Examining For-Profit College Oversight and Student Debt

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Thank you Chairman Krishnamoorthi and Ranking Member Cloud. My name is Dr. Lindsey Burke. I am the Will Skillman Fellow in Education Policy and the Director of the Center for Education Policy at the Heritage Foundation. I appreciate the invitation to be here today to discuss the for-profit higher education sector and student debt. The views I express in this testimony are my own, and should not be construed as representing any official position of the Heritage Foundation or any other organization.

The higher education system in America needs significant reform. But targeting proprietary institutions is not the way to improve outcomes sector-wide. For-profit colleges are finding success because they are helping a segment of students that have historically been underserved by traditional universities. The real problem afflicting higher education today is the vast amount of taxpayer subsidies being poured into the system. That's the issue that deserves oversight, rather than singling-out a sector that is meeting the needs of students in a way the traditional system has failed to accomplish.

I want to make three overarching points today: 1) there are for-profit colleges that outperform the average public college, and public colleges that underperform the average for-profit college, as Preston Cooper has pointed out; 2) regulations, when promulgated, should be applied evenly to all universities in the sector, and 3) all of higher education needs improvement, which won't be achieved by singling-out for profit colleges.

Two regulations have made it clear over the past decade that the so-called for-profit sector has been unfairly targeted, and as such, deserve a discussion. The first is the Obama administration era gainful employment rule, and the second is the 90/10 rule.

Gainful employment. The Department of Education is working to overhaul the "gainful employment" regulation put in place during the Obama administration that would have especially targeted for-profit colleges, requiring their graduates to achieve government-defined debt-to-earnings income ratios. Career colleges (and some certificate programs at non-profit colleges) would have lost access to federal student loans and grants if their graduates had debt-to-earnings ratios above a defined percentage of their income (12 percent of a graduate's total earnings or 30 percent of his discretionary income). Programs that failed the measure twice in a three-year time span would lose access to federal funds.[1] This was a government-knows-best policy that would have limited choices for students.

The gainful employment rule was clearly designed to affect certain types of schools as it was not applied evenly across all institutions. Degree programs at traditional four-year colleges, for example, were exempt from it. This suggests the rule's application to for-profit schools was more about politics than prudent policy.

For example, default rates among students at community colleges are comparable to those at career colleges, despite that fact the students leave community colleges with less debt on average,[2] meaning they should be expected to have lower default rates. And although it is true that career and vocational colleges are more likely to have lower loan repayment rates than traditional four-year colleges, as Jason Delisle and Preston Cooper point out, the majority of students who attend a college with a low loan repayment rate attend a public college. That is the case because only nine percent of undergraduate students attend a propriety college, compared with 74 percent attending public universities.

When private colleges are included in the mix, nearly two-thirds of students who attend schools with very low repayment rates (below 25 percent) attend public and private colleges, not for-profit schools.[3] With regard to certificate programs specifically, there is a 25-percentage point gap in favor of for-profit colleges when it comes to certificate completion. While just 45 percent of students pursuing a certificate at a public college had earned it within three years, that figure rises to 70 percent for students at for-profit colleges.[4]

The GE measure had "serious design flaws."[5] Degree programs at public and private non-profit colleges were exempt from the gainful employment rule, meaning, according to higher education scholar Preston Cooper, that five-sixths – or more than 80 percent – of students were at schools insulated from the regulation. As he explained, "treating educational programs differently in regulation on the basis of credential type of the college's tax status not only fails to protect a

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[1] Andrew Kreighbaum, Agencies at Loggerheads Over Gainful-Employment Data, Inside Higher Ed, December 6, 2018, at https://www.insidehighered.com/news/2018/12/06/education-department-says-data-dispute-behind-failure-enforce-gainful-employment

[2] Daniel J. Bennett, Gainful Employment Rules Play Favorites, The New York Times, June 5, 2011, at https://www.nytimes.com/roomfordebate/2011/06/05/how-to-regulate-for-profit-colleges/gainful-employment-rules-play-favorites

[3] Jason D. Delisle and Preston Cooper, Scrutinize All Colleges, Not Just For-Profits, National Review Online, March 20, 2018, at http://www.aei.org/publication/scrutinize-all-colleges-not-just-for-profits/

[4] Preston Cooper, Public Colleges Aren't Better Than For-Profit Colleges, Manhattan Institute, November 21, 2016, at https://www.manhattan-institute.org/html/public-colleges-arent-better-bet-profits-9544.html

[5] Preston Cooper, Nix Gainful Employment and Start Over on Higher Education Accountability, Forbes, August 22, 2018, at https://www.forbes.com/sites/prestoncooper2/2018/08/22/nix-gainful-employment-and-start-over-on-higher-education-accountability/#5294c52a26af

majority of students, but gives exempted programs an unearned leg up at the expense of programs subject to the rule."[6]

Moreover, volatility in the inputs used in the GE formula, such as the interest rate calculated in the formula, means a program could pass the rule one year and fail it the next.[7] Finally, GE is not an accurate measure of a college's return on investment for a student, since the formula only considers the debt incurred as a proxy for what a student paid, and does not consider grant aid or out of pocket payments, rendering the formula on overly narrow indicator of ROI.[8]

Many students seek out vocational training as a means of establishing a meaningful, long-term career in a critical field. The government should not penalize them for that choice. GE could hurt entrepreneurs if they have a bad year trying to get a start-up business off the ground; could unfairly penalize schools that serve a higher proportion of women, many of whom may exit the workforce as they start a family, and could disproportionately affect low-income and minority students, many of whom choose career colleges.[9]

Senator Mike Enzi, then the ranking member of the Senate Health, Education, Labor and Pensions committee, noted in a 2011 statement on the GE rule that "many of these affected schools provide important training for those who choose to become mechanics, plumbers and electricians. This rule uses a heavy hand against these schools and makes it more difficult for Americans to access educational opportunities."[10]

The Department has now suggested that the rule will ultimately be scrapped, and has stated separately that it is interested in adding new reporting requirements to the federal college scorecard to address accountability sector-wide. While growing the scope of the federal scorecard isn't ideal, it is preferable to a politicized gainful employment rule that targets the proprietary sector, threatens students attending these schools with the loss of student loans and grants, and ultimately, limits choices for students. And as long as associated borrower defense to repayment rules exist, which in part require for-profit colleges to warn students of low repayment rates, they should be applied to all colleges, not just propriety colleges. Low-repayment rates are a sector-wide issue, not one confined to the career college realm. Ultimately, however, GE should be relegated to the trash heap – a policy change the PROSPER Act seeks to achieve.

90/10. The 90/10 rule is another regulation that targets the career college sector. It stipulates that no more than 90 percent of an institution's revenue can come from federal funding. The rationale behind the rule, which dates back to 1992 and began as an 85/15 rule, has merit: quality higher education institutions should be able to secure non-federal funding from a variety of sources.

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[6] *Ibid.*
[7] *Ibid.*
[8] *Ibid.*
[9] Harry C. Alford, National Black Chamber of Commerce, Testimony
[10] Mike Enzi, Enzi Says DOE Rule is One More Example of Heavy Handed Regulation Harming America's Economy, U.S. Senate Committee on Health, Education, Labor, and Pensions, July 3, 2011, at https://www.help.senate.gov/chair/newsroom/press/enzi-says-doe-rule-is-one-more-example-of-heavy-handed-regulation-harming-americas-economy

Low-quality providers are unlikely to attract private financing or philanthropic funding, and as such, federal taxpayers should not be on the hook for funding programs of questionable value.

Yet, as with gainful employment, the 90/10 rule only applies to the for-profit sector. As Kantrowitz (2013) found, if the federal government applied the 90/10 metrics to all schools of higher education, which would be the fairer application of the rule, 80 percent of public two-year colleges would fail the test, as would 40 percent of public four-year colleges.[11]

Although the percentage of colleges that would fail the 90/10 rule if applied evenly is still a matter of dispute,[12] it is a proportion above zero – prima facie evidence that the rule as currently applied allows some "traditional" schools off-the-hook while penalizing similarly situated for-profit schools.

There is also a debate about whether this rule is even an accurate measure of school quality, or instead serves as a proxy for poverty, reflecting the proportion of students who need financial aid to offset the cost of tuition. The rule could have led to other unintended consequences, as broad regulations tend to do. It may have encouraged universities to raise their tuition in order to increase the denominator in the 90/10 calculation and appear less dependent on federal subsidies.

Impact on military. Currently, the benefits provided to military service members and veterans through programs such as the G.I. Bill are not counted in that 90/10 rule. Some want to count this tuition assistance, which the Defense Department uses as a recruiting tool, in the "90" of 90/10. Eighty-five percent of active duty service members who receive the earned benefit of tuition assistance take some online courses.[13] Counting these earned benefits in the 90/10 rule could be devastating for higher education access for our service members, who could be dropped by schools in order to not bias the school's 90/10 numerator.

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If gainful employment and 90/10 are good policies, they should be applied to all types of universities, regardless of tax status, not just to the for-profit sector. As Secretary DeVos said in a speech in 2017, "Financial aid should not be withheld simply because [students] pursue a non-traditional path. Politicians and bureaucrats should not dictate to students when and how they can learn."[14] Better yet, instead of layering on more and more regulations to contain a taxpayer exposure problem created by Washington in the first place, Congress should cut – or at the very least significantly cap – federal student loans.

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[11] Mark Kantrowitz, Student Aid Policy Analysis: Consequences of the 90/10 Rule, Edvisors, August 19, 2013, at https://www.edvisors.com/media/files/student-aid-policy/20130819-90-10-rule.pdf

[12] Vivien Lee and Adam Looney, Understanding the 90/10 Rule: How Reliant are Public, Private, and For-Profit Institutions on Federal Aid? The Brookings Institution, January 2019, at https://www.brookings.edu/wp-content/uploads/2019/01/ES_20190116_Looney-90-10.pdf

[13] Dawn Bilodeau, Chief, DoD Voluntary Education, DoD Voluntary Education Program Update, United States Department of Defense, March 2017.

[14] Prepared Remarks from U.S. Secretary of Education Betsy DeVos to Federal Student Aid's Training Conference for Financial Aid Professionals, U.S. Department of Education, November 28, 2017, at https://www.ed.gov/news/speeches/prepared-remarks-us-secretary-education-betsy-devos-federal-student-aids-training-conference-financial-aid-professionals

Regulations Targeted to the For-Profit Sector Ignore Broader Issues Facing Higher Education

Poor student outcomes are found across the higher education sector, and should not be excused for certain schools based on their tax status. Both the gainful employment rule and the 90/10 rule ignore larger issues impacting all of higher education today, not the least of which is the $1.5 trillion in outstanding student loan debt to which taxpayers are greatly exposed.

Indeed, 57 percent of Americans say that higher education is not a good value proposition, and 75 percent say that it is too expensive for average Americans to afford, according to a Pew Research Center study conducted in 2011.[15] They have internalized a hard truth: college costs have outpaced income growth.

In 1987, President Ronald Reagan's education secretary Bill Bennett wrote a now famous oped in The New York Times, entitled *Our Greedy Colleges.* It was in that piece that he outlined what would become known as the Bennett Hypothesis, which stated that "increases in financial aid in recent years have enabled colleges and universities blithely to raise their tuitions, confident that Federal loan subsidies would help cushion the increase."[16]

True to the hypothesis, nonprofit colleges have had the most rampant price inflation over the decades. Spending has increased 283 percent in real terms since 1970. In the last 20 years, the federal government's total spending on student loans has increased dramatically, from $24.8 billion in the 1995-96 school year to $93 billion in 2017-18.[17] Not coincidentally, since 1980, costs at four-year public colleges have increased at twice the rate of inflation and nationally, college prices are more than 3 times higher than they were during the 1987-88 academic year, the same year the Bennett Hypothesis was published.[18] At the same time, more than half a trillion dollars sit in college endowment funds[19]

On the value side, one-third of college graduates are "underemployed" in jobs that don't require a bachelor's degree,[20] suggesting, as economist Richard Vedder puts it, that we are "mal-invested."[21] Vedder explains it this way: "it takes more resources today to educate a postsecondary student than a generation ago. ... Relative to other sectors of the economy,

[15] Richard K. Vedder, Restoring the Promise: Higher Education in America. (2019). Independent Institute.

[16] William J. Bennett, "Our Greedy Colleges," The New York Times, 1987, at https://www.nytimes.com/1987/02/18/opinion/our-greedy-colleges.html

[17] Federal Loans in Current and Constant Dollars Over Time: All Postsecondary Students, Undergraduate Students, and Graduate Students, Trends in Higher Education, The College Board, 2019, at https://trends.collegeboard.org/student-aid/figures-tables/federal-loans-current-constant-dollars-over-time-all-postsecondary-undergraduate-graduate

[18] Lindsey M. Burke, Innovation in Higher Education: Cutting Costs for College, in Christine Cooke, Innovation in Education, The Sutherland Institute, 2019, at file:///C:/Users/Lindsey/Downloads/Innovation%20in%20Education%20(2).pdf

[19] Richard K. Vedder, Restoring the Promise: Higher Education in America. (2019). Independent Institute.

[20] Jaison R. Abel, Richard Deitz, and Yaquin Su, "Are Recent College Graduates Finding Good Jobs?" Current Issues in Economics and Finance, Federal Reserve Bank of New York, Vol. 20, No. 1 (2014), at https://www.newyorkfed.org/medialibrary/media/research/ current_issues/ci20-1.pdf

[21] Richard K. Vedder, Restoring the Promise: Higher Education in America. (2019). Independent Institute.

universities are becoming less efficient, less productive, and, consequently, more costly."[22] Subsidies have likely exacerbated this problem. David O. Lucca, Taylor Nadauld, and Karen Shen of the Federal Reserve Bank of New York identify additional indicators of the Bennett Hypothesis at play. The authors found that credit expansion (increasing subsidized federal student loans) leads to a tuition increase of 60 cents for every additional dollar of subsidized federal loans.[23]

Instead of trying to centrally plan what higher education looks like through regulations that fail to address deeper systemic issues, Congress should eliminate the PLUS loan program and put aggregate caps on the Direct loan program, in order to make space for private lending to reemerge. Private loans have been almost completely crowded-out of the market because of the near-monopoly of federal lending. If policymakers really want to make higher education accountable, establish a 0/100 rule and apply it across the board; that is to say, phase-out the federal student loan programs altogether.

Private lending can better serve the needs of students by setting interest rates that reflect the choices students make with regard to course of study, enabling students to make a more informed risk assessment when it comes to academic major. And critically, restoring private lending will limit taxpayer exposure, which is what, ostensibly, federal regulations are about. Many of the issues facing higher education today would be better addressed not through regulations but by letting the market determine program pricing and student borrowing.

A Better Path Forward. The four-year, "traditional" college route is not the only path to upward mobility in America. And traditional colleges aren't exactly doing a good job. As Douglas Belkin, Josh Mitchell, and Melissa Korn, note in the *Wall Street Journal,* "a skills gap has left more than 6 million jobs unfilled, a significant drag on the economy."[24]

The bottom line is this: for-profit colleges tend to do a better job at recruiting non-traditional students, such as part-time, low-income, and older students, as well as women and minority students. And when apples-to-apples comparisons are made between program types, for-profit colleges even graduate students at higher rates than their traditional college counterparts. As Judah Bellin has pointed out, they are also more nimble and can make course corrections to meet market needs, since they are not held captive by things like tenure.[25]

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[22] Lindsey M. Burke, Ph.D., No, Tax Reform Will Not "Decimate" Colleges or "Hurt" Students, The Daily Signal, November 29, 2017, at https://www.heritage.org/taxes/commentary/no-tax-reform-will-not-decimate-colleges-or-hurt-students

[23] David O. Lucca, Taylor Nadauld, and Karen Shen, Credit Supply and the Rise in College Tuition: Evidence from the Expansion in Federal Student Aid Programs, Staff Report No. 733, Federal Reserve Bank of New York, July 2015, Revised February 2017, at https://www.newyorkfed.org/medialibrary/media/research/staff_reports/sr733.pdf?la=en

[24] Douglas Belkin, Josh Mitchell, and Melissa Korn, House GOP to Propose Sweeping Changes to Higher Education, *Wall Street Journal,* November 29, 2017, at https://www.wsj.com/articles/house-gop-to-propose-sweeping-changes-to-higher-education-1511956800?tesla=y&mod=e2fb

[25] Judah Bellin, Don't Blow Up All For-Profit Colleges, Just the Bad Ones, Washington Examiner, April 30, 2015, at https://www.manhattan-institute.org/html/dont-blow-all-profit-colleges-just-bad-ones-5474.html

Yet when we look objectively at the application of regulations; that is, that they are applied to one sector and one sector only – the for profit sector – it's hard to come to any conclusion other than the regulations are about targeting a sector that is beginning to disrupt the traditional higher education model.

If regulations are applied, they should be applied evenly to all universities, regardless of a school's tax status. But we cannot regulate our way to higher education quality. Improving excellence and driving down costs require structural reforms to the sector, not the least of which is cutting off the open spigot of federal aid to universities.

The goal of higher education financing should be to enable students to pursue options that are the right fit for them, while not exposing taxpayers to large debt burdens. The higher education sector needs improvement across the board. Singling-out one type of school, simply based on tax status, is not the way to get there.

Thank you once again for affording me the opportunity to testify at this hearing. I look forward to your questions.

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