The Gainful Employment Rule under a Second Trump Administration

Data and Analysis to Inform the Administration's Approach to a Biden-Era Policy

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The Biden administration's gainful employment (GE) rule, which sets debt and earnings standards for postsecondary programs, faces an uncertain future under the second Trump administration.[1] The first Trump administration repealed the GE rule implemented by the Obama administration, suggesting that a second Trump administration might repeal the Biden administration's version.[2] Many of the first Trump administration's original arguments against the Obama-era GE rule apply to the Biden administration's rule, including some supported by Urban Institute analyses.

The new administration might, however, take a different approach to GE.[3] The Biden GE rule will affect public colleges and for-profit institutions, blunting the original criticisms that the rule unfairly targeted only for-profit institutions.[4] Policymakers are also more concerned today that some postsecondary credentials might not pay off for students and taxpayers. Some policymakers, including senior Republican lawmakers, advocate for new federal requirements that tie student aid eligibility to graduate earnings, similar to GE.[5] Republican majorities might even advance a version of such a reform in the 119th Congress, which would replace the GE rule with something broader.

In this brief, we provide data and analyses to inform the Trump administration's approach to the GE rule. We show that the Biden GE rule affects both public and private institutions, unlike the Obama-era rule that exclusively affected for-profit institutions (Delisle and Cohn 2022). We also show that programs at risk of failing the Biden GE rule tend to produce low earnings for their credential group. Lastly, we show which programs could fail the Biden administration's GE rule if it were expanded to all programs at all institutions, a policy some have argued the second Trump administration should pursue in regulations or that Congress should advance through legislation (Zibel and Ament 2020).[6]

The Gainful Employment Rule

The Higher Education Act requires that all nondegree programs offered by public and private nonprofit institutions, and all nondegree *and* degree programs offered at private for-profit institutions, prepare students for "gainful employment in a recognized occupation" to participate in federal student loan and grant programs.[7] This requirement existed in law without an official definition until the Obama administration defined it through regulation, effectively enacting a new quality assurance policy that required that programs' graduates meet a debt-to-earnings threshold.

Under the Biden GE rule, programs covered by GE must pass both a debt-to-earnings test and a high school earnings test to be eligible for federal aid programs. Under the debt-to-earnings test, programs lose eligibility for federal aid programs if graduates' median annual loan payments exceed 8 percent of annual earnings and 20 percent of earnings above 150 percent of the federal poverty level.[8] The high school earnings test requires that the median earnings among a program's graduates exceed the median earnings for a working 25-to-34-year-old with only a high school diploma (or GED) in the state where the program is located.[9] Nationally, median earnings for this group are $25,453, according to the US Department of Education, and range from $20,859 in Mississippi to $31,294 in North Dakota, in 2019 dollars.[10]

The Biden administration's GE rule took effect in 2024. Programs will first be at risk of losing aid eligibility in 2027 (Hegji 2024).[11]

The Biden GE rule includes a separate financial value transparency (FVT) rule that applies to all higher education institutions, not only those covered by GE. The Trump administration therefore must decide whether to repeal this policy, which is separate from the GE rule. Under the FVT rule, the Department of Education will collect and publish information on costs, debt, and earnings for postsecondary programs.[12] For undergraduate certificate programs and graduate degrees where students leave with high debt burdens (calculated the same as under the GE rule), the institution must also disclose that information to the student, who then must acknowledge it before enrolling in the affected program. We do not analyze the FVT rule or aim to inform the Trump administration's approach to that policy, though it seems likely it will maintain or expand it.[13]

GE Affects Both Private For-Profit and Public Institutions

One criticism of the Obama-era GE rule was that it targeted only for-profit institutions. Although the underlying GE law applies to certificate programs at public and private institutions, programs that were likely to fail the Obama-era rule were confined almost entirely to the private for-profit sector.[14]

The Biden GE rule is likely to affect more public institutions than its predecessor because it includes a high school earnings test in addition to the debt-to-earnings test. The Obama-era rule included only a debt-to-earnings test that certificate programs at community college were likely to pass because of their low borrowing rates.[15] Under the Biden rule, programs must pass both tests to remain eligible for federal aid. The high school earnings test is a pure earnings test that does not advantage public colleges that have low borrowing rates.

TABLE 1

Share of Programs Failing the Gainful Employment Rule by Credential and Institution Type, Weighted by Federal Aid Recipients

	Fail GE	Pass GE	No data; pass automatically
Undergraduate certificate			
Public	4%	17%	79%
Private nonprofit	44%	19%	37%
Private for-profit	52%	38%	10%
Associate's degrees			
Private for-profit	34%	50%	16%
Bachelor's degrees			
Private for-profit	23%	70%	7%
Master's degrees			
Private for-profit	14%	80%	6%

Source: Authors' calculations using US Department of Education data from "Financial Value Transparency and Gainful Employment (GE), Financial Responsibility, Administrative Capability, Certification Procedures, Ability to Benefit (ATB)," regulations.gov, accessed January 23, 2025, https://www.regulations.gov/docket/ED-2023-OPE-0089/document.

Notes: GE = gainful employment rule. Programs are weighted by the number of federal student aid recipients who completed each program. For programs with fewer than 15 students, enrollment numbers are not available, so we assume enrollment in these programs is 14 students as an upper bound.

We estimate that 4 percent of certificate programs offered at public institutions, weighted by enrollment, are at risk of failing the high school earnings test under GE and thus would lose eligibility for federal grant and loan programs (fewer than 1 percent are likely to fail the debt-to-earnings test) (table 1). Notably, most of these programs pass the GE rule automatically because they are small.[16] Among programs large enough to meet GE's data reporting threshold, the failure rate is much higher. By that measure, 17 percent of undergraduate certificate programs, weighted by federal aid recipients, at public institutions fail the GE rule (not shown in table 1).[17]

The Biden GE rule still has the largest effect on for-profit colleges, even though more programs at public institutions are likely to fail than under the Obama-era rule. We estimate that 52 percent of certificate programs, weighted by federal aid recipients, at for-profit institutions are at risk of failing, mainly from the high school earnings test. Twenty-three percent of bachelor's degree programs at for-profit institutions are likely to fail, and 14 percent of master's degree programs would likely fail. Degree programs at public and private nonprofit institutions are exempt from GE by law, and therefore none are at risk of failing the rule, regardless of their student outcomes.

The Biden GE rule's broader effects on public institutions compared with the Obama-era rule could influence the Trump administration to maintain the rule, given prior criticisms of the Obama-era rule. On the other hand, the GE rule still applies disproportionately to for-profit institutions, partly because the underlying law exempts public and nonprofit degree programs, which could motivate the administration to repeal it. The large share (79 percent) of undergraduate certificate programs at public institutions that automatically pass the GE rule because they are small and their data are subject to privacy suppression might also fuel criticisms that the rule unfairly advantages those institutions.

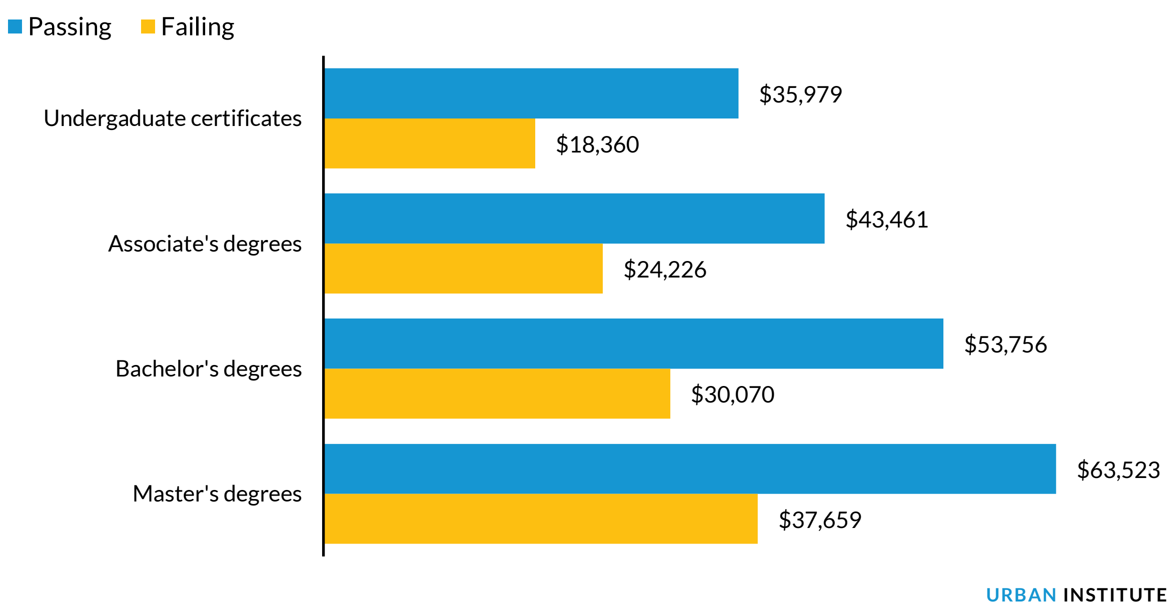
Programs Likely to Fail GE Have Low Earnings

Prominent Republican lawmakers and conservative policy experts have become critical of the government providing subsidies to higher education credentials that lead to low earnings. That has led some to advocate for new standards that would require postsecondary programs to produce sufficient earnings to justify taxpayer and student investments in higher education, similar to GE.[18] Rather than repeal GE, Republican policymakers, including those in the Trump administration, could maintain it as part of a broader agenda to cut government subsidies to low-earning college credentials.

To help policymakers understand the earnings outcomes at programs covered by the GE rule, we estimated the average program's median postcompletion earnings for programs at risk of failing (either the high school earnings test or the debt-to-earnings test) and those likely to pass. Figure 1 shows the results for each major credential level.

FIGURE 1

Typical Earnings among Programs Subject to the Gainful Employment Rule



Source: Authors' calculations using US Department of Education data from "Financial Value Transparency and Gainful Employment (GE), Financial Responsibility, Administrative Capability, Certification Procedures, Ability to Benefit (ATB)," regulations.gov, accessed January 23, 2025, https://www.regulations.gov/docket/ED-2023-OPE-0089/document.
Notes: Earnings are reported in 2019 dollars. Calculations are weighted by the number of federal student aid recipients who completed each program.

Earnings among certificate programs at risk of failing GE (which includes programs at public, private nonprofit, and for-profit institutions) are low, typically only $18,360 in 2019 dollars ($22,500 in 2024 dollars) at the average program. That is about $7,000 less than what a worker with only a high school diploma can expect to earn and is about half the typical earnings among programs that pass the GE rule. The earnings among master's degree programs at risk of failing GE are also notable. Typical earnings are only $37,659 ($46,100 in 2024 dollars) among these programs, which is below the earnings that are typical for bachelor's degree recipients. Master's degree programs that fail the GE rule typically fail because of the debt-to-earnings test.

These statistics help illustrate that the GE rule will prevent postsecondary programs that produce low earnings from participating in federal grant and loan programs. Repealing the rule will therefore allow these types of programs to continue receiving federal aid, which arguably runs counter to many of the arguments prominent Republican lawmakers have made about restricting government subsidies for higher education programs that do not lead to sufficient earnings.

Expanding GE to All Institutions Would Mainly Affect Private Nonprofit Professional Degrees

Some in the policy community have argued that GE should be expanded to all programs at public and private nonprofit institutions to protect students and taxpayers from low-value credentials. GE cannot apply beyond the programs listed in law (e.g., certificate programs at all types of institutions and any credential program at for-profit institutions), but policy experts have pointed to a different part of the Higher Education Act that could allow the Trump administration to issue a GE-like rule that applies to all institutions.

The Federal Direct Loan Program, they argue, might allow the secretary of education to create a quality assurance system that would govern any institution's participation in the federal student loan program. Prior administrations have not issued major rules defining those terms, but some experts argue that it could be used to enact a rule like GE that applies to all types of institutions (Zibel and Ament 2020).[19] It is not clear whether courts would uphold such an effort. Separately, Congress could enact a law that applies the GE policy to all programs participating in the federal aid programs as part of a budget reconciliation bill or other legislation in the 119th Congress.

To inform a potential Trump administration effort to use the "quality assurance" language to expand a GE rule, or congressional efforts to enact a law with the same effect, we used Department of Education data to estimate what share of programs across all types of institutions (weighted by federal aid recipients) would fail the Biden GE rule's debt and earnings tests if it applied to them (table 2).

TABLE 2

Share of Programs Estimated to Fail a Gainful Employment Rule Applied to all Sectors and Credentials, Weighted by Federal Aid Recipients

	Fail GE	Pass GE	No data; pass automatically
Undergraduate certificate			
Public	4%	17%	79%
Private nonprofit	44%	19%	37%
Private for-profit	52%	38%	10%
Associate's degree			
Public	7%	48%	45%
Private nonprofit	24%	35%	41%
Private for-profit	34%	50%	16%
Bachelor's degree			
Public	2%	79%	20%
Private nonprofit	4%	45%	52%
Private for-profit	23%	70%	7%
Master's degree			
Public	1%	51%	48%
Private nonprofit	7%	56%	37%
Private for-profit	14%	80%	6%
Professional degree			
Public	7%	53%	40%
Private nonprofit	33%	44%	23%
Private for-profit	56%	28%	16%

Source: Authors' calculations using US Department of Education data from "Financial Value Transparency and Gainful Employment (GE), Financial Responsibility, Administrative Capability, Certification Procedures, Ability to Benefit (ATB)," regulations.gov, accessed January 23, 2025, https://www.regulations.gov/docket/ED-2023-OPE-0089/document.

Notes: GE = gainful employment rule. Programs are weighted by the number of federal student aid recipients who completed each program. For programs with fewer than 15 students, enrollment numbers are not available, so we assume enrollment in these programs is 14 students as an upper bound. Failure rates would be lower than the statistics here if debt for nontuition expenses were excluded from the debt-to-earnings test in accordance with GE, particularly for master's and professional degree programs.

We find that all the sectors and major credential levels that are not currently subject to GE (undergraduate and graduate degree programs at public and private nonprofit institutions) include programs that are at risk of failing a "GE for all" policy. Many programs pass automatically, however, because they are not large enough to meet the data reporting requirements.

Professional degree programs (e.g., medicine and law) would fail the GE rule at high rates because their debts are high relative to their incomes, in part because the rule measures earnings in the third year after students complete their credential. In reality, the number is likely to be even smaller because programs need to fail the test for two of three consecutive years; our analysis uses only a one-year test because of data limitations and is therefore a stricter test. Institutions can also exclude debt used to finance nontuition expenses (e.g., housing) from the debt-to-earnings test, reducing students' debt burdens in the calculation and program failure rates by as much as half, which we do not factor into our analysis because of data limitations.[20]

Of the professional programs that we estimate are at risk of failing, 45 percent (weighted by federal aid recipients) are law degrees and 28 percent are in osteopathic medicine. Earnings for these fields are often low relative to debt burdens during the initial years after graduation but then tend to grow rapidly, reducing debt burdens considerably by the fifth year after completion. An exception for programs with high earnings growth in the Biden administration's GE rule could prevent many medicine degree programs from failing GE; that exemption does not apply to law degrees.[21]

Bachelor's degrees and master's degrees at public institutions would be the least affected by a GE-for-all policy. We estimate that 2 percent and 1 percent of those programs, respectively, would fail the GE debt and earnings tests. Those rates would be even lower once debt borrowed for nontuition expenses are excluded from the debt-to-earnings tests.

Conclusion

Today's political and policy environment is considerably different from when the first Trump administration repealed the Obama-era gainful employment rule. Many policymakers and members of the public are weary of the value proposition of postsecondary credentials and are inclined to support new quality assurance requirements for colleges and universities. The analysis in this brief offers important evidence to inform those views. It shows that the GE rule would prevent many programs that produce low earnings from accessing federal student aid. That information could form the basis for the Trump administration to maintain the rule.

But our analysis also illustrates that large sectors of higher education not covered by GE also offer programs that do not produce earnings high enough to pass GE. That could encourage the Trump administration (or Congress) to expand GE to cover all institutions and credentials.

We also identify issues that will complicate any decision on GE's future. A large share of programs automatically pass GE because of their small size, especially at public and nonprofit institutions, and many graduate programs that would otherwise fail GE could pass because they are allowed to exempt debt used to finance nontuition expenses. Those issues could encourage the administration to repeal or amend GE based on the view that it is an unfair or inaccurate standard, a view that helped motivate the repeal of the Obama-era rule.

Notes

1 Financial Value Transparency and Gainful Employment, 88 Fed. Reg. 70004 (Oct. 10, 2023).

2 Program Integrity: Gainful Employment, 79 Fed. Reg. 64890 (Oct. 31, 2014).

3 The official reasoning the first Trump administration made for repealing GE is included in the Federal Register. See "Program Integrity: Gainful Employment," regulations.gov, accessed January 23, 2025, https://www.regulations.gov/document/ED-2018-OPE-0042-0001. The administration argued that the rule's debt-to-earnings standards were not accurate measures of gainful employment and that the rule fails to adequately account for socioeconomic and demographic factors correlated with earnings outcomes. Those

rationales could motivate the second Trump administration to again repeal the GE rule because the Biden rule uses a similar approach to the Obama-era policy. Urban Institute research shows that program failure rates under the Biden GE rule are correlated with demographic characteristics of the students enrolled in those programs, particularly gender. See Kristin Blagg, "Disparities by Gender Complicate Proposed Accountability Measures," *Urban Wire* (blog), Urban Institute, April 25, 2018, https://www.urban.org/urban-wire/disparities-gender-complicate-proposed-accountability-metrics; and Cohn (2023). In response to the first Trump administration's arguments, the Biden administration argued that analysis showed institutional and program factors played a larger role than student demographics in explaining programs' outcomes (88 Fed. Reg. 70140–45).

4 For an example of criticisms about GE targeting for-profit institutions, see Rick Seltzer, "Should Gainful Employment Be Applied across Higher Ed?" Higher Ed Dive, March 10, 2022, https://www.highereddive.com/news/should-gainful-employment-be-applied-across-higher-ed/620215/. Repealing GE would run counter to a Trump administration goal to use regulatory authority to reduce federal spending. Repealing GE would increase budgetary costs by $9.1 billion over the next 10 years, unless the Trump administration replaces it with a new policy that is at least as restrictive. Repealing the GE rule increases budget costs because students would be more likely to attend for-profit institutions with weak earnings outcomes where grant and student loan costs are higher than at other institutions. Those costs could be lower if courts block Biden administration changes to the loan program. See CBO (2024).

5 College Cost Reduction Act, H.R. 6951, 118th Cong. (2024); and Streamlining Accountability and Value in Education for Students Act, S. 1971, 118th Cong. (2023).

6 See also Preston Cooper, "Quality Assurance: How Executive Authority Can Hold Colleges Accountable for Outcomes," Foundation for Research on Equal Opportunity, June 18, 2024, https://freopp.org/whitepapers/quality-assurance-how-executive-authority-can-hold-colleges-accountable-for-outcomes/.

7 Definition of Institution of Higher Education for Purposes of Student Assistance Programs, 20 U.S.C. §1002(b)(1)(A).

8 The test measures the median annual student loan payment for a cohort of graduates against their median earnings. If payments exceed earnings by the threshold for any two of three consecutive years, the program loses eligibility. If fewer than 50 percent of students in the program are from the state where the school is located, median earnings for the program are instead measured against the median earnings of a high school graduate nationally.

9 Programs that fail the test for two of three consecutive years lose eligibility for federal student aid.

10 "Financial Value Transparency and Gainful Employment (GE), Financial Responsibility, Administrative Capability, Certification Procedures, Ability to Benefit (ATB)," regulations.gov, accessed January 23, 2025, https://www.regulations.gov/docket/ED-2023-OPE-0089/document.

11 See also "(GEN-24-04) Regulatory Requirements for Financial Value Transparency and Gainful Employment," US Department of Education, Office of Federal Student Aid, last updated September 16, 2024, https://fsapartners.ed.gov/knowledge-center/library/dear-colleague-letters/2024-03-29/regulatory-requirements-financial-value-transparency-and-gainful-employment-updated-sept-16-2024.

12 The department has delayed these data collection efforts several times. See "(GE-24-08) Updated Timeline for Financial Value Transparency and Gainful Employment Reporting and Completers Lists," US Department of Education, Office of Federal Student Aid, September 13, 2024, https://fsapartners.ed.gov/knowledge-center/library/electronic-announcements/2024-09-13/updated-timeline-financial-value-transparency-and-gainful-employment-reporting-and-completers-lists.

13 The first Trump administration expanded the College Scorecard data collection efforts as its replacement for the Obama-era GE policy it repealed, which could signal it is likely to maintain the FVT rule. The FVT rule will gather new data points on college costs in addition to the existing debt and earnings data. But the administration could opt to repeal the FVT rule because it relies on the same value metrics as GE (debt-to-earnings ratios and a high school earnings test), which the prior Trump administration criticized. The FVT rule also includes an exemption for associate's and bachelor's degrees at public and private nonprofit institutions regarding the attestation

requirement. That disparate treatment might prompt the administration to repeal the FVT rule on the grounds that it again unfairly targets for-profit institutions. Alternatively, the administration might expand the FVT rule to include all credentials at all types of institutions.

[14] The original data for programs affected by the Obama administration's GE rule are no longer available on the US Department of Education's website but appear to be archived at the think tank Third Way at the following link: https://web.archive.org/web/20221222012629/https://d25lcqf4luxivl.cloudfront.net/cms/webassets/Documents/Final-Gainful-Employment-Percentages.xlsx. See also Tamara Hiler and Wesley Whistle, "GE by the Numbers: How Students Fared at Programs Covered under the Gainful Employment Rule," Third Way, September 26, 2017, https://www.thirdway.org/memo/ge-by-the-numbers-how-students-fared-at-programs-covered-under-thegainful-employment-rule; and Cooper and Delisle (2017).

[15] Jason D. Delisle and Jason Cohn, "A Student Debt Blind Spot in the Gainful Employment Rule for College Programs," *Urban Wire* (blog), Urban Institute, March 29, 2022, https://www.urban.org/urban-wire/student-debt-blind-spot-gainful-employment-rule-college-programs.

[16] Only programs with at least 30 graduates in the cohort used to calculate earnings and debt under GE are subject to the tests. Additional programs might have their data suppressed because of additional Internal Revenue Service privacy protocols for earnings data. Those that have data suppressed pass the GE tests automatically.

[17] The 17 percent figure is lower than the share failing that is implied by the rounded statistics in the table. Institutions can exclude debt used to finance nontuition expenses (e.g., housing) from the debt-to-earnings test, reducing students' debt burdens in the calculation, but we do not factor that into our analysis because of data limitations. It is unlikely to significantly change overall failure rates on the GE test, however, because most programs fail the high school earnings test.

[18] College Cost Reduction Act, H.R. 6951, 118th Cong. (2024); and Streamlining Accountability and Value in Education for Students Act, S.1971, 118th Cong. (2023).

[19] See also Preston Cooper, "Quality Assurance: How Executive Authority Can Hold Colleges Accountable for Outcomes," Foundation for Research on Equal Opportunity, June 18, 2024, https://freopp.org/whitepapers/quality-assurance-how-executive-authority-can-hold-colleges-accountable-for-outcomes/.

[20] See Tia Caldwell and Roxanne Garza, "Previous Projections Overestimated Gainful Employment Failures," New America, July 27, 2023, https://www.newamerica.org/education-policy/edcentral/ge-failures-overestimated/. Department of Education data suggest that between 30 and 50 percent of federal student loan debt among graduate borrowers is used to finance nontuition expenses and that debt can be excluded from the GE debt-to-earnings test. See National Center for Education Statistics, PowerStats table ubotyz.

[21] The Biden administration's GE rule includes an exception to measuring earnings in the third and fourth years after completion for fields with outlier earnings growth. Earnings for those programs are measured in the sixth and seventh years after completion. This exception would apply mainly to medicine degrees, but we do not factor that into our analysis; sixth-year and seventh-year earnings data are not available. The exception would not apply to law degrees, another large category of professional degrees. For a further discussion and analysis of this issue, see Delisle and Cohn (2024).

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