-profits, nearly 70 percent of undergraduate certificate/ diploma GE programs would fail and one-quarter of GE programs at the associate's degree level would not pass the proposed earnings threshold (Table 2).

TABLE 1. NUMBER OF GAINFUL EMPLOYMENT PROGRAMS WITH HIGH SCHOOL EARNINGS THRESHOLD DATA

Under the proposed high school earnings threshold, nearly half of GE programs at the undergraduate certificate/ diploma level would fail, followed by a quarter of failing GE programs at the associate's degree level.

Credential Level	Total Programs	Passing Programs	Failing Programs	
Undergraduate Certificates or Diplomas	2,780	1,426	1,354	49%
Associate's Degrees	609	454	155	26%
Bachelor's Degrees	374	350	24	6%

Note: To protect the privacy of students in these small graduating cohorts, ED only reported earnings data of individuals in the 2014-15 and 2015-16 cohort, three-years post-completion for GE programs with at least 30 individuals (inflation-adjusted to 2019 dollars).

Source: TICAS analysis of the U.S. Department of Education (ED), Postsecondary Education Participants System (PEPS). See PEPS, "GE Information Rates Data 03-15-22 FINAL" (last accessed March 2022).

TABLE 2. FAILING GAINFUL EMPLOYMENT PROGRAMS UNDER THE PROPOSED HIGH SCHOOL EARNINGS THRESHOLD BY CREDENTIAL LEVEL AND SECTOR

Under the proposed high school earnings threshold, at for-profits, nearly 70 percent of undergraduate certificate/diploma GE programs would fail and one-quarter of GE programs at the associate's degree level would not pass.

Institutional Types		Total Programs	Passing Programs	Failing Programs	
All Undergraduate Certificates/Diplomas and Associate's Degrees		**3,389**	**1,880**	**1,509**	**45%**
Undergraduate Certificates or Diplomas	For-profit	1,639	553	1,086	66%
	Private Non-profit	172	94	78	45%
	Public	969	779	190	20%
Associate's Degrees	For-profit	609	454	155	26%

Note: To protect the privacy of students in these small graduating cohorts, ED only reported earnings data of individuals in the 2014-15 and 2015-16 cohort, three-years post-completion for GE programs with at least 30 individuals (inflation-adjusted to 2019 dollars).

Private non-profit and public institutions did not have GE programs with reported earnings data at the associate's degree level.

Source: TICAS analysis of the U.S. Department of Education (ED), Postsecondary Education Participants System (PEPS). See PEPS, "GE Information Rates Data 03-15-22 FINAL" (last accessed March 2022).

IMPLICATIONS AND RECOMMENDATIONS

The Covid-19 pandemic has exacerbated many longstanding inequities in higher education while also prompting notable changes that seem likely to remain. These changes include an increased reliance on online and distance learning — technology that holds the potential to increase access but that unscrupulous institutions have used too often to target students for low-quality, high-cost programs. Students who are Black, Latino, women, first-generation, and veterans are particularly at risk.[15]

To meet this need, the **Education Department** must move forward with implementing a strong, well-crafted rule that puts the needs of students first. The 2014 rule used a debt-to-earnings metric to provide a baseline protection, and it worked. Restoring this accountability measure will go a long way toward strengthening student and taxpayer protection. The proposed addition of an earnings threshold reflects the principle that students who complete career education programs should have earnings that exceed what they would have made with only a high school diploma. This additional metric ensures a more rigorous rule, but must be carefully designed to account for factors affecting income and wealth disparities.

Severed data connections across federal agencies and dismantled internal data systems within the Department require not just new data sharing agreements but the reconstruction of a data infrastructure to fully implement a new GE regulation. **The Department should expand its data sharing agreement** with the IRS under the FUTURE Act and replace the Memorandum of Understanding with the Social Security Administration, all while maintaining a commitment to protecting students' and taxpayers' privacy.

In the interest of transparency and putting as rigorous a rule in place as possible, the Department should also **consider lowering the 30-student enrollment** threshold for program-level GE data reporting. Balancing student privacy concerns, the Department should be able to report both debt-to-earnings and prospective earnings threshold outcomes for a larger share of career education programs.

The Department should also enhance transparency by **restoring the prior consumer disclosures template**.

In taking this step, the Department would provide a financial need tool to enable prospective students to determine if they would be able to repay any debt incurred to complete career education programs.

Robust data systems are essential to **ensure that racial equity considerations are at the core** of GE regulations. The final rule must reflect a commitment by ED to ensure racial equity in how career education programs serve historically marginalized students who are disproportionately targeted by unscrupulous institutions. To highlight the targeting of and impact on Black and Latino students by these programs, ED must disaggregate data on program enrollees and completers.

In evaluating the Department's proposal, **student and consumer advocates** should provide feedback guided by a set of equity-oriented questions that may include:

1. How do the different types of proposed consumer disclosures work to provide information that would help protect students?
2. How does ED's GE proposal address the disproportionate impact of student debt taken on by borrowers of color — especially Black borrowers — to attend high-cost, low-performing career programs that leave them with low earning prospects?
3. What measures are ED putting in place to identify unintended consequences of rule design and mitigate potential harm to student borrowers by predatory and deceptive actors who seek to game the system?

CONCLUSION

A quality assurance measure such as the GE rule acts as a baseline metric that provides students and families with the information they need to make an informed decision before enrolling in a career education program. It also gives information to federal agencies to safeguard taxpayer dollars.

Employment and pay discrimination — including by race/ethnicity, gender, and disability status — remain unfortunate realities in the workplace.[16] Women, Black, and Latino workers disproportionately perform work — including work considered essential throughout the Covid-19 pandemic — compensated at lower levels than jobs disproportionately done by men and white workers. Further analysis is needed to understand fully how implementing a high school earnings threshold might affect workers and potential workers already most marginalized by our education and economic systems. Such analysis should ensure the final GE rule does not further push and stratify marginalized populations into lower-paying professions.

Still, our findings raise serious concerns about the quality of education that students receive, especially through for-profit colleges' career education programs, and the loan debt burdens that weigh them down for years. With a new GE rule on the horizon, the Education Department can strengthen key accountability mechanisms that have proven successful in protecting students and improving the value offered by colleges.

ENDNOTES

1. Perspective by James Kvaal and Arne Duncan. (2019). *Career Training Regulations Protect Students and Taxpayers. But the Trump Administration is Abolishing Them*. *The Washington Post*. https://wapo.st/37O-1QAX
2. 84 FR 31392. (2019). Gainful Employment Final Rule. http://bit.ly/2MYrciX.
3. Gainful Employment Information, undated, U.S. Department of Education Federal Student Aid, http://bit.ly/2WCSXCJ.
4. 20 U.S.C. Chapter 28 – *Higher Education Resources and Student Assistance*. Subchapter I – General Provisions. §1001. General definition of institution of higher education. https://bit.ly/3yGkm9E
5. 79 FR 64889, Gainful Employment, Final Rule, October 31, 2014, http://bit.ly/2Z0Xg8b.
6. TICAS calculation from gainful employment data, available from Federal Student Aid, http://bit.ly/2Me-p9rp.
7. Zamuido-Suarez, F. (2017). "Here Are the Programs That Failed the Gainful-Employment Rule." *The Chronicle of Higher Education*. http://bit.ly/2yQ1XHh.
8. Scott-Clayton, J. (2018). *The looming student loan default crisis is worse than we thought*. Brookings Evidence Speaks Reports (2)34. Retrieved from https://brook.gs/3PUj6Wv.
9. Accrediting Commission of Career Schools and Colleges. (2018). System Wide Review Probation Order; Andrew Kreighbaum. (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, 2012, available at https://bit.ly/3AqOW5b; ED would apply the national median high school credential-holder's earnings to programs with more than half their enrolled students residing outside the program's base state.
10. 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.
11. Scott-Clayton, 2018.
12. ED would apply the national median high school credential-holder's earnings to programs with more than half their enrolled students residing outside the program's base state.
13. To access the data used for this analysis, see downloadable data file on the TICAS website.
14. Matsudaira, J. D. & Turner, L. J. (2020). https://brook.gs/3GMmOgH; Cellini, S. R. & Blanchard, K. J. (2022). https://bit.ly/3GD1oTh.
15. The Leadership Conference Education Fund. *Gainful Employment: A Civil Rights Perspective*. https://bit.ly/3mzbcmw.
16. Robin B. (2020). *Quick Facts About the Gender Wage Gap*. Center for American Progress. https://ampr.gs/3PwnlaF

ACKNOWLEDGMENTS

The Institute for College Access & Success (TICAS) is a trusted source of research, design, and advocacy for student-centered public policies that promote affordability, accountability, and equity in higher education. To learn more about TICAS, visit ticas.org and follow us on Twitter and Instagram: @TICAS_org.

Madison Weiss and Dr. Marshall Anthony Jr. are the primary authors of this report.

TICAS would like to express appreciation to the following individuals and organizations for their generosity of time and valuable suggestions: Dr. Stephanie Cellini of The George Washington University; Dr. Kayla Elliott and Anna Byon of The Education Trust; Roxanne Garza of UnidosUS; Peter Granville of The Century Foundation; and the New America Higher Education Program team. All mistakes are our own.

We received generous support for this project from Arnold Ventures. The views expressed in this paper are solely those of TICAS and do not necessarily reflect the views of our funders.

ticas

THE INSTITUTE FOR COLLEGE
ACCESS & SUCCESS

110 Maryland Avenue, N.E., Suite 201
Washington, DC 20002