

# Why Students Need a Strong Gainful Employment Rule

Most colleges and universities help millions of Americans earn economic security and a better life. However, in the wake of the Great Recession, some career and for-profit colleges sought to take advantage of the federal financial aid system and students to make windfall profits by combining deceptive and high-pressure recruiting tactics, high tuitions, and low-quality classes. These schools made lofty promises to vul-

**“I have student loans that I am going to be paying off for years and really I have nothing to show for it”**

– Marine Corporal Anselm Caddell,

Student from now closed Brown Mackie College

nerable students but delivered, for a steep price, shoddy education programs and worthless degrees.

While these schools seized on a Great Recession boom in demand for college, there is a decades-long history of abuses at for-profit colleges. The availability and accessibility of federal loans drives their recruiting and enrollment processes, and, as a result, some for-profit programs prey upon students who need to use a higher share of need-based student aid.<sup>1</sup> Student tuition and fees, largely from federal student loans and grants, constituted the largest primary source of revenue at private for-profit institutions (94 percent).<sup>2</sup>

Multiple investigations have revealed that federal taxpayers are subsidizing schools and programs that consistently leave students and veterans with loans they cannot repay and credentials they cannot use.<sup>3</sup> Some schools have gone so far as to enroll students without their consent and use tactics that invoke “pain” and “fear” to pressure students into enrolling.<sup>4</sup> For-profit programs also disproportionately target low-income Black and Latino communities and some for-profit institutions deliberately exploit low-income people of color with deceptive and sometimes fraudulent marketing techniques.<sup>5</sup>

Students, many of them older than traditional-aged students (typically considered 18-24-year-olds), enrolled in for-profit colleges in an effort to advance in their careers and better support their families. But in

many cases, their hopes for a new career were not realized. Hundreds of thousands of students either graduated, only to find that their loans were excessively large relative to their incomes, or dropped out with debt and no enhanced earning power.<sup>6</sup>

## Protecting and Preparing: How the Gainful Employment Rule Aids Students

Issued in 2014, the Gainful Employment (GE) Rule was designed to ensure that career-education programs leave their graduates with debts that are affordable relative to their actual incomes. It distinguishes between programs that provide affordable training that leads to well-paying jobs and those that do not, based on the [debt-to-income ratios](#) of their graduates.<sup>7</sup>

Although the rule worked to improve institutional quality while lowering costs and saving taxpayer money, the Trump Administration, immediately after taking office, suspended implementation of the GE Rule before rescinding it in 2019.<sup>8</sup> Without the GE Rule, colleges that operate poorly performing career programs are not held accountable for the excessive debt of their students.

## To Which Types of Schools Does the Gainful Employment Regulation Apply?

Federal law specifies which programs are required to “prepare students for gainful employment in a recognized occupation” in order to participate in federal student aid programs.<sup>9</sup> The regulation followed this statutory definition of career education programs, which includes virtually all programs at for-profit colleges and all programs of less than two years at public and nonprofit colleges. The rule applied to career education programs in all sectors of higher education: public, nonprofit, and for-profit. In fact, the majority (61 percent) of covered programs were at public colleges.<sup>10</sup>

In January 2017, the Department [released](#) the first set of official career education program rates under the

GE rule. They found that nine out of 10 colleges with rated career education programs had no failing programs, but 803 programs (9%) failed the test because they consistently left students with more debt than they could repay.<sup>11</sup>

In anticipation of the rule, many schools had already improved their programs, ended failing programs, lowered their prices, and started providing more career placement assistance.<sup>12</sup> Failing career education programs were required to disclose key information like their cost, debt levels, or job placement, so students could make more informed decisions about where to enroll.

Under the GE Rule, any program where typical graduates' debts routinely exceed both 8 percent of their total income and 20 percent of discretionary income was required to improve or would lose access to federal financial aid.<sup>13</sup> Programs that missed this standard narrowly were given additional time to improve.<sup>14</sup>

## Meaningless Degrees and Mountains of Debt: How For-Profit Programs Harm Students

The for-profit college sector has a history of engaging in deceptive and aggressive recruiting and enrollment tactics to lure students to enroll in their programs.<sup>15</sup> Yet too often, these programs are overpriced and low in quality. Hundreds of thousands of students end up with a degree they cannot use and debt they cannot repay.

After attending the program for two years, one student who enrolled at Sanford Brown College-Online believed she had completed the requirements to graduate, but was unable to do so after a dispute with the institution over an outstanding balance on her account. She never found a job and owes \$25,000 in student loans and cannot transfer her credits because the campus she attended shut down in [2015].<sup>16</sup>

Research also shows that for-profit colleges have a disproportionate impact on the debt levels of students of color. Nine out of 10 Black and Latino students who graduated from a for-profit undergraduate degree program borrowed, and they borrowed at least \$10,000 more, on average, than those attending public colleges.<sup>17</sup> Black students attending for-profit colleges are

more than twice as likely, and Latino students more than four times as likely, to take out private loans as their peers at other types of colleges.<sup>18</sup>

Veterans are also disproportionately harmed by the widespread abuses, low-quality programs, and frequent abrupt closures plaguing the for-profit sector. An Air National Guard Corporal, Chad Putnam, as part of a 2014 letter to former Secretary of Education Arne Duncan, shared his experience about his for-profit school:

***"I was told that the Art Institute had a 93 percent job placement rating and since the Art Institute had campuses all over the U.S., that I would have access to a nationwide network of employers ... It wasn't until near the end of my schooling that I began to realize that a lot of the training I was getting was outdated, in some instances by a few years, and that I had a long way to go until I was up to par with the industry standards. I also found out that ... my program had a success rate of only 38 percent. I have student loans that I am going to be paying off for years and really I have nothing to show for it."***

Plaintiffs claim that ITT manipulated its job placement rates by counting as "placed in the field" students whose jobs in no way related to their studies. ITT's internal manual instructed career services employees to designate retail positions at Blockbuster, GameStop, and other big box stores as "in field" to boost the employment numbers for the digital entertainment and game design programs.<sup>19</sup>

Colorado investigators also uncovered that the Center for Excellence in Higher Education inappropriately classified a graduate of the Business Management and Accounting program as employed in field for her job as counter help at a Panda Express restaurant.<sup>20</sup>

Economists who have studied for-profit education believe that the case for a GE rule is stronger now than at the time it was written.<sup>21</sup> When it was in effect, the GE rule highlighted an important policy issue: there are hundreds of thousands of students enrolled in career-education programs who either drop out or leave their schools with loans they cannot repay based on what they earn. Researchers have found and identified

multiple persistent trends for students who attend low-quality for-profit colleges:

- Compared to undergraduate and graduate borrowers from four-year public and private (nonprofit) institutions, almost three-quarters of for-profit borrowers owed more two years after leaving school, than they did when repayment began.<sup>22</sup>
- Students who attended for-profit certificate, associate, and bachelor's degree programs earned less after leaving those programs than they did before enrollment; their return on investment in attending was negative.<sup>23</sup>
- For-profit students also incurred larger debt burdens than the students in comparable programs at public institutions.<sup>24</sup>
- Students from for-profit colleges end up with higher levels of debt, low labor market earnings, and higher rates of default on their loans.<sup>25</sup>
- Students enrolled at for-profits are less likely to complete a program; for-profit students complete their program 35% of the time compared to 65% of students are in public four-year institutions.<sup>26</sup>

## Improving Value for Students: Gainful Employment's Impact on the For-Profit Industry

The GE Rule, which was the result of extensive expert input and analysis, negotiated rulemaking, and public comment, successfully protected students. Even before it was finalized, it had a significant positive impact. The mere threat of sanctions under the rule prompted many colleges to eliminate their worst performing programs, freeze tuition, and implement other reforms to improve outcomes for their graduates. In 2010, as the regulatory process to implement the GE Rule was still underway, career colleges began to improve the value they offered students. They had little choice but to act immediately: under the proposed rule, they could lose eligibility based on the experience of their currently enrolled and recently departed students.

Largely motivated by the GE Rule, colleges across the country sought to improve the value they offered students. Schools cut tuition, increased scholarships, and introduced free trial periods. Schools also eliminated many programs; for example, Career Education Corporation announced that it was closing down all of their campus-based programs across four college

brands where students were not gainfully employed.<sup>27</sup> According to [New America](#), 65 percent of for-profit programs that were failing the gainful employment rule in early 2017 were no longer enrolling students as of August 2018.<sup>28</sup>

In part due to these reforms, in early 2017, nine in ten colleges with rated gainful employment programs had no failing programs. Even among for-profit colleges, eight in ten had no failing programs.<sup>29</sup>

## What Happens Now with the GE Rollback?

In July 2019, Secretary Betsy DeVos repealed the GE rule, eliminating this effort to hold low-quality career education programs accountable for the outcomes of their students. There is a growing concern that, absent regulation, the twin crises of pandemic and recession will fuel a rise in predatory for-profit enrollment.

With the GE Rule repealed, 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. Large for-profit education companies are spending millions of dollars to enroll vulnerable students, including veterans and students of color. While many for-profit colleges continue to struggle and overall enrollments have dropped, some companies have announced new and expanded enrollments to investors.<sup>30</sup> Recent data show that enrollment at for-profit colleges has increased by 3 percent since last fall.<sup>31</sup>

Overpriced, ineffective career education programs waste taxpayer resources and leave students worse off than when they started. The Biden Administration should restore rules to prevent student aid from going to colleges that operate wasteful, fraudulent, and abusive programs. A strong gainful employment rule is a critical safeguard that prevents hundreds of thousands of students from taking on debts they are unlikely to be able to repay, and defines the longstanding statutory requirement that career education programs need to "prepare students for gainful employment in a recognized occupation."

## Endnotes

<sup>1</sup> Kelchen, Robert. *How Much Do For-Profit Colleges Rely on Federal Funds?* The Brookings Institute. January 11, 2017. <https://brook.gs/33yXXKQ>.

<sup>2</sup> National Center for Education Statistics. *The Condition of Education, Postsecondary Institutions Revenues*, May 2020. <https://bit.ly/3musllv>.

<sup>3</sup> United States Senate, Health, Education, Labor and Pensions Committee. *For Profit Higher Education: The Failure to Safeguard the Federal Investment and Ensure Student Success*. July 30, 2012. <https://bit.ly/37tCR1A>.

<sup>4</sup> Ibid.

<sup>5</sup> Patrick F. Linehan. *Dreams Protected: A New Approach to Policing Proprietary Schools' Misrepresentations*, 89 GEO. L.J. 753, 762 (2001); United States Senate, Health, Education, Labor and Pensions Committee, *For Profit Higher Education: The Failure to Safeguard the Federal Investment and Ensure Student Success*. July 30, 2012. <https://bit.ly/37qpsYb>.

<sup>6</sup> Libassi, CJ, Miller, Ben. *How Gainful Employment Reduces the Government's Loan Forgiveness Costs*, Center for American Progress, June 8, 2017. <https://rb.gy/qy5llf>; Barshay, Jill. "Federal Data Shows 3.9 Million Students Dropped out of College with Debt in 2015 and 2016." *The Hechinger Report*, November 6, 2017. <https://bit.ly/36opJvw>.

<sup>7</sup> The Gainful Employment (GE) rule, which penalized certain higher education programs that graduated students with too much debt relative to their earnings, and the Borrower Defense (BD) Rule, which forgave loans connected to colleges' illegal conduct, worked together to provide protections for students and taxpayers attending for-profit and career education programs.

<sup>8</sup> Gainful Employment Information, undated, U.S. Department of Education Federal Student Aid, <http://bit.ly/2WCSXCJ>.

<sup>9</sup> Frequently Asked Questions. Program Integrity: Gainful Employment Notice of Proposed Rulemaking (NPRM), <https://bit.ly/37tNMIE>.

<sup>10</sup> Federal Register, October 31, 2014, p. 65000.

<sup>11</sup> The Institute for College Access & Success. *What Does a Failing Program Look Like?* March 7, 2017. <https://bit.ly/3qe6HA1>.

<sup>12</sup> Ibid.

<sup>13</sup> 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>. The Institute for College Access & Success, August 22, 2018, *How Much Did Students Borrowers*, <https://bit.ly/3fUk1EG>.

<sup>14</sup> A program is considered passing if the annual loan payment of its typical graduate is less than or equal to either 8% of total earnings OR 20% of discretionary income. Failing programs are those whose graduates have annual loan payments greater than 12% of total earnings AND greater than 30% of discretionary earnings. Zone programs fall in between passing and failing. Programs only lose eligibility for federal financial aid if they failed the rule's measures for two years in a three-year period or spent four consecutive years in the "zone" between passing and failing.

<sup>15</sup> United States Senate, Health, Education, Labor and Pensions Committee. *For Profit Higher Education: The Failure to Safeguard*

the Federal Investment and Ensure Student Success. July 30, 2012. <https://bit.ly/33zZoJ8>.

<sup>16</sup> Ibid.

<sup>17</sup> The Leadership Conference Education Fund. *Gainful Employment: A Civil Rights Perspective*. <https://bit.ly/3mzbcwm>.

<sup>18</sup> Ibid.

<sup>19</sup> ITT Educational Services, Inc., et al., v. Jorge Villalba, James Eric Brewer, Joshua Cahill, Juan Hincapie and Cheryl House, on their own behalf and on behalf of all other persons situated. Case No. 16-07207-JMC-7A, January 3, 2017. <https://bit.ly/2JDrDil>.

<sup>20</sup> State of Colorado, Ex. Rel. Cynthia H. Coffman, Attorney General, and Julie Meade, Administrator, Uniform Consumer Credit Code, v. Center for Excellence in Higher Education Inc. August 21, 2020. <https://bit.ly/2JAhtiU>.

<sup>21</sup> Cellini, Stephanie, Deming, David, Adam, Looney, and Matsudaira, Jordan. *Gainful Employment Regulations Will Protect Students and Taxpayers. Don't Change Them*. August 4, 2017. <https://brook.gs/3oevVw2>.

<sup>22</sup> Looney, A., & Yannelis, C. (2016, September 13). *A crisis in student loans? How changes in the characteristics of borrowers and in the institutions they attended contributed to rising loan defaults*. Retrieved September 23, 2020, from <https://brook.gs/3qkaE6c>.

<sup>23</sup> Stephanie Riegg Cellini & Nicholas Turner. 2019. "Gainfully Employed?: Assessing the Employment and Earnings of For-Profit College Students Using Administrative Data," *Journal of Human Resources*, University of Wisconsin Press, vol. 54(2), pages 342-370.

<sup>24</sup> Stephanie Riegg Cellini & Nicholas Turner, 2019. "Gainfully Employed?: Assessing the Employment and Earnings of For-Profit College Students Using Administrative Data," *Journal of Human Resources*, University of Wisconsin Press, vol. 54(2), pages 342-370.

<sup>25</sup> Deming, David J., Claudia Goldin, and Lawrence F. Katz. 2012.

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<sup>26</sup> For-Profit Colleges by the Numbers. Center for Analysis of Postsecondary Education and Employment. <https://bit.ly/3lmUEMY>.

<sup>27</sup> Fain, Paul. "Vanishing Profit, and Campuses," *Inside Higher Ed*. May 7, 2015. <https://bit.ly/36s7m96>.

<sup>28</sup> 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>; 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>.

<sup>29</sup> U.S. Department of Education. Education Department Releases Final Debt-to-Earnings Rates for Gainful Employment Programs. January 9, 2017. <https://bit.ly/3qkH9RN>.

<sup>30</sup> The Institute for College Access & Success. *Why a Strong Gainful Employment Rule is More Important Now Than Ever*. July 1, 2019, <https://bit.ly/3qhacFN>.

<sup>31</sup> National Student Clearinghouse. *Fall 2020 Undergraduate Enrollment Down 4% Compared to Same Time Last Year*. October 15, 2020. <https://bit.ly/3qhQEkC>.



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